



**PUBLIC LAND
WATER ACCESS
ASSOCIATION**
• EST 1985 •



THE KEY QUARTERLY

Unlocking Access to Montana's Public Lands & Waters

Winter 2023

Can Public Access Survive Without Partnerships?

A Look At Public Access in a Modern Day Montana

Legislative season is upon us, and while PLWA strongly believes equal access to Montana's public lands and waters to be an issue of equal importance to all, the past weeks' hearings at the Capitol have made one thing clear – it will take everyone to whom public access matters, working together, to preserve it.

While Montana has a long and important heritage of connecting to and benefiting from our revered lands and waters, this historic access was not always codified into law. We can look to our American Indian communities to learn of the sacred principles that teach us how we must care for these lands and waters, and how they in turn care for us. For over a hundred years, people across what has become known as Montana have traversed its mountains and streams to hunt, fish, and forage food for their homes – to fell timber and range animals, to create businesses and build communities, and to feed the spirit. The free passage of residents and visitors across and within these ranges gave way to trails and roads, to railroad parcels and then to railroad patents. Eventually, pieces were carved out and names slapped onto them, and the access became less clear, though the history remained.

In the 1980s, original PLWA members along with partner organizations across the state and lawyer Jim Goetz fought in court to create what became the Stream Access Law, outdoor heritage which is part of our modern Montana State Constitution. Further battles in the decades that followed garnered our Bridge Access Law and access to the previously inaccessible State School Trust lands.

What we should all remember is that these are relatively new protections in the long history of our state, and that none of this was done by one person or one group. It was a coalition of supporters that got the Stream Access Law passed, and activism by members across the state who stuck with PLWA throughout the years to see the Bridge Access Law become a reality. But these are all at risk today, as are our other access victories, small and large.

Less than 8% of PLWA's work involves taking cases to court or working on bills in the legislature. Most of our time is spent investigating claims brought to us about possible blocked access points at rivers, streams, roads, and public lands. In some cases we determine that public access does not exist and pass along this information to constituents and local agencies. In many other cases, we discover that access is either unknowingly being blocked off due to a lack of awareness of the local laws and regulations, or more disturbingly, closed off intentionally to benefit the few at the cost of the many.

This February PLWA spoke in favor of Rep. Greens' simple but much needed gating bill HB 486 – one that would raise the over fifty-year-old and outdated fine of \$10 a day which has yet to be levied to a \$100 to \$500 a day fine and allow individuals to bring penalties if access to public lands is being blocked on listed county roads. This is a problem PLWA and our communities see happening too often, such as in the Hughes Creek Road case. Only three others spoke in favor of the bill,

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and then it was United Property Owners of Montana (UPOM) lobbyist Chuck Denowh's turn to testify and toss out red herring after red herring, chanting about "activists" who brought cases without evidence to steal land from farmers carrying on Montana's sacred land-owning traditions. He stated that PLWA, like other similar organizations, had a business model of "suing landowners to force access" and "raising millions of dollars" on the backs of poor landowners while trying to take their land and bankrupt them in court. "Either they lose their property or they have to spend an enormous cost to protect what's theirs, and the NGOs always win. They either get access to the property, or they get a nice case to fundraise off of." It did not matter that the claims Mr. Denowh spouted off were lies, or that the Mabee Road case brought up had nothing to do with the bill being considered at the hearing – when people don't show up for what is important, it is hard to offer a rebuttal in the moment to someone willing to play that dirty, no matter what truths exist in the public record.

In a 2019 report, Headwaters Economics assessed that over 80% of Montanans recreate outdoors. It is a \$7.1 billion dollar industry for our state. While approximately 21% of our residents have hunting licenses, not everyone agrees with public access to our lands and waters. This means that the historic focus on the hook and bullet crowd to fund and protect access to our public lands and waters must shift to include new demographics. The number one reason folks moving to the region for work listed as an attraction were Montana's outdoors recreation opportunities. While land changing hands absolutely can lead to problems with access, it also provides opportunities to court new groups of advocates for safeguarding both access to our public lands and waters and the flora and fauna that inhabit them. You protect what you love. Think what that hearing might have looked like if we had filled the room for a bill to prevent

illegal obstructions on public roads with one person from every type of recreational group and business that relies on those public lands and waters beyond.

The time has come to realize that none of us - no matter the skill set, the passion, or the worth of our goal - will achieve what we must if we go it alone. We must band together, connect our advocates, and establish a plan to confront those who would stoop to any level to lock us out of our public lands and waters. The time has come to let our love for Montana's wild places shine a light on the path ahead, a path that we will forge as one.

Get Involved Today!

Wondering how you can join the fight to safeguard access to Montana's public lands and waters?

- Join our Business Sponsorship program and fund things like our Undergraduate Intern Program and our Community Outreach Education initiatives so that all Montanans know their access rights.
- Participate in our PAIC Course and become a trained public access investigator, working in grassroots advocacy and as a resource for organizations across the state.
- Lend your skills as a writer, researcher, lawyer, or board member to help PLWA thrive.
- Partner to help our AIRS program reach members across the community or hold events to engage folks with access issues.

Check out www.plwa.org/volunteering to learn more.

PLWA
PARTNER:
Magic
City Fly
Fishers



<https://www.mcffonline.org>

Trout, Community, & Access in Montana

The Magic City Fly Fishers chapter of Trout Unlimited was officially organized on January 9, 1990 in Billings, Montana. It is one of thirteen Trout Unlimited chapters in Montana, serving south central and southeastern Montana, and currently has over 600 members. MCFE holds monthly membership meetings, September through June, with each meeting featuring a guest program. MCFE also publishes a monthly newsletter, The Hackle Bender. MCFE has worked in partnership with PLWA for over three decades to protect public access to Montana's public waters.

Reach out to MCFE to join, get involved, or donate today. Visit their [website](#) to learn more.

PLWA Out In The Community

We've had some great events so far this winter, and are looking forward to even more! We had a great night in Bozeman between the holidays at **Bunkhouse Brewery** speaking with members and the public about local access issues. PLWA enjoyed two great nights in Helena this winter - partnering with **Mt. Ascension Brewing** for a fundraiser and raffle to promote public access and community, and joining with **MWF's Helena Hunting Film Tour**. Staff and Board Members had a great time speaking about PLWA's plans for 2023. Executive Director Drewry Hanes was in Billings with **Magic City Fly Fishers** at the **Billings Rod & Gun Club** to honor PLWA Board Member John Gibson for his decades of access work and speak on access issues with great partner organizations. Check out upcoming events on our calendar online and connect with us to host events!

Keep up with us here



[publiclandwateraccess](https://www.instagram.com/publiclandwateraccess)



[.plwamt](https://www.facebook.com/plwamt)



PLWA's Spring Public Access Investigation (PAIC) Certificate Course

The application period is open for the Spring Session of PLWA's PAIC Course. Learn the fundamentals of access investigation through the training program for PLWA's Public Access Volunteer Corps, our grassroots initiative to create community self-efficacy around public access advocacy work and increase local knowledge about public access rights in Montana.

Training for access work is completed via a live 8 hour course taken online, available to students across Montana. The course covers 4 topics over 4 evening classes of 2 hours each (or 1 day a week).

The Spring course runs March 20 - April 10, 2023. PLWA requests 1 day of volunteer time (mostly remote) per month.

Learn more and apply online at www.plwa.org/public-access-volunteer-corps

From the President's Desk

Time again for our Newsletter. How time flies when you're having fun - and we are having a good time because of our new hires and volunteers. We continue to get ahead of the game and many items we have had to either ignore or put on the back burner are now achievable. Under Haley's leadership our access complaints are being assessed and dealt with. We continue to work at a measured pace for a variety of reasons, mostly the need for further investigations and thorough searches for documented facts.

Our next annual meeting will be held in the summer, and our plan is that it will be in-person. I am not sure we will be able to recognize each other without a square frame around our faces because the only way we have seen each other is on Zoom!

I also would like to express our sympathy to the Gustafson family because of the loss of Lee who passed away recently. Lee was an important supporter, Board Member and friend that helped PLWA become what we are today. He was instrumental in bringing us up to date with our accounting and money management. Lee kept insisting we hire an Executive Director and we finally agreed as a Board. Lee chose to not be that visible and accomplished his goals from the background out of the public eye. He was a great friend, easy to visit with and will be missed.

Bernard Lea

Bernard Lea, President

Winter 2023 Updates from Public Access Investigator Haley Sir

PLWA continues to see an increase in access issues across the state. The following is an overview of a few of the access issues we have been watching and working on. Please continue to reach out with issues, and check out our new [Access Issue Reporting System](#) (AIRS) on the website to report complaints and to get information about participating.



Christensen Creek (formerly known as Squaw Creek): The Christensen East Bench Ranch, located in the West Pioneers, has been enrolled in the Block Management Program for approximately twenty years. In 2018, management transferred and a gate was locked at the private land/Forest Service boundary on FS road #924, which continues on past the gate through a small section of private property and ends at a trailhead providing access to approximately 40,000 acres of public lands. Currently, the BMA-enrolled land is walk-in only and the trailhead is only motor vehicle accessible by the current landowners with an approximate six mile advantage. Local FS and FWP personnel are claiming there's not much that can be done. In order to reestablish access to both Squaw and Toomey Creek, there would have to be changes to the next FS Travel Management Plan to create a proper route around the BMA, potentially starting on an existing 2-track through FS, BLM, and State administered lands. We have been told the travel management planning process is to begin this February.

Teakettle Access: Forest Service Road #10880, also known as Teakettle Access in the Glacier View Ranger District of the Flathead National Forest, has been closed by local landowners for years despite being listed on travel plans as open year round. Locked gates are located directly off Blankenship Road where there is approximately 400 feet of private property before the Forest Service lands beyond. PLWA appreciates any knowledge or information from readers regarding historical access at this site.

Big Hole River: We are aware of numerous locations along the upper Big Hole River and its tributaries where access is being blocked by excessive fencing, wires, and signage erected with the guise of protecting cattle. Several agencies and interested groups have been contacted regarding this issue. FWP claims they are aware and will be looking into it. Given the number of locations, the issue is complex. PLWA hopes to continue educating the Big Hole community on our stream and bridge access laws in order to move toward a resolution.

Brewer Road: In October, PLWA was contacted by BLM personnel to discuss the gate located on public lands at Brewer Road in Choteau County. Through further discussion, PLWA found out the gate was installed roughly twelve years ago for cattle management. There are no indications that it will be removed in the near future. However, the BLM Regional Manager spoke with

“Teakettle Access in the Glacier View Ranger District of the Flathead National Forest, has been closed by local landowners for years despite being listed on travel plans as open year round.”

the local landowner to verify the gate is, and will remain, unlocked. BLM is working with the landowner to order and erect proper signage indicating public access is permitted up to the private property boundary beyond.

Elk Meadows Road: After continued conversations regarding illegal signage at Elk Meadows Road over Lolo Creek, representatives of the Forest Service and Montana FWP met with the Manager of OZ Ranch in mid-December. The unauthorized sign stating: “Private Property—No Hunting, Fishing, Trespassing” was removed from within the 60’ public right-of-way. Similar signs affixed to the fence and/or gate(s) located nearby were found to be outside of the public right-of-way easement. PLWA was informed that all parties appear receptive to further discussions on improving access to Lolo Creek as part of an upcoming bridge replacement, which is tentatively scheduled to start this summer. PLWA would like to thank Dudley Improta for his continued engagement on this and other public access issues in the state. It's only with the help of our wonderful members and volunteers that we are able to stay persistent and engaged while working to find resolutions on access issues such as this one in Missoula County.

Madison County: County Commissioners have made no decisions or commitments to unlock the gates on County Roads #45 and #49 (Bertha Kennet and Granite Creek Road), despite a recent survey on Bertha Kennet and a 1886 petition on Granite Creek declaring it a county road. Local PLWA supporters and volunteers continue to press the issue and PLWA will continue to work with those involved to resolve these access issues.

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PLWA's Response to the East Crazy Mountain PEA

The history of the Crazy Mountains is long, storied, and by all accounts tortured. It is a sacred place to Apsáalooke (Crow) Nation, and for over a hundred years has been used as a hunting ground, an area for business enterprises such as timbering and outfitting, and recreation for Montana residents and visitors. Railroad patenting and public/private land interfaces has over time transitioned this multi-use area into a space that has seen less and less general or public access, and contrasting opinions have emerged over time about where that access exists. What is undisputed is that the Crazy Mountains offer some of the most pristine and excellent outdoor recreation in the country, and that it has been valued and enjoyed for generations.

The Public Land Water Access Association has a long and proud history of working as a facilitating party in land exchanges and enhancing public access in concert with private landowners, government bodies, fellow nonprofits, and the public. We believe that through detailed research, reasonable compromise, and careful stewardship of our natural resources and public lands and waters, Montana thrives. PLWA has been working on issues in the Crazy Mountain region of Montana for over twenty years, and agrees that there are numerous challenges involved. We also recognize the work that public and private individuals and groups have dedicated to the process of resolving conflict and finding a solution on the East Side of the Crazies. However, the Forest Service's current Preliminary Environmental Assessment (PEA) misses the mark, failing to complete the required due diligence regarding public access, and failing to safeguard the public interest at the broader level. It also sets a dangerous access precedent of "something is better than nothing", which mistakenly portrays the public as coming to the table empty-handed.

At this time, PLWA formally opposes the Preliminary Environmental Assessment for the East Crazy Mountain Inspiration Divide Land Exchange (ECIDLE). Our comments were submitted in December, 2022 and we await the response of the Forest Service. A summary of our concerns are:

1. The lack of due diligence performed regarding pursuit of and protection of public access at Sweetgrass Road;
2. The ceding of Parcels 8 and 10 [S08, T04N, R12E and S10, T04N, R12E or Sections 1 & 2 in the PEA land swap designation] and relinquishing of the easements on Sweetgrass Trail by the USFS;
3. The increasing impacts that would be felt upon flora, fauna, and users if 50% of the possible access points into the East Crazies were eliminated;
4. The lack of codification of access rights and conservation planning included in the PEA;
5. The PEA's seemingly contrary effects when taking into account its stated objectives;
6. The risks to future recreation and conservation should the PEA move forward in its current form.

We appreciate the work contributed by the many members of working groups and those serving in a professional capacity to enhance recreation in Montana. At PLWA, we believe that conservation and compromise are important, but that to preserve the distinct nature and quality of the place we call home, public access is everything.

PLWA's full PEA comments are available on our website at www.plwa.org/comments-east-crazies



In 2023 I am excited to see PLWA starting off the year with so many community partnership events. After many years of existing mostly in the boardroom, back record room, or the courtroom, PLWA is thriving through our relationships with access advocates across the state of Montana.

EXECUTIVE DIRECTOR'S MESSAGE

Through our AIRS program, our second Public Access Investigation Certificate Course, and Community Education and Outreach Fundraiser events, it feels like the community is really raising the bar on protecting access. And it is a great feeling.

Drewry Hanes, MS, MPH

Skunk Creek Road: PLWA continues to receive complaints regarding harassment from a local landowner near the seasonally closed gate on Skunk Creek Road in Gallatin County. The landowner had previously appealed to close or move the Forest Service gate to avoid people parking near their driveway in the winter months. The landowner continues to interfere with public access and management of the road by refusing to accept an authorization/permit from the Forest Service to plow a turnaround for public use. The regional Forest Service office and law enforcement are engaged in continued conversations. PLWA has been informed the public is legally allowed to park within the road right-of-way for up to 48 hours, as long as they are not blocking the gate or driveways nearby. The Forest Service will not concede to moving the gate unless there is benefit to the public or an administrative need. PLWA encourages the public to report any further incidents regarding Skunk Creek Road.

Bitter Root Road: A final commissioner's meeting was held in early December to make a decision on two petitions, one to alter and one to abandon a perfected public right-of-way near Bitter Root Road in Missoula County. PLWA watched the

proceedings carefully over the last few months. The argument was made by many that same or similar access was available nearby. The nearby FWP parcel located along the Bitterroot River was never intended by the agency to be accessible by road. Ultimately, the commissioners voted to approve the petition to abandon the right-of-way. Access to the parcel managed by FWP remains by means of recreating or floating on the Bitterroot River.

Montana Ski Resorts: A growing number of ski resorts/lodges have begun charging fees for access to National Forest Service lands that fall within a resort's special use authorization during hours of operation. After many discussions with National Forest officials and hours of research, PLWA staff and volunteers have concluded this practice is becoming more common across the west in an attempt to track and manage growing use of ski areas. It seems within the terms of the special use authorization and individual resort's operating plans for them to charge a fee for use of ski resources, including groomed trails, and even potentially limit access during operating hours.



Lee Gustafson: Remembering One of PLWA's Original Access Champions

Leighton "Gus or Lee" Gustafson who passed away this January, 2023 was an integral member of PLWA for many years. He demonstrated the ideal that some of the folks who achieve the most often do so quietly

and without fanfare, satisfied to watch the results of their work accumulate rather than receive the praise from it. His lifetime of hunting, fishing, and service to many outdoor organizations is a great reason why many of us now enjoy such incredible access to Montana's public lands and waters. Executive Director Drewry Hanes remembers a call from Lee during her first month in the position for PLWA. "Lee called to welcome me to the role, having done a similar job behind the scenes for many years. He offered advice and support, and an important idea I have revisited time and again. He told me 'We're on the right side of the issues here at PLWA. We just gotta keep doing what we're doing. Public access is important, that's why we got this thing going, and why we are depending on your generation to keep it going.'" PLWA is forever grateful to Lee for his work to build membership and promote public access, and to his wife Billie.

The 2023 Montana Legislature is Moving Fast & Furious

Make sure you are signed up for our newsletter and that you follow us on Instagram and Facebook in order to stay up to date on issues and receive last minute important announcements about Bills. Things move fast during the Legislative Session!

Click the Legislature button on the main page

Read about bills then use our quick connect buttons to reach out to legislators or testify



LET YOUR VOICE BE HEARD

- MT Bill Lookup
- MT Legislator Lookup
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Butte-Based Outdoor Creative Valerie Manne



Valerie Manne is a full-time creative with many talents including photography, woodworking, and design who has developed a myriad of techniques and skills to create the items in her portfolio. She is the owner and lead designer of Digital Spark Creative, a Butte-based design firm with incredible attention to detail and commitment to quality.

Photography has been a passion of Valerie's since she was a young adult and her website, valeriemanne.com, showcases a multitude of beautiful Montana landscapes. Valerie's work has been published in various Montana tourism materials, ad campaigns, and even a Visit Butte billboard. When not designing or creating, Valerie enjoys spending her time hiking and exploring nearby public lands. To see some of her adventures and find excellent online trail resources, visit backyardmontana.com, a website she created to provide information about outdoor recreation in Southwest Montana.

You have a lot of different recreational and creative passions. Where do these stem from and how does public access play into them? How do you balance all your creative pursuits while still getting out to enjoy Montana's outdoors?

My recreation and creative passions stem from growing up in a remote setting in the Adirondacks. Growing up in such a remote area, there weren't that many public entertainment facilities so I focused on the arts first. A high school art teacher enlightened me that I had creative talents. The outdoors was something I gravitated towards and realized was important to me with age. I was lucky to grow up in an area with so much public land to explore and I only realized how rare that opportunity was when I left it. I think the balance between creative pursuits and Montana's outdoors is that my business fulfills some creative challenges during the week, but being in the outdoors recreating and photographing my husband and my adventures during the weekends is what makes me feel most alive and refreshed. I'm grateful to have so much land to explore in my free time, and it's just in my backyard.

What are your favorite types of landscapes or destinations to visit and photograph? What do you hope to convey through your photography?

My favorite landscapes are off the beaten path. My husband and I prefer strenuous hikes or bushwack for the solitude and rarity of the views we get to witness. I hope my photography conveys the beauty and sacredness of these places, as I see them. I hope it encourages people to want to protect them.

Why are Montana's public lands, along with maintaining access to them, important to you?

Montana's public lands are what make Montana special. Maintaining access to them is of utmost importance to me because it's what I value most about where we live. The peacefulness and mental clarity it provides me is unmatched.

It's clear from the portfolio on your website, valeriemannedesign.com, the incredible time and energy you put into your handcrafted woodworking projects. What drew you to such a hands-on craft and natural medium?

I remembered seeing these geometric lath pattern table tops and thinking, I want to try something like that. I really liked that the end result was not only beautiful but functional. Woodworking and being able to make furniture pieces for myself feels empowering as a woman. The more I learned and worked with different wood species, the more I appreciate the beauty found in wood as a medium. Each board is different, and working with wood is imperfect. I like to woodwork in a way that primarily shows off the wood's character.

What do you love about living in Butte and its recreational opportunities?

I love living in Butte because I feel surrounded by so many nearby trail options.

What was your drive behind creating Backyard Montana and what do you see for the future of that creative pursuit?

Backyard Montana was this personal project I started when we moved to Butte. I had just begun my business without having many clients to start with, so I had a fair amount of free time. I decided to start a website documenting the hikes my husband and I did with basic stats and put together a few helpful articles for recreating in Montana. There wasn't much trail data out there online, and it quickly became popular. It was cool to talk to people who had questions about trails or hikes and who also seemed experienced in their outdoor explorations. Some people were very appreciative of it as a free resource and respectful which felt really good. It has a small store that primarily consists of trail maps. I encourage recreationists to learn how to use and read maps instead of increasing reliance on phones. The future of the site is unknown because my business picked up and I don't have a lot of time to dedicate to it. I would like to see it head in a direction that not only encourages others to build their own relationship with Montana's outdoors but to want to protect it.

What do you think your average recreationist living in or visiting Montana should be aware of?

For fun: You're not going to be able to get to most trailheads in this area in a sedan. I was glad to already have a high-clearance vehicle, but some of the trailhead roads are downright comical. Our offroad driving skills improved quickly. For serious: Montana recreationists need to be aware of how they can be good stewards of the lands they enjoy. The land should be treated with respect and taken care of. That means putting campfires dead out, cleaning up garbage found on the trails, respecting trail use restrictions, and following leave-no-trace principles. I came from an area that became so popular it ran into overuse and inexperienced user issues, and I want to do what I can to make sure that doesn't happen here.

In your opinion, what is the most important thing readers can do to protect access to their public lands?

I think being more active and informed when it comes to politics is the most direct way to get involved and protect public land access. I'll admit, I wasn't very politically savvy. But I've learned a lot about how to testify, look up bills, and be more proactive this past year and am still learning to become more confident and comfortable with it. I think not only is it important to personally become more active in politics but spreading information and encouraging others to do the same is key.

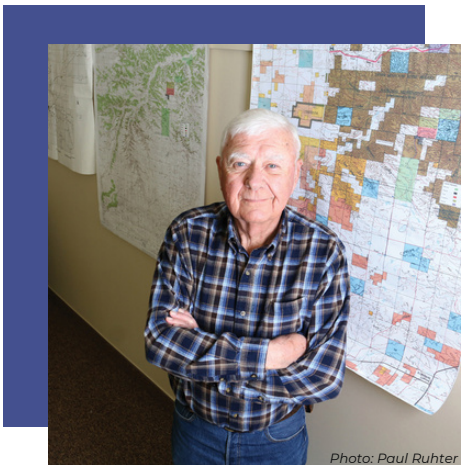




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RETURN SERVICE REQUESTED



Bernie Lea, PLWA Board President

PLWA *Who We Are* Highlight: Bernard Lea

Bernie became involved with PLWA in the early 1980's. Gene Hawks, the then president of PLWA, had filed suit on the Dupyer Creek Road north of Choteau, MT. At the time, Bernie was working as a Realty Specialist for the Lewis & Clark National Forest and became involved in the suit as the Forest Service had previously purchased an easement on a portion of the road. PLWA won in District Court but later lost at the Supreme Court.

A few years later Gene moved to Idaho and asked John Gibson and Bernie to take over the reins of the organization. They did so, and Bernie remains dedicated to the organization's leadership to this day.

Although PLWA has grown in membership and donations, the methodology of the organization is still "facts and patience". In fact, this has always been Bernie's mantra because PLWA would not win the cases it does without the historical facts to support its positions along with patience when the facts are turned over to the judicial system.

Quote of the Quarter:

"The time is always right to do what is right."

— Martin Luther King Jr.