

REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS
AGENDA
OCTOBER 20, 2025 AT 9:00 A.M.
STATE CAPITOL, ROOM 303
HELENA, MT

ADMINISTRATIVE ITEMS

Approval of the October Land Board Agenda
Approval of the September Land Board Meeting Minutes

ACTION ITEMS

- 1025-1 Fish, Wildlife and Parks: Habitat Conservation Leases** **APPROVED 5-0**
Location: Carter, Custer, Fallon, Fergus, Golden Valley, McCone, Phillips, Petroleum, Prairie, Richland, Roosevelt and Sheridan Counties
Benefits: N/A (non-trust land)
- 1025-2 Fish, Wildlife and Parks: Montana Great Outdoors Conservation Easement-Phase 2** **APPROVED 4-1**
Location: Flathead and Lincoln Counties
Benefits: N/A (non-trust land)
- 1025-3 Timber Sales** **APPROVED 5-0**
A. Davis Mountain
Location: Lincoln County
Benefits: Common Schools
B. Loose Horse
Location: Missoula County
Benefits: Common Schools and Pine Hills
C. Napa Creek
Location: Lake County
Benefits: Common Schools
- 1025-4 Cabin and Homesites: Final Approval for Sale** **APPROVED 5-0**
Location: Missoula County
Benefits: MSU 2nd
- 1025-5 Easements** **APPROVED 5-0**
Location: Cascade, Flathead, Lewis & Clark, Lincoln and Roosevelt Counties
Benefits: Capitol Buildings, Common Schools, Pine Hills School and Public Land Trust
- 1025-6 Request to Adopt Recreational Use Rule Amendments** **APPROVED 5-0**
Location: State of Montana
Benefits: Common Schools, Capitol Buildings, MSU 2nd, MSU Morrill, MSU Eastern/U of M Western, MT Tech, U of M, Deaf & Blind School, Pine Hills, Veterans Home, Intensive Behavior Center, MT State Hospital, Lands Acquired-Public School, and Public Land Trust
- 1025-7 Request to Approve Outside Legal Counsel** **APPROVED 5-0**
Benefits: N/A (non-trust land)
Location: N/A (non-trust land)
- 1025-8 Motion To Clarify Water Rights Objection Process** **APPROVED 5-0**
Benefits: N/A (non-trust land)
Location: N/A (non-trust land)
- 1025-9 Informational Item: DNRC Trust Lands Litigation Updates**
Location: N/A
Benefits: N/A

PUBLIC COMMENT

For all Trust Lands questions please contact: Ryan Weiss, Deputy Administrator
email: ryanweiss@mt.gov or 406-444-5576
Complete agenda at <https://dnrc.mt.gov/TrustLand/about/land-board>

1025-1

FISH WILDLIFE AND PARKS:
HABITAT CONSERVATION LEASES

**Land Board Agenda Item
October 20, 2025**

1025-1 Fish, Wildlife and Parks: Habitat Conservation Leases

Location: Carter, Custer, Fallon, Fergus, Golden Valley, McCone, Phillips, Petroleum, Prairie, Richland, Roosevelt and Sheridan Counties.

Trust Beneficiaries: N/A (non-trust land)

Trust Revenue: N/A (non-trust land)

Item Summary:

Fish, Wildlife and Parks (FWP) proposes to enroll 14 private properties, totaling 35,007.4 acres, into the prairie Habitat Conservation Lease Program (HCLP) for a total of \$4,123,678.16. These leases will help ensure high-priority rangeland habitats, including sagebrush grassland, mixed grasslands, riparian/floodplain, wetland-grassland complexes, and intermountain grasslands are conserved while supporting traditional agricultural activities and providing public access opportunities.

Background:

A habitat conservation lease (HCL) is a voluntary, incentive-based agreement with private landowners that helps ensure high-priority prairie habitats are conserved while traditional agricultural activities, primarily livestock grazing, continue. Owners commit to retaining wildlife habitats for 30 or 40-year terms. Prairie species expected to benefit from these agreements include sage-grouse, migratory grassland birds that have experienced long-term population declines, pronghorn, mule deer, elk, and many other species of wildlife. The leases also provide for public hunting and other wildlife-related recreation.

Valuation:

For the region in which an HCL is located FWP will pay 15% of average fee title value for a 30-year lease. A landowner who opts for a 40-year lease will receive 20% of fee title value plus a 5% bonus (5% of 20%). Average fee title values are based on the valuation of State Trust Land by DNRC. See Figure 2; Table 2.

Public Involvement Process & Results:

In 2022 FWP released a programmatic environmental assessment (EA) for an HCL program. On August 12, 2022, following a public participation process, FWP published its decision to approve the programmatic EA and proceed with the program. FWP subsequently published an invitation for applications but received only six. On April 10, 2023, FWP issued a Supplemental Programmatic EA which proposed increasing compensation for HCL's and adding a penalty-free buy out provision for participants who wish to enter a permanent conservation easement. For each individual HCL, public notice was posted on FWP's website and emailed to FWP's regional distribution lists. Notice was also mailed to owners of neighboring properties. Public comment for each proposed HCL was taken for 30 days and public meetings were held in relevant areas. Comments were also received prior to and at the Fish, Wildlife and Parks Commission meeting on August 21, 2025. The Commission unanimously approved eighteen Habitat Conservation Leases at the August 21st meeting.

Recommendation:

FWP recommends the Land Board approve the 14 proposed 30 and 40-year Habitat Conservation Leases.

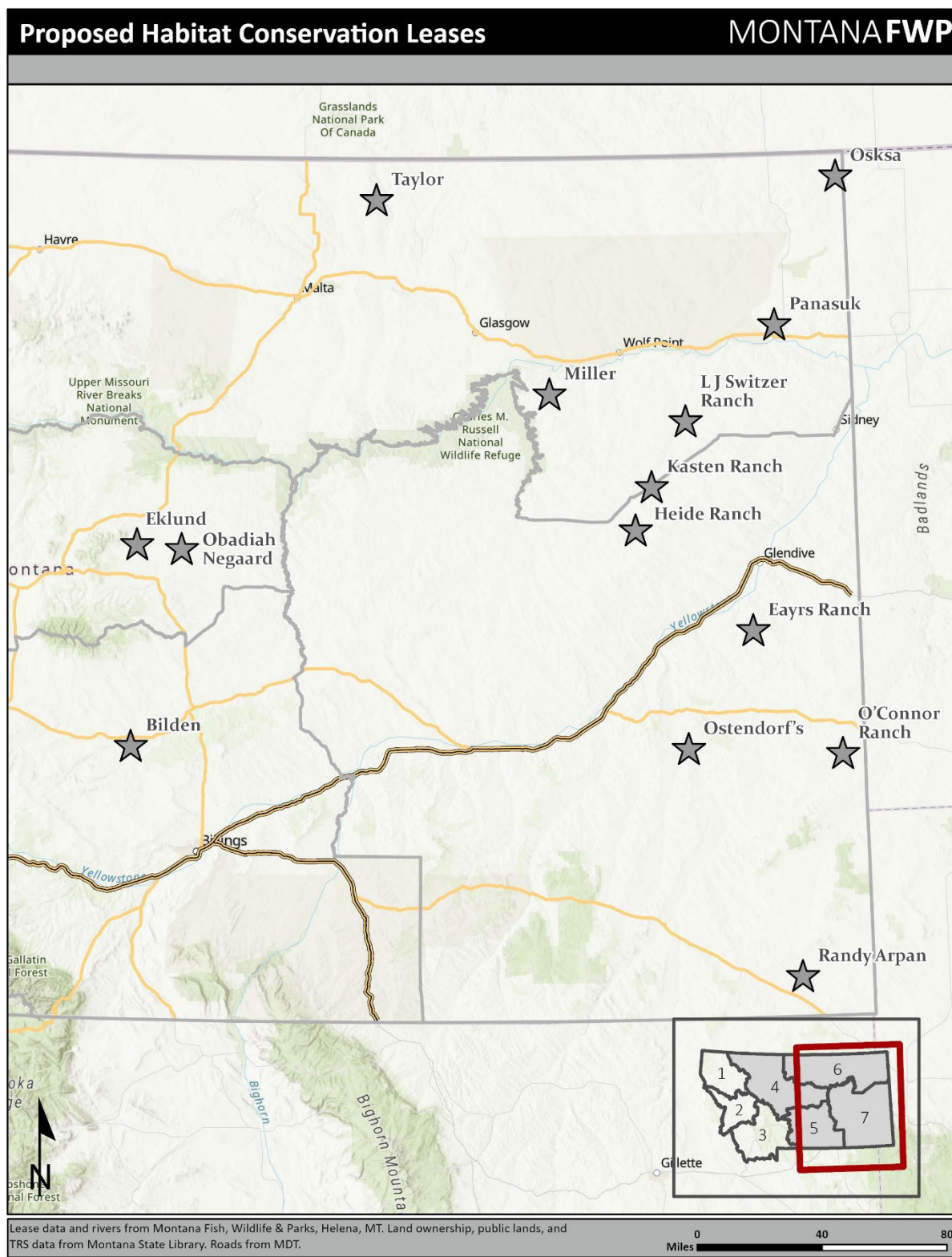


Figure 1: Location of proposed 40-year habitat conservation leases.

Proposed Habitat Conservation Lease Habitat and Payment Details

Habitat Conservation Lease	Term	Valuation Area	Rangeland Acres	Hay Land Acres	Cropland Acres	Major River Floodplain/Riparian Acres	Total Acres	Total Payment	Minimum Recreation Days	Minimum Hunter Days
Eklund*	40 yrs	Eastern MT	2462	0	0	0	2462	\$188,097.66	96	32
Obadiah Negaard	40 yrs	Eastern MT	975	153	78	0	1206	\$133,410.90	48	16
Bilden	40 yrs	Eastern MT	1451	151	0	12	1614	\$191,115.30	60	20
Miller	40 yrs	Eastern MT	1320	0	0	0	1320	\$157,080.00	48	16
Oksa	40 yrs	Eastern MT	554	0	144	0	698	\$74,494.00	24	8
Panasuk	40 yrs	Eastern MT	2219	0	0	0	2219	\$264,061.00	84	28
L J Switzer Ranch	40 yrs	Eastern MT	1607	0	0	0	1607	\$191,233.00	60	20
Taylor	40 yrs	Eastern MT	2767	0	0	0	2767	\$329,273.00	108	36
Randy Arpan	40 yrs	Eastern MT	3028.4	74	0	0	3102.4	\$366,543.80	104	35
Eayrs Ranch	40 yrs	Eastern MT	3579	116	0	0	3695	\$435,563.80	104	35
Heide Ranch	40 yrs	Eastern MT	1380	0	452	0	1832	\$191,114.00	72	24
Kasten Ranch	40 yrs	Eastern MT	3258	124	0	0	3382	\$398,031.20	104	35
O'Connor Ranch	40 yrs	Eastern MT	1078	123	0	0	1201	\$138,527.90	48	16
Ostendorf's	40 yrs	Eastern MT	7102	422	0	378	7902	\$1,065,132.60	260	87

Total	35007.4	\$4,123,678.16	1,220	408
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Table 1. Payment rates using FWP's payment formula based on a percentage of average fee title values using DNRC appraisal data involving State trust lands, as updated 2023.

1) Terms of the lease stipulations require that 75% of acres enrolled must be priority habitat. Hay land, seeded areas that are annually or more frequently harvested, and cropland, land that is annually or more frequently seeded or operates in a crop/fallow, can be enrolled but receives a payment of 70% and 50% respectively, of the per acre value, and does not count priority habitat.

2) * Eklund has acres currently enrolled in conservation reserve program (CRP). They will not receive a payment for the remaining years for the acres enrolled in those contracts. Payment was adjusted accordingly.

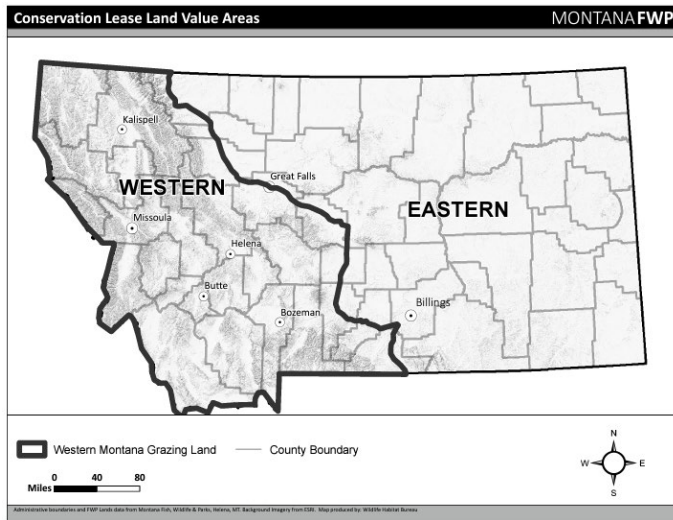


Figure 2. Delineation of western and eastern Montana for the purposes of assigning habitat conservation lease values.

Table 2: 2023 habitat conservation lease values based on 15% of fee value for 30-year lease and 20% of fee value plus a 5% bonus for the 40-year lease.

Conservation Lease Habitat Payments Based on Fee Values		MONTANA FWP
Area and Habitat	30 Year Lease Payment/Acre	40 Year Lease Payment/Acre
Eastern Montana Rangeland	\$85	\$119
Eastern Montana Floodplain/Riparian	\$349	\$489
Western Montana Rangeland	\$218	\$305
Western Montana Floodplain/Riparian	\$729	\$1,021

1025-2

FISH WILDLIFE AND PARKS:
MONTANA GREAT OUTDOORS
CONSERVATION EASEMENT-PHASE 2

**Land Board Agenda Item
October 20, 2025**

1025-2 Fish, Wildlife and Parks: Montana Great Outdoors Conservation Easement-Phase 2

Location: Flathead and Lincoln Counties

Trust Beneficiaries: N/A (non-trust land)

Trust Revenue: N/A (non-trust land)

Item Summary:

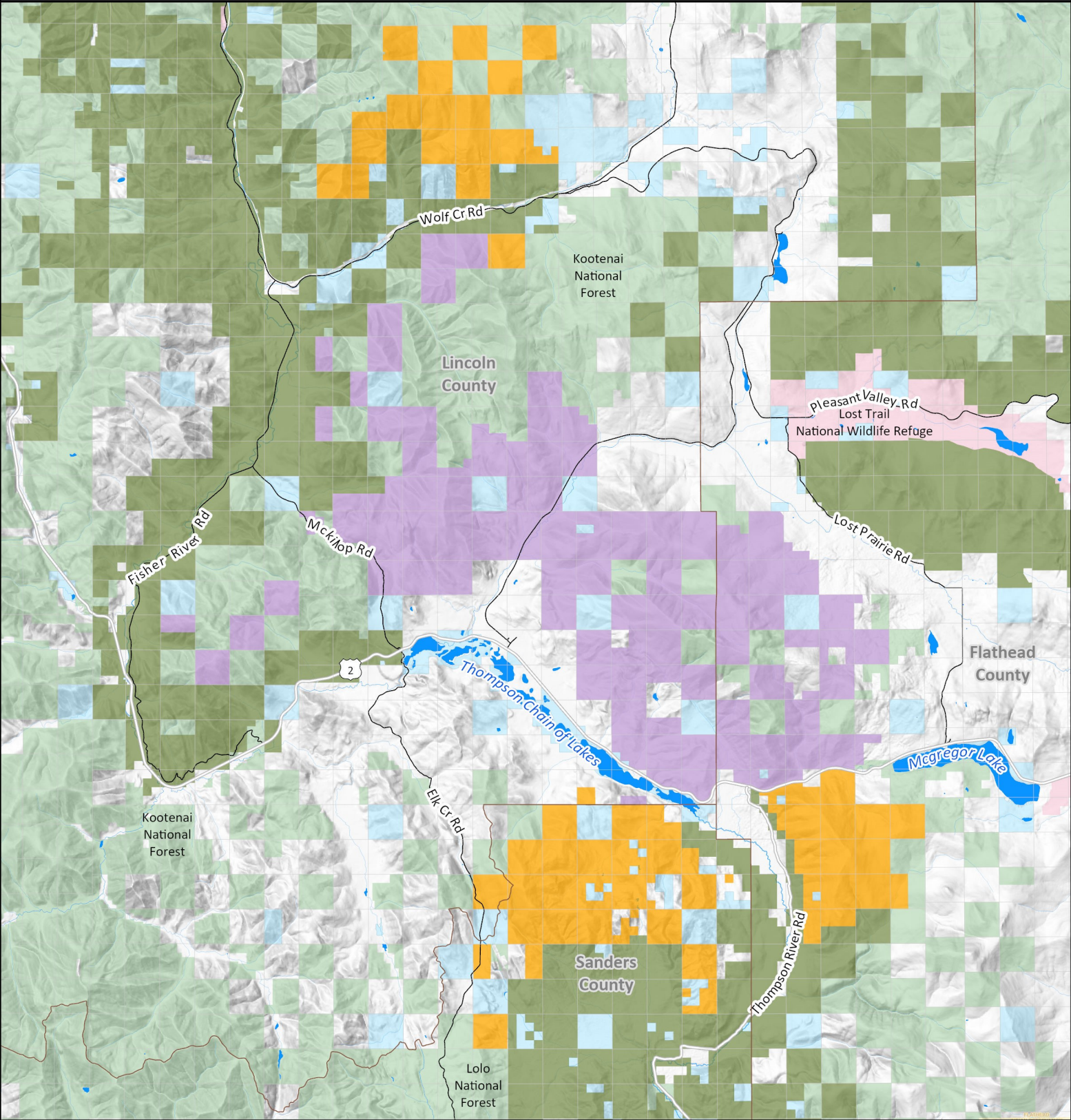
Fish, Wildlife and Parks (FWP) proposes to purchase a 52,930-acre conservation easement, called the Montana Great Outdoors Conservation Easement – Phase 2 (CE), located in the Cabinet Mountains between Kalispell and Libby. The CE has an appraised value of \$57,544,144. This is the second phase of a two-phased project totaling 85,752 acres of timberland and fish and wildlife habitat owned by Green Diamond Resource Company (Green Diamond). The CE would promote forest management and sustainable timber harvest, protect important wildlife habitat, maintain key landscape connectivity, and provide permanent free public recreation access to the CE lands while respecting the rights of third-party mineral and easement holders. The land provides a vital migration corridor and year-round habitat for 20-40 moose, 100-150 elk, 400-450 mule deer, and 800-900 white-tailed deer. Hunters and anglers have used these lands for generations. The property currently provides approximately 9,500 days per year of public hunting and angling use. The property is also habitat for grizzly bear and Canada lynx, includes tributaries to bull trout streams, and is potential habitat for wolverine; all species listed as threatened under the federal Endangered Species Act.

Secured funding amounts and sources include: \$1,500,000 from Habitat Montana, \$200,000 from the Montana Fish and Wildlife Conservation Trust, and \$35,805,000 from the U.S. Forest Service Forest Legacy Program. Green Diamond has committed to donate approximately 35% of the CE value (approximately \$20,039,144).

Public Involvement Process & Results:

The CE was reviewed and approved by the Montana Forest Action Advisory Council in 2024. A draft environmental assessment (EA) was made available for public review and comment from February 14 to March 15, 2025. A public hearing was held in Kalispell on March 5. The draft EA was posted on FWP's Public Notice webpage: <https://fwp.mt.gov/news/public-notice>. The draft EA was also made available for public review on the Environmental Quality Council website: <https://leg.mt.gov/mepa/search/>, by individual request, and through notice to identified interested parties. FWP received 69 comments during the public comment period. All pertinent issues raised by commenters are addressed in the decision notice. The Flathead, Lincoln and Sanders County Commissions have provided letters indicating their support for the CE.

FWP Recommendation: FWP recommends the Land Board approve the purchase of the Montana Great Outdoors – Phase 2 conservation easement as proposed.



Montana Great Outdoors Project

- Phase 1 - Complete
- Phase 2 - Current Proposal
- Existing Conservation Easement
- Section Boundary

Public Land

- US Fish and Wildlife Service
- US Forest Service
- State



Area of Interest



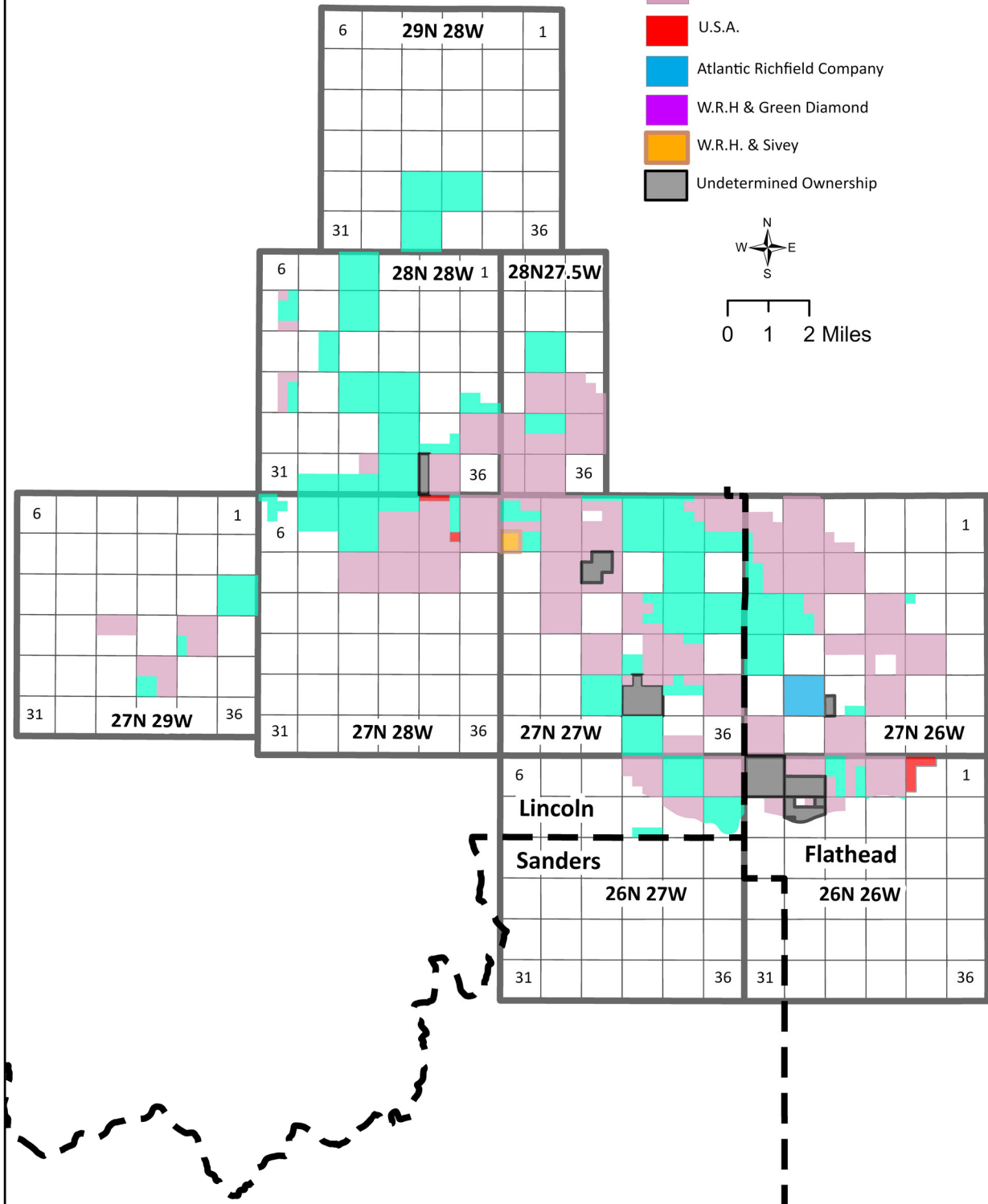
Map Produced by:
Wildlife Mitigation Program
Wildlife Division Region 1
10 February 2025

Montana Great Outdoors Conservation Project - Phase II

Minerals Ownership



0 1 2 Miles



1025-3

TIMBER SALES

A. Davis Mountain

B. Loose Horse

C. Napa Creek

**Land Board Agenda Item
October 20, 2025**

1025-3A Timber Sale: Davis Mountain

Location: Lincoln County

Trust Beneficiaries: Common Schools

Trust Revenue: \$304,032 (estimated, minimum bid)

Item Summary

Location: The Davis Mountain Timber Sale is located approximately 30 miles southeast of Libby, Montana.

Size and Scope: The sale includes 1 harvest unit (*514 acres*) of ground-based logging.

Volume: The estimated harvest volume is 16,241 tons (*2.23 MMBF*) of sawlogs.

Estimated Return: The minimum bid is \$18.72 per ton, which would generate approximately \$304,032 for the Common Schools Trust and approximately \$59,424 in Forest Improvement fees.

Prescription: This sale would utilize an individual tree selection harvest prescription designed to remove diseased and insect infected trees, improving the health and vigor of residual trees, and promoting western larch and ponderosa pine regeneration.

Road Construction/Maintenance: The Department of Natural Resources and Conservation (DNRC) is proposing 9.2 miles of road maintenance.

Access: Access is obtained through temporary road use permits (TRUPs) with a private landowner and Montana Department of Fish, Wildlife and Parks, as well as through state-owned roads.

Public Comments: No public comments were received.

DNRC Recommendation:

The DNRC recommends the Land Board direct DNRC to sell the Davis Mountain Timber Sale.

State Trust Land Vicinity Map

Kalispell Unit

Davis Mountain Timber Sale

Attachment A

N



FLATHEAD
COUNTY

Kalispell

Whitefish

Columbia
Falls

Bigfork

Lakeside

Flathead
Lake

Polson

Pablo

LAKE
COUNTY

Ronan

Saint Ignatius

Arlee

Section: 36
Township: 27N
Range: 28W

County: Lincoln



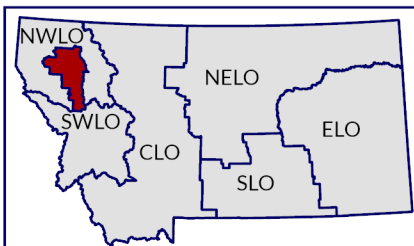
Towns

County Lines

Major Roads

Rivers & Lakes

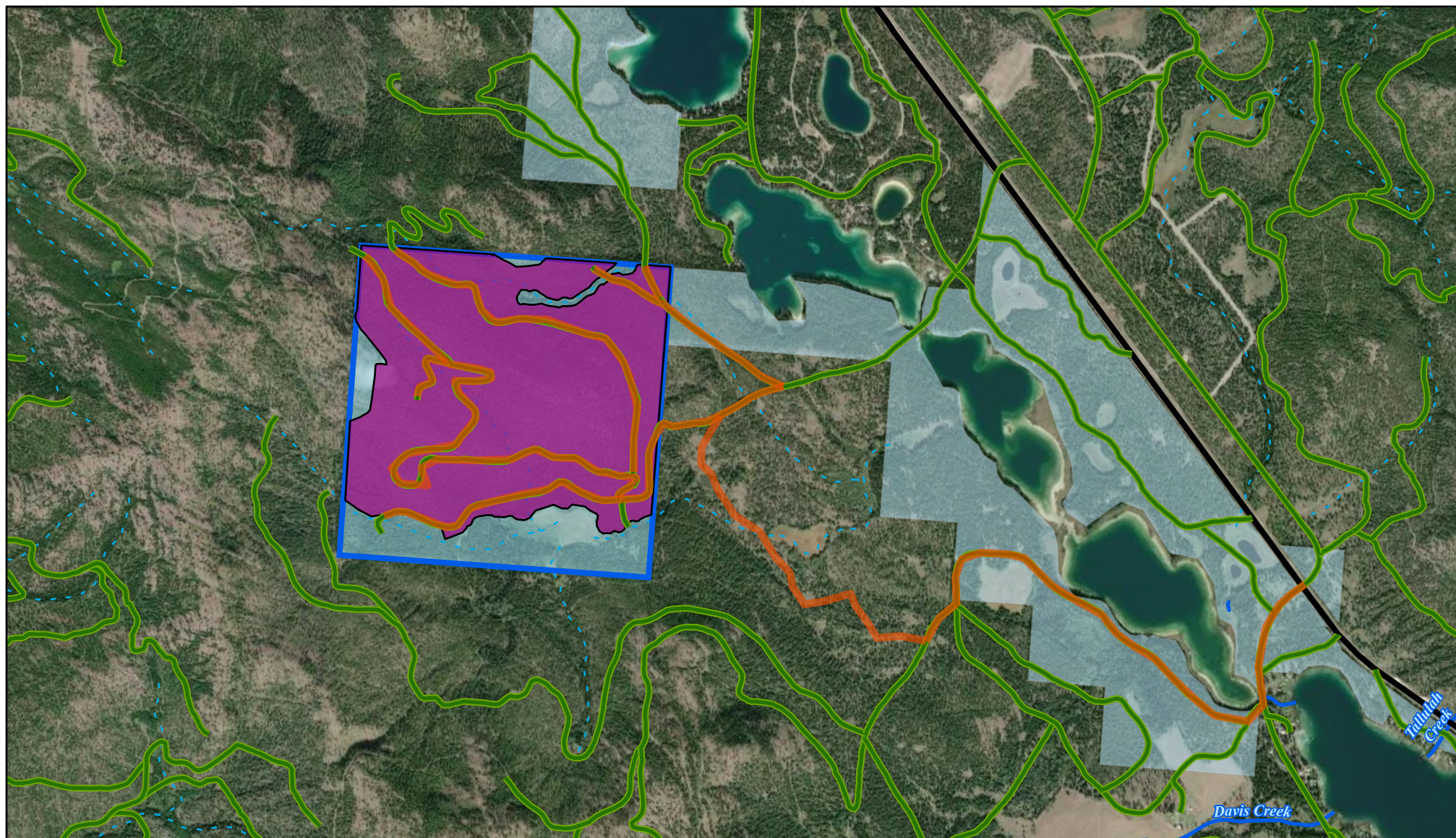
State Trust Land



0 5 10 20 Miles

Produced by Montana Department of Natural Resources and Conservation — 2025
NAD 1983 State Plane

Davis Mountain Timber Sale Harvest Units and Haul Route



- | | | |
|----------------------|----------------------|-----------------------------|
| — Haul Route | ■ Harvest Units | - - Intermittent |
| — FMB_Roads | ■ TLMD_SurfaceTracts | ■ State of Montana Misc. |
| — Highway | — Streams | ■ Montana State Trust Lands |
| — Open/Public Roads | — Hydrograph | ■ Local Government |
| — Restricted Class A | — Perennial | |

0 0.25 0.5 0.75 1 Miles



**Land Board Agenda Item
October 20, 2025**

1025-3B Timber Sale: Loose Horse

Location: Missoula

Trust Beneficiaries: Common Schools and Pine Hills

Trust Revenue: \$140,309 (estimated, minimum)

Item Summary

Location: The Loose Horse Timber Sale is located approximately 10.5 miles southeast of Seeley Lake, Montana.

Size and Scope: The sale includes 4 harvest units (292 acres) of ground-based logging.

Volume: The estimated harvest volume is 9,474 tons (1.85 MMBF) of sawlogs.

Estimated Return: The minimum bid is \$14.81 per ton, which would generate approximately \$140,309 for the Common Schools (93%) and Pine Hills (7%) Trusts, and approximately \$40,325 in Forest Improvement fees.

Prescription: This sale would utilize individual tree selection and seed tree harvest prescriptions designed to reduce insect and disease issues, promote forest health and progression towards the Desired Future Condition.

Road Construction/Maintenance: The Department of Natural Resources and Conservation (DNRC) is proposing 5.8 miles of road maintenance.

Access: Access is obtained through county and state-owned roads.

Public Comments: One comment was received from Montana Department of Fish, Wildlife and Parks (FWP) suggesting mitigations for wildlife species and DNRC acknowledged FWP's concerns and incorporated appropriate mitigations to alleviate wildlife concerns.

DNRC Recommendation:

The DNRC recommends that the Land Board direct DNRC to sell the Loose Horse Timber Sale.

State Trust Land Vicinity Map

Clearwater Unit

Loose Horse Timber Sale

Section: 19 and 30
Township: 15N
Range: 14W
County: Missoula

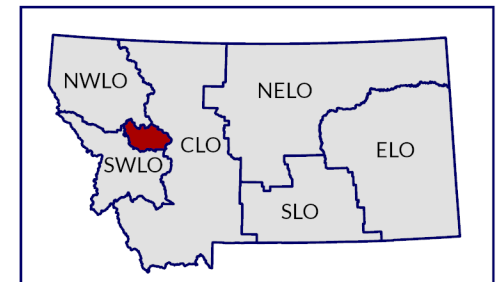


- Towns
- County Lines
- Major Roads
- Rivers & Lakes
- State Trust Land

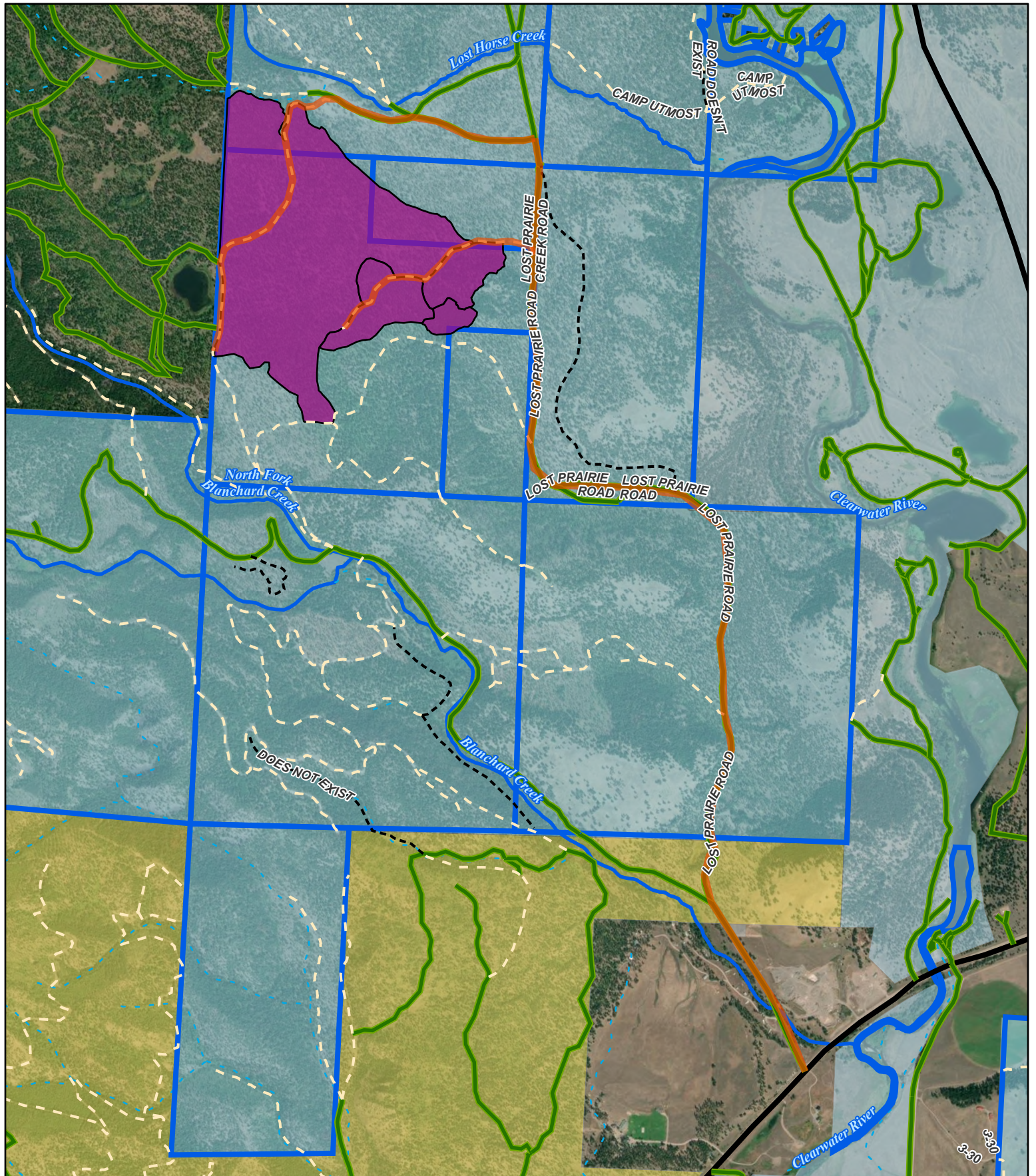


0 5 10 20 Miles

Produced by Montana Department of Natural Resources and Conservation — 2025
NAD 1983 State Plane



Loose Horse Timber Sale Haul Route and Harvest Units



- Haul Route - FMB_Roads - Highway - Open/Public Roads - Restricted Class A - Abandoned or Reclaimed	Harvest Units - Harvest Units - TLMD_SurfaceTracts - Streams - Hydrograph - Perennial	- Intermittent - Bureau of Land Management - State of Montana Misc. - Montana State Trust Lands - Local Government	N 17 of 116		0 0.5 1 Miles
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**Land Board Agenda Item
October 20, 2025**

1025-3C Timber Sale: Napa Creek

Location: Lake County

Trust Beneficiaries: Common Schools

Trust Revenue: \$255,305 (estimated, minimum)

Item Summary:

Location: The Napa Creek Timber Sale is located approximately 8 miles southeast of Swan Lake, Montana.

Size and Scope: The sale includes 5 harvest units (*530 acres*) of ground-based logging.

Volume: The estimated harvest volume is 15,421 tons (*2.63 MMBF*) of sawlogs.

Estimated Return: The minimum bid is \$17.41 per ton for non-Ponderosa Pine species and \$5.77 for Ponderosa Pine, which would generate approximately \$255,305 for the Common School Trust and approximately \$70,011 in Forest Improvement fees.

Prescription: This sale would utilize old growth maintenance, shelterwood, and commercial thinning harvest prescriptions designed to reduce insect and disease issues, reduce fuel loading and promote forest health.

Road Construction/Maintenance: Department of Natural Resources and Conservation (DNRC) is proposing 12.2 miles of road maintenance.

Access: Access is obtained through state-owned roads.

Public Comments: This timber sale is covered under the Squeezer Meadow Environmental Impact Statement (EIS). Twenty public comments were received during the scoping of the Squeezer Meadow EIS and an additional five individuals indicated that they had no comments but would like to stay informed during project development. Nine comments provided general support for the project, six comments were neutral, and five comments were opposed to the project. Commenters expressed concern about wildlife, silviculture, hydrology and soils, roads and traffic, fisheries, climate change, visual aesthetics, air quality, cultural resources, and economics. All public comments and concerns were considered and addressed in the Squeezer Meadow Final EIS.

DNRC Recommendation:

The DNRC recommends that the Land Board direct DNRC to sell the Napa Creek Timber Sale.

State Trust Land Vicinity Map

Swan Unit

Napa Creek Timber Sale

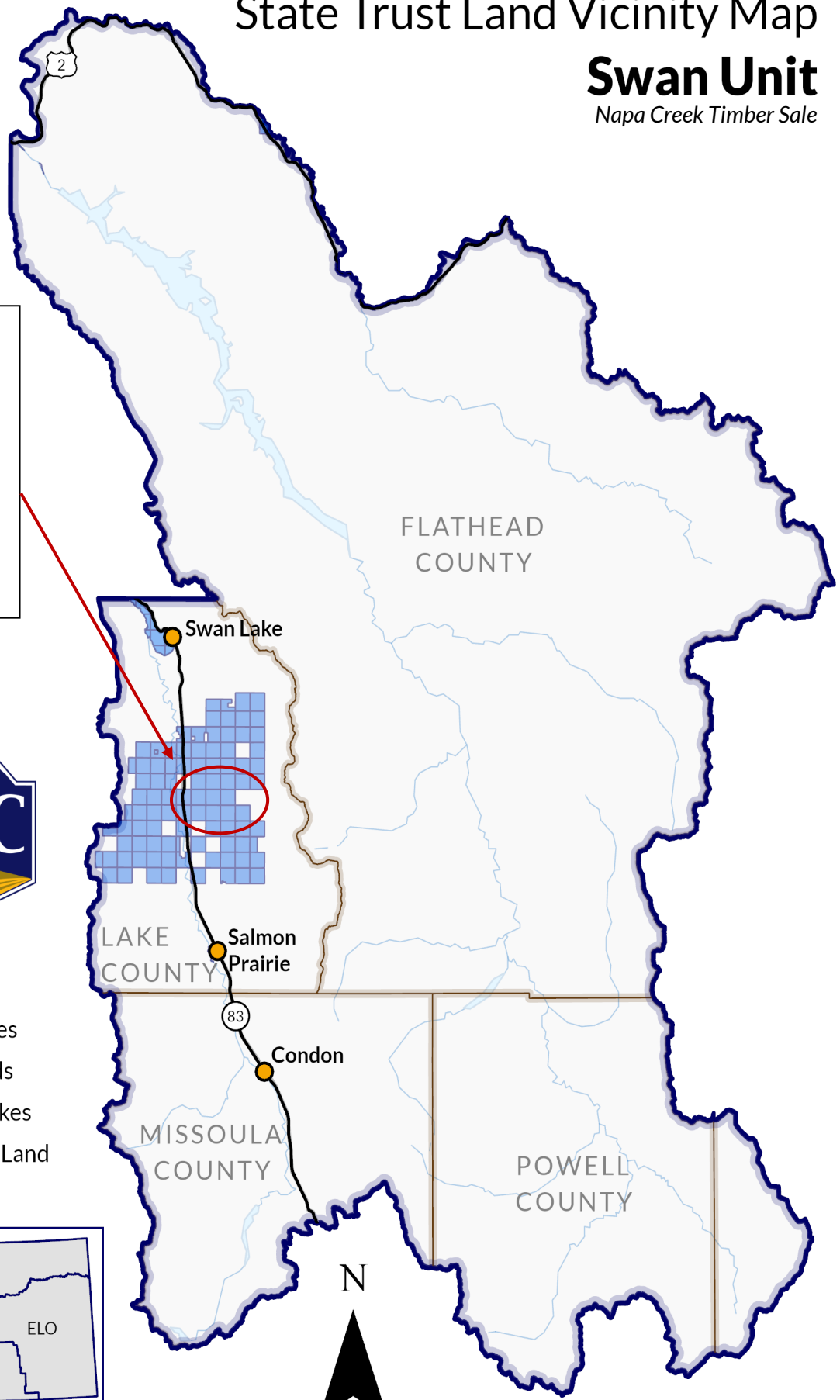
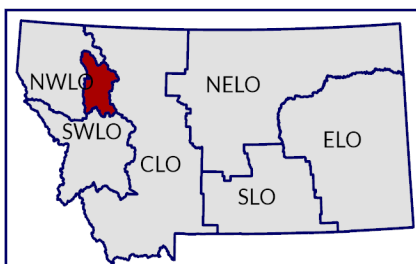
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Township: 23N
Range: 17W

Sections: 27, 28, 29,
32, 33, & 34
Township: 24N
Range: 17W

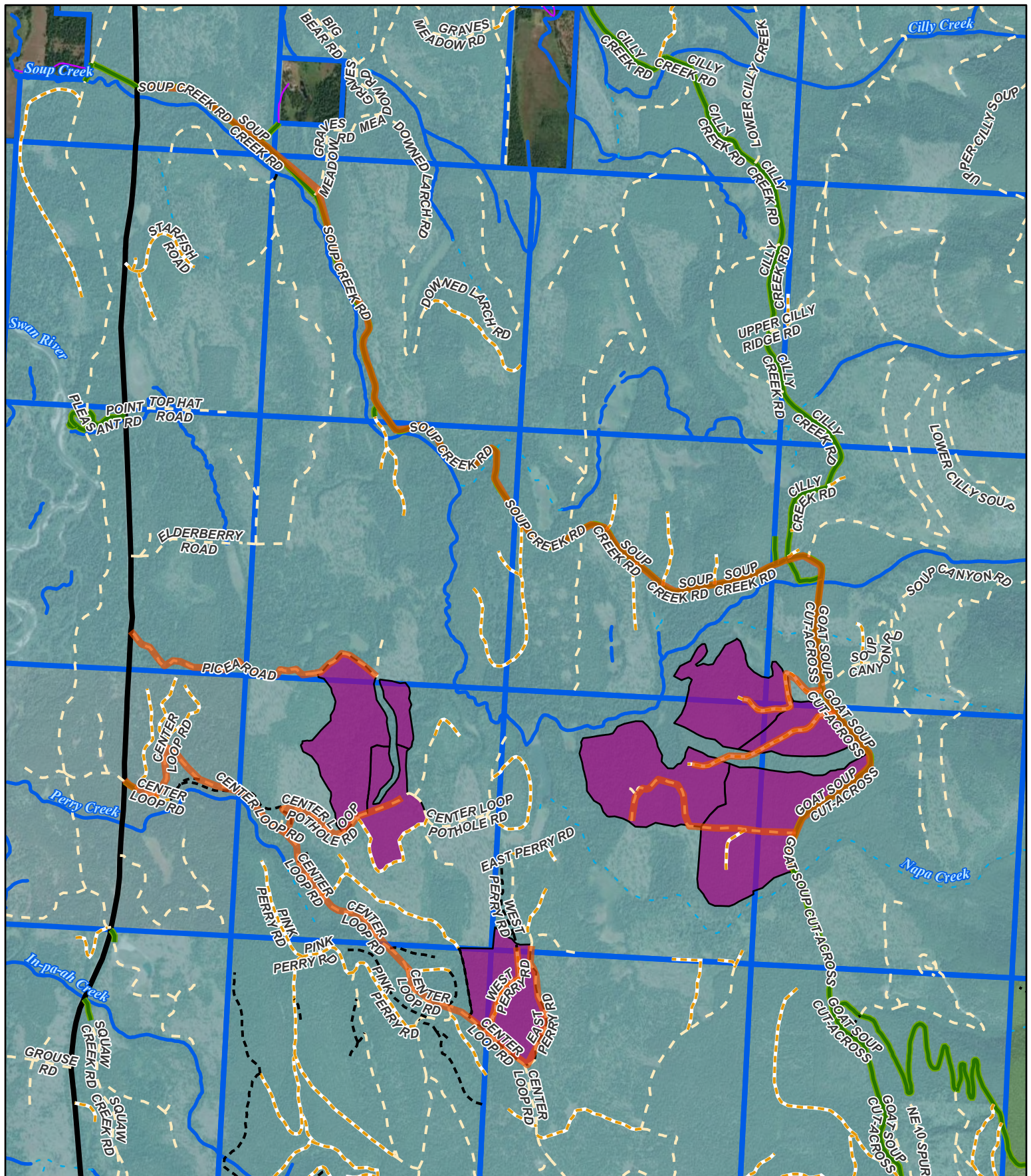
County: Lake



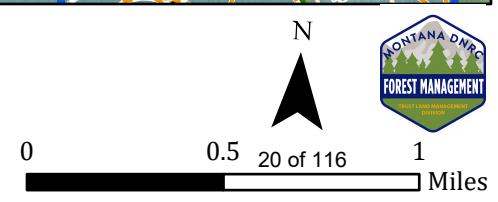
- Towns
- County Lines
- Major Roads
- Rivers & Lakes
- State Trust Land



Napa Creek Timber Sale Haul Route and Harvest Units



- Haul Route
- Abandoned or Reclaimed Streams
- Pvt Access or Admin Site
- FMB_Roads
- Highway
- Open/Public Roads
- Restricted Class A
- Restricted Class B
- Harvest Units
- TLMD_SurfaceTracts
- Hydrograph
- Perennial
- Intermittent
- US Forest Service
- State of Montana Misc.
- Montana State Trust Lands



1025-4

CABIN AND HOMESITES:
FINAL APPROVAL FOR SALE

**Land Board Agenda Item
October 20, 2025**

1025-4 Cabin and Homesites: Final Approval for Sale

Location: Missoula County

Trust Beneficiaries: MSU 2nd

Trust Revenue: \$120,000

Item Summary:

The Department of Natural Resources and Conservation (DNRC) is requesting final approval for sale of one (1) cabin site nominated for sale in Missoula County. This sale was nominated by the lessee in conjunction with the 2024-2025 Cabin and Home Site Sales Program.

Sale No.	Acres	Legal Description	Nominator	Trust
2068	1.278 ±	Lot 26, Clearwater East Shore Inland COS 6114 T16N R15W Section 10	Nicholas & Natasha LaCasse and Jason & Michele Poston	MSU 2 nd

Background:

Preliminary Land Board approval was granted in May of 2024 (Approved 5-0) for this site to be included as part of the 2024-2025 Cabin Site Sales Program. The Land Board set the minimum bid for this cabin site at the appraised land value and the maximum value of compensation for the improvements in July of 2025 (Approved 5-0).

Cultural/Paleontological Resources:

Home sites typically contain numerous privately owned structures and the ground surfaces within most home sites have been extensively disturbed over the course of many years of occupation and development.

For State Antiquities Act compliance, a Class I (literature review) level review was conducted by the DNRC staff archaeologist for the area of potential effect (APE). This entailed inspection of project maps, DNRC's sites/site leads database, land use records, General Land Office Survey Plats, and control cards. The Class I search results revealed that no cultural or paleontological resources have been identified in the APE of each homesite boundary. It should be noted that previous Class III level inventories have been conducted in or around many of the tracts proposed for sale. These sales will have no effect to state-owned heritage properties, and no additional archaeological investigative work will be conducted.

Access/Recreational Use:

As part of the cabin site sale process, the State will convey any access that it has and can be conveyed to the purchaser of the cabin or home site property. Current cabin/home site access is

limited to the lessee and does not provide access or recreational use to the general public. State lands classified as cabin or home sites are closed to general recreational use by the public in accordance with ARM 36.25.150(1)(a). Therefore, the State is not selling land under the cabin site sale program that the public is permitted to use for recreation. Rather, the funds generated by these sales will go towards purchasing new lands that will have dedicated public access and recreational opportunities.

Economic Analysis:

Short term – The average rate of return on this sale parcel is 1.661%. The parcel will continue to receive this return if it remains in state ownership. The income rate of return will likely grow smaller, as average annual value appreciation is greater than the annual rent increase.

Long term – The funds from the sale of this parcel would be combined with other sale funds to purchase replacement lands through DNRC's Land Banking program. Lands purchased are required to have an equal or greater rate of return than the combined lands that generated the sale funds used for the purchase. To date, the average annual rate of return on acquisitions has been 3.17% on acquisitions with income generated from annual lease payments. However, the rates of return on land acquired more recently have been higher at 3.42% for lands acquired within the last ten years.

Appraised Values of Land and Improvements:

The appraisal was prepared by Montana General Certified Appraiser Nicholas J. Hogan, MAI of Hogan Real Estate Appraisal Group, LLC in Missoula, Montana.

Sale No.	Appraised Land Value	Appraised Improvements Value	Final Sale Price
2068	\$120,000	\$155,000	\$120,000

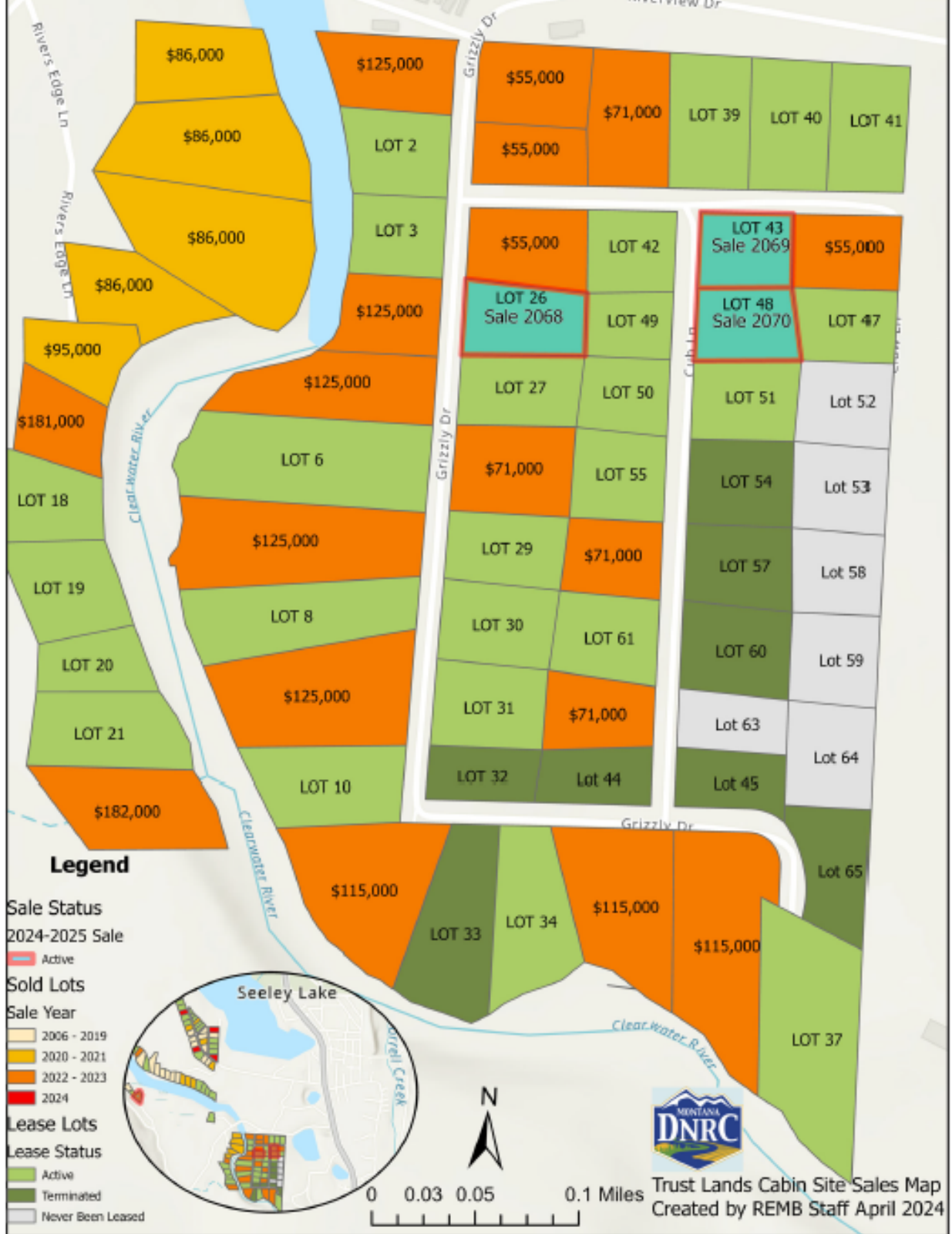
Sale Price:

This cabin site sold at public auction on October 2, 2025. There was one qualified bidder for this sale. The site sold for the final sale price listed above.

DNRC Recommendation:

The DNRC recommends the Land Board grant final approval for the sale of this cabin site at the value shown above.

Clear Water River East Shore Inland, Missoula County



1025-5

EASEMENTS

**Land Board Agenda Item
October 20, 2025**

1025-5 Easements

Location: Cascade, Flathead, Lewis & Clark, Lincoln and Roosevelt Counties

Trust Beneficiaries: Capitol Buildings, Common Schools, Pine Hills School and Public Land Trust

Trust Revenue: Capitol Buildings \$7,111, Common Schools \$19,918, Pine Hills School \$2,700 and Public Land Trust \$14,763

Item Table of Contents

Applicant	Right-of-Way Purpose	Term	Page(s)
Kimberly G. Ledwell and Jacob M. Porter	Private Access Road	Permanent	27-28
City of Whitefish	Public Pedestrian Bridge	Permanent	29-30
Glacier Peak Midstream, LLC	Crude Oil Pipeline	30 Years	31-32
Northwestern Corporation	Overhead Electrical Line	Permanent	33-34
Spectrum Pacific West, LLC by Charter Communication	Fiber Optic Cable	Permanent	35-36
Beaverpond Holdings, LLC	Private Access Road	Permanent	37-38
ONEOK Rockies Midstream, LLC	Natural Gas Pipeline	30 Years	39-40

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Kimberly G. Ledwell and Jacob M. Porter 601 West Silver Street Butte, MT 59701
Application No.:	12464 (Amendment)
R/W Purpose:	a private access road to two single-family residences and associated outbuildings and to conduct resource management activities
Lessee Agreement:	N/A (Unleased)
Acreage:	1.00
Compensation:	\$7,111.00
Legal Description:	30-foot strip through S2NE4, Sec. 33, Twp. 33N, Rge. 26W, Lincoln County
Trust Beneficiary:	Capitol Buildings

Item Summary:

Kimberly G. Ledwell and Jacob M. Porter are requesting to amend their existing historic easement to provide access to two single family residences, one residence per 40-acre tract of land they own. The original easement was granted in 2004 under the historic access statute in place at the time to John Swift. Mr. Swift subsequently sold his two 40-acre parcels to Ledwell/Porter in 2023 and assigned the easement to them. Pursuant to the now expired historic statute, an applicant could only acquire an easement to access their private lands for the uses that were existing prior to 1997; thus, the easement was limited to accessing only the existing residence. Amending the easement to allow for two residences initiates the Land Board policy of requiring a 1% conveyance fee to be assessed on the value of the additional parcel to be accessed, which is reflected in the compensation value shown above.

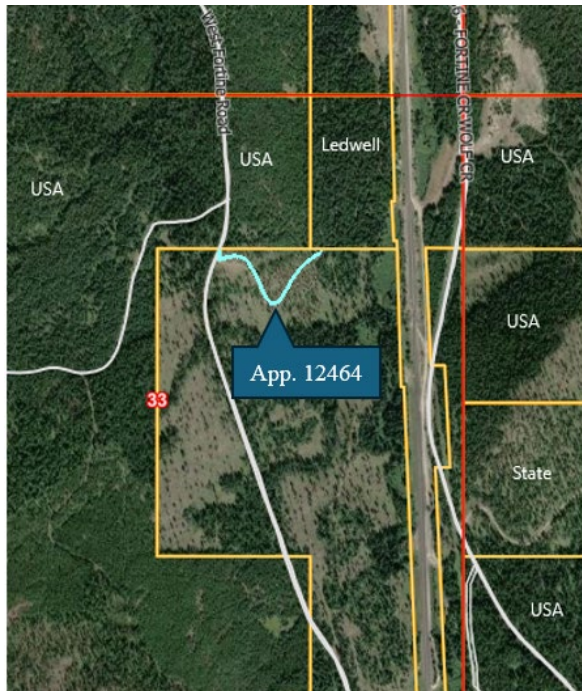
Kimberly G. Ledwell and Jacob M. Porter private land to be accessed is described as follows:

- TR 2 in NENE, Section 33, Township 33 North, Range 26 West
- TR 3A in SESE, Section 28, Township 33 North, Range 26 West

DNRC Recommendation:

The DNRC recommends approval of the application of Kimberly G. Ledwell and Jacob M. Porter.

Application #12464 (amendment)



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	City of Whitefish PO Box 158 Whitefish, MT 59937
Application No.:	19771
R/W Purpose:	a public pedestrian bridge
Lessee Agreement:	N/A (Navigable River)
Acreage:	0.02
Compensation:	\$8,711.00
Legal Description:	12-foot strip across the Whitefish River in NW4NW4, Sec. 36, Twp. 31N, Rge. 22W, Flathead County
Trust Beneficiary:	Public Land Trust

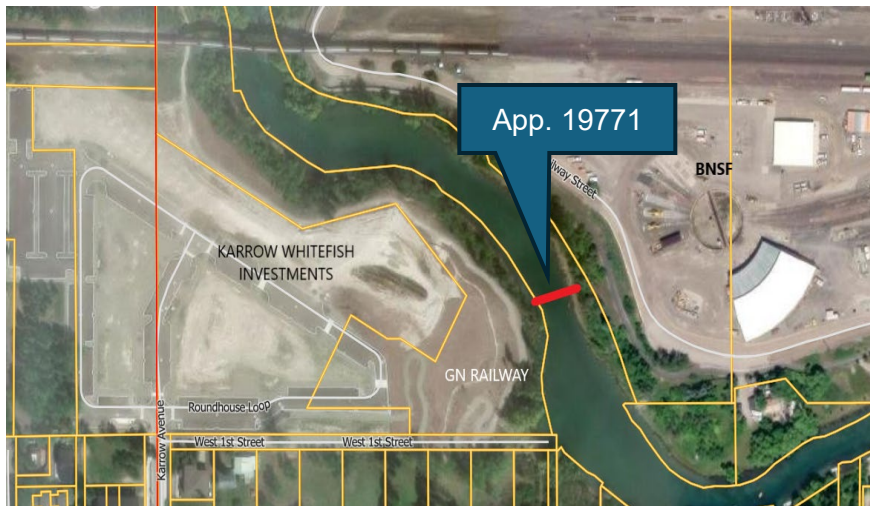
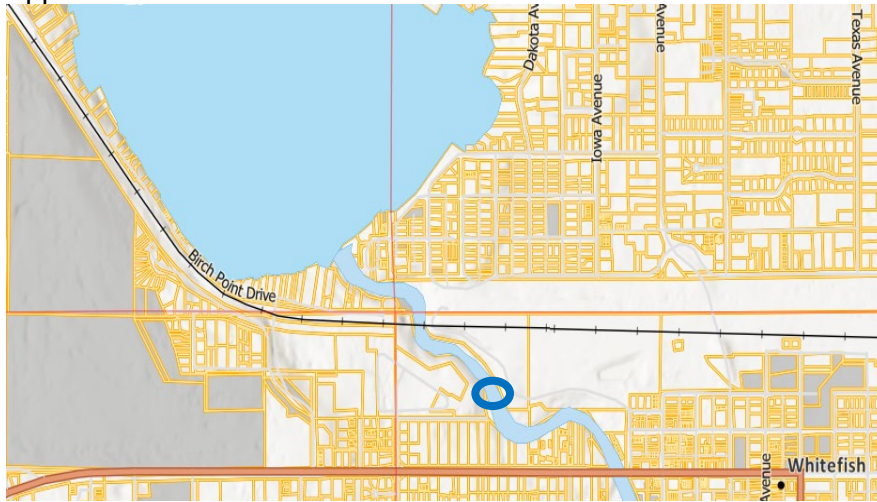
Item Summary:

The City of Whitefish is requesting an easement for a pedestrian bridge crossing the Whitefish River to provide connectivity between a development and an existing trail located on BNSF property. The bridge will also be at a height to allow for river traffic. The City and BNSF currently have a renewable 25-year agreement for the trail on BNSF lands. The DNRC recommends a permanent easement be issued, however a stipulation be placed within the easement that requires the City to remove the bridge and reclaim any disturbed areas below the low water mark of the river should the agreement with BNSF terminate or not be renewed.

DNRC Recommendation:

The DNRC recommends approval of the application of City of Whitefish.

Application #19771



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Glacier Peak Midstream, LLC 840 W. Sam Houston Pkwy N. #300 Houston, TX 77024
Application No.:	19864
R/W Purpose:	an 8" crude oil pipeline
Lessee Agreement:	ok
Acreage:	0.32
Compensation:	\$9,671.00
Legal Description:	35-foot strip thru S2SW, Sec. 16, Twp. 28N, Rge. 59E, Roosevelt County
Trust Beneficiary:	Common Schools

Item Summary:

Glacier Peak Midstream, LLC has requested an easement to install an 8" crude oil pipeline to a well pad on State Land. This pipeline will carry crude oil from the Dart Well Pad and tie into an existing pipeline into North Dakota. The proposed route is the most direct route between terminuses and the route of least disturbance. Consistent with oil and gas pipeline installations, the DNRC recommends a 30-year term be applied to this easement request.

DNRC Recommendation:

The DNRC recommends approval of the application of Glacier Peak Midstream, LLC for a 30-year term.

Application #19864



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Northwestern Corporation 11 East Park Street Butte, MT 59701
Application No.:	19865
R/W Purpose:	an overhead 25kV electric line
Lessee Agreement:	N/A (Navigable River)
Acreage:	0.51
Compensation:	\$6,052.00
Legal Description:	60-foot strip across the Missouri River in NW4SE4, SW4NE4, Sec. 35, Twp. 18N, Rge. 1W, Cascade County
Trust Beneficiary:	Public Land Trust

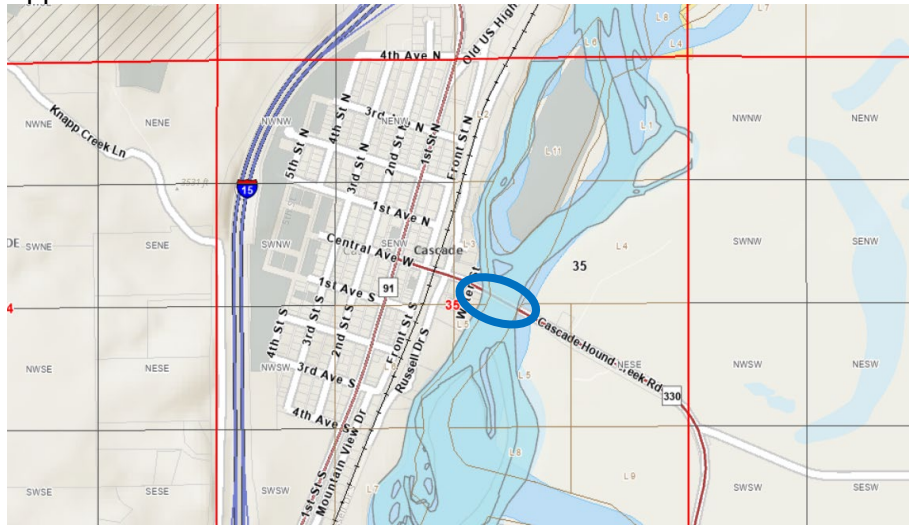
Item Summary:

Northwestern Corporation requesting an easement to install a 25kV overhead electrical line to replace the existing line to mitigate bird strikes. This will go from a single pole design to an H-Frame design.

DNRC Recommendation:

The DNRC recommends approval of the application of Northwestern Corporation.

Application #19865



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Spectrum Pacific West, LLC by Charter Communication 1860 Monad Road Billings, MT 59102
Application No.:	19866
R/W Purpose:	a buried fiber optic cable
Lessee Agreement:	ok
Acreage:	0.32
Compensation:	\$576.00
Legal Description:	20-foot strip through Gov. Lot 1, Sec. 16, Twp. 11N, Rge. 5W, Lewis and Clark County
Trust Beneficiary:	Common Schools

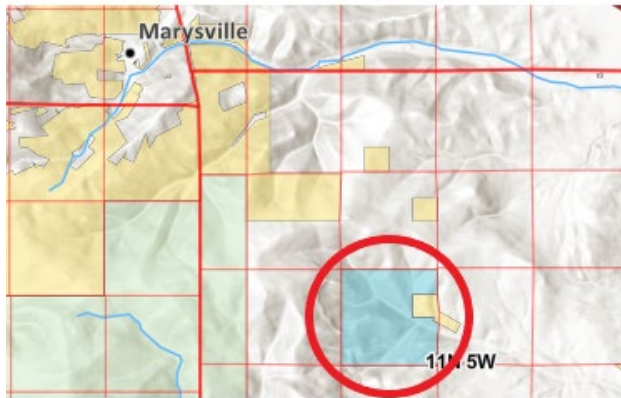
Item Summary:

Spectrum Pacific West, LLC by Charter Communication is requesting an easement to install a buried fiber optic telecommunications cable. The line will provide reliable telephone and broadband services to homes and businesses in rural Lewis and Clark County. The proposed route was chosen in order to follow the existing roadway. Other routes were considered and eliminated for topographical, environmental, and economic reasons

DNRC Recommendation:

The DNRC recommends approval of the application of Spectrum Pacific West, LLC by Charter Communication.

Application #19866



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	Beaverpond Holdings, LLC PO Box 1799 Bozeman, MT 59771
Application No.:	19867
R/W Purpose:	a private access road to conduct normal farming and ranching operations
Lessee Agreement:	N/A (Historic)
Acreage:	2.7
Compensation:	\$2,700.00
Legal Description:	30-foot strip through SW4NW4, NW4SW4, Sec. 14, Twp. 14N, Rge. 5W, Lewis and Clark County
Trust Beneficiary:	Pine Hills School

Item Summary:

Beaverpond Holdings, LLC is requesting a historic easement for a private access to conduct normal farming and ranching operations. This application is made pursuant to amendments of §77-2-101, MCA for recognition of historic uses across State Trust Land.

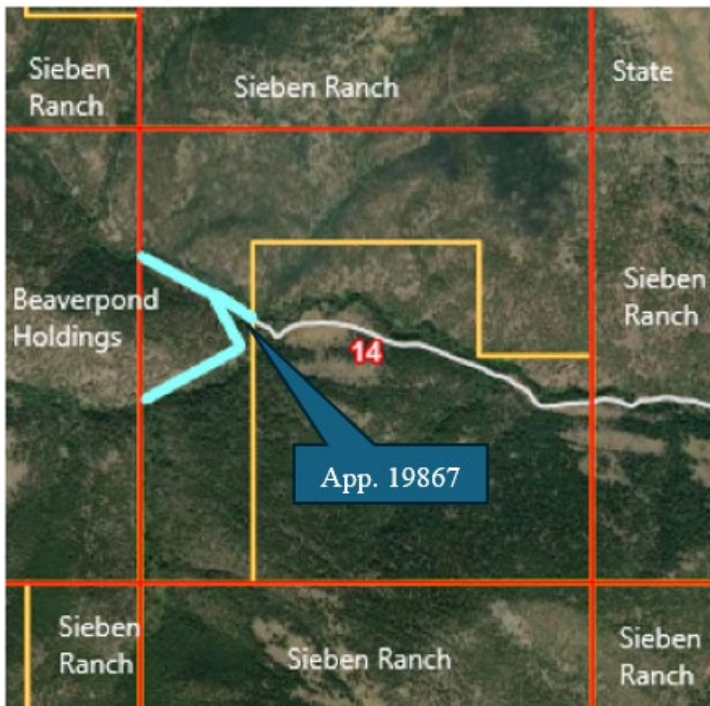
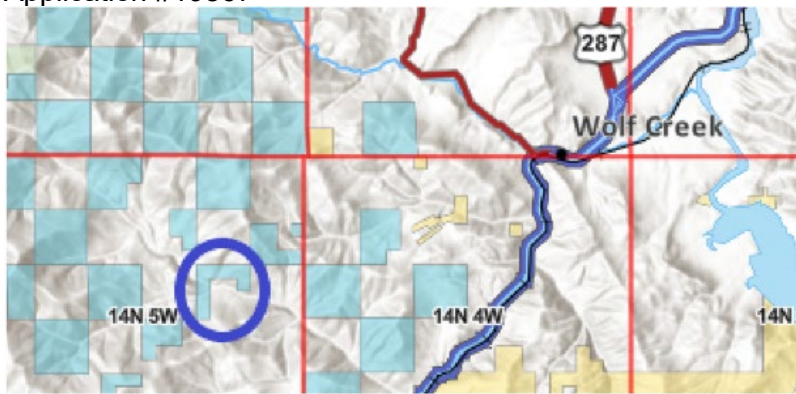
Beaverpond Holdings, LLC private land to be accessed is described as follows:

- All, Section 15, Township 14 North, Range 5 West

DNRC Recommendation:

The DNRC recommends approval of the application of Beaverpond Holdings, LLC.

Application #19867



APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant:	ONEOK Rockies Midstream, LLC 896 25th Street SE Sidney MT 59270
Application No.:	19869
R/W Purpose:	a buried 16" natural gas pipeline
Lessee Agreement:	ok
Acreage:	0.52
Compensation:	\$9,671.00
Legal Description:	50-foot strip through SW4SW4, Sec. 16, Twp. 28N, Rge. 59E, Roosevelt County
Trust Beneficiary:	Common Schools

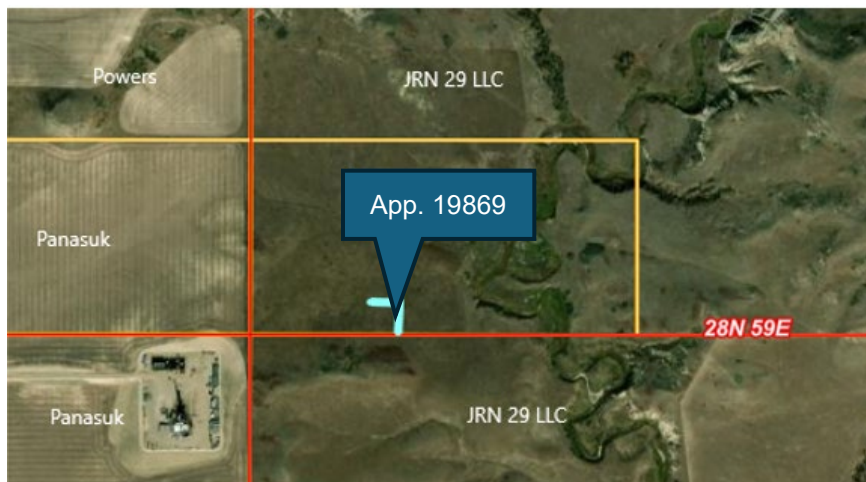
Item Summary:

ONEOK Rockies Midstream, LLC is requesting an easement to construct a 16" natural gas pipeline across State land. The proposed pipeline will connect a well pad on State land to the company's existing infrastructure in the area. The project is necessary to reduce the flaring of natural gas. This proposed pipeline will co-locate with the crude oil pipeline proposed by Glacier Peak Midstream, described in the agenda item for ROW-19864 described above. The corridor will be 15-foot wider, however, to accommodate future maintenance activities. Consistent with oil and gas pipeline installations, the DNRC recommends a 30-year term be applied to this easement request.

DNRC Recommendation:

The DNRC recommends approval of the application of ONEOK Rockies Midstream, LLC for a 30-year term.

Application #19869



1025-6

REQUEST TO ADOPT

RECREATIONAL USE RULE AMENDMENTS

**Land Board Agenda Item
October 20, 2025**

1025-6 Request to Adopt Recreational Use Rule Amendments

Location: State of Montana

Trust Beneficiaries: Common Schools, Capitol Buildings, MSU 2nd, MSU Morrill, MSU Eastern/UM Western, MT Tech, U of M, Deaf & Blind School, Pine Hills, Veterans Home, Intensive Behavior Center, MT State Hospital, Lands Acquired-Public School, and Public Land Trust

Trust Revenue: Unknown

Item Summary:

The Department of Natural Resources and Conservation (DNRC) Forestry and Trust Lands Management Division requests Land Board approval of the adoption notice to amend recreational use rules by adopting 10 new rules and repealing 19 rules pertaining to recreational use of state trust lands (Adopt ARM 36.25.1201, 36.25.1202, 36.25.1203, 36.25.1204, 36.25.1205, 36.25.1207, 36.25.1208, 36.25.1209, 36.25.1210, 36.25.1212; and repeal ARM 36.25.143, 36.25.144, 36.25.145, 36.25.146, 36.25.149, 36.25.150, 36.25.152, 36.25.153, 36.25.154, 36.25.155, 36.25.156, 36.25.157, 36.25.161, 36.25.162, 36.25.163, 36.25.164, 36.25.165, 36.25.166, and 36.25.167).

This rulemaking is necessary to renumber recreational use rules to make them easier to find and to simplify language throughout to make them easier to understand. The amendments update rules to modern standards and procedures, eliminate unnecessary and redundant regulations, replace out-of-date terminology, eliminate references to an expired recreational use advisory committee, and restructure the rules for clarity, consistency, simplicity, and ease of use for the public and staff.

The Land Board approved the request to proceed with rulemaking to amend recreational use rules, and to file the proposal notice for the drafted rules at the June 16, 2025, meeting. The department scoped the public through the Montana Administrative Procedures Act (MAPA) and the Montana Environmental Policy Act (MEPA) and received no comments within the scope of the rulemaking. The adoption notice agenda item reflects adoption of the rules as presented to the board at the June 16, 2025, with no changes.

The Department notified interested parties and scoped for public comment on the proposed amendments through MAPA and consistent with MEPA. The public comment period was open through August 8, 2025, and a public hearing was held on August 8, 2025, at the DNRC headquarters office in Helena with attendance also available via zoom. The Department received three total comments. Two comments were in support of the rules, and one written comment from Montana, Fish, Wildlife and Parks was outside of the scope of this rulemaking.

No environmental impacts were identified by the public through the MEPA scoping process. The Department has completed a checklist Environmental Assessment for the rulemaking. If

approved, the adoption notice will be filed with the Secretary of State's office and the amendments will become effective upon publication within the Montana Administrative Register.

DNRC Recommendation:

The DNRC recommends that the Land Board approve the adoption notice to amend recreational use rules to make them easier to find and to understand.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-91.2

Summary

Adoption of NEW RULES 1 through 10 and repeal of ARM 36.25.143, 36.25.144, 36.25.145, 36.25.146, 36.25.149, 36.25.150, 36.25.152, 36.25.153, 36.25.154, 36.25.155, 36.25.156, 36.25.157, 36.25.161, 36.25.162, 36.25.163, 36.25.164, 36.25.165, 36.25.166, and 36.25.167 pertaining to recreational use of state trust land.

Previous Notice(s) and Hearing Information

On July 11, 2025, the Department of Natural Resources and Conservation published MAR Notice No. 2025-91.1 pertaining to the public hearing on the proposed adoption and repeal of the above stated rules in the 2025 Montana Administrative Register, Issue Number 13. A public hearing was held on August 8, 2025, and the end of comment period was August 8, 2025.

Final Rulemaking Action – Effective November 8, 2025

ADOPT AS PROPOSED

The agency has adopted the following rules as proposed:

New Rule 1 [36.25.1201] Overview

New Rule 2 [36.25.1202] Definitions

New Rule 3 [36.25.1203] License Requirements for General Recreation

New Rule 4 [36.25.1204] General Recreation Rules and Restrictions

New Rule 5 [36.25.1205] Notice to Lessees Prior to Entry

New Rule 6 [36.25.1207] Closure of State Land to Recreational Use

New Rule 7 [36.25.1208] Roads

New Rule 8 [36.25.1209] Interagency Land Management Agreements

New Rule 9 [36.25.1210] Special Recreational Use

New Rule 10 [36.25.1212] Penalties

REPEAL AS PROPOSED

The agency has repealed the following rules as proposed:

36.25.143 OVERVIEW OF RECREATIONAL USE RULES

36.25.144 ADMINISTRATION OF RECREATION ON STATE LANDS ADMINISTERED BY THE DEPARTMENT

36.25.145 DEFINITIONS

36.25.146 GENERAL RECREATIONAL USE OF STATE LANDS: LICENSE REQUIREMENT

36.25.149 GENERAL RECREATIONAL USE OF STATE LANDS: RESTRICTIONS

36.25.150 GENERAL RECREATIONAL USE OF STATE LANDS: CATEGORICAL CLOSURES

36.25.152 GENERAL RECREATIONAL USE OF STATE LANDS: PROCEDURE FOR SITE SPECIFIC CLOSURES

36.25.153 MANAGEMENT CLOSURES AND RESTRICTIONS

36.25.154 RECREATIONAL USE ADVISORY COUNCIL

36.25.155 GENERAL RECREATIONAL USE OF STATE LANDS: NOTICE TO LESSEES OF ALL USES OTHER THAN HORSE USE NOT FOR THE PURPOSE OF LICENSED HUNTING, DISCHARGE OF FIREARMS NOT FOR THE PURPOSE OF LICENSED HUNTING, AND OVERNIGHT USE

36.25.156 GENERAL RECREATIONAL USE OF STATE LANDS: NOTICE TO LESSEES OF OVERNIGHT USE, HORSEBACK USE FOR ANY PURPOSE OTHER THAN LICENSED HUNTING, AND FOR DISCHARGE OF A FIREARM FOR ANY PURPOSE OTHER THAN LICENSED HUNTING

36.25.157 GENERAL RECREATIONAL USE OF STATE LANDS: PENALTIES

36.25.161 GENERAL RECREATIONAL USE OF STATE LANDS: OTHER PROVISIONS

36.25.162 SPECIAL RECREATIONAL USE OF STATE LANDS

36.25.163 BLOCK MANAGEMENT AREAS: GENERAL RULES FOR INCLUSION OF STATE LAND

36.25.164 BLOCK MANAGEMENT AREAS: PROCEDURES FOR INCLUSION OF STATE LAND

36.25.165 BLOCK MANAGEMENT AREAS: CRITERIA FOR INCLUSION OF STATE LAND

36.25.166 BLOCK MANAGEMENT AREAS: TERMS OF AGREEMENT

36.25.167 BLOCK MANAGEMENT AREAS: RENEWAL OF AGREEMENT

Statement of Reasons

The agency has considered the comments and testimony received. A summary of the comments received, and the agency's responses are as follows:

Comment 1: Two comments were received in support of the proposed rules.

Response 1: The department agrees with the comments received in support of the proposed rules.

Comment 2: One comment was received asking the department to make changes to language in New Rule 4 and New Rule 8 relating to Wildlife Management Areas (WMA) managed by the Department of Fish, Wildlife and Parks to remove language requiring trust land to be enrolled in a WMA for WMA rules to apply, and instead automatically apply WMA rules to all trust land located within or adjacent to the exterior boundaries of a WMA.

Response 2: The comment proposes substantively changing rules for recreation on certain trust land. The proposed changes would result in different recreational use rules by mere proximity to a WMA. This suggestion is a significant change to the proposal notice and is outside the scope of this rulemaking. Additionally, the comment proposes replacing the word "enrolled" with ambiguous language about when trust land is subject to WMA rules. The department respectfully declines to adopt the proposed language suggested in the comment.

The portion of New Rule 4 (36.25.1204) addressed in FWP's comment is intended to be a mere rephrasing and clarification of current ARM 36.25.149(1)(i), not a substantive change. The department has historically interpreted ARM 36.25.149(1)(i) as merely specifying which recreational rules are applicable to a recreationist after a parcel of state land has been enrolled within an FWP unit (i.e. WMA or BMA), not describing the process by which a parcel of trust land is enrolled within a WMA or BMA unit. New Rule 4 (36.25.1204) removes the ambiguity in current ARM 36.25.149(1)(i) by substituting the "included within" language for the more precise "enrolled within" language so that the department's policy regarding ARM 36.25.149(1)(i) is clarified but remains unchanged. For the purposes of New Rule 4 and 8, "enrolled" simply refers to a decision by the department to enlist a parcel of state trust land within the applicable rules, regulations, and procedures of a particular FWP unit. e.g. see ARM

36.25.163(1). This has historically been accomplished via written agreement with FWP. While the department is committed to continuing to work closely with FWP to reduce patchwork regulations, the department did not intend to make a substantive change to its policy regarding the process by which state trust land is enrolled within a WMA in this rulemaking project. The department remains open to further discussions about this policy issue, which may be addressed in future rulemaking projects.

Contact

Jamie Price, Rules Coordinator
(406) 444-6615
DNRCRules@mt.gov
Montana Relay 711

Rule Reviewer

Jason Kampman

Approval

Amanda Kaster, Director

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-91.1

Summary

In the matter of adoption of New Rules 1-10 and the repeal of ARM 36.25.143, 36.25.144, 36.25.145, 36.25.146, 36.25.149, 36.25.150, 36.25.152, 36.25.153, 36.25.154, 36.25.155, 36.25.156, 36.25.157, 36.25.161, 36.25.162, 36.25.163, 36.25.164, 36.25.165, 36.25.166, and 36.25.167 pertaining to recreational use of state trust land.

Hearing Date and Time

Friday, August 8, 2025, at 9:00 a.m.

Hearing Information

Department of Natural Resources and Conservation, Montana Conference Room, first floor, located at 1539 Eleventh Ave., Helena, Montana.

Virtual Hearing Information

Interested parties may access the remote conferencing platform in the following ways:

Join Zoom Meeting:

1) <https://mt-gov.zoom.us/j/83577012731?pwd=jWchah4QdK0d5wIHAI0Cca4LJaxp5C.1>, Meeting ID: 835 7701 2731, Password: 124737; or

2) Dial by telephone: +1 646 558 8656, Meeting ID: 835 7701 2731; Password: 124737

Find your local number: <https://mt-gov.zoom.us/u/kBkeouRAL>

Comments

Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the contact information listed below. Comments must be received by Friday, August 8, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, August 1, 2025, at 5:00 p.m.

Contact

Jamie Price, Rules Coordinator
(406) 444-6615
DNRCOAH@mt.gov
Montana Relay 711

General Reasonable Necessity Statement

In support of the Governor's Red Tape Relief Initiative, the Department of Natural Resources and Conservation (department) is conducting comprehensive review of the administrative rules for recreational use of state trust land. This review focuses on updating rules to current standards and procedures; eliminating unnecessary or redundant regulations; replacing out-of-date terminology; eliminating reference to the expired recreational use advisory committee; and restructuring the rules for consistency, simplicity, and ease of use for the public and staff. Following consideration of the department's suggested changes, the board of land commissioners determined it is reasonably necessary to repeal 19 rules and adopt ten new rules to align with the Red Tape Relief Initiative. The simplified rules will increase department efficiency by standardizing the procedures used statewide and improve customer service by making the rules easier to find and understand. If an additional specific basis for a proposed action exists, the department will identify the reason immediately following the specific rule.

Rulemaking Actions

ADOPT

The rules proposed to be adopted are as follows:

NEW RULE 1 (36.25.1201) OVERVIEW

- (1) NEW RULE 1 (36.25.1201) through NEW RULE 10 (36.25.1212) regulate the recreational use of state trust land managed by the Department of Natural Resources and Conservation. These lands appear in light blue on most land status maps.
- (2) The board of land commissioners has the duty and authority to manage state trust land under Article X, section 4 of the Montana Constitution. Under 77-1-301, MCA, the Department of Natural Resources and Conservation manages state trust lands under the direction of the board.
- (3) State trust land is open to recreational use subject to legal access, closures, and restrictions in accordance with 77-1-203(3), MCA.
- (4) The purpose of NEW RULE 1 (36.25.1201) through NEW RULE 10 (36.25.1212) is to provide for reasonable recreational use of legally accessible state trust land while also considering the needs of state trust land lessees. These rules should be interpreted to accomplish this purpose.
- (5) These rules regulate general recreational use and special recreational use, as defined in NEW RULE 2 (36.25.1202). Special recreational use requires additional licensing as described under NEW RULE 9 (36.25.1210).
- (6) The following state lands are not subject to NEW RULE 1 (36.25.1201) through NEW RULE 10 (36.25.1212):
 - (a) lands subject to a lease, license or easement from the department to a government entity for a public park or fishing access site;
 - (b) the surface, beds and banks of lakes, rivers, and streams that are open to the general public for recreational purposes under the stream access law;
 - (c) highways and highway rights-of-way;
 - (d) department administrative sites;
 - (e) campus grounds, experiment station grounds, and other lands owned by the university system;
 - (f) lands administered by the Department of Corrections; and
 - (e) any lands where the department or the board does not own the surface.
- (7) Whenever in NEW RULE 1 (36.25.1201) through NEW RULE 10 (36.25.1212), the submission of a document or petition is required to be filed at an area or unit office, it must be submitted to the area or unit office that administers the applicable state trust land.

- (8) Whenever in NEW RULE 1 (36.25.1201) through NEW RULE 10 (36.25.1212), a hearing is required to be held in an “area,” the term “area” refers to the department area in which the subject land is located. The hearing may be held, at the department's discretion, at any location within that area.

Authorizing statute(s): 77-1-209, 77-1-804, and 77-1-806, MCA

Implementing statute(s): 77-1-801 through 77-1-810, MCA

Reasonable Necessity Statement

This rule change is reasonably necessary to simplify rule language and to renumber recreational use rules. The proposed rule consolidates and simplifies language from original rules 36.25.143 and 36.25.144 related to intent and applicability, while retaining the intent of the original rules.

NEW RULE 2 (36.25.1202) DEFINITIONS

Wherever used in NEW RULE 1 (36.25.1201) through NEW RULE 10 (36.25.1212), unless a different meaning clearly appears from the context:

- (1) "Board" means the board of land commissioners, as described in the Montana Constitution.
- (2) "Closure" means prohibition of all general recreational use.
- (3) "Customary access point" means each outer gate and each normal point of access to the land, including both sides of a water body crossing the land where the water body intersects an outer boundary line.
- (4) "Dedicated county road" means a county road that has been created by means of donation of a landowner and acceptance by a county under statutory or common law dedication procedures.
- (5) "Department" means the Department of Natural Resources and Conservation.
- (6) "Director" means the director of the Department of Natural Resources and Conservation.
- (7) "Drop box" means a container in which a person using state trust land for recreation may leave notice when required to do so under these rules.
- (8) "Emergency" means a situation that:

- (a) poses an imminent threat of personal harm, property damage, or significant environmental harm;
 - (b) would be substantially lessened or alleviated by a recreational use closure; and
 - (c) requires faster action than the normal closure procedure.
- (9) "General recreational use" means non-concentrated, non-commercial recreational activity.
 - (a) The term does not include:
 - (i) taking or disturbing archeological, historical, or paleontological items;
 - (ii) mineral exploration or mining;
 - (iii) taking or disturbing valuable rocks or minerals;
 - (iv) cutting or gathering firewood, standing trees, or downed trees;
 - (v) trapping; or
 - (vi) special recreational use.
- (10) "Growing crop" means plants grown for harvest, between planting and harvest time. The term does not include grass used for grazing or trees.
- (11) "Lease" means a lease or land use license, other than a recreational use or special recreational use license, allowing use of state trust land. The term does not include a mineral lease unless it is preceded by the word "mineral."
- (12) "Lessee" means a person who holds a lease.
- (13) "Legally accessible" means state trust land that can be reached by open road, public right-of-way, or public easement; public waters, including streams open to the public for recreational purposes under the stream access law; adjacent public land open to public use; or adjacent private land if permission to cross the land has been secured from the landowner. Accessibility by aircraft does not render lands legally accessible under this definition.
- (14) "Livestock" means cattle, sheep, swine, goats, privately owned bison and elk, horses, llamas, mules, donkeys, and other animals used for the protection of such animals.
- (15) "Motorized vehicle" means a vehicle powered by a motor, including but not limited to, cars, trucks, motorcycles, mopeds, and all-terrain vehicles. The term does not include snowmobiles.
- (16) "Open road" means a road usable by the public under state or federal law. This includes federal roads, state roads, dedicated county roads, and other roads on

state trust land that have been designated by the department as open for motorized use.

- (17) "Recreational use license" means a license authorizing general recreational use of state trust land.
- (18) "Restriction" means a limitation on recreational use activities.
- (19) "Special recreational use" means:
 - (a) commercial or concentrated recreational activity, including any recreational use that is organized, developed, or coordinated, whether for profit or otherwise; or
 - (b) other recreational activity that will result in unique impacts as determined by the department or that would conflict with a restriction described under NEW RULE 4 (36.25.1204).
- (20) "Trust land administration account" means the account established by 77-1-108, MCA, from which expenses of the recreational use program are paid.

Authorizing statute(s): 77-1-209, 77-1-804, and 77-1-806, MCA

Implementing statute(s): 77-1-101, 77-1-801, 77-1-802, 77-1-804, 77-1-805, and 77-1-806, MCA

Reasonable Necessity Statement

This rule change is reasonably necessary to simplify rule language and to renumber recreational use rules. The proposed rule updates and simplifies language from original rule 36.25.145 related to definitions, while retaining the intent of the original rules. These changes also clarify the different types of special recreational use.

NEW RULE 3 (36.25.1203) LICENSE REQUIREMENTS FOR GENERAL RECREATION

- (1) A recreational use license is required by any person 12 years of age or older for general recreational use of state trust land. Whether there is an agreement between the department and the Department of Fish, Wildlife and Parks pursuant to 77-1-815, MCA will determine which of the following two licenses are required:
 - (a) a "conservation license" is required if the department and the Department of Fish, Wildlife and Parks consent to and sign an agreement for general recreational use pursuant to 77-1-815, MCA; or

- (b) a “state lands recreational use license” is required if the department and the Department of Fish, Wildlife and Parks do not have an agreement for general recreational use pursuant to 77-1-815, MCA.
- (2) If a state lands recreational use license is required:
 - (a) The license is issued for a 12-month period beginning on March 1 of each year and expiring on the last day of February of the next year.
 - (b) The cost is:
 - (i) \$5 for persons 17 years of age or younger or 60 years of age or older.
 - (ii) \$10 for persons who are older than 17 and younger than 60.
 - (iii) \$20 for a family living within the same household.
 - (c) A person may purchase the license for a relative.

Authorizing statute(s): 77-1-106, 77-1-209, 77-1-802, and 77-1-804, MCA

Implementing statute(s): 77-1-106, 77-1-801, 77-1-802, 77-1-804, and 77-6-210, MCA

Reasonable Necessity Statement

This rule change is reasonably necessary to simplify rule language and to renumber recreational use rules. The proposed rule simplifies language from original rule 36.25.146 related to license requirements, while retaining the intent of the original rule.

NEW RULE 4 (36.25.1204) GENERAL RECREATION RULES AND RESTRICTIONS

The following rules apply to persons engaging in general recreational use of state trust land:

- (1) A recreational use license as described in NEW RULE 3 (36.25.1203) is required by any person 12 years of age or older.
- (2) A recreationist must present their license upon request by a Montana game warden or department employee.
- (3) For motorized vehicle use:
 - (a) Recreational motorized vehicle use is restricted to open roads.

- (b) A person holding a "permit to hunt from vehicle" issued by the Department of Fish, Wildlife and Parks may drive on any road that is not closed by the department by sign or barrier.
 - (c) Parking is allowed on open roads in accordance with applicable traffic regulations, and within 50 feet of a customary access point that is accessible by open road. A parked vehicle must not block vehicle access or gates, or cause damage to the land or improvements.
- (4) For snowmobile use:
 - (a) Snowmobile use is allowed on open roads where permitted by applicable traffic regulations.
 - (b) Off-road snowmobile use is only allowed on unleased land. It is not allowed where expressly prohibited by the department.
- (5) For firearm use:
 - (a) A person may not use a firearm negligently as defined in 45-2-101, MCA.
 - (b) A recreationist may not discharge a firearm on state trust land within 1/4 mile of an inhabited dwelling or an outbuilding in close proximity to an inhabited dwelling without permission of an inhabitant. Temporary absences of inhabitants do not render a dwelling uninhabited.
- (6) Campfires are prohibited on leased or licensed land unless in a designated campground.
- (7) Fireworks are prohibited.
- (8) For overnight use:
 - (a) Overnight use of leased or licensed land must be within 200 feet of a customary access point or public waters such as a stream open to the public for recreational purposes pursuant to the stream access law under 23-2-302, MCA.
 - (b) Motorized vehicles and camping trailers must be parked according to the requirements described in (3)(c).
 - (c) Overnight use may not exceed the following time limits:
 - (i) In a designated campground, the maximum stay is 16 days in a 30-day period.
 - (ii) For dispersed camping outside of a designated campground, the maximum stay is:
 - (A) 2 consecutive days on leased or licensed land; or

- (B) 16 days in a 30-day period on land that is not leased or licensed.
- (d) A recreationist may keep horses on state trust land overnight, subject to the following restrictions:
- (i) horses must not be allowed to remain in stream riparian zones for more than one hour;
 - (ii) only certified noxious weed seed free forage may be brought onto state trust land; and
 - (iii) horses must be restrained to minimize impacts to vegetation.
- (9) Pets must be kept on a leash or otherwise controlled to prevent harassment of livestock or wildlife.
- (10) Food storage requirements under ARM 12.12.109(1)(a), (b), and (c) apply from March 1 to December 1, or for an extended period of time if posted on site, on state trust land:
- (a) located in any county west of the Continental Divide; or
 - (b) in Glacier, Toole, Pondera, Teton, Lewis and Clark, Cascade, Jefferson, Broadwater, Meagher, Beaverhead, Madison, Gallatin, Park, Sweet Grass, Stillwater, Carbon, Liberty, Blaine, Hill, Chouteau, Fergus, Judith Basin, Wheatland, or Golden Valley Counties.
- (11) Littering is prohibited.
- (12) A recreationist may not interfere with the legitimate lease management activities of lessees or their agents.
- (13) A recreationist may not interfere with a person making lawful recreational use of state trust land.
- (14) The department may impose additional restrictions pursuant to 77-1-804(6)(h), MCA to protect public safety, property, or the environment. A recreationist may not violate site specific restrictions.
- (15) The department may close specific state trust land to recreational use pursuant to NEW RULE 6 (36.25.1207). A recreationist may not violate a closure.
- (16) State trust land enrolled within a Wildlife Management Area or a Block Management Area are subject to the management area rules set by the Department of Fish, Wildlife and Parks. A recreationist may not violate the rules applicable to state trust land enrolled in a wildlife management area or block management area.
- (17) Recreationists are responsible for determining whether state trust land is legally accessible.

- (18) A recreationist may not trespass onto private lands, regardless of the absence of fencing or signage.
- (19) A person who violates a recreational use rule is subject to penalties described in NEW RULE 10 (36.25.1212).

Authorizing statute(s): 77-1-209, 77-1-804, MCA

Implementing statute(s): 77-1-804, 77-1-806, MCA

Reasonable Necessity Statement

This rule change is reasonably necessary to simplify rule language and to renumber recreational use rules. The proposed rule consolidates and simplifies language from original rules 36.25.149, 36.25.146(5), and 36.25.161(1) and (3) related to general recreational use and restrictions, while retaining the intent of the original rules.

NEW RULE 5 (36.25.1205) NOTICE TO LESSEES PRIOR TO ENTRY

- (1) If a lessee wishes to be notified before a recreationist enters the leased land for general recreational use the lessee shall:
 - (a) post signs, or duplicates of signs, provided by the department at all customary access points with directions to the appropriate drop box; and
 - (b) provide a clearly marked drop box at a customary access point for each tract. A lessee of 2 or more contiguous tracts may provide 1 drop box if it is placed in a location convenient to each of the tracts.
- (2) If there is uncertainty about the location of a customary access point or its convenience, the area manager will decide and the lessee shall install drop boxes in accordance with that determination.
- (3) If a lessee has installed signs and a drop box in accordance with (1), a recreationist shall leave a notice in the drop box prior to entering the leased land.
 - (a) The notice must include:
 - (i) the recreationist's name, address, and conservation license number;
 - (ii) the names, addresses, and recreational use license numbers of each person in the party; and
 - (iii) the dates of use.

- (b) The recreationist is responsible for providing paper and a writing utensil to leave the notice.
- (c) The notice is valid for up to 3 consecutive days or until the end of any continuous general recreational use that makes additional notice impractical, such as a back country hunting or fishing trip.
- (4) A lessee may not interfere with a person making lawful recreational use of state trust land.

Authorizing statute(s): 77-1-209, 77-1-804, and 77-1-806, MCA

Implementing statute(s): 77-1-804 and 77-1-806, MCA

Reasonable Necessity Statement

This rule change is reasonably necessary to simplify rule language and to renumber recreational use rules. The proposed rule consolidates and simplifies language from original rules 36.25.155, and 36.25.156 related to lessee notification prior to recreational use, and 36.25.146(5) regarding lessee interference with a person making lawful recreational use. The rule change simplifies the signage and notification requirements and consolidate rules related to lessee interactions with recreationists.

NEW RULE 6 (36.25.1207) CLOSURE OF STATE TRUST LAND TO RECREATIONAL USE

- (1) The following state trust land is categorically closed to general recreational use:
 - (a) land leased for cabin sites or home sites;
 - (b) agriculture lease areas with growing crop;
 - (c) land leased for military use while military activities are taking place;
 - (d) land leased for commercial use; and
 - (e) land under extreme wildfire threat as proclaimed by the department or governor.
- (2) Any person, corporation, organization or government agency may petition to exclude a specific tract from a categorical closure by following the process described in (7).
- (3) The department may close specific tracts of state trust land to recreational use through the process described in (7) for any of the following reasons:

- (a) damage attributable to recreational use diminishes the income generating potential of the state trust land;
 - (b) damage to surface improvements of lessee or mineral lessee;
 - (c) the presence of threatened, endangered, or sensitive species or plant communities;
 - (d) the presence of unique or special natural or cultural features;
 - (e) wildlife protection;
 - (f) noxious weed control;
 - (g) the presence of buildings, structures, or facilities;
 - (h) protection of public safety;
 - (i) prevention of significant environmental impact;
 - (j) disruption of calving, lambing, or shipping activities or substantial disruption of livestock use;
 - (k) an imminent threat, caused by potential substantial public use, of immediate, irreparable property damage or bodily injury on the state tract or adjacent land; or
 - (l) comparable private land has been made available for public general recreational use through an exchange described in (4).
- (4) Any person may request an emergency closure by submitting a written request describing the situation with the area or unit office. The area manager or designee will grant or deny the request no later than 5 days after it is received.
- (a) An emergency closure must be for a specific period of time but may be extended as necessary until the emergency is over.
 - (b) Upon request of any person, the director or designee will review any emergency closure in effect for longer than 5 days. The director or designee will approve, modify, or terminate the closure in writing.
 - (c) The department will attempt to contact the underlying lessee prior to any emergency closure.
 - (d) The department may, on its own initiative, close state trust land in an emergency.
- (5) The department may, after following the process described in (7), enter into a written agreement with a landowner whereby a tract of state trust land is closed in exchange for the landowner's agreement to open private land to general recreational use if all of the following requirements are met:

- (a) The private land:
 - (i) is in the same general area;
 - (ii) is of equal or greater recreational value to the state tract;
 - (iii) has equal or greater public access as the state tract; and
 - (iv) is not normally available for general recreational use upon request by the public.
 - (b) The private landowner agrees to:
 - (i) allow general recreational use under restrictions no more stringent than those contained in NEW RULE 4 (36.25.1204);
 - (ii) post department-approved signs at customary access points on the closed state trust land to notify the public of the closure and give directions to the private tract;
 - (iii) post signs on the private tract advising the public which portion of the tract is open for general recreational use by the public subject to the recreational use license requirement;
 - (iv) allow access to the private land for employees of the department and Department of Fish, Wildlife and Parks;
 - (v) not claim funds pursuant to ARM 36.25.158 or ARM 36.25.159;
 - (vi) hold the department and state harmless from all claims, including those for property damage or personal injury, relating from the acts or omissions of the landowner; and
 - (vii) meet any other requirements deemed necessary by the department.
 - (c) The exchange agreement is cancelable by either party with 60-day written notice.
- (6) A lessee may create a temporary management closure or restriction on their leased or licensed state trust land.
- (a) One of the following situations must exist:
 - (i) Livestock activities such as calving, lambing, gathering or moving, specialized or intensive breeding, supplemental winter feeding, weaning, or shipping is occurring;
 - (ii) Weed control treatment is occurring or has recently occurred;
 - (iii) The land is being irrigated. However, state trust land may not be closed to foot traffic during hunting season under this provision; or

- (iv) Recreational use would occur in close proximity to lessee's dwellings or structures. However, the right to enter or exit state trust land may not be denied under this provision.
- (b) Temporary management closures and restrictions do not become effective until 24 hours after the following requirements are met:
 - (i) The lessee notifies the area or unit office of:
 - (A) the nature of the qualifying situation that exists;
 - (B) the affected area;
 - (C) the terms of the closure or restriction; and
 - (D) the duration.
 - (ii) The lessee posts all customary access points with signs or duplicates of signs provided by the department. The signs must include the lessee's name, address, phone number, the closure or restriction imposed, the reason for the closure or restriction, the area to which it applies, effective date, and duration.
- (c) Any person may object to a temporary management closure or restriction by notifying the area or unit office in writing that:
 - (i) there is no valid basis for the closure;
 - (ii) the area of closure is larger than necessary; or
 - (iii) the duration of the closure is longer than necessary.
- (d) The department may object to a temporary management closure.
- (e) If an objection is made:
 - (i) The area manager or designee shall investigate the closure within 2 working days of receiving the objection.
 - (ii) The area manager or designee may modify or terminate the temporary closure or restriction after notifying the lessee and objector of the decision.
 - (iii) The lessee or objector may appeal the area manager's decision to the director by filing a written appeal to the area office within 5 business days of receipt of notice.
 - (iv) The director's decision is binding on the parties. Failure to comply with the director's decision subjects the violator to penalties pursuant to NEW RULE 10 (36.25.1212).

- (f) The following are general guidelines the department shall use for determining whether the term of a management closure or restriction is reasonable:
 - (i) for calving or lambing, 60 days;
 - (ii) for breeding, 30 days;
 - (iii) for gathering or moving, 1 day;
 - (iv) for weed treatment, 5 days; and
 - (v) for livestock concentrated for weaning or shipping:
 - (A) if fewer than 200 animal units per section are concentrated, 5 days.
 - (B) if 200 or more animal units per section for weaning and shipping, 30 days.
 - (g) The department may deviate from the general guidelines in (f) as management circumstances dictate.
- (7) Any person, corporation, organization or government agency may petition the department to close a specific tract of land for a reason listed in (3) or exclude a specific tract of land from a categorical closure.
- (a) The petition must be submitted in writing to the area or unit office in which the applicable state trust land is located. To be considered during a calendar year, the petition must be submitted by April 1 of that year, be signed by the petitioner, and must contain the following information:
 - (i) name, mailing address, and phone number of petitioner;
 - (ii) description of lands to which the petition applies by legal description, lease number, or other description of the location;
 - (iii) the reason for the requested action;
 - (iv) the period for which the requested action is sought; and
 - (v) supporting documentation.
 - (b) The department may summarily dismiss a petition with a brief statement of the reasons for dismissal whenever:
 - (i) the petition is for a closure and is not based on a reason provided in (2);
 - (ii) the petition is not supported by specific factual allegations, data, or documentation; or

- (iii) a petition requesting essentially the same action has been denied in the preceding 365 days unless changed conditions are alleged and documented.
- (c) By May 1, the department shall post notice of any valid petitions it has received or initiated at the county courthouse, area offices, and department's main office, and notify any underlying lessees. The notice must:
 - (i) contain the name of the petitioner, location of the land, and reasons for the proposed action; and
 - (ii) give the public an opportunity to object to the petition and the objector and the petitioner an opportunity to request, on or before May 20, a public hearing on the proposed action.
- (d) An objection must contain the reasons why the petition should not be granted and supporting documentation. An objection may not be considered if it does not.
- (e) If a hearing is requested by an objector or petitioner, the department shall hold the hearing in the area of the proposed action as follows:
 - (i) By June 5, the department shall post public notice of the hearing and notify the petitioner and the affected lessee. The notice must contain the name of the petitioner, location of the land, reason for proposed action and reasons that the hearing has been requested.
 - (ii) By June 20, an open public hearing must be held in the area of the proposed action. Any interested party may give comments and submit information at the hearing.
- (f) The area manager or designee may conduct further investigation.
- (g) By July 1, the department shall prepare a written decision and provide a copy to the lessee, petitioner, and any person who filed an objection. The decision shall grant, modify, or deny the petition and state the reasons for the decision.
- (h) The petitioner or an objector may appeal the decision to the director by filing a written appeal with the area office within 15 days of receipt of the decision.
 - (i) If an appeal is received:
 - (A) The department will notify the opposing party of the appeal and provide an opportunity to respond, including the right to appear at any appellate hearing.
 - (B) The appeal may, at the discretion of the director or designee, proceed by written argument, oral argument, or both, at a location designated by the director.

- (C) No party may submit evidence or information that was not submitted at the informal hearing.
- (D) By September 1, the director or designee shall issue a written decision affirming, reversing, or modifying the department's decision.
- (j) If a petition is granted, the lessee or department shall post all applicable customary access points with signs provided by the department or duplicated from signs provided by the department.
- (8) The department shall maintain a list of closures and restrictions on the department's public website and at the department's main office in Helena.
- (9) Except for categorical closures under (1), the department shall review closures at expiration or renewal of the lease for leased tracts and at least every 10 years for unleased tracts. The department may review closures more frequently. After public notice, notice to the lessee, and an opportunity for public comment and hearing, the department may terminate a closure it determines is no longer necessary.

Authorizing statute(s): 77-1-209 and 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

Reasonable Necessity Statement

This rule change is reasonably necessary to simplify rule language and to renumber recreational use rules. The proposed rule consolidates and simplifies language from original rules 36.25.150, 36.25.152, 36.25.153, and 36.25.154(3) related to recreational use closures while retaining the intent of the original rules.

NEW RULE 7 (36.25.1208) ROADS

- (1) Before designating a road on leased state trust land as open for recreational motorized use, the department shall notify the lessee.

Authorizing statute(s): 77-1-209 and 77-1-804, MCA

Implementing statute(s): 77-1-804 and 77-1-806, MCA

Reasonable Necessity Statement

This rule change is reasonably necessary to simplify rule language and to renumber recreational use rules. The proposed rule simplifies and clarifies language from original rule 36.25.161(4) related to open roads, while retaining the intent of the original rules.

NEW RULE 8 (36.25.1209) INTERAGENCY LAND MANAGEMENT AGREEMENTS

- (1) State trust land may be enrolled in a block management area or wildlife management area established by the Department of Fish, Wildlife and Parks pursuant to a written agreement executed by the department. No state trust land is included in a management area unless a written agreement is executed by the department.
- (2) The department may enroll state trust land into a block management area only if it finds that:
 - (a) enrollment is in the best interest of the public and the trust;
 - (b) inclusion would not result in damage to the land;
 - (c) the proposed block management area contains private land;
 - (d) the state trust land is contiguous to other land included within the proposed block management area; and
 - (e) the proposed block management agreement does not conflict with the rights of holders of leases, licenses, or easements.
- (3) To request enrollment of state trust land into a block management area, the Department of Fish, Wildlife and Parks must submit a proposal to the department that includes:
 - (a) a legal description of the affected state trust land;
 - (b) a description of legal access;
 - (c) the terms, conditions, and restrictions to be applied to the lands enrolled in the proposed block management area; and
 - (d) a map of the proposed block management area that identifies state trust land, adjoining public land, and open roads.
- (4) A public review process is required only if the proposed block management agreement:
 - (a) would impose restrictions on recreational use that are more stringent than those contained in NEW RULE 4 (36.25.1204); and

- (b) contains state trust land that is:
 - (i) accessible by open road, public right of way or easement, public waters, or contiguous government-owned land that is open for public use; or
 - (ii) contiguous at some point to land that is not included within the proposed block management area.
- (5) If a public review process is required pursuant to (4):
 - (a) the department and the Department of Fish, Wildlife and Parks shall give public notice in the newspaper in the area of the proposed block management area and provide a 21-day public comment period;
 - (b) the department will review and prepare written responses to all substantive comments and shall provide copies to each person who submitted a substantive comment; and
 - (c) the department may, at its discretion, hold a public hearing in the area of the proposed block management area if it finds that a public comment or a request for a hearing raised a significant question as to whether the proposal is in the best interest of the public or the trust.
- (6) A block management agreement that includes state trust land must contain the following provisions:
 - (a) A recreational use license pursuant to NEW RULE 3 (36.25.1203) is required for general recreation.
 - (b) Motorized vehicle use on state trust land is restricted in accordance with 77-1-804(6)(c), MCA.
 - (c) If the state trust land meets the criteria in (4), the Department of Fish, Wildlife and Parks shall post signs on state trust land at customary access points that include information about special block management restrictions on recreational use and how access may be obtained.
 - (d) If a complaint is not resolved by the satisfaction of the department, the department may withdraw state trust land from the block management area.
- (7) The department may agree to renew a block management agreement if the agreement continues to meet the criteria in (2) and contain the provisions in (6).
- (8) Renewal requires the public review process under (5) only if:
 - (a) the department determines that a complaint received by Department of Fish, Wildlife and Parks has not been adequately resolved;
 - (b) public comments or complaints have been received by the Department of Fish, Wildlife and Parks that:

- (i) raise significant concern regarding compliance with the agreement; or
 - (ii) indicate that continued enrollment may not be in the best interest of the public or the trust; or
- (c) changes in the agreement impose more stringent restrictions than those contained in the existing agreement.

Authorizing statute(s): 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

Reasonable Necessity Statement

This rule change is reasonably necessary to simplify rule language and to renumber recreational use rules. The proposed rule consolidates and simplifies language from original rules 36.25.163, 36.25.164, 36.25.165, 36.25.166, and 36.25.167 related to block management agreements while retaining the intent of the original rules and clarifies enrollment of state trust land into a wildlife management area as contemplated in original rule 36.25.149(1)(i).

NEW RULE 9 (36.25.1210) SPECIAL RECREATIONAL USE

- (1) No special recreational use of state trust land may occur without a special recreational use license.
- (2) Special recreational use licenses are issued at department discretion.
- (3) The cost of the license is determined by the department based on the full market value of the use. The department may use a competitive bidding process to determine the full market value. If a competitive bid process is used, the department may set a minimum bid amount according to the best interest of the trust.
- (4) The department may reject a license application or a competitive bid if acceptance would not be in the best interest of the trust.
- (5) The department may grant a license that provides the exclusive authorization for a specific activity in an area. However, even if a license is exclusive, the department may grant other licenses for other types of activities on the same land.
- (6) To apply for a special recreational use license, a person must be 18 years of age or older and must submit an application to the area or unit office where the activity is

proposed to occur. Applications must include a description or map of the area proposed for use.

- (7) The department must attempt to notify an underlying lessee of a license application.
- (8) A license must include terms regulating motorized vehicle use and requiring that only certified weed seed free hay be used on the state trust land. The license may include other use restrictions.
- (10) The holder of the special recreational use license shall comply with all provisions of the license.
- (11) A license issued under this rule does not prohibit general recreational use of the licensed area.

Authorizing statute(s): 77-1-209 and 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

Reasonable Necessity Statement

This rule change is reasonably necessary to simplify rule language and to renumber recreational use rules. The proposed rule simplifies language from original rule 36.25.162 related to special recreational use while retaining the intent of the original rule. These changes clarify that the department may reject applications or bids if they are not in the best interest of the trust.

NEW RULE 10 (36.25.1212) PENALTIES

- (1) Pursuant to 77-1-804(8), MCA, if the department and the Department of Fish, Wildlife and Parks consent to and sign an agreement for general recreational use as provided in 77-1-815, MCA, a person who violates a department rule that governs general recreational use is guilty of a misdemeanor.
- (2) The department may assess a civil penalty of up to \$1,000 per day for a violation of NEW RULE 1 (36.25.1201) through NEW RULE 9 (36.25.1210), unless a criminal penalty has been assessed for the violation.
 - (a) The department shall consider the following factors to determine the amount of a civil penalty:
 - (i) number of previous violations;
 - (ii) severity of the infraction; and

- (iii) whether the violation was intentional or unintentional.
- (b) The penalty may be waived for minor or technical violations.
- (c) Before assessing a penalty for a civil violation, the department will give the person cited a violation notice that describes the facts and circumstances alleged to have occurred.
- (d) The person has 15 days to respond in writing to the violation notice.
- (e) Upon receipt of the response or expiration of the response period, the department shall either withdraw the notice of violation or assess a penalty. The department shall provide notice of its decision by certified mail.
- (f) The person may request a hearing within 30 days of receiving the department's notice of penalty assessment. The request for hearing must state the reasons that the person is contesting assessment of the penalty.
- (g) If a hearing request is received by the department:
 - (i) The department shall hold a contested case hearing in accordance with the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, MCA.
 - (ii) The hearing must be conducted by a hearing officer appointed by the director.
 - (iii) After the hearing, the department shall, within 60 days issue its findings of fact and conclusions of law and final order dismissing the violation or assessing a penalty.
- (h) A person shall pay an assessed penalty within 30 days of receipt of the notice of decision described under (2)(e), or, within 30 days of the final order if a hearing is requested, or within such additional time if granted by the department.
- (i) The assessment of civil penalty is appealable to district court pursuant to Title 2, chapter 4, part 7, MCA.

Authorizing statute(s): 77-1-209 and 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

Reasonable Necessity Statement

This rule change is reasonably necessary to simplify rule language and to renumber recreational use rules. The proposed rule simplifies language from original rules 36.25.157 related to penalties, while retaining the intent of the original rules.

REPEAL

The rules proposed to be repealed are as follows:

36.25.143 OVERVIEW OF RECREATIONAL USE RULES

Authorizing statute(s): 77-1-209, 77-1-804, and 77-1-806, MCA

Implementing statute(s): 77-1-801 through 77-1-810, MCA

36.25.144 ADMINISTRATION OF RECREATION ON STATE LANDS ADMINISTERED BY THE DEPARTMENT

Authorizing statute(s): 77-1-209, 77-1-804, and 77-1-806, MCA

Implementing statute(s): 77-1-801 through 77-1-810, MCA

36.25.145 DEFINITIONS

Authorizing statute(s): 77-1-209, 77-1-804, 77-1-806, MCA

Implementing statute(s): 77-1-101, 77-1-801, 77-1-802, 77-1-804, 77-1-805, 77-1-806, MCA

36.25.146 GENERAL RECREATIONAL USE OF STATE LANDS: LICENSE REQUIREMENT

Authorizing statute(s): 77-1-106, 77-1-209, 77-1-802, 77-1-804, MCA

Implementing statute(s): 77-1-106, 77-1-801, 77-1-802, 77-1-804, 77-6-210, MCA

36.25.149 GENERAL RECREATIONAL USE OF STATE LANDS: RESTRICTIONS

Authorizing statute(s): 77-1-209, 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

36.25.150 GENERAL RECREATIONAL USE OF STATE LANDS: CATEGORICAL CLOSURES

Authorizing statute(s): 77-1-209, 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

36.25.152 GENERAL RECREATIONAL USE OF STATE LANDS: PROCEDURE FOR SITE SPECIFIC CLOSURES

Authorizing statute(s): 77-1-209, 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

36.25.153 MANAGEMENT CLOSURES AND RESTRICTIONS

Authorizing statute(s): 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

36.25.154 RECREATIONAL USE ADVISORY COUNCIL

Authorizing statute(s): 77-1-804, MCA

Implementing statute(s): 77-1-804 and 2-15-122, MCA

36.25.155 GENERAL RECREATIONAL USE OF STATE LANDS: NOTICE TO LESSEES OF ALL USES OTHER THAN HORSE USE NOT FOR THE PURPOSE OF LICENSED HUNTING, DISCHARGE OF FIREARMS NOT FOR THE PURPOSE OF LICENSED HUNTING, AND OVERNIGHT USE

Authorizing statute(s): 77-1-209, 77-1-804, and 77-1-806, MCA

Implementing statute(s): 77-1-804 and 77-1-806, MCA

36.25.156 GENERAL RECREATIONAL USE OF STATE LANDS: NOTICE TO LESSEES OF OVERNIGHT USE, HORSEBACK USE FOR ANY PURPOSE OTHER THAN LICENSED HUNTING, AND FOR DISCHARGE OF A FIREARM FOR ANY PURPOSE OTHER THAN LICENSED HUNTING

Authorizing statute(s): 77-1-804, 77-1-806, MCA

Implementing statute(s): 77-1-804 and 77-1-806, MCA

36.25.157 GENERAL RECREATIONAL USE OF STATE LANDS: PENALTIES

Authorizing statute(s): 77-1-209, 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

36.25.161 GENERAL RECREATIONAL USE OF STATE LANDS: OTHER PROVISIONS

Authorizing statute(s): 77-1-209 and 77-1-804, MCA

Implementing statute(s): 77-1-804 and 77-1-806, MCA

36.25.162 SPECIAL RECREATIONAL USE OF STATE LANDS

Authorizing statute(s): 77-1-209 and 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

36.25.163 BLOCK MANAGEMENT AREAS: GENERAL RULES FOR INCLUSION OF STATE LAND

Authorizing statute(s): 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

36.25.164 BLOCK MANAGEMENT AREAS: PROCEDURES FOR INCLUSION OF STATE LAND

Authorizing statute(s): 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

36.25.165 BLOCK MANAGEMENT AREAS: CRITERIA FOR INCLUSION OF STATE LAND

Authorizing statute(s): 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

36.25.166 BLOCK MANAGEMENT AREAS: TERMS OF AGREEMENT

Authorizing statute(s): 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

36.25.167 BLOCK MANAGEMENT AREAS: RENEWAL OF AGREEMENT

Authorizing statute(s): 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

Small Business Impact

With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

Bill Sponsor Notification

The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail and/or mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person or may be made by completing a request form at any rules hearing held by the department.

Rule Reviewer

Jason Kampman

Approval

Amanda Kaster, Director

PROPOSAL NOTICE



36.25.143 OVERVIEW OF RECREATIONAL USE RULES

- (1) ARM 36.25.146 through ARM 36.25.162 regulate the recreational use of state lands administered by the department of natural resources and conservation. These lands are commonly referred to as "trust lands" and appear in light blue on most land status maps.
- (2) Recreational use is divided into two categories as follows:
 - (a) General recreational use - This use is generally defined as any type of non-concentrated, non-commercial outdoor recreational activity except disturbance of archeological, historical, or paleontological sites (which is prohibited by the Montana Antiquities Act and subjects the violator to criminal penalties), wood gathering, tree cutting, commercial rock or mineral collecting, and trapping. This is more specifically defined in ARM 36.25.145(11). It requires purchase of a recreational use license. Detailed procedures and restrictions are contained in ARM 36.25.146 through ARM 36.25.161.
 - (b) Special recreational use - This use is defined in ARM 36.25.145 and requires a special recreational use license. These kinds of uses include commercial or concentrated use as defined in 77-1-101(5), MCA. Detailed provisions are contained in ARM 36.25.162.
- (3) The purpose of ARM 36.25.144 through ARM 36.25.162 is to provide reasonable recreational use of legally accessible state lands within the bona fide management constraints of state land lessees. These rules should be interpreted to accomplish this purpose.

Authorizing statute(s): 77-1-209, 77-1-804, and 77-1-806, MCA

Implementing statute(s): 77-1-801 through 77-1-810, MCA

History: NEW, 1992 MAR p. 568, Eff. 3/27/92; AMD, 1993 MAR p. 2536, Eff. 10/29/93; AMD, 1994 MAR p. 1844, Eff. 7/8/94; TRANS, 1996 MAR p. 2384.



ADMINISTRATIVE RULES OF MONTANA

36.25.144 ADMINISTRATION OF RECREATION ON STATE LANDS ADMINISTERED BY THE DEPARTMENT

- (1) Under Article X, section 4 of the Montana Constitution, the board of land commissioners has the duty and authority to manage state trust lands under regulations provided in law. Under 77-1-301, MCA, the department of natural resources and conservation manages state lands under the direction of the board. Section 77-1-203(3), MCA, opens state lands administered by the board to general recreational use subject to legal access and to closures and restrictions.
- (2) Lands owned by the state that are not subject to ARM 36.25.143 through ARM 36.25.162 are:
 - (a) lands owned by the department of fish, wildlife and parks, including:
 - (i) those portions of game ranges and wildlife management areas that are owned by the department of fish, wildlife and parks;
 - (ii) state parks;
 - (iii) fishing access sites; and
 - (iv) lands leased by the department of fish, wildlife and parks to private individuals as cabinsites;
 - (b) lands subject to lease, license, or easement from the department to the department of fish, wildlife and parks or a city, county, or consolidated city-county government for the following purposes:
 - (i) public parks, and
 - (ii) fishing access sites;
 - (c) the surface, beds and banks of rivers, streams, and lakes that are open to the general public for recreational purposes under the stream access law;
 - (d) highways and highway rights-of-way, except that the prohibition against open fires in ARM 36.25.149(1) (d) applies where a highway crosses state lands administered by the department;
 - (e) lands administered by the department of corrections;
 - (f) campus grounds, experiment station grounds, and other lands owned by the university system;
 - (g) department of natural resources and conservation administrative sites;

- (h) lands in which the department of natural resources and conservation does not own the surface, including lands where the department owns the mineral estate only and private lands over which the department has acquired an easement; and
 - (i) other lands owned by any other state agency.
- (3) The main office of the department of natural resources and conservation is located in Helena. To administer its field functions, the department has divided the state into 6 geographic "areas," each administered by an "area land office," the head of which is the "area manager." Areas are further divided into units, each administered by a "unit office." A listing of those offices is:

Area

Office Location

Central Area

Central Land Office

Helena

Helena Unit Office

Helena

Bozeman Unit Office

Bozeman

Conrad Unit Office

Conrad

Dillon Unit Office

Dillon

Eastern Area

Eastern Land Office

Miles City

Northeastern Area

Northeastern Land Office

Lewistown

Glasgow Unit Office

Glasgow

Lewistown Unit Office

Lewistown

Northwestern Area

Northwestern Land Office

Kalispell

Kalispell Unit Office

Kalispell

Libby Unit Office

Libby

Plains Unit Office

Plains

Stillwater Unit Office

Olney

Swan River Unit Office

Swan Lake

Southern Area

Southern Land Office

Billings

Southwestern Area

Southwestern Land Office

Missoula

Missoula Unit Office

Missoula

Hamilton Unit Office

Hamilton

Clearwater Unit Office

Greenough

Anaconda Unit Office

Anaconda

- (4) Whenever in ARM 36.25.143 through ARM 36.25.162, the submission of a document, such as a petition, is required to be filed at an area or unit office, the document must be submitted to the area or unit office listed above that administers the state land to which the document pertains. Persons may contact any department office to determine the appropriate office for any tract of land.
- (5) Whenever in ARM 36.25.143 through ARM 36.25.162, a formal or informal hearing is required to be held in an "area," the term "area" refers to the department area in which the land to which the hearing pertains is located. The hearing may be held, at the department's discretion, at any location within that area.

Authorizing statute(s): 77-1-209, 77-1-804, and 77-1-806, MCA

Implementing statute(s): 77-1-801 through 77-1-810, MCA

History: NEW, 1992 MAR p. 568, Eff. 3/27/92; AMD, 1994 MAR p. 1844, Eff. 7/8/94; TRANS, 1996 MAR p. 2384.



ADMINISTRATIVE RULES OF MONTANA

36.25.145 DEFINITIONS

Wherever used in ARM 36.25.143 through ARM 36.25.162, unless a different meaning clearly appears from the context:

- (1) "Affidavit" means a signed statement, the truth of which has been sworn to or affirmed before a notary public, as evidenced by the signature and seal of the notary public.
- (2) "Board" means the board of land commissioners provided for in Article X, section 4 of the Montana Constitution.
- (3) "Closure" means prohibition of all general recreational use.
- (4) "Customary access point" means, with regard to state land, each outer gate and each normal point of access to the land, including both sides of a water body crossing the property wherever the water body intersects an outer boundary line.
- (5) "Dedicated county road" means a county road that has been created by means of donation of a landowner and acceptance by a county under statutory or common law dedication procedures.
- (6) "Dedicated public road" means a road useable by the public under state or federal law. The term includes dedicated county roads.
- (7) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 32, MCA.
- (8) "Director" means the director of the Department of Natural Resources and Conservation. The director is the chief administrative officer of the department.
- (9) "Drop box" means a receptacle in which a person making general recreational use of state lands may leave notice required pursuant to ARM 36.25.155 or ARM 36.25.156.
- (10) "Emergency" means, for the purposes of ARM 36.25.152, a situation that:
 - (a) creates an imminent threat to personal safety or of significant property damage or significant environmental harm;
 - (b) would be substantially lessened or alleviated by closure to general recreational access of a state tract; and
 - (c) requires closure more expeditiously than could be implemented through the normal closure procedure.
- (11) "General recreational use" means non-concentrated, non-commercial recreational activity, except:

- (a) collection, disturbance, alteration, or removal of archeological, historical, or paleontological sites or specimens (e.g., fossils, dinosaur bones, arrowheads, old buildings, including siding) (which requires an antiquities permit pursuant to 22-3-432, MCA);
 - (b) mineral exploration, development, or mining (which requires a lease or license pursuant to Title 77, chapter 3, MCA);
 - (c) collection of valuable rocks or minerals (which requires a lease or license pursuant to Title 77, chapter 3, MCA);
 - (d) cutting or gathering of standing or downed trees (for which the department conducts sales pursuant to Title 77, chapter 5, MCA, and issues licenses pursuant to ARM 36.25.136); and
 - (e) trapping.
- (12) "Growing crop" means a crop, as defined below, between the time of planting and harvest. "Crop" means such products of the soil as are planted and intended for harvest, including but not limited to cereals and vegetables and including grass and alfalfa that are intended for harvest for hay or seed production. The term does not include grass used for pasturage or trees.
- (13) "Lease" means a lease or land use license, other than a recreational use or special recreational use license, issued by the department for use of the surface of the land. The term does not include a mineral lease unless it is preceded by the word "mineral."
- (14) "Lessee" means a person who holds a lease as that term is defined in (13).
- (15) "Legally accessible state lands" means state lands that can be accessed by dedicated public road, public right-of-way, or public easement; by public waters such as lakes, rivers, and streams that are recreationally navigable under 23-2-302, MCA; by adjacent federal, state, county, or municipal land if the land is open to public use; or by adjacent private land if permission to cross the land has been secured from the landowner. Accessibility by aircraft does not render lands legally accessible under this definition. The granting of permission by a private landowner to cross private property in a particular instance does not subject the state land that is accessed to general recreational use by members of the public other than those granted permission.
- (16) "Livestock" means cattle, sheep, swine, goats, privately owned bison and elk, horses, llamas, mules, donkeys, and other animals used for the protection of these animals.
- (17) "Motorized vehicle" means a vehicle propelled by motor power, including, but not limited to, an automobile, truck, motorcycle, moped, and an all terrain vehicle but excluding a snowmobile.
- (18) "Recreational use license" means the license issued pursuant to ARM 36.25.146 that authorizes a person to engage in general recreational use as defined in (11).
- (19) "Recreational use advisory council" means the advisory council created pursuant to ARM 36.25.154.
- (20) "Restriction" means a limitation on the manner in which recreational use may be conducted.
- (21) "Special recreational use" means:
- (a) commercial recreational activities, such as outfitting, in which a private person, corporation, group, or other entity charges a fee or obtains other consideration;
 - (b) non-commercial recreational activities conducted by an organization, such as a lodge, business, church, union, or club; and

- (c) overnight recreational use on leased or licensed lands by one or more persons outside a designated campground and more than 200 feet from a customary and legal access point or water body.
- (22) "Trust land administration account" means the account established by 77-1-108, MCA, from which expenses of the recreational use program are paid.

Authorizing statute(s): 77-1-209, 77-1-804, 77-1-806, MCA

Implementing statute(s): 77-1-101, 77-1-801, 77-1-802, 77-1-804, 77-1-805, 77-1-806, MCA

History: NEW, 1992 MAR p. 568, Eff. 3/27/92; AMD, 1993 MAR p. 2536, Eff. 10/29/93; AMD, 1994 MAR p. 2539, Eff. 7/8/94; TRANS, 1996 MAR p. 2384; AMD, 2025 MAR, 36-225, Eff. 2/8/25.



ADMINISTRATIVE RULES OF MONTANA

36.25.146 GENERAL RECREATIONAL USE OF STATE LANDS: LICENSE REQUIREMENT

- (1) Subject to restrictions imposed pursuant to ARM 36.25.149 and 36.25.153 and closures imposed pursuant to ARM 36.25.150, 36.25.152, and 36.25.153, state lands administered by the department, except those lands described in ARM 36.25.144, are open to general recreational use.
- (2) A recreational use license is required by any person 12 years of age or older for general recreational use on state lands administered by the department or on private lands that have been opened to the public pursuant to an exchange under ARM 36.25.152.
 - (a) If the department and the Department of Fish, Wildlife and Parks consent to and sign an agreement for general recreational use pursuant to 77-1-815, MCA, a conservation license is required for general recreational use of legally accessible trust land.
 - (b) If the department and the Department of Fish, Wildlife and Parks do not have an agreement for general recreational use pursuant to 77-1-815, MCA, a state lands recreational use license is required for general recreational use of legally accessible trust land.
- (3) A state lands recreational use license is issued for a 12-month period beginning on March 1 of each year and expiring on the last day of February of the next year. The cost is \$5 for persons 17 years of age or younger or 60 years of age or older. The cost of the license for persons who are older than 17 and younger than 60 is \$10. Family members living within the same household may obtain recreational use licenses by paying a family fee of \$20. The license is personal and non-transferable. It may be purchased at any authorized license agent of the Department of Fish, Wildlife and Parks. Any person may purchase a recreational use license for a spouse, parent, child, brother, or sister.
- (4) A person who uses state lands for general recreational use shall abide by the restrictions imposed pursuant to ARM 36.25.149 and may not use for general recreational purposes state lands that have been closed pursuant to ARM 36.25.150, 36.25.152, or 36.25.153.
- (5) No lessee or other person may interfere with a person who is making lawful general recreational use of state lands in accordance with this rule. The lessee may, without such interference, make inquiry concerning the status of those using state lands.
- (6) Under 77-1-801(2) and (3), MCA, a person who is engaging in general recreational use on state land, or on private land that has been opened pursuant to an exchange under ARM 36.25.152, must, upon request of a fish and game warden or department employee, present for inspection his or her recreational use license.

Implementing statute(s): 77-1-106, 77-1-801, 77-1-802, 77-1-804, 77-6-210, MCA

History: NEW, 1992 MAR p. 568, Eff. 3/28/92; AMD, 1994 MAR p. 2539, Eff. 9/9/94; AMD, 1995 MAR p. 1047, Eff. 6/16/95; TRANS, 1996 MAR p. 2384; AMD, 1997 MAR p. 315, Eff. 2/11/97; AMD, 2025 MAR, 36-225, Eff. 2/8/25.

ORIGINAL RULES



ADMINISTRATIVE RULES OF MONTANA

36.25.149 GENERAL RECREATIONAL USE OF STATE LANDS: RESTRICTIONS

- (1) The following restrictions apply to persons engaging in general recreational use of state lands except for general recreational use subject to block management restrictions pursuant to ARM 36.25.163:
 - (a)
 - (i) Except as provided in (ii) and (iii), motorized vehicle use on state lands by recreationists is restricted to federal roads, state roads, dedicated county roads, other county roads that are regularly maintained by the county and those roads on state lands that are designated by the department as open for motor vehicle use.
 - (ii) A person who has in his or her possession a "permit to hunt from vehicle" issued by the Department of Fish, Wildlife and Parks is authorized to drive on any road except a road that is closed by the department by sign or barrier.
 - (iii) A recreationist may park on state land within 50 feet of a customary access point; on federal roads and highways, state highways, and county roads in accordance with applicable traffic laws and regulations; and within 50 feet of any other road designated by the department for public access across the state land. The recreationist may not park so as to block vehicle access to the tract. Parking of vehicles must be accomplished in a manner that does not produce injury to the land or the lessee's improvements.
 - (b) Snowmobile use on the roads referenced in (1)(a)(i) is allowed only if permitted by applicable traffic laws and regulations. Snowmobile use on leased land is restricted to those department roads that have been designated as open to motorized vehicle use. Snowmobile use on unleased land is allowed except in areas where it is prohibited by the department.
 - (c) A recreationist shall use firearms in a careful and prudent manner. A recreationist may not negligently, as defined in 45-2-101(37), MCA, discharge a firearm on state lands or discharge a firearm within 1/4 mile of an inhabited dwelling or of an outbuilding in close proximity to an inhabited dwelling without permission of an inhabitant. Temporary absences of inhabitants do not render a dwelling uninhabited.
 - (d) Open fires on leased or licensed land are restricted to campgrounds designated by the department for public camping. No fireworks may be discharged on state land.
 - (e) Overnight recreational use on leased or licensed land must take place within 200 feet of a legal and customary access point or water body that is navigable for recreational purposes under 23-2-302, MCA. The person may not drive or park a vehicle more than 50 feet from

the access point. A recreationist's overnight use of state lands must not exceed the following time limits:

- (i) for any site on leased or licensed land outside a designated campground - 2 consecutive days;
 - (ii) for a designated campground - 16 days in a 30-day period;
 - (iii) for unleased, unlicensed lands outside a campground - 16 days in a 30-day period, unless permission for a longer period is obtained from the department.
- (f) A recreationist may keep horses on state land overnight, subject to the following restrictions:
- (i) horses may not remain in a stream riparian zone for more than one hour;
 - (ii) only certified noxious weed seed free forage may be brought onto state land; and
 - (iii) horses must be restrained in a manner that minimizes impacts to vegetation.
- (g) A recreationist shall keep pets on a leash or otherwise in control. A recreationist may not allow the pet to harass livestock or wildlife.
- (h) A recreationist may not interfere with legitimate activities of the lessees or their agents conducted pursuant to the lease. For example, the discharge of firearms that would interfere with the authorized use of a tract for livestock operations is prohibited.
- (i) For state lands included within a wildlife management or block management area administered by the Department of Fish, Wildlife and Parks, recreational use and activities must be conducted in accordance with rules, regulations, and procedures specific to that management area.
- (j) Littering on state lands is prohibited. Recreationists shall pack out their litter.
- (k) From March 1 to December 1, or for an extended period of time if posted on site, a recreationist must comply with ARM 12.12.109 (1)(a), (b), and (c) on state land:
- (i) located in any county west of the Continental Divide; or
 - (ii) in Glacier, Toole, Pondera, Teton, Lewis and Clark, Cascade, Jefferson, Broadwater, Meagher, Beaverhead, Madison, Gallatin, Park, Sweet Grass, Stillwater, Carbon, Liberty, Blaine, Hill, Chouteau, Fergus, Judith Basin, Wheatland, or Golden Valley Counties.
- (2) The department may, after notice to the lessee, impose additional site specific restrictions on general recreational use to protect public safety, property, or the environment.

Authorizing statute(s): 77-1-209, 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

History: NEW, 1992 MAR p. 568, Eff. 3/27/92; AMD, 1994 MAR p. 1844, Eff. 7/8/94; AMD, 1994 MAR p. 2002, Eff. 7/22/94; TRANS, 1996 MAR p. 2384; AMD, 2025 MAR, 36-225, Eff. 2/8/25.



ADMINISTRATIVE RULES OF MONTANA

36.25.150 GENERAL RECREATIONAL USE OF STATE LANDS: CATEGORICAL CLOSURES

- (1) Except as provided in (2), the following state lands are closed to general recreational use by the public:
 - (a) all lands leased for cabinsites or homesites;
 - (b) all lands on which growing crops, as defined in ARM 36.25.145, are located;
 - (c) military leases while military activities are taking place;
 - (d) active commercial leases; and
 - (e) lands on which the department has proclaimed the threat of wildfire to be extreme pursuant to ARM 36.10.119 or for which the governor has made such a proclamation pursuant to ARM 36.10.120.
- (2)
 - (a) Any person, corporation, organization or agency of local, state, or federal government may petition to exclude a specific tract from a categorical closure imposed pursuant to (1).
 - (b) The petition must be submitted in writing to the area or unit office, must be signed by the petitioner, and must contain the following information:
 - (i) name, mailing address, and telephone number of petitioner;
 - (ii) description of lands to which the petition applies by legal description, lease number, or description of the location;
 - (iii) the reason that the categorical closure should be terminated for that tract and supporting documentation; and
 - (iv) duration of period for which termination is sought.
 - (c) The department may summarily dismiss a petition with a brief statement of the reasons for dismissal whenever:
 - (i) the petition is unsupported by specific substantial factual allegations, data, or documentation; or
 - (ii) a petition requesting substantially the same exclusion has been denied within the preceding 365 days.
 - (d) To be considered during a particular calendar year, the petition must be submitted by April 1 of that year. Upon receipt of a valid petition, the department shall notify the lessee that a

petition has been filed and he or she may submit an objection or have an informal hearing, or both, on the petition at the area or unit office on or before May 1. The petitioner may also request an informal hearing.

- (e) If an informal hearing is requested, the department shall notify the petitioner and the lessee of the informal hearing and they may attend and participate. The informal hearing must be conducted by the area manager or his designee.
 - (f) The area manager or designee may conduct further investigation and shall, on or before July 1, make a written decision whether to grant the petition. The written decision must contain the reason for granting or denying the petition. Copies of the decision must be mailed to the petitioner and the lessee.
 - (g) The lessee or petitioner may appeal the decision to the director or his designee by filing a written notice of appeal with the area office within 15 days of receipt of the decision. The area office shall immediately forward the appeal to the department's main office in Helena. The appeal shall, in the discretion of the director, proceed by written argument, oral argument, or both at the main office of the department in Helena or other location designated by the director. The opposing party is entitled to notice of the appeal and the opportunity to respond, including the right to appear at any appellate hearing. Neither party may submit evidence or information that was not submitted at the informal hearing. The director or his designee shall issue a written decision affirming, reversing, or modifying the decision on or before September 1.
- (3) Except for closure for fire danger pursuant to (1) (e), the lessee or department shall post categorically closed lands at all customary access points with signs provided by the department or duplicated from signs provided by the department.

Authorizing statute(s): 77-1-209, 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

History: NEW, 1992 MAR p. 568, Eff. 3/27/92; AMD, 1994 MAR p. 1844, Eff. 7/8/94; TRANS, 1996 MAR p. 2384; AMD, 2025 MAR, 36-225, Eff. 2/8/25.



ADMINISTRATIVE RULES OF MONTANA

36.25.152 GENERAL RECREATIONAL USE OF STATE LANDS: PROCEDURE FOR SITE SPECIFIC CLOSURES

- (1) The department may close specific tracts of state land pursuant to this rule for any of the following reasons:
 - (a) damage attributable to recreational use diminishes the income generating potential of the state lands;
 - (b) damage to surface improvements of lessee or mineral lessee;
 - (c) the presence of threatened, endangered, or sensitive species or plant communities;
 - (d) the presence of unique or special natural or cultural features;
 - (e) wildlife protection;
 - (f) noxious weed control;
 - (g) the presence of buildings, structures, or facilities;
 - (h) protection of public safety;
 - (i) prevention of significant environmental impact;
 - (j) disruption of calving, lambing, or shipping activities or substantial disruption of livestock use;
 - (k) an imminent threat, caused by potential substantial public use, of immediate, irreparable property damage or bodily injury on the state tract or adjacent land; or
 - (l) comparable public general recreational use has been made available pursuant to (13).
- (2) Closures made pursuant to (1) may be of a seasonal, temporary, or permanent nature.
- (3)
 - (a) Any person, corporation, organization, or agency of local, state, or federal government may petition to close a specific tract of land for any reason listed in (1).
 - (b) The petition must be submitted to the area or unit office in which the state land is located and must be in writing. To be considered during a calendar year, the petition must be submitted by April 1 of that year, be signed by the petitioner, and must contain the following information:
 - (i) name, mailing address, and telephone number of petitioner;
 - (ii) description of lands to which the petition applies by legal description, lease number, or other description of the location;

- (iii) the reason that the land should be closed and supporting documentation; and
 - (iv) period for which closure is sought.
 - (c) The department may summarily dismiss a petition with a brief statement of the reason for the dismissal if:
 - (i) the petition is not based on a reason for closure listed in (1);
 - (ii) the petition is not supported by specific factual allegations, data, or documentation; or
 - (iii) a petition requesting essentially the same closure has been rejected in the past 365 days unless changed conditions are alleged and documented.
 - (d) The department may also initiate a closure proceeding by preparing on or before April 1, a written statement containing the information described in (b)(ii), (iii), and (iv). The department shall follow the procedures contained in (4) through (9).
- (4) The department shall by May 1 post public notice of the petition or statement at the county courthouse and the area and unit offices and by making a list of all petitions and statements filed statewide available at the department's main office in Helena.
 - (5) The public notice must give the public an opportunity to object to the petition or statement and the objector and the petitioner an opportunity to request, on or before May 20, a public hearing on the closure. The objection must be submitted to the office in the area or unit in which the land is located. The objection must contain the reasons why the petition should not be granted and supporting documentation. The objection may not be considered if it does not. If a hearing is requested, the department shall hold the hearing in the area of the proposed closure.
 - (6) Notice of hearing must be sent to the petitioner and the lessee. In addition, public notice must be given on or before June 5 in the same manner as provided in (4). The notice must contain the name of the petitioner, location of the land, reason for proposed closure and reasons that the hearing has been requested.
 - (7) The hearing must be held in the area of the proposed closure and be an open public hearing at which any interested party may give comments and submit information. The hearing must be held before June 20.
 - (8) The department may conduct further investigation and shall prepare a written decision to grant, grant with modifications, or deny the petition, stating its reasons for the decision. On or before July 1, it shall send a copy of the decision to the petitioner and any person who filed objections pursuant to (5).
 - (9) The objector or petitioner may appeal the decision to the director or his designee by filing a written appeal with the area office within 15 days of receipt of the decision. The department shall give the opposing party notice of the appeal and the opportunity to respond, including the right to appeal at any appellate hearing. The appeal shall, in the discretion of the director, proceed by written argument, oral argument, or both, at the main office of the department in Helena or other location designated by the director. No party may submit evidence or information that was not submitted at the hearing. The director shall convene the recreational use advisory council and request it to recommend a decision on the appeal. The director or his designee shall, after receiving the recommendation of the council, issue a written decision affirming, reversing, or modifying the decision. The director's decision must be made on or before September 1. If the

advisory counsel does not make a recommendation on or before August 25, the director need not consider its recommendation in making his decision.

- (10) If the petition is granted, the lessee or department shall post the closed lands at all customary access points with signs provided by the department or duplicated from signs provided by the department. For temporary closures, the lessee shall remove closure signs at the end of the closure period.
- (11) In an emergency, as defined in ARM 36.25.145, any person or entity that is qualified to file a petition pursuant to (3)(a) may request an emergency closure by filing a written request with the area office or by making a telephone call and filing a written request within 24 hours. When possible, the area manager or his designee shall notify and consult with the lessee. The area manager or his designee shall grant or deny the petition as soon as possible, but in no case in more than 5 days. If the petition is granted, the closure must be for a specific period of time and may be extended for additional periods. The area manager or his designee shall terminate the closure as soon as the emergency ceases. Upon request of any person, the director or his designee shall review any emergency closure in effect for more than 5 days and shall approve, modify, or terminate the closure in writing.
- (12) The department may also, on its own initiative, after consulting or attempting to consult with the lessee, close a tract of state land in an emergency.
- (13)
 - (a) The department may, after notice pursuant to (5) and opportunity for hearing and appeal pursuant to (5), (7), or (9), enter into an agreement with a landowner whereby a tract of state land is closed under the procedures in (3) through (9) in exchange for the landowner's agreement to open private land to general recreational use if the private land:
 - (i) is in the same general area;
 - (ii) is of equal or greater recreational value to the state tract;
 - (iii) has equal or greater public access as the state tract; and
 - (iv) is not generally available for general recreational use upon request by the public.
 - (b) Before a state tract is closed pursuant to this rule, the private landowner shall enter into an agreement with the department whereby the landowner agrees to:
 - (i) allow general recreational use on the tract under restrictions no more stringent than those contained in ARM 36.25.149 and 36.25.155;
 - (ii) post signs meeting design and content specifications of the department at customary access points on the state tract. These signs must notify the public of the closure and give directions to the private tract;
 - (iii) post signs on the private tract at customary access points advising the public that the tract is open for general recreational use by the public subject to the recreational use license requirement;
 - (iv) mark or otherwise inform the recreationist of the boundaries of the area;

- (v) allow employees of the department and department of fish, wildlife and parks access to the private property;
 - (vi) not claim funds pursuant to ARM 36.25.158 or 36.25.159;
 - (vii) hold and save the department and the state of Montana harmless from all claims for property damage or personal injury resulting from the acts or omissions of the landowner; and
 - (viii) other requirements deemed necessary by the department.
- (c) An agreement made pursuant to (b) must be cancelable by either party upon 60-day written notice.
- (14) The department shall periodically review each closure made pursuant to this rule to determine whether the closure is still necessary. This review must occur at least at expiration or renewal of the lease for leased tracts and at least every 10 years for unleased tracts. After public notice, notice to the lessee, and an opportunity for public comment and hearing, the department may terminate a closure it determines to no longer be necessary.

Authorizing statute(s): 77-1-209, 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

History: NEW, 1992 MAR p. 568, Eff. 3/27/92; AMD, 1994 MAR p. 1844, Eff. 7/8/94; TRANS, 1996 MAR p. 2384; AMD, 2025 MAR, 36-225, Eff. 2/8/25.



ADMINISTRATIVE RULES OF MONTANA

36.25.153 MANAGEMENT CLOSURES AND RESTRICTIONS

- (1) Except as provided in (5), affected leased or licensed state land is closed to recreational use or subject to recreational use restrictions if the lessee complies with (2) and one of the following situations exists:
 - (a) Livestock is present or concentrated for purposes of calving, lambing, specialized or intensive breeding practices, or supplemental winter feeding.
 - (b) Livestock is concentrated for the purpose of weaning or shipping. If fewer than 200 animal units per section are concentrated, the closure or restriction may be imposed for no more than five days.
 - (c) Livestock is being gathered or moved.
 - (d) Weed control treatment is occurring or has recently occurred.
 - (e) The land is being irrigated; provided, however, that land may not be closed to foot traffic during a hunting season under this provision.
 - (f) The use would occur in close proximity to dwellings, structures, or facilities in use by the lessee; provided however, that ingress and egress to state land may not be prohibited under this provision.
- (2) Closures and restrictions do not become effective until the lessee:
 - (a) notifies the appropriate area office that one of the situations described in (1) exists, and the area upon which it exists, the terms of the closure or restriction, and the duration of the closure or restriction. The closure or restriction is not effective until 24 hours after notice is given. Notice may be given in person, by mail, or by telephone;
 - (b) posts the state land near all customary and legal access points with signs that are provided by the department or duplicated from signs provided by the department. The sign must provide the lessee's name, address, telephone number, the closure or restriction imposed, the reason for the closure or restriction, the area to which it applies, and dates and the duration.
- (3) Any person may object to a notice of management closure made pursuant to (1) on grounds that no basis for closure or restriction exists, that the area of closure or restriction in the notice is larger than necessary, or that the closure or restriction notice specifies a period that is longer than necessary. The objector shall notify the appropriate area office of the objection and the reason for it. The area manager or designee shall investigate the objection and within 2 working days of receipt of the objection shall determine whether the closure or restriction complies with this rule. An area manager may also conduct an investigation without receiving an objection. If he

determines that the closure or restriction should be modified or terminated, he shall notify the lessee or his agent in writing. The lessee or agent shall immediately modify or terminate the closure or restriction to comply with the area office decision. Failure to comply with the area office directive subjects the violator to a civil penalty pursuant to ARM 36.25.157. If the investigation resulted from an objection, the area office shall also give written notice to the objector. The objector or the lessee may appeal the area office decision to the director by filing a written appeal with the area office within 5 working days of receipt of the notice. The area office shall forward the appeal to the director. The director shall convene the recreational use advisory council and, upon receipt of a recommendation of the council issue a written determination of the issue. The director's decision is binding on the parties. If the director's decision is to terminate or modify the closure or restriction, the lessee shall immediately remove or modify the closure or restriction signs. Failure to comply with the director's decision subjects the violator to civil penalty pursuant to ARM 36.25.157.

- (4) The department shall maintain, by county, a master list of management closures and restrictions. The list must include the tract description, name, address, and phone number of the lessee, and the reason and period of closure or restriction. The list shall be available to the public by inspection or telephone inquiry at the department's main office in Helena, or by mail upon payment of \$1.00 plus 15¢ for each page over 5 pages.
- (5) General recreational use conducted in conjunction with a special recreational use license applied for prior to July 1, 1994, is exempt from closures or restrictions imposed pursuant to this rule.

Authorizing statute(s): 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

History: NEW, 1994 MAR p. 1844, Eff. 7/8/94; TRANS, 1996 MAR p. 2384.



ADMINISTRATIVE RULES OF MONTANA

36.25.154 RECREATIONAL USE ADVISORY COUNCIL

- (1) The board shall, pursuant to 2-15-122, MCA, appoint from a list of persons nominated by recreationist and lessee groups a recreational use advisory council consisting of 3 recreationists and 3 lessees. The members shall serve without compensation, but they are entitled to reimbursement for travel expenses pursuant to 2-15-122, MCA.
- (2) The advisory council shall gather information and advise the director on the validity of management closure or restriction appeals made pursuant to ARM 36.25.153, on appeals of area manager decisions regarding site-specific closure petitions pursuant to ARM 36.25.152, and on whether to subject renewal of a block management agreement pursuant to ARM 36.25.167 to public review. In advising the director, the council shall attempt to provide reasonable recreational use of state lands within the bona fide management constraints of lessees.
- (3) The following are general guidelines for the council's use in determining whether the term of a management closure or restriction is reasonable: for calving or lambing, 60 days; for breeding, 30 days; for gathering or moving, 1 day; for weed treatment, 5 days; and for concentration of 200 or more animal units per section for weaning and shipping, 30 days. The council may deviate from these guidelines as management circumstances dictate.

Authorizing statute(s): 77-1-804, MCA

Implementing statute(s): 77-1-804 and 2-15-122, MCA

History: NEW, 1994 MAR p. 1844, Eff. 7/8/94; AMD, 1994 MAR p. 2002, Eff. 7/22/94; TRANS, 1996 MAR p. 2384.



ADMINISTRATIVE RULES OF MONTANA

36.25.155 GENERAL RECREATIONAL USE OF STATE LANDS: NOTICE TO LESSEES OF ALL USES OTHER THAN HORSE USE NOT FOR THE PURPOSE OF LICENSED HUNTING, DISCHARGE OF FIREARMS NOT FOR THE PURPOSE OF LICENSED HUNTING, AND OVERNIGHT USE

- (1) If a lessee wishes to be notified prior to anyone entering upon the leasehold for general recreational use other than discharge of firearms for any purpose other than licensed hunting, horse use for any purpose other than licensed hunting, or overnight use, the lessee shall post, at all customary access points, signs that are provided by the department or that are duplicated from signs provided by the department. The lessee must include on the sign the following information:
 - (a) name of the lessee or lessee's agent who must be notified;
 - (b) telephone number of the lessee or lessee's agent;
 - (c) clear directions to the location at which the lessee or the lessee's agent may be contacted; and
 - (d) clear directions to the location of the closest drop box. If the lessee does not wish to be notified in person or by telephone, the sign must so indicate and need not contain the information required in (b) and (c). The information must be legible and legibility must be maintained.
- (2) A lessee who posts land pursuant to (1) shall provide a clearly identified drop box for each single tract at a customary access point to the tract, except that a lessee of 2 or more contiguous tracts may provide 1 drop box for those tracts to which the access point provides convenient access. In cases in which a customary access point cannot be easily identified or a question of the convenience of an access point is raised by the public, the area manager shall make a determination and the lessee shall install drop boxes in accordance with that determination.
- (3) If the lessee or agent wishes to be notified in person or by telephone, the lessee or his or her agent shall be available to receive notice from recreational users by telephone or in person from the hours of 7:00 a.m. until 9:00 p.m. A person wishing to make general recreational use of state lands posted pursuant to (1) shall contact the lessee or lessee's agent in person or by telephone during those hours if the recreationist's access point to the state land is 5 miles or less by the shortest road from the nearest public telephone or the location at which the lessee or lessee's agent is available unless the lessee or lessee's agent is not available. The recreationist may determine which method of contact to employ. If the recreationist contacts the lessee or agent in person or by telephone, the recreationist shall, upon request, provide his or her name, address, and recreational use license number, the name and recreational use license numbers of all recreationists in his or her party, and the dates of use. Notice is considered to have occurred if the recreationist is answered by a telephone answering machine and the recreationist leaves his or her name, address, and recreation use license number and the same information for each member

of his or her party. Notice authorizes the recreationist to engage in general recreational use for 3 consecutive days, or any longer period specified by the lessee, without further notice. In addition, no further notice is required as long as the recreationist is engaged in continuous general recreational use that includes the state land and that makes further notice impossible or extremely impractical, such as a back country hunting or fishing trip. If the recreationist attempts to contact the lessee by telephone or in person but the lessee or agent is not available, or if the shortest road distance from the recreationist's access point to the nearest public telephone or the location at which the lessee or lessee's agent is available is greater than 5 miles, the recreationist shall leave a notice in the drop box provided pursuant to (2) . Notice by drop box is effective for 3 consecutive days or until the end of any continuous general recreational use that includes the state land and that makes additional notice impossible or extremely impractical.

- (4) If the lessee wishes to be notified by drop box only, the recreationist shall leave notice in the drop box provided pursuant to (2) . The notice must provide the recreationist's name, address, and recreational use license number and the names, addresses, and recreational use license numbers of each person in his or her party, and the dates of use. The recreationist is responsible for providing paper and pencil or pen to prepare the notice. Notice by drop box is effective for 3 consecutive days or until the end of any continuous general recreational use that includes the state land and that makes additional notice impossible or extremely impractical, such as a back country hunting or fishing trip.
- (5) The department shall, after notice and opportunity for informal hearing at the main office of the department in Helena, revoke the general recreational use license of any person who violates (3) or (4) . In addition, the department may prohibit the person from obtaining a recreational use license for a period not exceeding 2 years from the effective date of the revoked license.

Authorizing statute(s): 77-1-209, 77-1-804, and 77-1-806, MCA

Implementing statute(s): 77-1-804 and 77-1-806, MCA

History: NEW, 1992 MAR p. 568, Eff. 3/27/92; AMD, 1994 MAR p. 1844, Eff. 7/8/94; TRANS, 1996 MAR p. 2384.



ADMINISTRATIVE RULES OF MONTANA

36.25.156 GENERAL RECREATIONAL USE OF STATE LANDS: NOTICE TO LESSEES OF OVERNIGHT USE, HORSEBACK USE FOR ANY PURPOSE OTHER THAN LICENSED HUNTING, AND FOR DISCHARGE OF A FIREARM FOR ANY PURPOSE OTHER THAN LICENSED HUNTING

- (1) If a lessee wishes to be notified prior to a recreationist entering upon the leasehold for overnight use not in conjunction with floating, horseback use for any purpose other than licensed hunting, or for discharge of a firearm for any purpose other than licensed hunting, the lessee shall post, at all customary access points, signs that are provided by the department or duplicated from signs provided by the department. The lessee must include on the sign the following information:
 - (a) the name of the lessee or lessee's agent who must be notified;
 - (b) the telephone number of the person designated pursuant to (a) ; and
 - (c) clear directions to the residence of the person designated pursuant to (a) .
- (2) If a lessee wishes to be notified prior to a recreationist entering upon the leasehold for overnight use in conjunction with floating of a river or stream, the lessee shall post, at the customary access points, signs that are provided by the department or that are duplicated from signs provided by the department. The lessee must include on the signs the following information:
 - (a) the name, address, and telephone number of the lessee or lessee's agent;
 - (b) clear directions to the residence of the person designated pursuant to (a) , if the residence is within 500 yards of the customary access point; and
 - (c) directions to the location of the nearest drop box.
- (3) A lessee who posts land pursuant to (1) or (2) shall provide a clearly identified drop box:
 - (a) for posting pursuant to (1) , at the residence of the person designated for notice pursuant to (1) (a) ; or
 - (b) for posting pursuant to (2) :
 - (i) at the residence of the person designated for notice pursuant to (2) (a) , if the residence is within 500 yards of the customary access point; or
 - (ii) if the residence is not within 500 yards of the customary access point, at the point that is closest to the access point and reasonably accessible to floaters. A lessee of 2 or more contiguous state tracts along a stream may, if the lessee wishes, provide drop boxes for those tracts at the outer upstream and downstream boundaries only.
- (4) If the person designated pursuant to (1) (a) wishes to be notified in person or by telephone, that person shall be available to receive notice by telephone or in person from the hours of 7:00 a.m.

until 9:00 p.m. A person wishing to engage in overnight use not in conjunction with floating, horseback use for any purpose other than licensed hunting or discharge of a firearm for any purpose other than licensed hunting shall contact the person designated for notice pursuant to (1) (a) during those hours, unless the person is not available. A floater wishing to engage in overnight use shall contact a person designated for notice pursuant to (2) (a) between 7:00 a.m. and 9:00 p.m. unless the person is not available. The recreationist may determine which method of contact to employ. If the recreationist contacts the person in person or by telephone, the recreationist shall, upon request provide his or her name, address, recreational use license number, and the name and recreational use license number of each person in his or her party. Notice authorizes the recreationist to engage in firearm or horse use for 3 consecutive days, or any longer period specified by the lessee, without further notice. In addition, no further notice is required as long as the recreationist is engaged in continuous general recreational use that includes the state land and that makes further notice impossible or extremely impractical, such as a back country hunting or fishing trip. Notice authorizes overnight use for 2 consecutive days only.

- (5) If the recreationist attempts to contact the person designated for notice by telephone or in person but that person is not available, or if the recreationist is a floater who wishes to engage in overnight use and no person has been designated for personal or telephone notice pursuant to (2) (a) , the recreationist shall leave notice in the drop box provided pursuant to (3) . The notice must provide the recreationist's name, address, and recreational use license number, and the same information for each person in the party, and the dates of use. Notice by drop box is effective for firearm or horse use for 3 consecutive days or until the end of any continuous general recreational use that includes the state land and that makes additional notice impossible or extremely impractical. Notice by drop box is effective for overnight use for 2 consecutive days.
- (6) The department shall, after notice and opportunity for informal hearing at the main office of the department in Helena, revoke the general recreational use license of any person who violates (4) or (5) . In addition, the department may prohibit the person from obtaining a recreational use license for a period not exceeding 2 years from the effective date of the revoked license.

Authorizing statute(s): 77-1-804, 77-1-806, MCA

Implementing statute(s): 77-1-804 and 77-1-806, MCA

History: NEW, 1994 MAR p. 2539, Eff. 7/8/94; TRANS, 1996 MAR p. 2384.



ADMINISTRATIVE RULES OF MONTANA

36.25.157 GENERAL RECREATIONAL USE OF STATE LANDS: PENALTIES

- (1) Pursuant to 77-1-804(8), MCA, if the department and the Department of Fish, Wildlife and Parks consent to and sign an agreement for general recreational use as provided in 77-1-815, MCA, a person who violates a department rule that governs general recreational use is guilty of a misdemeanor.
- (2) The department may assess a civil penalty of up to \$1,000 per day for violations of a department rule that governs general or special recreational use. The department may waive the civil penalty for minor or technical violations and shall waive the civil penalty if a criminal penalty has been assessed for the violation.
 - (a) In determining the amount of civil penalty, the department shall consider the following factors:
 - (i) number of previous violations;
 - (ii) severity of the infraction; and
 - (iii) whether the violation was intentional or unintentional.
 - (b) A person against whom the department proposes to assess a civil penalty is entitled to a contested case hearing in accordance with the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, MCA, on the questions of whether a violation was committed and the amount of the penalty. The hearing must be conducted by a hearing officer appointed by the director. The department shall notify the individual of the violation, setting forth in the notice the specific facts which the department alleges to constitute the violation. The notice shall be served by certified mail or in person by a department employee, sheriff or deputy, fish and game warden, or registered process server. The notice must give the person at least 15 days to respond to the violation notice. Upon receipt of the response or expiration of the period allotted for response, the department shall either withdraw the notice of violation or provide its rationale for pursuing the violation and a proposed penalty. Service of the response and proposed penalty must be made in the same manner as the notice of violation. The person is entitled to a hearing on the existence of the violation, the amount of proposed penalty, or both, if he or she requests a hearing within 30 days of receipt of the department's response and proposed penalty. The request for hearing must set forth a statement of the reasons that the person is contesting assessment of the penalty.
 - (c) Upon conclusion of the hearing, the department shall, within 60 days, issue its findings of fact and conclusions of law and order dismissing the violation or assessing a penalty. If a civil penalty is assessed, the person shall pay the penalty within 30 days of receipt of the order or such additional time as is granted by the department.

- (d) The assessment of the civil penalty is appealable to district court pursuant to Title 2, chapter 4, part 7, MCA.

Authorizing statute(s): 77-1-209, 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

History: NEW, 1992 MAR p. 568, Eff. 3/27/92; AMD, 1994 MAR p. 1844, Eff. 7/8/94; AMD, 1994 MAR p. 2002, Eff. 7/22/94; TRANS, 1996 MAR p. 2384; AMD, 2025 MAR, 36-225, Eff. 2/8/25.

ORIGINAL RULES



36.25.161 GENERAL RECREATIONAL USE OF STATE LANDS: OTHER PROVISIONS

- (1) Nothing in ARM 36.25.143 through 36.25.162 authorizes a recreationist to enter private land to reach state lands or to enter private land from state lands. A recreationist may not enter private land from adjacent state lands, regardless of the absence of fencing or failure of the owner to provide notice, without permission of the landowner or his agent.
- (2) Under 77-1-806(2), MCA, entry onto private land from state land by a recreationist without permission of the landowner is a misdemeanor, whether or not the recreationist knows he or she is on private land.
- (3) Recreationists are responsible for determining whether state lands are legally accessible. The recreationist is encouraged to contact landowners to determine boundaries and to use accurate maps.
- (4) Before the department designates roads on state lands as open for public access pursuant to ARM 36.25.149, it shall mail notice of the proposed designation to the lessee.
- (5) Any person may petition the board to include within the definition of general recreational use any type of recreation other than hunting and fishing. The petition must be in writing, be signed, and include a statement of the reasons why the use petitioned for should be included subject to the general recreational use license. It must be filed with the director, who shall bring the petition before the board.

Authorizing statute(s): 77-1-209 and 77-1-804, MCA

Implementing statute(s): 77-1-804 and 77-1-806, MCA

History: NEW, 1992 MAR p. 568, Eff. 3/27/92; TRANS, 1996 MAR p. 23841.



36.25.162 SPECIAL RECREATIONAL USE OF STATE LANDS

- (1) No special recreational use of state lands may occur without first obtaining a special recreational use license from the department. This requirement applies whether or not any or all of the persons involved in the special recreational use have obtained general recreational use licenses pursuant to ARM 36.25.146.
- (2) To obtain a special recreational use license, a person must be at least 18 years of age or the head of a family and apply to the area or unit office on a form prescribed by the department. The applicant shall provide a description of or a map showing the area intended for use.
- (3) Before granting a special recreational use license, the department shall make a bona fide attempt to notify the lessee of the application.
- (4) To obtain a special recreational use license, a person must pay to the department the amount that the department determines to be the full market value of that use. A license granted pursuant to this rule may be subject to competitive bidding.
- (5) A license granted pursuant to this rule may be exclusive, except the department shall reserve the right to grant other licenses for different uses on the same land. Issuance of an exclusive license does not prohibit general recreational use of state lands that have not been closed pursuant to ARM 36.25.150 or ARM 36.25.152.
- (6) A license issued pursuant to this rule shall include provisions regulating motor vehicle use and requiring that only certified weed seed free hay be brought onto the state land. The license may include other restrictions on the activity.
- (7) The holder of a special recreational use license shall comply with all provisions of that license.
- (8) Pursuant to 77-1-804(8) , MCA, the department may assess a civil penalty of up to \$1,000 for each day of violation of this rule. The department may waive the civil penalty for minor or technical violations. The penalty assessment standards and procedures contained in ARM 36.25.157 are applicable to civil penalty proceedings under this rule.

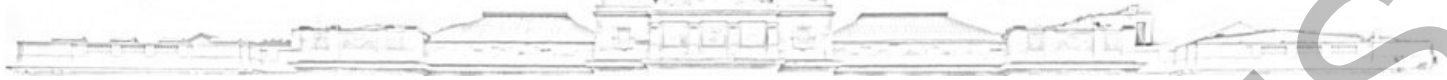
Authorizing statute(s): 77-1-209 and 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

History: NEW, 1992 MAR p. 568, Eff. 3/27/92; TRANS, 1996 MAR p. 2384.



ADMINISTRATIVE RULES OF MONTANA



36.25.163 BLOCK MANAGEMENT AREAS: GENERAL RULES FOR INCLUSION OF STATE LAND

- (1) State lands may be enrolled in block management areas established by the department of fish, wildlife and parks under the procedures contained in ARM 36.25.164. For general recreational use on land so enrolled, a recreational use license is required and motorized vehicle use by a recreationist is restricted to federal, state, and dedicated county roads and to those roads designated by the department to be open to motorized vehicle use. A recreationist shall obey all restrictions imposed pursuant to the block management, agreement.

Authorizing statute(s): 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

History: NEW, 1994 MAR p. 2002, Eff. 7/22/94; TRANS, 1996 MAR p. 2384.



ADMINISTRATIVE RULES OF MONTANA

36.25.164 BLOCK MANAGEMENT AREAS: PROCEDURES FOR INCLUSION OF STATE LAND

- (1) The department shall commence review of a proposal to include state land within a block management agreement when the department receives from the department of fish, wildlife and parks a proposal that includes:
 - (a) a complete legal description of the state land affected by the proposal, with a description of the legal access status of each tract of land;
 - (b) a listing of all terms, conditions, and restrictions of the proposal; and
 - (c) a map that clearly identifies the boundaries of the proposed block management area, locations of state lands, adjoining public land, and public roads.
- (2) The provisions of (3) apply to the review of a block management agreement that:
 - (a) would impose restrictions on recreational use that are more stringent than those contained in ARM 36.25.149; and
 - (b) contain state land that is:
 - (i) contiguous at some point to land that is not within the proposed block management area;
 - (ii) accessible by dedicated public road, public right-of-way, or easement;
 - (iii) accessible by public waters; or
 - (iv) accessible from contiguous federal, state, county, or municipal land that is open for public use.
- (3) Before land that meets the criteria in (2) may be included in a block management agreement, the department of fish, wildlife and parks and the department must have:
 - (a) given public notice of the proposal in a newspaper of general circulation in the area of the proposed block management area;
 - (b) provided a 21-day period for written public comment following the public notice; and
 - (c) if, during the public comment period, a request for public hearing was received that in the department's opinion raises a significant question as to whether the proposal is in the best interests of the public or the trust, held a public hearing in the area.
- (4) After close of the public comment period, the department shall review and prepare written responses to all substantive comments. The department shall send copies of those responses to each person who submitted a substantive comment.

- (5) No public review is required for proposals that do not meet the criteria contained in (2) .
- (6) The department shall notify the department of fish, wildlife and parks whether it will enter into the agreement. No block management agreement is effective as to state land until it is executed by the department. The department may not enter an agreement that does not meet the criteria contained in ARM 36.25.165.

Authorizing statute(s): 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

History: NEW, 1994 MAR p. 2002, Eff. 7/22/94; TRANS, 1996 MAR p. 2384.

ORIGINAL RULES



ADMINISTRATIVE RULES OF MONTANA

36.25.165 BLOCK MANAGEMENT AREAS: CRITERIA FOR INCLUSION OF STATE LAND

- (1) The department may include state land in a block management area only if it finds that:
 - (a) inclusion is in the best interests of the public and the trust;
 - (b) the block management agreement does not conflict with rights of holders of leases, licenses, and easements;
 - (c) inclusion would not result in damage to the land;
 - (d) the block management area contains private land; and
 - (e) the state land is contiguous to federal or private land that is within the block management area.

Authorizing statute(s): 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

History: NEW, 1994 MAR p. 2002, Eff. 7/22/94; TRANS, 1996 MAR p. 2384.



ADMINISTRATIVE RULES OF MONTANA

36.25.166 BLOCK MANAGEMENT AREAS: TERMS OF AGREEMENT

- (1) A block management agreement that includes state lands must contain the following provisions:
 - (a) Motorized vehicle use on state lands is restricted to federal, state, and dedicated county roads and to those roads designated by the department to be open to motorized vehicle use.
 - (b) If the state land meets the criteria of ARM 36.25.164, or if the agreement includes hunter limits, requires permission, or contains other restrictions that are more stringent than the restrictions contained in ARM 36.25.149, the department of fish, wildlife and parks shall post the state land at customary access points with signs that include the period that the block management restrictions are effective and describe how access may be obtained.
 - (c) If a complaint is not resolved to the satisfaction of the department, the department may withdraw the state land from the block management area.

Authorizing statute(s): 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

History: NEW, 1994 MAR p. 2002, Eff. 7/22/94; TRANS, 1996 MAR p. 2384.



ADMINISTRATIVE RULES OF MONTANA

36.25.167 BLOCK MANAGEMENT AREAS: RENEWAL OF AGREEMENT

- (1) A block management agreement that contains state lands may be renewed.
- (2) Subject to (b) , renewal of a block management agreement that meets the criteria of ARM 36.25.164 may be subject to the review procedures contained in ARM 36.25.164 only if:
 - (a) during the term of the agreement, the department or department of fish, wildlife and parks have received public comments or complaints tending to:
 - (i) raise significant concerns regarding compliance with the agreement;
 - (ii) indicate that continued enrollment in the block management program may not be in the best interests of the public or the trust; or
 - (iii) there will be changes in the agreement that impose more stringent restrictions than those contained in the existing agreement.
 - (b) If the department or department of fish, wildlife and parks has received complaints under the department of fish, wildlife and parks' complaint resolution system regarding a block management area that is being considered for renewal and those complaints have not been resolved, the director may not renew the agreement without public review until receiving a recommendation from the recreational use advisory council as to whether public review is appropriate.
- (3) The renewal of a block management agreement that does not contain state land meeting the criteria in ARM 36.25.164 or does not meet the criteria of (2) above is not subject to public review under ARM 36.25.164.
- (4) A block management agreement that was in effect on September 20, 1993, and was terminated in protest of the board's decision to expand the definition of "general recreational use" to include hiking and bird-watching may be renewed prior to October 1, 1994, under this rule.
- (5) The department may renew a block management agreement that includes state land only if it meets the criteria for approval contained in ARM 36.25.165 and contains the provisions of ARM 36.25.166.

Authorizing statute(s): 77-1-804, MCA

Implementing statute(s): 77-1-804, MCA

History: NEW, 1994 MAR p. 2002, Eff. 7/22/94; TRANS, 1996 MAR p. 2384; AMD, 1997 MAR p. 315, Eff. 2/11/97.

ORIGINAL RULES

1025-7

REQUEST TO APPROVE
OUTSIDE LEGAL COUNSEL

**Land Board Agenda Item
October 20, 2025**

1025-7 Request to Approve Outside Legal Counsel

Location: N/A (non-trust land)

Trust Beneficiaries: N/A (non-trust land)

Trust Revenue: N/A (non-trust land)

Item Summary:

Motion to approve outside legal counsel to represent the Land Board in litigation matters.

1025-8

MOTION TO CLARIFY WATER RIGHTS
OBJECTION PROCESS

**Land Board Agenda Item
October 20, 2025**

1025-8 Motion to clarify the Land Board's policy for providing advance, written notice to water rights owners before filing an objection with the Water Court

Location: N/A (non-trust land)

Trust Beneficiaries: N/A (non-trust land)

Trust Revenue: N/A (non-trust land)

Item Summary:

The Montana State Auditor, Commissioner of Securities and Insurance ("State Auditor"), proposes to revise the July 2025 directive from the Montana Board of Land Commissioners ("Land Board"), which instructed the Department of Natural Resources and Conservation ("DNRC") to provide 90 days' mailed written notice to water-right holders concerning objections to their water rights.

Background:

On May 20, 2024, the Land Board passed a motion requiring the Board's approval before DNRC may file an objection with the Water Court that asserts state ownership in a private water right with a point of diversion (POD) on private land and a place of use (POU) on state trust land. On July 21, 2025, the Land Board passed a motion requiring that DNRC provide water-right owners at least 90 days' notice, in writing, of a potential objection that the Land Board might file.

Under Montana law, the Land Board must file an objection with the Water Court "within 180 days after entry of the temporary preliminary decree, preliminary decree, or supplemental preliminary decree." Mont. Code Ann. § 85-2-232(2). Thus, to comply with the recent Motions, after the Water Court issues a decree, (1) DNRC must identify potential objections to water rights contained in the decree, (2) provide the water right owners with 90 days advance notice of the potential objections, and (3) the potential objections must be considered at one of the Land Board's monthly meetings to approve the objections — all of which must occur within 180 days after the decree is issued.

Following the July 21, 2025, meeting, DNRC's attorneys filed motions with the Water Court, on behalf of the Land Board, to extend the deadline to file objections in three basins so that DNRC could comply with the new 90-day notice requirement. Based on the "good cause" standard contained in Mont. Code Ann. § 85-2-232(2), on August 15, 2025, the Water Court reluctantly granted the extensions, in part, based on "the possibility that the Land Board was not aware of the cumulative delay they might cause to water users and other parties interested in the statewide adjudication...." The Court noted that each extension requested by the Land Board "elongates the time necessary for the Water Court to meet its public interest obligations to complete the statewide adjudication in a timely manner. Additionally, each extension has a fiscal impact because the Court pays to publish notice of the extension in three newspapers of general

circulation.” The Court warned that “[t]his finding of good cause should not be interpreted as precedent for further extensions in these basins . . . for the numerous future decrees the Water Court intends to issue over the coming months.” Thus, it appears that the Water Court may deny future requests from the Land Board to extend the deadline to file objections.

After input from interested parties, the State Auditor believes the 90-day requirement should be modified and that additional procedural requirements should be incorporated to ensure comprehensive notice and transparency throughout the objection process.

Motion:

The State Auditor moves to amend the Motion adopted at the July 21, 2025, Land Board meeting as follows:

- DNRC shall diligently review each temporary preliminary decree, preliminary decree, supplemental preliminary decree, and final decree issued by the Water Court and develop a list of potential objections that it recommends filing on behalf of the Land Board.
- No later than 50 days prior to the Land Board meeting in the month immediately preceding the deadline to file objections with the Water Court, DNRC must send written notice, via mail with tracking capacity, to each water right owner noted on the list of potential objections, stating that the Land Board will consider DNRC’s recommendation to file an objection to their water right. A copy of each notice shall be promptly provided via email to the members of the Land Board.
- The notice shall contain:
 - A summary outlining the basis that led DNRC to recommend that the Land Board consider filing an objection. If the recommendation is based on a specific statute, administrative rule, or legal precedent, the legal authority should be noted in the notice. However, in providing the notice, DNRC is not limiting or waiving the Land Board’s ability to raise other issues during litigation.
 - The date of the Land Board meeting at which the members will consider DNRC’s recommendation to file the objections and assert ownership or co-ownership of the identified water right.
 - A clear explanation of the Land Board’s role in deciding whether to pursue legal action, the opportunity for public input at the meeting, and what decisions or actions may result.
 - The name and contact information of a DNRC staff member who can answer questions or further discuss the issue with the water right owner before the Land Board meeting.
 - A Frequently Asked Questions (FAQ) section should accompany the Notice to help water right owners understand the broader context, including what an assertion of ownership would mean and how the process would proceed if authorized.
- The policy only applies to water rights and objections that are the subject of the Land Board’s May 20, 2024, Motion.

1025-9

INFORMATIONAL ITEM:

DNRC QUARTERLY LITIGATION UPDATE

**Land Board Agenda Item
October 20, 2025**

1025-9 Informational Item: DNRC Quarterly Litigation Update

Location: N/A

Trust Beneficiaries: N/A

Trust Revenue: N/A

Item Summary:

Status update on legal cases involving Montana State Trust Lands.