

## Crazy Mountains History and Key Points

- In 1864 President Lincoln, who was a lawyer for the railroads, signs the Northern Pacific land grant on July 2, 1864. The odd numbered granted sections were, "Known as 'indemnity strips,' these lands were distributed in alternating square sections that resulted in a 'checkerboard pattern' of public and private landownership. In the Crazies, this led to the transferring of more than 50,000 acres of public lands to private ownership."
- In 1868 a new treaty was signed with the Awatixa Indians/Crow Nation that reduced the Crow territory, giving jurisdiction of the Crazy Mountains to the federal government.
- The Crazy Mountain Forest Reserve was established in Montana by the U.S. Forest Service on August 10, 1906. It became a National Forest on March 4, 1907. On July 1, 1908 it was combined with part Yellowstone National Forest to re-establish Absaroka National Forest and its name was discontinued. Currently the Crazy Mountains are on the Custer Gallatin National Forest maps (North) and administered by the Yellowstone Ranger District. The Crazy Mountains are Montana's third highest mountain range.
- The 1925, 1930 and 1937 Absaroka National Forest maps show a well developed trail system into the interior and along the Crazy Mountain periphery, including a number of FS Ranger and Guard stations which encircled the Crazy Mountain Range.
- Lazy K Bar Ranch, a Dude Ranch, owned by the Van Cleves, were the first landowners to begin blocking public access, in the 1940s, to the historic public trails and roads with locked gates and signs, "preventing the free and unimpeded use and maintenance of said road and trail". At first it was just during hunting season, then continued year round.
- Forest Service Supervisor G. E. Martin wrote, detailing the variety of uses documented in the historic Crazy Mountains, including mining, timber, grazing, trappers, hunters and recreation, "At no time was travel over the roads and trails restricted until October 1940 when Van Cleve locked the gate during the hunting season. In 1941 this was done again. In 1942 the gate was again locked before the opening of the hunting season and was still locked on April 24, 1943."
- Big Timber Canyon Road - October 29, 1948, the US Attorney filed a suit, U.S. v. Paul L. Van Cleve, et al., "This is an action to obtain a declaratory judgment to establish the existence of a public road and trail through and upon the lands owned by the defendants." The action was brought by the US, "both on behalf of the general public and also on behalf of the Government's officials and employees." The foundation of the suit and the injunction was based on the Railroad grant public access. "That the United States has a special right, title and interest in said highway and trail and all parts thereof, including the parts thereof situated upon lands now owned by the defendants, amounting to an easement and right-of-way for said purposes by reason of the facts that said road and trail were established upon said land when it was in part public land of the United States of America and in part in the ownership of the Northern Pacific Railroad Company, and its successor in interest, the Northern Pacific Railway Company, which said railroad company and railway company dedicated the same as a public highway, which was appropriated by the United States and the general public prior to the issuance of any patents therefor, thereby reserving unto itself and the general public said public highway, road and trail, and by reason of the fact that the United States and its permittees and the public have for more than 50 years used said road and trail for said purposes..."
- A deed dated December 10, 1953, was recorded in Book '43' of Deeds, at page 435." The case involving a "right-of-way was settled out of court with the execution of a deed by the Van Cleves to the government," securing the Big Timber Canyon Road public access. The Motion to Dismiss was filed Sept. 10, 1954.
- Between 1940 and 1993, over 42,000 acres of private land were transferred to public ownership in successful land exchanges and sales, by private landowners, the Nature Conservancy and the Northern Pacific Railroad, reducing the checkerboard landownership difficulty.
- 1940 – present, ongoing public access conflicts; Forest Service efforts against private landowner public access obstructions; including pursuing filing Statements of Interest and legal action towards securing perfected prescriptive easements.
- 2002 - "9. In the Gallatin National Forest's Motor Vehicle Use Map, the Forest Service has chosen to identify the Porcupine-Lowline trail system, as well as several other trail systems crossing private lands, because the Forest Service believes the United States has an 'easement interest' in this trail system, and the Forest Service has a responsibility to manage this trail system under the Forest's Travel Management Plan."
- 2002 a Hunt Club is created on the west side of the Crazy Mountains. This leads to the blocking of access to a number of trails, including the Porcupine Lowline Trail # 267.
- Yellowstone District Ranger Ron Archuleta, December 20, 2004, "These trails are National Forest System Trails, by virtue of historic construction, maintenance and signing, and by public and agency use over many years."
- 2007 Robert Dennee, USFS Gallatin National Forest Lands Program Manager provides a sworn affidavit in the US District Court case CV 07-39-M-DWM (Montana Wilderness Association vs. USFS Chief Thomas Tidwell et

al). The affidavit addresses the Porcupine Lowline trail system, including Trails #195, #258, #267 and #272, their history and the 2004-2007 efforts to work with the Guths and Zimmermans to restore public access. "It is the Forest Service position that the United States, on behalf of the public, has an easement interest in these roads and trails due to the historic and ongoing public and administrative use and maintenance. The public is the beneficiary of this right of access and the Forest Service defends and maintains that right."

- 2013 Yellowstone District Ranger Alex Sienkiewicz communications with the Zimmermans, "We have public national forest maps approximately a century old that indicate the Porcupine Lowline trail has been continuously and openly used by the public for many decades... the Government maintains that a valid public easement exists for the Pocupine Lowline Trail... There appears to be consensus that you (or your agents) have attempted to deter public use of the Porcupine Lowline Trail, some say to create an exclusive benefit to hunting outfitters leasing your property...When citizens call, I emphasize that the Porcupine-Lowline and Campfire Lake Trails are legally-valid public rights of way that have existed for more than a century; and that their closure is illegal. I am emphasizing that there is a hunting lease on your private land abutting the National Forest and that there are multiple stakeholders in your party with 'monetary incentives' to prevent public access. These trails predate -by far- your parents purchase of your property in 1955. Please know that I will persist in my fight to restore and protect these public rights that have existed for more than a century."
- 2015 Custer Gallatin Forest Service Supervisor Mary Erickson to Senator Steve Daines on the East Trunk Trail (Trail #115/136), "The Forest Service maintains that it holds unperfected prescriptive rights on this trail system as well as up Sweet Grass Creek to the north based on a history of maintenance with public funds and historic and continued public and administrative use."
- June 28, 2016, District Ranger Sienkiewicz sends out his yearly reminder to the leadership teams for seasonal work, "to NEVER ask permission to access the national Forest Service through a traditional route shown on our maps EVEN if that route crosses private land. Never ask permission; never sign in." This message is picked up and posted by a PLWA member on the PLWA Facebook page. Certain Crazy Mountain landowners that block public access, did not like District Ranger Sienkiwicz doing his job, according to Forest Service Policy, managing for multiple use, which includes public access, on our historical prescriptive access trails and roads, to our federally managed public lands. These landowners leveraged their organization positions and connections to Senator Steve Daines, US FS Chief Thomas Tidwell, Region 1 Regional Forester Leanne Marten and newly appointed Secretary of Agriculture Sonny Perdue, writing letters of complaint, including false allegations that Ranger Sienkiewicz had made the PLWA Facebook post. The letters sought Sienkiewicz termination; the removal of all unperfected prescriptive easement trails from all future USFS publications; and the end of the prescriptive easement process.
- Shortly after Ag Sec. Sonny Perdue was in Montana for an Ag Summit in May, Alex Sienkiewicz was removed from his position as the Yellowstone District Ranger, on June 16, 2017.
- October 2017, Sienkiewicz was restored as Yellowstone District Ranger.

#### USDA USFS Gallatin National Forest, August 2002 Briefing Paper on National Forest System Trails across Private Land

"The growing demand for dispersed recreation on public lands, and the changes and trends in private landownership, have brought considerable attention to the trails issue on this Forest. At an increasing rate, landowners are questioning the status of trails across private land. Private land within and adjacent to this Forest continues to be sold. New owners may or may not recognize the existing public access through their lands. Some trails on private land are being lost through subdivision, closure or obliteration.

As a result, it is critical for the Gallatin NF to continue to have a strong and consistent policy and presence in: (a) signing and maintaining our trail system across private lands; (b) defending historic trail access rights if challenged; and (c) perfecting trail access rights across private lands whenever that opportunity exists."

In the Direction and Policy section they wrote, "Under FLPMA and FSM 5460 direction...In situation where an existing NFS trail crosses private lands, and no deeded easement exist, the Forest Service position is as follows: The United States has acquired a right-of-way from the trail through development, maintenance and continuous use of the trail. As a matter of law, the Forest Service believes that there is a public access easement for the trail. The Forest Service is a beneficiary of this public right of access, will continue its efforts to defend the public's right of access.

- (1) Protect and maintain historic evidence, including trail blazes, signs, maps, photos and maintenance records.
- (2) Maintain and sign the trail on a regular basis, and keep records and photos of this maintenance, and
- (3) Take prompt action in the event that landowners threaten or take action to close or obliterate the trail."