



Central Land Office
8001 North Montana
Helena, MT 59602
(406) 458-3500

DEPARTMENT DECISION ON PETITION FOR CLOSURE OF STATE LANDS

July 1, 2026

PROCEDURAL HISTORY

On August 18, 2025, the Montana Department of Natural Resources and Conservation (“Department”) received a petition (“Petition”), filed pursuant to Mont. Admin. R. 36.25.1207(7). The Petition was followed by an amendment, which was filed on March 26, 2026. The Petition and amendment will collectively be referred to as “the Petition.” The Petition requests closure of the following described state lands in Gallatin County, Montana (together referred to hereafter as “Subject Lands,” individual section references hereafter are to “Section 6” and “Section 32”, respectively):

Township 2 South, Range 4 East

Section 32: NE4

Township 3 South, Range 4 East

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

The Petition was filed by Spur Cross Ranch LLC and a group of individual co-petitioners (“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. 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 statement from a former lessee of Section 6 of the Subject Lands.

Petitioners own real property adjacent to Section 6 upon which they conduct farming and ranching activities. Petition at 1. Co-petitioners reside at various properties in the vicinity.

Id. at 2-13, 35, 38-39; Amendment at 3-36. Petitioners allege, through counsel, and by way of photographic evidence, 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 wildfires and damage to improvements, wildlife, livestock, and nearby structures. Petition at 3-26, 35-39. In support of these allegations, Petitioners have attached photographs of cut barbed wire fences; knocked down, damaged and obliterated fence posts; shot livestock; charred remnants; and damaged signage. *Id.* at 14-26; 36-37.

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 trash, litter, or other refuse, including “so much garbage, trash, [and] shell casings...” Amendment at 6. They support their contentions with photographs of old pallets left behind as apparent target stands, used clay targets, and shot livestock, and other targets such as aluminum cans. Petition at 14-26; 36-37.

Finally, Petitioners contend that current recreational shooting on the Subject Lands poses an imminent threat of immediate, irreparable bodily injury. *Id.* at 3-13, 35, 38-39. Statements of the Petitioners reflect their observations that recreational shooters on the Subject Lands are numerous and are disorganized in their use of the Subject Lands, shooting in all directions, and without regard to people, animals, or property which may be down range. Petition at 1, 35; Amendment at 38-39. Specifically, petitioners have raised concerns of a horse being shot and killed, 2 steers being shot, bullets flying by a nearby residence, and targets “set up with private property, livestock, and people in the background.” Petition at 35, 38-39; Amendment 7.

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. Very few comments specified the petition language but instead addressed the proposed action of full closure to all recreation on the Subject Lands, or the principle of the proposed action on state trust lands in general. Overall, the comments show strong opposition to closing the Subject Lands to all recreation, coupled with widespread recognition that uncontrolled shooting on these parcels is creating real safety, property damage, noise, and nuisance problems that warrant a more narrowed management response (such as restricting or relocating shooting while keeping other low impact uses open).

Most commenters oppose full closure of the Subject Lands to all recreational use and frame closure as inappropriate or unfair to the broader public. Many of these opposition comments explicitly support or reiterate a comment submitted on behalf of a shooting sports association stressing public access, constitutional rights, and the scarcity of places to shoot in Gallatin County. Some commenters expressed concern that granting the petition would displace a high number of shooters who may move to another parcel of state trust land. At the same time, a substantial subset of commenters—including adjacent landowners and some general recreationists—describe unsafe shooting, livestock loss, property damage, noise, trash, and fire risk, and argue for either prohibiting or strictly limiting recreational shooting while preserving other recreational uses rather than granting the blanket closure requested in the petition. Notably, all written or oral comment received at the public hearing was in support of, at minimum, a modified closure.

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 outbuildings, 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. One petitioner raised concerns about the use of exploding targets in conjunction with the target shooting. Amendment at 4. 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.” Petition at 27.

Additionally, 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.

Finally, a significant number of individuals including at least one of the Petitioners themselves, advocated for a land management approach which would not result in an outright ban on all recreational uses of the land. These comments were supported by many of the same arguments articulated above but 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) Section 32 of the Subject Lands is leased for agriculture purposes. The areas that contain growing crop are already closed to all general recreational use during the growing season, pursuant to ARM 36.25.1207(1)(b).
- 2) The Subject Lands have been restricted previously. The Department imposed a permanent firearm discharge restriction on Section 6 of the Subject Lands to include that portion south of Axtell Anceney Road. And, in November 2022, the Department imposed a two-week restriction on shooting on all of Section 6 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 and High Flat Roads fencelines bordering the Subject Lands beginning in 2022 and consistently replaced by Department staff until Oct. 1, 2025. This signage is currently in place on both parcels.
- 3) 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 are experiencing a surge in recreational use according to game wardens. Consequently, any effective long-term management plan must recognize the limited resources available to effectively manage recreational use of the Subject Lands.

- 4) 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.

- 5) Regarding 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. For example, field staff have observed footpaths and bullet impacts worn in the ground from target placement in some of the more popular shooting locations, particularly in Section 6, 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 may carry far beyond their intended targets and impact at locations which the shooter is unaware of. With regard to the numerous safety concerns raised by Commentors and Petitioners about the manner in which the recreational shooting is taking place on Subject Lands, the department finds those concerns to be credible and persuasive and corroborated by its own observations.
- 6) The Subject Lands are presently encumbered by two agricultural and grazing leases, covering approximately 615.47 acres in the aggregate. Of those acres, approximately 471.17 are classified as primarily useful for grazing, 143.3 are classified for agriculture, and 3.0 acres are considered unsuitable for agricultural or 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 in the course of this proceeding. For example, lessee representative and ranch manager for Section 6, 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. See Public Hearing at 01:04:03 - 01:04:06. Based

on its observations and comments received from lessees, 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 lessees 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.

- 7) 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. Some petitioners provided similar statements regarding fear for their personal safety, both from belligerent attitudes of some target shooters, as well as from the disorganized manner of shooting. Co-petitioners Kelsey and Talon Schneiter live on High Flat Road and submitted the following statement “...we hardly let our kids play outside when they are shooting because we are afraid of bullets flying by our house.” Petition at 55. 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.

- 8) Based on the comments received, there is sizeable public interest in keeping the Subject Lands publicly available for target shooting in some form. The Department recognizes that the large population of recreational shooters in the Gallatin Valley expect the Department, as one of 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.

- 9) Related to the above, the Department finds those comments asserting that the problems addressed above lie with a select few individuals to be credible. 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.

- 10) 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. 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, but if approved it could provide a reasonably accessible alternative site for recreational shooting. While the formal development of a nearby shooting area would help improve access to recreational shooting opportunities in the area, at this stage in the application process the proposal is 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 of Section 6 currently turns cattle out on the Subject Lands to graze, the extent and particular manner of the current recreational target shooting on these lands 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 been subject to egregious examples of littering, and much of the problem has resulted from target shooting of refuse at these locations. 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 that action be taken.

The Department, 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. 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. As a result, 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 finds the measures outlined below are necessary to protect the lease operations in the area and ensure the continued productivity of the Subject Lands. 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 observations by department staff who regularly monitor the area. Moreover, neighboring landowners have remarked about the intensive nature of the recreational shooting on the subject lands as well, with some reporting shooting activity that extends late into the night and interferes with basic activities such as going for a walk, using a four-wheeler, or allowing the kids to play outside. Amendment at 4-7.

Furthermore, 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 observes that the foregoing is, in its estimation, generally true of the Subject Lands, 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, in Section 6. The other primary shooting locus is in Section 32 from High Flat Road. The Department observes—as several commentors noted—that the topography around the primary shooting area on Axtell Anceney Road is far more 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. While not as common as in Section 32, problem shooting in Section 6 is, however, known to occur. Often, 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.

By contrast, shooting in Section 32 along High Flat Road occurs in flatter terrain and therefore poses a greater threat to property damage and personal injury as a result of stray bullets carrying long distance. *Id.* Shooting in that section is typically in the direction of existing homes and farm outbuildings, and 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, 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(7)(g) Mont. Admin. R., the Department grants the Petition, with modification. The Department has considered the sizeable contingent of the Gallatin Valley community that desires improved access for practice shooting sports in the area. The Department has also considered the concerns of Petitioners and other commentors related to public safety, protection of private property, interference with lessees, and damage to public lands based on the specific nature of the recreational shooting that has been occurring on the Subject Lands in particular. This decision, as specified below, seeks to strike a balance between promoting recreation on state trust lands by keeping the Subject Lands open to other forms of recreation, but nevertheless restricting recreational shooting activity on the Subject Lands due to the compelling concerns of the Petitioners. Unless otherwise noted herein, this Decision is effective as of July 15, 2026.

1) TOWNSHIP 2 SOUTH, RANGE 4 EAST SECTION 32 NE4

First, with regard to Section 32, all general recreation is already categorically closed seasonally for growing crop from April 1 to October 31 of each calendar year to allow for

undisturbed agricultural production and harvest on the leased acreage pursuant to ARM 36.25.1207(1)(b)

In addition to the existing seasonal categorical closure, the Department imposes a year-round closure to recreational target shooting (meaning, all discharge of firearms for purposes other than lawful hunting). Lawful shotgun and archery hunting only are allowed November 1 to March 31 of each calendar year. Use of other firearms for hunting is prohibited. Other forms of recreational use will not be affected between November 1 and March 31.

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

With regard to Section 6, 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 leases on the Subject Lands expire 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 closure period, including, but not necessarily limited to whether the closure of Section 6 have 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 closure period.

The Department may, in its discretion, vacate the recreational target shooting restrictions and closures herein upon review 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