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DEPARTMENT DECISION ON PETITION FOR CLOSURE OF STATE LANDS

July 1, 2026

PROCEDURAL HISTORY

On March 31, 2026, the Montana Department of Natural Resources and Conservation (“Department”) received a petition (“Petition”), filed pursuant to Mont. Admin. R. 36.25.1207(7) for closure of the following described state lands in Gallatin County, Montana (referred to hereafter as “Subject Lands”):

Township 3 South, Range 4 East

Section 6: Gov. Lots 3-7, SE4NW4, SE4, E2SW4

The Petition was filed by David and Melissa Hatter (“Petitioners”) and requests a decision from the Department, to permanently close the Subject Lands to recreational use due to Petitioners’ contention that disorderly use of the Subject Lands for recreational shooting has caused public resource damage, private property damage including damage to livestock, public safety concerns, wildfire hazard, nighttime disturbances to nearby residents, and imminent threat to property damage and bodily injury, and because closure is necessary to preserve the income-generating potential of the Subject Lands.



On May 1, 2026, the Department posted public notice of the Petition (“Petition Notice”) and invited public comment as contemplated by Mont. Admin. R. 36.25.1207(7). During the comment period, the Department received 172 total written comments on the Petition. A public hearing on the Petition was requested by the petitioners, pursuant to Mont. Admin. R. 36.25.1207(7). The Department set a public hearing for 11:00 a.m., June 3, 2026, at the Gallatin Gateway Community Center, 145 Mill St, Gallatin Gateway, MT 59730. Notice of the Hearing was posted May 1, 2026, by the Department, in the manner required by Mont. Admin. R. 36.25.1207(7).

A public hearing was conducted by the Department at the aforementioned time and place for the purpose of receiving public comment on the Petition. During the Hearing, the Department received oral comment from 10 individuals with others submitting written comment. Now, after considering the Petition, public comment on the Petition, and its own independent investigation into the matter, the Department hereby issues its decision on the Petition.

SUMMARY OF PETITION

The Petition seeks a permanent closure of the Subject Lands to recreational shooting as a necessity to protect public safety, prevent irreparable property damage and bodily injury, and to protect the income generating potential of the Subject Lands. In support of their position, and in addition to the allegations contained in the Petition, the Petitioners have submitted photographs, personal statements, and a statement from a former lessee of the Subject Lands.

Petitioners own real property directly adjacent to the Subject Lands upon which they conduct farming and ranching activities. Petitioners allege, through counsel, and by way of photographic evidence and personal declarations, that their personal and real property has been damaged and/or destroyed by irresponsible recreational shooters on the Subject Lands. The damage and destruction alleged by Petitioners includes destruction of gates, fences, and impact damage to silos and other structures. In support of these allegations, Petitioners have attached photographs, some of which depict cut barbed wire fences; impacted physical

structures, knocked down, damaged and obliterated fence posts; and damaged signage. Ex. 14-67.

Petitioners also allege they have observed damage to the Subject Lands as a direct result of the complained-of recreational shooting activity. Petitioners contend shooters regularly leave behind refuse, including beer cans, spent cartridges, clay pigeons, washing machines, dryers, refrigerators and ovens. D. Hatter Decl. ¶ 19., Ex. 32; T. Wood Decl. ¶ 15., Ex. 7. They support their contentions with photographs of old pallets left behind as apparent target stands, used clay targets, and deceased livestock, shot debris, broken skeets, and other targets. Ex. 14-67. Petitioners also provide evidence of exploding target use in conjunction with the target shooting activities on the Subject Lands. Ex. 53-55; McReynolds Decl. ¶ 13-14, Ex. 8; Kamps Decl. ¶ 2, Ex. 9; D. Hatter Decl. ¶ 24, Ex. 4; T. Wood Decl. ¶ 19, Ex. 7.

Finally, Petitioners contend that current recreational shooting on the Subject Lands poses an imminent threat of immediate, irreparable bodily injury. Petition at 2. Statements of the Petitioners reflect their observations that recreational shooters on the Subject Lands are numerous, with as many as 80 at a time, and given the narrow confines of the Subject Land involved, the shooting on the Subject Lands is highly concentrated. Petition at 10. Moreover, Petitioners have observed unsafe shooting practices on the Subject Lands, such as shooting in all directions, and without regard to people, animals, or property which may be down range. Id. at 10. Specifically, a former lessee the Subject Lands stated that he relinquished the lease because “constant recreational shooting made it impossible to safely and practically ranch the land [because] shooters fire at will in seemingly every direction.” McReynolds Decl. ¶ 5, Ex. 8. The former lessee described the experience as “like ranching in a war zone”: “shooters would not pause for my presence” and on “multiple occasions slugs struck the dirt near me while I was moving cattle.” Id. Petitioners produced a log of shooting activity on the Subject Lands over a nine-day period, which suggests that shooting activity during the sample period was concentrated and regularly occurred at night. Petition at 11. Finally, Petitioners produced a report by a civil engineer with expertise in range safety and digital mapping that found that given the State Land structure, topography, and proximity to neighboring properties, current recreational shooting practices pose a significant risk to public safety. Ex. 62.

Based on the foregoing, Petitioners request permanent closure of the Subject Lands based on Mont. Admin. R. 36.25.1207(3)(a), (h) and (k).

SUMMARY OF PUBLIC COMMENT

DNRC received significant public comment, both in writing and orally, during the hearing from proponents, opponents, and proponents of a modified approach to future management of the Subject Lands. A majority of individuals submitted written comment in opposition to the Petition, demonstrating a significant public interest in the continued availability of the Subject Lands for recreational shooting. Among the reasons articulated for opposition to the Petition, many commentors noted that state lands should be publicly accessible and should remain open; and that a closure as requested in the Petition would violate the Second Amendment to the United States Constitution as well as Article II, Section Twelve of the Montana Constitution.

A substantial number of commenters opposed the closure as requested in the petition, while many commenters supported a modified approach in DNRC's decision space. Commenters in opposition frequently cited a diminishing amount of publicly accessible land for recreational shooting in the Gallatin Valley, asserting the Subject Lands help meet that need, and that any closure or restriction of public use on state trust lands, for any reason, is unacceptable. Other commenters expressed concern that granting the Petition, even with modifications, would displace a large number of recreational shooters, who would likely relocate to another parcel of state land that may be less suitable for such activities. Finally, many commenters opposing the Petition acknowledged concerns regarding litter left on the Subject Lands and the unorganized manner in which shooting occurs. Nevertheless, they opposed closure as a matter of principle or supported a modified management approach for the Subject Lands for the reasons described above.

The Department also received comments from proponents of the Petition, both orally and in writing. Oral comment at the hearing was exclusively from proponents of some form of restriction or closure. Proponents of the petition included the Petitioners themselves, neighboring land and homeowners, and other members of the recreating public. The Petitioners

provided both written and oral comments in support of the closure noting concerns about their personal safety and that of their employees; the continual destruction of their personal property; and the diminution in productivity of the Subject Lands.

Other individuals in support of the Petition provided comments of similar nature, alleging safety concerns for themselves and their children; alleging bullet holes in farm equipment, livestock, and fences; and general safety concerns about being down range of shooters ostensibly unaware or unconcerned with their presence. In general, almost every commentor supporting the Petition alleged a general theme of unsafe and disorganized shooting practices on the Subject Lands. In addition to citing general safety concerns, commentors noted that the nature of current shooting practices on the Subject Lands functionally prohibits other recreational activities on those lands.

In addition, most commentors supportive of the Petition alleged a high volume of trash on the Subject Lands, primarily as incident to shooting. Alleged trash included targets, pallets and other items used as target stands, clays, and other refuse apparently brought onsite to shoot and then left. Finally, more than one commentor stated that there have been fires on the Subject Lands resulting from unsafe or irresponsible shooting practices. Petitioners submitted a letter from Gallatin Gateway Rural Fire Department dated July 16, 2025, outlining the difficulty in accessing the site with emergency vehicles due to apparent lack of road maintenance during a fire event on the Subject Lands “suspected to have been initiated by individuals engaged in shooting activities in the vicinity.” Ex. 61.

Finally, a number of closure proponents provided comment on confrontations, and general lack of courtesy in interacting with recreational shooters on the Subject Lands. Commentors stated that users often respond in an aggressive and sometimes combative manner when confronted about their use of the Subject Lands.

As a final note, a significant number of individuals (perhaps a majority of commentors) including at least one of the Petitioners themselves, expressed a view which, while articulated as being either for or against the petition, advocated for a land management approach which differed from an outright ban on all recreational uses—or even all recreational shooting—or preservation of the status-quo. These comments were supported by many of the same

arguments articulated above, recognized the benefit of publicly accessible lands for reasons including, but not limited to, recreational shooting, and suggested that a middle ground ought to be found moving forward for management of the Subject Lands.

DEPARTMENT INVESTIGATION AND OBSERVATIONS

Pursuant to Mont. Admin. R. 36.25.1207(7) the Department has engaged in its own investigative efforts to corroborate facts alleged in comments, uncover additional relevant facts, and to craft a path forward which attempts to meaningfully address the issues articulated as important to the general public, neighboring landowners, and state lessees, while effectively carrying out the Department's fiduciary obligations as the land manager, for the benefit of the Montana school trust beneficiaries.

Regarding its independent investigation into this matter the Department notes the following:

- 1) The Subject Lands have been restricted previously. In November 2022, the Department imposed a two-week restriction on shooting on all of the Subject Lands to allow the lessee to perform cleanup and maintenance. Signage warning of potential restriction or closure due to misuse of the Subject Lands was posted at common entry points and along the Axtell Anceney Road fencelines bordering the Subject Lands beginning in 2022 and consistently replaced by Department staff until Oct. 1, 2025. This signage was verified as current and legible by Department staff on June 12th, 2026.
- 2) Relevant to the above, the Department faces significant challenges regarding enforcement of Department rules and state law on the Subject Lands. First, the Department recognizes the relatively long response time for Gallatin County law enforcement to the Subject Lands and the challenges that creates regarding gathering evidence to issue citations or otherwise deter criminal or irresponsible shooting activities. The Department, for its part, lacks both the resources and the authority to

create its own enforcement arm. The Montana Department of Fish Wildlife and Parks (“FWP”) is the agency statutorily charged with law enforcement on state lands pursuant to Mont. Code Ann. § 87-1-504. However, FWP is faced with its own host of challenges in effectively enforcing recreational use laws and rules on the Subject Lands. Notably, there are a total of three wardens who cover a geographical area which runs from south of Big Sky, north to the Toston area, and from west of Pony to east of Bozeman. The Subject Lands, thus constitute a very small geographical component of a much larger enforcement area, all of which wardens indicate are experiencing a surge in recreational use. Consequently, any effective long-term management plan must recognize the limited resources available to effectively manage recreational use of the Subject Lands.

- 3) The Department is able to corroborate the accounts of commentors and Petitioners regarding trash and shooting paraphernalia left on the Subject Lands. Bozeman Unit staff have removed trash from the Subject Lands and spent considerable resources attempting to maintain appropriate signage at common access points. Some notable items removed include heavy metal targets, wood crates, copious amounts of spent ammunition casings, lumber, and pieces of household appliances left after being used as targets. FWP staff, in the course and in the scope of executing their law enforcement responsibilities on the Subject Lands, have unilaterally engaged in their own cleanup efforts as well. The Department also considers reasonable the accounts of Petitioners, its lessee, and other commentors that recreational users regularly destroy their private property. It is beyond apparent to the Department that the accumulation of trash, and destruction of personal property, directly associated with recreational shooting poses a problem to effective land management and productive utilization of the Subject Lands.
- 4) With regard to the safety concerns expressed in the Petition and in many comments, Department personnel have generally observed that shooting on the Subject Lands frequently occurs in a haphazard manner, often in multiple directions and with little apparent regard for property or persons down-range of the shooters’ targets. By way of

example, field staff have observed footpaths and bullet strafes worn in the ground from target placement in some of the more prominent shooting locations along Axtell Anceney Road. The land beyond some longer-range target placements is, in some instances, devoid of any backstop for bullets, earthen or otherwise. It is therefore not unreasonable to conclude that bullets fired from these locations often carry far beyond their intended targets and impact at locations in which the shooter is either unaware of, or ambivalent to. The Department cannot independently verify various accounts which have led to commentators and Petitioners fears and apprehensions. It does, however, find those fears to be reasonable, based on its observations.

- 5) The Subject Lands are presently encumbered by two agricultural and grazing leases, covering approximately 455.47 acres, in the aggregate. Of those acres, approximately 454.47 are leased for grazing, with only 1.0 acre considered unsuitable for grazing use. The Agriculture and Grazing Bureau (“AGMB”) of the Forestry & Trust Land Division of the Department also recognizes that the status quo on the Subject Lands, as it pertains to recreational shooting, has an adverse effect on the income generating potential of the Subject Lands. Recreational shooting on the Subject Lands, in its current form, poses a significant risk to the Department’s lessees. A risk which has been articulated by its lessees both in written and oral comment. To that point, lessee representative and ranch manager for the Subject Lands, Lane Graham, indicated in oral comment that the current use of the land does not allow for his full, productive use of the Subject Lands; deprives him of productive grazing areas on the Subject Lands; and prioritizes recreational users over paying lessees. Public Hearing, 01:04:03 - 01:04:06. Based on its observations and comments received from lessees, including former lessees in the area, DNRC staff recognize that its lessees undertake a risk to their personal safety and that of their property, including livestock, and that such risk may ultimately threaten the willingness of current lessee’s to renew their leases, in which case all or parts of the Subject Lands could go unleased, thus depriving the trust of lease revenue. Based on their experience and expertise in rangeland management, AGMB staff believes current

recreational shooting practices on the Subject Lands will adversely affect trust revenue generated from the Subject Lands.

- 6) The Department is also aware of accounts of user conflicts on the Subject Lands. Gallatin County resident Scott Wuebber provided oral comment regarding various encounters he has personally experienced as a recreationist (not engaged in target shooting) on the Subject Lands stating, "I've been accosted by, people who were there after me, chased off the land". See, Public Hearing, 01:02:38 - 01:02:57. Tyson Wood provided a similar statement, alleging that he has been personally threatened during several altercations with recreational shooters. T. Wood Decl. ¶ 14, Ex. 7. These shared experiences suggest to the Department that there is merit to public comment indicating some recreational users on the Subject Lands are hostile and confrontational when approached by adjacent residents.

- 7) Turning next to arguments in opposition to the closure, there is an apparent and sizeable public interest in keeping the Subject Lands publicly available for target shooting in some form. The Department recognizes that the population of recreational shooters in the Gallatin Valley expect the Department, as one of, if not the primary owners/managers of lands publicly available to shooting, to sensibly manage the activity on other lands so that sufficient opportunities for recreational shooting remain in the area. With regard to the Petition, most recreational shooters opposed the proposed action, but the sentiment was not uniform: some commenters at the public hearing identified themselves as shooting enthusiasts and yet nevertheless supported the Petition due to the unique safety hazards posed by the dangerous manner of recreational shooting occurring on the specific Subject Lands in question. See Public Hearing Transcript.

- 8) The Department reasonably believes the veracity of commentors who expressed that the problems addressed above lie with a select few individuals. Nevertheless, the legacy of those users is significant and has created a safety hazard, an unsightly refuse "dump", and a problem for the Department in fulfilling its fiduciary obligations to the school

trust. See Public Hearing, 1:01:20 - 01:01:24. While it is regrettable that the Department's decision here will adversely impact responsible shooters, that is the practical reality of managing the Subject Lands without a permanent and continual law enforcement presence which is impracticable.

- 9) Turning next to the future of management on the Subject Lands, DNRC is presently in possession of an application, from FWP, for an 86.40-acre easement for the purpose of development of a formal public shooting range on trust lands 20-miles north of this site and, in the Department's opinion, reasonably accessible to the public currently accessing the Subject Lands. The Easement Application will not be acted upon by the Land Board by the date of this Decision, and its future as it relates to the Subject Lands is therefore uncertain. While the formal development of a nearby shooting area would address some of the issues identified herein, it is at this point, too speculative to figure significantly into the Department's decision.

RATIONALE FOR DECISION

Under § 10 of the Enabling Act of 1889, Montana acquired sections 16 and 36 in each township within the state, and, in instances where section 16 or 36 had already been disposed, the state acquired equivalent lands in lieu of said disposed-of sections. Act of February 22, 1889 ("Enabling Act"), ch. 180, 25 Stat. 676 (1889). The lands were granted to the State by the United States "for the support of common schools." *Id.* The Montana Supreme Court has determined that the federal government's grant of those lands to the State of Montana constituted a grant, in trust, to the state. *Montanans for Responsible Use of School Trust v. State*, 1999 MT 263, ¶ 13. Pursuant to the State's 1889 Constitution, Montana accepted the federal land grant and provided those lands would be held in trust, consistent with the terms of the 1889 Constitution and the Enabling Act. *Dept. of State Lands v. Pettibone*, 702 P.2d 948, 951 (1985). Those terms were continued under the 1972 Montana Constitution. *Id.*

The State Board of Land Commissioners was created under the Montana constitution as the body charged with the duty of administering the foregoing trust. Mont. Const. Art. X, § 4. Acting in its capacity as trustee, it is the duty of the Board to “administer [the] trust to: (a) secure the largest measure of legitimate advantage to the state; and (b) provide for the long-term financial support of education.” Mont. Code Ann. § 77-1-202(1); see also *State v. Stewart*, 137 P. 854, 855 (1913). The Department acts as agent of the Board in the administration of its trust duties. Mont. Code Ann. § 77-1-301.

Secondary to the constitutional mandate to manage trust lands for the benefit of schools is the legislative directive that state lands are to be managed under a multiple-use management concept including recreational use by the public. Mont. Code Ann. § 77-1-203. Public recreational use, however, must yield to the primary, income generating purpose of state lands. See e.g. Mont. Code Ann. § 77-1-804(3) (authorizing categorical closure when the classified use or status of state lands is incompatible with recreational use) & (5) (authorizing closure when, among other things, recreational use diminishes the income-generating potential of state lands or when recreational use damages surface improvements of the state’s lessee). To that end, the legislature has directed that the Board should adopt administrative rules for the management of recreational use of state trust lands, including rules to “address the circumstances under which the board may close legally accessible state lands to recreational use.” Mont. Code Ann. 77-1-804(2). The Board, acting through the Department, has done so in Mont. Admin. R. 36.25.1201 through 36.25.1212. Of particular relevance here is Mont. Admin. R. 36.25.1207.

First, Petitioners request closure of the Subject Lands based upon Mont. Admin. R. 36.25.1207(3) for the reason that recreational shooting damages the income generating potential of the state lands, poses a threat to public safety, and constitutes an imminent threat of immediate, irreparable property damage or bodily injury both on the Subject Lands and on adjacent lands. The Department has heard public comment from both proponents and opponents of the relief requested in the Petition, and is persuaded that there is a sizeable population of individuals in Gallatin County for whom the Subject Lands provides opportunity for publicly accessible lands on which to practice shooting sports; but that the current level and

manner of recreational shooting occurring on the Subject Lands is unsustainable and that recreational shooting on the Subject Lands should not be permitted to continue.

The income generating potential of the Subject Lands, under 36.25.1207(3)(a) represents the Department's primary obligation in managing the Subject Lands. To that point, the current lessee(s) and their representatives have informed department staff in person, and in writing, that they are unable to utilize the lands to the full capacity contemplated under each of the leases. While Department staff is aware that the lessee currently turns cattle out on the Subject Lands to graze, the extent and particular unsafe manner of the current recreational target shooting means the lessees are functionally precluded from utilizing the full extent of the lands subject to their lease.

Further, between public comment, conversations with FWP, and the Department's own observations, it is apparent that the Subject Lands have become little more than a free-for-all for target shooting of refuse. Bozeman unit staff have spent considerable time removing litter from the Subject Lands and signing the common entry points with rules and regulations which go unheeded. Neighboring landowners and ranch managers have clearly shouldered this burden more directly as shared in public comment and in petitioners' statements. Current recreational use of the Subject Lands has caused physical damage to the land, as a result of littering and increased foot traffic, which has a corresponding negative impact on the suitability of the lands for grazing purposes and therefore negatively impacts the income generating potential of the Subject Lands. Hence, not only are current patterns of use damaging to the Subject Lands, but they also require an outsized investment of time and resources when compared to other state lands and therefore adversely impact the Department's ability to manage those lands.

Moreover, while speculative, AGMB staff anticipate that, based on public comment from its lessees, at the time of lease renewal, there could be a lack of competitive bidding—thereby depressing rental rates—or the current lessees could decline to renew their respective leases, in which case the trust would earn no revenue from the Subject Lands. The Department anticipates the occurrence of the foregoing if the risk of running livestock on the Subject Lands exceeds the need of area ranchers to secure grazing land. Current lessees have indeed identified this risk to the Department and have requested, on multiple occasions, that action be taken.

As discussed above, the Department, acting as agent for the Board in carrying out its land management responsibilities, acts as a trustee for the benefit of the school trusts. See e.g. *Montanans for Responsible Use of School Trust v. State*, 1999 MT 263, ¶¶ 13-14. Acting as a trustee, the Department has a duty to manage lands “as a prudent person would” exercising “reasonable care, skill, and diligence.” Mont. Code Ann. § 72-38-804. In light of its fiduciary duty, the Department considers it reasonable to recognize that the high-volume and disorganized nature of recreational shooting currently occurring on the subject lands poses a risk to the continued, productive management of the Subject Lands, and that current lessees incur costs which are higher than their counterparts on comparable grazing lands in maintaining their improvements and safely managing their stock. The Department further considers it reasonable to take measures, as outlined hereafter, to attempt to reasonably mitigate that risk in order to ensure the continued productivity of the Subject Lands, while being mindful of its statutory directive to keep state lands open to the public for recreation. Based on public comment and the Department’s own observations, current recreational shooting has an adverse impact on the income generating potential of the Subject Lands.

Next, the Department considers Petitioners’ allegations that a closure of the Subject Lands to recreational shooting is necessary to address an imminent threat, caused by potential substantial public use, of immediate, irreparable property damage or bodily injury on the state tract or adjacent land. To justify closure on the basis of Mont. Admin. R. 36.25.1207(3)(k) the Department must conclude that (1) recreational shooting constitutes a “substantial public use”; and (2) that said use poses an imminent threat of immediate, irreparable property damage or bodily injury occurring on the Subject Lands or lands adjacent thereto.

The Department, first concludes that current recreational shooting practices on the Subject Lands constitutes a “substantial public use.” Indeed, the level of public comment both for and opposed to closure suggests, on its own, a substantial use. That suggestion is supported by Department observation. Scarcely is there a day which the neighboring landowners or the Department cannot observe recreational users shooting on the Subject Lands. Furthermore, Petitioners provided credible statements that as many as 80 shooters at a time utilize the parcel,

and thus, given the narrow confines of the Subject Land involved, the shooting on the Subject Lands is highly concentrated. McReynolds Decl. ¶ 9, Ex. 8.

Moreover, the Department agrees that the current nature of recreational use on the Subject Lands constitutes an imminent threat of immediate, irreparable property damage or bodily injury. In the Department's observation, an indeterminate, but impactful, amount of shooting on the Subject Lands is carried out in a disorganized manner with little regard to the location of other shooters or of persons or property which may be down range of a shooter's target. While the Department believes that this behavior exists in a minority of users and that most shooters engage in safe and responsible firearm use, this behavior nonetheless constitutes a danger to adjacent landowners, lessees, other recreationists, and the public at large on the Subject Lands.

The Department finds credible comment from Petitioners that recreational users have caused damage to their fences and gates. There were also a significant number of comments both in writing and orally, from adjacent land and homeowners, and the Petitioners that they have a subjective fear for their personal safety when in the vicinity of the Subject Lands, have had livestock shot, and have had structures shot. The Department is unable to confirm the veracity of any of these allegations of property damage; reports of individuals caught in the line of fire; or the subjective apprehension or fear felt by any of these landowners, is caused by irresponsible and unsafe shooting practices. The Department, nonetheless, finds their safety concerns and allegations to be reasonable given target locations and shooting directions as observed by Department staff, relayed by FWP wardens, and the sheer number of statements included by petitioners.

While the Department believes it is worth mentioning that the majority of the unsafe shooting practice (and consequently the greatest threat to the safety of persons and property) originates from shooting occurring along Axtell Anceney Road. The Department observes—as several commentators noted—that the topography around the primary and secondary shooting area on Axtell Anceney Road is conducive to safe shooting practices with most shooting occurring toward the natural backstop of undulating hills. Topography in this area forms a natural backstop for bullets and thus damage to personal property or threats to human safety

from shooting are lower in this area. Problem shooting is, however, known to occur frequently as targets are placed on a ridge or horizon line with no earthen backstop, perhaps due to the high number of target shooters being present, as space is limited for safe directional shooting to occur. The unsafe choices made by many recreational target shooters therefore poses a great threat to property damage and personal injury as a result of stray bullets carrying long distance. Id. Shooting in in the direction of existing homes and farm outbuildings means bullets have a significant chance of ultimately impacting in those areas and creating a safety hazard.

Relevant to the foregoing analysis, and even to the extent Department has been unable to conclusively corroborate the allegations of Petitioners and commentors, a significant amount of the aftermath of the shooting constitutes clear violation of Department rules regarding recreational use. While it may be true that FWP wardens are often unable to issue citations for these offenses, the fact of their commission is no less certain. Of note, Mont. Admin. R. 36.25.1204(12) states that “A recreationist may not interfere with the legitimate lease management activities of lessees or their agents.”

Of similar note, Mont Admin. R. 36.25.1207(11) explicitly prohibits littering on state trust lands. The Department has no shortage of evidence, from both direct observation and shared from petitioners, regarding the high volumes of litter which are left on the Subject Lands regularly. Subpart (5) of the foregoing rule also requires use of firearms occur in a careful and prudent manner and prohibits discharge of firearms within one-quarter mile of an inhabited dwelling or outbuilding. Based on Department staff observations, conversations with FWP, and public comment, it is reasonable to believe violations of this rule occur on a frequent basis.

While FWP (as the agency responsible for enforcement of state land use laws and rules pursuant to Mont. Code Ann. § 87-1-504) rarely has had opportunity to issue citations to specific individuals for either of the foregoing offenses[JH21.1], it is unquestionable that violations of the foregoing rules occur on a regular basis on the Subject Lands, both of which bear upon the safety of the public, lessees, and adjacent landowners and/or negatively affect the income generating capacity of the Subject Lands.

For the foregoing reasons, the Department concludes that current shooting practices on the Subject Lands pose an imminent threat, caused by potential substantial public use, of

immediate, irreparable property damage or bodily injury on the Subject Lands. For the same reasons, the Department concludes current shooting practices in those sections is also a threat to public safety.

Having concluded that the Petition does meet the criteria of Mont. Admin. R. 36.25.1207(3)(a)(h), and (k), the Department is nonetheless compelled to note, as addressed above, that the legislature has directed that public lands should remain open to recreational use, to the extent such use is compatible with the income-generating potential of the land, and that state lands are to be managed under a “multiple-use” concept. Mont. Code Ann. § 77-1-203. Specifically, the Land Board and the Department are directed to manage lands so that “they are utilized in that combination best meeting the needs of the people and the beneficiaries of the trust. . . and harmonious and coordinated management of the various resources, each with the other, will result without impairment of the productivity of the land.”
Id.

To that point, the Department does not take lightly the request before it to close state land to public recreation. Were it not for the significant body of public comment from neighbors, lessees, Petitioners and concerned citizens, coupled with the Department’s own observations, the Petition would be far less persuasive. The Subject Lands are, in the experience of Department staff, relatively unique in the volume and severity of land management issues arising from recreational shooting. Consistent with its legislative mandate, the Department takes seriously its obligation to leave all or parts of the Subject Lands open to recreation to the extent it can be done without impairing income generation on the Subject Lands.

Finally, a number of comments have asserted that any restriction the Department might impose with regard to firearms would violate both the Second Amendment to the United States Constitution and Article II, Section 12 of the Montana Constitution. The Department disagrees that the restrictions imposed herein implicate either the Second Amendment or Article II, Section 12 of the Montana Constitution. However, it likewise recognizes that it is without authority to decide constitutional questions. See e.g. *Flowers v. Mont. Dept. of Fish, Wildlife and Parks*, 2020 MT 150, ¶ 15 (“Constitutional questions are properly decided by a judicial body, not

an administrative official, under the constitutional principle of separation of powers.” Internal citations omitted).

DECISION

Pursuant to 36.25.1207 Mont. Admin. R., the Department grants the Petition, with modification. This decision appropriately considers, and meaningfully addresses, the sizeable contingent of the Gallatin Valley community that recognizes the importance of this location for recreation, including recreational shooters, as one of the few remaining, publicly available locations to practice shooting sports in the area. It likewise strikes an appropriate balance with concerns articulated by the Petitioners and other commentors expressing a variety of concerns including safety, protection of private property, and damage to public lands. Indeed, Petitioners own recorded oral comments (i.e. that it is not their intent to close the Subject Lands to the public entirely) suggest that this result adequately addresses the interests of the multiple interest groups at issue here. Unless otherwise noted herein, this Decision is effective as of July 15, 2026.

TOWNSHIP 3 SOUTH, RANGE 4 EAST SECTION 6 GOV. LOTS 3-7, SE4NW4, SE4, E2SW4

The Department imposes a year-round closure to recreational target shooting (meaning, all discharge of firearms for purposes other than lawful hunting). Other forms of recreational use will not be affected by this restriction, including hunting during the applicable hunting seasons. In accordance with ARM 36.25.1207(9), except for categorical closures, the department will review closures at expiration or renewal of the lease. 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. The applicable lease on the Subject Lands expires on February 28, 2028. At that time, the Department will re-evaluate the closure based on criteria including, but not necessarily limited to the following:

- a. The status of FWP’s development of a formal shooting range in Gallatin County and its potential impacts on long-term recreational use on the Subject Lands as a whole.

- b. Impacts to other regional trust land during the restriction period, including, but not necessarily limited to whether the closure has led to higher incidents of multiple-use conflicts arising from recreational shooting on other trust lands.
- c. Impacts to trust revenue attributable to the Subject Lands during the restriction period.

The Department may, in its discretion, vacate the recreational target shooting closure upon re-evaluation in 2028.

DNRC retains discretion for decision making authority to continue, modify, or repeal the restriction of Subject Lands to recreational target shooting based on the highest and best use of the Subject Lands as stated in the DNRC mission, the Montana Constitution and state law.

The Petitioners or any objector (meaning any person who provided a written or oral comment which states reasons why the Petition should not be granted along with any appropriate supporting documentation) may appeal this decision to the Director of the Department by filing a written appeal, on or before July 16, 2025, with the Department’s Central Land Office at the following address:

Department of Natural Resources and Conservation
Central Land Office
Attn: Hoyt Richards
8001 N. Montana Ave.
Helena, MT 59602

Requests for appeal from individuals not meeting the definition of either “objector” or “petitioner” as contemplated in Mont. Admin. R. 36.25.1207, will not be considered.

**DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION**

By: /s/Hoyt Richards
Hoyt Richards, Central Land Office Area Manager