



It's Public Land. But the Public Can't Reach It.

A navigation app that illuminates public land within privately held property has supercharged the question of who gets to go where.

By Ben Ryder Howe

Ben Ryder Howe, who frequently contributes to The Times, reported this article in Elk Mountain, Wyo.

- Nov. 26, 2022 Updated 9:50 a.m. ET

The first time I showed the app to someone who had never used it, I had to gently extract my phone from the person's hand. This happened the second time, too, and was followed by an email requesting the name of "that mapping program."

The app is called OnX. Its basic functionality is simple: OnX shows you where you are in real time, using a blue dot exactly the same as the one on Google Maps. The difference is that OnX is designed to show where you are in a forest, on a mountain or in a canyon. It has been around since 2009 and is popular with hunters and outdoor enthusiasts.

It is also at the root of a potentially far-reaching case in federal court in which a Wyoming landowner accuses four hunters of trespassing — and causing millions of dollars in damage — even though they never stepped foot on his land.

OnX was born when Eric Siegfried, a mechanical engineer and part-time hunting guide in Montana, decided to make a Google Maps for the wilderness. He had solid navigation skills, he said, but was sick of getting lost.

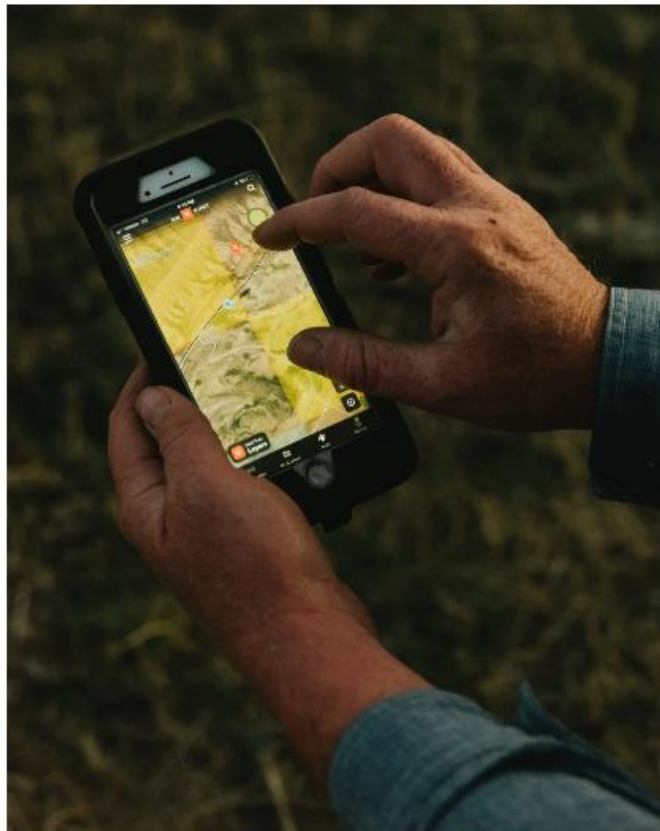
To address the problem, he filled up a workspace in his wife's scrapbooking room in Missoula with U.S. government maps, which he then loaded onto a microchip. OnX's layers of data would eventually include everything from wind patterns to fire histories. The most important data by far, however, showed property lines.

This is because hunters, more than any other type of outdoor recreationist, need to be aware of whose property they are on, as [Hal Herring](#), a journalist and public lands activist, explained to me.

To address the problem, he filled up a workspace in his wife's scrapbooking room in Missoula with U.S. government maps, which he then loaded onto a microchip. OnX's layers of data would eventually include everything from wind patterns to fire histories. The most important data by far, however, showed property lines.

This is because hunters, more than any other type of outdoor recreationist, need to be aware of whose property they are on, as [Hal Herring](#), a journalist and public lands activist, explained to me.

"Hunting involves killing, and it involves people carrying weapons," Mr. Herring said. "Many hunters are irresponsible, and they've got these big, high-powered rifles that people don't want by their grandmother's house." Hunters can, and should, be arrested for trespassing, he added, if they are on the wrong side of a property line.



Buzz Hettick of the U.S. Forest Service using OnX software to show where public and private land meets on Elk Mountain. James Stukenberg for The New York Times

Property data is often inaccurate and outdated, and early in the development of OnX Mr. Siegfried found himself asking, “Why is there no nationwide picture of land ownership, of public and private property boundaries, of who owns what?”

This was the “game changer,” he has said. By collating state and county data and putting it on a microchip, Mr. Siegfried turned the project in the scrapbooking room into a company that just received more than \$87 million from investors and that understands the American landscape arguably better than the government does.

It turned OnX almost overnight into a popular tool for the nation’s 15 million hunters.

In answering the question of who owns what, OnX helped bring to light how much public land — often highly coveted — is not reachable by the public. That’s because private landowners control access.

Across America, 15 million acres of state and federal land lies surrounded by private land, with no legal entry by road or trail. Most can be found scattered across the West, moated by ranches and corporate holdings. Such “landlocked land,” if it were one contiguous piece, would form the largest national park in the country, an area nearly the size of Vermont, New Hampshire and Connecticut.

Until a few years ago, the existence of landlocked lands in the United States was largely unknown, except to neighboring owners, some of whom “saw them as part of their ranch,” said [Joel Webster](#), vice president of the Theodore Roosevelt Conservation Partnership. OnX helped expose this, he said, a change he called “profound.”

“For me it was revelatory,” said Steven Rinella, host of the popular Netflix hunting show “MeatEater.” “It opened people’s eyes to what’s out there.”

Throughout the West, hand-held technology has added a volatile ingredient to an already simmering conflict between landowners and outdoor recreationists. In small town after small town, the increased visibility of property lines on devices has coincided with a generational shift in land ownership, as wealthy out-of-state buyers have scooped up vast portions of countryside.

Many of the new owners, after buying old ranches where hunting access was generally permissive, have converted them into tightly controlled private hunting experiences charging upward of ten thousand dollars for a single elk.

Such places, often teeming with game compared with public land, have become magnets for unwanted visits by the public. And where crowds increase, tension increases, too. Especially around the fact that public land — by definition owned by all Americans — is not always publicly accessible.

One ranch manager I spoke to called it “the OnX effect.”

On an OnX screen, Elk Mountain in southern Wyoming looks like prime hunting ground.

Eleven thousand feet high, streaked with aspen groves and alpine meadows, the imposing, solitary peak — a “formidable and huge presence,” in the words of the writer Annie Proulx, who lived nearby for many years — rises suddenly from one of the most desolate landscapes in the country.

Using OnX’s 3-D view, hunters can zoom in on the mountain’s rugged, varied terrain, which provides abundant refuge for pronghorn antelope, black bear and mule deer. They might even pinpoint the ledge where they intend to perch on Opening Day, waiting for one of the mountain’s 2,000-pound bull elk to pass by.

More important than its game-friendly topography, however, what Elk Mountain offers is landlocked land — and a legal loophole of sorts, offering access for a hunter willing to take risks.

Most of the nearby area is owned by Fred Eshelman, a drug company founder from North Carolina. In 2005, Mr. Eshelman bought a 50-square-mile ranch encompassing much of the mountain and multiple trout-filled lakes. His large home is visible for miles. And as he settled in, he aggressively moved to ward off hunters. (Not because he opposes hunting. Mr. Eshelman is a mountain lion hunter.)

However, he couldn’t keep the public out, for interspersed within his property lay 27 parcels — 11,000 acres in total, an area the size of several airports — owned by the federal Bureau of Land Management and the State of Wyoming.

Using OnX, Mr. Cape identified a route that began on a county road and climbed up a rattlesnake-infested hillside. Within minutes of hiking, he had found the corner, which the Eshelman ranch had carefully obstructed with two “No Trespassing” signs positioned inches apart to prevent corner-crossing.

The hunters proceeded toward the elk anyway and “killed some pretty big bulls,” said Eddie Garren, Mr. Cape’s son-in-law. Along the way, however, they were confronted by a ranch manager who warned that they were trespassing.

Undeterred, Mr. Cape and his companions returned the next hunting season. This time, to avoid contact with ranch property, they carried a ladder that was exactly six inches taller than the “No Trespassing” signs. (Mr. Cape, who owns a fencing company, fashioned the ladder out of fence piping.) After the ladder was unfolded, the four heavily armed, camouflage-wearing men performed what might have seemed like a TikTok stunt or an arcane ritual, placing a ladder over a pair of five-foot-tall signs — the only obstacles around for miles — and climbing over it one by one as if they were avoiding an invisible electric fence.

Image

Hunters tend to steer clear. “If you cross, they call the sheriff,” reported one poster on Hunt Talk, a message board. Wyoming has multiple laws against trespassing. And “if you were looking for a red-as-red county where people are pro property rights,” said Sabrina King, a lobbyist for the Wyoming chapter of Backcountry Hunters and Anglers, Carbon County, home of Elk Mountain, “would be it.”

Some hunters have long believed, however, that the publicly owned parcels on Elk Mountain can be legally reached using a practice called corner-crossing.

Corner-crossing can be visualized in terms of a checkerboard. Ever since the Westward Expansion, much of the Western United States has been divided into alternating squares of public and private land. Corner-crossers, like checker pieces, literally step from one public square to another in diagonal fashion, avoiding trespassing charges. The practice is neither legal nor illegal. Most states discourage it, but none ban it.

In 2020, Brady Cape, a bow hunter from Missouri, drove to Wyoming to hunt with three companions. A meticulous planner, he had spent months poring over maps, perusing message boards and studying Wyoming law. Ultimately he settled on Elk Mountain.

They proceeded to camp on the mountain for nearly a week, during which Mr. Eshelman's ranch hands pursued them in pickup trucks, Mr. Cape said. A game and fish warden cited them for criminal trespassing, forcing them to return to Wyoming the next spring.

Their trial seemed to touch a nerve in Wyoming, a state where it can be hard to get calls returned in hunting season. Even self-proclaimed private property die-hards seemed troubled by the government's expansive claims. Could a hunter — or anyone — be jailed simply for waving an arm across a neighbor's fence?

Prosecutors argued yes. "Landowners don't just own the land," claimed Ashley Mayfield Davis, the Carbon County attorney. "You also own your airspace."

A jury disagreed, acquitting the men after two hours of deliberation. By then, however, Mr. Eshelman had filed a civil trespassing suit, demanding that the hunters pay \$3 million to \$7 million for property damage. And the battle had been joined by others spoiling for a fight.

Supercharging the question of access

Some hunters hunt a piece of land for its game, others to experience the land itself. For Buzz Hettick, the power of Elk Mountain originates elsewhere.

"My dad used to hunt some private property in Montana," said Mr. Hettick, a forester with the U.S. Forest Service. "And one year they told us, 'Sorry, you can't anymore — we leased it to an outfitter.' I was crushed. And I was like, you know what? This is never going to happen to me again."

Standing in a patch of bitterroot, serviceberry and sage at the foot of Elk Mountain, Mr. Hettick called apps such as OnX "the best thing that's happened to access in years."

Last fall, Mr. Hettick, who lives in Laramie, Wyo., heard about the charges against the Missouri hunters. Sensing an opportunity long awaited by advocates of public lands, he activated the resources of Backcountry Hunters & Anglers; Mr. Hettick is co-chair of the group's Wyoming chapter.

Backcountry Hunters & Anglers helped the Missouri hunters find lawyers, rallied its 35,000 members for support and started a GoFundMe page, which has raised more than \$110,000 to pay the hunters' legal bills.

"It's super grass roots," Mr. Hettick said. "You've got people who probably can't afford to give \$5 but feel so strongly about public lands that they donate to these guys." Echoing nearly all public discussion of the case, he called the civil suit overreaching and punitive.

"What judge, jury or person with two firing brain cells is going to say that crossing that airspace is worth \$7 million?" he said. "That's not going to happen. It's absurd."

Mr. Eshelman did not respond to an interview request for this article. Discussing the case in an email statement to [The Wall Street Journal](#) this month, he said "forcible trespass" was a safety issue and could affect the property value.

"There's a pattern of bullying," said Land Tawney, executive director of Backcountry Hunters & Anglers. "When a landowner claims \$7 million in damage for trespassing, people are meant to be intimidated."

If OnX supercharged the question of who gets to go where — though the company declined to take a side in the case — Backcountry Hunters & Anglers gave it an influential platform.

The Missoula-based organization focuses less on firearms advocacy and more on sustainability. Under Mr. Tawney, who worked in conservation before becoming executive director in 2013, the group has tried to modernize and counter the perception of hunters as "old white dudes with beer in their hands," said Elizabeth Lynch, a member of the group's Wyoming board.

However, as it has for OnX, its crosstown neighbor, the question of public access — of who gets to go where — has become its bread and butter. And courts have been favorable terrain. From Idaho to New Mexico, conflicts over sportsmen's access have roiled the West, thanks in part to the exploding popularity of outdoor recreation. More Americans than ever are off-roading, ice climbing, snowmobiling and trout fishing, which has made it more lucrative than ever to fence off a canyon or a valley — or use drones to patrol a private stream — and charge for access.

"Hunting has become big business," Mr. Herring said. "And people who have leased land for hunting don't want people who aren't paying to be on it. As a result, the issue of trespassing has gotten hotter every year."

Resentment of landowners and commercial hunting has heated up as well.

"If you go back a few decades, it was a lot easier for the public to go knock on the door and get access to private land," said Mr. Webster of the Theodore Roosevelt Conservation Partnership, which has worked with OnX on public lands initiatives. "Generally, the people who owned the land had roots in that community — they went to church together, they went to school together, they grew up together. And if you want to access my place, that's fine, just let me know — that kind of thing."

That trust has eroded, in part because of a generational shift away from family farming and ranching. “The owners and their kids don’t want to continue that tradition,” Mr. Webster said, “so they end up selling to a new landowner who maybe isn’t from the area, and who may not have the same feelings about the public on their lands.”

The result — bitter confrontations steeped with class overtones and hinting at larger grievances — is now a staple of the West.

Legislatures have stepped in to resolve the conflicts, largely in favor of landowners and corporate interests seeking to limit public access, while judges have gravitated toward loosening restrictions. For outdoor advocacy groups, the issue can be a public-relations nightmare, since the deep-pocketed donors they court for financial support are often landowners.

Like a corner-crosser, OnX has found itself navigating a narrowly contested space. In 2018, Mr. Siegfried stepped down as chief executive to focus on public land advocacy. At the same time, the company began publishing a stream of “access initiatives” trumpeting the issues of landlocked and corner-locked land.

Laura Orvidas, who took over for Mr. Siegfried as the chief executive of OnX, does not believe that the app facilitates trespassing.

“That is the opposite of the app’s intent,” said Ms. Orvidas, who came to OnX from Amazon. “The app doesn’t say where an individual user can and can’t go. And it doesn’t say where they can and can’t hunt. It’s up to each user to interpret that data for their unique situation — which hunting units they have tags for, whose property they have permission to be on — and understand the rules and regulations of their area.”

Public discussion has tended to portray the civil case against the Missouri hunters as extreme and untenable — a desperate move by a vindictive plaintiff standing on shaky legal ground asking the question: If you disturb the air particles over your neighbor’s land, have you potentially committed a crime?

David Willms doesn’t think the case is a joke, though. Mr. Willms, a lawyer and policy adviser for the National Wildlife Federation, hosts a podcast, “Your Mountain,” which, as its name suggests, is devoted to the issue of public lands and has not aligned himself with either party in the Elk Mountain dispute. He worries that the case could have unintended consequences.

“Can the landowner make a straight-faced argument that passing through the airspace is a trespass?” said Mr. Willms, who previously worked for the Wyoming attorney general’s office handling similar cases. “Absolutely.” He points out that Wyoming has a statute under which “ownership of the space above the lands and waters of this state is declared to be vested in the several owners of the surface beneath.”

“Can the hunters make a straight-faced argument that passing through the airspace isn’t a trespass?” he continued. “Yeah, they can.”

But if the civil case goes to trial and reaches a verdict, he thinks the outcome could easily end in favor of landowners. Moreover, if the hunters win, "it would not surprise me at all that the Legislature would come back and pass a law saying corner crossing is illegal," he said. "It's sort of if you win, you lose, and if you lose, you lose."

The head of Wyoming's powerful ranching lobby isn't laughing, either. Jim Magagna believes that the optics of the case are what drew advocates of corner-crossing, knowing how "a wealthy landowner who lives out of state" and who has made some "rather large claims in terms of the damage being done to him" would be perceived.

According to Mr. Magagna, the hunters' case isn't just about a legal right to corner-cross. Under one interpretation of federal law, the public wouldn't have to corner-cross at all to get to landlocked land: If the only way to reach public land is through private land, people can just take the most direct route "right through the middle."

That means, in Mr. Magagna's view, it's possible that ranches used for exclusive hunting experiences would have to open in part to the public — if the ranch is the most direct route to public lands.

"The implications are potentially very large," he added, noting that the ranches would lose value.

That would affect more than wealthy landowners, said Megan Lawson of Headwaters Economics, a community development nonprofit in Bozeman, Mont.

"Amenity economies depend on guiding services, lodging and hospitality in general," Ms. Lawson said. "That's the lifeblood of the economy in several states."

Mr. Rinella of "MeatEater," one of hunting's biggest celebrities, has raised money for the hunters. "I'm not advocating civil disobedience," he said. "I'd like to see the corner-crossing issue clarified."

He called the Elk Mountain case "a new chapter in an ever-evolving debate in America about who has access to land" and said it had exposed some landowners as being "concerned about losing exclusive access to property that is not theirs."

"No one's going to grant access out of the goodness of their heart," he added.