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State access route called public road

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A road that leads to thousands of acres of public land in north-central Montana has been ruled a public highway by the Blaine County attorney.

In a letter to the Public Lands Access Association, which had pushed to open the road, Blaine County Attorney Donald Ranstrom said he concluded that Bullwhacker Road, although it crosses private land, is a public road under Montana law. He cited an 1866 law, Revised Statute 2477, as the basis for his ruling.

"That's a big victory in and of itself," said John Gibson of the Billings-based public lands group. "But it also sets a precedent for other roads up there."

Bullwhacker Road access

The Bullwhacker Road provides access to an estimated 50,000 acres - more than 78 square miles - of public land managed by the Bureau of Land Management. It lies north of the Missouri River in rugged country known for its deer, elk and bighorn sheep hunting. The section of the Missouri River that passes through the countryside is designated wild and scenic. The road drops down to the river just west of the Nez Perce National Historic Trail and Cow Island Landing.

Landowners Bill and Ronnie Robinson had been allowing limited public access across the road, requiring people to sign in at the gate to their property. The road travels through an island of 3.8 miles of private land owned by the Robinsons. In an interview last year, Ronnie Robinson said they denied access only when the road was muddy to prevent it from being rutted by vehicles, or to those they suspected of vandalism or those who had been rude, a position that was disputed by people who spoke at a county meeting in 2005.

When contacted Thursday, Robinson said she had no comment on Ranstrom's ruling. When asked if the couple would appeal the ruling, Robinson said, "They'll find out soon enough."

Ranstrom's letter

In his letter to the Robinsons, Ranstrom said his finding meant that "no gates or fences across the road can be maintained," but he added that his ruling "in no way diminishes your entitlement to post your adjoining lands against trespass and to pursue charges against violators."

"These people sound like they're going to contest it," Gibson said. "But they're going to have to prove that it ought to be closed."

The Bureau of Land Management had tried to negotiate access with the Robinsons, offering several alternatives, including purchasing an easement. The agency also graded the road across the Robinsons' land.

"Our perception is that the county ruling makes it easier for hunters to get into that area," said Craig Flentie of the BLM's Lewistown office.

Gibson said, "It wouldn't hurt our feelings if they closed the road where it drops off the hill. We don't want to violate the Wild and Scenic Rivers Act."

But Flentie said the BLM has no plans to gate the road farther down.

"As long as we can, we'll lean on people's best common sense," he said.

The BLM has been crafting a management plan for the entire Missouri River Breaks National Monument. There's no word on how that plan might affect the road. It is expected to go to the printers within the next five weeks.

To make its case to the county attorney, the public-lands group documented that the road existed as far back as 1917, based on a General Land Office map. The group's records showed that the earliest land patent for acreage now owned by the Robinsons was filed in 1926. Patents secured land ownership under the Homestead Act, used to settle the West in the late 1800s and early 1900s.

"If the road existed prior to the land being patented, it's a public road," Bernard Lea of the public lands group said in an interview last year.

When it pushed to open the road, the Public Lands Access Association encountered opposition from the previous Blaine County attorney. County commissioners were willing to wait out her tenure, which expired at the beginning of the year. The public-lands group agreed not to sue to force the issue, instead waiting for Ranstrom to take over. Ranstrom's letter to the group about his decision was dated Aug. 31.

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