SENATE TAXATION
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NAVIGABLE WATER WAYS OWNED BY THE STATE OF MONTANA AND ADMINISTERED BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TRUST LAND MANAGEMENT DIVISION

Updated 1/3/2008

The State of Montana holds ownership of the land and minerals located below navigable rivers, streams and lakes and related acreage as established in the Equal Footing Doctrine and Montana statutes. The Montana Department of Natural Resources and Conservation, Trust Land Management Division administers these lands on behalf of the state.

The Department's authority to administer the ownership of navigable water bodies are referenced in the following:

1. Equal Footing Doctrine (1844)

   Based on a U.S. Supreme Court decision (Pollard vs. Hagen 44 U.S. 212) the original 13 states held ownership of navigable riverbeds consistent with English Law. The Supreme Court held that all new states enter the union under equal footing. Therefore, all of the state's would own the lands beneath the navigable rivers and lakes.

2. MCA 70-16-201

   Provides for state ownership from the low water mark to the low water mark on navigable water bodies.

3. MCA 70-1-202

   Provides for state ownership of all land below the water of navigable lakes or streams.

4. MCA 77-1-102

   All lands lying and being in and forming a part of the abandoned bed of any navigable stream or lake belongs to the State of Montana, for the School Trust.

5. MCA 70-18-203

   Islands and accumulations of land formed in the beds of navigable streams belong to the State of Montana.

The Department considers navigable waterways to be those for which it has historical documentation of commercial use. As new navigability data is discovered, the following list of navigable waterways may be revised as required.

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BIG HOLE RIVER

Based on historical documentation, the Big Hole River is commercially navigable from Steel Creek to Divide, Montana. Therefore, the state claims ownership of the Big Hole River between these two points.

BIG HORN RIVER

Based on historical documentation, the Big Horn River is commercially navigable from the Wyoming state line to its confluence with the Yellowstone River. Therefore, the state claims ownership of the Big Horn River between these two points.

BITTERROOT RIVER

Based on historical documentation, the Bitterroot River is commercially navigable from the mouth of Jennings Camp Creek on the east fork to its confluence with the Clark Fork River. Therefore, the state claims ownership of the Bitterroot River between these two points.

BLACKFOOT RIVER

Based on historical documentation, the Blackfoot River is commercially navigable from Lincoln, Montana to its confluence with the Clark Fork River. Therefore, the state claims ownership of the Blackfoot River between these two points.

BOULDER RIVER (Tributary to the Yellowstone River)

Based on historical documentation, the Boulder River is commercially navigable from the northern township line of Township 6 South, Range 12 East, to its confluence with the Yellowstone River. The west Boulder River is commercially navigable from the southern line of Township 3 South, Range 11 East, to its confluence with the main stem of the Boulder River. Therefore, the state claims ownership of the Boulder River between these points.

BULL RIVER

Based on historical documentation, the Bull River is commercially navigable from a point south of Bull Lake (approximately in Section 16, T28N, R33W) to its confluence with the Clark Fork River. Therefore, the state claims ownership of the Bull River between these two points.

CLARK FORK RIVER (Tributary of the Columbia River)

Based on historical documentation, the Clark Fork River is commercially navigable from Deer Lodge, Montana to the Idaho state line. Therefore, the state claims ownership of the Clark Fork River between these two points.

CLEARWATER RIVER

Based on historical documentation, the Clearwater River is commercially navigable from, and including, Seeley Lake, to its confluence with the Blackfoot River. Therefore, the state claims ownership to Seeley Lake and the Clearwater River between these two points.

DEARBORN RIVER

Based on historical documentation and court adjudication, the Dearborn River is commercially navigable from Highway 434 to its confluence with the Missouri River. Therefore, the state claims ownership of the Dearborn River between these two points.

DUPUYER CREEK

See "South Fork Dupuyer Creek".

FLATHEAD RIVER - MAIN STEM

Based on historical documentation, the main stem of the Flathead River is commercially navigable from the confluence of its north and middle forks to its confluence with the Clark Fork River. However, given the Neman court case, the state does not claim any river ownership within the boundaries of the Flathead Indian Reservation at this time. Therefore, the state claims ownership of the main stem of the Flathead River excepting any portion within the Flathead Indian Reservation. The state also claims ownership of the portion of Flathead Lake located outside of the Flathead Indian Reservation.

FLATHEAD RIVER - MIDDLE FORK

Based on historical documentation, the middle fork of the Flathead River is commercially navigable from three (3) miles above Nyack, Montana to its confluence with the North fork of the Flathead River. Therefore, the state claims ownership of the middle fork of the Flathead River between these two points.

FLATHEAD RIVER - NORTH FORK

Based on historical documentation, the north fork of the Flathead River is commercially navigable from Logging Creek to its confluence with the main stem of the Flathead River. Therefore, the state claims ownership of the north fork of the Flathead River between these two points.

FLATHEAD RIVER - SOUTH FORK

Based on historical documentation, the south fork of the Flathead River is commercially navigable from the face of Hungry Horse Dam to the main stem of the Flathead River. Therefore, the state claims ownership of the south fork of the Flathead River between these two points.

FORTINE CREEK (Tributary to Tobacco River)

Based on historical documentation, Fortine Creek is commercially navigable from Swamp Creek to its confluence with the Tobacco River. Therefore, the state claims ownership of Fortine Creek between these two points.

GALLATIN RIVER

Based on historical documentation, the Gallatin River is commercially navigable from Taylor's Fork to Central Park, Montana. Therefore, the state claims ownership of the Gallatin River between these two points.

GRAVES CREEK (Tributary to Tobacco River)

Based on historical information and Departmental interpretation, Graves Creek is commercially navigable from where Graves Creek intersects the eastern township line of Township 35 North, Range 26 West, to its confluence with the Tobacco River. Therefore, the state claims ownership of Graves Creek between these two points.

JEFFERSON RIVER

Based on historical documentation, the Jefferson River is commercially navigable from the confluence of the Beaverhead and Ruby Rivers to the Jefferson's confluence with the Missouri River. Therefore, the state claims ownership of the Jefferson River between these two points.

KOOTENAI RIVER

Based on historical documentation, the Kootenai River is commercially navigable from the Canadian line to the Idaho state line. Therefore, the state claims ownership of the Kootenai River between these two points.

LOLO CREEK

Based on historical documentation, Lolo Creek is commercially navigable from the mouth of Tevis Creek to Lolo Creek's confluence with the Bitterroot River. Therefore, the state claims ownership of Lolo Creek between these two points.

MADISON RIVER

Based on historical documentation and court order, the Madison River is commercially navigable from the Montana-Wyoming state line to its confluence with the Missouri River. Therefore, the state claims ownership of the Madison River between these two points.

MARIAS RIVER

Based on historical documentation, the Marias River is commercially navigable from its confluence with the Missouri River to a point five miles upstream. Therefore, the state claims ownership of the Marias River between these two points.

MILK RIVER

Based on historical documentation, the Milk River is commercially navigable from Glasgow to its confluence with the Missouri River. Therefore, the state claims ownership of the Milk River between these two points.

MISSOURI RIVER

Based on historical documentation, the Missouri River is commercially navigable from its headwaters at Three Forks, Montana to the North Dakota state line. Therefore, the state claims ownership of the Missouri River between these two points.

NINE MILE CREEK (Tributary to the Clark Fork of the Columbia River)

Based on historical documentation, Nine Mile Creek is commercially navigable from the southeast corner of Township 17 North, Range 24 West, to its confluence with the Clark Fork River. Therefore, the state claims ownership of Nine Mile Creek between these two points.

ROCK CREEK (Tributary of the Clark's Fork of the Yellowstone River)

Based on historical documentation, Rock Creek is commercially navigable from the main fork of Rock Creek to Red Lodge, Montana. Therefore, the state claims ownership of Rock Creek between these two points.

SHEEP CREEK (Tributary to Smith River)

Based on historical documentation, Sheep Creek is commercially navigable from the mouth of Deadman Creek to its confluence with the Smith River. Therefore, the state claims ownership of Sheep Creek between these two points.

SMITH RIVER

Based on historical documentation, the Smith River is commercially navigable from the mouth of Sheep Creek to its confluence with the Missouri River. Therefore, the state claims ownership of the Smith River between these two points.

SOUTH FORK DUPUYER CREEK (Tributary to Dupuyer Creek and Marias River)

Based on historical documentation, the south fork of Dupuyer Creek is commercially navigable from the basins above the canyon to the mouth of the canyon, a distance of approximately five miles. Therefore, the state claims ownership of the south fork of Dupuyer Creek between these two points.

STILLWATER RIVER

Based on historical documentation, the Stillwater River is commercially navigable from upper Stillwater Lake to its confluence with the Flathead River. Therefore, the state claims ownership of the Stillwater River between these two points.

SUN RIVER

Based on historical documentation, the Sun River is commercially navigable from the confluence of the north and south forks of the Sun River to its confluence with the Missouri River. Therefore, the state claims ownership of the Sun River between these two points.

SWAN RIVER

Based on historical documentation, the Swan River is commercially navigable from the mouth of Lost Creek and including Swan Lake to its confluence with Flathead Lake. Therefore, the state claims ownership of the Swan River between these two points.

TETON RIVER

Based on historical documentation, the Teton River is commercially navigable from the confluence of its north fork to its confluence with the Marias River. Therefore, the state claims ownership of the Teton River between these two points.

TOBACCO RIVER

Based on historical documentation, the Tobacco River is commercially navigable from the mouth of Graves Creek to its confluence with the Kootenai River. Therefore, the state claims ownership of the Tobacco River between these two points.

TONGUE RIVER

Based on historical documentation, the Tongue River is commercially navigable from the south line of Township 2 South, Range 44 East to its confluence with the Yellowstone River. Therefore, the state claims ownership of the Tongue River between these two points.

WHITEFISH RIVER

Based on historical documentation, the Whitefish River is commercially navigable from, and including, Whitefish Lake to its confluence with the Stillwater River. Therefore, the state claims ownership of the Whitefish River between these two points.

YAAK RIVER

Based on historical documentation, the Yaak River is commercially navigable from the mouth of Fourth of July Creek to its confluence with the Kootenai River. Therefore, the state claims ownership of the Yaak River.

YELLOWSTONE RIVER

Based on historical documentation, the Yellowstone River is commercially navigable from the mouth of Emigrant Creek to the North Dakota state line. Therefore, the state claims ownership of the Yellowstone River between these two points.