

Exhibit Number: 15

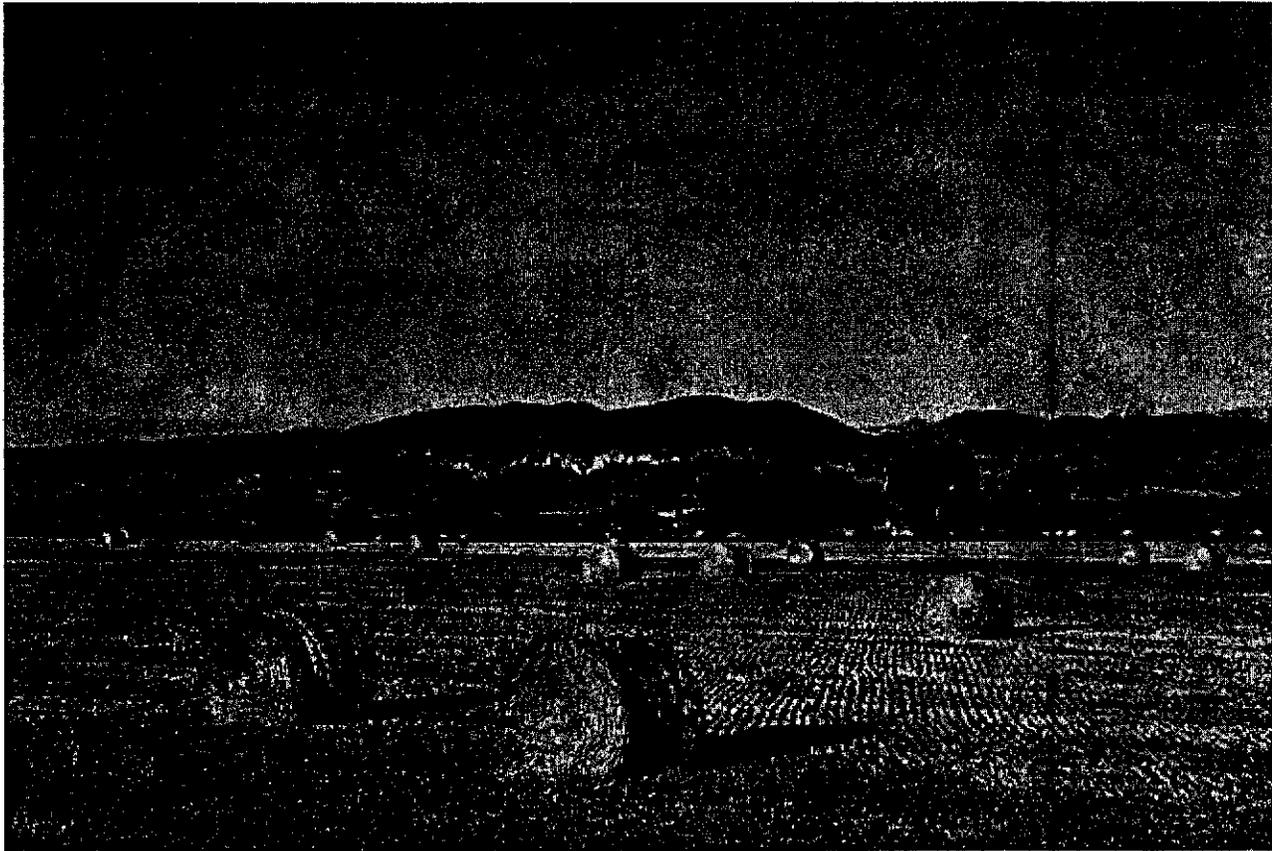
The following exhibit is several assorted documents that exceeds the 10-page limit therefore it cannot be scanned. A small portion has been scanned to aid in your research for information. The exhibit is on file at the Montana Historical Society and can be viewed there.



EXHIBIT 15
DATE 01/17/05
HB 2

LAND BANKING

HANDBOOK FOR THE PUBLIC



**Montana Department of Natural
Resources and Conservation**

SEPTEMBER 2004

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1. INTRODUCTION

The State of Montana has the ability to sell state trust land (land). However, until the passage of the Land Banking statute (§77-2-361 through 367, M.C.A.), there was no provision to purchase replacement land. This resulted in a net loss of trust land acreage.

With the advent of Land Banking, it is now possible for the Department of Natural Resources and Conservation (DNRC) to sell land to the public and put the proceeds in a Land Banking account. The combined funds from several sales can then be used to purchase parcels which produce a higher level of income. This results in more income to the trust beneficiaries (Univ. of MT, MSU, Common Schools, etc.).

The purpose of this Handbook is to provide a brief overview of the rationale and process concerning the sale of land to the public, and the acquisition of land by the state. The rules governing the sale or acquisition of land will implement the law, and are contained in their entirety in the Land Banking Rules, available on the DNRC website (www.dnrc.state.mt.us/landbanking). The rules and law supersede information provided in this Handbook or on the website. If, after reviewing the Handbook, you have specific questions about the process, we suggest you review the Land Banking Rules, or contact the Trust Lands Management Division (see Appendix C for contact information).

2. PURPOSE OF LAND BANKING

The purpose of the Land Banking program is to “temporarily hold proceeds from the sale of trust land pending the purchase of other land, easements, or improvements for the benefit of the beneficiaries of the respective trusts”.

3. GOALS AND PROVISIONS OF THE LAW

The goals of Land Banking are:

1. To diversify land holdings in order to minimize the risk of loss;
2. To maximize the sustained rate of return to the trusts;
3. Improve public access to state trust land;
4. Consolidate land ownership.

The Land Banking statute (§77-2-316 through 367, MCA) says:

1. Up to 100,000 acres of land can be sold, and the proceeds used to buy other parcels of land.
2. Seventy-five percent of the parcels must be isolated (no public access), and 25% can be accessible.
3. Only 20,000 acres can be sold before another parcel or parcels must be purchased.
4. Lessees have preference on land they presently lease in that they can match the high bid on the parcel if they, the Board, or the Department nominates it for sale.
5. Land cannot be sold to the federal government.
6. Land, easements or improvements acquired by the state must be evaluated to insure they produce equal or greater income than the land that was sold.
7. Land Banking is a pilot program, and will be reevaluated in 2008 to insure it is accomplishing the intent of the law.

4. WEBSITE

Ongoing information on the Land Banking program is available on the DNRC website at www.dnrc.state.mt.us/landbanking. This site will contain information about:

1. Parcels available for sale with information such as:
 - a. A legal description, location, physical description, photos, minimum bid price, and contact information;
 - b. Environmental review (MEPA); and,
 - c. Report to Land Board, etc.
2. Parcels being considered for acquisition by DNRC, including:
 - a. Location;
 - b. Description of parcel and amenities; and,
 - c. Report to Land Board, etc.

5. HOW TO PURCHASE LAND

a. GENERAL INFORMATION

1. Information on all land offered for sale will be on the DNRC Land Banking website: www.dnrc.state.mt.us/landbanking
2. The website will be updated frequently with information on the availability and status of parcels nominated for sale.
3. If you are interested in purchasing a parcel, download the information from the website or request information from the local land office or the DNRC office in Helena (see Appendix C for contact information).
4. Factors in evaluating land for sale:
 - a. The availability of land for sale will be determined, in part, by the amount of income presently generated by the parcel. Land generating below average income is more likely to be offered for sale than land generating income at, or above average.
 - b. Additional limitations on land available for sale includes land that:
 - i. Is wholly surrounded by public land; or,
 - ii. Is wholly surrounded by conservation easement; or,
 - iii. Has significant habitat for threatened and endangered species; or,
 - iv. Extinguishes existing access to public land or historic access to private land so as to create an isolated parcel.
5. Criteria for exchanging title:
 - a. Title for land sold by the state will be conveyed by a Patent, Grant Deed, or Quit Claim deed, as deemed appropriate by DNRC. DNRC does not provide title insurance, however the purchaser may purchase title insurance, if desired.
 - b. When purchasing property, DNRC requires from the seller a Warranty Deed and an ALTA extended coverage title insurance policy or other appropriate title insurance as determined by DNRC.
6. Timeline
 - a. **DNRC will accept nomination forms from October 1, 2004 to January 31, 2005**, at which time the need to accept further nominations will be assessed. We will notify the public via the DNRC website if nominations are reopened after January 2005.
 - b. Purchase or acquisition of land takes time, as show in the flowcharts in Appendix B. In general, time from initiation to completion of sales to the public is 10 to 15 months, and 6 to 12 months for acquisition by DNRC.

b. NOMINATION and SALE

A general outline of the sale process is as follows:

1. Nomination (Rule IV)
2. Evaluation (Rule IV)
3. Land Board approval (Rule IV)
4. Appraisal (Rule IV)
5. Minimum bid set by Land Board (Rule IV)
6. Public oral auction (Rule V and Rule VI)
7. Lessee settlement (if applicable, Rule VII, Rule VIII)
8. Closing (Rule IX)

Nomination of a parcel for sale can **only** be initiated by the Land Board, DNRC, or the lessee. Nomination of a tract for purchase by the State can be made by anyone (see Glossary for definitions of parcel and tract).

i. If You Are A Lessee

If you are a lessee, and would like to nominate land you **presently** have under lease with the state, it's best to begin the process by consulting with the local land office before submitting a nomination form. The local office can advise you whether your lease parcel meets initial criteria for sale. Only land presently under lease is eligible for nomination by the lessee.

- a. Lessee's may nominate any combination of parcels held under one lease, regardless of whether the land is contiguous, or the area exceeds 640 acres. Parcels under different leases must be nominated separately, on a separate nomination form.
- b. There is a One Hundred Dollar (\$100.00) non-refundable processing fee for each nomination application unless land nominated is contained in one section and under one lease. In these situations, a nomination form must be filled out for each parcel, but is considered one nomination with a charge \$100.00 for the entire section. Nomination forms will not be accepted without the appropriate fee.
- c. Be aware that even though a parcel meets initial criteria for sale, that does not guarantee the parcel will be offered for sale.
- d. Lessee's may propose a land exchange rather than sale of a lease parcel. Discuss this option with the local land office prior to nominating a parcel for sale. If the Department or the Land Board nominates your lease for sale, you will be notified, and have 60 days to inform the Department if you wish to pursue a land exchange in lieu of sale.
- e. Obtain a nomination form from your local land office, fill out completely, and return to the local land office with a \$100.00 non-refundable processing fee.
 - i. Each nomination form requires a \$100.00 non-refundable processing fee.
- f. Once it has been determined that a parcel is eligible for sale, the lessee must submit within 30 days of notification by the state a \$1000.00 earnest money deposit and complete a purchase agreement with DNRC.
- g. If the lessee fails to submit earnest money within 30 days of notification, the parcel may be removed from the sale list, at the discretion of DNRC.
- h. DNRC may choose to continue to offer the parcel for sale.

- i. If the lessee is the successful bidder, the earnest money will apply to the closing costs and purchase price.
- j. Once the minimum bid price has been set, prospective purchasers must submit a bid deposit equal to one half (50 percent) of the amount of the minimum bid postmarked no later than 45 days prior to the date of the auction.
 - i. The deposit must be in the form of a certified check or cashier's check drawn on a Montana bank (§77-2-363 (2), MCA).
- k. If the lessee initiates the sale, and then cancels the sale after DNRC has given notice of the auction, the lessee shall pay all costs incurred by DNRC in preparing the sale, including but not limited to:
 - i. Any costs incurred for preparation of MEPA documents, appraisal, survey, cultural resource inventory, natural resource inventories, public hearings, other costs that may be incurred by DNRC;
 - ii. The earnest money and bid deposit paid by the lessee must be applied toward costs incurred by DNRC for the canceled sale; and,
 - iii. Any amount of earnest money and bid deposit remaining after payment of department costs must be returned to the lessee.

ii. If you are not a lessee

- 1. Download the Handbook from the website.
- 2. Evaluate parcels from information available on the website.
- 3. If additional information is needed, contact the land office in which the parcel is located (see Appendix C for contact information).
- 4. Once the minimum bid price has been set, prospective purchasers must submit a bid deposit equal to one half (50 percent) of the amount of the minimum bid postmarked no later than 45 days prior to the date of the auction.
 - a. The deposit must be in the form of a certified check or cashier's check drawn on a Montana bank (§77-2-363 (2), MCA).

iii. Sale Process for All Prospective Purchasers (Lessee and non-lessee)

- 1. Land must be sold to the highest bidder who consummates the sale.
 - a. The lessee has the preference right to match the high bid (§77-2-324, MCA).
- 2. The purchaser pays closing costs, including but not limited to:
 - a. the cost of the appraisal;
 - b. title insurance;
 - c. filing fees; and,
 - d. survey, if necessary.
- 3. The DNRC retains the bid deposit of the successful bidder and will return the bid deposits of all unsuccessful bidders within five BUSINESS days following the auction.
- 4. If the highest bidder fails to consummate the sale for any reason, DNRC may offer the parcel to the next highest bidder at the final sale price (high bid). If the next highest bidder, or a subsequent bidder, in sequence of bid amount, agrees to the terms of the sale, that bidder shall complete a purchase agreement and submit a bid deposit to the department.
- 5. If the final bidder who agrees to consummate the sale fails to comply with the terms of the sale for any reason, that bidder's bid deposit is forfeit and must be credited to the Land Banking fund, after deduction of any sale costs incurred by the department (§77-2-363 (2) (b), MCA).

iv. Fees and Closing Costs

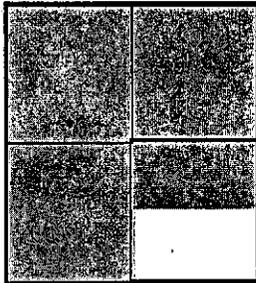
The following fees and costs are associated with the nomination and sale or acquisition of land:

1. Nomination application

- a. There is a One Hundred Dollar (\$100.00) non-refundable processing fee for each nomination application unless the land nominated is contained in one section and under one lease. In these situations, a nomination form must be filled out for each parcel, but is considered one nomination with a charge \$100.00 for the entire section. Nomination forms will not be accepted without the appropriate fee. The following diagram shows possible nomination scenarios and associated fees:

Lease is:

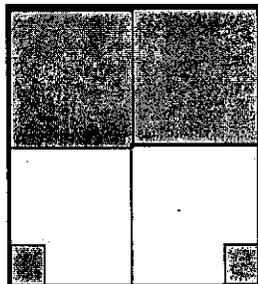
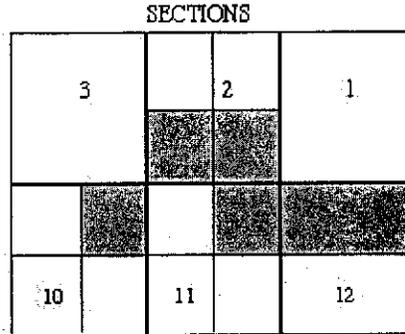
N1/2, SW 1/4, N 1/2 of SE 1/4
 One contiguous lease in
 one section = 1 nomination form
 \$100.00 total



LEASED LAND

Lease is:

1 lease in 4 sections
 4 nomination forms
 \$ 100.00 per form
 \$ 400.00 total



Lease is:

N 1/2, SW 1/4 SW 1/4
 SE 1/4 SE 1/4
 1 lease, non-contiguous parcels
 3 nomination forms
 \$ 100.00 fee for all 3 forms, \$100.00 total

2. Closing costs for sale or acquisition of land

- a. Generally, the closing costs follow the usual and customary costs associated with real estate transactions.
 - i. DNRC **does not** furnish title insurance. The purchaser may purchase title insurance, if desired.
 - ii. DNRC requires that the **seller** provide an ALTA extended coverage title insurance policy on all parcels purchased by DNRC.
- b. Additional costs
 - i. Additional costs may include a survey (if necessary), second appraisal (if desired by the purchaser), etc. DNRC will provide an estimate of closing costs at the time a purchase agreement is completed.
- c. Penalties
 - i. There is a penalty for withdrawing from the sales process after a certain point in the transaction, as follows:

- A. Lessee nominated:
 - I. A lessee may withdraw from a sale initiated by the lessee any time prior to 30 days before the auction date by sending a certified letter **postmarked more than 30 days prior to the auction date** notifying of the withdrawal (Rule VII).
 - II. The lessee will not be responsible for any costs related to the sale if:
 - 1. The lessee withdraws within 30 days of receiving notice to submit earnest money and purchase agreement either by not sending in earnest money, or by notifying DNRC by certified mail. This is prior to DNRC initiating public notice of the sale.
 - 2. If the lessee fails to notify DNRC prior to initiating public notice for the sale, **the lessee will pay for the following DNRC incurred costs from earnest money and bid deposit:**
 - a. MEPA, appraisal, survey, cultural resource inventory, natural resources inventories, public hearings, advertising and public notices, and any other costs incurred by DNRC related to the sale.
 - III. **If the lessee fails to notify DNRC more than 30 days before the auction, the sale will not be cancelled.**
- B. Non-Lessee nominated:
 - I. If the high-bidder of a sale fails to complete the sale **for any reason**, they will forfeit the bid deposit (Rule VIII (10)).

6. ACQUISITION BY THE STATE

a. GENERAL INFORMATION

1. Information on all tracts proposed for acquisition by DNRC will be on the DNRC Land Banking website: www.dnrc.state.mt.us/landbanking
2. The website will be updated frequently with information on the availability and status of tracts nominated for acquisition.
3. If you are interested in nominating a tract, download the nomination form and Handbook from the website or request these materials from the local land office or the DNRC office in Helena (see Appendix C for contact information).

b. HOW TO NOMINATE

Anyone can nominate a parcel for acquisition by DNRC, and DNRC reserves the right to prioritize activities and tracts for acquisition. Nominations must be on a form supplied by DNRC, and each form must include a \$100.00 non-refundable processing fee. Incomplete forms will not be accepted. Adjacent landowner information is generally available on the internet (<http://gis.doa.state.mt.us/>) or at the Clerk And Recorder's office in your county.

Licensed real estate professionals may contract with DNRC to locate tracts for acquisition.

c. ACQUISITION CRITERIA AND PROCESS

1. Once a tract has been nominated for sale, a sellers disclosure statement must be provided within 60 days of nomination on a form provided by DNRC.
2. DNRC will conduct a preliminary review of the tract, including the financial feasibility of acquiring and managing the tract; existing access; and potential for multiple-use.
3. If DNRC determines a tract is not suitable for acquisition, the tract will be removed