

## **Trust Land Recreational Use - Frequently Asked Questions**

### **Why Do I Have to Pay to use State Trust Lands?**

The Federal Government granted these lands to the state under the Enabling Act at the time of Montana 's statehood in 1889. The lands were granted for the sole purpose of generating income for support of the common schools and other public institutions. The Enabling Act mandated that the lands, along with their proceeds and income, would be held in trust for the beneficiaries. As a means of generating revenue, a stipulation in the Enabling Act prohibited the state from disposing of an interest in these lands unless fair market value is received. "Disposal of an interest" is considered to be the sale or exchange of the lands, or the granting of any use of them through issuance of a lease, license or easement, if such use is deemed to have a compensable value. Recreational use has been deemed to have a compensable value. The Land Board, whose members consist of the Governor, Secretary of State, State Auditor, Attorney General and the Superintendent of Public Instruction, oversee use of these lands and it is their responsibility to assure that the mandate is met.

### **What Lands are School Trust Lands and Where can I Obtain a Map Displaying These Tracts?**

Originally, Sections 16 and 36 of every township were granted as School Trust Lands. Some of these sections could not be acquired because they were already homesteaded, were within Indian Reservation boundaries, etc. The state was able to acquire other lands "in lieu" of the lands that could not be acquired. Also, at one time, the Department of State Lands made loans on private lands and held the deed to the private land as collateral. In some cases, the private landowner defaulted on loan payments and the state then acquired title to those private lands. In short, State Trust Lands now include more than just Sections 16 and 36.

All State Lands, including non-Trust State lands are generally colored blue (although other colors are also occasionally used) on Bureau of Land Management, US Forest Service maps, the DeLorme Montana Atlas and Gazeteer (sold in most supermarkets and convenience stores), and maps found at <http://nris.mt.gov/>. Again, a few state tracts depicted on maps may have the same color scheme as Trust Lands, but are not Trust Lands. They are typically unsuited for recreational use and are not included as lands authorized for licensed recreational use. These tracts are set aside for State institutions and universities. Additionally some state lands are owned by other state agencies such as the Departments of Labor and Industry; Fish, Wildlife & Parks; Corrections; Military Affairs, and are used for state office buildings, military armories, prisons and other institutions, state parks, etc. and are also not authorized for recreational use under the license requirements as provided herein. In addition, DNRC has an active land sales and acquisition program. Some lands identified on the maps referenced above as being state owned have been sold and are now in private ownership. A listing of lands sold by county is available on the DNRC website at the following address:  
<http://dnrc.mt.gov/Trust/LandBanking/Sold.asp>

**If you're unsure about agency ownership of any particular tract(s) of state land, it is recommended that you contact your local DNRC office or phone 406-444-2074 for verification.**

### **What State Land is Unavailable for Recreational Use or Might Have Restrictions in Place?**

State trust lands that are legally accessible and that have not been closed or restricted to such use by rule or by DNRC are open to recreational use. Legally accessible state lands are those that can be accessed by public roads, public rights-of-way, public easement; by public waters that are recreationally navigable under the Stream Access Law; by adjacent federal, state, county or municipal land if that land is open to public use, or by permission of an adjacent landowner.

Agricultural lands (between planting and harvest) as well as lands leased for home sites or cabin sites, active military purposes or commercial purposes are "categorically" closed to recreational use, meaning recreational activities are prohibited. Some tracts are temporarily, seasonally, or permanently closed or restricted on a site-specific basis for a variety of reasons including weed control, public safety, substantial disruption of livestock activities, sensitive species or plant protection, or to protect the lessee's improvements. In addition, some tracts may be closed for short durations for management purposes (concentration of livestock, recent weed spraying, etc.) Lands that are closed or restricted are to be posted with DNRC approved signs at customary access points.

Additionally, recreational use of state lands that are enrolled in a Department of Fish, Wildlife & Parks Block Management Area (BMA) or Wildlife Management Area (WMA) are subject to the rules of that BMA or WMA.

## **What Types of Recreational Licenses are Available and What Do They Allow Me to Do? Important Notice - License Requirement Changes Effective March 1, 2004**

Recreational use of state land is divided into two categories; "Special Recreation" and "General Recreation."

A "Special Recreational Use License" which is available only from DNRC offices, is required for trapping, commercial recreational use (such as outfitting), and for concentrated (group) use. It is also required for uses outside of the restrictions applicable to general recreational use as listed below, such as for overnight horseback use for more than two days on leased or licensed lands, overnight use (camping) more than 200' from a customary access point or for more than two days on leased or licensed lands.

"General Recreational Use" by definition, includes most types of non-commercial and/or non-concentrated activities such as hunting, fishing, sight-seeing, picnicking, hiking, horseback use, and many others. Specific activities not included in this category include cutting or gathering wood, collecting valuable rocks/minerals, mineral exploration, or collection or disturbance of archaeological, historical, or paleontological sites (fossils, artifacts, dinosaur bones, old buildings, etc.) These activities require separate authorization from DNRC.

Effective March 1, 2004, persons who engage in licensed hunting, fishing, and trapping \*\* are no longer required to purchase a *State Land Recreational License* to conduct these activities on state trust land. Rather, under agreement between DNRC and FWP, **persons who possess a valid *Montana Conservation License* will be allowed to hunt, fish, or trap\*\* on legally accessible state land that is not closed or restricted to such use.** Persons desiring to conduct all other non-commercial and/or non-concentrated recreational activities falling within the definition of "general recreational use" will still be required to possess a "*State Land Recreational License*" unless those activities are conducted in conjunction with licensed hunting, fishing and trapping. (This is discussed in a bit more detail in another section of this document).

**\*\* Prior to trapping on state land, persons are still required to obtain a "*Special Recreational Use License*" from DNRC. However, while there is no additional fee charged for that license, trapping activities will only be authorized on those lands and subject to all terms and conditions as DNRC may approve in the Special License. Further information can be found in the "Guide to Trapping on Montana State Trust Lands" available from DNRC and FWP offices or from license providers.**

## **If I Possess a Conservation License, is My Use of State Land Restricted Only to Licensed Hunting, Fishing, or Trapping or can I Also Legally Engage in the "Other" Types of General Recreational Activities Under Authority of That License?**

Under federal funding restrictions, present statutes, and per terms of the previously mentioned agreement between DNRC and FWP, only hunting, fishing, or trapping is allowed under authority of the *Conservation License*. Pre-season scouting for game is also allowed with the Conservation License provided that it is done

within a reasonable period (no more than 2 weeks) prior to hunting season. Possession of a *State Land Recreational License* is, in most instances, still required for all "other" general recreational activities. The exception to this requirement is when certain "other" activities are conducted in conjunction with or incidental to hunting, fishing, or trapping. For example, a person who is hunting may also engage in day/overnight horseback use or overnight camping without having to also possess the *State Land Recreational License*. However, if the "other" activities are not in conjunction with hunting, fishing, or trapping, the *State Land Recreational License* is required.

### **I Don't Hunt, Fish, or Trap on State Land so Why am I Assessed the Extra \$2 for the Conservation License to Cover this use?**

The fee is minimal and monies generated from it are used to help fund public education and support other public institutions in Montana. Furthermore, because the boundaries of most state trust lands are not specifically marked separate from adjacent private or federal land, many folks inadvertently use these lands without even knowing they are doing so. This low cost non-optional fee eliminates the need for folks to have to worry about unintentional trespass upon these lands. Also, other similar programs exist wherein small fees are assessed across-the-board. For example, automobile registration fees include a nominal "junk vehicle" fee and while the majority of folks may not own a junk vehicle themselves, the monies generated help to fund programs that address safe and proper disposal of such properties.

### **Why do People who Hunt, Fish, or Trap on State Land Only Pay \$2 Extra for Their Conservation License to Access State Land and I Have to Pay \$5-\$10 for a State Land Recreational Use License in Order to Conduct Other Types of Activities?**

The Land Board is mandated to receive "full market value" for the various types of uses allowed on state trust land. It is estimated that 96%-97% of the recreational use conducted on these lands is for hunting, fishing, or trapping, with the remaining 3%-4% coming from other types of uses. Based on the average number of Conservation Licenses sold during the last 10-year period (400,000+), the Board determined that by assessing a small non-optional fee for the large user group, the various trusts would ultimately receive approximately 2-3 times greater revenue than they previously had. As such, they deemed this increased trust revenue to represent full market value for these three uses. On the other hand, the fees charged for "other" uses remained the same as they had been in the past because the activities are somewhat infrequent, the corresponding revenues relatively limited, and because purchasing the State Land Recreational License remains optional.

### **As a Trapper, in Addition to the Conservation License, why Do I Also Have to Obtain a Special Recreational Use License (SRUL) From DNRC, While Folks who Hunt and Fish Don't?**

The Land Board has determined that trapping is an activity that cannot be allowed to be randomly conducted on state trust land. Rather, it requires more stringent guidelines, restrictions, and limitations in order to establish accountability and to help provide public safeguards. Additionally, it is an activity that requires communication and coordination with other users of state land, including surface lessees, in order to address management concerns. As such, DNRC will continue to require persons wishing to trap on state land to obtain an SRUL and will limit the tracts authorized in the license to a number that will help assure compliance with these requirements.

### **Can I Also Access State Trust Land to Target Shoot or Shoot Non-Game Species, Varmints, and Other Predators Such as Coyotes, Gophers, etc. Under Authority of the Conservation License or is a State Land Recreational License Required?**

DNRC's policy in this regard is that persons who possess **either** a *Conservation License or State Land Recreational License* will be allowed to shoot non-game species on legally accessible state trust lands, but they must possess one or the other. However, such use must be conducted in a safe and prudent manner that does not interfere with the lessee's legitimate leasehold activities or present potential danger or harm to other persons or property. While lessee permission is not required, providing notification of this activity to the lessee is recommended. Unlicensed users will be subject to enforcement actions.

### **What Restrictions Apply to Recreational use on State Lands?**

Overnight use (camping) on leased or licensed state land outside of a designated campground is allowed within 200 feet of a customary access point but is limited to two consecutive days. Recreational overnight use of state lands is limited to 16 days in a 30-day period in a designated campground and on unleased or unlicensed lands outside a designated campground unless otherwise allowed by the department. Open fires are restricted to designated campgrounds.

Motorized vehicle use on state land is restricted to public roads, such as county roads or highways or other roads designated by DNRC as open for such use. Off road use is strictly prohibited. Very few roads on state land are posted, therefore, you should contact the appropriate County to determine if a road is a county road or contact the appropriate DNRC office to determine if a road on State Land is open. (Some roads require court adjudication to determine ownership; permission from potential owners is recommended.)

Additionally, recreational use of state lands that are enrolled in a Department of Fish, Wildlife & Parks Block Management Area (BMA) or Wildlife Management Area (WMA) must be conducted in compliance with the rules, regulations and procedures specific to that BMA or WMA.

Discharge of Firearms is not allowed within ¼ mile of an inhabited dwelling or of an outbuilding in close proximity to an inhabited dwelling without permission of inhabitant.

Parking is allowed on public roads in compliance with local traffic laws and within 50' of a customary access point. You may not park so as to block traffic or in a manner that could produce injury or damage the land or the lessee's improvements.

Fireworks are prohibited.

Littering is prohibited.

Pets must be on a leash or otherwise under the control of the recreationist to prevent harassment of livestock or wildlife.

Overnight horseback use for more than two consecutive days on leased or licensed lands or for more than 16 days within a 30-day period for unleased and unlicensed lands is prohibited without a Special Recreational Use License. Horses may be kept overnight on state lands with the following constraints: 1) the horses do not remain in a stream riparian zone for more than 1 hour; 2) horses are to be fed with only certified noxious weed seed free forage; and 3) the horses must be restrained.

### **What Does it Mean if State Land is Posted With Blue Paint?**

Blue paint used on state land is used for the same purpose as orange paint on private land -TO NOTIFY PERSONS AGAINST UNAUTHORIZED USE (TRESPASS). Recreational use of legally accessible state land, whether or not it is posted with blue paint, is an authorized use so long as the recreationist has in his/her possession a state land recreational use license or conservation license .

### **Do I Have to Have the Lessee's Permission or Have to Notify the Lessee Prior to Using the State Land?**

Permission of the lessee is not needed. However, lessees may require recreationists to notify them prior to using the state land. The following information addresses notification provisions and requirements:

**Notification Requirements for Uses other than Overnight Use, or for Horseback Use and Firearm Use not in Conjunction with Licensed Hunting**

Lessee must post and provide drop boxes at all customary access points to each tract for which notification is required and include information necessary to allow for contact to be made.

If personal contact requested, must be available for contact from 7:00 am to 9:00 pm;

If state tract is less than 5 miles from a public telephone or location for contact, personal notification must be attempted;

If state tract is more than 5 miles from a public telephone or location for contact or personal contact can't be made, drop box notification will suffice;

Notice must include all recreationists names, addresses, and recreational use license number and dates of use;

Notice is effective for three days. Use may be for longer if the activity (back country use, etc.) makes further notice impossible or if the lessee grants permission for longer period.

**Notification Requirements for Overnight Use and for Horseback and Firearm Use Not in Conjunction with Licensed Hunting:**

Lessee must post at all customary access points to each tract for which notification is required and include information necessary to allow for contact to be made;

If personal contact is requested, the lessee or their agent must be available for contact from 7:00am to 9:00 pm;

**Who is Enforcing the Rules and What is the Penalty for Illegal Recreational use of the Lands?**

Game wardens are primarily responsible for enforcement of the state land recreational use rules.

However, trust land personnel may also enforce certain provisions. Violators are subject to assessment of a civil penalty of up to \$1,000 per day for each violation.

**Where can I get Copies of the State Land Recreational Use Rules, Informational Pamphlets or Answers to Other Questions I May Have?**

Informational pamphlets and copies of the rules are available from all DNRC offices. Additionally, informational pamphlets are available from FWP offices and license providers, as well as many BLM and USFS offices. If you have further questions, please contact your local DNRC office or phone 406-444-2074.