

# Land Access : Knowing your Rights

*Legal access to land ensures that individuals and organizations can utilize land for various purposes without facing legal disputes or restrictions.*

# What Access rights do you have?

## Public Access

- Federal, State, County road and/or rights-of-way

## Owned, Reserved or Granted

- Recorded

## Prescriptive & Historic Use

## Access Limitations

- Limited in use, width, or elevation
- Changes from historic vs modern



# Complications in Access

- ▶ Ownership of Access
  - ▶ Is the access shared?
- ▶ Ownership of Improvements
  - ▶ Includes bridges, roads, etc.
- ▶ Rights and Responsibilities
  - ▶ Who is responsible for maintaining the access?
- ▶ Access Across Multiple Parcels
  - ▶ May cross state lands, private lands, and lands managed by various federal entities. Complex road maintenance agreements may be required.
- ▶ Unrecorded changes in ROWs
  - ▶ ROWs that were never revoked or amendments sufficiently documented.



# Challenges to Legal Access

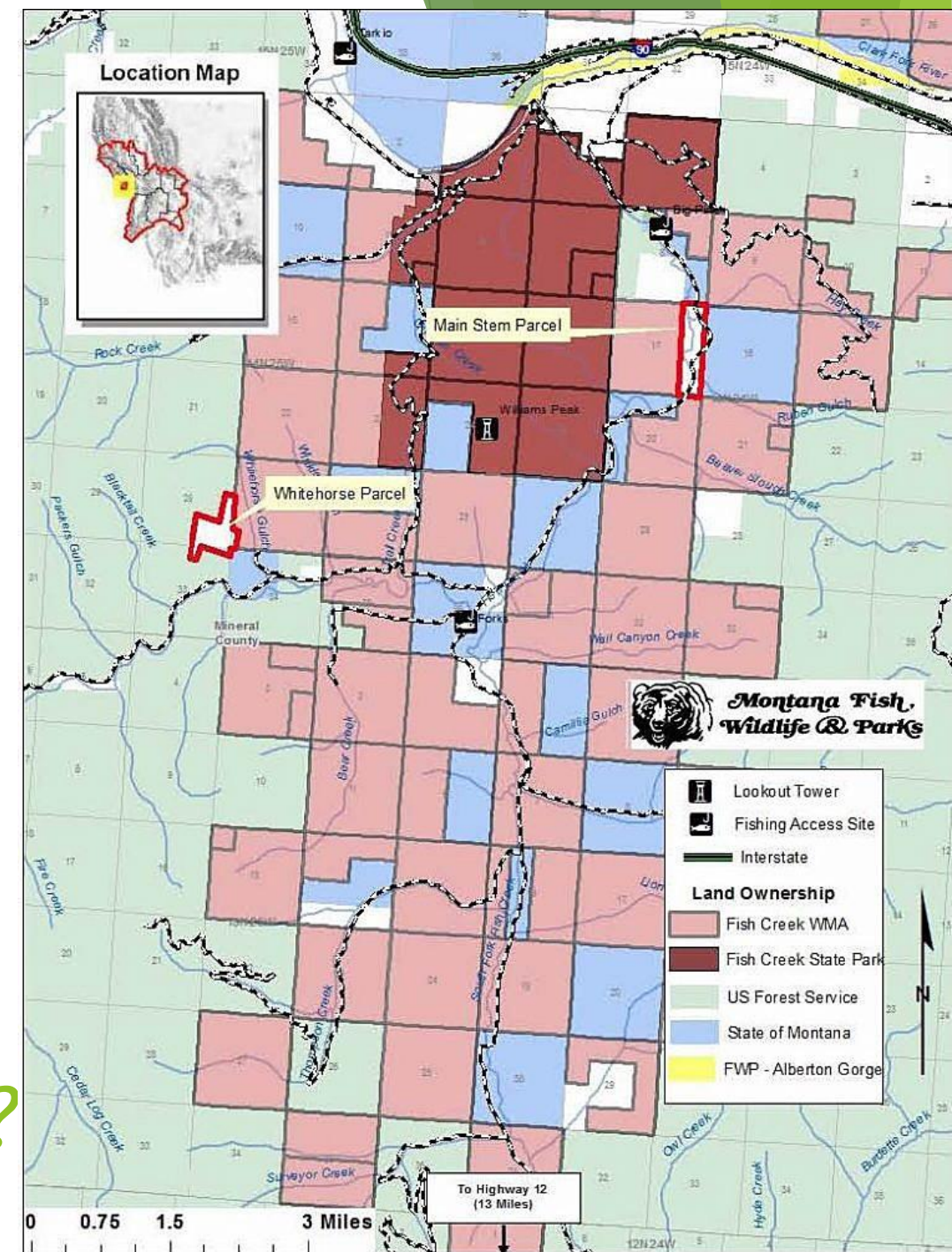
## Access Limitations

- Limited in use
- Limited in width
- Limited in elevation

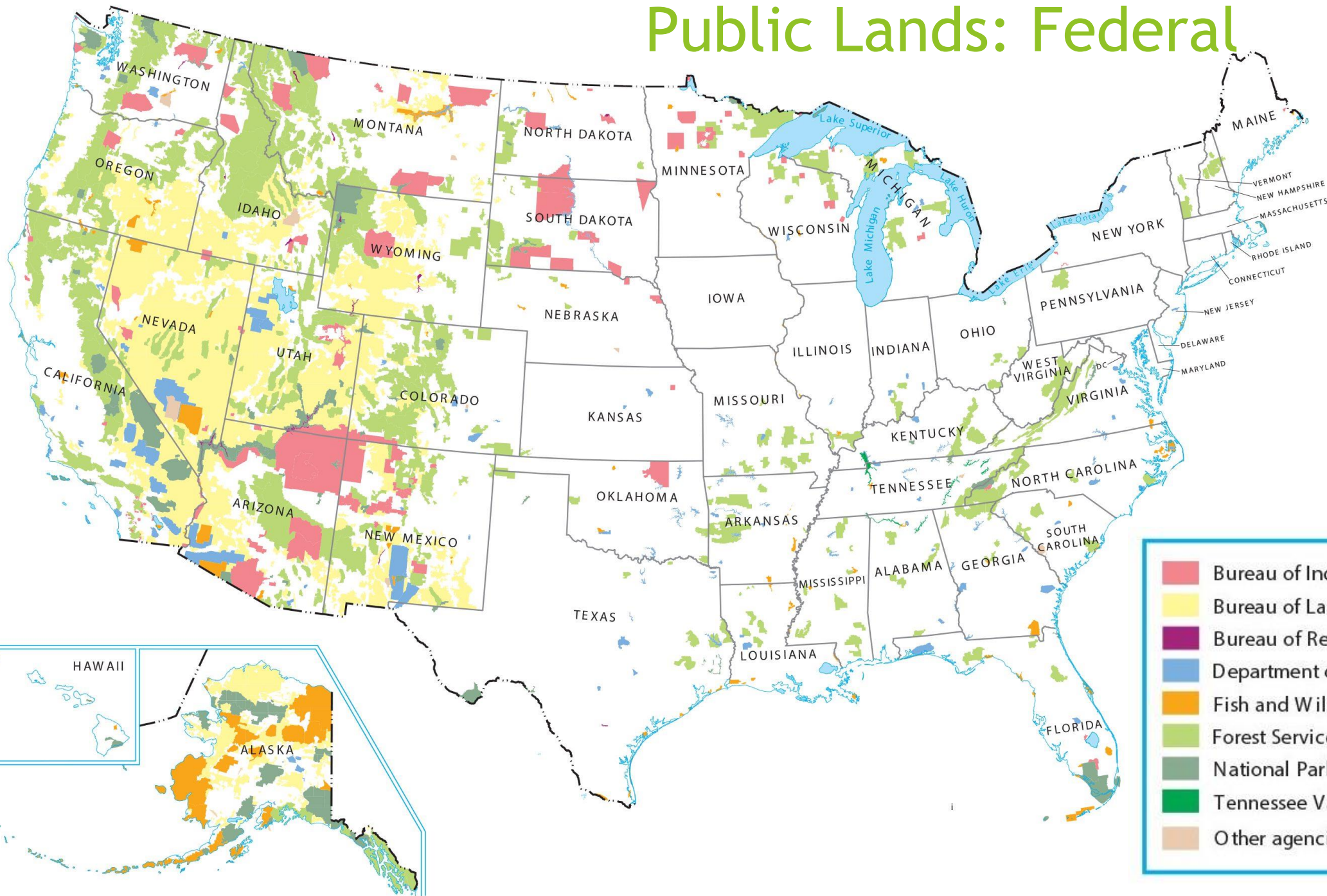
## Governmental Changes

- Reductions in Access
- Removals & Exchanges
- Multi-purpose doctrine VS conservation initiatives (30%)

*What happens if you lose access?*



# Public Lands: Federal





## Current Issue: Corner Crossing Lands

- ▶ Corner-crossers' Perspective
  - ▶ Cannot understand denial of access to public land
- ▶ Landowners' Perspective
  - ▶ Feel they purchased exclusive access to public land with their ranch
  - ▶ May have recourse against seller for misrepresentation if they lose appeal
  - ▶ Forced to accept public land definition if appeal is lost

# Legal Considerations

- ▶ Unlawful Inclosures Act (UIA) of 1885
  - ▶ Passed by Congress to counteract range wars
  - ▶ Makes it unlawful to construct enclosures excluding others from public lands
- ▶ Camfield v. United States
  - ▶ Supreme Court ruling on fences obstructing access to public land
  - ▶ Fences on private land can violate § 1061
- ▶ Corner Crossing Issues
  - ▶ Impact over 8.3 million acres of public land
  - ▶ Landowners' recourse and judicial takings
- ▶ Judicial Takings Doctrine
  - ▶ Landowners might claim that the application of the UIA caused a drastic reduction in land value
  - ▶ Unlikely that a court's decision in favor of corner-crossers could give rise to a takings claim 150 years later
  - ▶ Misrepresentation recovery possibility

# Summary: Risk Management



- ▶ Know your Access
  - ▶ Rights
  - ▶ Liabilities
  - ▶ Limitations
  - ▶ Map your access rights
- ▶ Identify your Risks
  - ▶ Impacts of Loss
  - ▶ Likelihood of Loss