

GENERAL INFORMATION POINTS – HISTORIC COUNTY ROADS

- Prescriptive use does not adhere to state trust lands.
- It is likely some public roads on what is now State Trust land were in use prior to the State's vesting of title. These are reviewed on a case by case basis and recognized accordingly.
- The state must obtain full fair market value of the easement area granted on state trust lands {Mont. Constitution, Article X, Sec. 11(2)}.

DNRC Process:

- Applications can be received until October 1, 2021. All roads established and used prior to 1997 are eligible.
- Legal surveys of the road are not required and settlement of damages with the state surface lessee is not necessary. Environmental analysis is not required.
- At the discretion of the county, the actual road bed width (e.g. 30 feet) may be applied for instead of the standard county road width.
- DNRC must assess full market value for the easement which is typically figured using the most recent valuation study for State Trust lands. No assessment is established in cases wherein the road may be recognized as existing prior to the State's vesting of title.
- Land Board approves all easement dispositions and DNRC issues standard public road easement documents

Potential Solutions to Compensation Issue

- DNRC may have the ability to utilize the Certificate of Purchase (CP) program which would allow a County to make scheduled annual payments for their easements
 - Pro = Counties would have the ability to budget the expense
 - Con = Under the CP program an interest rate would have to assessed which is currently 5.5%
 - Con = Easements could not be issued until the entire CP is paid off
- Counties could make application to the Montana Board of Investments (BOI) for an Intercep Loan to obtain funding to purchase their historic easements
 - Pro = One payment to DNRC and easements immediately issued
 - Pro = Counties would have the ability to budget the expense for annual payments to BOI
 - Con = Intercep loans carry an interest rate, albeit typically nominal. Current interest rate through February, 2016 is 1.25%
- DNRC can, and has, worked with Counties to establish a schedule by which easements are processed and presented to the Land Board over a 3-year period
 - Pro = No additional costs in regards to contracts/loans and interest rates
 - Pro = Counties would have an estimate of cost for a specific period of time so they can budget the expense; subject to reappraisal updates of the DNRC valuation study on a 2-year cyclical basis
 - Con = Unexpected budget shortfalls could cause fluctuations in processing of applications leaving more applications pending for a following year
 - Con = Determining priority of access for specific areas may cause issues for private landowners seeking to sell property and obtain title insurance for legal access