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Ranch can't keep roads closed pending appeal

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MCKENZIE LANGE/The Daily Sentinel

Owners of High Lonsome Ranch have been locking a gate on North Dry Fork Road, also known as Garfield County Road 200, above, for decades, barring access beyond it to the west, and access to Middle Dry Fork Road as well.

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The High Lonsome Ranch has failed in its attempt to be able to keep a gate locked to bar public access to two roads west of De Beque while a federal appeals court considers whether a lower court in December mistakenly found the roads to be public.

Tenth Circuit Court of Appeals Judges Mary Briscoe and Robert Bacharach on Friday rejected the ranch's request that the court issue a stay on U.S. District Court of Colorado Judge R. Brooke Jackson's ruling in favor of Garfield County that North Dry Fork and Middle Dry Fork roads are public and must be opened to the public. The ranch wanted to keep the roads off-limits pending the outcome of its appeal of Jackson's ruling, and the stay, if granted, could have kept them closed for years.

However, Garfield County Commissioner John Martin said that while the order means the lock to the gate will have to be removed, little else will change when it comes to public access in the short term so the county can survey the conditions of the roads and work with the ranch and Bureau of Land Management to address issues related to restoring public access.

This will cover things such as installation of signs, fencing and cattle guards and ensure that reseeding and other mitigation related to last year's Pine Gulch Fire can occur without disruption.

"We'll get the lock off but the traffic will be very limited, I'm sure. We're not rushing to open it up or doing anything like that right now, especially during the mud season," Martin said.

The ranch has been locking a gate on North Dry Fork Road, also known as Garfield County Road 200, for decades, barring access beyond it to the west, and access to Middle Dry Fork Road as well. The county ordered the

ranch in 2015 to unlock the gate, arguing County Road 200 was public based on historic use, but the ranch sued. In siding with the county, Jackson also noted that restoring the access will greatly improve public access to tens of thousands of acres of public lands.

The gate has remained locked since Jackson's ruling due to an automatic 30-day stay that applied to his order and a subsequent, temporary stay the appeals court granted to the ranch while it considered whether to impose one applying for the length of the appeal process.

“(Friday’s) order is just a single step in the appellate process,” Frederick Yarger, one of the attorneys representing the High Lonesome Ranch in the appeal, said in a news release. “We strongly believe in our legal arguments, and we think a full review of this case by a three-judge panel of the 10th Circuit will end in our favor — and in favor of longstanding legal principles that protect private and public property from misuse and overuse.”

The ranch said in its release that Jackson’s “decision to declare that dirt pathways on a private ranch can be transformed into ‘public highways’ open to uncontrolled and unrestricted traffic is contrary to longstanding legal principles that protect private and public property rights,” and would set a dangerous precedent if allowed to stand.

The county, in a court filing responding to the ranch's stay request, said that Jackson's order and judgment "do not result in damage, or any threat of injury, to the Ranch. The Ranch has not lost any real property right that it ever owned."

Martin said he knows people want to get up past the locked gate, but the county needs to move in a step-by-step fashion to provide access, including by doing a survey of the rights of way and any repairs that may be needed. He said it's important that the county work with the BLM when it comes to things such as establishing viewpoints and turnarounds along the rights-of-way, so there isn't trespassing on the ranch.

"With the appeal going, we don't want to push too hard" when it comes to the process of restoring public access, Martin said. "We want to make sure we're good neighbors as well."

But he said it's important that the lock no longer be in place because it is on a public right of way.

In its recent court filing, Garfield County included an email it received from David Meredith expressing appreciation for the county's efforts supporting public land rights and challenging the ranch's blocking of public access.

“So unfair that they held a mountain hostage,” Meredith wrote. “Thanks for opening (County Road) 200 to the (r)ightful owners.”

Dennis Webb