



A REPORT
TO THE
MONTANA
LEGISLATURE

PERFORMANCE AUDIT

Recording of Livestock Brand Ownership

Department of Livestock

FEBRUARY 2010

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DIVISION

09P-12

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We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Members of the performance audit staff hold degrees in disciplines appropriate to the audit process. Areas of expertise include business and public administration, journalism, accounting, economics, sociology, finance, political science, english, anthropology, computer science, education, international relations/security, and chemistry.

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February 2010

The Legislative Audit Committee
of the Montana State Legislature:

This is our performance audit of the Department of Livestock's processes related to recording livestock brand ownership. The report presents audit findings and makes recommendations for improving the efficiency and effectiveness of issuing brands and recording brand ownership and strengthening overall management of program operations. Implementing these recommendations will ultimately better serve the livestock industry.

We wish to express our appreciation to the Executive Officer, department staff, and livestock industry groups for their cooperation and assistance throughout the audit.

Respectfully submitted,

/s/ Tori Hunthausen

Tori Hunthausen, CPA
Legislative Auditor

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APPOINTED AND ADMINISTRATIVE OFFICIALS

			<u>Industry</u> <u>Represented</u>	<u>Term Expires</u> <u>March 1</u>
Board of Livestock	Jan French, Chair	Hobson	Cattle	2015
	Linda Nielsen, Vice Chair	Nashua	Cattle	2011
	Stan Boone	Ingomar	Cattle	2013
	Brett DeBruycker	Dutton	Cattle	2015
	Ed Waldner	Chester	Swine	2011
	Jeffrey Lewis	Corvallis	Dairy	2011
	John H. Lehfeltdt	Lavina	Sheep	2013
Department of Livestock	Christian Mackay, Executive Officer			
	George Harris, Administrator, Centralized Services Division			
	John Grainger, Administrator, Brands Enforcement Division			

REPORT SUMMARY

Recording of Livestock Brand Ownership

The livestock industry depends on the Department of Livestock for the regulation of livestock brands; the department can strengthen this process by establishing formalized policies and procedures, improving management information capabilities, and re-evaluating its methods for rerecording brand ownership.

Audit Findings

In response to a request from the Joint Appropriations Subcommittee for Natural Resources and Transportation, the Legislative Auditor prioritized a performance audit of the Department of Livestock's (department) Brands Enforcement Division (division) and its processes for recording livestock brand ownership. Section 81-3-101, MCA, enacted in 1895, designates the department as the recorder of marks and brands. In this role, the department accepts applications for assignment of brand ownership, processes requests for the transfer of ownership, and rerecords, or renews, brand ownership every ten years. The next brand rerecord will occur in 2011. Our audit assessed the department's management of brands-related activities and the efficiency and effectiveness of the processes associated with recording brand ownership.

Our first objective examined the registration of security interests, or mortgages, against branded livestock by both the department and Secretary of State's Office. We focused on determining if duplication of effort was occurring and whether consolidation of the duties was appropriate. We found information regarding security interests is principally used to ensure the interests of secured parties are considered during livestock sales. Federal law denotes circumstances under which buyers of agricultural products are subject to existing security interests in the products (§7 USC 1631). Audit work found Montana's dual system of recording security interest filings is not duplicative and ensures a higher level of compliance with federal law. It allows for a more thorough method of identifying existing security interests.

We examined the department's overall management of brands-related activities as our second objective. There are limited management controls in place to guide the department's brands-related activities and improvements should be made. Audit work indicated the division has minimal formal policy guiding operations. In addition, incomplete file documentation, outdated form design, and limited management information about program activities were noted. Department management has recognized that the division's use of its current information system for recording brand ownership is inefficient and is seeking to replace the system. In the interim, other methods for tracking key management information should be developed.

Our third objective focused on assessing department financial controls to ensure brands-related fees are commensurate with operational costs. While we were unable to determine if fees associated with brands-related processes are commensurate with costs, we noted other department funds supplement fees charged by the division in maintaining operations. We also examined cash management controls in place for division-related business. While we found no cases of misuse during audit work, we noted weaknesses in the department's cash management controls and improvements should be made to mitigate these weaknesses.

Our final objective was to determine if department processes for assigning and recording brand ownership are conducted in a manner that efficiently and effectively serves the livestock industry. Audit work indicated processes associated with new brand applications and transfers of brand ownership could be improved. Overall, we found processing of these documents is not timely. In addition, department staff has limited guidance regarding the priority in which applications should be processed and when applications can be denied. These issues directly impact the livestock industry by delaying use of a recorded brand for denoting livestock ownership. We also reviewed processes associated with rerecording brand ownership. We found the allowance of a grace period beyond the statutorily designated rerecord year is not supported by law. In addition, we examined the ten-year cycle of rerecord for efficiency and effectiveness. We reviewed brand rerecording processes in seven other states and one Canadian province and found no other agency rerecords brand ownership in a manner similar to Montana. Montana's rerecord cycle was established in 1921 and should be re-evaluated by the department and the Board of Livestock to ensure it meets the needs of today's livestock industry.

Audit Recommendations

Audit recommendations address improvements needed to more effectively manage recording of brand ownership. Recommendations address the following issues:

- ◆ Develop detailed policies and procedures for brands-related activities.
- ◆ Establish file documentation requirements; regularly evaluate department information needs; and update agency forms to reflect those needs.
- ◆ Track the number of brands recorded, brand owners with recorded brands, security interests recorded, and the status of files requiring further action.
- ◆ Strengthen cash management controls.
- ◆ Ensure division fees are commensurate with costs and maintain records sufficient to support fees charged.
- ◆ Rerecord all brands within the designated rerecord year.
- ◆ Re-examine the brand rerecord cycle to determine if it meets the needs of the livestock industry.

Chapter I – Introduction

Introduction

At the end of the 2009 Legislative Session, the Joint Appropriations Subcommittee for Natural Resources and Transportation requested a potential performance audit of the processes associated with the rerecording of ownership of livestock brands. The request specified a number of areas for review, including cash management, timeliness of rerecord notices, impacts of rerecord to other departmental functions, the use of a grace period during rerecord by the department, and the frequency with which rerecord occurs. These functions are carried out by the Brands Enforcement Division (division) of the Department of Livestock (department) and occur every ten years. The next rerecord will occur in 2011.

Audit Scope

An initial audit assessment of the process of rerecording livestock brand ownership indicated a performance audit of the department's processes associated with the recording of livestock brand ownership and the filing of security interests against branded livestock was warranted. The scope of this audit included processes associated with recording new brands, transferring brand ownership, recording security interests against branded livestock, and rerecording brands. Other division responsibilities related to brand inspection, market licensing, the livestock Crimestoppers Program, and the investigation of livestock-related criminal activities were not examined. The majority of program activities examined during the audit occurred in 2009. Earlier records related to the 2001 brand rerecord and other records requiring further action were also reviewed.

Audit Objectives

We developed the following objectives for examining all of the department's activities related to the recording of livestock brand ownership:

1. Examine the dual registration of security interests against branded livestock by the department and the Secretary of State's Office (SOS) to determine if duplication of effort is occurring.
2. Examine the department's overall management of brands-related activities to determine if program operations are effectively managed.
3. Examine department financial controls utilized to ensure brand-related fees are commensurate with operational costs and cash management controls are in place for division-related business.
4. Determine if the department's processes related to the assignment and recording of brand ownership are conducted in a manner that efficiently and effectively serves the livestock industry.

Audit Methodologies

To accomplish our audit objectives, we completed the following methodologies:

- ◆ Reviewed state laws related to the recording and rerecording of brand ownership and the registry of security interests against branded livestock.
- ◆ Examined department documentation pertaining to new brand applications, brand transfers, the rerecording of brand ownership, and security interest filings.
- ◆ Interviewed department and contracted staff.
- ◆ Interviewed representatives of the livestock industry.
- ◆ Interviewed staff from the SOS regarding processes for registering security interests.
- ◆ Interviewed representatives of the banking industry.
- ◆ Examined federal code and regulation to determine how federal requirements have influenced the registry of lien notices by both the department and the SOS.
- ◆ Reviewed applicable administrative rules.
- ◆ Examined relevant department policies.
- ◆ Assessed management oversight activities.
- ◆ Reviewed the policies and procedures of similar brand recording agencies in other states and Canadian provinces.
- ◆ Observed processes used at livestock markets.

Management Memorandum

A management memorandum is a verbal or written notification to the agency for issues that should be considered by management, but do not require a formal agency response. We issued a management memorandum to the department regarding the protection of personal information gathered in the course of the division's duties related to the recording of brand ownership, including social security numbers, tax identification numbers, and banking information.

Areas for Further Study

During the course of audit work, we identified three areas for consideration for future performance audit work.

Brand Inspections and Livestock-Related Criminal Investigations

The division employs 18 district inspectors/detectives who are responsible for certain duties relating to the 521 Deputy State Stock Inspectors and Permit Writers in the

state. Through this function, over 2.4 million livestock inspections were conducted during 2008, resulting in over \$1 million in revenue for the department. In addition, 46 misdemeanor and 42 felony livestock-related criminal investigations were pursued. Future audit work could examine the procedures related to these functions for efficiency and assess agency monitoring of local inspectors.

Per Capita Fees

Per capita fees are per-head fees charged to livestock owners. Authorized by §15-24-921, MCA, per capita fees are assessed on “all poultry and bees, all swine three months of age or older, and all other livestock nine months of age or older.” The fees help fund the department’s animal health programs, brands enforcement, theft investigation and recovery, and predator control. Through coordination with the Department of Revenue, the department collected \$3.6 million for these fees during fiscal year 2009. An audit could assess the procedures for setting and collecting these fees to determine efficiency and compliance with state law.

Brand Ownership Information System

The department uses an information system to record and track data regarding the ownership of livestock brands. The department is currently in the process of replacing the system. Future audit work could examine the department’s development of the system and its use as a decision-making tool for management in directing brands-related activity.

Report Contents

The remainder of this report includes a background chapter followed by chapters detailing our findings, conclusions, and recommendations in the following areas:

- ◆ Chapter III presents information regarding program management activities related to the recording of brand ownership.
- ◆ Chapter IV presents recommendations for improving the efficiency and effectiveness of the department’s processes for recording brand ownership.

CHAPTER II – BACKGROUND

Introduction

This chapter provides background information about the Department of Livestock's (department) responsibilities for recording and rerecording brand ownership and maintaining a registration of security interests against branded livestock.

Statutory Role and Responsibilities of The Board of Livestock

Sections 2-15-3101 and 2-15-3102, MCA, establish the department and designate the Board of Livestock (the board) as the department head. The board acts in lieu of a director for the agency, as is more common in state government. The board's responsibilities for administration of the department are the same as any other department's director and are related to the establishment of policy, development of a budget, and general reporting on agency activities. Section 2-15-3102, MCA, states there are seven members of the board and requires the presence of specific types of livestock producers. The governor is given authority to designate the presiding officer of the board.

The mission of the department is to control and eradicate animal disease, prevent the transmission of animal diseases to humans, and to protect the livestock industry from theft and predatory animals. The executive officer of the department is appointed by the board to ensure the department functions in a manner consistent with its mission and directives, policies, and rules established by the board and state law. The executive officer monitors the daily functions of the department; implements the board's policies; and cooperates with the governor, other state and federal agencies, and the legislature in providing technical assistance as necessary.

Brands Enforcement Division Responsibilities

As a means for protecting the livestock industry, the Brands Enforcement Division (division) is charged with tracking livestock ownership through the regulation of livestock and livestock brands in the state of Montana. The division issues livestock brands and processes transfers of brand ownership. The division receives notice of security interests against branded livestock, commonly referred to as brand mortgages, and provides this information to livestock market staff and other individuals for the purpose of protecting the interests of lenders. In addition, brand inspectors perform inspections of the brands of all livestock changing ownership or crossing county or state lines and the division maintains records of such. Division investigators conduct probes into livestock-related crimes. Other division duties include the licensure and

monitoring of all livestock auctions and dealers in the state, regulation of livestock markets, and operation of the livestock Crimestoppers Program.

New Brands and Transfers

State law designates the department as the general recorder of marks and brands (§81-3-101, MCA). Toward this end, the division is responsible for issuing new brands, processing the transfer of brand ownership, and maintaining documentation of the recorded brands in the state of Montana. A brand recording entails documenting a drawing of the brand; the body position and livestock species on which it will be utilized; the counties in which the livestock will range; and details about the brand's owner(s). Each brand drawing, or picture, is able to be recorded in various positions on cattle and horses and in various paint colors on various positions on sheep. A single recording can entail one position on each species so each brand picture could be recorded a number of times, in various body positions on different species. The department estimates there are approximately 55,000 recorded brands.

Application Process for the Issuance of New Brands

To obtain a brand, statute (§81-3-103(1), MCA) requires individuals desiring a brand for use in denoting ownership of livestock make an application to the department. The department shall then designate a specific brand, "...distinguishable with reasonable certainty from other marks and brands recorded..." to be used on certain species of animals and in specific positions on the animal (§81-3-103(2), MCA). The information is officially recorded and ownership of the brand is in effect for a set ten-year period that extends between years ending in -1.

Generally, the department receives applications for new brands via the mail or directly from walk-in applicants. When applying for a new brand, an individual is able to select three preferred brands and to designate whether the brand will be used on cattle, horses, or other species and where on the animal's body it will be located. In addition, the applicant designates the county or counties in which the branded livestock will be located. Further, if the brand is to be recorded to a company, corporation, or partnership, all people authorized to sign bills of sale for livestock should be listed. During application processing, staff will ascertain if the brands requested are "distinguishable with reasonable certainty from other marks and brands recorded," and thus available for recording. This is done through an involved process known as "conflict checking," which entails manually determining the requested brand or a similar brand is not currently assigned to a brand owner for the same body location on the same type of animal in the same or a neighboring county. If one of the requested brands is determined to be available, a brand certificate, expiring during the next rerecord year, will be issued and is mailed to the brand owner. If none of the requested brands are available, staff will generally offer the applicant a similar brand that is available. The division issues approximately 1,200 new brands each year.

Transferring Brand Ownership

In order to transfer or change ownership of a brand, one must complete the form on the reverse side of the original, current brand certificate. The form requires the designation of the new owner and their mailing address. In addition, the current owner(s) must sign the document before a notary or two witnesses not involved with the transaction. If a security interest, or mortgage, is filed on the brand, the lending institution and owner must resolve the mortgage prior to the transfer. In the case of adding or deleting co-owners, the same procedures must be followed. In the event of a divorce or the death of one owner, all pertinent documentation must be included, such as a divorce decree or death certificate and will or letter of appointment of an estate representative authorized to transfer the brand. Once it has been determined all necessary documentation and signatures are present, a new brand certificate, expiring during the next rerecord year, will be issued in the name of the new owner.

Fees

The fee for both a new brand recording and for transferring brand ownership is \$100. All fees collected are deposited into a state special revenue fund for use by the department. Per state accounting policy, a portion of the revenue from these fees is deferred for use during upcoming years.

Brand Rerecord

The division rerecords, or renews, brand ownership every ten years and has done so since 1911. Statute to this effect was enacted in 1921 (§81-3-104, MCA), stating, "Each 10th year after 1921 is the year for rerecording artificial marks and brands used to distinguish and identify the ownership of domestic animals and livestock." The next rerecord period will occur during 2011 and department staff have estimated nearly 45,000 brands will be rerecorded. For the 2011 rerecord, two temporary FTE will be hired to assist with the undertaking.

Between January 1 and June 30 of the rerecording year the department is required by statute to publish a notice in at least one newspaper of general circulation in each county, stating the current year is the year for rerecording brands and no brand will continue to be recorded unless it is rerecorded. The department is also required to mail a similar notice to each recorded brand owner (§81-3-106, MCA). As notices are returned, with renewal fees enclosed, the department rerecords brand ownership. Per the department, all brand notices must be returned to the department postmarked by December 31 of the rerecord year. Currently, the department allows the rerecord period to extend until approximately March 31 of the year following the rerecord year.

At present, a fee of \$100 is charged to rerecord ownership of a brand. All fees collected are paid into a state special revenue fund for use by the department. Per statute (§81-3-107, MCA), not more than 10 percent of the net rerecording fees after all of the expenses of rerecording are paid may be expended in any one year except in case of an emergency declared by the governor or the board.

Security Interests Against Branded Livestock

A security interest exists when a borrower enters into a contract which allows the lender, or secured party, to take collateral the borrower owns in the event the borrower cannot pay back the loan. In the case of an agricultural loan, the collateral can be real estate, agricultural equipment, or livestock. Once a loan is finalized, the lender will seek to perfect the security agreement. The perfection of a security agreement allows a secured party to gain priority to the collateral over any third party, should the borrower default on the loan. The most typical way to perfect a security interest is by filing notice with a public office.

During the course of audit work, we found that in Montana, notice of a security interest against livestock is filed with two public offices: the department and the Secretary of State's Office (SOS). We sought to determine if duplication of effort was occurring and if so, if consolidation of these duties was appropriate. To do so, we reviewed each agency's requirements for recording filings, the associated processes, and the use of security interest filing information by interested parties.

Agency Requirements for Recording Security Interests

Since at least 1935, the department has been required by state law to accept and record notice of security interests filed against livestock bearing specific brands (§81-8-301, MCA). Filings are in effect for five years and must be renewed, or continued, by the lender during years ending in -3 or -8. While a mortgage is in effect, the department is obligated to notify all livestock markets of said mortgage. Payment for livestock sold through the market and bearing a brand that has been mortgaged is then issued by the commissioning company in the names of the lender and livestock owner jointly. The cost to file, continue, or terminate a security interest filing with the department is \$25. At the end of calendar year 2008, division records indicated 6,324 mortgages were in effect.

The SOS accepts security interest filings against livestock as a result of the federal Food Security Act of 1985 and has been doing so since 1986. As with the department, filings are in effect for five years. However, the term is five years from the date received, resulting in a staggered renewal system. The fee for filing is \$7 and the fee to amend or continue a filing is \$5.

Use of Security Interest Information by Interested Parties

Information regarding security interests against livestock is utilized primarily during the sale of livestock to ensure the interests of secured parties are considered when payment is issued. Audit work determined sales through livestock markets appear to be the primary circumstances in which livestock buyers access security interest information provided by either the SOS's Office or the department.

Federal Regulations

Section 1324 of the federal Food Security Act of 1985 was passed as a result of the fact that some state laws allowed a secured party to enforce security interests against a purchaser of farm products even if the purchaser of the products is unaware the sale of the products violated the lender's security interest in the products. It was found these laws subjected a purchaser of farm products to double payment for the products. For example, the purchaser would pay for the products at the time of the purchase. In the event the seller failed to repay their debt, the secured party would enforce their security interest by either requiring an additional payment from the purchaser or seizing the products. The act was passed as a means for providing protection for purchasers of farm products.

Federal law outlines what types of purchases are free of or subject to security interests. Generally, a buyer, who, in the ordinary course of business, buys a farm product from a seller engaged in farming operations, is free from a security interest. However, some key exceptions exist. The exception pertinent to this audit subjects buyers of Montana agricultural products, who fail to use security interest information from the SOS, to security interests in those products.

Montana's dual system of recording security interest filings ensures a higher level of compliance with federal law. In the event livestock, against which there is a security interest, are sold at a market by the debtor, the use of the SOS's security interest information, organized by debtor information, will ensure the acknowledgment of the security interest. If livestock subject to a security interest are sold and then subsequently resold through a market, the use of the department's lien information, organized by brand, will ensure acknowledgement of the security interest.

CONCLUSION

The dual registration of security interests against livestock by both the Department of Livestock and the Secretary of State's Office allows for a more thorough method of identifying security interests. The two functions are complimentary, rather than duplicative, in ensuring the interests of both purchasers of livestock and secured parties are considered during secured transactions involving livestock and provide for a higher level of compliance with federal law.

Chapter III – Program Management Activities

Introduction

During the audit of the Department of Livestock's (department) Brands Enforcement Division (division), one of our objectives was to examine the department's overall management of activities related to the recording of brand ownership to determine if program operations are effectively managed. We evaluated overall management activities related to the issuance of new brands, the transfer of brand ownership, the rerecording of brand ownership, and the registry of security interests against branded livestock. While the department has been recording brand ownership since 1895, audit work indicated there are limited management controls in place to guide the department's brand-related activities and improvements should be made. Audit findings and recommendations related to the following areas are discussed in this chapter:

- ◆ Formalized policies and procedures
- ◆ File documentation and brands-related forms
- ◆ Management information
- ◆ Cash management controls

Formalizing Division Policy Related to Brands

During audit work, we found the division has few policies to guide its brands-related operations. For example, division staff could provide no formal documentation outlining the procedures related to the registry of security interests against branded livestock. In addition, there is no procedural guidance delineating the processes and timelines for brand rerecord. We found rudimentary policy pertaining to the recording and transferring of brand ownership. Employees have access to "cheat sheets" concerning the conflict checking that is a vital component of processing an application for a new brand; however, there is no detailed procedural guidance outlining what qualifies as a conflict or steps to take to check for conflicts readily available to applicants or employees new to the process.

The absence of formalized policies and procedures can have substantial effects on an organization. In this case, the division faces a number of risks by failing to develop and institute policies and procedures. Without formalized policies and procedures, division management has no criteria for ensuring work is standardized and work conducted by one employee would have the same results as that conducted by another employee. The division has no means for guaranteeing the continuity of services provided to the livestock industry in the event of a position vacancy due to a prolonged employee absence or attrition. Further, because of the cyclical nature of brand rerecord and the

lack of related procedural guidance, the department finds itself “reinventing the wheel” every ten years. There are no department resources beyond institutional knowledge for training the temporary workers that will be hired. Finally, because there are few formalized policies, there is a lower level of transparency of brands-related activities to the public that does not align with the division’s high level of commitment to the industry.

State Policy Directs Agencies to Establish Management Controls

According to state accounting policy, management is responsible for establishing and maintaining agency internal controls. The policy defines internal control as a coordinated set of policies and procedures used by managers and line workers to ensure their agencies, programs, or functions operate efficiently and effectively. Internal controls ensure programs are in conformance with applicable laws and regulations, and the related transactions are accurate, properly recorded, and executed in accordance with management’s directives. Per the policy, agency management is responsible for the extent of the efficiency and effectiveness of internal controls, as well as any deficiencies. The focus of the division has been on the day-to-day activities of the program, rather than on the development of a coordinated set of policies and procedures for ensuring the division functions in compliance with applicable laws and alignment with management directives.

Similar Programs in Other States and Provinces Have Established Policies and Procedures

As part of our audit, we examined the policies and procedures of agencies responsible for recording brand ownership in other states and Canada. The Canadian province of Alberta has privatized this function and it is carried out by a private company that contracts with the government. This organization has established formal guidance related to brand design, species-specific brands, different types of brands, and branding errors that is provided to the public via the internet. In the state of Idaho, the Idaho State Brand Board (ISBB) is housed under the Idaho State Police. The ISBB has developed a detailed policy manual regarding, among other things, the recording of brand ownership, the renewal of brands, and transfer of brand ownership.

The department should develop written policies and procedures detailing the processes associated with the recording of brand ownership. These processes include those for assigning and recording new brands, checking for brand conflicts, transferring brand ownership, and recording security interests against branded livestock.

RECOMMENDATION #1

We recommend the Department of Livestock develop detailed policies and procedures pertaining to its brands-related activities.

Improving File Documentation

To accomplish our audit objectives, we reviewed a random sample of 190 files related to new brand applications, transfers of brand ownership, the rerecording of brand ownership, livestock-related security interests, and those files currently pending. We noted numerous instances of incomplete file documentation and no clear file layout or composition. Examples include:

- ◆ Ten of 30 new brand applications (33 percent) considered had no clear date of receipt, which is necessary for tracking the timeliness of application processing.
- ◆ For 29 out of 30 new brand applications (97 percent), we were unable to determine definitively which staff member had processed the application.
- ◆ Three out of 30 brand transfer forms (10 percent) had no payment information noted.
- ◆ Eight out of 60 files from the 2001 rerecord (13 percent) did not contain all of the required brand owner signatures.
- ◆ For 14 out of 30 transfers of brand ownership occurring during the 2001 rerecord (47 percent), discrepancies in new brand owner information between the request form and the brands information system were noted.

In addition, during audit work, we noted problems with the design of division forms pertaining to new brand applications, transfers of brand ownership, the rerecording of brand ownership, and livestock-related security interests. For example, there are not clear directives about which information is required of applicants and which is optional. In addition, there is information requested on some forms that division staff report is not used nor input into the information system used for recording brand ownership information. Finally, on some forms, multiple signatures of brand owners are required; however, there is insufficient space for these to be included.

There are a number of impacts to the department related to incomplete file documentation and outdated form design. Because clear documentation is lacking, it may be difficult for another staff member to continue the work necessary to complete the required action. Also, in the event a grievance is filed regarding a decision made by staff during

the processing of a new brand application, management may be unable to determine the reasoning supporting the decision. Because the division's forms related to brand recording and security interests are outdated, the department is subject to increased risk in two areas. First, by collecting sensitive information, such as social security numbers, which is not required for processing brand applications, the department has increased risk of liability in the event an individual's personal information is acquired by an unauthorized person. Secondly, because there are no clear directives about which information is required of applicants and which is optional, many applications received by the department are incomplete. Because of incomplete applications, staff make assumptions about information, such as, in which counties the branded livestock will range and which individuals are listed as authorized bill-of-sale signers. These activities increase the risk that brand ownership will be recorded incorrectly.

In accordance with best management practices, organizations should have internal measures for ensuring file documentation is complete. Files should be organized in a method that ensures all necessary documentation is present, including a record of key decisions and the justification for such decisions. Form design efforts should consider what information is needed by the organization and guarantee forms are user-friendly and emphasize the importance of filling in all requested information. In addition, forms should be regularly evaluated for usefulness.

RECOMMENDATION #2

We recommend the Department of Livestock:

- A. *Establish file documentation requirements to ensure files related to the recording of brand ownership contain all necessary information and support key decisions.*
 - B. *Regularly evaluate its information needs and update agency forms to reflect those needs.*
-

Improving the Management Information System

Detailed management information is a key ingredient for actively managing program activities. During the course of our audit, we found the department has limited access to management information regarding its activities pertaining to the recording of brand ownership and security interests against branded livestock.

Department's Information System

Currently, brand ownership records are stored on an antiquated information system owned by the department. The system is batch-based, meaning information is input into queues within the system by division staff and then it is uploaded into the system in a batch. Due to the age of the system and the programming language with which it was written, there are limited industry resources available for providing maintenance services for the system, including program modifications, report development, and uploading the batches. The department currently employs no staff able to provide these services; as a result, the department maintains an agreement with an outside contractor for this purpose. The contractor uploads the batches approximately every other week; until this time, program staff has limited accessibility to the information in the queue. Department staff report they are unable to upload the batches themselves. Furthermore, the department is unable to run management reports on basic information such as the number of brands currently recorded or the number of brand owners with recorded brands. In addition, the system provides no means for tracking pending division activities and the status of those activities.

The limits of the department's current information management system directly impact its ability to effectively manage brand-related activities. The time required for information to be uploaded into the system affects the division's ability to process new brand applications, transfers of brand ownership, and security interest-related actions in a timely manner. The department's reliance on an outside contractor for system maintenance and information extraction limits its ability to provide program information to the public and legislature. The ability to access and manipulate program information is a vital tool to be utilized by agency management for making key decisions regarding budgeting, staffing, and program direction. Department management is limited by an overall lack of information as they attempt to direct program activities.

Improved Information System Would Enhance Management Capabilities

Best practices for information management recommend agencies have controls in place to ensure program information is accessible and accurate. In addition, a division of roles and responsibilities should be implemented to minimize overreliance on key personnel and reduce the ability of a single individual to subvert a critical process. Department management has recognized the shortcomings of its current management information system. During the 2009 Legislative Session, the department was authorized to spend \$172,350 in fiscal year 2010 to replace the brands information system and the department is currently in the process of developing the Request For Proposal (RFP) for this. As part of our audit, we reviewed the RFP and it appears to be

comprehensive. However, department staff have indicated, due to funding limitations, there may be a phase-in of some system capabilities and exclusion of others. Until the new system is complete and operational, the department should take other steps to track key management information. This should include tracking such information as the current number of brands recorded, the number of brand owners with recorded brands, the number of security interests against branded livestock recorded, and the status of pending actions.

RECOMMENDATION #3

We recommend the Department of Livestock improve its access to key management information such as:

- *number of brands recorded*
 - *number of brand owners with recorded brands*
 - *number security interests recorded*
 - *status of files requiring further action*
-

Enhancing Cash Management Controls

One of our audit objectives was to examine the department's financial controls to ensure cash management controls are in place for division-related business. During audit work, we reviewed the cash collection process for fees related to new brand applications and brand transfer requests. We tested the internal controls of this process, identified several weaknesses, and believe improvements should be made. Although no cases of theft or fraud were identified during testing, we believe the potential for theft within the department's cash collection process is increased in two areas.

The first area involves a weakness in the cash collection process between the mailroom and accounting. The department mailroom initially opens all mail. When payment for application and processing of new brand applications and brand transfer requests is included, the enclosed documents and payment are sent to accounting for processing. However, no supporting documentation inventorying what was received is included. Once accounting receives the payment, transactions are assigned a transmittal number. All forms are stamped with a transmittal number and then sent to the appropriate department staff for processing. Accounting creates a deposit ticket and a spreadsheet presenting the individual payments. A supervisor verifies the total amounts agree, but does not fully review the deposit details or cross-match the amounts with new brand certificates that are issued. In the event a payment is received in the form of cash, a transmittal number could be assigned and a brand certificate issued without the cash being deposited.

The second area involves a weakness in the cash collection process between the Brand Recorder's office and accounting. If an applicant walks-in to the Brand Recorder's office and payment is received, staff does not retain a log book of activities which can be referenced by the accounting staff if there is concern or a discrepancy regarding a payment received. Without some type of documentation of cash received, cash payments could be taken and a brand certificate issued without sending any documentation to accounting.

State Accounting Policy Requires the Establishment and Maintenance of Internal Controls

According to state accounting policy, management is responsible for establishing and maintaining agency internal controls. Essentially, internal control is defined as a coordinated set of policies and procedures used by managers and line workers to ensure their agencies, programs, or functions operate efficiently and effectively in conformance with applicable laws and regulations, and that the related transactions are accurate, properly recorded and executed in accordance with management's directives. Throughout the year, management is expected to conduct reviews, tests and analyses of internal controls to ensure their proper operation. Agency management is responsible for the extent of the efficiency and effectiveness of internal controls, as well as any deficiencies. When weaknesses are identified, including any internal or external audit findings, a plan and schedule for corrective action should be prepared.

Cash Payments Are Susceptible to Misuse

The weaknesses discussed previously point to the fact that the department may be relying on controls that are not working and that cash payments for brands-related activities are susceptible to misuse. For new brand applications and brand transfer requests, the department receives approximately \$117,000 annually. According to department staff, cash typically accounts for roughly 25 percent of total collections. This projects to approximately \$29,250 of revenues associated with new brand applications and brand transfer requests as susceptible to theft.

Department management and staff were unaware of the weaknesses in the department's cash management procedures, but appeared willing to implement additional controls to mitigate the potential weaknesses. The department should enhance, document, implement, monitor, and test cash management controls, as required by state accounting policy. Such controls could include a logbook in the mailroom used to detail all incoming mail. In addition, a logbook could be placed in the Brand Recorder's office for listing information regarding activities related to walk-in clients. Further, procedures for cross-matching funds received with brand certificates issued could be developed.



RECOMMENDATION #4

We recommend the Department of Livestock strengthen its cash management controls for brands-related activities.



Chapter IV – Improving the Efficiency and Effectiveness of Program Operations

Introduction

In addition to examining the Department of Livestock's (department) management activities related to the recording of brand ownership, one of our audit objectives was to determine if the department's processes related to the assignment and recording of brand ownership are conducted in a manner that efficiently and effectively serves the livestock industry. Based on audit work, we identified several areas which could be improved. The livestock industry in Montana depends on the department for, among other things, the regulation of livestock brands for the purpose of tracking livestock ownership and movement. Efficient deliverance of this service ensures continuity of business operations for all Montana livestock producers and auction markets. Delayed or inefficient management of these processes could result in a loss of vital revenue to the livestock producer and the department. By addressing the areas discussed in this chapter, we believe the department can enhance the services it provides to the livestock industry. Audit findings and recommendations related to the following areas are discussed in this chapter:

- ◆ Efficiency and effectiveness of the application process
- ◆ Brands-related fees
- ◆ Statutory compliance regarding the allowance of a grace period during the rerecording of brand ownership
- ◆ Frequency of rerecording brand ownership

Application Process for New Brands and Transfer of Brand Ownership Could Be More Efficient and Effective

During our audit, we examined the department's processes related to the issuance of new brands and the transfer of brand ownership and found enhancements could be made to improve both the efficiency and effectiveness of those processes. Three specific areas requiring improvement were noted:

- ◆ The timeliness with which new brand applications and requests for transfer of ownership are processed.
- ◆ The order in which new brand applications and requests for transfer of ownership are processed.
- ◆ The processing of applications for which no accompanying fee is received.

Processing of Applications for New Brands and Transfers of Brand Ownership Is Not Timely

As noted in Chapter III, we reviewed a random sample of 190 files related to new brand applications, transfers of brand ownership, the rerecording of brand ownership, livestock-related security interests, and those files currently pending. We were unable to determine the timeliness of the rerecording of brand ownership and the registry of security interests against branded livestock. However, with regards to new brand applications, transfers of brand ownership, and those files currently pending, we noted the following:

- ◆ For new brand applications 29 out of 30 had available date information. For these, the average time between the date the department received the application and the time the brand certificate was issued was 185 days. For two applications, processing time was over 1,000 days.
- ◆ For transfers of brand ownership, 25 out of 30 had available date information. For these, the average time between the date the department received the transfer request and the time the brand certificate was issued was over 28 days.
- ◆ We found 15 new brand applications or brand transfer requests have been pending since before the 2001 rerecord. On average, these files have been pending 3,361 days.
- ◆ We reviewed 25 files requiring further action before processing can be completed. Twenty-three out of 25 of these files had available date information and, on average, have been pending 1,391 days.

It appears there are multiple reasons why new brand applications and brand transfer requests may not be processed in a timely manner. These include:

- ◆ The department frequently receives incomplete applications
- ◆ No formal policy or procedures addressing how or when to refund fees accompanying new brand applications or brand transfer requests
- ◆ An arduous, labor-intensive conflict-checking process
- ◆ No formal policies for denying an application, either those that are incomplete or rejected as a result of brand conflicts

The time periods for processing appear lengthy; however, it is not due to staff inactivity. Staff make various attempts to resolve pending issues. Outside obstacles and no formal policies hinder their ability to do so. While resolution of all these causes may not be possible, improvements in these areas could be made to improve timeliness.

Untimely processing of applications for new brands and requests to transfer brand ownership directly impacts the livestock industry. Livestock owners are unable to

use new brands for a significant amount of time. Without a brand, it is difficult to prove livestock ownership. This makes it more challenging to sell livestock or to legally transport livestock across county or state lines.

RECOMMENDATION #5

We recommend the Department of Livestock:

- A. *Establish policy and procedures for refunding application fees.*
 - B. *Establish time-limits for processing of new brand applications and brand transfer requests.*
 - C. *Evaluate its current conflict-checking procedures to determine if the process could be carried out more efficiently.*
 - D. *Establish policy governing the denial of applications and rejection of incomplete applications.*
-

Setting Priorities for Processing New Brand Applications and Brand Transfer Requests

The Brands Enforcement Division (division) does not have a formal system for prioritizing new brand applications and brand transfer requests. Generally, division staff indicated new brand applications are processed in the chronological order in which they were received by the division. However, two key exceptions were noted. The first is brand transfer requests are processed before new brand applications. As noted previously, we found that for the files we reviewed, the average time to process new brand applications was over six times longer than the time to process brand transfer requests. The second key exception is that new brand applications physically brought to the Helena office by the applicant are processed before those mailed in. During our file review, we noted eight out of 30 new brand applications had been physically brought into the office. Seven of these had available date information and the average time between when the application was received by the division and the date the brand certificate was issued was 20 days. For those applications mailed in (22 out of 30), the average time was 237 days. This is due in part to the current prioritization system.

The lack of department guidance for prioritizing applications and transfer requests directly affects the livestock industry. The availability of a brand for issuance depends on if it conflicts with brands already recorded. If an application or transfer request is processed out of chronological order, the resulting conflicts may render the requests of another brand application, received earlier but not yet processed, unavailable.

According to the National State Auditors Association, best management practices for regulatory programs require clear guidelines and procedures for processing applications, including how to prioritize applications. Since regulatory decisions affect individual applicants, regulatory agencies must ensure application processing is fair to all applicants. Even the perception of unfairness can damage the integrity of the regulatory program. By failing to consider the implications of processing applications out of chronological order, including the impacts to other applicants, the department may be hampering its ability to issue new brands efficiently.

RECOMMENDATION #6

We recommend the Department of Livestock process all new brand applications and brand transfer requests according to the date received by the department.

Department Staff Process Applications for Which No Fee Was Received

During audit work, we found division staff process applications for which there is no accompanying fee. We reviewed 25 files requiring further action before processing can be completed. Of these 25, we noted six of these were new brand applications had been checked for conflicts, even when no application fee had been received. For four of the six, staff researched similar brands and notified the applicants of brands currently available. It should be noted, no brand certificates were issued in association with these six applications.

Department management has failed to provide clear guidance to staff on this issue. The occurrence of staff processing new brand applications for which no fee has been received results in the department providing a service for which it has not been paid. This practice results in delayed brand issuance for those applicants who have submitted the full application fee along with a complete application.

RECOMMENDATION #7

We recommend the Department of Livestock only process applications for which there is an accompanying fee.

Brands-Related Fees

The division collects a variety of fees related to the services it administers. As discussed earlier, there are fees associated with new brand applications, brand transfer requests, brand rerecord, and filings related to security interests against branded livestock. In addition to these, fees are also collected in association with livestock market licenses, livestock inspections, the issuance of duplicate brand ownership certificates, and permits for transport of livestock to market. Revenues for all of these fees are collectively deposited in the Brands Enforcement state special revenue fund.

State Law Requires Fees Commensurate With Costs

Section 81-1-102(2), MCA, requires fees charged by the department to be commensurate with costs. This concept is further expanded on by a legislative statement of intent attached when the statute was amended in 1983. The statement asserts, "...The Legislature intends that the fees be set in an amount sufficient to provide funds to administer the function for which the fee is charged..." Section 81-1-102, MCA, references §37-1-134, MCA, which provides further detail into the requirement that fees are commensurate with costs and mandates that programs maintain records sufficient to support the fees charged for each program area.

During the course of our audit, we reviewed revenue and expenditure activity for the Brands Enforcement state special revenue fund associated with the division. We reviewed the period between the last brand rerecord and the present, including fiscal years 2001 through 2009. We were unable to definitively determine if the fees related to processes within the scope of our audit are commensurate with cost.

Other Fees Supplement Division Revenue

Based on review of state accounting records, we determined the division is utilizing other department funds to maintain brand-related operations and services when revenues are depleted. Generally, this is composed of revenue from per capita fees, which are taxes assessed on all livestock owners on a "per head" basis.

Department management, recognizing disparity between fees and operational costs, proposed an increase in brands-related fees to the Board of Livestock (the board) in 2008 and discussion regarding such occurred in mid- to late 2008. Strong opposition from the livestock industry dissuaded the board from taking any action on the issue. It was tabled during a board meeting and, to date, has not been resolved. The board and the department need to take action to ensure fees are set at an amount sufficient to provide funds to administer the function for which the fee is charged.

In addition to ensuring compliance with statute requiring that department fees are commensurate with costs, the department is responsible for ensuring continued compliance. The trend in the past has been toward increasing fees; however, department management indicated upgrades in technology and the processes utilized for recording brand ownership may decrease program costs and, in turn, warrant a decrease in user fees. The periodic re-evaluation of process funding needs will enable the department to ensure its continued compliance with state law.

RECOMMENDATION #8

We recommend the Department of Livestock:

- A. *Take action to ensure fees are commensurate with costs, in accordance with §§81-1-102 and 37-1-134, MCA.*
 - B. *Maintain records sufficient to support fees charged for each brands-related function, in accordance with §§81-1-102 and 37-1-134, MCA.*
-

Current Allowance of a Grace Period During Brand Rerecord Is Not Supported By Law

As part of the initial audit request by the Joint Appropriations Subcommittee for Natural Resources and Transportation, we were asked to review the department's allowance of a grace period during the rerecording of brand ownership. As discussed previously, the department has rerecorded brand ownership every ten years since 1911. The next brand rerecord is scheduled to occur in 2011. Notices to brand owners regarding the expiration of their brands will be mailed out in early January, 2011. The department indicates that brand owners will then have until December 31, 2011, to return their rerecord request to the department, along with the appropriate fee. Department staff indicate that during the 2001 rerecord, processing of the returned notices continued into 2002 and late rerecord notices were accepted and processed until approximately the end of March. At that point, the department generated a list of brands which had not been rerecorded and against which an active security interest was filed. Notices were sent to lenders regarding their filings and they were given until approximately July, 2002 to take action. The department then compiled a listing of all brands not rerecorded and made it available to the public. It was announced that the department had completed the process for rerecording brand ownership as of August 19, 2002. Department staff indicate the 2011 brand rerecord will be subject to a similar timeline.

During audit work, we reviewed 60 files processed during the 2001 brand rerecord. We found that for ten of these (17 percent), the associated brand certificate of ownership

was issued in 2002. Two of these certificates were issued as late as June, 2002, which is six months after the rerecord period indicated in statute. This is not in compliance with state law.

Section 81-3-104, MCA, outlines the time period during which the rerecording of brand ownership must occur. It states, “Each 10th year after 1921 is the year for rerecording artificial marks and brands...” While not specific with regards to the time period for which a brand recording is in effect, a set end-date for rerecord, or the allowance of a grace period for those brand owners who are late in submitting their rerecord requests, statute clearly states “each 10th year after 1921” is the year in which rerecord must occur. A rerecord period that carries over into the 11th year violates statutory requirements. In addition to noncompliance with statute, the department’s allowance of a grace period in the year following rerecord directly impacts the availability of those brands not rerecorded for new applicants.

It appears the current statute gives the department latitude to manage the process for rerecording brand ownership in compliance with statute. Changes to the rerecord process should be made to ensure the completion of rerecord within the statutorily designated year. Such changes could include the elimination of the grace period or the use of a cut-off date earlier in the year that would allow for the use of a grace period within the rerecord year.

RECOMMENDATION #9

We recommend the Department of Livestock take steps to ensure compliance with state law by rerecording all brands within the designated rerecord year.

Current Brand Rerecord Cycle Merits Re-examination

The history of branding livestock in America dates back to the mid-1500s. It continues today as a practice that is steeped in tradition, but also plays a much more important role—the specific identification of livestock. Brands denote animal ownership and serve as a deterrent to thieves who would deprive livestock owners of their livelihood. Individualized brands aid producers in securing operational loans by positively identifying collateral and aid livestock markets in ensuring the appropriate party receives payment for the sale of an animal. Identification of livestock through branding enables animal health officials to trace livestock disease to its source and prevent the catastrophic results of widespread outbreak. The livestock brand is a key tool utilized

in the regulation of livestock sales and transportation. The brand is the primary means used by the department's Brand Inspectors for demarcating animal ownership as they conduct animal inspections related to sale, transport, or death at a livestock market.

Livestock brands are treated as personal property in Montana. They can be given or sold and are sometimes hotly contested assets during divorces or the probate of estates. The department has served as the regulating body for brand ownership in the state since 1895, before Montana's statehood. In addition to issuing brands and recording the ownership details related to a particular brand, the department is required statutorily to cyclically rerecord brand ownership (§81-3-104, MCA). As part of the initial audit request, we were asked to look at the process associated with rerecord to determine its effectiveness. During audit work, we reviewed the purpose of rerecording brand ownership, the department's processes for conducting rerecord, statutory requirements related to rerecord, and how the process is conducted in other states.

Purpose of Brand Rerecord

The purpose for rerecording brand ownership is two-fold. First, the rerecording of brand ownership is intended to allow for the update of department ownership data. However, audit work revealed livestock ownership records are not as current or accurate as they could be and some information is outdated by ten years. Because of the ten-year rerecord cycle, key changes to ownership information are not brought to the department's attention in a timely manner. During our review of agency files, we found multiple instances where brand owners died a number of years before the department was notified. This limits the department's ability to rely on its records for accuracy in the course of its regulatory duties.

The second benefit of rerecording brand ownership is the department is able to identify brands no longer utilized or wanted and make those brands available to the public for recording. The department estimates between 10,000 and 11,000 brands were not rerecorded during the 2001 brand rerecord. These brands became available to the public in late 2002. Because of the statutory requirements regarding the frequency of rerecording brand ownership, available brands are only identified on a large-scale basis every ten years.

Other States See the Need for a More Frequent Rerecord of Brand Ownership

Since brands are vital to such important processes as the identification of livestock, the denotation of livestock ownership, the regulation of livestock sales, and the tracing for livestock movement for animal health purposes, it is critical to have accurate, up-to-date brand ownership records. A number of other states have determined shorter

timeframes for conducting rerecord better meets the needs of the livestock industry for more accurate and timely brand ownership data. For example, in Nevada and South Dakota, all of the brand ownership records are rerecorded every four and five years, respectively. The state of Idaho issues brands in effect for five years and rerecords the brand ownership information for a percentage of all brands each year. Wyoming conducts the same type of staggered brand rerecord; however, brands are issued for a ten-year period.

Montana's Brand Rerecord Cycle Should Be Re-examined

The law designating the cycle for rerecording brand ownership was enacted in 1921. Over the last 89 years, the number of brands rerecorded appears to have remained relatively stable—around 45,000. The processes used by the department for conducting the rerecord, however, have changed as technology has advanced. Within the last 35 years, the department has gone from rerecording brands with pencils on index cards to using bar code scanners to electronically input rerecord requests. And for the 2011 rerecord, department management has indicated that brand owners will be able to rerecord their brands and pay the associated fees electronically via the department's website.

Because of the changes to the process and the increased ease with which it is carried out, the board should examine the current rerecord cycle to determine if it is meeting the needs of its consumers. Various processes, such as those in other states, should be reviewed for applicability and usefulness in Montana. These include a more frequent rerecording of brand ownership or a staggered rerecord of a percentage of brands.

The rerecord cycle was reassessed in the past. During the 1991 Legislative Session, statute was changed and the department was required to develop a system for the staggered recording and rerecording of brands. At that time, the department and the industry supported the change. The mandate for a staggered rerecord cycle was removed from statute and the return to a ten-year cycle was reinstated during the 1995 Legislative Session. Records from the session indicated the return was due to the complicated logistics of developing a staggered system and the cost to the department for information system upgrades and additional staff. An alteration in the cycle today may result in the same drawbacks; however, it is possible that the department's current efforts to upgrade its information system, coupled with its change of allowing brand owners to rerecord brands electronically, will likely alleviate any hardships to the department or the livestock industry. These issues should be explored.

Our audit work could not determine if the timeliness of brand ownership information and more frequent identification of brands available for recording outweighs the

costs of conducting rerecord more frequently. The department, headed by the Board of Livestock, is in the best position to re-evaluate this vital process. Experience as a regulator of brand ownership and of livestock movement, sales, and security, coupled with the board members' practical, day-to-day knowledge of the issues facing the livestock industry will lend to a more thorough examination of the process and the costs associated with any alterations to the cycle.

RECOMMENDATION #10

We recommend the Department of Livestock re-examine the cycle for rerecording brand ownership to determine if it meets the needs of today's livestock industry.

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LEGISLATIVE AUDIT DIV.

February 16, 2010

Tori Hunthausen, CPA
Legislative Auditor
Capitol Station
Helena, MT 59620

Dear Ms. Hunthausen:

Thank you for the opportunity to respond to the performance audit of the Department's brand recording process. We found the audit to be very comprehensive and gave a good picture of the brand recording process. To our knowledge, this is the first audit of this process since the Live Stock Commission began recording brands in 1887.

We agree with recommendation #1 and to this end, the Board of Livestock will consider draft administrative rules addressing the brand recording process at its next meeting, March 15-16. In addition, the Board will also consider policies that will be made available to the public in an effort to make the conflict process more transparent.

Page 14, we agree with Recommendation #2. Department staff will evaluate all forms for tracking and also for clarity to the applicant and make any necessary recommendations for changes to the Board of Livestock.

Page 16, we agree with Recommendation #3. The Department, in conjunction with the Information Technology Services Division has published a request for proposal for a new brands recording system. Our current system was designed in 1985 and has reached the end of its usefulness. We feel that a new management information system will address many of the findings in this audit.

Page 18, we agree with Recommendation #4. Although as noted in the audit, "...no cases of theft or fraud were identified during testing..." we feel that in the best interest of the public and the department, cash management practices should be evaluated and strengthened. To this end, we will be recommending to the Board of Livestock that the department begin accepting credit and debit card transactions, thus reducing our need for cash transactions.

Page 21, we agree with Recommendation #5. The lengthy timelines noted in the findings on page 20 might lead one to believe that department staff are rather lax in performing their duties. However,

Tori Hunthausen, CPA
Legislative Auditor
February 16, 2010
Page 2

after investigation it was found that the delays were due to waiting on responses from the applicant. With no deadlines in place, the recording process can be quite lengthy. In particular, Recommendation 5B will help address this.

Page 22, Recommendation #6 – we agree.

Page 22, Recommendation #7 – we agree. Currently if an applicant's first brand choice is unavailable, he or she is given a full refund and a suggestion for a brand that is available. They may or may not take that suggestion and try another brand. Rather than deposit and refund the same fee multiple times, department staff will sometimes find an available brand and then collect the fee. In response to the recommendation, department staff will make a policy recommendation to the Board to address this issue.

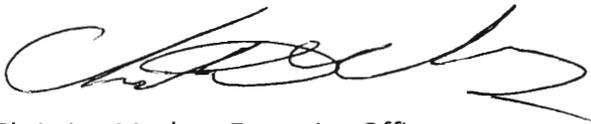
Page 24, Recommendation #8 – we agree. This will be part of the overall evaluation taken up by the Board of Livestock.

Page 25, Recommendation #9 – we agree. Notification of rerecord will include this deadline. In addition, in public outreach efforts this deadline will be stressed.

Page 28, Recommendation #10 – we agree. To this end, brand holders will be surveyed during the rerecord of 2011 to gauge their support and needs for a rerecord cycle.

Again, we appreciate the Legislative Auditor's efforts. We look forward the March Committee meeting.

Sincerely,

A handwritten signature in black ink, appearing to read 'Christian Mackay', written in a cursive style.

Christian Mackay, Executive Officer
Montana Department of Livestock