UPOM
UNITED PROPERTY OWNERS OF MONTANA

Environmental Quality Council
PO Box 201706
Helena, MT 59620

August 22, 2016

RE: HJ 13 Road Study

Dear Members of the Environmental Quality Council:

Thank you for the opportunity to comment on your HJ 13 study on public-land roads, access, and wildlife distribution.

There are several things that we suggest you include in your Findings & Recommendations for the final version of the report.

Inaccessible Public Parcels

First, the report identifies "3,116,800 acres of public land (that) cannot be accessed by a legal road or water access," nearly all of which is owned either by the state of Montana or the BLM.

Our organization supported legislation to create tax credits for landowners who allow access across their property to landlocked public parcels. However, if there is a policy objective of substantially increasing access to public land, the most effective means to achieve that is to take a serious look at land exchanges.

In our experience there has been very little cooperation from state and federal agencies to work with landowners in exchanging landlocked parcels. One policy recommendation from your report should be to make it a priority for state land managers to look for exchange opportunities.

Second, your report findings should give a clear understanding of the scope of this problem. While 3 million acres is a lot of land, in perspective it is only 10% of all public lands in Montana. The public has access to the vast majority of public land—contrary to the anti-landowner political narrative we so often hear about the public being locked out of their land.

This is especially true to for land with elk habitat. Of the 3 million acres of inaccessible public land, less than 1 million acres is identified as land that elk may inhabit.

These facts should remain prominent findings in your report.

Elk Distribution

Third, the report findings note increasing elk distribution on private land, but fails to elaborate much on that point. While more of our elk have moved onto private land, the overall hunter success rate has remained relatively steady over that time, indicating that access is increasing on private land.

The chart titled "Elk Harvest by Landowner and Access" bears out this fact by showing that the vast majority of landowners allow some form of public access—less than 10% charge an access fee or outfit their property.

The facts that nearly all Montana landowners allow public access and that the data indicates that access on private land is increasing should be included in the report's findings.

In closing, it is unrealistic and unfair to expect private landowners to continue to offer more and more access for hunting, in response to a problem that FWP has created by using limited permits to grow the elk herd. The problem is an expansion of elk where they never existed, not a "loss" of access. As the elk numbers increase on private land this will continue to be a conflict.

Each time FWP has proposed a "solution" for access, they always approach it with an element of control over the landowner. FWP wants to control who is allowed access, how many are allowed, etc. A true effort to address the problem must include FWP returning to the Elk Management Plan and implementing liberal seasons when and where elk populations indicate, without discrimination.

Sincerely,

CHARLES DENOWH
Policy Director

MONTANA WILDLIFE FEDERATION

Protecting Montana's wildlife, land, waters and hunting & fishing heritage for future generations.

Aug. 10, 2016

Montana Environmental Quality Council
P.O. Box 201706
Helena, MT 59620-1706

RE: Draft HJ 13 report comments

Dear Chairman Vuckovich,

The Montana Wildlife Federation is our state's oldest wildlife conservation organization. We were founded in 1936 when hunters joined landowners to restore depleted wildlife in our state. For eight decades we have worked to ensure abundant wildlife, healthy habitat and public opportunity to enjoy our public wildlife resources. We take great interest in our federal and state public lands and the opportunities they offer for hunting, angling and other recreation.

The HJ 13 study presented an opportunity to look at how the public land road management and decommissioning affects public access, wildlife habitat and public hunting opportunity. Although the report contains an assortment of individual data points, it does not provide adequate context for understanding this information. Numerous factors affect wildlife distribution on the landscape and hunter success rates, and a solid body of research exists on how roads and other development activities impact wildlife populations and hunter opportunity. By not referencing this research, the data in the report are provided in a vacuum. This leaves the data available to be used for further political criticism of federal land agencies rather than constructive policy development.

As a result, some of the draft report's findings and conclusions also lack necessary context:

1. **"The EQC examined roads currently managed by the Forest Service and compiled available information on decommissioned Forest Service roads and unauthorized roads created on Forest Service lands. Not all unauthorized roads were documented prior to closure, and the agency has inadequate records to document roads decommissioned prior to 1990."**

   We agree with this finding, based on comments from the U.S. Forest Service. However, there could be some data available on road decommissioning implemented prior to 1990. A Forest Service representative explained early in the HJ 13 process that there could be paper records on some of these located in individual Forest Service offices, but it would take a great deal of staff time to compile that data statewide.

a. **"The EQC found that since 1995, almost 22,000 miles of roads on Forest Service lands were closed."**
   We agree with this finding. However, understanding why a road has been closed is critical if we are to determine if the road closure achieved its objective. In many cases, Forest Service roads have been closed because they were causing natural resource damage, including impacts to soils, water quality, wildlife security and scenic values. And many of these roads were user-created routes that were causing resource damage.
   In addition, many roads in western Montana are closed for grizzly bear security (road density standards) based on extensive science. Maintaining grizzly bear security will be critical for moving to delisting under the Endangered Species Act.
   Also, as noted, roads are a primary source of stream sediments. Many roads in western Montana are closed to reduce sediments in spawning streams used by bull trout, an ESA Threatened species. Improving stream habitat will be critical to eventual delisting and returning the fish to state management.
   Road closures are also driven by a lack of funds for road maintenance. Because the Forest Service has a mandate to manage for multiple use, it must maintain roads to minimize impacts on soil erosion, water quality, fisheries and other resources. The Forest Service continues to have fewer and fewer funds to maintain roads, forcing the agency to close routes rather than let them degrade other resources. The report does acknowledge a large backlog ($2.9 billion nationally) in deferred maintenance.

b. **The EQC examined roads on land managed by the Bureau of Land Management. About 1,700 miles of roads are closed to motorized use. In addition, almost 900 miles of road are closed to motorized use at least part of the year.**
   We agree with this finding. Again, this section does not provide context for why the Bureau of Land Management closed these routes.

2. **While the EQC did not study rights-of-way across unreserved public lands granted by a provision in the 1866 Mining Act, some of these roads may exist in Montana and may provide public access to public lands. The 1866 law, Revised Statute 2744, was repealed in 1976. However RS2477 roads in existence at the time were grandfathered.**
   There is no discussion at all in the body of the report about RS 2477 roads, so the finding that RS 2477 "may provide public access to public lands" is unsubstantiated.

3. **The EQC recommends that the DFWP and the State Parks and Recreation Board identify off highway vehicle roads and trails that connect to state parks.**
   We agree with this recommendation.

4. **The EQC examined data in various formats for Forest Service roads dating back in some cases to the 1970s as well as the laws and policies that affected road policy. The**

council also analyzed elk and deer harvest data and academic studies that address the relationship between roads and wildlife.
The science on the impact of roads on elk distribution is extensive and clear. Decades of peer-reviewed research shows that elk avoid open roads and will look for more secure habitat, particularly during hunting season. While this finding references the "academic studies," the draft report does not discuss how this research should inform our understanding of these issues.
In addition, it's important to note that Montana currently offers the most liberal (5 week) general hunting season in the West due, in part, to road closures providing some wildlife security. If road access is increased, wildlife security would have to be provided by other means such as reducing season length or restricting hunter numbers. More roads on public lands likely means elk will move to more secure private lands.

5. **Over a period of more than a century, road management on federal land has evolved from a laissez-faire approach, allowing roads to be built as needed, to active management of a complicated road system serving a wide array of objectives.**
We agree with this finding, and we note that the change in federal road management to a more thoughtful, planned approach has been positive for wildlife and public use.

6. **Contemporary management of state and federal roads incorporates intensive public involvement. Environmental analysis on federal travel management plans that comply with the National Environmental Policy Act requires meaningful engagement with individuals and agencies that have a site-specific and/or a general interest.**
We agree with this finding.

7. **A 2013 analysis by the Department of Fish, Wildlife and Parks found that 3,116,800 acres (4,870 square miles) of public land cannot be accessed by a legal road or water access. Of the inaccessible land: 4 a) Forest Service parcels account for about 5%, or 232 square miles. Almost 95% of the inaccessible public land in the state, about 4,600 square miles, is managed by either the Bureau of Land Management or the state of Montana with the inaccessible lands divided about evenly between the two entities. b) A total of 978,647.6 acres (1,529.13 square miles) lies in areas elk may inhabit. Without more information and analysis, the EQC is unable to determine if road closures across private lands created isolated public parcels.**
The issue of landlocked public lands is of crucial importance to public access. We believe there is evidence that private land road closures impact this issue, and we recommend rewording the final sentence into a positive recommendation for more information and analysis. We further suggest that this recommendation call for future investigation of how programs like the federal Land and Water Conservation Fund and the Montana Block Management Program can make landlocked public lands accessible to the public. Additional access programs include the federal Open Fields Program (Farm Bill) and in Montana the Unlocking Public Lands Program (tax credit, MCA 87-1-294), Upland Game Bird Enhancement Program and Habitat Montana.

8. **Elk distribution on private land increased by 17% between 2004 and 2015.**
   This finding does not address why elk numbers have increased by 17 percent on private land. Some research suggests that the increase is related to the lack of access for public hunters. This is also a likely indicator that the elk objectives are too low because private landowners apparently are becoming more accepting of elk. MWF urges the EQC to recommend future analysis of how private land access/tolerance issues drive elk distribution on private lands. We further suggest future analysis of how private lands leased to hunting outfitters corresponds with elk distribution on private lands.

9. **As of 2015, 80 hunting districts had elk populations that exceeded target populations determined to be sustainable based on habitat. Two of those districts had elk populations that were more than ten times the objective population.**
   Elk population quotas are based on both habitat capacity and social carrying capacity (landowner tolerance). Most populations are below habitat capacity.

10. **The EQC compiled information on roads, public land, inaccessible public land, and hunter success rates for every hunting district in the state. Given the scope of the HJR13 study and the knowledge that a variety of factors may influence hunter success, the EQC is unable to determine if hunter success in a specific district was influenced by road closures or inaccessible public land.**
    There is a big difference between public lands closed to motorized access but open to the public and public lands inaccessible to the public.

Thank you for the opportunity to comment on this draft report. MWF supports smart public management and road planning to provide security habitat, hunting opportunity, and hunting success. Federal land managers are given the difficult task of balancing the need to reach blocks of public land while maintaining security habitat, water quality, scenic values and soils protection, among other things. While this report does compile some relevant data points, we believe that it does not provide useful recommendations for helping federal land managers strike the right balance on public lands.

Sincerely,

Dave Chadwick

Executive Director

cl0099 6239JKEA.pdf