



MONTANA DEPARTMENT OF NATURAL
RESOURCES AND CONSERVATION

FREQUENTLY ASKED QUESTIONS
Commercial Leasing & Affordable Housing Opportunities on State Trust Lands

September 2023

The Montana Department of Natural Resources and Conservation (DNRC) manages state trust lands to produce revenues for trust beneficiaries while considering environmental factors and protecting the future income generating capacity of the land. Some lands that are managed by the agency have a “highest and best use” as commercial development. Often those lands are located near or within city limits in various locations across the state and therefore present excellent opportunities for industrial, retail, and mixed-use residential. Currently, the DNRC manages 121 active commercial leases and continually pursues other opportunities throughout the state.

[HOUSE BILL 819 \(2023 MONTANA STATE LEGISLATURE\)](#)

1. Does HB 819 mandate any procedural changes to the commercial leasing program?

No, the DNRC will continue to work within the existing framework of statute and rule to accomplish its constitutional mandate of generating revenue for the trust beneficiaries.

2. What is HB 819 and what is the DNRC’s role in this legislation?

House Bill 819 was passed by the Montana State Legislature and signed into law by Governor Greg Gianforte on June 13, 2023. The bill created the Montana Community Reinvestment Plan to provide for attainable workforce housing and to provide for funds to communities to reinvest and incentivize the development of such housing. For the DNRC specifically, it mandates that the agency will evaluate the availability of state trust lands for potential development of attainable workforce housing. It also states that communities shall consider the use of state trust lands to support critical public employee services, including attainable workforce housing.

[GENERAL LEASING AND PROCESS QUESTIONS](#)

3. Why is the State leasing land for development?

The Montana Department of Natural Resources and Conservation (DNRC) manages nearly 5.2 million surface acres of the State of Montana’s trust land resources. The Montana Constitution and the Enabling Act require the State to act with undivided loyalty in the interest of the trust beneficiaries in matters involving trust property, to carry out the intentions of the grantor of the trust, to make the trust economically productive, and to be accountable to the beneficiary. The DNRC has a fiduciary duty to generate revenue on trust lands for trust beneficiaries. Trust beneficiaries include public education institutions, such as K-12 schools, universities, and Pine Hills, which receive trust revenue.

The DNRC generates revenue for trust beneficiaries through four primary programs: agriculture and grazing management, forest management, minerals management, and real estate management, including commercial leasing.

4. **What is the standard Commercial Leasing process and has it been modified in response to HB819?**

All commercial leases are issued through a Request for Proposals (RFP) process and thereby is a public process that anyone is allowed to bid on. By Statute, annual lease fees are based upon a percentage of the full market appraised value of the Trust property. This revenue fee calculation does not deviate because of HB819. Proposals are scored and, if selected, lease terms are negotiated between the parties. Some proposals request an Option to Lease for a period of time prior to executing a lease. Under an Option, the proponent would hold rights to develop, and pay for the rights to develop, but would not be able to break ground on the development. The Option to Lease facilitates permitting and further due diligence on the project. Some leases require Land Board approval prior to execution, and the appropriate environmental review must be completed, in compliance with the Montana Environmental Policy Act (MEPA).

5. **Where does the revenue go that is generated from the land lease?**

The revenue generated from this proposed commercial lease is considered “distributable” revenue and is paid to the appropriate trust beneficiary. There are twelve beneficiaries that receive this revenue, with Common Schools (K-12) being the majority of the land trust.

6. **How can I get more information?**

Information can be obtained directly from your local DNRC Unit Office or by calling the Commercial Leasing Specialist at the DNRC HQ in Helena at (406) 444-0915.

COMMUNITY, LESSEE, AND EXISTING USES

7. **How can a community prepare before approaching the DNRC about an affordable housing project on Trust Land?**

Communities who are interested in utilizing state trust land for potential affordable housing development should:

- Identify the need to be served and the overall vision of the development.
- Understand the community’s support and the projects impacts, both positive and negative.
- Work with local developers to explore potential relationships and share ideas.

8. **What happens to the existing ag or grazing lease on the trust land if it is identified for potential affordable housing?**

The DNRC has a process to convert ag or grazing land to commercial development if that is deemed the highest and best use. The existing use will be phased out over time as the commercial development construction begins. DNRC will work proactively with both the current lessee and the developer to minimize the impact.