



1. Why did the New Mexico Chapter of BHA join the New Mexico Wildlife Federation and Adobe Whitewater Club in taking legal action?

In March 2020, New Mexico BHA and two other New Mexico outdoor groups filed a lawsuit against the State Game Commission and Gov. Michelle Lujan Grisham asking the state Supreme Court to invalidate a regulation that allows the game commission to prohibit the public from accessing a section of stream that flows through a landowner's property.

Since New Mexico gained statehood in 1912, New Mexico sportsmen and women have had the constitutional right to fish, boat or otherwise recreate in any stream so long as they did not trespass across private land to get there. The State Game Commission has long ignored that right and allowed the issue to become muddled, despite the fact that the New Mexico Supreme Court addressed the issue of public river access in its 1945 landmark case *State ex rel. State Game Commission v. Red River Valley Co.* In that case, the court concluded that the public – meaning anglers, boaters or others – may fish, float or otherwise use streams and streambeds where they run through private property as long as individuals doesn't trespass across private land to access the waters or trespass from the stream onto private land. In the years since the 1945 decision, several New Mexico attorneys general have issued opinions supporting the court ruling.

Attempts to bring clarity to public stream access rights through the game commission have fallen flat, mainly because the issue is complicated and heavily politicized. This lawsuit is intended to invalidate the commission's 2017 rule that effectively allows landowners to block the public from accessing rivers and streams that flow across private property.

2. If public access is affirmed, how do we balance access, private property rights and conservation?

We recognize that with rights come responsibilities. If the public right of access is affirmed and previously closed streams are reopened to public use, the game commission has a duty to enact regulations to protect fishery resources and stream habitat, educate the fishing public about the limits of their access rights, and increase law enforcement presence in areas where additional public use is anticipated.

3. What does stream access mean for New Mexico's economy?

New Mexico's rivers and streams are integral to the state's burgeoning \$9.9 billion outdoor recreation economy. In addition, outdoor recreation fuels \$623 million in annual state and local tax revenues and provides nearly 100,000 jobs. Upholding public access opportunities can bolster the state economy and help rural communities flourish while preserving our outdoor traditions for all.



4. Why is New Mexico stream access an important issue for BHA?

For anglers, boaters and other outdoor user groups nationwide, access to streams and waterways is the most important factor in our participation in – and the perpetuation of – our storied outdoor traditions. Our access opportunities, however, are far from guaranteed. Well-moneyed efforts are underway to change existing stream access laws, which vary widely from state to state, to bar us from fishing, wading, floating or otherwise utilizing these important resources. We believe that stream access laws, so essential to our outdoor opportunities, are not receiving adequate conservation or defense at a national level, to the detriment of hunters and anglers.

5. How would BHA prefer to see public access managed in New Mexico streams?

While we strongly support our state constitution and the public's right to access public waters, we also respect private property rights. Should our right to public access be affirmed and maintained, we will be fully committed to working with a diverse group of stakeholders to find solutions that honor the resource, educate the public on wise use practices and balance public and private property rights.



WWW.BACKCOUNTRYHUNTERS.ORG
ADMIN@BACKCOUNTRYHUNTERS.ORG



725 W ALDER SUITE 11
MISSOULA, MT 59802