

 [www.dnr.wa.gov](http://www.dnr.wa.gov)

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**NORTHEAST REGION**

225 S Silke Rd.  
PO Box 190  
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(509) 684-7474

**NORTHWEST REGION**

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WA 98284-9384  
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**PACIFIC CASCADE REGION**

601 Bond Rd.  
PO Box 280  
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WA 98611-0280  
(360) 577-2025

Washington statutes and related case law:  
Chapter 79.36 RCW, 79.36.355 RCW,  
4.16.160 RCW, WAC 332-36-010,  
64.06.020 RCW, (County of Skamania v.  
State, 102 Wn.2d 127, 685 P.2d 576 (1984),  
Granite Beach Holdings LLC v. State,  
etal, 103 Wn. App. 186 (2000)

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**OLYMPIC REGION**

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**SOUTHEAST REGION**

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Trust roads are not engineered or compatible for safe residential traffic.

## Do You Have Legal Access to Your Property?

### How to avoid trespass on state trust land roads

**FOR USE BY**

- Property and Home Owners
- Developers and Assessors
- Building Permit Departments
- County Planners
- Lending Institutions
- Utility Companies
- Real Estate Agents
- Title Companies
- Appraisers



**W**ashington's Department of Natural Resources (DNR) builds roads on forested state trust lands to manage the forests and earn income for public schools, universities and other trust beneficiaries.

**What you need to know**

- ▶ **Property owners need to find access to their property other than across state trust lands—or obtain access rights.**
- ▶ **To legally use state trust land roads for commercial use, utility lines, or to access private property, a road use permit or easement must be obtained from DNR.**
- ▶ **However, easements across trust lands to access residential property are rarely granted by DNR because these roads are not engineered or compatible for safe residential traffic. Residential easements, if granted, are generally temporary to allow the property owner time to find alternate legal access.**
- ▶ **Trust roads are largely built and maintained with revenue generated through DNR's management of trust lands.**

**What are state trust lands?**

In 1889, the federal government gave Washington trust lands to fund the building of public schools, universities and other state institutions. Additional forested trust lands were acquired, and are managed to help fund local libraries, hospitals, and other county services. DNR was designated as trust land manager, and over time, has generated billions of dollars for the trust beneficiaries. DNR must operate as any private trust manager—managing with 'undivided loyalty' for the benefit of the trusts.

**An easement across trust lands?**

State law requires DNR to protect trust lands and ensure that easement encumbrances do not jeopardize management activities. DNR does not grant all requests for easements or road use permits—only doing so if granting is in the best interest of the trusts. DNR usually grants easements for major utility lines and such uses as hauling timber or gravel, but not for residential access. Trust roads can be closed or abandoned at any time for environmental, storm-related or other management reasons and are not viable for residential access.



**Property owners need to find access to their property other than across state trust lands.**

## TRESPASS ON TRUST LAND ROADS

## PRIVATE ROAD WITH LEGAL ACCESS

### Risky Road

These residential property owners have no legal access across trust lands to reach their homes.

Besides traffic safety issues they risk road closures, lack of emergency services and no legal utility access for residences.

Property owners need to find alternate routes, acquire legal access, or petition the county to convert the trust road to a county road.



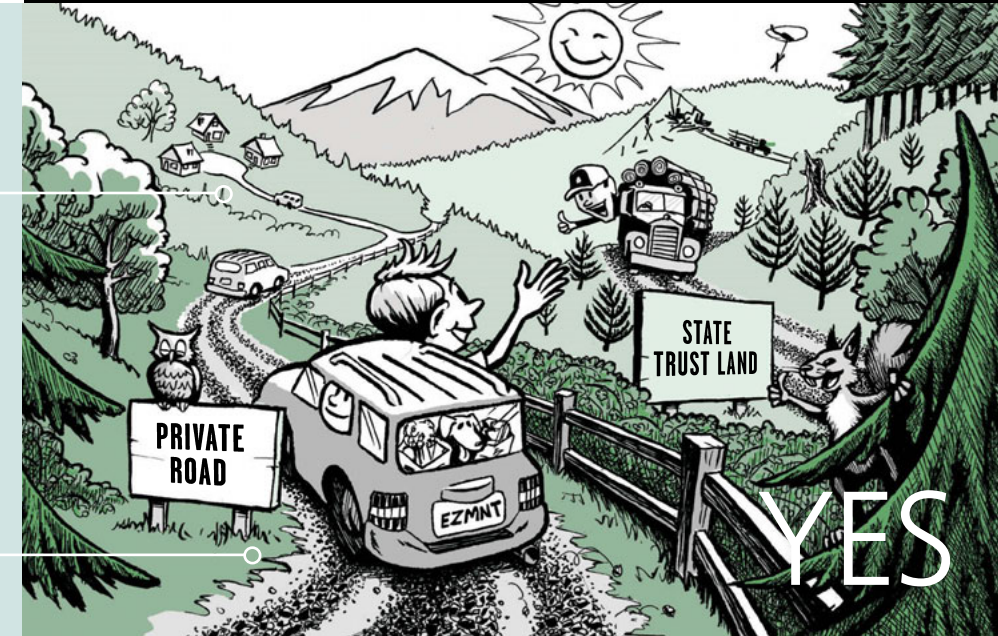
ILLUSTRATIONS BY KEN FINCH

### Harmony Lane

These residential property owners acquired road and utility easements next to trust lands prior to building their homes.

The county approved building permits after proof of legal access.

The home owners will enjoy safe, reliable access and clear title to their properties.



Before approving a residential plat or building permit, county officials need to require proof of legal access.

## Frequently Asked Questions

### What is a road use permit?

A road use permit is permission to enter another's land for a specific purpose. It is usually temporary, non-transferable, and revocable at will by the grantor.

### What is an easement?

An easement is a legally binding contract that grants a person the rights to cross another's property. It is an interest in the property with rights. Those rights typically transfer to the next land owner.

Easements can be permanent or temporary. They contain rights and obligations, such as road use and maintenance responsibilities.

### What is needed in county building permits and residential plats?

County officials should require proof of legal access prior to approving a residential plat or building permit. Approval without legal access across state trust lands (or private property) invites road and utility trespass, and compromises growth management and public safety.

### What should lenders, real estate agents, and title companies know?

Verify that legal access exists and that access corresponds to current roads used to access the property.

There is no clear title for properties in trespass.

Sometimes an intended access route is not actually built or is blocked, and property owners trespass on state lands instead.

Each easement is unique, with a specific access purpose and right. For example, DNR's 'resource use' easement (to haul timber or rock) does not grant residential or utility access rights.

**Research and verify that legal access to your property exists.**

### What questions do I need to ask before purchasing land next to state trust land?

- ▶ Does the property have road and utility access that is not on state trust lands?
- ▶ If access is across trust lands, is it permanent legal access?

### Where can I verify legal access to my property?

- ▶ A title company, county auditor or real estate lawyer can provide public records about access to property.
- ▶ A realtor is required to disclose access issues that may affect a buyer's use of the property.
- ▶ To inquire about access on state trust land roads, contact DNR's rights-of-way program manager near you, or visit our website.

Unlike county roads and state highways, trust roads are not public roads.

For more about state trust lands, visit DNR's website: [www.dnr.wa.gov](http://www.dnr.wa.gov)

**MYTH: Easements are not required on state trust lands for road and utility access.**

**FACT:** State trust lands are no different than private land where legal access rights are required for road and utility access. DNR has the authority to grant easements and permits. However, not all access requests are approved, and only if they are in the best interest of the trust.

**MYTH: Trust land roads are 'public' roads like county roads, so it's not a trespass.**

**FACT:** Unlike county roads and state highways, trust roads are not public. They belong to the trusts. Many are open to the public for recreation access; however, trust roads may be closed at any time. Uses such as hauling timber and residential access require easements or permits from DNR. Use without legal access is considered trespassing.

**MYTH: If a road provides 'physical' access to a property then 'legal' access must exist.**

**FACT:** 'Physical' road access across state trust lands (or private property) does not mean that legal access exists. Easement rights must be obtained.

**MYTH: State lands can be condemned for access to private property.**

**FACT:** Private individuals cannot condemn state-owned lands for access unless the use occurred prior to state ownership or before 1903, and all legal requirements are met. Neither 'prescriptive rights' or 'private way of necessity' can be claimed against Washington State.

