This is a newsletter prepared by lawyers to advise bicyclists about the joys of riding, bicycle safety, active transportation, and cyclists’ rights. Bicycle Law is solely owned and operated by former Olympian-turned-lawyer Bob Mionske through his firm, The Law Office of Bob Mionske. Bob is a regular contributor to VeloNews with his Legally Speaking column, is licensed to practice in Oregon, and is regularly consulted by attorneys and cyclists nationwide regarding crashes.

In this issue we review the takeaways. We take a close look at e-bikes, how they can benefit everyone, and how to make safe purchasing choices in this nascent e-bike era. We explore an old road, a hidden bicycle route into Yosemite. We evaluate injury recovery and the unsought benefits gained from time off the bike. Finally, we learn about cycling legend Major Taylor and a Bay Area cycling club’s mission to build community in his image.

The challenges we’re facing are not over. They present obstacles and they present opportunities. Use those opportunities to be a neighbor, a community builder, and a citizen. One simple way to do this? Ride your bike and smile, even if that smile is occasionally hidden under a mask.

Hoping you keep the rubber side down,
Everyone at Bicycle Law

Have you or someone you know been involved in a bicycle crash? Want to know about your rights? Are you a lawyer handling a bicycle crash who wants more information on how to get the best result for your client?

Contact Bicycle Law at 866-VELOLAW.
ADVENTURE MILES: PEOPLE, PLACE, AND AN UNPAVED ROAD HOME TO YOSEMITE

Yosemite. Majestic glacier-carved granite. Views for days. And on most roads, cars galore, tour buses, and recreational vehicles with “1-800-2RENTME” emblazoned across the back. The drivers, more focused on views than the road, can be frightening for a bicyclist. There’s an untrammeled road into the valley, however. One needs wider bike tires and the desire to work for it, though. The road less traveled is mostly dirt and climbby. It also happened to be a road to my birthplace. Traversing a car-free road into Yosemite afforded me an opportunity to reflect upon people and place, birth and death, national parks and original peoples’ displacement. A little light reflection following a year of lockdown.

The Coulterville-Yosemite Road was the first stagecoach route into Yosemite Valley. First to market does not guarantee success, however. Originally opened in 1874 as a toll road, the route ultimately lost out to the competing toll road to the north and the competing toll road to the south. Those toll roads in turn faltered when a railroad line punched its way up the Merced River grade. The northern and southern routes were taken over by the state and are, for the most part, today’s Highway 120 out of Groveland and Highway 41 out of Oakhurst. The Coulterville-Yosemite Road fell by the wayside, forgotten by most. It runs through county, US Forest Service, and National Park Service land. An old dirt road, through parts little traveled, with deep history.

Having been born in Yosemite with roots in the area going back four generations, you would think I’d be familiar with the road. But the first I had heard about it was by coming across it in a newspaper article years ago. Given an elevation range from 1,200’ to just over 5,400’, the route is snow-risky in winter and deathly hot in summer. I had an opening in late April, making an easterly detour on a trip down to Los Angeles. Time enough for a one-day loop. I duplicated the route the Chronicle author described, parking the rental car at the bottom of the Briceberg grade along the Merced River. I then climbed Burma Grade, headed north to the Old Coulterville-Yosemite Road, then east to Foresta, descended a decaying road 2,300’ to El Portal, and then sailed along the Merced River on the 140’s slight downgrade back to Briceberg. The last 16 miles travel along a two-lane highway with limited shoulder, but with a downgrade and generally civilized drivers, they don’t feel horribly exposed.

The most thorough research

Like many intrepid adventurers, particularly those traveling alone, I did what I mistakenly thought was thorough terrain research. More on that later. Using Strava’s segment explore feature, I located a relatively large group that had ridden the same route the previous June. One of the riders took tons of photos and provided a detailed write-up. This helped tremendously in understanding the terrain, including tire decisions and hydration. That group sustained numerous flats, with one rider on a road bike. I thought a solo rider, untethered from large group rides’ inherent cumulative delays, would be faster than the group’s 10.5-hour evolution. The mountains punished me for that hubris.

First waterfall on the Foresta-El Portal descent.
I overnighted at the Yosemite Bug Rustic Mountain Resort, a funky hostel in Midpines. Welcoming, cheap, close to the start, and familiar. It was only a few miles from where my grandparents moved after retiring from working in Yosemite for the Yosemite Park and Curry Company. Waking early to avoid the forecasted 90-degree heat, I checked out, thinking I would finish the ride mid-afternoon and head straight for Los Angeles, my ultimate destination. I would instead find myself gratefully accepting another night at the Bug at the end of a very, very long day.

Going up

The ride began with a steep, steady dirt climb up the Merced River gorge’s north side from Briceberg. Burma Road switchbacks up the steep mountainside before punching into mountainous ranch land. As I moved away from the river and the gorge’s shadows, the temperature steadily climbed despite the early hour. Wildflowers dusted the roadside as the terrain gave way to eerily quiet ranches. A romping mild descent brought me to a short stretch of battered blacktop connecting a smattering of ranch houses to the Old Coulterville-Yosemite Road.

A little further on, the Briceberg/Burma Grade spur merged into the Old Coulterville-Yosemite Road. A hairpin right would take me up more steeps, back in the dirt, toward Yosemite. But first, I took a quarter-mile detour in the opposite direction, toward Coulterville. There, a plaque proudly calling the route the Coulterville Toll Road told the road’s history. Next to it, snaking up the hillside, a narrow footpath disappears. Up that way, past more than a smidge or two of poison oak, hides Bowers Cave. Originally called Oo-tin by the Miwok, it was repurposed by miners and stagecoach support services. At its height it held a dance floor reached initially by basket and later by stairs. An eight-room hotel offered respite for travelers and those who had too much fun at the regular Saturday night dances. A locked iron gate now prevents cave entry.

Turning around, it was time to climb in earnest again. Over the next 10 miles, the road climbed from 2,400’ to over 5,000’, and the morning heat kicked in. Well into the ride, and with the initial excitement of being out settled down, I took advantage of the steady climb to crawl deep into my head, contemplating people and place.

I’m going back to Valley

The route held more than just adventurer’s curiosity. It was a ride to native land that I barely know, with complex emotional overlays. I was born in Yosemite, my father a park concessionaire employee. He too was born in Yosemite, his parents also park concessionaire employees. My father’s recent death left me with questions about what I did not know about him and the land we came from. The backcountry time gave me an opportunity to parse relationships — familial, cultural, and geographic.

Our family’s history in the area dates back four generations to the 1860s, including a fellow with the wonderful name William Bluford “Boot” Taylor. Boot was an early Sierra National Forest ranger and rancher whose cabin now can be visited at the Fresno Flats Historic Park outside Oakhurst. Our four generations are a blip in time compared to the 8,000 years the Ahwahneechee resided in Yosemite, however.

Our family left the valley when I was a year old. The park concessionaire, the Yosemite Park and Curry Company, was acquired by Los Angeles-based MCA, an entertainment company that later became Universal Studios and is now folded into Comcast. With MCA came a decidedly possessive attitude toward the park, a false ownership arrogance that it was now their plaything. With that attitude, it became apparent that the land my father spent 31 of his first 35 years in was no longer welcoming. In the early portion of those 31 years, my father went to elementary
school on the valley floor with the native Ahwahneechee, including a friend named Bill Tucker.

Most people see Yosemite as a park. To the first peoples, it was still home. My parents left Yosemite by choice. The Ahwahneechee did not. The last Yosemite Valley Ahwahneechee was pushed out decades ago. In the not-too-distant past, my cousin, who also grew up in Yosemite, was appointed Park Superintendent. At one point, he received a visit from that same elementary school friend of my father, Bill Tucker. Tucker, nearing 80, bore an old photo of my father and Tucker together. The Ahwahneechee have long pressed for a return to the land that was taken from them. The elder’s relationship to my father, and through my father’s sister to her Yosemite-raised, now Park Superintendent son, framed a discussion about the powerful connection between people and place.

The Park Service and the Elders reached an agreement for the Ahwahneechee to construct and use a wahhoga, the Miwok word for village, on the valley floor. A small action that does not balance the centuries-long genocide and displacement of indigenous people by the federal government. But a tiny step forward instead of another step back.

Upward

The deep dive into relationships distracted me from the steady continuous climbing, making the time pass quickly. It was on this stretch that I encountered the few vehicles I saw on everything but the Highway 140 stretch. A county road crew passed me on the climb. I came across them later, working on downed trees. They posed the usual questions: “Where are you going?” “Where are you coming from?” These were followed by stoic nods and water offerings. In what I should have recognized as foreshadowing, their team cleared downed trees. I thanked them for letting me through and kept grinding along.

Grinding was an accurate description. My hand ached and I felt unusually weak. The day before, momentary distraction led to a mistimed curb hop. I had gone over the bars and found myself on the ground, laughing at the silliness and aching from the impact. The hand throbbed at higher speeds on the bumps. I would later come to find out I had a small hand fracture, more evident once the swelling went down. As the road passed over a creek, I took the opportunity to fill bottles, sterilizing them with a Steri-Pen, and downed a few ibuprofen.
became uneasy. I clambered over the five downed trees. As I lowered my bike down on the far side, I saw more downed trees ahead. And so it began. Ride a little, clamber a lot. Many of the trees were charred, burned in the 2013 Rim Fire. I would later remember that a January windstorm, so severe it earned the name Mono Wind Event, closed Yosemite for weeks early in the year. The wind blasted down trees, and this area had not yet been cleared.

The downed tree issue was notably absent from my route research. I knew I was roughly four miles from Foresta, where there would be an easy out. I continued forward. Those four miles took roughly four hours. There are frequently moments on epic rides that test one’s mettle. This tested mine. The section had its moments, like when I startled a bear and it crashed into the underbrush. Not a great place to be dancing with a bear, given I was progressing at an average of one mile an hour. The best moment was reaching Little Nellie Falls, crossing the creek, and putting the downed tree challenges behind me.

Bridge out ahead

A brutal but short climb from Little Nellie Falls was marked by a formal sign marking the Yosemite National Park boundary. Shortly after that the roads transformed into manicured gravel, maintained by Foresta’s residents. Foresta is a rare private home inholding within the national park itself. The plateau has a view up the valley. I took an obligatory selfie with Half Dome in the background, looking somewhat worse for wear.

One can climb the Foresta road to the 120 and then use the road to drop into the valley. If the Yosemite Valley is the ultimate destination, this is a direct valley route. The descent makes the vehicles palatable, and the tunnels and views are energizing. This will also quickly connect one to the 140 and back down the Merced gorge if one happens to be done with dirt for the day.

The alternative is the old Foresta-El Portal road. Despite all the “Bridge out!” warnings, the route is passable on foot or bike. It is, however, no longer a road. It is single-track that descends roughly 2,300’ over six miles, with several dismounts along the way. It is also overgrown, with a touch of poison oak. The single track and bridge crossings are worth the risk, though, particularly if one has a poison oak remover like Tecnu back at the car.

This being an adventure, I picked the Foresta-El Portal single track instead of the paved road. I bumped down the trail. As I nervously glanced left and right for poison oak, I nearly ran over a gopher snake. A good reminder to pay attention. Gopher snakes are not the only mountain reptiles. The encounter reminded me of a story my father told me. At the end of a long day fishing a known rattlesnake area, he said to his father, my grandfather, “We didn’t see any rattlesnakes today, Dad!” Without missing a beat, my grandfather replied, “Yes, but how many saw us?”
By the time I arrived in El Portal, my bottles were drained, my body battered. The Park Service employees now live in El Portal, out of the valley proper. A few rangers were milling about in front of an administration building with a hose bib. They let me refill my bottles with sufficient water for the remaining road push.

Train hard

As I left El Portal, I passed a plaque, an old steam locomotive, and a few railcars sitting on rail remnants. This was the remains from the rail connection that used to bring travelers up the Merced River grade. The railbed, now sans tracks, runs along the north side of the river. There has been some discussion about turning this into a multi-use path, potentially extending all the way down to Snelling or Merced, to improve bike access to Yosemite. I fear it will remain a discussion only, however, given the cost.

I turned onto the 140. Traffic was light and the drivers polite, giving me wide berth. The highway is not narrow but lacks a significant shoulder. There was a slight headwind coming up the river. Despite the wind, I made good time along the 16 road miles back to the car with the mild riverbed downgrade. The sun was getting low, sometimes shining in my eyes but mostly hidden behind the high gorge walls. A steady state push on smooth roadway was all that remained. As I rounded the final turn before Briceberg, the suspension bridge to Burma Grade came into view, where nearly 11 hours earlier I had started the journey.

I pulled up to the rental car, switched into flip flops, wiped my arms and legs down with Tecnu, and limped down to the river. Immersing myself in the water felt ceremonial. Baptized in the snow-melt waters, I rinsed off salt, grit, and emotional crust. Had I found answers about place and people, about my father and how we all relate? Hardly. But the journey provided another opportunity to dig at the issues, and time to fill in physical unknowns, turning map lines into sensorial experiences.

The Rustic Bug Mountain Resort fortunately had space for me again that night. I say fortunately because it took all my remaining energy to drive myself there, force some food into my stomach, and crawl into the tent cabin bed. Some travels exhilarate, some entertain, and some provide humble reflection. This had it all, with a healthy dose of the latter.
BIKE SAFETY: E-BIKES’ WILD WEST ERA AND HOW TO PROTECT YOURSELF

Electric bicycles bring a charge with them, more than the battery itself. With their low environmental impact and ability to carry heavy loads like children and goods, they move people out of cars. Their operational costs are minimal. From a traffic perspective, they take up a fraction of the space a car uses, making them incredibly efficient on crowded roads. Want traffic conditions to improve in your neighborhood? Support safe bike infrastructure and e-bike subsidies similar to the rebates and tax incentives offered for electric cars.

E-bike travel times tend to be more predictable than any other mode. Traffic jam? The bike cuts through it. Unexpected road closures? The bike goes around it. Bikes are not subject to the unpredictability inherent to traffic congestion and public transit. As a result, one can leave the house for work or school drop-off without having to build in significant buffers, giving people who choose bikes more time in their day.

The e-bike industry, while young, managed to arrive at class designations that were turned into model legislation. That legislation has been adopted by many states and provides some guidance when making decisions about what type of e-bike to purchase in light of the e-bike’s capabilities and where it is allowed to travel. The outline on page 17 provides a breakdown of how the bike classes differ.

With all e-bikes have going for them, why are we calling this the wild west era? For three reasons: minimal (read essentially nonexistent) standardized manufacturing safety regulations, rider inexperience, and driver surprise. We explore each of these.

Design defects
First, we look at the absence of standardized manufacturing safety regulations. These translate to manufacturing and design concerns and how to select a good e-bike. Manufacturers, responding to high demand from parents, commuters, environmentalists, and delivery people, are flooding the market with all manner of powered two-
wheelers. The engineering and industry standards for this nascent industry are minimal, and people want inexpensive options. For many people, a $1,000 e-bike is a significant expense. The $1,000 price tag makes it sound like it must be well made. But a typical throttle-controlled $1,000 bike is $800 of motor and battery connected to the cheapest components available, most of them not designed for heavy bikes traveling at light motorcycle speeds. At that price point, corners tend to get cut. When you’re riding a 50-pound bicycle that can go 28 miles per hour, you don’t want cheap brakes that may have mismatched parts because that’s what the factory had lying around.

So how does one select a safe e-bike? The simplest answer is that if the deal seems to be too good to be true, it probably is. If the reputable manufacturers are making bikes that cost X and there’s a similar bike that costs 25% of X, be suspicious. An e-bike typically replaces a car. It won’t cost anywhere near as much to purchase or operate, but a good one will be an investment. That higher price point is a form of insurance that the product you’re buying won’t fail at a critical moment.

Looking for recalls or safety campaigns for the manufacturer at the Consumer Product Safety Commission (saferproducts.gov/PublicSearch) is a good start but not infallible. It can take a little while before enough data comes into the CPSC to serve as a warning for others. Additionally, manufacturers in the early era of this space pop up, sell some bikes, and frequently go out of business or reform into another entity.

Finally, talk to your local bike shop mechanic. Go over the bicycle details with the mechanic and see if the mechanic has concerns. The mechanic is likely to steer you toward an established brand that is more expensive. That’s not an upsell. It is someone looking out for your safety.

**Rider inexperience — with great power comes great responsibility**

With apologies to Peter Parker, there’s a typical arc with powered bicycles similar to new motorcycle ownership during the initial six months. First, there’s a cautious period when a rider is new. This bike is zippy, and I should be careful! As a rider develops better appreciation for the cycle’s handling, enthusiasm replaces the cautious period. This is fun! For some, it stops at enthusiasm and life is good. For others, overwhelmingly young men, enthusiasm next transitions to exhilaration. This can go fast! That’s the danger period. The danger period ends one of two ways. One is a heart-palpitating near-miss that resets the rider. The other is a crash.

The best way to reduce the danger period risk is awareness. Know this danger period is a natural progression and recognize it in yourself if it shows up. Back it off when that joyous grin morphs into devilish glee.

**Driver surprise — “I didn’t expect a bicyclist to be able to go that fast.”**

Versions of the above quote appear in almost every e-bike traffic collision report we’ve seen. To a driver, a bicyclist looks like a bicyclist whether that bicyclist is riding an e-bike or an unpowered bicycle. Many drivers see bicyclists as slow-moving obstacles that impede traffic and are best dealt with by speeding around them, followed by a turn directly in front of the cyclist. There’s a human factors element to this. Our minds are busy places, and our minds rely on past experiences as an efficient way to predict future engagement. If the vast majority of past driver experience with bicyclists is that bicycles travel at roughly 9-13 mph, the driver won’t expect a bicyclist to roll along at 28 mph. The driver thus
E-BIKE CLASS DESIGNATIONS

While states can vary, generally Class I, II and III e-bikes are defined under industry-sponsored model legislation that has been enacted throughout the United States. The following definitions are taken from California’s enactment of the model legislation:

**Class I e-bike: low-speed pedal-assisted bicycle**
- Equipped with a motor
- Provides assistance only when the cyclist is pedaling
- Ceases providing assistance once a bike reaches 20 mph
- All ages are allowed to operate
- Are legal on any paved surface a regular bicycle is allowed to operate
- Not in the statute (but common courtesy): slow around nonmotorized bikes, joggers, and walkers, and don’t do close passes

**Class II e-bike: low-speed throttle-assisted bicycle**
- Equipped with a motor
- Can exclusively propel the bike with a throttle control (without pedaling)
- Ceases providing assistance once a bike reaches 20 mph
- All ages are allowed to operate
- Are legal on any paved surface a regular bicycle is allowed to operate
- Not in the statute (but common courtesy): slow around nonmotorized bikes, joggers, and walkers, and don’t do close passes

**Class III e-bike: speed throttle-assisted bicycle**
- Equipped with a motor
- Provides assistance only while the cyclist is pedaling
- Ceases providing assistance once a bike reaches 28 mph
- Rider must be 16 years old or older
- Must wear a helmet to operate
- Are not allowed on Class I bike paths but are allowed in all other bikes lanes
- Not in the statute (but common courtesy): slow around nonmotorized bikes, joggers, and walkers, and don’t do close passes

executes a turn based on past bicyclist behavior instead of actual bicyclist behavior and WHAM! Down goes the cyclist.

Why is driver error part of the wild west e-bike era? Because as more and more e-bikes populate the streets, driver expectations will necessarily be impacted as they experience bicycles traveling at higher speeds. In the interim, expect that drivers won’t recognize an e-bike for what it is and consequently will underestimate the cyclist’s speed. One can reduce collision risk by recognizing this and leaving a cushion to correct for driver error. Should you have to do this? Absolutely not. Do you have more to lose than a driver? Absolutely.

E-bikes are a tremendous opportunity to reapproach how we use our streets, improve our quality of life, and reduce our environmental impact. We’ll work through the wild west era and come out the other side. In the meantime, enjoy the ride and exercise caution while the kinks get worked out.
COMMUNITY PROFILE

MAJOR TAYLOR EAST BAY CYCLING CLUB

Major Taylor East Bay Cycling Club’s mission is “to develop the skills of Black cyclists, promote health and wellness in Black communities, and promote safe cycling practices.” Founded by Kellie Scott, the organization fills a void in the Bay Area cycling community. When Scott returned to the Bay Area after years of living in Los Angeles, she missed the sense of community and acceptance she felt when she lived and rode in LA. For those not familiar with Los Angeles’s cycling community, it has multitudes upon multitudes. Any given day or night, one can find a group ride tailored to one’s physical and social needs. The Los Angeles paradox, a diverse bike culture in a world that immediately associates LA with cars, is not lost on the riders. The tongue-in-cheek #lasucksforcycling started appearing throughout social media along with images of epic rides, groups, and events.

While the Bay Area has wonderful cycling terrain, the broad cycling culture evident in Los Angeles has a way to go. Major Taylor East Bay is Kellie Scott’s contribution to change that. Understanding Major Taylor’s athletic and cultural significance helps frame the organization and its goals. Major Taylor was a professional cyclist and at the same time his name now signifies a movement.

Marshall Walter “Major” Taylor was a professional cyclist whose racing career spanned from 1896 to 1910. He was the first Black athlete to win a world cycling championship and the second Black athlete to win a world championship in any sport. Known for his velodrome sprint skills, Taylor challenged racial prejudice, becoming a pioneer for future athletes subjected to discrimination. Major Taylor’s importance as an inspiration to others has gathered steam. As of this writing, there are Major Taylor-inspired bike organizations in 28 states as well as Britain and Kenya.

In its mission to promote health and wellness in Black communities, Major Taylor East Bay features regular group rides, some for all levels and others for advanced riders. Sunday’s Chabot Loop is for all skill levels and a good entry point for riders looking to train up. Wednesday morning’s well-named Major Pain, on the other hand, is for those with advanced group riding skills looking to further hone bike handling and conditioning.

For more information about the organization, membership, and rides, visit www.majortayloreastbay.com.
INJURY RECOVERY: BENEFITING FROM TIME OFF THE BIKE

Many cyclists, from commuters to racers, will sustain an injury that takes them off the bike for some period. Don’t read that as a crash necessarily. It can be an overuse injury or as simple as a tweaked knee from a bad step off a curb. Regardless of the cause, most cyclists suffer when the ability to ride gets removed. So do those around that now grumpy cyclist…

Why the suffering? Spinning the legs clears the head. It brings forward ideas. It makes an otherwise frustrating commute joyous. Take that away and anyone can become cranky. Shifting one’s focus can help, however.

Many of us have a tendency to take things for granted until they are taken away. Removing riding while healing forces one to recognize how fortunate we as cyclists are to be able to ride. The changed conditions also provide new opportunities. While humans tend to dislike change, breaking up routine can be helpful. Not cycling means time for other things. Depending on the injury, this could mean walking, swimming, stretching, yoga, or what have you. It can also mean physical therapy and the time to get to know one’s body better.

Moving at a different speed affords one an opportunity to see and experience the world a different way. While we generally have a tendency to curse our luck when facing an injury or disruption, reframing it as a time to experience life a different way helps. It helps not just with one’s happiness during the recovery, but with the recovery itself. Cursing and gnashing one’s teeth, while a knee-jerk response, interferes with healing.

So the next time an injury takes you off the bike, recognize that things happen for a reason. Embrace the experience, take the opportunity to work through the injury, and remind yourself that we who have the ability to ride are fortunate every day we’re able to turn the pedals.

EVENT: CROSS IS COMING!

Bicycle Law is proud to sponsor Team Roaring Mouse’s Infestation cyclocross race. After the 2020 COVID-19 hiatus, racing’s return is exciting. As with everything these days, the racing will be subject to health precautions.

For more information, visit www.teamroaringmouse.com/cxrace.