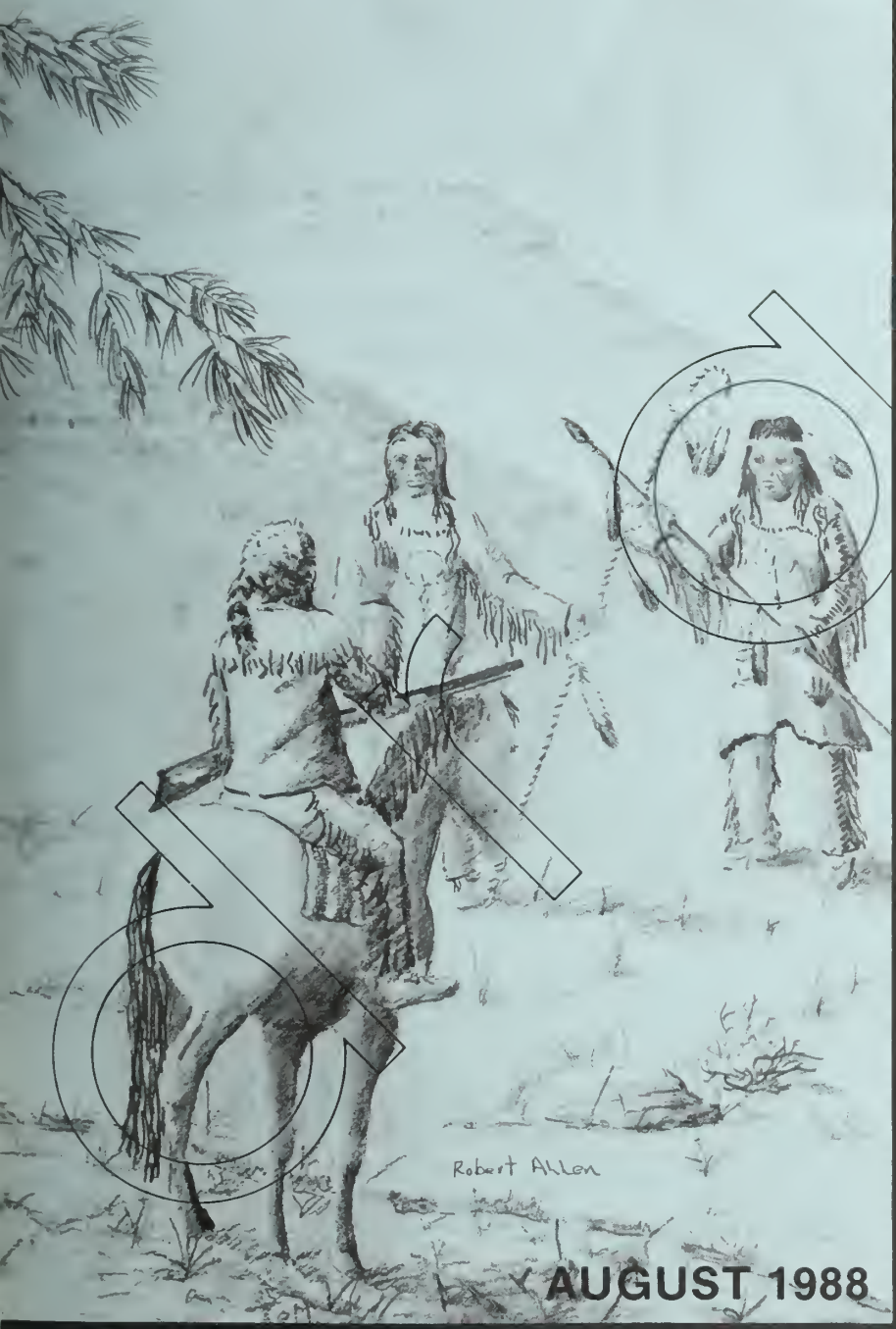


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AUGUST 1988

# State Director Guidance

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August 31, 1988

Dear Reader:

This past week, a Draft Access Supplement was sent to you. This supplement to the "State Director Guidance for Resource Management Planning in Montana and the Dakotas" replaces the Access portion of the April 1983 State Director Guidance. It also updates and amends the Land Pattern Review and Land Adjustment supplement to State Director Guidance issued June 1984.

The draft product is offered for general public review and comment. We will appreciate your taking time to carefully look at what is being proposed. The document compiles and complements access management concepts within existing BLM land management plans as well as providing guidance for future planning and management efforts. Management of access in an often broken or fragmented

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# ACCESS

## Supplement to State Director Guidance for Resource Management Planning in Montana and the Dakotas

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# STATE DIRECTOR GUIDANCE ACCESS SUPPLEMENT

This supplement replaces the “Access” section of the 1983 State Director Guidance and provides an access action plan. Appendix C also amends the June 1984 Land Pattern Review and Land Adjustment Supplement to the 1983 State Director Guidance. The area covered by this policy includes BLM jurisdictions in Montana, North Dakota and South Dakota.

The purpose of this document is to (1) describe BLM intentions for management of the access initiative, (2) to achieve better overall public understanding of the program, and (3) establish greater management efficiency for lands and resources through identification and prioritization of access needs. Appendix A provides a broad action plan for BLM while Appendix B provides the access planning base maps. Appendix D provides a Glossary of Terms common to an access program for BLM.

Access, in a BLM management context, is more than the physical and legal permission to enter or use land. This program also involves such diverse measures as public land signing, mapping, user outreach, intergovernmental coordination, enforcement and land acquisition or repositioning of lands. Proper management of access may also involve the restriction or closure of public lands to protect fragile lands or resources. All of the above concepts will be operated from a balanced perspective and based on multiple use prescriptions developed through land use plans and public involvement.

## INTRODUCTION

Access is one of the most hotly debated and fought issues in the west today. Recreation groups are concerned about the provision of access to public lands. Private landowners are concerned about their property rights and the potential for adverse impacts. Mineral operators are concerned with availability of publicly owned mineral resources for exploration and production. BLM, in consideration of these issues, is developing an access initiative to meet its various public mandates.

The Federal Land Policy and Management Act of 1976 (FLPMA) calls for retention and management of the vast majority of public lands. Retention areas are shown in Appendix B. BLM access efforts will center in these areas. As a general rule, access will not be pursued outside the retention areas. FLPMA provides authority for acquiring and managing access. Access management must include a balanced application for multiple use management.

The public land surface ownership pattern in Montana North and South Dakota is highly fragmented. Access to some of the 9.2 million acres of BLM public land is difficult and in some cases impossible as a result of a long history of public disposal laws (homesteading, state selection, etc.) Modern-day conflicts over access can occur whenever ownership is fragmented, or along waterways or where prime resource values occur and recreation or other user demands are high. Even where there is access, lack of boundary markers and inadequate maps often contribute to confusion about access and can result in conflicts between the public, public land administrators, and the owners of associated or intermingled private lands.

Legal access should exist for proper multiple use management of public land. However, legal access and its use must be properly managed to meet management goals for the resources and ownerships involved. This must ensure consideration for resource management (use, development, and protection) and public and private property rights.

Uncontrolled access is not often in the public interest. In certain situations, limited, restricted or strictly regulated public access is most appropriate. A few examples of natural resource related problems, that arise from unrestricted access include degradation of critical habitat, air and water pollution, soil erosion, and impacts on visual quality.

A logical course of action in access acquisition can only be initiated after a thorough analysis of existing and future needs. Generally, legal access, in some form, is sought for administrative access for agency personnel, for authorized users, and for the general public. Legal access obtained for any of these reasons may involve an easement, right-of-way, land exchange, memorandum of agreement, cooperative agreements, and/or eminent domain as a last resort.

The State Director Guidance (SDG) issued in April 1983, included criteria for planning decisions involving access. This Access Supplement and map package summarizes and/or complements and supplements existing land use plans with information obtained during the access inventory and needs assessments. Access management should be based on land use or activity planning. Specific details for any given transaction will be developed and documented, and such action will comply with the requirements of FLPMA and NEPA.

## ACCESS GOALS AND OBJECTIVES

The BLM shall endeavor to maintain existing access, provide future access, and manage access to public lands in coordination with other federal agencies, state and local governments, and private landowners. Access has been identified as a high priority management issue for the BLM in Montana and the Dakotas for the next 5 years.\* The Bureau's access program decisions should be made after thorough analysis and study of land use potential, resource values and public demand, and should achieve the following objectives:

1. Establish and maintain an information base on existing access and future needs. (See maps attached).
2. Disseminate existing and updated information on public lands access through maps, other information sources and signing of BLM road networks, trails or other public access points.
3. Obtain access to public lands that meet planning requirements and the criteria for retention and management. As each access case is processed, qualifying program considerations, access management criteria and necessary evaluations will be conducted.
4. Protect, maintain and manage existing access to public lands (including public mineral resources).
5. Manage access to public lands within the Bureau's multiple use mandate.

## ACCESS PROGRAM DIRECTION

The existing pattern of federal public lands in Montana and North and South Dakota, with intermingled private and state ownership, presents a situation whereby multiple use management is complicated. Legal and physical access to these lands by agency personnel, contractors, and licensees, as well as the general public, is a basic requirement for multiple use management of better blocked lands or needed resources. Therefore, access will normally be considered as a foundation element for multi-resource planning and action, with priorities being established by issues and needs. In certain instances, however, public land tracts may be best managed without access.

Legal and physical access needs are identified through this guidance, through Resource Management Plans (RMP) and site specific activity plans. Access is to be acquired through such tools as land exchanges, direct purchase of land or land rights, rights-of-way, or easements or long-term land use agreements providing for public access. The RMP should result in an identification, in some priority order, of the areas of public land which need legal and/or physical access (note: keep in mind that changes in national or regional resource priorities and economies may change these priorities from time to time). The types of access (exclusive, non-exclusive or temporary) will normally be addressed at the project or activity planning stage. In some instances, this may be addressed during the RMP process. Planning of routes will normally be done during preparation of the activity plan and accompanying route analysis.

Access to public lands is now available as follows:

- State and county roads which adjoin or cross a particular tract of public lands.
- Bureau-owned or controlled roads for which the Bureau has acquired adequate legal rights across non-federal lands (Permanent Exclusive Easements).
- Roads which are generally considered open to the public, but which have never been formally dedicated by county or state government.
- Roads over which the Bureau has acquired nonexclusive (permanent and/or temporary) easements from owners of underlying land. In this case, the ownership of the road remains with the individual landowner. The Bureau only acquires the right to use the road along with its agents, licensees, and permittees for a specific purpose. Rights for the general public are not obtained.
- Verbal or written permission of the landowners to cross nonfederal lands to reach a particular tract of public land. Such permission could be withdrawn at any time by the landowner and would become invalid with the change of ownership of the private land.

\*Strategic goals for Montana, North Dakota and South Dakota, 1988-1993.



- River/water access provided via the Montana Stream Access Law.
- Trail Access Management — Foot, horse, or bike access are all potential management concerns and/or tools.

Access needs are to be determined on the basis of the following program management considerations:

- A. **Resource Values** — The commercial, casual use or protection of the public lands are important management issues for the Bureau. Resource values and their use or nonuse require a multiple use perspective including various access oriented considerations. These considerations include:
- Right-of-Way Corridors — As all land uses and plans become more restrictive, avenues for utility and transportation rights-of-way must be provided. Planning must ensure the availability of these right-of-way networks where appropriate.
  - Forest Management — Legal access will normally be provided to all stands of merchantable timber which are scheduled to be sold by competitive bid. This access may be in the form of a temporary easement across nonfederal lands in certain instances. However, permanent rights are to be acquired to all such stands where the need for continued access for subsequent timber sales, reforestation or the management of other resources exists.
  - Recreation — Legal access is to be provided to rivers, water bodies, trails, and tracts of public lands having significant values for outdoor recreation. 43 CFR 8300.0-6 that: “In cooperation with state and local government and private landowners, the Bureau of Land Management shall endeavor to provide for public access to public lands with outdoor recreational values.”
  - Wildlife — Provide access or control of access to manage habitat, hunting, fishing, or non-consumptive wildlife uses.
  - Minerals — Although the Bureau is not required to provide access to mineral resources, the planning and acquisition of such access could be helpful in controlling the construction of multiple and unnecessary access routes within the same general area. The planning of major access routes across public lands for later construction, either by the Bureau or subsequent mineral developers, should also be considered in some areas.
- B. **Public Demand** — Public demand is closely tied to resource values. As the need for a resource changes, its value fluctuates accordingly. Demand is one of the key criteria in prioritization of access needs.
- C. **Size** — The size of the public land tract is an important consideration. As a rule, large tracts have a priority. But, resource values such as recreational sites may justify acquisition of access to smaller tracts.
- D. **Bureau Investment** — Tracts of public land on which the Bureau has or will invest substantial funds or effort for the purpose of improving the lands will require legal access as well as controls that protect the investment where significant expenditures are planned (usually an exclusive easement). For lesser amounts, a nonexclusive easement is adequate. No capital improvements or investments can be made on private or public roads except under some form of cooperative agreement.



# APPENDIX A

## PROGRAM ACTION PLAN

The following guidelines provide BLM access direction for all agency programs and personnel in Montana, North Dakota and South Dakota.

1. Recognize access as a high priority multiple use objective.
2. Recognize need for a public land ethic and a need to educate land users on respect for public land and for private property rights.
3. Commitments for the agency, built on the inventory and planning guidelines in this document, will be carried forward in short- and long-range budget and other management efforts.
4. Disseminate existing and updated information on public lands access through maps, other information sources, and signing of BLM road networks, trails, or other public access points.
5. Obtain access for the type of use desired, or establish public land ownership patterns that guarantee availability of sites or areas. Accomplish this by the following:
  - Easements acquired through purchase, exchange, donation, or eminent domain procedure.
  - Rights-of-way, including reciprocal, if appropriate.
  - Cooperative agreements.
  - Exchanges (including lands for easements).
  - Block Management Agreements (MDFW&P).
  - Farmers Home Administration and Farm Credit System — loan restructuring or write-downs for public access provisions.
  - Donations.
  - Land and Water Conservation Fund acquisitions.
  - Challenge Grant acquisitions.
  - Patent reservations or reciprocal easement.
6. Protect and manage existing access to public lands (including public mineral resources) in addition to the identification and acquisition of access.
  - Determine the public need for an access network.
  - Become involved in county road dedication and/or abandonments.
  - Work with counties in R.S. 2477 conversion or new rights-of-way for roads under Title V.
  - Enter into cooperative maintenance agreements with counties and state to exchange maintenance work.
  - Become involved in railroad abandonments. When justified, acquire routes across private lands and re-acquired (LU) public lands.
  - Maintain existing road network.
  - Insure public safety.
  - Reserve lands for utility corridors, communication sites, etc.
  - Fire management.

7. Establish and maintain information on existing situation and future needs. Systems that can be used for storing and retrieving information and storing and graphically portraying information are Automated Land & Minerals Record System and Geographic Information System. Develop an automated method or use an existing one for cataloging the following information:
  - Public access.
    - Existing situation.
      - Type of access (state highway, county road, easement, full or seasonal closure, etc.).
    - Future needs.
      - Type needed (easement — vehicle, foot other; stream; handicap provisions; etc.)
  - Administrative access.
    - Existing situation.
      - Type of access.
    - Future needs.
      - Type needed.
  - Contingent access.
    - Block management.
    - S-60.
    - Other cooperative agreements.
  - Maps and signs.
    - Coordinate with BLM transportation plans (addresses modes of travel, etc.)
8. Ensure protection of public land and resources from overuse. Manage public lands in a way that associated private lands are not burdened.
  - Vehicle type designations.
  - Controlled use (seasonal or closure).
  - Buffer zones.
  - Type of access use (foot, horseback, vehicle).
  - Amount of use.
  - Access points and location.
  - Informational signing.
  - Volunteer program for patrolling.
  - Special agent involvement.
  - Commodity uses (utilities, etc.).
9. Establish a formal and continuing liaison with other federal agencies, state, county, and local government.



# APPENDIX B

## ACCESS PLANNING MAP

### Map Basis and Interpretation

1. These 1:1,000,000 maps of Montana, North and South Dakota are intended to show the public, BLM, and other agency personnel, and interested groups where BLM access efforts will occur and in what approximate timeframe.
2. The access isograms show areas of access need and an approximate time framework for the action plan.
  - high (0 to 5 years)<sup>1</sup>
  - medium (6 to 10 years)<sup>1</sup>
  - low (11 to 15 years)<sup>1</sup>
3. This access planning is coordinated with earlier BLM Land Categorization. That categorization defined areas of public land retention and disposal for Montana BLM. By definition, disposal emphasizes exchange to acquire needed public resources or to reposition land for effective stewardship.
4. This access planning map is not intended to be parcel, route, or easement specific.
5. Public land access issues for major river systems or other waterways will be addressed in RMPs or other agency plans.

<sup>1</sup> Access unit achievements may shift between timeframes depending on budget, opportunity, workforce, etc.



# APPENDIX C

## LAND CATEGORIZATION MODIFIER

On June 1984, the State Director Guidance Supplement for Land Pattern Review and Land Adjustment was issued by the Montana State Director of BLM.

That supplement categorized areas of public land to be (1) retained and managed and others to be (2) available for exchange, disposal or further study.

Since the time of that Supplement, certain areas previously categorized for exchange/disposal/further study have been found to possess values that suggest they be recategorized for retention in public ownership. Those areas are identified on the map that accompanies this document, by a C. This document, when final, would change the categorization of these C area lands from disposal/further study to retention.





# APPENDIX D

## GLOSSARY<sup>1</sup>

**Abstract of Title.** A condensed history of the title to land, consisting of a summary of the operative portions of all the conveyances, of whatever kind or nature which in any manner affects the land, or estate or interest therein, together with a statement of all liens, charges, or liabilities to which the same may be subject, and of which it is in any way material for purchasers to be appraised.

### **Access Defined.**

Webster — **a.** Permission, liberty, or ability to enter, approach, communicate with, or pass to and from; **b.** Freedom or ability to obtain or make use of; **c.** A way or means of access; and **d.** The action of going to or reaching.

BLM — Access is the physical ability to reach a particular place or area **or** the permission to do so. For the public to legally have access to public land, they must have **both** a physical way to get there (waterway, foot/horse trail, or road) and permission (easement, right-of-way, or management sanction) allowing the particular type of physical access. For the Bureau to serve the public as a whole in obtaining access, we must obtain irrefutable rights-of-way or exclusive easements for the type of physical access needed, or establish public land ownership patterns that guarantee availability of sites or areas. Then signed trails or roads can be constructed and maps provided to ensure correct identification of their lands by the public.

**Acknowledgement.** Formal declaration before authorized official, by person who executed instrument, that it is his free act and deed.

**Activity Plan.** Site specific planning which precedes actual development. This is the most detailed level of BLM planning.

**Appraisal.** An unbiased estimate of the nature, quality, value, or utility of an interest in, or aspect of, identified real estate.

**Assignment.** A transfer or making over to another of the whole of any property, real or personal, in possession or in action, or of any estate or rights therein. The difference between an assignment and a sublease is that an assignment is for the entire unexpired term.

**Attest.** To bear witness to; to bear witness to a fact; to affirm to be true or genuine; to act as a witness; to certify to the verity of a copy of a public document, formally by signature; to make solemn declaration in words or writing to support a fact; to signify by subscription of his name that assignor has witnessed the execution of the particular instrument.

**Bargain and Sale.** In conveyancing the transferring of the property of a thing from one to another, upon valuable consideration, by way of sale. The term "bargain and sale deed" is usually applied to a deed which carries no warranty.

**BLM Land Categorization.** In June 1984, a document and map were issued by the Montana BLM State Director which defined areas of public land retention and enhancement and areas generally targeted for public disposal — primarily via exchanges. The document and maps were issued following extensive public involvement.

**Block Management.** A relatively new property owner/manager coordination mechanism being administered by the Montana Department of Fish, Wildlife and Parks. The program is designed, principally, to mitigate landowner impact while making more lands available for hunting use.

**Centerline (C).** A location for a linear facility within a route. (see Route)

**Challenge Grants.** Federal funds, available on a 1:1 matching basis, for certain natural resource enhancement efforts.

**Chain of Title.** Successive conveyances, affecting a particular parcel of land, arranged consecutively, from the Government or original source of title down to the present holder.

**Closure.** A formal process of restricting public lands from any encroachment, or limited uses, to protect specified resource values.

**Cloud on Title.** An outstanding claim or incumbrance which, if valid, would affect or impair the title of the owner of a particular estate; mortgage judgment, tax levy, etc., may all, in proper cases, constitute a cloud on title.

<sup>1</sup> Not all these terms will be found in the Access Supplement document, but all are important in the language of Access management.

**Color of Title.** The appearance or semblance of title. Also termed “apparent title.” Any fact, extraneous to the act or mere will of the claimant, which has the appearance on its face of supporting its claim or present title to the land, by which for some defect, in reality falls short of establishing it. “Color of title” is not synonymous with “claim of title.” To constitute “color of title” there must be a paper title to give color to the adverse possession, whereas a “claim of title” may be shown wholly by oral expression.

**Condemnation.** In real property law, the process by which property of a private owner is taken for public use, without his consent, but upon the award of payment of just compensation, being in the nature of a forced sale and condemner stands toward owner as buyer toward seller.

**Consideration.** In contracts, the inducement of a contract. The cause, motive, price or impelling influence which induces a contracting party to enter into a contract. Consideration means something that is of value in the eye of the law. Nothing is consideration that is not regarded as such by both parties. “Price” and “considerations,” though sometimes the same, are not always identical. Considerations are either executed or executory; express or implied; good or valuable.

**Contract.** A promise or an agreement between two or more persons that creates, modifies, or destroys a legal relation. An agreement, upon sufficient consideration, to do or not to do a particular thing.

**Control.** To exercise restraining or directing influence over; regulate; restrain; dominate; to hold from action; govern. To control a thing is to have the right to exercise a directing or governing influence over it.

**Convey.** To pass or transmit the title to property from one to another; to transfer property or the title of property by deed or instrument under seal. Used popularly in sense of “assign,” “sale,” or “transfer.” Convey relates properly to the disposition of real property, not to personal.

**Conveyance.** In real property law, and in the strict legal sense, a transfer of legal title to land. In the popular sense, it denotes any transfer of title, legal or equitable. An instrument in writing under seal, by which some estate or interest in lands is transferred from one person to another; such as a deed, mortgage, etc.

**Cooperative Agreement.** Documenting relationship between BLM and other parties for the purposes of mutual assistance; activities in which no obligation or exchange of federal funds, products, or services is involved.

**Corridor.** An area of land (generally 2 miles in width) that is generally suitable for siting a linear facility.

**Covenant.** In contracts, an agreement, convention, or promise of two or more parties, by deed in writing, signed, sealed, and delivered, by which either of the parties pledges himself to the other that something is either done or shall be done, or stipulates for the truth of certain facts.

**Damages.** A just compensation or reparation for loss or injuries sustained. The award made to a person because of a legal wrong done to him by another, such as in condemnation.

**Declaration of Taking.** The first of the pleadings on the part of the plaintiff in an action of condemnation.

**Deed.** A written instrument, signed, sealed, and delivered, by which one person conveys land, tenements, or hereditaments to another. The term may include a mortgage of real estate. A lease, under seal, for exceeding 21 years is also held to be within the term. A deed cannot be revoked.

**Devest.** To deprive; to take away; to withdraw. Usually spoken of an authority, power, property, or title; as the estate is divested.

**Disclaimer.** A repudiation or renunciation of a claim or power vested in a person or which he had formerly alleged to be his. Also, the declaration, or instrument, by which such disclaimer is published.

**Document.** An instrument on which is recorded, by means of letters, figures, marks, matter which may be eventually used. A deed, agreement, title paper, letter, or other written instruments used to prove a fact.

**Dower.** A provision which the law makes for a widow out of the land or tenements of her husband, for her support and the nurture of her children. A species of life estate which a woman is, by law, entitled to claim on the death of her husband, in the lands and tenements of which he was seized in fee during the marriage, and which her issue, if any, might by possibility have inherited. The term, both technically and in popular acceptance, has reference to real estate exclusively.

**Easement.** A right to use the land of another for some specified purpose.

— **Exclusive.** Another expression for control as defined above.

— **Nonexclusive.** A term used to describe the rights conveyed when they result in less than control as defined above.

**Eminent Domain.** The power to take private property for public use.



**Encroachment.** An encroachment upon a road is a fixture, such as a wall or fence, which illegally intrudes into or invades the road or encloses a portion of it, diminishing its width or area, but without closing it to travel.

**Encumbrance.** (Incumbrance) Any right to, or interest in, land which makes it subject to a charge or liability. Encumbrances include mortgages, and other voluntary charges, judgment liens, attachments, inchoate rights of dower, mechanic's liens, leases, restriction in deeds, encroachments of a building, an easement or a right-of-way, accrued and unpaid taxes and the statutory right of redemption. The term "encumbrance" is sometimes used to denote a burden or charge of personal property; e.g., a chattel mortgage on a stock of goods.

**Engineer's Station.** Points given numerical number along a traverse line progressing from the point of beginning, measurements being made from point to point along an open traverse or around the curves. Measurement is carried forward from the point of beginning, each point being marked with the station number, and normally set at all full 100-foot intervals and at any plus station that may be established.

**Escheat.** A reversion of property to the state in consequence of a want of an individual competent to inherit. The state is deemed to occupy the place and hold the rights of the feudal lord. It indicates the preferable right of the state to an estate left vacant and without there being anyone in existence able to make claim thereto.

**Escrow.** A scroll, writing, or deed, delivered to a third person, to hold or keep until some act is done or condition performed and then to be delivered to the grantee or obligee, at which time it takes effect and becomes a deed to all intents and purposes.

**Estate.** The interest which anyone has in lands or in any other property. "Estate" is constantly used in conveyances in connection with the words "right," "title," and "interest" and is, in a great degree, synonymous with all of them.

**Et Al.** And others; and another.

**Et Seq.** And following.

**Et Ux.** And wife.

**Et Vir.** And husband.

**Evaluation.** The study of the nature, quality, or utility of a parcel of real estate or interests therein, or aspects of, real property without reference to a value estimate.

**Exception.** In deeds or conveyances, a clause by which grantor excepts something out of that which he granted before by the deed. An exception withdraws from operation of deed part of thing granted which would otherwise pass to grantee.

**Executor.** A person appointed by a testator to carry out the directions and requests in his will, and to dispose of his property according to his testamentary provisions after his decease.

**Executrix.** A woman who has been appointed by will to execute such will or testament.

**Fair Market Value.** The most probable price in cash, terms equivalent to cash, or in other precisely revealed terms, for which the appraised property will sell in a competitive market under all conditions requisite to fair sale, with the buyer and seller each acting prudently, knowledgeably and for self-interest, and assuring neither is under duress.

**Fee Simple Title.** An estate without limitations or restrictions.

**FLPMA.** Public Law 94-579 of October 21, 1976. The Organic Act of the Bureau of Land Management and policy mandate for certain other federal agencies. Purpose of the law is to establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes.

**Free and Clear.** The title to property is said to be "free and clear" when it is not incumbered by any lien; but it is said that agreement to convey a land "free and clear" is satisfied by a conveyance passing a title.

**Grant.** To bestow; to confer. A generic term applicable to all transfers of real property. As distinguished from a mere license, a grant passes some estate or interest, corporeal or incorporeal, in the lands which it embraces.

**Grantee.** The party rendering the consideration and receiving the rights conveyed. Upon completion of the transaction, the holder of the dominant estate or tenement.

**Grantor.** The party receiving the consideration and surrendering the rights conveyed. Owner of the servient estate.

**Heir.** One who inherits property, whether real or personal, either by will or by law. A person who succeeds by the rules of law, to an estate in lands, tenements, or hereditaments, on the death of his ancestor, by descent and right of relationship.

**Highest and Best Use.** The reasonable and probable use that supports the highest present value, as defined as if the effective date of the appraisal.

**Ingress, Egress, and Regress.** These words express the right of a lessee to enter, go upon, and return from the lands in question.

**Instrument.** A written document; a formal or legal document in writing, such as a contract, deed, will, bond, or lease. A document or writing which gives formal expression to a legal act or agreement, for the purpose of creating, securing, modifying, or terminating a right.

**Interest.** The most general term that can be employed to denote a property in lands or chattels. In its application to lands or things real, it is frequently used in connection with the term “estate,” “right,” and “title,” and includes them all. The terms “interest” and “title” are not synonymous. “Interest” more particularly means a right to have the advantage accruing from something; a partial or undivided right, but less than title.

**Intestate.** Without making a will. A person is said to die intestate when he dies without making a will or without leaving anything to testify what his wishes were with respect to the disposal of his property after his death.

**Isogram.** A line on a map along which there is a constant value. In the Montana BLM Access supplement, isograms are used to reflect zones of access need and priority for those needs.

**LWCF.** The Land and Water Conservation Fund is a stand-alone federal appropriation earmarked to be used in acquisition of important recreation oriented lands or resources.

**Judgment.** The official and authentic decision of a court of justice on the respective rights and claims of the parties to an action or suit therein litigated and submitted to its determination.

**Just Compensation.** As regards property taken for public use, the term is comprehensive and includes all elements, but does not exceed market value. It means a settlement which leaves one no poorer or richer than he was before the property was taken. It is the value of property taken at time of taking, plus compensation for delay in payment, if appropriate, and plus damages to the owner for value of use of property from date of taking possession to date of judgment if possession is taken by condemnor prior to judgment.

**Lease.** Any grant or permit of use that includes contract for exclusive possession of lands or tenements for a determinate period; contracts for possession and profits of lands or tenements. A lease not to be performed within 1 year or more from its date, must be in writing to comply with the Statute of Frauds.

**Liaison.** Communication for establishing and maintaining mutual understanding: interrelationship.

**Licensee.** Any party that is authorized and given permission to do a particular act on the land of another without possessing any estate or interest therein, a personal, revocable, and unassignable privilege. In no event is a licensee an agent of the United States.

**Lien.** A charge or security or incumbrance upon property; a charge or claim on property for payment of some debt obligation or duty. Liens are “property rights.”

**Multiple Use.** Management of the public lands and their various resource values, so they are utilized in the combination that will best meet the present and future needs of the American people (FLPMA, Sec. 103(c)).

**Notary Public.** A public officer whose function is to administer oaths; to attest and certify, by his hand and official seal, certain classes of documents, in order to give them credit and authenticity; to take acknowledgments of deeds and other conveyances, and certify the same.

**Offer.** A proposal. As an element of an easement, a proposal to purchase the easement. It must be made by the person who is to make the promise and it must be made to the person to whom the promise is made. It may be made either by words or by signs either orally or in writing and either personally or by messenger, but in whatever way it is made, it is not in law an offer until it comes to the knowledge of the person to whom it is made.

**Parcel.** A description of property, formally set forth in a conveyance, together with the boundaries thereof, for its easy identification.

**Paralleling.** Means locating a proposed linear facility directly adjacent to or overlaying the right-of-way of an existing linear utility, transportation, or communication facility.

**Partnership.** A voluntary contract between two or more competent persons to place their money, effects, labor, and skill, or some or all of them in lawful commerce or business, with the understanding that there shall be a proportional sharing of the profits and losses between them.

**Patent.** A grant of some privilege, property, or authority, made by the government or sovereign of a country to one or more individuals. A land patent is a muniment of title issued by a government or state for the conveyance of some portion of public domain.



**Permit.** A written license or warrant, issued by a person in authority, empowering the grantee to do some act not forbidden by law, but not allowable without such authority.

**Personal Property.** Movable items, not permanently affixed to or part of real estate.

**Possession.** That condition of facts under which one can exercise his power of a corporeal thing at his pleasure at the exclusion of all other persons.

**Premises.** In conveyancing, that part of a deed which precedes the habendum, in which are set forth the names of the parties with their titles and additions and in which are recited such deeds, agreements, or matters of fact as are necessary to explain the reasons upon which the present transaction is founded; and it is here, also, the consideration on which it is made is set down and the certainty of the thing granted.

**Probate.** The process of proving a will. The proof before an ordinary, surrogate, register, or other duly authorized person that a document produced before him for official recognition and registration and alleged to be the last will and testament of a certain deceased person is such in reality. A judicial act or determination of a court having competent jurisdiction establishing the validity of a will.

**Quiet.** To render secure or unassailable by the removal of disquieting causes or disputes.

**Quitclaim.** In conveyancing, to release or relinquish a claim; to execute a deed of quitclaim. Also a release or acquittance given to one man by another in respect of any action that he has or might have against him. Also acquitting or giving up one's claim or title.

**Real Estate.** The physical land and appurtenances including structures affixed thereto.

**Real Property.** The interests, benefits, and rights inherent in the ownership of physical real estate.

**Reciprocal Right-of-Way.** An agreement wherein for consideration of the authorization to use another's property for right-of-way purposes, an owner of land or other land rights gives permission for use of their own land or rights-of-way.

**Release.** In estates, the relinquishment of some right or benefit to a person who has already some interest in the tenement which qualifies him for availing himself of the right relinquished.

**Reservation.** In the context of FLPMA, an agency may reserve (in similar fashion to a right-of-way) land rights that insure the availability or protection of lands or land rights for future needs.

**Right-of-way.** In its strict meaning, it is the right of passage over another man's ground; and, in its legal and generally accepted meaning in reference to a roadway, it is a mere easement in the lands of others, obtained by lawful condemnation to public use or by purchase. It is unusual to use the term to apply to an absolute purchase of the fee simple of land to be used for a roadway or other kind of way.

"Right-of-way" has twofold significance being sometimes used to mean the mere intangible right to cross, and often used to otherwise indicate that strip of land upon which a road is built.

**RMP (Resource Management Plan).** A comprehensive long range plan ( $\pm$  10 years) for public land and resource management for a given area. These areas typically aggregate several counties and often are synonymous with BLM Resource Areas.

**Route.** In context of access planning, a route is a general location for siting a specific easement or other land right. Most often spoken of as a lineal zone within which a centerline for an easement or right-of-way will be located. Normally 1/2 mile or less in width.

**SS: Scilicet** To-wit (Latin). A word used in pleadings and other instruments as introductory to a more particular statement of matters.

**S-60.** A BLM/private owner agreement concept that provides for certain management restrictions (including closure) of public lands in return for availability of private property rights for the public.

**Split Estate.** A term meaning that surface and mineral estates, in land, are severed from each other and thus stand alone.

**Tax.** A peculiar burden laid upon individuals or property to support the government. Taxes are divided into **direct** which includes those assessed upon the property, person, business, income, etc., of those who are to pay them, and **indirect** which are levied on commodities before they reach the consumer.

**Tax Certificate.** A certificate of the purchase of land at a tax sale thereof, given by the officer making the sale, and which is evidence of the holder's right to receive a deed of the land if it is not redeemed within the time limited by law.

**Tenancy.** The estate of a tenant as in the expressions "joint tenancy" and "tenancy in common."



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OFFICE	DATE RETURNED

(Continued on reverse)

(Continued on reverse)

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# LAND PATTERN ADJUSTMENT AND ACCESS MAP FOR MONTANA

October 1988



- LEGEND**
- Lands administered by the Bureau of Land Management - Public Domain
  - Charles M. Russell National Wildlife Range
  - BLM State Office
  - BLM District Office
  - BLM Resource Office
  - BLM Administrative Boundary
  - Lands Administered by the U.S. Fish and Wildlife Service
  - Lands Administered by the Bureau of Indian Affairs
  - Lands Administered by the National Park Service
  - Lands Administered by the Forest Service
  - National Forest Regional Office
  - Retention Zones: Areas which have been identified for long term retention of public lands for multiple resource management.

### PREVENT RANGE FIRES

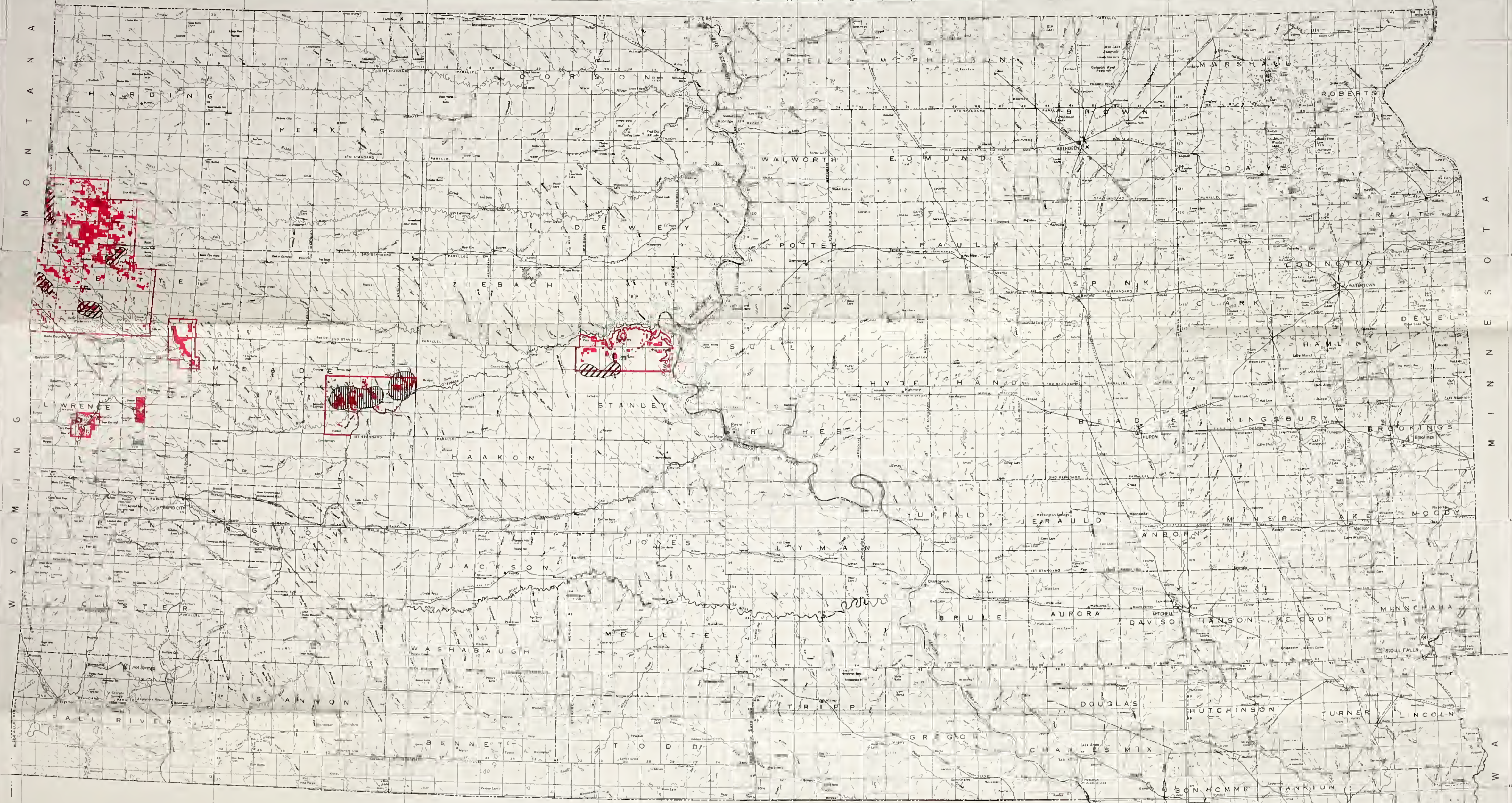
- Disposal of individual tracts within the retention zone may occur when significant public benefit results.
- Land may be acquired by BLM through voluntary transactions, primarily exchange.
- \*Other Lands: BLM lands outside the retention zones are open to the full range of land adjustment opportunities.
- Exchange or exchange pooling is the predominant method for land disposal.
- Sales or jurisdictional transfers will play a lesser role.
- Individual tracts with important public values will be retained.
- A limited number of high public value tracts may be acquired primarily through voluntary exchanges.

- Access Priority Areas<sup>1</sup>**
- High (0-5 years)
  - Medium (6-10 years)
  - Low (11-15 years)
  - Land Adjustment Area Changes

<sup>1</sup>See Appendix B of State Director's Guidance for Access, dated October 1988.

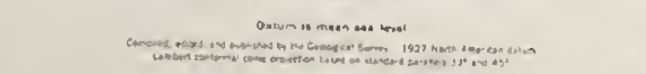






UNITED STATES  
DEPARTMENT OF THE INTERIOR  
GEOLOGICAL SURVEY  
**STATE OF SOUTH DAKOTA**

Scale 1:1,000,000  
1 inch equals approximately 16 miles




DAKOTA IN GREEN AND NEAR  
COUNCIL BLIFFS AND SIOUX FALLS  
LAKESIDE PARKWAY, some location lines on numbered parcels (P.P. and A.S.)

- LEGEND**
- City
  - County seat
  - City, town or village
  - Shaded terrain accent
  - Copyright boundary when the owner uses a 1:50,000 projection
- REFERENCE DATA**
- U.S. Dept. of the Interior, Office of Survey Management
  - U.S. Dept. of the Interior, Office of Engineering and Survey
- POPULATION (1980)**
- |             |                  |
|-------------|------------------|
| SIOUX FALLS | more than 50,000 |
| RAPID CITY  | 10,000 to 50,000 |
| PIRRIE      | 1,000 to 10,000  |
| Multiple    | 1,000 to 5,000   |
| Other       | less than 1,000  |
- MAP**

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# LAND PATTERN ADJUSTMENT AND ACCESS MAP FOR SOUTH DAKOTA



 **Retention Zones:** Areas which have been identified for long term retention of public lands for multiple resource management.

Disposal of individual tracts within the retention zone may occur when significant public benefit results.

Land may be acquired by BLM through voluntary transactions, primarily exchange.

**\* Other Lands:** BLM lands outside the retention zones are open to the full range of land adjustment opportunities.

Exchange or exchange pooling is the predominant method for land disposal. Sales or jurisdictional transfers will play a lesser role. Individual tracts with important public values will be retained. A limited number of high public value tracts may be acquired primarily through voluntary exchanges.

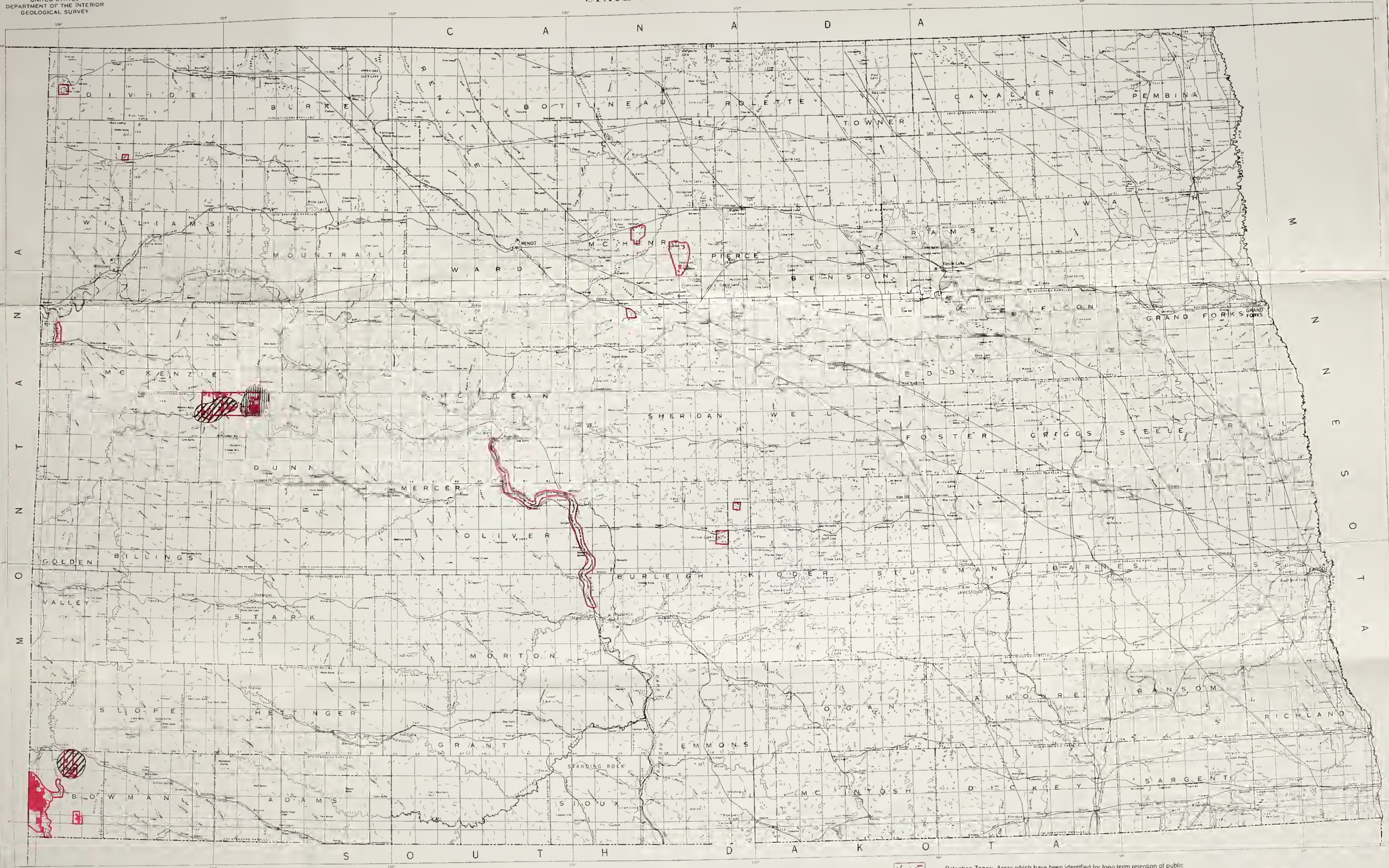
- Access Priority Areas<sup>1</sup>**
-  High (0-5 years)
  -  Medium (6-10 years)

<sup>1</sup>See Appendix B of State Director's Guidance for Access, dated October 1988.



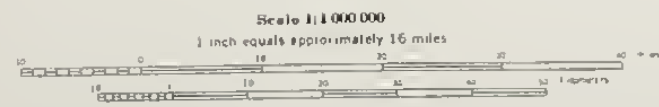
OCTOBER 1988







# LAND PATTERN ADJUSTMENT AND ACCESS MAP FOR NORTH DAKOTA

OCTOBER 1988



### Access Priority Areas<sup>1</sup>

-  High (0-5 years)
-  Medium (6-10 years)

<sup>1</sup>See Appendix B of State Director's Guidance for Access, dated October 1988.

**Retention Zones:** Areas which have been identified for long term retention of public lands for multiple resource management.

Disposal of individual tracts within the retention zone may occur when significant public benefit results.

Land may be acquired by BLM through voluntary transactions, primarily exchange.

\*Other Lands: BLM lands outside the retention zones are open to the full range of land adjustment opportunities.

Exchange or exchange pooling is the predominant method for land disposal.

Sales or jurisdictional transfers will play a lesser role.

Individual tracts with important public values will be retained.

A limited number of high public value tracts may be acquired primarily through voluntary exchanges.

