

# HUNTERS' ACCESS TO BLM LANDS

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It is not uncommon in western states to find private land in the valleys, public land on the ridges and only private roads leading from the valleys to the ridges. One such case was described in the Piceance basin in Rio Blanco County, Colorado, where 61,000 acres of private valley lands were controlling access to 89,000 acres of Bureau of Land Management (BLM) land (Munger 1968). The controlled access lands were carrying average hunting pressure for the area, the hunters were paying access fees and receiving enhanced quality of hunting and the community was benefiting from the fees and other expenditures of the predominantly nonresident hunters who were attracted to the controlled hunting. Although controlled access hunting may be an improvement over uncontrolled access for the reasons enumerated, BLM's policies and programs continue to pursue the aim of removing such obstacles to free public access (BLM 1987).

**Table 1. Size and ownership of eight BLM allotments in Western Colorado used for controlled access hunting**

Name	Total (acres)	Public (acres)	Private (acres)	Grazing Preference (AUM)
Church	9,000	6,764	2,236	600
Cinder	2,000	1,870	130	228
Scrub	3,000	1,082	1,918	186
Mauldin	6,000	2,639	3,361	400
Berthas	3,000	1,320	1,680	119
Upperbox	5,500	2,589	2,911	418
Gorman	8,000	740	7,260	216
Magnetic	9,000	961	8,039	135
<b>Total</b>	<b>45,500</b>	<b>17,965</b>	<b>27,535</b>	<b>2,302</b>

Note: Names of the allotments have been camouflaged.

This paper investigates the options for access to the Danforth Hills area identified by the Little Snake Resource Area of Northwestern Colorado as lacking in public access (BLM 1986). Access to the area studied is controlled by private lands which are situated between a county road and the public land in the hills. The area, which encompasses eight BLM grazing allotments, includes 18,000 acres of public land and almost 28,000 acres of private land (Table 1).

The area was presumed to be underused because legal access was precluded. The first surprise in the study was to find that under current conditions the area is fully used by hunters.

## The Current Situation

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The study area lies mostly below 8,000 feet and is dissected by 300 foot deep canyons and gulches, the bottoms of which are mostly privately owned, and mostly uninhabited. The higher, steeper and rockier areas are public land. Roads or jeep trails in the canyon bottoms provide access to the mixed private and public lands in the uplands. According to notes in the files, grazing pressure on the allotments from all herbivores ranges from heavy to light and some allotments show abundant elk sign.

With the historic recovery of the elk and deer herds in western Colorado and increasing competition by hunters for places to hunt, the Danforth Hills have become prized for big game hunting. Hunters in substantial numbers are gaining access through the canyon bottoms by paying fees for controlled-access hunting (Table 2). There are seven separate fee hunting operations on the eight grazing allotments. Fences constructed to separate the allotments for management of grazing keep the hunters within the boundaries of the respective allotments. A total of 330 hunters used the controlled operations in 1990, taking a total of 94 bull elk and 162 buck deer (Table 2). Access fees were estimated to average \$100 per day per hunter. The controlled access hunters had better success for elk and as good success for bucks compared to the average for the entire wildlife management unit. In a related interview study, hunters using controlled access were receiving more satisfaction from hunting than were the hunters who were using uncontrolled access (Davis, in press).

Open access is available on one allotment where a county road crosses a BLM half section. Access is gained by scaling 300 foot cliffs at the top of which one can hunt an area of BLM land roughly two miles long and one mile wide but which has strips of unmarked 40 and 25 acre tracts missing on the west and south sides and a section of school land intruding on the eastern edge. As with private land, school lands in Colorado are not open to hunting without the permission of the person in control unless specially designated. Not only is access to this two square miles physically difficult but it is virtually impossible to pursue game on the BLM land without trespassing on private land or school land. Despite the claims, public land hunting is not "hassle-free" (Schuh 1990).

As could be expected, hunters using the open access know they are being watched for trespass violations and hunters who pay for controlled access are disappointed to find outside hunters gaining free access to the allotment even though they sympathize with the plight of the open access hunters. The hunters on this allotment get the worst of both worlds. In the discussion which follows, the options facing BLM will be explored.

## Taking No Action

Taking no action would perpetuate controlled access hunting systems which are successful on all but one grazing allotment. This policy would create strong incentives in most allotments

**Table 2. Hunting pressure and hunting success on eight BLM allotments in Western Colorado used for controlled access hunting in 1990 rifle seasons**

Name	Hunters (No)	Bull Elk (No)	Cow Elk (No)	Buck Deer (No)	Elk Success (pct)	Buck Success (pct)
Church	116	25	0	50	22	43
Cinder	30	7	0	20	23	67
Scrub	16	8	2	7	63	44
Mauldin	34	14	5	14	56	41
Upperbox	38	1	0	17	3	45
Gorman	48	11	0	44	23	92
Magnetic	48	28	8	10	75	21
<b>Total</b>	<b>330</b>	<b>94</b>	<b>15</b>	<b>162</b>	<b>33</b>	<b>49</b>

Notes: Buck harvest in Church and Scrub are estimates based on success in Mauldin and Upperbox.

The 30 hunters in Cinder Knob allotment also spent part of their time hunting on Juniper Mtn.

Upperbox and Berthas are managed as on a unit for hunting.

to manage forage jointly for wildlife and domestic stock or to favor wildlife as the more profitable enterprise. The nonresidents attracted by the controlled access system generate substantial incomes in the community. Hunting fees and guide services generate a greater local income per dollar spent than any other type of hunter expenditure (Munger 1968:26). When these allotments come up for coordinated allotment planning, the land management agency will find the permittees much more interested and cooperative in maintaining or improving wildlife habitat and riparian areas because they are receiving incomes from hunting (Peterson et al 1992; Davis et al, 1987).

One could favor the current situation for all of these reasons but favor some action to fix the conflict between open and controlled access hunting in the one allotment. This would lead to Option 1 or 2 below.

The grounds for objecting to the current situation are that some hunters who would like to hunt these allotments are now being excluded by their unwillingness to pay fees of \$100 per day. One could say that in principle all hunting should be free of charge and this could lead to Option 3 or 4 below but, principle aside, there is no way of concluding that the benefits of open access would exceed the benefits of controlled access, as will be discussed.

### The Options for Action

There are four proactive options to be explored:

1. Retain and improve controlled access.
2. Introduce lower priced controlled access
3. Create open access by purchasing right of way.
4. Create open access by land exchange.

### Retain and Improve Controlled Access Hunting

The controlled access system described here could become the model for a new approach to management of wildlife, hunting and forage on intermixed public and private lands. The allotments could be declared a special management area to be managed cooperatively by the private operators, BLM and the state wildlife agency.

### Introduce Lower Priced Controlled Access

Options for accommodating the open access hunter could focus on two aspects. One would open one or more allotments

to a controlled number of hunters for a modest admission fee, say \$25 per day. Public land hunters were interviewed by the author who are willing to pay modest access fees for better hunting. Higher prices could be charged for opening weekend and succeeding weekends with lower prices on weekdays. Price of access might also be higher for antlered than non-antlered game. The conflict between open access and controlled access in the one allotment will abate only if the landowner abandons controlled access hunting or offers canyon access to the open access hunters for a lower price. In a five day season 20 hunters per day on this allotment would provide as much or more hunting pressure as the area is getting now from the combination of controlled and open access hunting and might generate as much revenue at \$25 per day as is now received from the smaller number of fee hunters. However, this 20 hunters per day would be one hunter per 275 acres which is 33 percent more than the desired hunter density of one per 365 acres (Guynn 1979).

### Creating More Open Access Hunting

Options to create more open access hunting would require land purchases or exchanges to acquire the necessary access through the canyon bottoms. Open access through public easements would create conflicts unless landowners were willing to allow free hunting on the private lands or unless the acquisition included hunting rights to any private land in the allotments.

### Purchasing Rights

Any owners in these canyons and gulches willing to sell rights of way to BLM would demand a price equivalent to the net hunting revenues they expect to earn. The private land in these allotments is earning about \$5 per acre from annual hunting fees assuming the public land is not earning a hunting fee. The same land would earn less than \$2 per acre from annual fair market grazing fees. Any access purchased would destroy the income earning potential of all the private land opened up by the purchase. Therefore the price demanded by the seller would be the equivalent of this lost future income or two to three times its value for grazing. It is doubtful if BLM's appraisers could find sufficiently high recreational values in the land to match the seller's price. BLM's access taskforce found this problem in other cases (1987).

### Acquisition by Exchange

Land exchange is another possibility for increasing open access. Land exchange is expensive and time consuming. However, the benefits of the exchange need not cover the full costs of the procedure because the Federal Land Policy and Management Act of 1976 requires only that the public benefits (values) of the lands acquired equal the public benefits (values) of the lands given up. In this case the values would include hunting values which poses the same problem for the appraisers as if they were valuing the land for purchase.

Exchange could improve the situation in the allotment with open access by making it all public or all private. If the owner wanted to make it 100 percent private, he would need to come up with an equivalent 2,600 acres elsewhere to replace the open access hunting and the grazing values foregone here or BLM might find public lands elsewhere in the area that the

landowner might desire in exchange for his 3,360 acres in the allotment.

### Evaluation of the Options For Action

Option 1, the controlled access option, would be the best option for landowners, hunting operators, their clients and the local economy and has the best chance of any option of leading to better management of forage and wildlife. It would cost the agencies some administrative time to make it work and the private landowners would be expected to make some investments in wildlife management and range improvement on the allotments. This option would not be preferred by those hunters or managers who would like free and open access to the controlled access areas but if it produced more game from the enhanced habitat, it would benefit open access hunters outside the controlled hunting area because the game is free to move out of the area. A wildlife management plan for the area might also call for post-season hunts to reduce females, which would benefit primarily resident hunters, many of whom are also the open access hunters.

Option 2, the low-price controlled access option, would reduce conflicts with controlled access hunting on one allotment and would increase benefits for some of the hunters now excluded by the controlled access system from other allotments. Some of the hunters now using the existing open access point might pay for easier access to better hunting. Hunters who wanted to continue using the one open access point might be adversely affected by the increased pressure on the allotment necessitated by the lower prices.

Option 3, the purchase option, would benefit open access hunters but would impose equal or greater losses on controlled access hunters and operators. Landowners, as distinct from operators, would be compensated for their losses or else they would not sell. There are no net benefits to justify the costs of purchase. The option of purchasing is made less attractive by the prospect of eminent domain proceedings. If controlled access hunting were abolished here, the community would lose the benefits of the income flows to the operators and landowners and also some expenditure benefits from the non-resident hunters who would be replaced by resident hunters.

Option 4, the exchange option, has the same disadvantages as the purchase option and it is less costly only if the value of the exchanged public lands and BLM's administrative costs are ignored. The exchange or the purchase options could not be justified by a benefit-cost test but only by a blind adherence to the principle of free public access to all public lands.

### Is It Time To Reconsider Access Policies?

This study has uncovered a case in which the options of purchasing or exchanging land to create open access do not improve upon the current situation. The options that might improve things would retain and improve controlled access hunting and possibly introduce lower-priced controlled access to at least part of the area.

The study makes it plain that a policy of creating open access to public lands for hunters confronts the reality that it may create no welfare gains to hunters, and substantial costs to the government. The only premise for such a policy would be that controlled access is illegal, immoral or unethical. Historically we have objected when access to public land is

"wilfully" blocked (Public Land Law Review Commission 1970). Our beliefs often draw a distinction between what is appropriate on private land and public land (Sharp 1992) but in cases like this one, where the private and public lands are intermixed, it is not possible to treat them differently. To minimize conflicts an allotment must either be open to all or totally controlled.

The Taylor Grazing Act clearly states that it does not vest "in any permittee any right whatsoever to interfere with hunting or fishing within a grazing district," but no federal law has contravened the state trespass laws which apply to the private lands which control access to these allotments. Charging a fee for access may raise a moral issue with some hunting advocates but those who object to the principle of selling access rights must recognize that both sellers and buyers are willingly participating in the transaction. Historically, the hunters have initiated many of the access transactions.

It should also be clear that, historically, the private land was not claimed for the purpose of controlling access to hunting, although it may have been located as a means of controlling unregulated grazing in the canyons and adjacent uplands. The jumble of ownerships in places like the Danforth Hills is an inherited result and would be extremely costly to straighten out by a program of land purchases or trades. More harm than good could be done by ill-considered attempts to open such areas to free and uncontrolled public access. The fact that hunters and private land managers are reaching accommodations over the access issue to the mutual benefit of the participating hunters and landowners and the range could mean that organized exchange is the best outcome and that policies favoring free access under all conditions need to be discarded.

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