

For immediate delivery

**THE MONTANA COALITION FOR APPROPRIATE
MANAGEMENT OF STATE LAND**

Dear Chairman Kerns, & members of the
Judiciary Committee:

Our Groups, Skyline Sportsmen, Anzcondz
Sportsmen & the State Lands Coalition
urge you to pass H.B. 235. This bill
clarifies legal crossings at geographical
corners from one parcel of public land,
i.e. state and Federal without damaging
private property. There is no statute
on the books which makes corner
crossings illegal now, in fact several
court cases will prove that no one owns
the air nor a person stepping across
a geographical corner or using a
step ladder is there is a fence.

The latest case was in Wyoming,
note attachment. Also our group called
over two dozen county attorneys around
Montana with the same outcome got
complaints.

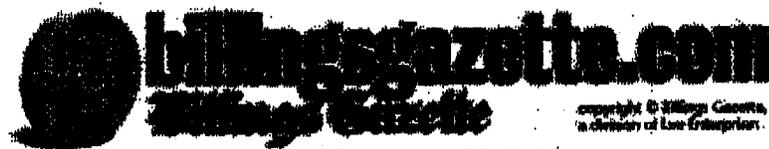
Your yes vote on H.B. 235 would
be greatly appreciated. With the new
technology, i.e. G.P.S. and Google Earth,
a lot of public lands would be
open to Montana citizens.

Thanks.

Sincerely,
Tony Schover
Director

"Putting The Public Onto Public Land"

Truk 502 St.



<http://www.billingsgazette.com/index.php?display=rednews/2004/04/13/build/wyoming/30-corner-jumper.inc>

Man found innocent of 'corner jumping'

Associated Press

LARAMIE, Wyo. - In a ruling that could have far-reaching implications for sportsmen's access, a Douglas man has been acquitted of trespassing after he jumped from one corner of public land to another, crossing the space above adjoining private property.

"Corner jumping" is the term used to describe stepping from piece of property where four sections of land meet to reach an opposite corner without touching the other two parcels, like a diagonal move on a checkers board.

The Game and Fish Department will review its long-standing assumption that corner jumping is illegal, wildlife enforcement coordinator Russ Pollard said.

"I'm sure that we will revisit the issue, but I have no idea what the outcome's going to be, what direction we will get from our administration," he said.

Albany County Circuit Judge Robert Castor's not-guilty verdict in the case against Bill Kearney raises the possibility that public lands in Wyoming may be more accessible to the public than previously thought.

The case began Sept. 23 when Kearney, while hunting, stepped from one parcel of public land to another that meet at a corner where two pieces of private land also meet.

Using a global positioning system device, Kearney found a surveyor's pin that marks the intersection of the four parcels, and he did not step in or physically touch the private lands when he crossed the corner.

"I did this, and I was accosted by a landowner and a Game and Fish representative on public land," Kearney said. "They asked how I got there, and I told them, and they told me that was against the law in Wyoming. ... I couldn't believe that was true because I never stepped on private land."

Nearly a month later, Kearney was cited for trespassing.

"From my overall experience, it appeared to me that the Game and Fish was under a tremendous amount of pressure by this very wealthy hobby rancher to prosecute me for accessing thousands of acres of public land," he said.

He decided to challenge the citation because he didn't think he had broken the law. On March 24, after a nonjury trial, Castor found Kearney innocent.

"It's unfortunate that I had to waste a couple of days of elk hunting and my own money to see this through, but it was a matter of principle," he said.

Kearney's attorney and the prosecutor, Deputy Albany County Attorney Torey Racines, could find no definitive answer in Wyoming case law to interpret whether corner jumping is prohibited.

"There's case law from other states, and there's arguments made on both sides as to what the law should be," Racines said.

In court documents, Racines noted that Wyoming law specifically grants landowners sovereignty of the space above their lands - except for aircraft use - and even the U.S. Supreme Court grants landowners ownership of "at least as much of the space above the ground as they can occupy or use in connection with the land."

On the other hand, a recent Massachusetts Supreme Court ruling stated there is "no place in the modern world" for the ancient civil trespass doctrine that "he who owns the soil owns upward unto heaven."

Pollard noted that Castor's decision is not binding in any other Wyoming county. And Racines said the judge did not give a reason for his decision, which makes the basis for the finding unclear.

Racines said his office will continue to review similar cases one-by-one rather than refuse prosecution of cases mirroring the Kearney case.

Kearney, meanwhile, is left pondering the effects on public lands access and reactions of public lands agencies.

"I'm happy that I was cleared of it, but it's really unclear what this not-guilty verdict means," he said. "If this isn't binding to the state of Wyoming as it should be and it takes legislation to do it, I'd like to see somebody step up to the plate to do it."

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Howard - No one has
been fined in Mt.
Sox this either.
This will help us,
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