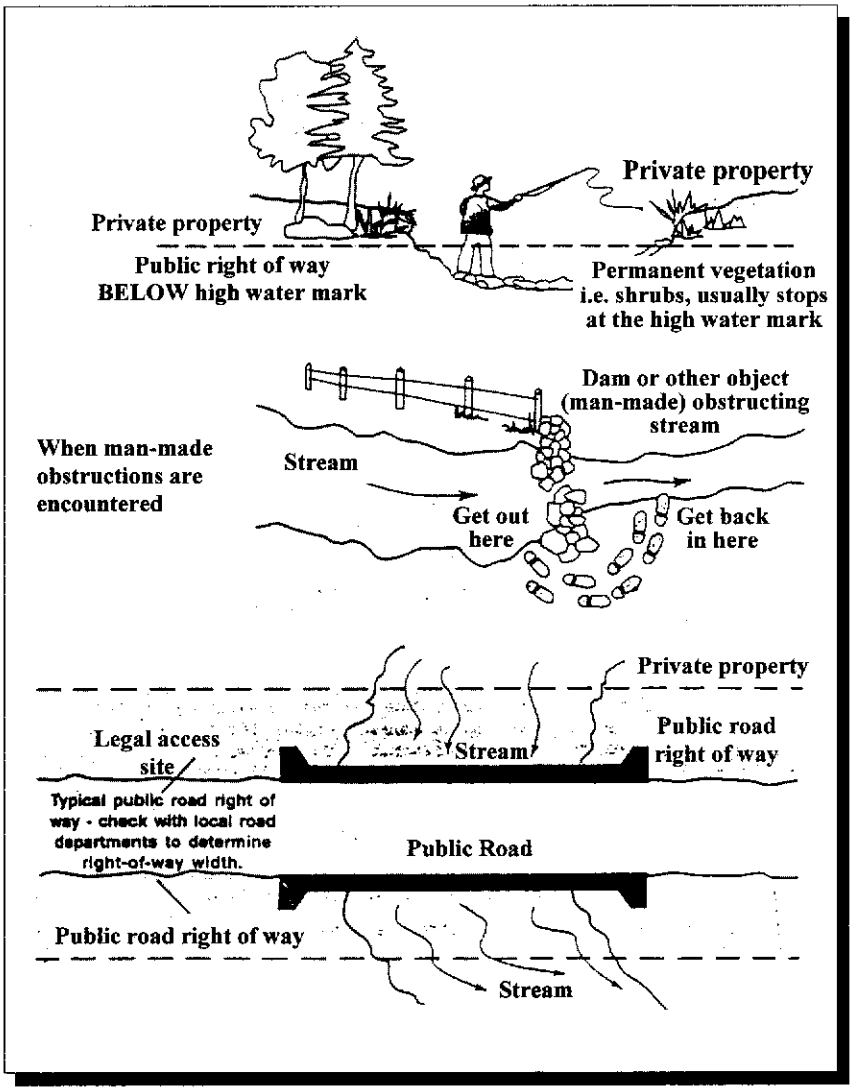
SENATE FISH AND GAME
EXHIBIT NO. 11
DATE 3/8/05
BILL NO. HB269

# Know Your Rights on Rivers and Streams in Montana

## Mazurek's Ruling...

HELENA—Montana Attorney General Joe Mazurek ruled in May 2000 that:

- Use of county road rights of way to access streams and rivers is consistent with and reasonably incidental to the public's right to travel on county roads.
- A bridge and its abutments are part of the public right highway and are subject to the same public easement of passage as the highway to which they are attached. Therefore, recreationists can access streams and rivers by using the bridge, its right of way and its abutments.
- A recreationist must stay within the road and bridge easement to access streams and rivers. Absent definition in the easement or deed to the contrary, the width of the bridge right of way easement is the same as the public highway to which it is attached.
- Access to streams and rivers from county roads and bridges is subject to the exercise of county commission's police power. However, this power is not without limitation.
- Access to streams and rivers from county roads and bridges created by prescription is dependent upon the uses of the road during prescriptive period.
- Most county roads are 60 foot rights of way; state highways are 120 foot. Rights of way do not "bottleneck" at bridges.

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This message is brought to you by Public Lands/ Water Access Association, Inc. that was in the forefront of establishing Montana's Stream's Access Law. You can become a member and keep Montana access open to our public lands and water. Write to PLAAI, P.O. Box 2, Ramsay, MT 59748 or e-mail plaai@imt.net.

# Rules on Accessable State Lands' Licenses

**Remember that this year (2004) when you purchase your state lands recreational license, it will be included in your conservation license. This allows recreationists to hunt, fish and trap on state lands during the regular seasons.**

- But, if you are just hiking or bird watching on state lands, you need the $10 license. This is very important to remember because the penalty can be a fine up to $1,000 per day for each violation. So, be careful that you understand the new license.
- Your hunting license does cover varmint hunting.
- You should pick up a guide to recreational use of state lands from your local sporting goods dealers.
- It is illegal to trespass onto private land from state land.

## Do I have to have a lessees permission or have to notify the lessee prior to using the state trust land?

- A lessee may require notification (not permission) either in person, by telephone, or by drop box, from recreationists prior to their entry into-leased or licensed state land.
- If notification is required, the state land must be posted at customary access points with signs available from DNRC. The posting must include the name, phone number, and directions to the residence of the person to be notified, or the location of the drop box.

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