

A few years ago, the author wrote an article called "Access, the Last 100 Yards." It discussed the fact that a person can "Access, the Last 100 Yards." It discussed the fact that a person can travel any place in the United States on an easement or fee right of way granted to a government agency (federal, state or county) that administers the easement. Why is the last 100 yards of access across some private land to the public lands being denied to the public?

Access to private land is also an issue. This situation occurs when one private landowner denies access to his/her neighbor. This is a form of taking another's private land by denying access. Many of these landowners state they have

the right to deny access because of private property rights. They are generally talking only about their private property rights, with no consideration for their neighbors. There are several situations in Montana where one private landowner has denied access to his or her neighbor. I know of one case where a person had to pay a considerable amount of money for an easement, which included restrictions that prevented any form of subdivision and allowed only one dwelling on the property. I have talked to several other landowners that have asked questions concerning what their rights are, because they have been denied access by their neighbors. Most of these people have contacted their county commissioners and have been told there is nothing

they can do. If these people cannot petition the county to establish a right of way to their property, then why should they pay taxes? Their land has no value without access.

The landowners who deny access to their neighbors or the public, should give consideration that someone may purchase the property between them and the outside world, and that these same persons could also petition the county commissioners to abandon the access route to their property. It is not probable, but certainly possible and legal

The federal, state and county officials are responsible for providing access to all lands. When the United States begin issuing patents that placed public lands into private ownership, they

made no mention of how access was to be provided to the recipient of the patent. The federal government intended access to be established by the state and county governments. The state of Montana passed a law in 1895 that stated all roads existing on public lands before patent were public roads. They also created a section in the Montana state code, annotated Chapter 2700, which sets out the laws and regulations relative to establishing a public road. The law stated that the counties were to establish a system of roads to access the private lands within their individual counties.

Another indication that the federal government intended the local governments be responsible for access is that they make payments to each county

Access To Public and Private Lands

By Bernard W. Lea, SR/WA

called "PILT" (Payment in Lieu of Taxes). These funds are to be used to compensate those counties with federal lands within their boundaries that are not included in their private land tax base. These funds are to be used for schools and roads

The counties were responsible for the road system because of the many homesteads. They were obligated to provide access to these areas because of the need for school bus routes, mail carriers, etc. As the years passed and the homesteads were consolidated, the need for these routes was reduced for the private use, but a need still continued for access to the public lands (Forest Service, Bureau of Land Management and state lands). Instead of abandonment, these roads should remain

under county jurisdiction, or arrangements should be made with the agency that administers the public lands at the end of the road to take over the county right of way, including maintenance. If the county is petitioned to abandon the road, the agency should point out to the county commissioners, and the landowners, that if they abandon the road, more taxpayer dollars will be spent to acquire a right of way by the agency, possible over the same route they just abandoned.

Property has no value without access; this includes the public lands. It is in the best interest of all concerned that we agree to some form of access to all tracts of land. This was the intent of the federal government when they issued patents that made the public lands private.

Access is going to continue to be a subject for discussion. As stated, land with no access has no value. It appears this issue could and should be resolved as soon as possible. If it is not, only a few of the rich are going to control millions of acres of land just because there is no access to the parcels. ■

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