

Trespassing to Unlawfully Collect Resource Data

Frequently Asked Questions

Wyoming Statute (W.S.) 6-3-303 provides criminal penalties for trespassing, i.e. to enter or remain on the land of another person without permission. However, during the most recent legislative session, the Wyoming State Legislature passed W.S. 6-3-414, Trespassing to Unlawfully Collect Resource Data. This law specifically relates to entering land for the purposes of collecting data and imposes more severe penalties (see below) for trespassing than the penalties outlined in W.S. 6-3-303.

When is a person guilty of trespassing to unlawfully collect resource data?

There are two crimes under W.S. 6-3-414: (1) trespassing for the purposes of collecting resource data and (2) actually collecting the resource data.

An individual is guilty of trespassing to unlawfully collect resource data if that individual enters onto open land and:

- (1) Does not own the land or
- (2) Have statutory or other legal authorization to access the land, or
- (3) Have written or verbal permission of the owner or designee to access the land.

An individual is guilty of unlawfully collecting resource data if that individual enters onto private open land and collects resource data and:

- (1) Does not own the land or
- (2) Have statutory or other legal authorization to access the land, or
- (3) Have written or verbal permission of the owner or designee to access the land.

What is the definition of resource data?

Resource data means data relating to land or land use, including but not limited to, data regarding agriculture, minerals, geology, history, cultural artifacts, archeology, air, water, soil, conservation, habitat, vegetation or animal species. For example, collecting data related to mule deer habitat or collecting data to analyze soil erosion.

What is the definition of collect?

Collecting includes taking samples, photographs or otherwise preserving information in any form (for example, collecting data through the use of a drone, audio/video recording, or field notes). Collecting can include anything from recording the water temperature on the property to actually taking a plant off the property.

What is the definition of open land?

Open land means land outside the exterior boundaries of any incorporated city, town, subdivision or development.

Are there any exceptions for gathering data for research or educational purposes?

No.

What is the penalty if one is convicted of trespassing to collect resource data?

If an individual is found guilty of trespassing to collect resource data, penalties include: (1) the inability to use the data collected and the destruction of the data, (2) imprisonment of the individual who collected the data up to one year and/or a fine up to one thousand dollars (\$1,000.00), or (3) if the person has previously been convicted of trespassing to unlawfully collect resource data, imprisonment of the individual who collected the data for up to one year and/or a fine up to five thousand dollars (\$5,000.00).

Does the new law only apply to private land, or does it also apply to public land?

Some concerns have been expressed regarding the terms “open land” as distinct from “private open land” in Wyoming Statute 6-3-414 (a)(i). The legal advice provided to UW personnel is unchanged. Under the law, UW researchers must have statutory, contractual or other legal authority to enter or access public land outside municipalities and subdivisions, as well as private land.

UW’s practice is that researchers do get permission to perform resource data collection on public lands. For example, a research permit is required to conduct research in a National Forest. Public roads are just that, public. UW’s current practices related to public lands and use of public roadways are adequate to ensure compliance.

Does the permission from the landowner have to be in writing?

The statute does not mandate that the permission from the landowner be in writing. However, individuals are strongly encouraged to obtain the permission in writing to have a record that the permission was granted, and that the collection for which the permission was granted is clear.

If an individual only obtains verbal permission from the landowner, the individual is strongly encouraged to document the permission in his/her notes.

What is meant by “permission”?

Permission is not defined by the statute. However, individuals are strongly encouraged to document the following information:

- (1) Who granted the permission,
- (2) Who is the permission granted to,
- (3) The land that the individual has permission to access,
- (4) Specifically what is allowed to be collected from the land (including samples and data),
and
- (5) How long the permission lasts.

Is there a template permission letter that I can use?

Yes, please see the Permission Form at: <http://www.uwyo.edu/research/compliance/data-collection/frequently-asked-questions.html>

Do I have to obtain permission each time I want to collect data or can I obtain a blanket permission from the landowner?

The statute does not prevent individuals from obtaining a blanket permission from the landowner, but the permission must be to collect specified resource data (i.e. permission to collect data analyzing minerals does not mean the individual has permission to collect data analyzing wildlife habitat).

Do I still have to obtain permission even if there is not a no trespassing sign?

Yes, it is the responsibility of the individual collecting the data to obtain the necessary permission even if there is not a “no trespassing” sign posted.

Do I still have to obtain permission even if I am just taking students onto the property as field trip?

Yes, there are no exceptions for educational activities under the statute.

Do I still have to obtain permission from a landowner if I am just crossing his/her land to access public land?

Yes, individuals must obtain permission from the landowner even if the individuals is just crossing that property to access public land.

What if someone leases the land, can I just obtain permission from the individual leasing the land?

No, permission must be obtained from the landowner or someone with authority to act on behalf of the landowner.

How do I know if someone has authority to act on behalf of the landowner?

Sometimes the landowner has granted permission to someone else to authorize people to enter the land (i.e. the land manager). If an individual obtains permission from someone other than the landowner, the individual should ask that person whether he/she has been given authority by the landowner to grant that permission.

What if a federal or state agency has permission to access someone’s land and I am assisting the federal or state agency, do I still need to seek permission from the landowner?

No, in this situation the individual is acting as an agent of the agency.

What if I am receiving funding from a federal or state agency to gather data, under the new statute, does that constitute “contractual or other legal authorization” to enter or access the land?

No, in this situation it is still the individual’s responsibility to obtain permission from the landowner.

If I use remote sensing to collect data is that considered a trespass?

Using remote sensing (i.e. scanning land by satellite or high-flying aircraft) does not constitute a trespass.

If I am tracking wildlife using an instrument attached to an animal (i.e. a collar) and that animal crosses onto someone’s land, is that a trespass?

No, using a collar on an animal that crosses onto someone's land, in and of itself, does not constitute trespass.

If I have questions, who should I contact?

For specific questions, please contact the Office of Research and Economic Development at (307) 766-5320 or (307) 766-5353.