

**PUBLIC
LANDS / WATER
ACCESS
ASSOCIATION, INC.**

Post Office Box 2 ■ Ramsay, Montana 59748-0002

EXHIBIT 14
DATE 1-18-05
HB 133

Guest Editorial:

Our groups really appreciate the excellent Standard article by Perry Backus and the follow-up editorial by the Standard leadership on public access at bridges in Madison County.

Recreationists statewide should keep the key points of the Attorney General's ruling on their person or in their vehicle when accessing Montana waterways. Reporter Backus gave a brief synopsis of the A.G. ruling in his article.

The point brought out by the editorial staff of negotiating with county officials and landowners is well taken, but there are some serious pitfalls. A good example of this was brought to my attention by a friend from Sheridan who confided in me at the time that there was a Sheridan area developer who handled several ranches along the Ruby River for non-resident landowners and that he was charging other non-resident fishermen \$50,000 "cash" for exclusive fishing on area streams. The tax enforcers didn't find out about this because the people that had been swindled were too embarrassed to discuss it. It is impossible to negotiate against this type of money.

The Ruby River also runs through the Snowcrest Ranch owned by Turner Enterprises. He is one of the largest taxpayers in Madison County so county officials are reluctant to rock the boat over illegal posting of bridges. Likewise, any other big tax payer and landowner is ~~Jim~~ Kennedy who owns a great deal of land along the Ruby River. His boundary fence was moved into the county right of way and an electric fence attached to the east bridge abutment. A single electric wire just two feet above the Ruby River crossed the stream. The stream access law was in place long before these individuals arrived, yet they are interpreting the law to fit their own exclusive needs. Thus the public are being locked out of their own rights of way.

This problem is rapidly escalating into other counties and officials are reluctant to meet the problem head on. Local recreationists must stand together and elect people to office that believe in public access, or we will lose everything we hold sacred including our public lands and waters. The old saying "what's mine is mine and what's yours is mine" must not be accepted.

Tony Schoonen

Director - PLAAI

roads, trails, streets or thoroughfares is to be made, advertisement thereof shall be given by the supervisor of the district in which such improvement is to be made, by posting written notices in two of the most public places of his district, and by advertisement in one newspaper of the county, or, if none be published in the county, by notice posted on the court house door, at least ten days prior to the letting of such contracts, and all contracts shall be awarded to the lowest responsible bidder, subject to the approval of the board of commissioners: *Provided*, That the supervisor shall have power to make contracts for the improvement of roads, which shall not exceed the sum of fifty dollars, at their option, such contracts to be approved by the board of commissioners.

Sec. 8. The board of commissioners of each county, on presentation of petitions, praying for a county road, trail, or thoroughfare, to be laid out within the county, or praying for such road, trail, thoroughfare, or highway, to be laid out from the dwelling or plantation of any person, to any public road, or from one public road to another and designating the points therein, shall cause notice to be given to the parties owning the lands over which such road is to be located, and if objections by one or more of the owners shall be made, the board of commissioners shall consider and determine the same at their next regular meeting, and if they shall be of the opinion that such road, trail, street, or thoroughfare is necessary, they shall appoint two persons as viewers who shall view out and locate said road, trail, street, or thoroughfare, and upon a return of the certificate of the viewers, shall declare the same to be a public highway; when absolutely necessary, the county surveyor may be called on by the commissioners to assist in said location.

Sec. 9. Each road supervisor shall report to the board of commissioners quarterly, the amount of money collected and paid out by him, and to whom and for what paid, the number of days he has been in actual service, and also a list of delinquents; and said supervisor shall make an affidavit before a justice of the peace, or some other officer qualified to administer oaths, that the said report and delinquent list are correct, to the best of his knowledge and belief, and any person refusing or neglecting to pay the road tax required by this act, to the supervisor, within three days after the same shall have been demanded in writing of him by such supervisor, shall be considered a delinquent, and the supervisor shall proceed to levy, and sell at public vendue, to the highest bidder, after giving public notice as required by law on sales under execution, the property of such delinquent, or so much

*This was done already is it is 2
County road*

thereof as shall be necessary to satisfy such delinquent's road tax and costs of making such sale.

Sec. 10. The road supervisors shall each receive for their services while in actual employment, such compensation as shall be allowed by the board of commissioners, not to exceed six dollars per day.

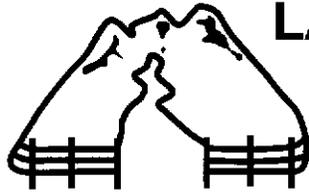
Sec. 11. If any person shall obstruct any public road, trail, street or thoroughfare, by felling any trees across the same, or by placing any other obstructions therein, or damaging, digging or deepening a creek or river, or its banks so as to destroy a ford or crossing, he shall be liable to prosecution before any justice of the peace, or any commissioner of the county or supervisor of the road district, on behalf of the county, and, on conviction thereof, shall be fined in a sum not exceeding fifty dollars, and shall forfeit five dollars for every succeeding day he shall suffer said obstruction to remain, after he shall have been ordered to remove the same by the supervisors. The road supervisors shall cause to be erected and kept in repair, posts and guide-boards with inscriptions thereon, in letters and figures, giving the direction and distance to the most noted places, to which such roadway leads.

Sec. 12. If any person shall willfully destroy or injure any bridge or causeway, or remove or cause to be removed any of the plank or timber therefrom, or cut down or injure any tree, planted or growing as a shade tree, in any public highway, street or thoroughfare, by digging in it, he shall be liable to be prosecuted before any justice of the peace, by any commissioner of the county in behalf of said county, and, on conviction thereof, shall be fined in a sum not to exceed one hundred dollars.

Sec. 13. All fines collected under the provisions of this act, shall be paid into the county treasury for the use of the road district in which the same was collected.

Sec. 14. This act to take effect and be in force from and after its approval by the governor.

APPROVED, January 30, 1861.



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Post Office Box 2 ■ Ramsay, Montana 59748-0002

Re: PLAAI v. Madison County—Cause No. DV-29-04-43
To: Mr. George Trischman & Mr. Hamilton

August 13, 2004

This letter follows up our conversations earlier today on the telephone. First, our organization has no quarrel whatsoever with the Hamilton ranches; we appreciate your consideration in allowing public access and public hunting. If other ranchers followed your example, there would be no need for a lawsuit.

1. PLAAI is not challenging Madison County's resolution because it wants to have every fence in every public right of way in the state removed. PLAAI understands that stock growers need to be able to confine their cattle. PLAAI further understands that sometimes the only way to do that is to attach fencing to county bridges. PLAAI opposes, however, fences which are designed to keep people out, not keep cattle in, i.e. electric fences.
2. PLAAI has been forced to take the position it has in this lawsuit because of the unfortunate status of Montana law, and the obvious alliance between Kennedy and the Madison County Commissioners. Montana law disallows any encroachment on a "public highway" in the state ("public highways" include county roads). As defined, a "public highway" includes rights of way. Further, Montana law allows ranchers to erect fencing "adjacent to" public highways, not on them. PLAAI realizes that the status of the law poses a problem for the rancher who needs to confine his cattle.
3. PLAAI agrees that ranchers must be able to confine their cattle. PLAAI agrees that sometimes the only reliable means to do that is to erect fencing in public highway rights of way. PLAAI agrees that a reasonable compromise with ranchers is the best solution.
4. With that being said, PLAAI wants to allow ranchers to erect fencing on public highway right of ways if such fencing is reasonably intended to confine cattle, and the public has reasonable means of using the right of ways to access public waterways. In other words, there needs to be some reasonable restrictions on the types of fencing (i.e., no electric fences) that can be erected in the right of ways and, if necessary, some reasonable means for a passing through the fence may need to be constructed (i.e., gates, walkthrough, panels, etc.).
5. We believe that if a rancher is allowed to erect a fence in the public highway

right of way, he cannot take the public's right to access the river away by adverse possession.

6. Ranchers who erect fences within a public right of way cannot be allowed to post "NO TRESPASSING" signs or paint fence posts with orange paint or bridge abutments within the right of way. A more appropriate sign may state: "Respect private property, only use the right of way to access river." We understand the landowner may post no trespassing signs and paint fence post orange on his own property.
7. Our groups are willing to work with the landowners adjacent to county bridges and the commissioners. We recommend starting with the Lewis Lane Bridge as a pilot.
8. The Madison County Resolution is not too far off base. PLAAI understands that the Commissioners are trying to fashion a compromise. The problem, however, is that there are no limits or restricts in the Resolution. If the parties take the current Resolution and work together, PLAAI believes they can fashion a workable solution.

George, I hope that we can reach a compromise on this.

Tony Schoonen
Director
Public Lands/Water Access Association, Inc.