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LANDLOCKED:

MEASURING PUBLIC LAND ACCESS IN THE WEST

Photo Credit: Michael Edminster

Center for
Western Priorities

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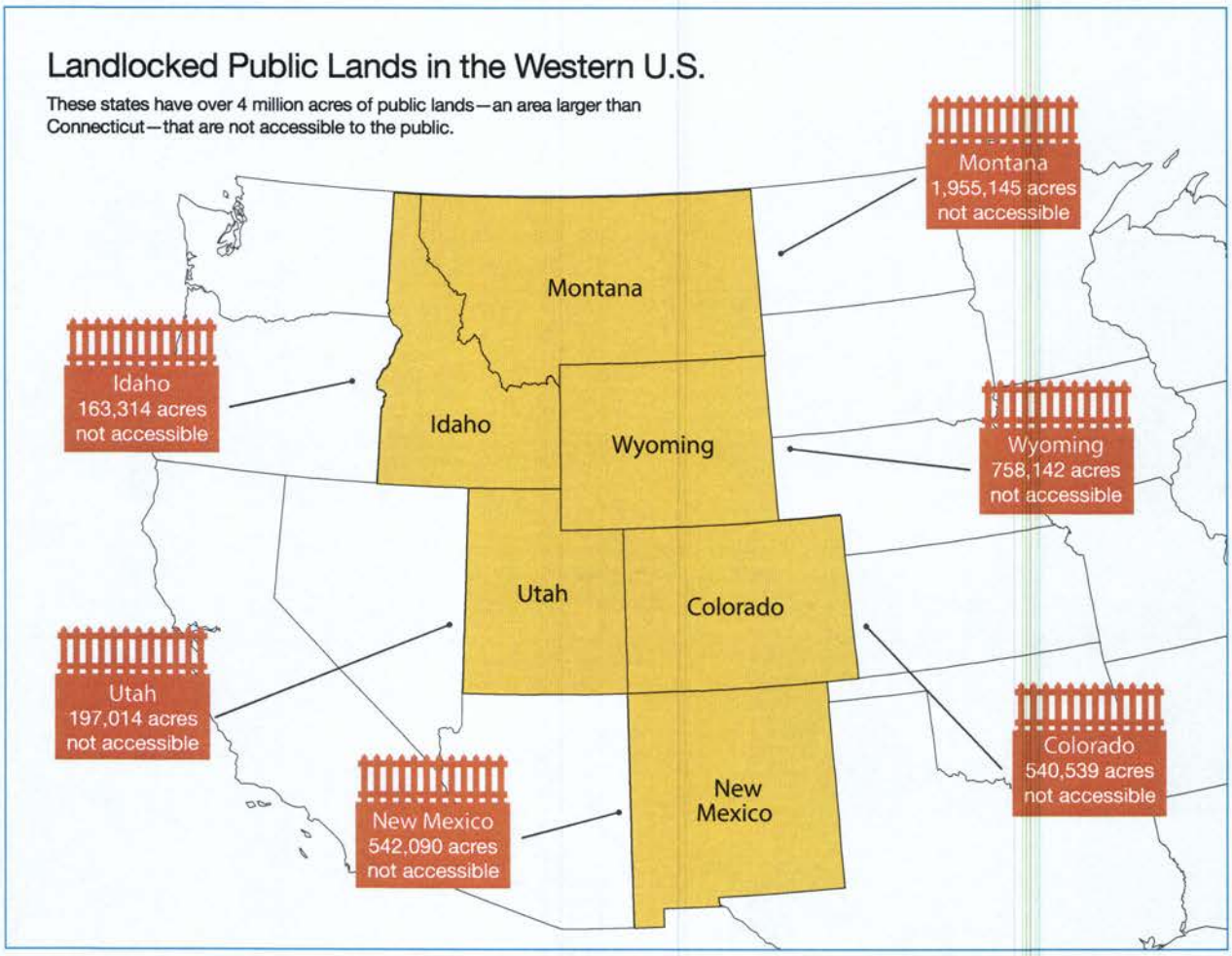
INTRODUCTION & SUMMARY

Millions of acres of Western public lands are inaccessible to the public as a result of historic land ownership patterns, inadequate entry points, and a failure to remove impediments to tracts of land that should be open for the enjoyment of all.

These shuttered public lands dramatically reduce opportunities for outdoor recreation, such as hiking, hunting, fishing and horseback riding, and stymie the United States' burgeoning $646 billion outdoor recreation economy.[1]

In six Western states, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming, over 4 million acres—an area larger than Connecticut—are inaccessible to the public. In several situations, designated and potential wilderness areas are not even accessible.

This report employs GIS mapping to quantify the amount of public land acres in Western states that cannot be legally accessed by the public. The majority of these inaccessible lands are managed by the United States Forest Service (USFS) and the Bureau of Land Management (BLM).



Data Analysis: Josh Gage, Gage Cartographics

Photo Credit: **BLM**

In recent years, hunters, anglers and other outdoor recreationists have raised concerns about access—or a lack thereof—to public lands. In response, members of the U.S. Congress have introduced bills which direct land managers to identify lands without public access and allocate funds to create permanent access. In 2011, Senators Jon Tester (D-MT), Jim Risch (R-ID), and Rob Portman (R-OH) introduced the Making Public Lands Public Act, but the bill failed to pass through the Congress and become law.[ii] In the current Congress, Senator Martin Heinrich (D-NM) has introduced the HUNT Act to expand and improve access onto public lands.[iii]

The federal government has tools at its disposal to improve public land access. Programs like the Land and Water Conservation Fund (LWCF) are critically important, but the LWCF is chronically underfunded and at risk of disappearing altogether. It is contingent upon Congress to prioritize opening inaccessible public lands by supporting tools like LWCF. And federal agencies should take a more comprehensive approach to identifying public access routes before they are lost, in addition to locating closed-off lands and enhancing access. Without a concerted effort, our public lands risk becoming less accessible, not more.

LANDLOCKED PUBLIC LANDS CREATE ACCESS CHALLENGES

Land ownership in the Rocky Mountain West is a quilt of federal, state, local, Native American, and private lands. The patchwork of owners can make it difficult for the public to access public lands without trespassing through private lands. In the absence of permanent legal access across privately held lands, hunters, recreationists and other members of the public can lose access to publicly-owned lands.

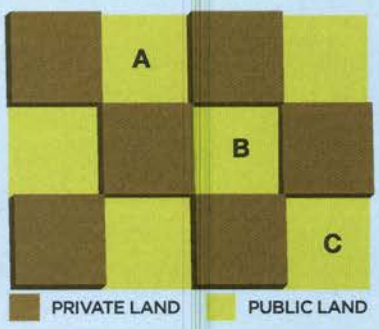
Checkerboard Lands in the West

To incentivize the construction of rail lines through the West in the 19th century, the federal government granted every other square mile—or 640 acres—parcel along rail corridors to a railroad company, such as Union Pacific. The company would sell parcels to raise capital and finance construction, while the federal government held on to every other parcel in hopes that they would increase in value for sale at a later date.

While this scheme worked well in the more arable East, it proved difficult to dispose of lands in the arid West. Many of the government-owned parcels never sold, resulting in a checkerboard pattern of land ownership found in parts of the West, with alternating public and private land.[iv]

Corner Crossings, Not Legal Public Access

Checkerboard lands are one of the bigger impediments to accessing public lands in much of the West, where crossing from one corner of public land to another corner of public land is considered illegal.[v] In the diagram to the right, if a public road led to parcel **A**, the public would still not be allowed to access parcel **B** or parcel **C**. Corners do not constitute legal access.



The enclosure of public land can result from different circumstances. Lands may be completely surrounded by private lands without any right-of-way to access the adjacent public lands. There may be a public road running through private property which has been closed off. Public lands can be surrounded by private lands in a checkerboard pattern. Sometimes landowners have been known to illegally fence off public roads, effectively shutting out the public from crossing onto publicly-owned land.

ECONOMIC BENEFITS OF MAINTAINING AND ENHANCING PUBLIC LAND ACCESS

Open and accessible public lands are an important element of healthy and sustainable Western economies. Access to open space for outdoor recreation attracts tourists to communities who fill hotel rooms, seats in bars, and booths in restaurants. They inject millions into local economies that help to keep shops open and residents employed. Also, public lands have been proven to assist businesses in recruiting and retaining talented employees who want to live and work close to where they can play.

Researchers have found that access to protected public lands promotes jobs and produces higher incomes. A recent study found that job growth over the last four decades in Western counties with significant protected public lands—like parks, monuments and wilderness—is four times higher than in counties without protected lands.[vi]

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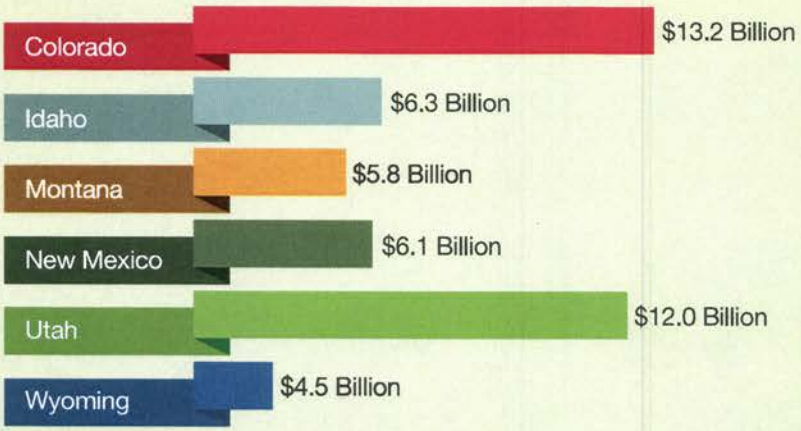
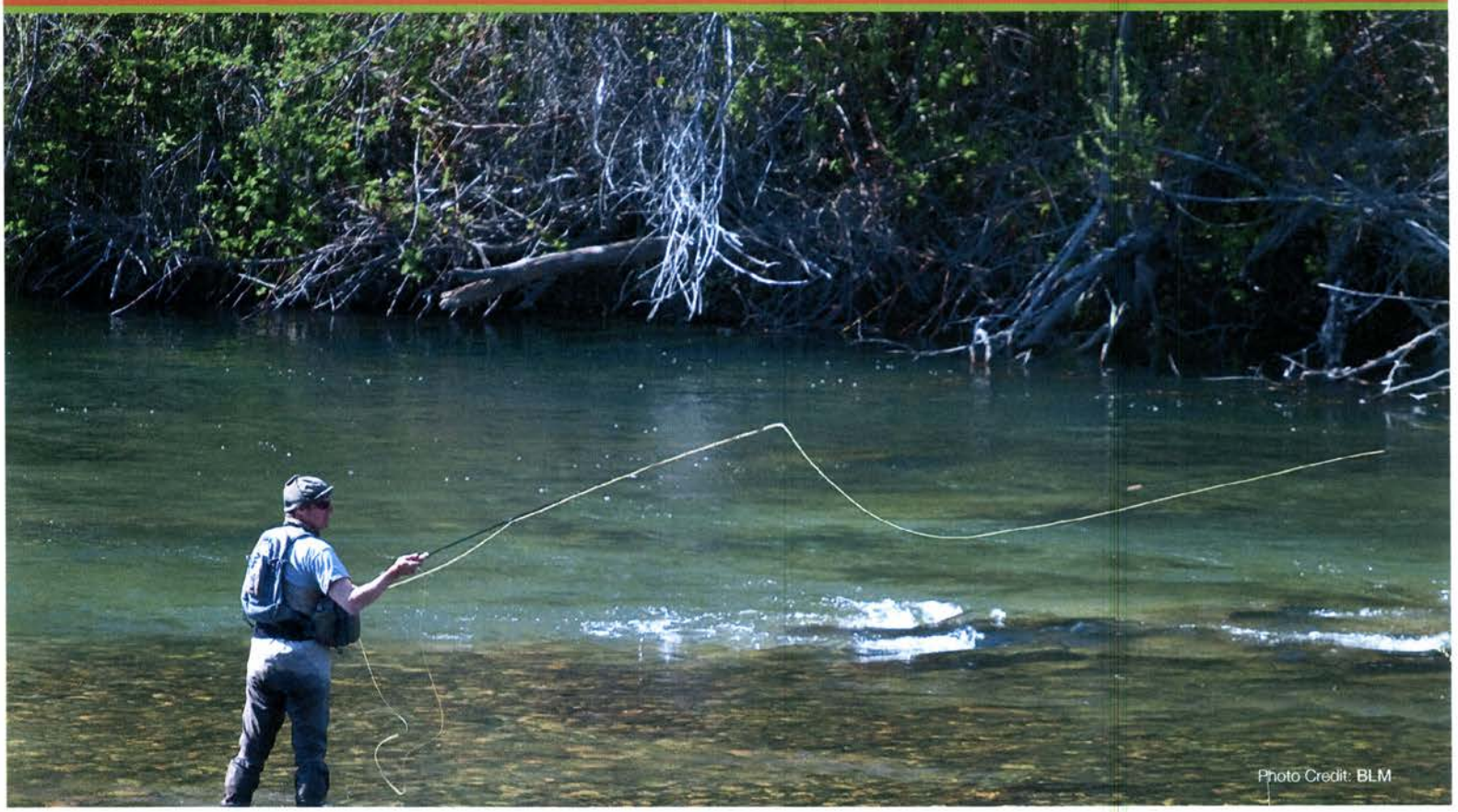
Annual Consumer Spending on Outdoor Recreation in Western States[vii]



Ensuring access is critical to supporting and promoting America's growing outdoor recreation industry. In the United States, consumers spend $646 billion each year on outdoor recreation, supporting 6.1 million direct jobs.[viii] In Western states, outdoor recreation brings billions into the economy each year: consumers spend $13.2 billion annually in Colorado on outdoor recreation; $6.1 billion in New Mexico, and $5.8 billion in Montana.

Open and accessible public lands are an essential element of outdoor recreation in the Rocky Mountain West. As an example, 89 percent of hunters in New Mexico hunt on public lands. In Utah and Wyoming, 83 percent of hunters use public lands to hunt.

Proportion of Sportsmen in Western States using Public Lands for Hunting, 2011[ix]



But sportsmen increasingly identify a lack of access to public lands as a major hindrance to hunting. One recent survey found that "private land blocking access to public land for hunting" was one of the biggest problems facing hunters in the Rocky Mountain West. In fact, only "the cost of gas" outranked landlocked public lands as a bigger impediment to accessing hunting in the West.[x]

Alongside hunting, inadequate access to public lands impacts a range of outdoor recreation activities. According to a General Accountability Office (GAO) study requested by Congress, federal land managers identified a laundry list of recreational activities diminished by inadequate access to public lands, including hunting, hiking, camping, viewing scenery and wildlife, horseback riding, fishing, wilderness area use, and mountain biking, among others.[xi]

Having access to public lands does not mean the public is granted the right to go anywhere or do any activity. Some lands are accessible by car, while others may only be accessible by foot or horseback. In each case, however, a legal entry point has been provided for the public to enter, while the managing agency maintains authority to limit some uses, such as driving cars or riding bicycles.[xii]

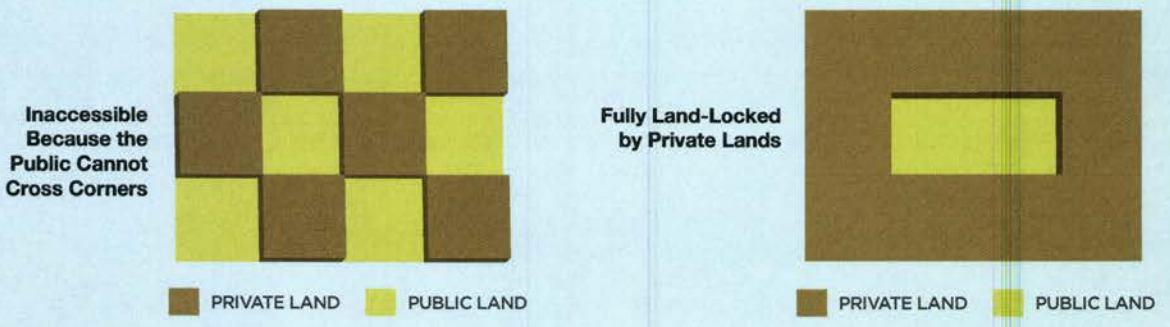
To calculate the total acres of public lands that are inaccessible and off-limits in the Rocky Mountain West, this study employs GIS mapping techniques.

Study Methodology

1. Using GIS mapping software, public lands were identified as accessible if they intersected a public road or if they touched a parcel of public land that intersected a public road.

2. Inaccessible public lands are those that do not come into contact with a public road and do not touch an adjacent parcel of accessible public land.

3. Inaccessible public lands are further classified into two categories: public land inaccessible because the public cannot cross corners, and public land fully landlocked by private lands.



There are more than 4 million acres of public lands that are not accessible to the public in the Rocky Mountain States: Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming. Montana has the most landlocked public lands, with nearly 2 million inaccessible public acres. Of those, 37 percent are inaccessible because the public cannot cross at corners, while the remaining 63 percent of inaccessible acres are fully landlocked by private lands. All Rocky Mountain States have significant access issues: Wyoming has more than 758,000 inaccessible acres, New Mexico has 542,000 inaccessible acres, and Colorado has 540,000 acres of inaccessible public lands.

Public Land Acreage in Western States: Inaccessible and Off-Limits

	Colorado	Idaho	Montana	New Mexico	Utah	Wyoming
Total Acres Inaccessible and Off-Limits	**541,000 acres**	**163,000 acres**	**1,955,000 acres**	**542,000 acres**	**197,000 acres**	**758,000 acres**
Inaccessible because the public cannot cross corners	87,000 acres	43,000 acres	724,000 acres	164,000 acres	161,000 acres	404,000 acres
Fully Land-Locked by private lands	454,000 acres	120,000 acres	1,231,000 acres	378,000 acres	36,000 acres	354,000 acres

Data Analysis: Josh Gage, Gage Cartographics

Study Caveats & Assumptions

- Information on road closures—either legal or illegal—is not available without a finer scale analysis. The assumption that all roads listed as public are open overestimates the number of public roads, yielding a conservative estimate of inaccessible public acres. One goal of the HUNT Act, introduced by Senator Martin Heinrich (D-NM), is to positively identify all inaccessible public lands.

- Private landowners have been known to block access to public land by "posting" public lands as private. This analysis does not capture these incidents, nor can it measure how common the practice is.

- Many public lands can be accessed from remote road access points, but easy access from a nearby road may be blocked by private land restrictions. This circumstance can be inconvenient and frustrating to some hunters, anglers, and hikers, but these public lands would not be considered landlocked and off-limits by this analysis. The Salmond Ranch Road, profiled in this report, is an example of this circumstance in Montana.

- The road maps used for analysis, from the U.S. Census, define each road segment as either private or public. It is assumed that the roads have been properly defined, and that each public road is open for public access.

CASE STUDIES: LANDLOCKED PUBLIC LANDS

Sabinoso Wilderness, New Mexico

The Sabinoso Wilderness in northeastern New Mexico is one of the nation's newest wilderness areas—designated in 2009—but is inaccessible and completely landlocked by privately-held land. While ranchers with federal grazing permits can access the 16,030-acre Sabinoso Wilderness, the public has no legal way in or out.[xiii] According to the BLM, the primary activities on the land would be hiking, backpacking, camping, photography, and horseback riding, but it is all off-limits until the government obtains legal access for the public.[xiv]

Cowboy Springs Wilderness Study Area, New Mexico

In the southwestern corner of New Mexico, the 6,700-acre Cowboy Springs Wilderness Study Area boasts exceptional opportunities to hike, bird watch and hunt. Cowboy Springs is a unique area, where the Chihuahuan Desert, Rocky Mountain, and Sierra Madre ecosystems all converge. This confluence leads to incredible diversity of plants and animals. The area, however, has no legal access and the public has no way in.[xv]

Fortification Creek Wilderness Study Area, Wyoming

Fortification Creek Wilderness Study Area in northeastern Wyoming is prized by hunters, hikers and horseback riders, but access into all 12,400 acres is controlled by the adjacent private landowners. While landowners have a history of granting access into Fortification Creek, permission is not assured and it could change at any point. Until the federal government develops a legal public right-of-way, access into the area for recreation is neither guaranteed, nor permanent.[xvi/xvii]

Photo Credit: BLM

North Fork Wilderness Study Area, Wyoming

The 10,000-acre North Fork Wilderness Study Area is completely landlocked by private property and public access is forbidden without permission from abutting landowners. The area offers outstanding opportunities to hike, backpack, fish and hunt. But unlike Fortification Creek, landowners surrounding the North Fork are not known for granting access to the public. In fact, some adjacent landowners run outfitting businesses that benefit from exclusive access to the area for hunting clients. Even the BLM—the managing agency—has had trouble receiving permission to access the North Fork for survey work.[xviii/xix]

Salmond Ranch Road, Montana

Salmond Ranch Road is one of the few access points into the Rocky Mountain Front between Augusta, Montana and Glacier National Park—130 miles apart from each other. The first few miles of the road run through the Salmond Ranch, before reaching state and BLM lands and the National Forest.[xxii/xxiii] In 1988, the Salmond's locked a gate on the road, significantly diminishing public access into the Rocky Mountain Front. There is currently an effort to get the Salmond Ranch Road re-opened with Teton County, the Montana Department of Natural Resources and the State Land Board providing evidence of a legal public right-of-way along the road. Although the public lands behind the Salmond Ranch Road are not technically inaccessible—there is access from other points along the Rocky Mountain Front—hunters, hikers, and other recreationists would have to travel nearly impossible distances by foot or horseback to access large chunks of public lands.[xx/xxi]

Bullwhacker Road, Montana

Recreationists and land managers have long relied on Bullwhacker Road in northern Montana to access about 50,000 acres of remote and game-rich public land in and around the Missouri River Breaks National Monument. A portion of the Bullwhacker Road runs through a private ranch and several years ago the landowner decided to gate the road with lock and key.[xxii/ xxiii] In 2011, a court ruled that the road was, in fact, private and the landowner has a right to close off the road despite decades of public use. Until the BLM finds an alternative route, the public will not be able to access thousands of acres of public lands.[xxiv]

Fortification Creek WSA

Photo Credit: Powder River Basin Resource Council

Sabinoso Wilderness

Photo Credit: BLM

TOOLS TO ENHANCE PUBLIC LAND ACCESS

The federal government has tools at its disposal to improve access and has had some success in working with willing landowners to purchase permanent access. In recent years, some key tools have been weakened or eliminated, but both Congress and state legislatures have proposed laws to enhance access onto landlocked public lands. Below are examples of a few opportunities:

Land and Water Conservation Fund

First created in 1965, the Land and Water Conservation Fund (LWCF) takes a portion of the revenues generated from offshore oil and gas drilling and provides funding for the federal government to enhance access onto public lands, expand parks, and protect public lands for recreation and conservation. The LWCF is authorized at $900 million annually, but it has only received full funding on one occasion, with the Congress typically diverting important funds for other uses.[xxv/xxvi]

Even though the LWCF is chronically underfunded and is set to expire in 2015, it remains an indispensable tool for the federal government to protect and improve access onto public lands. Recognizing the importance of continuing and strengthening the LWCF, a bipartisan group of senators have introduced Senate Bill 338—Land and Water Conservation Authorization Act of 2013—to continue the LWCF into the future and guarantee full funding each year.[xxvii]

Federal Land Transaction Facilitation Act

The Federal Land Transaction Facilitation Act (FLTFA) allows the federal government to sell selected public lands—previously identified as appropriate for disposal—and retain the proceeds to purchase high priority lands from willing sellers for recreational access and conservation.[xxviii]

FLTFA expired in 2011, but a broad-based bipartisan group of senators and representatives have introduced legislation into each chamber of congress to reauthorize this important tool.[xxix/xxx] Before expiring, FLTFA facilitated hundreds of projects on public lands. As an example, in 2009 FLTFA funding allowed the U.S. Forest Service to purchase an inholding within the Bridger-Teton National Forest which ensured access to a trail network leading into Wyoming's Wind River Range.[xxxi]

HUNT Act

First introduced by Martin Heinrich in 2012 when he served in the House of Representatives, Senator Martin Heinrich re-introduced the HUNT Act in the Senate in 2013.

The HUNT Act directs federal land agencies to identify and annually publish a list of inaccessible or significantly restricted public lands larger than 640 acres in size that allow hunting, fishing, hiking or other recreation. The Act calls on each agency to develop plans to provide public access onto listed lands and directs at least 1.5 percent of LWCF funds annually to improve recreational public access.[xxxii] This bill would start the process of systematically identifying key landlocked lands and prioritizing the opening of these lands to the public.

CONCLUSION

Photo Credit: BLM

More than 4 million public acres in the Rocky Mountain West currently lack adequate public access—a major impediment for hikers, campers, hunters and fishermen. It is contingent upon Congress, with encouragement from the Obama Administration, to ensure federal land managers have a robust toolbox to resolve public access problems.

Open and accessible public lands are the West's backbone and an economic boon for towns and cities across the region. Without careful planning and sufficient funds to create access into landlocked lands, while guaranteeing public roads remain open to the public, we risk being shut-off from even more of our public lands.

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