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THE KEY QUARTERLY

Unlocking Access to Montana's Public Lands & Waters
Winter 2022

Powell County's Jake Creek Road - Resolution in 2022?

"The gates are coming out in May" was the promising quote from the Powell County Attorney in a November 24th *Silver State Post* article about the County Commission's consideration of a resolution to reopen Jake Creek Road during their November 17, 2021 meeting. Assuming all goes to plan, we at PLWA hope to see this monumental event occur in the Spring of 2022. The backstory of this illegal gating of a county road outside of Deer Lodge is one that stretches over decades, and the issue has required sustained efforts and participation from PLWA and its supporters to resolve.

In July 2020, Deer Lodge PLWA member Ed Scharf informed the organization that Jake Creek Road had been gated for nearly 40 years, providing documentation that was used to verify its status as a county road. Ed recruited his longtime friend, Conn Coughlin, to join in his quest to have Powell County reopen Jake Creek Road. Ed notes about his eventual work with PLWA, "At the request of the Powell County Commissioners, I and four others were asked to study and research several roads in the County that seemed to have been blocked by illegal gates for many years. Upon the completion of the project and the findings that, in fact, the Jake Creek Road was indeed a County Road, everything just came to a halt. It was then that I wrote the PLWA a letter about this situation, and boy did you respond! With the PLWA's knowledge and assistance in these matters, the road is now set for reopening this spring for all to enjoy and appreciate, and for generations to come."

Jake Creek Road runs through private lands and bisects the Spotted Dog Wildlife Management Area (WMA) from Deer

Lodge to Avon for 60 miles. The road is known by many other names reflective of its historical significance and longtime public use: The Mullan Trail, The Deer Lodge to Avon Road over the Dog Creek Hills, The Old Stage Road, and The Stagecoach Road. Originating before 1900, the road was part of the Old Military Road system from Helena to Deer Lodge. Powell County declared it a "County Public Highway" in 1907 and has never formally abandoned any part of the road.

PLWA Secretary Carol Fox notes that, "Working on this particular issue was like déjà vu for me. I managed the state grant program that funded the public acquisition of the 38,000 acre Spotted Dog WMA in 2010. The WMA has exceptional native intact grasslands and winter range for elk, mule deer, and antelope and provides for incredible hunting and wildlife viewing opportunities. Having enjoyed recreating at the WMA many times, I can personally attest that Governor Schweitzer added an outstanding natural resource gem to Montana's treasure chest of public lands and waters with his approval of this acquisition."

Fortunately, PLWA's access research chore was relatively quick and easy thanks to Ed and Conn's local knowledge and research, and to the ample research already conducted via the state's acquisition review and habitat plan development processes for the WMA. MT Fish, Wildlife and Parks' (FWP) 2010 [environmental assessment](#) and 2018 [management plan](#) both recognized the possibility of the county reopening Jake Creek Road and the associated need to address potential impacts to wildlife and adjacent landowners.

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The Montana Backcountry

by Ingrid Peters

As backcountry users, we have a responsibility to ourselves and to the places we explore. We must recreate with respect for the landscape (which includes the people and agencies who manage the land) and value functioning ecosystems. Just as it is important to bring a medical first aid kit and wilderness first aid skills to a remote backcountry setting, it benefits you to know what land you are on and where the boundaries lie between public and private land. In the U.S., Federal Land is managed by the Forest Service, Bureau of Land Management, Fish and Wildlife Service, National Park Service, Department of the Interior, Department of Agriculture, and the Department of Defense, and other agencies.

Recreating in the backcountry requires route planning and spatial awareness. Bringing provisions and gear to cook, sleep, and survive in harsh conditions, carrying water or purification supplies, and knowing the lay of the land can make the difference between a successful or unsuccessful trip. It is advantageous to know where dangerous terrain is, where to camp, have mapping tools (a map and compass, app, or a sophisticated GPS device) and plan to encounter local wildlife. It is imperative to let someone know where you are and when you will be back, and to be mentally and physically prepared to be in a remote setting. Basic skills in wilderness medicine are useful and could help you or someone else.

Backcountry activities in Montana include cross-country and backcountry skiing, rock and ice climbing, kayaking, hunting, horseback riding, backpacking, fishing, day-hiking, biking and more. Access to the Montana backcountry is a privilege made possible by the work of nonprofits, government agencies, and community members that create management plans that advocate for recreational use. As recreationists we are stakeholders in public land management, and we can be

stewards of these wild places. As backcountry users we each have a choice; to advocate for and support public access, or not. The values of nature have many benefits to offer us, and backcountry recreation in Montana offers an avenue for exploration and self-discovery unparalleled to many other states. Being able to access public land and water is important because it gives us the opportunity to experience a connection to the waters, lands and ecosystems that cycle around us, and remember that we are part of a vast, connected planet. Protecting public land and water access is at the core of PLWA's mission because the wilderness and the backcountry need advocates. Enjoying and protecting these places allows us to breathe in fresh air, experience the complexity of nature, understand the interactions of plants, animals, soil, and water, and be human.

Backcountry Resources:

- NOAA: Before you go, check the weather for the duration of your trip
- Avalanche Training: Avalanche 1 & 2 via MT Avalanche Center & others
- Wilderness First Aid, Wilderness First Responder (offered through MSU, SOLO, NOLS)
- Devices: Garmin In-reach GPS Device (Connects to your phone to send messages via satellite)
- Leave No Trace training: practice leaving nature cleaner than you found it, pack out your waste
- Bring a survival kit, extra food, water, bear spray
- Know how to contact Search and Rescue, let someone know where you are



PLWA
PARTNER:
Beartooth
Back Country
Horsemen



www.facebook.com/beartoothbch/

Where Outdoor Education & Recreation Meet

Beartooth Back Country Horsemen (BBCH) is based in Fishtail, Montana, at the foot of the beautiful Beartooth Range in the Custer National Forest.

BBCH are avid outdoorsmen and have a love for the trails. Their goal is to educate the public to have a fun and safe experience in the back country. They also clear trails and help the National Forest Service with cleaning their beautiful trails.

To get the latest updates on their activities, become a member, or learn more about BBCH's work, visit their [website](#).

2021 Fundraising Success

PLWA ended the year with many reasons to be thankful. Increasing awareness of access issues among the public, support from partners within and beyond Montana, and an incredibly successful fundraising achievement during our GivingTuesday campaign that will allow us to meet our goals for 2022. Our \$25,000 goal to fund our new Public Access Investigator position was not only met, but exceeded, bringing in over \$45,000. This generosity from members, donors, and funders means that we now have the ability to address *more* access complaints every day. We also were able to begin our undergraduate internship program ahead of schedule, helping to shape the next generation of public access advocates, and secure funding for more comprehensive outreach education programming in our communities. We couldn't have done this without you. Thank you for making our public access efforts a reality.

Partner With Us for Give Big!

If you live in or have connections to Gallatin County, consider partnering with PLWA for Give Big on May 5-6th this year.

One Valley Community Foundation's Give Big Gallatin Valley is a 24-hour celebration of giving to connect generous community members with causes they care about to raise important, unrestricted funding for nonprofits serving Gallatin Valley. The goal is simple - inspire our people to come together, show their pride in their communities, and contribute to support the life-changing work of local nonprofit organizations in Gallatin County.

PLWA is looking for businesses and individuals to raise awareness about our cause and partner with us to fund our access programming and keep our public lands and waters open to everyone. Learn more at www.givebggv.org.

Contact us at plwa@plwa.org to see how you can help.

New Ways to Give: Crypto Currency

PLWA is diversifying the ways that you can support our public access work! We now accept donations of Bitcoin and other cryptocurrencies.

- Go to cryptoforcharity.io.
- Pick Public Land Water Access Association Inc. from the list.
- Donate crypto and get a tax receipt.

Donations of appreciated cryptocurrency don't trigger capital gains taxes, and may be tax-deductible for the full value.

From the President's Desk

We have come a long way and the future looks very bright. We have added salaried employees to help us keep up with the access complaints we continue to receive. Drew & Carol Fox have done excellent work in responding to the large number of original access complaints, documenting, and following up with existing cases as we are able. Your generous donations have put us in a much better financial situation and are allowing us to respond to more cases.

I feel very confident we are heading in the right direction concerning access to public lands based on Montana Law, but we need to become more active concerning access to lands administered by federal agencies, the BLM, and Forest Service.

Local federal agencies appear reluctant to preserve and recognize permanent access routes that provide recreational opportunities on the lands they administer.

And again, let me remind everyone of what Texas "Tex" Bender says about certain situations;

"Good judgement comes from experience, and a lot of that comes from bad judgment".

Bernard Lea

Bernard Lea, President



PLWA Welcomes New Members To Our Team!

Read more about our
Access Investigation &
Outreach Programs at
www.plwa.org/programs



PLWA Spring 2022 Intern: Ingrid Peters

Ingrid is a junior in Environmental Studies with Water Resources and Political Science minors at Montana State University, focused on water quality research and policy. She is a backcountry skier, rock climber, ice climber, public lands user, and loves being immersed in nature. Ingrid studied abroad for a semester in Ecuador, Peru and Bolivia, solo traveled across Europe, spent a year of university studying in Switzerland, and came home to finish school.

Ingrid grew up twenty minutes from Bozeman by the East Gallatin River, cultivating veggie and flower gardens and raising animals including horses, cows, sheep, goats, and dogs. Growing up in the countryside surrounded by public land, national forest and connected to the watershed, she grew up learning to care for the water and land and appreciate the ecosystem. She is passionate about understanding the complexities of local public access issues and loves being a member of the outdoor community. For her internship with PLWA she is organizing an outreach event on campus to connect students and recreationists to PLWA, doing research documenting access points, working with the Executive Director, helping with the newsletter, and learning about case law. She is excited to be part of PLWA and bridge the gap between students, the outdoor community, and access information.

PLWA Undergraduate Interns earn college credit while helping to safeguard equitable access to Montana's public lands and waters. Interns learn valuable non-profit operation skills tied to public access investigation, grassroots advocacy and community engagement, fundraising, partnership building, legal elements of public access work, and digital communications techniques. Learn more about the program at www.plwa.org/plwa-intern-program



Public Access Investigator: Haley Sir

Haley grew up in Northern Michigan surrounded by the Great Lakes, invoking a passion for water conservation at a young age. Through fishing and recreating on Lake Michigan and Superior's numerous tributaries, she developed an understanding for the importance of preservation of fisheries and wild spaces. After exploring an education in graphic design as a young adult, she headed West at the first opportunity to chase the Rockies.

While residing on the front range of Colorado and pursuing various career opportunities in design and customer service, she obtained a degree in Environmental Science from Metropolitan State University in Denver. Her degree included a strong focus in water quality and municipal operations, as well as research opportunities surrounding the 2015 Gold King Mine spill into the Las Animas River. After graduation, she was employed at a local water and sanitation district performing GIS and asset management-related work. Haley lived, worked, and recreated on the front range for almost a decade before relocating to Montana to work for the Department of Environmental Quality. Throughout her career with the State, she developed a passion for working collaboratively with stakeholders to achieve the goal of protecting Montana's state waters.

After several years working in public service at both a state and local level, Haley is excited to now serve as the Public Access Investigator for PLWA. She currently lives in Butte, where she regularly takes full advantage of Montana's public access to hike, camp, climb, fish, and explore. Her favorite pastime involves a fly rod, her two pups, and a flowing river.

Read more about our Public Access Investigation Program at www.plwa.org/programs

Powell County's Jake Creek Road - Resolution in 2022?

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Yet, despite these plans and many subsequent start and stop efforts to reopen Jake Creek Road, it still remains closed to public access.

State law requires counties to remove obstructions to public access on county roads. While the fact that Jake Creek Road is a County Road that is being illegally gated is not in question, resolution to this particular problem is proving more complicated. The road has been re-routed over the years and FWP's management of the Spotted Dog WMA will be affected by any of the potential resolutions currently proposed. There are multiple governmental parties involved (Powell County, DNRC and FWP), and work with landowners, the public, PLWA, and wildlife conservation organizations is a delicate and complex process. Resolving the illegal gate situation involves many steps, as indicated in PLWA's website chronology of this access complaint. Progress is being made, albeit slowly.

While the Powell County Commission has repeatedly and consistently maintained its intent to reopen Jake Creek Road, the how and when of that reopening is a "work in progress." After a July road viewing that identified the limited improvements needed to reopen the Road, a Powell County-MSU Extension proposal to conduct a four year road/elk study gained traction. The proposed study is a collaborative research partnership between Powell County, MSU, private landowners, FWP, and other interested stakeholders. It would assess the potential impacts of gate removal/road reopening through research of elk numbers, movements and forage on nearby agriculture lands, and recreational use during contrasting periods when the road is open and closed. The study is intended to assist the County with its road management decisions. The Commission's "green-lighting" of the study in September 2021 triggered MSU's on-going efforts to secure the needed \$500K to conduct the study.

The proposed study demonstrates the complexity of resolving access problems. PLWA's Board decided to maintain a neutral position with regards to the study, which the Board considered to be outside the scope of PLWA's mission to investigate and address illegal closures of public access, deciding instead to maintain focus on re-opening access on the road in question. PLWA tapped its partner organizations to oversee the elk management & study issues, while PLWA will monitor the study process as it relates to restoring and maintaining public access.

In November 2021, the Powell County Commission tabled a proposed resolution on the opening of Jake Creek Road until Spring 2022. This delayed consideration allows time for MSU Extension to seek funding for the road/elk study and for Powell County to conduct limited road improvements in Spring 2022 in advance of road opening. In its proposed



Illegal Locked Gate on Jake Creek Road, Powell County

resolution, the County indicates that, other than the temporary closure for the elk study, the Road will be "managed as any other unmaintained county road. It will be not be plowed in winter, and will not be improved, but only repaired as necessary."

PLWA believes strongly that it is time that the illegal gate situation on Jake Creek Road be resolved, and that the road should finally be opened for public use this spring. The organization will remain vigilant in this case until rightful public access is restored.

PLWA appreciates the cooperation of the Powell County Commissioners and of their legal and planning staff in working with PLWA to resolve this access problem. This cooperative relationship is a refreshing contrast to the county recalcitrance PLWA has encountered on some recent access cases, and is in the spirit of PLWA's goals of organizational partnership and community action.

Finally, PLWA would be remiss if it did not thank and recognize the incredible work contributed by members Ed Scharf and Conn Coughlin. Their information gathering and persistence to encourage the local County Commissioners to act was inspirational. They demonstrate well how the voices of the local recreating public make a huge difference in safeguarding public access, and why PLWA is only as effective as its members and supporters.

For their part, Conn and Ed expressed their dismay that their kids and other younger folks in Deer Lodge have never had the privilege of accessing areas that they explored and enjoyed in their youth due to the illegal gating of Jake Creek Road. "Without the help of PLWA, it might have taken much longer than the past 11 years to put this road back in the hands of all of the public, as it was promised and intended," Conn noted.

Read more about the case at www.plwa.org/jake-creek

Hughes Creek Update: More Than Just A Gate

The work to open Hughes Creek Road has been long and fraught. District and State Supreme Court decisions have not discouraged residents from blocking the access point to the Bitterroot National Forest and recreation beyond time and time again. A theme of disinterest and delay has been notable from local officials, creating a pattern of marked lack of enforcement and lack of access.

Local officials have stated that they don't see why the push for access at Hughes Creek, a public road, is so important. In an interview with the *Ravalli Republic*, County Commissioner Chilcott said "The return on this is not huge for public lands people."

The disconnect between public officials and public interest is clear - there cannot be a subjective evaluation of whether public access via public thoroughfares is the determining factor in deciding if the public gets access or not. The law is the only factor the people should accept.

After PLWA's mandamus action, and subsequent extensions granted to County officials, the road was eventually cleared and opened in January. District Court Judge Leslie Halligan ruled in February on the Defendant's Motion to Dismiss, yet did not address PLWA's arguments regarding immediacy in removing obstacles nor in preventing future road



The Huges Creek Gate Before Removal in December 2021

blockages. PLWA is reviewing the decision.

What is apparent, is that we are facing challenges across the state in compelling local officials to treat rural road blockages to public lands and waters as seriously as they would treat an excavator parked on Main Street, and citing law breakers who harass or encumber recreationists as seriously as they would a trespasser on private land.

It falls to all of us to monitor and hold accountable our local officials. We must report infractions and hold the standard of public land & water access rights as sacred as private. They are equal under the law in Montana, and should be treated so.

7-14-2134. Removal of highway encroachment.

- (1) Except as clarified in 23-2-312 and 23-2-313 and except as provided in subsection (4) of this section, 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 the encroachment.
- (3) The board of county commissioners may at any time order the road supervisor or county surveyor to *immediately* remove any encroachment...



EXECUTIVE DIRECTOR'S MESSAGE

While much of the world around us slumbers, PLWA is awake with purpose as we start the year. With new staff, programs, and purpose, our public access work is off to a strong start.

The coming year represents many firsts for us - expanding our departments, offering trainings to the public, expanding grassroots advocacy programming, and strengthening partnerships with new user groups

across the state and beyond.

I look forward with optimism towards engaging with new members and seeing our ranks grow as supporters herald our public access message far and wide. Now is the time to carve out your space in the public access movement.

Drewry Hanes, MS, MPH



Get to Know Artist, Traveller, & Photographer *Ian Lange*

Born and raised in Bozeman, Montana, Ian has from his earliest days been immersed in the outdoors. First exhibiting an artistic drive with a pen and paper, Ian was creating far before he found a camera in his hands. At 11 years old, he began experimenting with digital photography, soon becoming a passion that shaped his life. Now 21 years old, Ian's work has featured in international publications and recognized by the likes of the National Geographic and Rock and Ice Magazine.

He continues to capture stories in the backcountry and abroad. Learn more at ianlangephoto.com

Ian Lange was born and raised in Bozeman, Montana and grew up skiing, ice climbing, rock climbing and recreating in the mountains. He is an athlete, photographer, and storyteller passionate about creating meaningful stories, interactions with people and nature. His love for photography and adventure grew from exploring the mountains and living in the Greater Yellowstone Ecosystem. Ian began skiing and climbing with his dad as a kid, and this mentorship shaped his perspective and skills in the backcountry. His time in Yellowstone had a profound impact on him at an early age, and access to the outdoors was the reason his parents moved to Bozeman in the '90s.



Ian Lange

Ian's vision for landscape photography imagines the artistic landscapes of Montana as an untrammelled wilderness with vast ecological benefits to animals and humans, and spreads awareness about the majestic state we call home. He imagines what the ecosystem looked like before the 1800s when westward expansion began to vastly change the landscape, when the Gallatin valley was a sea of flowers with bison and

since protected wilderness and access are decreasing, it is crucial to take care of public lands and waters for ourselves, future generations.

Access is important because being able to adventure in public spaces is something we rely on in Montana; it reminds us that our well-being as humans is dependent on the well-being of Earth and allows us to escape into our wild nature. Without access we risk losing our connection to ourselves as well as these shared resources. With increasing development and expansion into nature, we are at risk of losing access to public lands.

"Access to the public land and water gets people outside, and it's important for people to be able to see the wilderness and have connection with the land...being in nature is important for people staying happy, and for some it's their livelihood." Ian shares his love for wildlife, dark skies and pristine wilderness to inspire others to be stewards of the mountains, rivers, prairies and valleys of Montana. Photography, skiing, and climbing, and recreating intentionally are some ways to have a relationship with the land and be part of the ecosystem.

"Access is important. There are less access points here than in some places, and we need to keep the few we have for the public...it's important for the livelihood of a lot of people."

other wildlife roaming free. When asked about his motivation for photography, Ian said, "I hope my contribution can help people to protect places and care about them, capture them in a new way, and inspire a more nuanced understanding of environmental issues." Ian first picked up the camera in middle school, when he found his mom's old camera gear. It became a source of inspiration and complemented his backcountry adventures. Ian does photography because it provides a powerful medium for capturing memories for himself and others, conveying shared experiences and enthusiasm for adventure.

Access to public waters and lands are central to our relationship with the outdoors. Ian is passionate that it is "important for people who don't do backcountry stuff to understand there's still pristine wilderness out there," and



© Ian Lange Photography



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Chad on the Mountain

PLWA *Who We Are* Highlight: Chad Zeitner

Chad is a Montana native, and aspiring citizen of the world. In addition to spending time traveling and enjoying the outdoors, he spent 10 years as an electrical engineer before making the switch to beer (co-founder/owner of Montucky Cold Snacks).

Chad has been an outdoorsman all his life. From boy scouts, to skiing, to hunting, to backpacking, to climbing, to hiking, etc. the outdoors has always been a special part of his life, and he feels strongly that everyone deserves (some would say needs) to be able to take part. Our public lands are a big part of who we are, and we need to work diligently to protect access to them. Chad is excited to help continue the work of PLWA and help to ensure everyone has access to public lands.

Quote of the Quarter:

“Nature loves courage. You make the commitment and nature will respond to that commitment by removing impossible obstacles. Dream the impossible dream and the world will not grind you under, it will lift you up. ”

— Terence McKenna