

GAO

Testimony

Before the Subcommittee on National Parks, Forests
and Public Lands, Committee on Natural Resources
House of Representatives

For Release on Delivery
Expected at
10:00 a.m., EST
Tuesday
November 9, 1993

FEDERAL LANDS

Public Land Access

Statement of John H. Anderson, Jr., Associate Director,
Natural Resources Management Issues,
Resources, Community, and Economic
Development Division



058518/150287

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss the concerns raised by you on the lack of public access to federal land. My testimony will focus on our April 1992 report¹ to you on the adequacy of public access to land managed by the Department of Agriculture's Forest Service and the Department of the Interior's Bureau of Land Management (BLM). The report provides information on the extent, reasons for, and effects of inadequate access and the methods used by the two agencies to resolve access problems.

Inadequate access, as we defined it through discussions with Forest Service and BLM officials, means that the federal government has not acquired the permanent, legal right for the public to enter federal land at the point(s) needed to use the land as intended by the managing agency. Under this definition, permission from nonfederal landowners to cross their land is not considered adequate access because such permission can be revoked at any time. Because neither of the agencies maintained information centrally on access problems, we sent questionnaires to all of their field office managers and visited 16 field locations. At the completion of our review all questionnaire data was made available to the agencies for their use.

In summary, the questionnaires indicated that access to about 50.4 million acres, or about 14 percent, of Forest Service and BLM land in the contiguous United States was considered inadequate by agency managers.² According to the managers, private landowners' unwillingness to grant public access across their land has increased over the past decade as the public's use of federal land has increased. Private landowners' concerns about vandalism and potential liability and their desire for privacy or exclusive personal use were the major reasons cited for inadequate access. Inadequate access to federal land can reduce the public's recreational opportunities and can also interfere with the agencies' land management activities. However, the extent of these effects varies by activity and geographic location.

To resolve public access problems, the Forest Service and BLM can acquire either all rights and interests associated with the land (called fee simple acquisition) or perpetual easements (limited rights to enter and use the land for access which are binding on succeeding owners). Fee simple acquisitions and perpetual easements can be acquired through purchase, donation,

¹Federal Lands: Reasons for and Effects of Inadequate Public Access (GAO/RCED-92-116BR, Apr. 14, 1992).

²Public access to federal land in Alaska is ensured under the Alaska Native Claims Settlement Act of 1971. The state of Hawaii does not have any Forest Service or BLM land.

exchange, or condemnation. In fiscal years 1989 through 1991 (the years covered by our questionnaire), the Forest Service and BLM acquired permanent, legal public access to about 4.5 million acres of federal land. As of October 1991, the two agencies had actions pending to open another 9.3 million acres of federal land to the public.

BACKGROUND

Of the nearly 700 million acres of federal land, about 465 million acres are managed by the Forest Service and BLM. This land provides valuable resources--including timber, water, minerals, energy reserves, and livestock forage--and valuable uses--including wildlife habitats, wilderness experiences, and recreational opportunities. Intermingled with the federal land is state and local government land, as well as land owned by corporations, Native American tribes, and private individuals. This checkerboard pattern of ownership, particularly in the western states, can make it difficult for the public to gain access to federal land without crossing nonfederal land. Unless the federal government obtains permanent, legal public access, nonfederal landowners can control or deny access to federal land.

EXTENT OF AND REASONS FOR INADEQUATE ACCESS

According to the questionnaire respondents, about 50.4 million acres, or about 14 percent, of the land managed by the Forest Service and BLM in the contiguous 48 states lack adequate public access. The Forest Service's Southwest, Intermountain, Northern, and Rocky Mountain Regions had the largest amounts of acreage with inadequate public access. BLM offices in California, Idaho, Nevada, Oregon, and Wyoming had the most acres with access problems. (See apps. I and II.)

Private landowners' major reasons for not granting the public access to cross their land were concerns about vandalism and potential liability and desire for privacy or exclusive personal use. For example, a Montana landowner we talked with told us that allowing public access disrupts his cattle-ranching operation because the public disturbs grazing cattle, and the animals move to other areas. The rancher is then forced to spend time collecting the cattle and returning them to the pasture. While on this ranch, we also observed that some of the rancher's signs had been shot, and we actually saw some trespassers cutting down trees on his property for firewood.

Another rancher in Montana we also talked with said he did not want hunting parties to cross his land because he feared that they would introduce noxious weeds. According to the rancher, seeds of weeds such as leafy spurge and spotted knapweed, which crowd out

pasture grasses, can be carried onto the land in tire treads, horses' hooves, or hikers' clothing.

Given such concerns, private landowners use various means of restricting the public's access to federal land. According to agency officials we talked with, some private landowners physically block access routes, others erect warning signs and still others have threatened trespassers with guns or attack dogs.

EFFECTS OF INADEQUATE ACCESS

Inadequate access to federal land reduces the public's recreational opportunities. The recreational opportunities most reduced by inadequate access are hunting, off-road vehicle use (e.g., dune buggies and dirt bikes), hiking, and camping. However, according to the questionnaire respondents, the extent of access problems is not the same nationwide and the extent to which recreational opportunities are affected differs by type of activity and by geographic location.

What is a problem in one part of the country is not necessarily a problem in another. For example, hunting was reported by BLM managers as being greatly or extremely reduced in California, Colorado, Idaho, Montana, Oregon, Utah, and Wyoming but not in Arizona, Nevada, New Mexico, or the eastern states. According to Forest Service supervisors, hunting was greatly or extremely reduced everywhere but in the Eastern Region. Camping, according to BLM managers was reduced in Idaho but not in Oregon, whereas mountain biking was reduced in Oregon but not in Idaho. According to Forest Service supervisors, fishing was reduced in the Rocky Mountain Region but not in the Northern Region, whereas wilderness use was reduced in the Northern Region but not in the Rocky Mountain Region.

Inadequate access also interferes with the agencies' land management activities. In some cases, this interference is extreme, in other cases, it is merely a nuisance. According to the questionnaire respondents, the management activities most interfered with by inadequate access are construction, trail and road maintenance, and wildlife habitat. Other management activities interfered with, but to a lesser extent, include law enforcement, fire protection, and search and rescue.

Extreme interference in agency work was reported at a site in the Los Padres National Forest in southern California. At this site, the Forest Service does not have free access to a mountaintop containing communications equipment--some owned by the Forest Service and some by other federal agencies or private corporations holding Forest Service permits. Part of the road leading to the mountaintop crosses private land, and the private landowners charge the Forest Service and the permittees an access fee to cross their land for equipment maintenance purposes. The private landowners'

refusal to allow free access interferes with both the Forest Service's and the permittees' work at this site. Because the Forest Service had not been able to obtain legal access to cross the private land, agency officials were considering building a road to reach the site from the other side of the mountain.

In other cases, inadequate access is perceived as more of a nuisance than an interference in agency management activities, and its effect is slight. According to a BLM official we talked with in Oregon, BLM personnel occasionally encounter locked gates on private land they are crossing to reach fires on federal land. In such a situation, according to this official, BLM personnel simply cut the lock and proceed to the fire. While such an instance of blocked access is a nuisance, the effect on the agency's management ability is slight.

AGENCY METHODS OF ACQUIRING PUBLIC ACCESS

The Forest Service and BLM can use fee simple acquisitions or perpetual easements to acquire public access. Either of these can be accomplished through purchase, donation, exchange, or condemnation. Condemnation, simply put, is the federal government's legal right to take private property for public use, without the owner's consent, upon payment of just compensation.³

During fiscal years 1989 through 1991, according to the questionnaire respondents, the Forest Service and BLM successfully completed about 2,600 "access actions,"⁴ thereby obtaining public access to 4.5 million acres of federal land. Perpetual easements were used by the Forest Service and BLM in 53 percent and 70 percent of the cases, respectively, and fee simple land acquisition was used in 27 percent and 25 percent of the cases, respectively. The Forest Service used condemnation actions in only about 3 percent of the cases, and BLM used them in less than 1 percent of the cases. According to agency officials, they use condemnation rarely because the process is time-consuming, expensive, and can be politically sensitive.

Our questionnaire asked the Forest Service and BLM managers to report their pending access actions as of October 1991. The Forest Service and BLM reported that they had about 3,300 access actions

³Condemnation is authorized under the Federal Land Policy and Management Act of 1976.

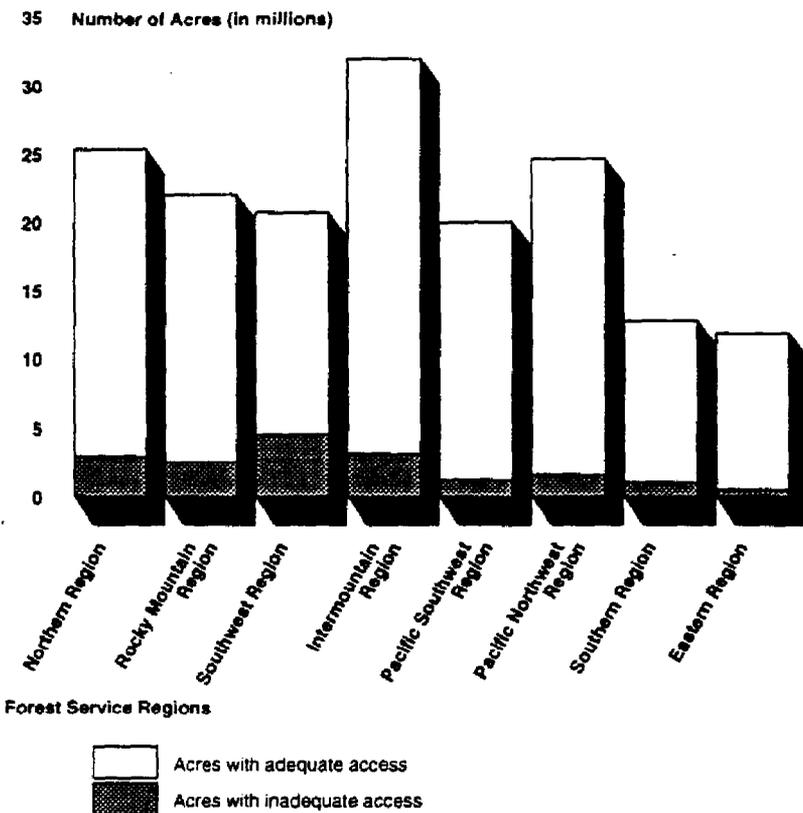
⁴For purposes of our questionnaire, we asked the respondents to count the number of cases completed over the 3 fiscal years, counting each separate conveyance of land or easement as an individual case. These access cases are referred to as access actions.

pending--some work had been done, but access had not yet been obtained. If all of these actions were successfully completed, another 9.3 million acres would be open to public access--about 18 percent of the 50.4 million acres reported by the agencies as having inadequate access. Of the 3,300 access actions pending, however, the agencies had identified 540, involving 2.3 million acres, which they believed would require condemnation action.

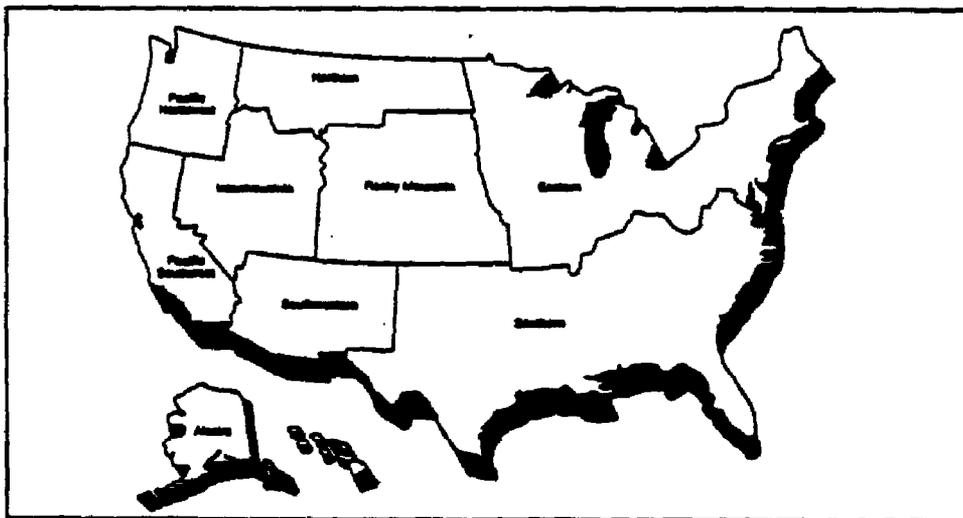
- - - - -

Mr. Chairman, this concludes my statement. We will be happy to answer any questions that you or other members of the Subcommittee may have.

FOREST SERVICE ACRES, BY REGION,
WITH INADEQUATE PUBLIC ACCESS



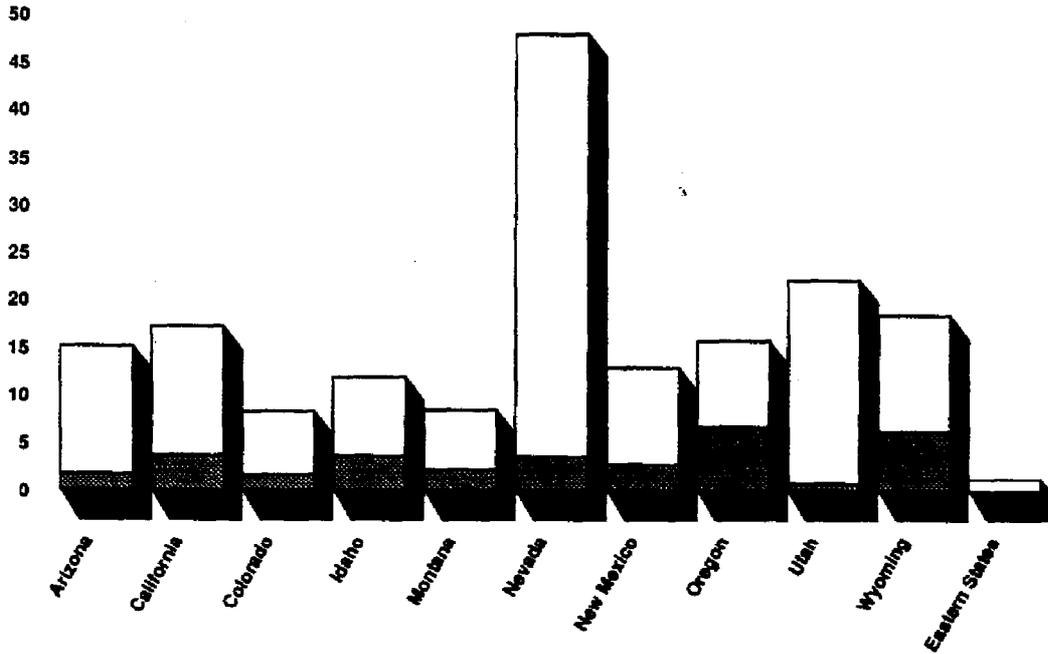
Source: Basic data provided by the Forest Service.



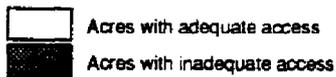
BLM ACRES, BY STATE, WITH
INADEQUATE PUBLIC ACCESS

BLM Acres, by State, with Inadequate Access

Number of Acres (in millions)

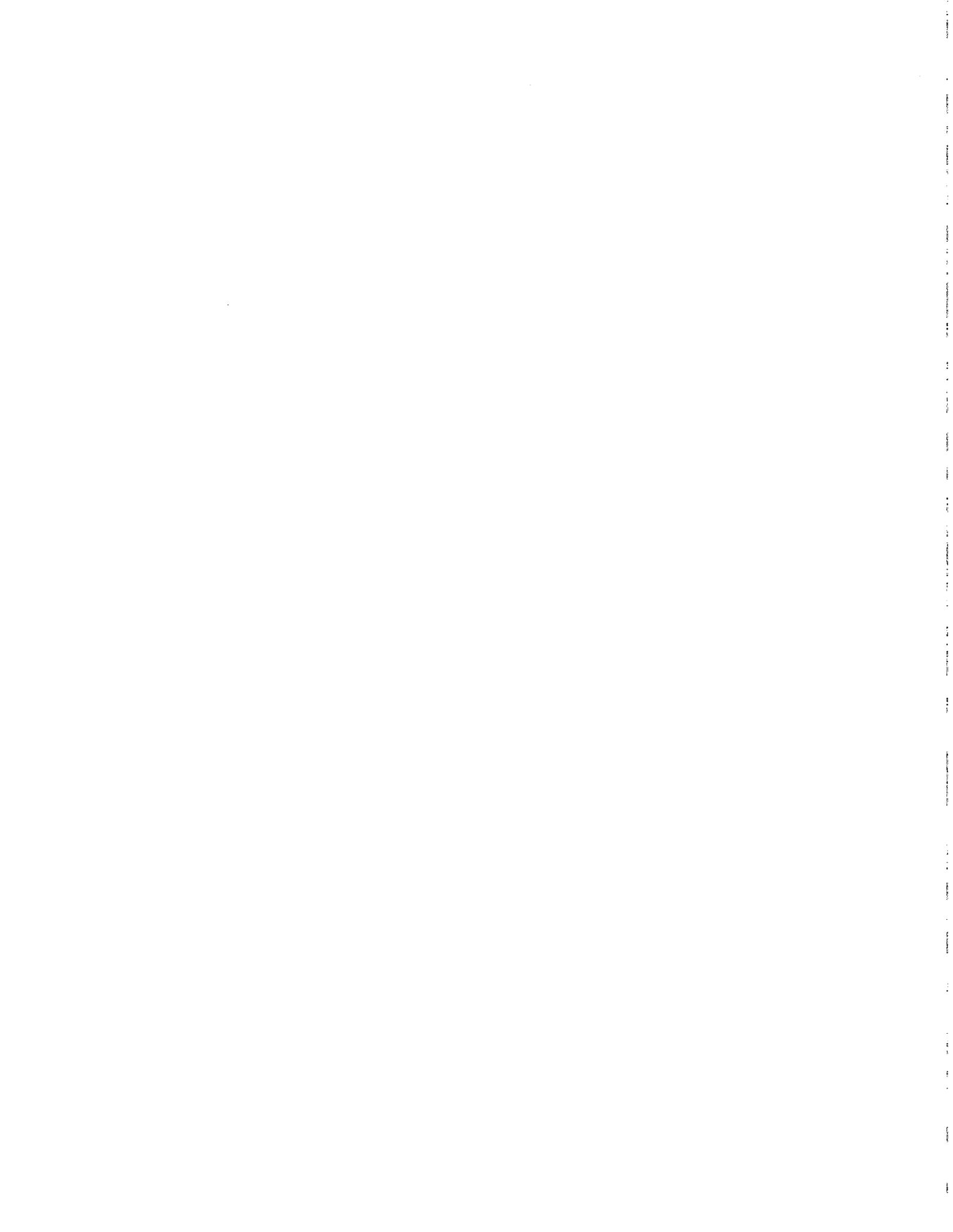


BLM States



Eastern States office reported no inaccessible acres.

Source: Basic data provided by BLM.



Ordering Information

The first copy of each GAO report and testimony is free. Additional copies are \$2 each. Orders should be sent to the following address, accompanied by a check or money order made out to the Superintendent of Documents, when necessary. Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

Orders by mail:

**U.S. General Accounting Office
P.O. Box 6015
Gaithersburg, MD 20884-6015**

or visit:

**Room 1000
700 4th St. NW (corner of 4th and G Sts. NW)
U.S. General Accounting Office
Washington, DC**

**Orders may also be placed by calling (202) 512-6000
or by using fax number (301) 258-4066.**

**United States
General Accounting Office
Washington, D.C. 20548**

**Official Business
Penalty for Private Use \$300**

**First-Class Mail
Postage & Fees Paid
GAO
Permit No. G100**
