



Public Access to Public Land

HJ13 Study – Environmental Quality Council
Prepared by Joe Kolman, Environmental Analyst

9/9/2015

House Joint Resolution No. 13 passed by the 2015 Legislature directs the EQC to conduct an assessment of landlocked public parcels in Montana.

A 2012 analysis by the Department of Fish, Wildlife, and Parks found that about 10% of public land, that owned by local, state, and federal entities is not likely accessible by a public road or waterway.¹

State trust lands and property managed by the Bureau of Land Management account for almost all of the inaccessible lands.

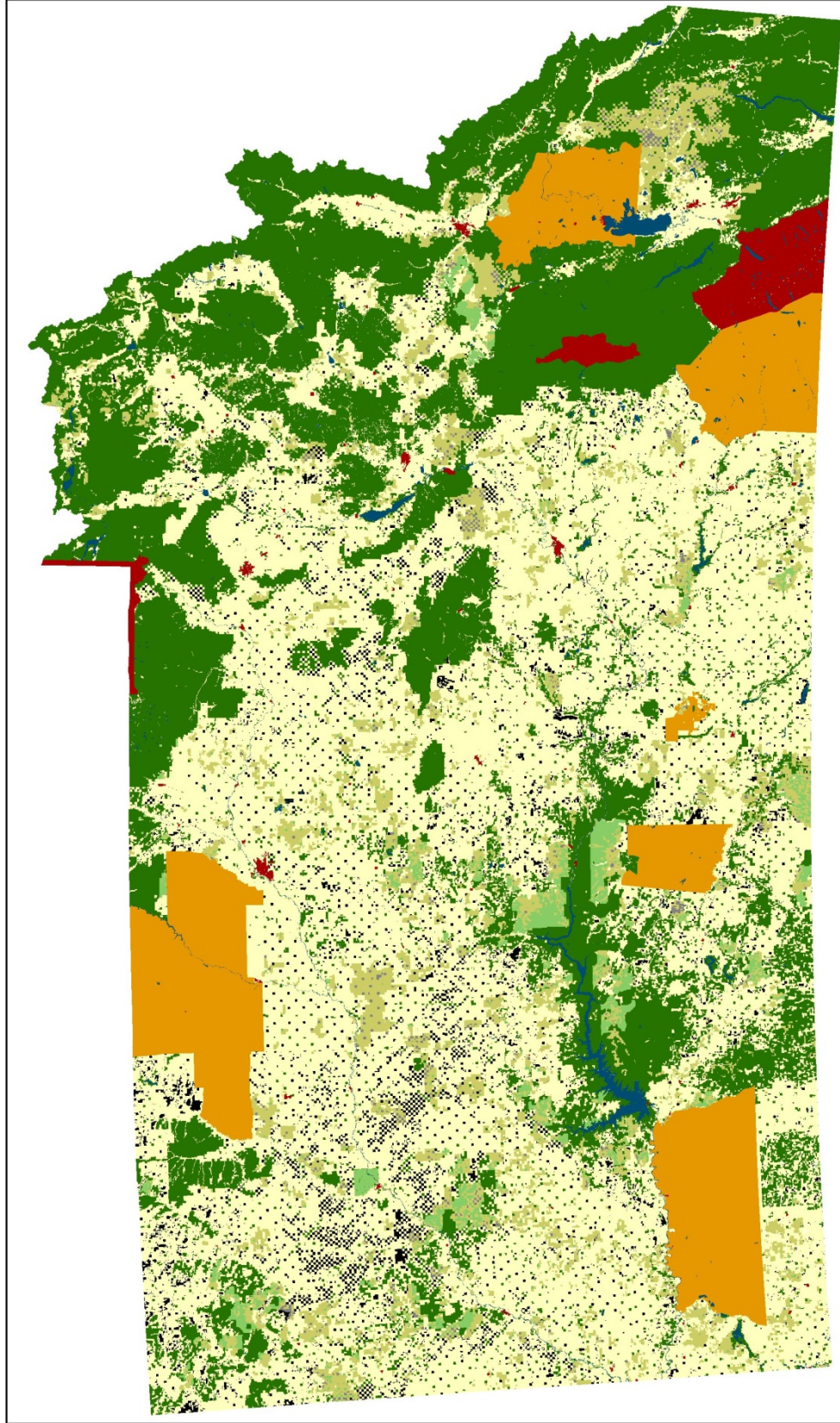
Owner	No Access in Square Miles	Access in Square Miles	Total Square Miles	Percent No Access
Montana State Trust Lands	2,429	5,553	7,982	30%
US Bureau of Land Management	2,179	10,287	12,466	17%
US Forest Service	232	26,050	26,282	1%
US Fish and Wildlife Service	10	1,358	1,368	1%
Unknown - Conflicting Data Sources	8	47	55	15%
US Bureau of Reclamation	4	182	186	2%
Montana Fish, Wildlife, and Parks	3	626	629	1%
State of Montana	1	34	35	4%
US Department of Defense	1	13	14	8%
Local Government	1	9	10	7%
City Government	0	2	3	11%
Montana University System	0	55	55	0%
US Government	0	1	1	14%
Montana Department of Transportation	0	2	2	2%
Montana Department of Natural Resources Water Projects	0	2	2	2%
County Government	0	19	19	0%
Montana Department of Corrections		55	55	0%
National Park Service		69	69	0%
US Army Corps of Engineers		2	2	0%
US Department of Agriculture		111	111	0%
Totals	4,870	4,4476	4,9346	10%

Analysis performed by FWP, 2012

¹ In this analysis and the included map “inaccessible lands” are characterized as unknown access. Distance from an access point is not considered a limitation to access. Corner crossings are not considered valid access. Public roads are those identified using data provided by the Montana Department of Transportation. Waterways are assumed to be navigable streams, lakes over 1,000 acres, or any lake containing a MT FWP fishing access site. Areas not considered are “non-hunting” areas such as parks, preserves, and land within city limits. Land ownership and access within Indian reservations were not evaluated.

Legend

- Water
- Closed Areas
- Indian Reservations
- Private Lands - (Unknown Access)
- Public Lands - Within Private lands (Unknown Access)
- Public Lands - Road/Water Access
- Private Lands - Access Program
- Public Lands - Within boundary of Access Program
- Public Lands - Within boundary of Access Program but with Road/Water Access



Access to public land is not an emerging issue. In 1986, a flock of public officials, landowners, recreationists and others descended on Helena for a conference titled, "Access in Montana: A Historical Issue!"

"Clearly, access is a complicated problem," said Gov. Ted Schwinden, "one that bears out the philosophy that 'For every problem, there is one solution which is simple, neat, and wrong.'"²

In 1992, Congress asked the General Accounting Office to assess the issue. The agency defined inadequate access as the federal government not having a permanent, legal right for the public to enter federal land at the point needed to use the land as intended by the managing entity.³

That definition seems much narrower than the one used in the DFWP analysis, which labeled land as accessible by any public access, not just one controlled by a government entity.

That study found about 25 million acres of forest land without adequate access in Region 1. By the DFWP analysis, there are about 148,000 acres of inaccessible forest land. For the Bureau of Land Management, the 1992 federal study found about 10 million acres inaccessible. The DFWP analysis found just under 1.4 million BLM acres in Montana without public access.

By surveying land managers with the Forest Service and the BLM, federal auditors found an increasing unwillingness of private landowners to grant access across private land to federal land. Factors contributing to the unwillingness included concerns about vandalism, liability, and a lack of privacy.⁴

To acquire access, the report said the agencies obtain perpetual easements. Fee simple purchases of property also provided permanent access. The least used option was condemnation because the process is controversial, time consuming, and expensive.

Just a year after that federal report, the Montana Legislature in 1993 passed House Joint Resolution 24 which acknowledged the "increasingly strained" relations between landowners and recreationists and urged parties to, among other things, achieve optimum hunter access, minimize impacts to landowners, and provide tangible benefits to landowners who allow hunter access.

The next session, the Legislature expanded the block management program and required the governor to create a committee of people interested in private land and public wildlife issues. The Private Land/Public Wildlife (PL/PW) Council has met fairly regularly the last two decades.

In its [January 2015 report](#), the PL/PW Council recommended increasing access to public lands by creating an Interagency Access Committee that would oversee an inventory of public roads and public lands where access is restricted or not available and offering voluntary corner crossing agreements to private landowners next to public land.

² ["Access?"](#) A summary of the Access in Montana conference, November 1986, in Helena.

³ [Federal Lands: Reasons for and Effects of Inadequate Public Access](#), April 1992. U.S. General Accounting Office.

⁴ Ibid.

The 2015 Legislature expanded a program that provided tax credits to landowners who granted access across private land to state land. [Senate Bill No. 309](#) increased the credit from \$500 to \$750, allowed the credit for access to federal land, and clarified that providing a corridor at a corner crossing also qualified for the credit.

CI0099 5232JKEB