

MONTANA FISH, WILDLIFE & PARKS' UNLOCKING PUBLIC LANDS PROGRAM



**UNLOCKING
PUBLIC LANDS**
MONTANA FISH, WILDLIFE & PARKS

FREQUENTLY ASKED QUESTIONS (FAQs)

Landowner FAQs

Question: What is the objective of the **Unlocking Public Lands Program**?

Answer: The objective is to allow members of the public to cross parcels of enrolled private land to gain access to otherwise inaccessible parcels of state (DNRC) or federal (Bureau of Land Management or United States Forest Service) land for the purpose of fishing, hunting, trapping, hiking, bird-watching and other forms of outdoor recreation compatible with the use of public lands.

Question: What is the incentive for a private landowner to participate in the program?

Answer: A landowner enrolled in the program may receive an annual tax credit of \$750 for each parcel of public land made accessible, with a maximum annual tax credit of \$3,000 for making four (4) parcels of public land accessible.

Question: How will the **Unlocking Public Lands Program** be administered?

Answer: A contract for participation in the **Unlocking State Lands Program** will be established between the landowner and Montana Fish, Wildlife & Parks (FWP) that defines when, where, and how public access will be provided to public land through the landowner's private land. Upon completion of the contract term, a certification number will be assigned to the contract that will serve as verification that the landowner is eligible to receive the tax credit.

Question: When are applications due?

Answer: Montana Fish, Wildlife & Parks will accept applications from eligible landowners through March 15, 2024.

Question: When will contracts be awarded?

Answer: Contracts will be awarded no later than May 15, 2024.

Question: What public lands qualify for inclusion in this program?

Answer: Public land parcels that are deemed not legally accessible because they cannot be accessed by:

- (a) public road, right-of-way, or easement;
- (b) public waters;
- (c) adjacent federal, state, county, or municipal land that is open to public use; or
- (d) adjacent private land because that landowner has not granted permission to cross.

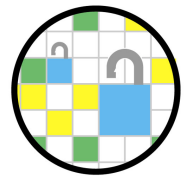
Question: Are there examples of public land that would not qualify for inclusion in the program?

Answer: Yes. Public land parcels are not eligible for enrollment if they are restricted or closed to general recreational use by the land management agency that owns or has legal control of the public land parcel, or if they are already made legally accessible through any other FWP program, such as Block Management, Habitat Montana, Open Fields for Game Bird Hunters, or the Upland Game Bird Enhancement Program.

Question: Is there a minimum size of public land parcel that can qualify for inclusion in the program?

Answer: While the statute creating this program did not establish any minimum size of public land parcel that can qualify for inclusion in the program, FWP will consider various factors when reviewing applications, including whether or not size of public land parcel may affect safety or welfare of adjacent landowners or recreationists using the property.

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Landowner FAQs (continued)

Question: My neighbor and I can both provide legal access to a parcel of public land that is not currently accessible, but he has the grazing lease for that parcel. Can we both apply for enrollment in the Unlocking Public Lands Program?

Answer: Depends. If the parcel is leased **state** land under Title 77, chapter 1, only the lessee with a qualified access to that **state** land is eligible for entering into a contract for access to that **state** land parcel. This restriction does not apply to parcels of inaccessible federal land.

Question: I outfit my private land, but is my private land also eligible for enrolling in the Unlocking Public Lands Program?

Answer: No. Private land proposed for the public access corridor is not eligible for enrollment if the landowner allows hunting on that land and that hunting is managed through outfitting or commercial hunting.

Question: How long must I allow public access through my property to qualify for my tax credit? **Answer:** Public access to the public land must be provided for a majority of the year (at least 6 months and 1 day, beginning no later than June 30 and extending continuously through December 31) for all general recreational use, including hunting, fishing, trapping, hiking, bird-watching, and other uses compatible with the use of public lands, to qualify the landowner to receive a tax credit.

Question: Are there any provisions for temporarily closing access routes in case of inclement weather, high fire danger, or other reasons?

Answer: Yes. Temporary closures may be implemented by a landowner, under the following provisions:

- a) Landowner must notify FWP regional headquarters at least 24 hours prior to the closure;
- b) Landowner must post public notice on site;
- c) If closure is in effect for more than 7 days, FWP must approve the closure; and
- d) Closure must be removed within 24 hours after the natural environmental conditions that triggered the closure no longer exist.

Question: If I enroll my land for access to public land parcels, do I have to purchase and install signs?

Answer: No. FWP will install signs marking the access corridor. Signs must remain in place for the length of the contract term.

Recreation User FAQs

Question: What kinds of recreational access will be allowed through the program?

Answer: All forms of recreational access that are compatible with public land use will be allowed, including fishing, hunting, trapping, hiking, bird-watching, etc, unless the land management agency that owns or has legal control of the parcel has placed any restrictions on the public land parcel. All DNRC Recreational Use Rules will apply to any DNRC state school trust lands made accessible through this program.

Question: How will I know where to find the public lands parcels made accessible through the program?

Answer: A map will appear on the FWP website no later than June 30 of each year, depicting the locations of the Unlocking Public Lands project sites. This map will identify routes which provide public access across private land to reach public land, the method of travel allowed, the time period the route is open for public use, and beginning and ending points of the travel route. Project sites will also be marked with signs that provide this information.



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Recreation User FAQ (continued)

Question: What methods of travel will the public be allowed to use to cross the private land to gain access to the public land parcels?

Answer: The contract negotiated between FWP and the landowner will determine what method of travel will be allowed across the private land, which may be limited to only motorized or non-motorized travel, or may be further defined as foot travel only, horseback, mountain bike, not ATV, etc.

Question: Who will enforce the terms of the Unlocking Public Lands Program contract?

Answer: Depending upon the issue and the location of the incident, enforcement staff from BLM, USFS, FWP, or county law enforcement might be involved. Through the contract between FWP and the landowner, the landowner has only identified the terms and conditions under which the public may be allowed onto private land that remains under the landowner's control.

Question: Does the recreation user have to pay a fee to use the Unlocking Public Lands Program?

Answer: Depends. In order to hunt, fish, or trap on State lands, a person must possess a valid FWP conservation license. For DNRC state school trust land, other types of recreation require a State Land Recreational Use Permit which can be purchased from any FWP license agent. Federal lands do not require a recreational use permit, but would require appropriate hunting, fishing or trapping licenses if engaged in that activity.

Question: Will the Unlocking Public Lands Program contract only provide public access across private land to reach public land?

Answer: Yes. The Unlocking Public Lands Program contract will define when, where, and how the public may **cross** private land to reach public land. Enrollment in the program does not convey to the public any right to hunt, fish, trap, or otherwise recreate on the private land through which they are allowed to pass to reach public land.

Question: Who is paying for the Unlocking Public Lands Program?

Answer: Because landowners will be provided with tax credits for allowing public access across their private land, the general public, will be "paying" for the program through reduced tax revenue in the amount of the tax credits awarded to participating landowners. FWP will be providing signs to mark project sites, using revenue generated through the sales of hunting licenses.

Question: Can I access adjacent state or federal lands from a public land parcel made accessible through the Unlocking Public Lands Program?

Answer: Yes, if adjacent state or federal land abuts the public land parcel in a way that provides legal access, unless the appropriate land management agency has imposed restrictions or closure on those adjacent state or federal lands.



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Unlocking Public Lands | allow free public access to public lands in exchange for a state income tax credit

Overview

Montana Fish, Wildlife & Parks' Unlocking Public Lands program seeks to "unlock" public access to isolated parcels of state or federal land for all outdoor recreation uses in compliance with public land rules.

Program at a Glance

The Unlocking Public Lands program is a creative way for landowners to provide public access to public lands for all recreation uses (camping, hunting, birding, etc.) in exchange for an income tax credit to the benefit of the residents and visitors of Montana.

Who is Eligible

To be eligible for the Unlocking Public Lands program private landowners, must be willing to provide public access across private lands to public lands for more than six months. Typically, this occurs from June 30-December 31.

Landowners allowing access to "locked" state lands must also hold the state land lease.

Landowners could also be considered for an agreement if they own land adjacent to the point where the corners of two parcels of public land meet. The landowner shall grant access through the landowner's land to establish a corridor between the two parcels of public land as long as one of the parcels of public land is accessible by a public road, waterway, or access granted by a landowner.

The public land to be considered cannot be accessed by:

- public road, right-of-way, or easement;
- public waters;
- adjacent federal, state, county, or municipal land that is open to public use; or
- adjacent private land because a landowner has granted permission to cross (such as neighboring landowners enrolled in FWP programs like Block Management)

Landowner Compensation and Benefits

Landowners who enroll parcels in the Unlocking Public Lands Program are eligible for an income tax credit of \$750 per parcel, with a maximum of \$3,000 in tax credits.

Fish, Wildlife & Parks may provide fall hunter management assistance dependent upon need, property rules and program availability.

FWP will provide and post signs with associated rules for each property enrolled in collaboration with the landowner.

Agreement Details

Agreements will be between private landowners and Fish, Wildlife & Parks for more than six months and are renewed annually.

Landowner determines when, where, and how the public may access public land in accordance with program guidelines including the possibility of limiting travel to foot traffic only.

Landowner Liability

Landowners enrolled in the Unlocking Public Lands program are provided liability protection under state law through 70-16-302, Montana Code Annotated (MCA) as long as fees for access/trespass are not charged. Landowners are also possibly eligible for reimbursement through FWP's Livestock Loss Reimbursement Program.

How to Apply

Applications are available in early January and due by March 15 for new projects. Applications can be obtained online or through a local FWP office. Agreements will be selected and landowners notified by May 15. For more information contact your local Fish, Wildlife & Parks Regional Access Manager, FWP Biologist, FWP Warden or visit: <https://fwp.mt.gov/landowner>



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For more information: Contact your local FWP office or contact the FWP Parks and Outdoor Recreation Headquarters Office 406-444-3750, LndSportRelations@mt.gov