A Report
to the
Montana
Legislature

Financial-Compliance Audit

Department of Natural Resources and Conservation

For the Two Fiscal Years Ended June 30, 2012

October 2012

Legislative Audit Division

12-17

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October 2012

The Legislative Audit Committee
of the Montana State Legislature:

This is our financial-compliance audit report on the Department of Natural Resources and Conservation for the two fiscal years ending June 30, 2012. The report contains unqualified opinions on the department's financial schedules. Included in this report are six recommendations related to trust lands; transactions governed by statute or policy; the accumulation, use, and payment of excess vacation leave; firefighter meals; and compliance with state laws.

The department's written response to the audit recommendations is included in the audit report at page B-1. We thank the director and her staff for their cooperation and assistance throughout the audit.

Respectfully submitted,

/s/ Tori Hunthausen

Tori Hunthausen, CPA
Legislative Auditor

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Elected, Appointed, and Administrative Officials

Administrative Officials	Mary Sexton, Director Joe Lamson, Deputy Director Candace F. West, Chief Legal Counsel Ray Beck, Administrator, Conservation and Resource Development Division Bob Harrington, Administrator, Forestry Division Tom Richmond, Administrator, Oil and Gas Conservation Division Bill Schultz, Administrator, Reserved Water Rights Compact Commission Tim Davis, Administrator, Water Resources Division Shawn Thomas, Administrator, Trust Land Management Division Tricia Schiltz, Chief Financial Officer Bill Anker, Chief Information Officer Kerry Davant, Human Resources Officer
State Board of Land Commissioners	Brian Schweitzer, Governor Monica Lindeen, State Auditor Linda McCulloch, Secretary of State Denise Juneau, Superintendent of Public Instruction Steve Bullock, Attorney General
Administratively Attached Boards, Commissions & Committees	Board of Water Well Contractors Board of Oil and Gas Conservation Commission Reserved Water Rights Compact Commission Rangeland Resources Executive Committee Drought Advisory Committee Resource Conservation Advisory Council Montana Grass Conservation Commission Flathead Basin Commission

Montana Legislative Audit Division

Financial-Compliance Audit
Department of Natural Resources and Conservation
For the Two Fiscal Years Ended June 30, 2012

October 2012 | 12-17 | Report Summary

The Department of Natural Resources and Conservation (department) administers and manages trust lands, establishes statewide forestry programs, provides wildfire suppression, manages loan and grant programs for local communities, local governments, state agencies, and private citizens, issues licenses and permits, inspects wells for the oil and gas programs, and manages and maintains state owned dams, reservoirs and canals. Our audit identified several areas for improvement, including inadequate procedures for trust land acquisitions, state parks on trust lands, inadequate controls over transactions governed by statute or policy, and the accumulation, use, and payment of excess leave payouts.

Context

In fiscal years 2011-12 and 2010-11, the department has generated distributable revenues of approximately $69.2 million and $68.7 million, respectively, through the management of state lands for its 12 separate land trusts. Of this, $58.4 million and $55.9 million were for Montana school children as part of the Common Schools Trust.

Results

The current audit report contains six recommendations and unqualified opinions on each of the financial schedules for fiscal years 2011-12 and 2010-11. The prior audit report for the two fiscal years ended June 30, 2010, contained 11 recommendations to the department. The department implemented six, did not implement four, and partially implemented one. The recommendations not implemented related to various trust land issues and firefighter meal allowances. The trust lands administrative costs and firefighter meal allowances prior audit recommendations have been reported in several prior audit reports. The department does not agree with our finding, reported in our past two audit reports, related to unreimbursed overcharges of administrative costs for trust lands and has no intention of implementing our recommendation. As a result, we included the information in the prior audit recommendation section of the report. The department is making progress on its implementation of our prior audit recommendation related to firefighter meal allowances and a recommendation is included in this report.

Recommendation Concurrence	
Concur	4
Partially Concur	2
Do Not Concur	0
Source: Agency audit response included in final report.	

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Chapter I – Introduction

Introduction

We performed a financial-compliance audit of the Montana Department of Natural Resources and Conservation (department) for the two fiscal years ended June 30, 2012.

The objectives of this audit were to:

1. Determine whether the department complied with selected state and federal laws and regulations.
2. Obtain an understanding of the department's control systems to the extent necessary to support our audit of the department's financial schedules, and if appropriate, make recommendations for improvement in management and internal controls of the department.
3. Determine whether the department's financial schedules present fairly the results of operations and changes in fund balances and property held in trust for each of the two fiscal years ended June 30, 2012.
4. Determine the implementation status of prior audit recommendations.

This report contains six recommendations to the department. In accordance with §5-13-307, MCA, we analyzed and disclosed the cost, if significant, of implementing the recommendations made in this report.

We evaluated charges for services in the Internal Service Fund as required by §17-8-101(6), MCA. We found the fees and charges were commensurate with costs and fund equity was reasonable for the operations in the fund in fiscal years 2011-12 and 2010-11.

Background Information

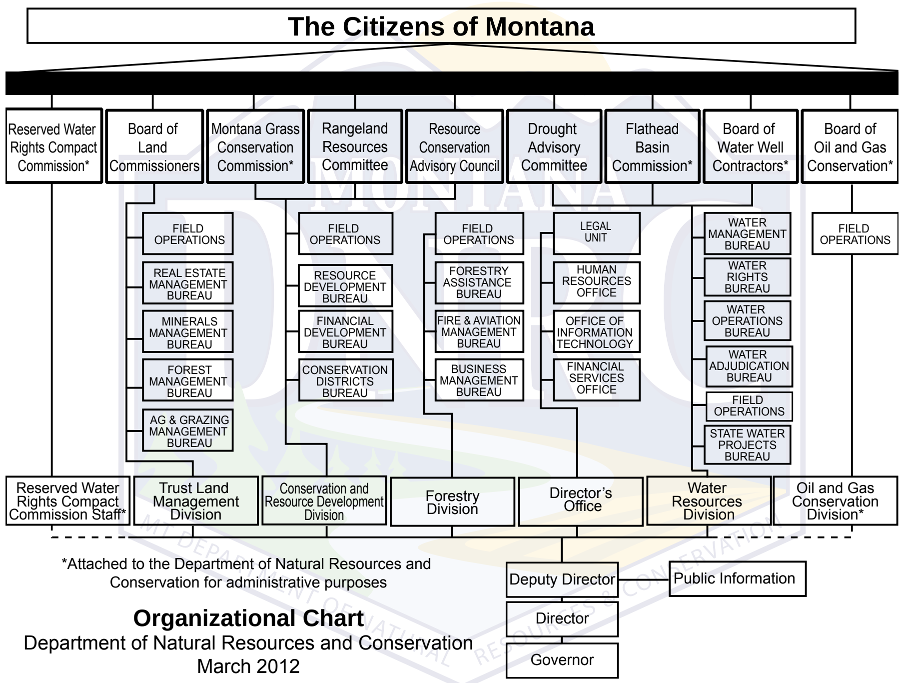
The department promotes the stewardship of Montana's water, soil, forest, and rangeland resources, manages state-owned land, facilitates funding for certain infrastructure improvement projects, and regulates forest practices and oil and gas exploration and production.

Department Organization

The State Board of Land Commissioners, comprised of the Governor, State Auditor, Attorney General, Superintendent of Public Instruction, and Secretary of State exercises the general authority, direction, and control over the care, management, and disposition of state lands under its administration. The Department of Natural Resources and Conservation director is the chief administrative officer of the board.

The department is organized into seven divisions and nine boards and commissions as shown in Figure 1 below.

Figure 1
Organization Chart of Department of Natural Resources and Conservation



Source: Compiled by Department of Natural Resources and Conservation.

The department's divisions are described below and include the number of full-time equivalent (FTE) positions:

<u>Centralized Services Division</u> (55.5 FTE) consists of the Director's Office, legal services office, financial services office, office of information technology, and human resources office. The Director's Office includes the director, deputy director, and public information officer. The financial services office provides budgeting, accounting, payroll, procurement, and contracting management support to other divisions. The office of information technology provides information technology support services to other divisions.

<u>Oil and Gas Conservation Division</u> (21.5 FTE) administers the Montana oil and gas conservation laws. It promotes conservation and prevents waste in the recovery of oil and gas resources through regulation of exploration and production. The division

issues drilling permits; classifies wells; establishes well spacing units and pooling orders; inspects drilling, production, and seismic operations; investigates complaints; and does engineering studies. The division also determines incremental production for enhanced recovery and horizontal wells in order to implement the tax incentive program for those projects, operates the underground injection control program, plugs orphan wells, and collects and maintains complete well data and production information. The division provides administrative support to the Board of Oil and Gas Conservation.

Conservation and Resource Development Division (25.15 FTE) assists local entities in managing the state's natural resources and provides financing for conservation resource management and reclamation activities. The division provides technical, administrative, financial, and legal assistance to Montana's 58 conservation districts. The division also manages several loan and grant programs for local communities, local governments, state agencies, and private citizens. The programs include State Revolving Fund loans to communities for water and waste water systems, Coal Severance Tax loans to governmental entities, and loans to private entities for water development projects. Loans outstanding exceed $342 million at June 30, 2012. Grant programs administered by the division include the Reclamation Development, Renewable Resource, and Conservation District grant programs.

Water Resources Division (146.05 FTE) is responsible for programs associated with the use, development, and protection of Montana's water. It manages and maintains state-owned dams, reservoirs, and canals. The division develops and recommends intrastate, interstate, and international water policy to the director, governor, and legislature. The division also resolves water resource use conflicts, investigates water use violations, ensures dam safety compliance, and provides water adjudication support to the Water Court. The division consists of an administration unit and five bureaus: Water Adjudication Bureau, Water Management Bureau, Water Rights Bureau, Water Projects Bureau, and Water Operations Bureau. The 2003 Legislature attached the Flathead Basin Commission to the department for administrative purposes. The commission is charged with protecting the natural resources and environment of the Flathead Basin.

The Reserved Water Rights Compact Commission is attached to the department for administrative purposes. The commission, budgeted for 4.75 FTE positions, was created by the legislature in 1979 as part of the water rights adjudication effort. The commission negotiates water rights with Indian tribes and federal agencies claiming federal reserved water rights within the state in order to establish a formal agreement or compact on the amount of water to be allocated to each interest.

Forestry Division (193.27 FTE) is responsible for planning and implementing forestry programs statewide. The division protects Montana's natural resources from wildfire, regulates forest practices, and provides a variety of services to private forest landowners. The Fire and Aviation Management Program protects 50 million acres of state and private forest and watershed lands from wildfire through a combination of direct protection and county support. Total fire suppression costs have ranged from $2.4 million to $51.3 million over the past five years. The Forest Practice Regulation Program enforces Montana's streamside management zone regulations and monitors the voluntary best management practices program on all forests in Montana. In administering Montana's Fire Hazard Reduction Law, the division helps ensure fire hazards created by logging and other forest management operations on private forestlands are adequately reduced, or that additional fire protection is provided until the hazard is reduced. The division provides technical forestry assistance to private landowners, businesses, and communities.

Trust Land Management Division (128.46 FTE) provides for the administration and management of trust lands granted to the state of Montana by the Enabling Act of 1889. In the process of producing revenue for trust beneficiaries, the division considers environmental factors and protects the future income-generating capacity of the trust lands. These lands currently total over 5.1 million surface acres and 6.2 million mineral acres. Additionally, the division is responsible for the administration of approximately 6,000 miles of the beds of navigable waterways. The Trust Land Management Division is divided into four primary programs: forest management, agriculture and grazing management, real estate management, and minerals management.

Prior Audit Recommendations

We performed the prior audit of the department for the two fiscal years ended June 30, 2010. The report contained 11 recommendations. The department implemented six, partially implemented one, and did not implement four of the recommendations.

The recommendation partially implemented relates to the Bureau of Land Management Water Rights Compact Report submission. The department did not submit the 2010-11 report timely, but did submit the 2011-12 report as required. As a result, we make no further recommendation at this time.

The recommendations not implemented relate to firefighter meal rate allowances and various trust land issues involving unreimbursed overcharges of administrative costs to trusts, trusts not being compensated for use of lands for state parks, and cabin site leases not generating revenue to the fullest extent. The recommendations related to

unreimbursed overcharges of administrative costs to trusts and cabin site leases are still applicable and are further discussed below. The remaining trust land issue and firefighter meal rate allowances are discussed again on pages 9 through 11, and 14 through 15, respectively.

Unreimbursed Overcharges of Administrative Costs

The prior two audit reports recommended the department compensate the trusts for the $2,456,541 inappropriately withheld from Common Schools, State Reform School (Pine Hills), MSU-Morrill, MSU-second grant, Montana School for the Deaf and Blind, Veterans Home, Capitol Building, and Sir Estate trust revenues and their beneficiaries. Department personnel have no intention of compensating trusts for amounts inappropriately withheld because they do not have the funding available and believe they would need an appropriation. However, there are other ways to reimburse the trusts, such as paying the costs from existing authority not funded by assessments to the trusts. The department should consider alternative methods of repayment. We disagree with the department and continue to recommend they compensate the trusts for overcharges.

Cabin Site Leases

The prior audit recommended the department provide the Board of Land Commissioners with cabin site lease methodologies that will maximize trust revenues, as required by state law. The department is not charging fair market value for its cabin site leases based on appraisals conducted by the Department of Revenue. In 2009, the appraisals were substantially higher than in previous years which led to lessee complaints over the lease rate increases. In response, the department adopted an alternative lease rate methodology. During the 2011 Legislative Session, a bill was passed to allow for an alternative to the 2009 appraised values, establishing full market value through the use of an open competitive bidding process. The bill was codified in §77-1-235, MCA. The department worked to implement the requirements included in this new law until April 2012 when the First Judicial District Court preliminarily enjoined Senate Bill (SB) 409 of the 2011 Legislative Session from implementation. The court stated that the evidence showed a number of troubling problems with SB409 and the court issued the preliminary injunction to maintain the status quo pending the final outcome of the case. We disagree with the department's use of its alternative lease rate methodologies. We continue to recommend they adopt lease rate methods in order to maximize trust revenues, as required by state law.

Chapter II – Findings and Recommendations

Trust Lands

The Department of Natural Resources and Conservation (department) administers and manages 12 separate land trusts, including the state trust timber, surface, and mineral resources for the benefit of the Common Schools and other endowed institutions in Montana, under the direction of the Board of Land Commissioners (Board). Of these, nine were established in the federal Enabling and Morrill Acts and Article X of the Montana Constitution. The legislature began using trust revenues to finance the cost of administering these trusts in 1963. From 1963 to 2003, the legislature established seven separate funding sources to pay for various types of administrative costs. These include the Forest Improvement, Resource Development, Recreational Use, Timber Sale, Trust Land Administration and Commercial Leasing Accounts, and the State Land Bank Fund. Currently, land trust administration costs are recovered through charges against trust revenues.

Under Montana law, the department has a duty of complete loyalty to each individual trust, solely in the interest of that trust's beneficiaries. The trust beneficiaries include Montana's public schools and universities, and other entities such as the State Reform School (Pine Hills), Montana School for the Deaf and Blind, and the Montana Development Center. Section 72-34-110, MCA, requires the trustee to keep trust property separate from other property not subject to the trust and to see that trust property is so designated. Article X, Section 3, of the constitution guarantees the public school fund against loss or diversion. The same guarantee exists for the university funds in Article X, Section 10 of the constitution. In addition, Article X, Section 11, of the Montana Constitution indicates that all public land trusts are to be disposed of for the purposes for which they have been granted.

The following sections discuss instances where the department violated the trust agreements, its trust duty, and state law.

Trust Land Acquisitions

Various trust funds were used to purchase trust lands even though the beneficiaries attained no benefit from the acquisition.

The department purchased the North Swan land in December 2010 and the Chamberlain Creek land in June 2010. Both land acquisitions were for the benefit of the Common Schools Trust, however, the Common Schools Trust did not have

sufficient funds available to acquire the lands. As a result, various other trust funds were used to aid in the acquisitions.

The department acquired the North Swan land for $1,435,830, and $240,000 of this was funded with University of Montana trust funds. Approximately four months after the acquisition, Common Schools had sufficient funds available and reimbursed the University of Montana trust, with interest.

The department acquired the Chamberlain Creek land for $5,936,000. Of this, $359,940 was funded with Public Buildings funds and $150,920 was funded with State Reform School (Pine Hills) funds. Approximately one year after the purchase, Common Schools had sufficient funds available and reimbursed these two trusts, with interest.

Section 72-34-114(1), MCA, requires the trustee to administer the trust with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person would use to accomplish the purposes of the trust as determined from the trust instrument. In addition, §77-2-364(5), MCA, partially states: "Prior to purchasing any land, easements, or improvements, the board shall determine that the financial risks and benefits of the purchase are prudent, financially productive investments that are consistent with the board's fiduciary duty as a reasonably prudent trustee of a perpetual trust."

The purchase of the North Swan and Chamberlain Creek lands were not prudent investments for the University of Montana, Public Buildings, and State Reform School (Pine Hills) trust beneficiaries. These beneficiaries were not going to profit from the acquisitions. According to the Board meeting minutes, the department would have preferred to make these purchases with Common Schools funds, but sufficient funds were not available. The minutes discussion included: the cost of doing business on these small trust sections exceed the revenues; the state would lose money in the long run since it was a small section of land; and managing the lands for one beneficiary, Common Schools, is a more effective scenario than managing for multiple trusts. As a result of this meeting discussion, the members of the Board acknowledged that these were not prudent investments for University of Montana, Public Buildings, and State Reform School (Pine Hills) trust beneficiaries. The University of Montana, State Reform School (Pine Hills) and Public Buildings beneficiaries funds were diverted. Article X, Sections 3 and 10, of the Montana Constitution guarantee the public school and university funds against loss or diversion.

Department personnel said it is difficult to purchase trust lands now that they are accounting by trust. Since they reimbursed the trusts, with interest, the trusts were

made whole, and funds were not diverted. Because the funds were used to acquire land for the benefit of Common Schools, the funds were not available to be invested in financially productive investments. If the department needs to use funds from various other trusts to acquire land for the benefit of one particular trust, it should implement procedures to ensure the beneficiaries agree to the use of the funds and ensure its use is a financially productive investment. For example, department personnel could enter into written agreements with the beneficiaries of the trusts that provide the additional funding, with the repayment schedule including interest.

Recommendation #1

We recommend the department implement procedures to ensure compliance with state laws and the Montana Constitution when additional funds are needed from other beneficiaries to acquire land.

State Parks on Trust Lands

Common Schools and Montana Tech trusts are not compensated for use of lands for state parks.

In our prior audit of the department, we noted the Common Schools and Montana Tech trusts were not being compensated for use of the First Peoples Buffalo Jump, Madison Buffalo Jump, and Lewis & Clark Caverns state parks. Common Schools trust revenues were not maximized and the fair market value was not reflected in the easement transaction for land used by First Peoples Buffalo Jump State Park. Common Schools and Montana Tech trusts were not fully compensated for the Madison Buffalo Jump and Lewis & Clark Caverns state parks; written agreements were needed to ensure these two trusts were fully compensated.

The department entered into an agreement with the Department of Fish, Wildlife and Parks (FWP) to sell a permanent easement on Common School trust land for the First Peoples Buffalo Jump, which was purchased in October 2006 using proceeds from a previous land sale. Under the agreement, FWP must pay a specified amount per year for up to five years, at which time the right to purchase the easement expired. Should the easement be fully executed, any payments made during the five year period will be credited to the purchase of the easement. The last payment received by the department was in August 2008. However, FWP continues to occupy the land and utilizes it as part of First Peoples Buffalo Jump State Park. If the agreement is executed

as written, the Common School trust will not be fully compensated for the use of trust land because crediting these payments towards the purchase of the easement does not provide any income to the trust or trust beneficiaries for the five year period.

In past audits, we recommended the department maximize trust revenues as required by their fiduciary duty to the Common School trust by leasing this property to the fullest extent possible, and by ensuring the fair market value is reflected in the final easement transaction with FWP. By allowing the land to remain under FWP's control without receiving payment, the lost revenues for the Common School trust continue to grow.

In our prior audit, we also identified the Madison Buffalo Jump and Lewis & Clark Caverns state parts use state trust lands for which the trusts are not compensated. Madison Buffalo Jump State Park was acquired through land exchanges involving Common Schools and Montana Tech trust lands and Lewis & Clark Caverns State Park was acquired by the Common Schools trust.

Department personnel believe they were maximizing trust revenues and that the fair market value was reflected for land used by the First Peoples Buffalo Jump State Park and maintain that they will not adjust the per acre price that was previously negotiated. Department personnel do not have any plans of quantifying and seeking full compensation for historical use of the trust lands. In addition, department personnel agree they need agreements with FWP in order to be fully compensated for Madison Buffalo Jump and Lewis & Clark Caverns state parks. The department sought to enter into agreements with FWP, but FWP did not sign the agreements. Department personnel believe this is due to a lack of funding. FWP personnel stated they have not signed the agreements because they have some unresolved issues, such as funding, and have not reached a final decision as to how they will proceed. Department personnel stated they have billed FWP without an agreement and hope to receive payment.

In each situation, there was significant interest in acquiring specific land for preservation and parks purposes. Documentation we reviewed during the last audit suggests trust interests were not considered when the transactions took place. Because the lands are currently under the control of FWP, resolution requires the participation and cooperation of both departments. If easements for the use of these trust lands are completed in the future, the agreements should reflect current fair market value for the land.

Recommendation #2

We recommend the department:

A. *Maximize trust revenues for land utilized by First Peoples Buffalo Jump State Park.*

B. *Ensure fair market value is reflected in the final easement transaction for land utilized by First Peoples Buffalo Jump State Park.*

C. *Quantify and seek full compensation on behalf of the Common School and Montana Tech trusts for historical use of trust lands for Madison Buffalo Jump and Lewis & Clark Caverns state parks.*

D. *Continue to work with the Department of Fish, Wildlife and Parks to enter into agreements necessary to ensure proper and full compensation to the Common School and Montana Tech trust funds in the future.*

Inadequate Control Over Transactions Governed by Statute or Policy

The department did not follow state law or policy when recording transactions on the state's accounting records.

State accounting policy requires management to establish and maintain agency internal control to ensure it conforms with applicable laws and regulations and related transactions are recorded in accordance with generally accepted accounting principles.

The following sections describe instances where the department recorded transactions that did not comply with state law or policy and resulted in misstatements on the state's accounting records.

Budgeted Funds

At the start of fiscal year 2010-11, the department requested the Department of Administration (DOA) establish two of its state special revenue accounts as budgeted accounts using the DOA prescribed form required by state accounting policy. When DOA set up funds in the state's accounting system they established expenditures as budgeted activity and erroneously established revenues as nonbudgeted activity. As a result, the expenditures were properly classified on the state's accounting records, but the budgeted revenues were not. On the Schedule of Revenues & Transfers-In, the Actual Budgeted Revenues & Transfers-In are understated in the State Special

Revenue Fund by $1,179,550 and the Nonbudgeted Revenues & Transfers-In are overstated by the same amount.

Department personnel stated they did not realize the accounts were set up in error. Department personnel identified the error when they reviewed the financial schedules after the fiscal year ended.

Earnings Reserve Account

In an effort to revise laws governing trust land administration accounts and associated uses, a bill was passed during the 2009 Legislature to create the earnings reserve accounts. Section 77-1-132, MCA, states there is an earnings reserve account in the state special revenue fund. Funds are to be deposited in the earnings reserve accounts and must be accounted for by individual trust. In fiscal year 2009-10 the department erroneously established earnings reserve accounts as permanent trust funds. In fiscal year 2010-11 the error was detected by nondepartment staff and communicated to the department. The department made a prior period adjustment to correct fiscal year 2009-10 and moved the earnings reserve accounts to State Special Revenue funds, as required, in June 2011.

Department personnel said they made an error in setting up the funds because they were required to account for the activity by trust and missed the section of law that required the funds to be state special revenue accounts.

General Fund Interest Earnings

The department was not legally authorized to invest funds of the environmental contingency account in the Short-Term Investment Pool (STIP). Section 75-1-1101(4), MCA, states interest from funds in the environmental contingency account accrues to the General Fund. This statute changed during the 2007 Legislative Session. Prior to this change, the statute read, "Interest earned from funds in the environmental contingency account remains in the account," which allowed for the department to invest the funds. As a result, General Fund monies in the amount of $802,637 and $665,054 did not earn interest in fiscal years 2009-10 and 2010-11, respectively. Department personnel said the error was discovered when nondepartment personnel brought it to their attention.

Summary

In the three instances above, the department's internal controls were not designed to prevent or detect the accounting errors, and noncompliance in a timely manner, thus resulting in errors on the state's accounting records. The department should review

statute changes and financial activity to ensure appropriate accounting treatment is made and laws complied with.

Recommendation #3

We recommend the department implement internal control procedures to identify new or changed legislation to ensure compliance with state law and accounting policy.

Excess Vacation Leave Balances

The department did not comply with state law and policy regarding the accumulation, use and payment of excess vacation leave.

State law limits the accumulation of employee vacation leave to twice the amount an employee earns in a calendar year. Leave balances accumulated above this threshold are considered "excess" and are to be used by the employee within the first 90 days of the calendar year after it was accrued or be forfeited. If the employee requests to use leave balances, in writing, and management denies the request, forfeiture may be delayed until the end of the calendar year. In addition, state policy requires exempt employees who have annual vacation leave balances considered excess at the end of the calendar year, use vacation leave before using any accrued compensatory time. The requirement to use excess vacation leave prior to compensatory time became effective in state policy January 1, 2011.

The department forfeited one employee's excess vacation leave balance as required by state law, but paid the employee for the dollar value of the excess vacation leave balance that was forfeited. In fiscal year 2011-12, the department paid an employee a total of $560 upon termination for their forfeited excess vacation leave balance. In addition, two employees with excess vacation leave used compensatory leave prior to using vacation leave balances, contrary to state policy.

The department's human resource personnel stated they were not aware they paid the employee for excess leave contrary to state law. In addition, department personnel were unaware of the requirement in state policy to use excess vacation leave prior to compensatory time.

Recommendation #4

We recommend the department comply with state law and policy regarding the accumulation, use and payment of excess vacation leave.

Firefighter Meals

The department is not in compliance with state law and department policy regarding meal rates allowed for firefighters and itemized meal receipts with reimbursement forms.

In our prior audit of the department, we noted the department adopted a new meal allowance policy contrary to state law. We followed up on this issue during the current audit by reviewing changes made to statute with respect to meal allowances, the department's increased meal rates, and a sample of meal reimbursements. The paragraphs below describe our findings.

Meal Rates

In several of our past audit reports (10-17, 08-17, and 04-17) of the department, we noted the department was paying meals in excess of amounts allowed for in statute. In an effort to implement our prior audit recommendation, the department sought and received legislative approval for a revision to §2-18-501, MCA. The new section of law states: "When the actual cost of meals exceeds the maximum standard allowed pursuant to subsection (1), the department of administration may authorize the actual cost of meals for firefighters." The department increased each of the meal allowances for firefighters beyond the maximum standard and included a 15 percent gratuity, but did not obtain authorization from the Department of Administration, as required. As a result, the department is still not in compliance with state law.

Department management stated they did not know they needed to seek authorization from the Department of Administration because of all the testimony they gave during the legislative session and the information included in the fiscal note. We reviewed the fiscal note and found it did not include the Department of Administration's authorization or any details on the increased meal allowances. Given the language included in the statute, the Department of Administration is not required to authorize any increased meal allowances the department adopts, but may authorize them. For example, the Department of Administration may not authorize the 15 percent gratuity.

The reason behind the change in statute and need for increased firefighters meal allowances is because of higher caloric intake needed for these individuals and gratuity does not have anything to do with caloric intake. The current state accounting policy specifically excludes gratuities so it is possible the Department of Administration may not authorize it.

The department's restaurant authorization form and policy includes the maximum amount allowed per meal with a list of each person entitled to the meal allowance. If the department receives authorization for increased meal allowances from the Department of Administration they will need to update their restaurant authorization form and policy with the new rates.

Itemized Receipts for Meal Reimbursements

We reviewed a sample of 54 meal reimbursements and noted 12 instances where the department did not receive itemized receipts with the reimbursement forms. The department's restaurant authorization policy states "An itemized restaurant receipt is required in all situations." Without an itemized receipt the department has no way of verifying the total amount of the meal is appropriate on a meal by meal basis. Section 2-18-501, MCA, sets the meal allowance rates on a meal by meal basis.

Department personnel said it can be difficult to get itemized receipts from the firefighters since they are out in the field and spread out across the state. The department's current controls are deficient in ensuring itemized receipts are received in all cases.

Recommendation #5

We recommend the department:

A. *Seek authorization for increased meal allowance rates for firefighters from the Department of Administration, as required by state law.*

B. *Implement internal control procedures to ensure itemized receipts are received in all cases, as required by department policy.*

State Compliance

The department is responsible for administering and enforcing numerous laws with a wide range of subject matters, including conservation and resources, trust lands, oil and gas, forestry, and water resources and rights. The following five sections describe instances of noncompliance identified during the audit.

Short-term Workers Not Terminated

The department does not have internal control procedures in place to track and terminate short-term workers within 90 days as required by law.

The department hires a number of short-term and seasonal workers each year to assist with wildfires. Section 2-18-101(23), MCA, states in part: "Short-term worker means a person who: a) is hired by an agency for an hourly wage established by the agency; b) may not work for the agency for more than 90 days in a continuous 12-month period; c) is not eligible for permanent status; d) may not be hired into another position by the agency without a competitive selection process; and e) is not eligible to earn the leave and holiday benefits . . . or the group insurance benefits…"

Upon review of 20 short-term workers employed, during our audit period, we found 17 were not terminated within 90 days, as required by statute. In addition, we found 3 of the 17 were not terminated within 12 months after hire. When agencies need temporary employees beyond 90 days they may qualify as 'seasonal' and receive benefits, whereas, short-term workers do not receive benefits. In all 17 cases, the employees did not receive benefits and did not actually work beyond 90 days but were not terminated in the state's human resource system. If short-term workers do not work beyond 90 days, but are not terminated, it could impact the worker's ability to obtain unemployment benefits.

Department management stated they relied on the Public Employees' Retirement Administration (PERA) staff to track the 90 days and notify them when short-term workers should be terminated. We contacted PERA staff and they do not track short-term workers because they do not receive benefits. PERA staff are not responsible for tracking other state agency's short-term workers. The department does not have adequate controls in place to ensure short-term workers are terminated within 90 days.

Appraisal Review Board

The department has not established an Appraisal Review Board responsible for making final decisions on disputed state appraisals.

Section 77-2-320, MCA, requires the department to establish an appraisal review board consisting of three independent appraisers who shall make the final decision on disputed state appraisals made for purposes of the sale of leased cabin or home sites or city or town lots when the appraisal value is less than the amount of bid. Department personnel stated the board is not necessary. The department recently completed its first

land banking cabin site sale since the program began in 2005 and the appraised value was not disputed. Without an established appraisal review board, dispute resolution will be delayed or disputes will go unresolved, which could result in lost sales.

High Hazard Dams or Reservoirs

The department is not determining whether a dam or reservoir is considered 'high hazard' within 60 days, as required.

Section 85-15-209, MCA, states in part: "A person proposing to construct a dam or reservoir with an impounding capacity of 50 acre-feet or more measured at the maximum normal operating pool shall make application to the department for a determination of whether the dam or reservoir is a high-hazard dam…. The department shall make the determination required by this section within 60 calendar days after a complete application is received by the department." Once this determination is made a construction permit can be obtained from the department. Construction cannot begin until a permit is obtained.

During the audit we obtained a listing of the proposed high-hazard dams or reservoirs which included the dates the applications were received and dates the determinations were made. We found three of the six determinations were not made within the 60 days, as required. One of the three was approximately two weeks late and the other two were approximately two months late. Department personnel stated they do a very thorough analysis and review in order to ensure their determination, as to whether a dam or reservoir is high hazard, is proper. Department personnel also stated they could implement a more structured process to ensure they comply with the 60-day requirement. By not complying with the 60-day requirement, the department may be preventing dam or reservoir construction to begin in a timely fashion.

Annual Lease Payment

The department does not require a cashier's check for the first year's annual rental payment for state trust land leased for commercial purposes.

Section 77-1-905 (1), MCA, states in part: "The first year's annual rental payment for state trust land leased for commercial purposes must be paid by cashier's check, and payment is due upon execution of the lease . . ." Department management stated they were not aware their standard lease agreements did not require the lessee to make the first year's annual rental payment via cashier's check. The department received two first year rental payments during our audit period and neither were cashier's checks.

The annual rental payments for state trust lands leased for commercial purposes can be substantial and requiring a cashier's check protects the department against loss. The department should include language in their standard lease agreement that a cashier's check is required for the first annual rental payment to ensure compliance with state law.

Notice of Hearings

The department does not give proper public notice concerning the exchange of timbered lands.

The Board of Land Commissioners is authorized by statute to exchange timbered land. Section 77-2-215, MCA, states in part: "If the board approves a proposal for exchange… the department shall publish at least once in a newspaper of general circulation in each county in which any of the lands involved are located a notice stating in general terms the proposal and describing the lands involved and the ownership of lands. The notice must fix a day not less than 20 and not more than 60 days from the date of the first publication at which the board will hear objections to the proposed exchange and at which any person, firm, or corporation may appear in person or by representative and be heard."

During our audit the department had one public hearing concerning an exchange of timbered lands. The department published a notice of the public hearing in the newspaper of the county in which the land resides ten days before the actual hearing, which is not adequate notice. Department personnel stated they were aware of the requirement, but rely on the local field offices to comply and staff at the field offices do not always comply. When insufficient notice is given it could result in concerns with due process or objections going unheard.

<u>Recommendation #6</u>

We recommend the department comply with state law by:

A. *Ensuring short-term workers are terminated within 90 days as required by state law.*

B. *Establishing an Appraisal Review Board as required by state law.*

C. *Modifying procedures to ensure the high-hazard dams or reservoirs determination is made within 60 days as required by state law.*

D. *Modifying the standard lease agreement to require a cashier's check for the first annual rental payment as required by state law.*

E. *Giving proper notice concerning the exchange of timbered lands as required by state law.*

Independent Auditor’s Report and Department Financial Schedules

LEGISLATIVE AUDIT DIVISION

Tori Hunthausen, Legislative Auditor
Deborah F. Butler, Legal Counsel

Deputy Legislative Auditors
Cindy Jorgenson
Angie Grove

Independent Auditor's Report

The Legislative Audit Committee
of the Montana State Legislature:

We have audited the accompanying Schedules of Changes in Fund Balances & Property Held in Trust, Schedules of Total Revenues & Transfers-In, and Schedules of Total Expenditures & Transfers-Out of the Department of Natural Resources and Conservation for each of the fiscal years ended June 30, 2012, and 2011. The information contained in these financial schedules is the responsibility of the department's management. Our responsibility is to express opinions on these financial schedules based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial schedules are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial schedules. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial schedule presentation. We believe that our audit provides a reasonable basis for our opinions.

As described in note 1, these financial schedules are prepared on the basis of Montana state accounting policy, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The schedules are not intended to be a complete presentation and disclosure of the department's assets, liabilities and cash flows.

In our opinion, the financial schedules referred to above present fairly, in all material respects, the results of operations and changes in fund balances & property held in trust of the Department of Natural Resources and Conservation for each of the fiscal years ended June 30, 2012, and 2011, in conformity with the basis of accounting described in note 1.

Respectfully submitted,

/s/ Cindy Jorgenson

Cindy Jorgenson, CPA
Deputy Legislative Auditor

September 14, 2012

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DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
SCHEDULE OF CHANGES IN FUND BALANCES & PROPERTY HELD IN TRUST
FOR THE FISCAL YEAR ENDED JUNE 30, 2012

	General Fund	State Special Revenue Fund	Federal Special Revenue Fund	Debt Service Fund	Enterprise Fund	Internal Service Fund	Agency Fund	Permanent Fund
FUND BALANCE: July 1, 2011	$ (2,452,046)	$ 434,300,754	$ (887,183)	$ 37,115,198	$ (306,867)	$ (122,031)	$ 0	$ 518,713,024
PROPERTY HELD IN TRUST: July 1, 2011							$ 1,957,795	
ADDITIONS								
Budgeted Revenues & Transfers-In	209,803	139,505,776	9,431,003		730,633	2,533,682		
Nonbudgeted Revenues & Transfers-In	45,389	21,153,464	840	20,683,393				169,806,124
Prior Year Revenues & Transfers-In Adjustments	2,361	134,349		254,811		3,672		(44,212)
Direct Entries to Fund Balance	21,924,239	(67,681,126)	274,961	529,828				28,792
Additions to Property Held in Trust							2,735,552	
Total Additions	22,181,792	93,112,463	9,706,804	21,468,032	730,633	2,537,354	2,735,552	169,790,704
REDUCTIONS								
Budgeted Expenditures & Transfers-Out	21,975,646	50,132,931	15,290,661		576,455	2,249,969		
Nonbudgeted Expenditures & Transfers-Out	(17,807)	63,349,462	(2,779,199)	25,000,725	15,053	(19,684)		121,537,430
Prior Year Expenditures & Transfers-Out Adjustments	3,224	109,979			195	2,907		(55,105)
Reductions in Property Held in Trust							3,647,487	
Total Reductions	21,961,063	113,592,372	12,511,462	25,000,725	591,703	2,233,192	3,647,487	121,482,325
FUND BALANCE: June 30, 2012	$ (2,231,317)	$ 413,820,845	$ (3,691,841)	$ 33,582,505	$ (167,937)	$ 182,131	$ 0	$ 567,021,403
PROPERTY HELD IN TRUST: June 30, 2012							$ 1,045,860	

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment.
Additional information is provided in the notes to the financial schedules beginning on page A-9.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
SCHEDULE OF CHANGES IN FUND BALANCES & PROPERTY HELD IN TRUST
FOR THE FISCAL YEAR ENDED JUNE 30, 2011

	General Fund	State Special Revenue Fund	Federal Special Revenue Fund	Debt Service Fund	Enterprise Fund	Internal Service Fund	Agency Fund	Private Purpose Trust Fund	Permanent Fund
FUND BALANCE: July 1, 2010	$ (1,761,576)	$ 428,393,694	$ 15,455,820	$ 28,924,303	$ (124,577)	$ 88,785	$ 0	$ 1,001,393	$ 492,580,065
PROPERTY HELD IN TRUST: July 1, 2010							$ 1,723,234		
ADDITIONS									
Budgeted Revenues & Transfers-In	150,202	166,716,075	14,509,157		462,692	1,681,500			
Nonbudgeted Revenues & Transfers-In	45,569	86,640,560	3	35,166,921	30	934			143,945,147
Prior Year Revenues & Transfers-In Adjustments	361	(8,002,440)	33,697	(127,575)		(14,820)			(9,536,389)
Direct Entries to Fund Balance	20,739,303	(47,038,802)	(989,565)	596,355					11,708
Additions to Property Held in Trust							2,877,117		
Total Additions	20,935,435	198,315,393	13,553,292	35,635,701	462,722	1,667,614	2,877,117	0	134,420,466
REDUCTIONS									
Budgeted Expenditures & Transfers-Out	21,687,731	76,848,549	37,328,886		613,750	1,822,408			
Nonbudgeted Expenditures & Transfers-Out	578	115,267,889	(7,022,953)	27,431,396	32,077	52,160		1,001,393	117,345,601
Prior Year Expenditures & Transfers-Out Adjustments	(62,404)	291,895	(409,637)	13,410	(815)	3,861			(9,058,095)
Reductions in Property Held in Trust							2,642,556		
Total Reductions	21,625,905	192,408,333	29,896,296	27,444,806	645,012	1,878,429	2,642,556	1,001,393	108,287,506
FUND BALANCE: June 30, 2011	$ (2,452,046)	$ 434,300,754	$ (887,184)	$ 37,115,198	$ (306,867)	$ (122,030)	$ 0	$ 0	$ 518,713,025
PROPERTY HELD IN TRUST: June 30, 2011							$ 1,957,795		

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Additional information is provided in the notes to the financial schedules beginning on page A-9.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN
FOR THE FISCAL YEAR ENDED JUNE 30, 2012

	General Fund	State Special Revenue Fund	Federal Special Revenue Fund	Debt Service Fund	Enterprise Fund	Internal Service Fund	Permanent Fund	Total
TOTAL REVENUES & TRANSFERS-IN BY CLASS								
Licenses and Permits		$ 296,773					$ 1,703,321	$ 2,000,094
Taxes		3,672,165	$ 838					3,673,003
Charges for Services	$ 198,380	2,923,692		$ 1,324		$ 1,201,002		4,324,398
Investment Earnings	3,570	2,488,441	3	10,382,541			41,264,281	54,138,836
Fines and Forfeits	34,150	142,207						176,357
Sale of Documents, Merchandise and Property	100	943,233		4,094,998	$ 722,990		6,431,047	12,192,368
Rentals, Leases and Royalties	16,807	100,277					77,146,361	77,263,445
Grants, Contracts, and Donations		36,140					10,521	46,661
Transfers-in		150,188,971		6,459,341		1,336,352	41,312,381	199,297,045
Capital Asset Sale Proceeds							1,894,000	1,894,000
Federal Indirect Cost Recoveries			248,643					248,643
Miscellaneous	4,546	1,690			7,643			13,879
Federal			9,182,359					9,182,359
Total Revenues & Transfers-In	257,553	160,793,589	9,431,843	20,938,204	730,633	2,537,354	169,761,912	364,451,088
Less: Nonbudgeted Revenues & Transfers-In	45,389	21,153,464	840	20,683,393			169,806,124	211,689,210
Prior Year Revenues & Transfers-In Adjustments	2,361	134,349		254,811		3,672	(44,212)	350,981
Actual Budgeted Revenues & Transfers-In	209,803	139,505,776	9,431,003	0	730,633	2,533,682	0	152,410,897
Estimated Revenues & Transfers-In	152,775	139,586,285	9,398,848		1,049,729	2,533,682		152,721,319
Budgeted Revenues & Transfers-In Over (Under) Estimated	$ 57,028	$ (80,509)	$ 32,155	$ 0	$ (319,096)	$ 0	$ 0	$ (310,422)
BUDGETED REVENUES & TRANSFERS-IN OVER (UNDER) ESTIMATED BY CLASS								
Licenses and Permits		$ 25,049						$ 25,049
Taxes		(53,817)						(53,817)
Charges for Services	$ 55,899	(781,597)						(725,698)
Investment Earnings	640	757,881	$ (1)					758,520
Fines and Forfeits	2,270	108,206						110,476
Sale of Documents, Merchandise and Property	(900)	123,008			$ (325,739)			(203,631)
Rentals, Leases and Royalties	2,096	11,287						13,383
Grants, Contracts, and Donations		(685,460)						(685,460)
Transfers-in		439,934						439,934
Capital Asset Sale Proceeds	(2,500)	(25,000)						(27,500)
Federal Indirect Cost Recoveries			(1,357)					(1,357)
Miscellaneous	(477)				6,643			6,166
Federal			33,513					33,513
Budgeted Revenues & Transfers-In Over (Under) Estimated	$ 57,028	$ (80,509)	$ 32,155	$ 0	$ (319,096)	$ 0	$ 0	$ (310,422)

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment.
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DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN
FOR THE FISCAL YEAR ENDED JUNE 30, 2011

	General Fund	State Special Revenue Fund	Federal Special Revenue Fund	Debt Service Fund	Enterprise Fund	Internal Service Fund	Permanent Fund	Total
TOTAL REVENUES & TRANSFERS-IN BY CLASS								
Licenses and Permits		$ 263,050					$ 1,435,433	$ 1,698,483
Taxes	$ 5,250	3,601,907			$ 30	$ 934		3,608,121
Charges for Services	140,401	5,790,015		$ 7,358		438,236		6,376,010
Investment Earnings		2,492,484		10,070,309			21,784,992	34,347,785
Fines and Forfeits	23,170	(3,762)						19,408
Capital Contributions		11,528						11,528
Sale of Documents, Merchandise and Property	1,242	746,471		3,676,021	462,692		9,185,989	14,072,415
Rentals, Leases and Royalties	19,031	95,593					69,543,167	69,657,791
Grants, Contracts, and Donations		305,853						305,853
Transfers-in		190,614,308		21,285,658		1,228,444	29,347,257	242,475,667
Bond Proceeds		31,216,664						31,216,664
Capital Asset Sale Proceeds	2,300	38,350					3,111,920	3,152,570
Proceeds of Refunding Bonds		10,180,000						10,180,000
Federal Indirect Cost Recoveries			$ 193,868					193,868
Miscellaneous	4,738	1,734						6,472
Federal			14,348,989					14,348,989
Total Revenues & Transfers-In	196,132	245,354,195	14,542,857	35,039,346	462,722	1,667,614	134,408,758	431,671,624
Less: Nonbudgeted Revenues & Transfers-In	45,569	86,640,560	3	35,166,921	30	934	143,945,147	265,799,164
Prior Year Revenues & Transfers-In Adjustments	361	(8,002,440)	33,697	(127,575)		(14,820)	(9,536,389)	(17,647,166)
Actual Budgeted Revenues & Transfers-In	150,202	166,716,075	14,509,157	0	462,692	1,681,500	0	183,519,626
Estimated Revenues & Transfers-In	161,780	169,690,585	14,532,901		463,000	1,728,445		186,576,711
Budgeted Revenues & Transfers-In Over (Under) Estimated	$ (11,578)	$ (2,974,510)	$ (23,744)	$ 0	$ (308)	$ (46,945)	$ 0	$ (3,057,085)
BUDGETED REVENUES & TRANSFERS-IN OVER (UNDER) ESTIMATED BY CLASS								
Licenses and Permits		$ (32,050)						$ (32,050)
Taxes		(91,914)						(91,914)
Charges for Services	$ (11,751)	(139,067)				$ (46,944)		(197,762)
Investment Earnings	(1,000)	(1,016,805)	$ (4)					(1,017,809)
Fines and Forfeits	(1,071)	(13,762)						(14,833)
Sale of Documents, Merchandise and Property	(9)	56,471			$ (308)			56,154
Grants, Contracts, and Donations		(1,760)						(1,760)
Transfers-in		(1,830,664)				(1)		(1,830,665)
Bond Proceeds		74,743						74,743
Capital Asset Sale Proceeds	1,300	20,300						21,600
Federal Indirect Cost Recoveries			(71)					(71)
Miscellaneous	953	(2)						951
Federal			(23,669)					(23,669)
Budgeted Revenues & Transfers-In Over (Under) Estimated	$ (11,578)	$ (2,974,510)	$ (23,744)	$ 0	$ (308)	$ (46,945)	$ 0	$ (3,057,085)

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment.
Additional information is provided in the notes to the financial schedules beginning on page A-9.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT
FOR THE FISCAL YEAR ENDED JUNE 30, 2012

	Centralized Services Division	Conservation and Resource Development Division	Forestry and Trust Lands Division	Oil & Gas Conservation Division	Trust Funds	Water Resources Division	Total
PROGRAM (ORG) EXPENDITURES & TRANSFERS-OUT							
Personal Services							
Salaries	$ 2,480,835	$ 1,356,804	$ 13,262,930	$ 821,083		$ 6,959,952	$ 24,881,604
Hourly Wages		81	3,978,597				3,978,678
Other Compensation		200		6,370		15,028	21,598
Employee Benefits	801,109	450,999	5,397,447	269,866		2,411,770	9,331,191
Personal Services-Other			(68,526)				(68,526)
Total	3,281,944	1,808,084	22,570,448	1,097,319		9,386,750	38,144,545
Operating Expenses							
Other Services	559,331	3,524,636	16,915,117	238,499		5,495,052	26,732,635
Supplies & Materials	260,679	83,635	2,792,669	73,450		327,754	3,538,187
Communications	443,205	41,691	471,169	60,112		173,086	1,189,263
Travel	22,719	58,480	874,946	44,622		142,507	1,143,274
Rent	182,918	75,117	2,317,973	20,339		649,070	3,245,417
Utilities	19,113	5,387	239,541	20,521		21,356	305,918
Repair & Maintenance	2,724	10,675	1,039,521	18,404		51,945	1,123,269
Other Expenses	71,320	75,405	663,436	45,703		291,187	1,147,051
Goods Purchased For Resale			5,540				5,540
Total	1,562,009	3,875,026	25,319,912	521,650		7,151,957	38,430,554
Equipment & Intangible Assets							
Equipment	(67)	25,547	1,094,210	52,728		61,812	1,234,230
Total	(67)	25,547	1,094,210	52,728		61,812	1,234,230
Capital Outlay							
Land & Interest In Land			11,128				11,128
Total			11,128				11,128
Grants							
From State Sources		3,602,525	44,974				3,647,499
From Federal Sources			4,063,384				4,063,384
From Other Sources			40,932				40,932
Total		3,602,525	4,149,290				7,751,815
Benefits & Claims							
Other Financing Uses/Deduction		2,783,450					2,783,450
Total		2,783,450					2,783,450
Transfers-out							
Fund transfers		60,638,099	4,515,281	12,000,000	$ 117,958,423	7,500	195,119,303
Intra-Entity Expense			43,405		3,537,987		3,581,392
Total		60,638,099	4,558,686	12,000,000	121,496,410	7,500	198,700,695
Debt Service							
Bonds		9,044,464					9,044,464
Loans		652,518	18,678			538,545	1,209,741
Total		9,696,982	18,678			538,545	10,254,205
Other Post Employment Benefits							
Other Post Employment Benefits			62,220				62,220
Total			62,220				62,220
Total Expenditures & Transfers-Out	$ 4,843,886	$ 82,429,713	$ 57,784,572	$ 13,671,697	$ 121,496,410	$ 17,146,564	$ 297,372,842
EXPENDITURES & TRANSFERS-OUT BY FUND							
General Fund	$ 3,124,342	$ 1,013,038	$ 9,811,768			$ 8,011,915	$ 21,961,063
State Special Revenue Fund	1,472,268	56,137,093	34,674,454	$ 13,564,226	$ 14,085	7,730,246	113,592,372
Federal Special Revenue Fund	247,276	282,793	10,473,455	107,471		1,400,467	12,511,462
Debt Service Fund		24,996,789				3,936	25,000,725
Enterprise Fund			591,703				591,703
Internal Service Fund			2,233,192				2,233,192
Permanent Fund					121,482,325		121,482,325
Total Expenditures & Transfers-Out	4,843,886	82,429,713	57,784,572	13,671,697	121,496,410	17,146,564	297,372,842
Less: Nonbudgeted Expenditures & Transfers-Out	(16,125)	70,157,811	3,268,183	11,999,557	121,551,515	125,039	207,085,980
Prior Year Expenditures & Transfers-Out Adjustments	(1,576)	(71,697)	215,274	262	(55,105)	(25,959)	61,199
Actual Budgeted Expenditures & Transfers-Out	4,861,587	12,343,599	54,301,115	1,671,878	0	17,047,484	90,225,663
Budget Authority	5,253,632	33,620,838	132,931,184	5,231,995		39,106,047	216,143,696
Unspent Budget Authority	$ 392,045	$ 21,277,239	$ 78,630,069	$ 3,560,117	$ 0	$ 22,058,563	$ 125,918,033
UNSPENT BUDGET AUTHORITY BY FUND							
General Fund	$ 392,045	$ 118,889	$ 670,575			$ 334,427	$ 1,515,936
State Special Revenue Fund		16,839,531	69,547,724	$ 3,560,037		19,585,708	109,533,000
Federal Special Revenue Fund		4,318,819	8,058,944	80		2,138,428	14,516,271
Enterprise Fund			212,846				212,846
Internal Service Fund			139,980				139,980
Unspent Budget Authority	$ 392,045	$ 21,277,239	$ 78,630,069	$ 3,560,117	$ 0	$ 22,058,563	$ 125,918,033

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment. Additional information is provided in the notes to the financial schedules beginning on page A-9.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT
FOR THE FISCAL YEAR ENDED JUNE 30, 2011

	Centralized Services Division	Conservation & Resource Development Division	Forestry & Trust Lands Division	Oil & Gas Conservation Division	Reserved Water Rights Compact Commission	Trust Funds	Water Resources Division	Total
PROGRAM (ORG) EXPENDITURES & TRANSFERS-OUT								
Personal Services								
Salaries	$ 2,000,302	$ 1,359,220	$ 13,175,177	$ 819,312	$ 311,313		$ 6,843,670	$ 24,508,994
Hourly Wages			3,131,923				89	3,132,012
Other Compensation		285	85	6,576	4,467		300	11,713
Employee Benefits	620,285	459,784	5,370,316	268,999	88,541		2,350,416	9,158,341
Personal Services-Other			5,718					5,718
Total	2,620,587	1,819,289	21,683,219	1,094,887	404,321		9,194,475	36,816,778
Operating Expenses								
Other Services	283,416	11,181,886	5,069,886	594,622	57,628		7,645,564	24,833,002
Supplies & Materials	215,269	71,144	2,126,414	101,419	13,261		266,444	2,793,951
Communications	94,897	38,511	446,402	62,433	9,900		205,478	857,621
Travel	12,957	56,448	489,700	35,021	22,913		119,573	736,612
Rent	183,353	76,235	1,419,470	19,044	44,544		690,490	2,433,136
Utilities	19,655	5,427	226,701	18,123	4,682		23,539	298,127
Repair & Maintenance	1,852	11,846	790,546	14,151			30,122	848,517
Other Expenses	48,780	60,157	484,499	53,906	4,716	$ 6,575	368,661	1,027,294
Goods Purchased For Resale			6,453					6,453
Total	860,179	11,501,654	11,060,071	898,719	157,644	6,575	9,349,871	33,834,713
Equipment & Intangible Assets								
Equipment	20,273	8,061	768,387	6,284	5,000		57,853	865,858
Total	20,273	8,061	768,387	6,284	5,000		57,853	865,858
Capital Outlay								
Land & Interest In Land			20,995,782			7,371,830	3,000	28,370,612
Buildings			114,466					114,466
Total			21,110,248			7,371,830	3,000	28,485,078
Grants								
From State Sources		10,758,783	40,000	3,000				10,801,783
From Federal Sources			6,986,221					6,986,221
Total		10,758,783	7,026,221	3,000				17,788,004
Benefits & Claims								
Other Financing Uses/Deduction		34,924,882						34,924,882
Total		34,924,882						34,924,882
Transfers-out								
Fund transfers		112,876,988	1,315,425		1,001,393	97,305,330	4,000,000	216,499,136
Intra-Entity Expense			51,500			3,611,800		3,663,300
Total		112,876,988	1,366,925		1,001,393	100,917,130	4,000,000	220,162,436
Debt Service								
Bonds		9,022,165	153,831					9,175,996
Loans		672,719					394,988	1,067,707
Total		9,694,884	153,831				394,988	10,243,703
Other Post Employment Benefits								
Other Post Employment Benefits			66,228					66,228
Total			66,228					66,228
Total Expenditures & Transfers-Out	$ 3,501,039	$ 181,584,541	$ 63,235,130	$ 2,002,890	$ 1,568,358	$ 108,295,535	$ 23,000,187	$ 383,187,680
EXPENDITURES & TRANSFERS-OUT BY FUND								
General Fund	$ 2,598,502	$ 1,571,052	$ 9,571,117		$ 522,648		$ 7,362,586	$ 21,625,905
State Special Revenue Fund	596,016	135,881,169	39,855,667	$ 1,892,440	44,317	$ 8,029	14,130,695	192,408,333
Federal Special Revenue Fund	306,521	16,693,367	11,284,905	110,450			1,501,053	29,896,296
Enterprise Fund			645,012					645,012
Internal Service Fund			1,878,429					1,878,429
Private Purpose Trust Fund					1,001,393			1,001,393
Permanent Fund						108,287,506		108,287,506
Total Expenditures & Transfers-Out	3,501,039	181,584,541	63,235,130	2,002,890	1,568,358	108,295,535	23,000,187	383,187,680
Less: Nonbudgeted Expenditures & Transfers-Out	6,721	131,536,734	187,680	6,854	1,001,393	117,353,630	4,015,128	254,108,140
Prior Year Expenditures & Transfers-Out Adjustments	1,785	(156,197)	14,615	(19,573)	(237)	(9,058,095)	(4,082)	(9,221,784)
Actual Budgeted Expenditures & Transfers-Out	3,492,533	50,204,004	63,032,835	2,015,609	567,202	0	18,989,141	138,301,324
Budget Authority	3,592,227	58,958,741	96,572,064	3,718,582	19,075,877		29,686,973	211,604,464
Unspent Budget Authority	$ 99,694	$ 8,754,737	$ 33,539,229	$ 1,702,973	$ 18,508,675	$ 0	$ 10,697,832	$ 73,303,140
UNSPENT BUDGET AUTHORITY BY FUND								
General Fund	$ 98,194	$ 217,925	$ 540,739		$ 8,654		$ 672,989	$ 1,538,501
State Special Revenue Fund		6,133,453	25,126,819	$ 1,678,481	18,500,021		8,395,775	59,834,549
Federal Special Revenue Fund	1,500	2,403,359	7,322,943	24,492			1,629,068	11,381,362
Enterprise Fund			64,315					64,315
Internal Service Fund			484,413					484,413
Unspent Budget Authority	$ 99,694	$ 8,754,737	$ 33,539,229	$ 1,702,973	$ 18,508,675	$ 0	$ 10,697,832	$ 73,303,140

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment.
Additional information is provided in the notes to the financial schedules beginning on page A-9.

Department of Natural Resources and Conservation

Notes to the Financial Schedules

For the Two Fiscal Years Ended June 30, 2012

1. Summary of Significant Accounting Policies

Basis of Accounting

The department uses the modified accrual basis of accounting, as defined by state accounting policy, for its Governmental fund category (General, State Special Revenue, Federal Special Revenue, Debt Service, and Permanent). In applying the modified accrual basis, the department records:

- Revenues when it receives cash or when receipts are realizable, measurable, earned, and available to pay current period liabilities.
- Expenditures for valid obligations when the department incurs the related liability and it is measurable, with the exception of the cost of employees' annual and sick leave. State accounting policy requires the department to record the cost of employees' annual and sick leave when used or paid.

The department uses accrual basis accounting for its Proprietary (Enterprise and Internal Service) and Fiduciary (Private-Purpose Trust and Agency) fund categories. Under the accrual basis, as defined by state accounting policy, the department records revenues in the accounting period when realizable, measurable, and earned, and records expenses in the period incurred when measurable.

Expenditures and expenses may include: entire budgeted service contracts even though the department receives the services in a subsequent fiscal year; goods ordered with a purchase order before fiscal year-end, but not received as of fiscal year-end; and equipment ordered with a purchase order before fiscal year-end.

Basis of Presentation

The financial schedule format was adopted by the Legislative Audit Committee. The financial schedules are prepared from the transactions posted to the state's accounting system without adjustment.

The department uses the following funds:

Governmental Fund Category

- **General Fund** – to account for all financial resources except those required to be accounted for in another fund.
- **State Special Revenue Fund** – to account for proceeds of specific revenue sources (other than private-purpose trusts or major capital projects) that

are legally restricted to expenditures for specific state program purposes. Department State Special Revenue Funds include Forestry Operations, Water Pollution Control and Drinking Water State Revolving Fund Programs, Renewable Resource Grant and Loan Program, and Trust Lands Administration.

- **Federal Special Revenue Fund** – to account for activities funded from federal revenue sources. Department Federal Special Revenue Funds include fire operations and suppression efforts, and Water Pollution Control and Drinking Water State Revolving Fund Programs, both financed in part by federal funds.
- **Debt Service Fund** – to account for accumulated resources for the payment of general long-term debt principal and interest. The department uses Debt Services Funds to account for Renewable Resources, Coal Severance Tax and Water Pollution Control and Drinking Water State Revolving Fund Programs bond payments.
- **Permanent Fund** – to account for financial resources that are permanently restricted to the extent that only earnings, and not principal, may be used for purposes that support the department's programs. The department uses this fund for the Common School Trust, university and college trusts, School for the Deaf and Blind Trust, Pine Hills School Trust, Veteran's Home Trust, Public Land Trust, Lands Acquired Trust (Potomac Land), and the Trust and Legacy Account.

Proprietary Fund Category

- **Internal Service Fund** – to account for the financing of goods or services provided by one department or agency to other departments or agencies of state government or to other governmental entities on a cost-reimbursement basis. The department Internal Service Fund contains the Forestry Division's Air Operations Program. The Air Operations Program maintains and operates aircraft to aid in fire suppression.
- **Enterprise Fund** – to account for operations (a) financed and operated in a manner similar to private business enterprises, where the Legislature intends that the department finance or recover costs primarily through user charges; (b) where the Legislature has decided that periodic determination of revenues earned, expenses incurred or net income is appropriate; (c) where the activity is financed solely by a pledge of the net revenues from fees and charges of the activity; or (d) when laws or regulations require that the activities' cost of providing services, including capital costs, be recovered with fees and charges rather than with taxes or similar revenues. The department accounts for the State Nursery Program in this fund.

Fiduciary Fund Category

- **Private-Purpose Trust Fund** – to account for activity of any trust arrangement not properly reported in a pension fund or an investment trust fund where the principal and income benefit individuals, private organizations, or other governments. Department private-purpose trust fund

is used to account for Fort Belknap Peoples Creek Minimum Flow funds set aside for the Fort Belknap-Montana Water Rights Compact, per §85-20-1007, MCA.

- **Agency Fund** – to account for resources held by the state in a custodial capacity. Agency funds may be used on a limited basis for internal (to the State) clearing account activity but these must have a zero balance at fiscal year-end. The department agency funds account for activity such as contractual bonds and hazard reduction.

2. General Fund Balance

The negative fund balance in the General Fund does not indicate overspent appropriation authority. The department has authority to pay obligations from the statewide General Fund within its appropriation limits. The department expends cash or other assets from the statewide fund when it pays General Fund obligations. The department's outstanding liabilities exceed the assets it has placed in the fund, resulting in negative ending General Fund balances for each of the fiscal years ended June 30, 2012 and June 30, 2011.

3. Direct Entries to Fund Balance

Direct entries to fund balance(s) in the General, State Special Revenue, Federal Special Revenue Fund, Debt Service, and Permanent funds include entries generated by SABHRS to reflect the flow of resources within individual funds shared by separate agencies.

Direct entries to fund balance(s) in the General, State Special Revenue, Federal Special Revenue Fund, Debt Service, and Permanent funds also include corrections of errors from previous periods that occurred at least two fiscal years prior.

4. Long-Term Debt

During prior fiscal years, the state of Montana issued General Obligation bonds for the Drinking Water State Revolving Fund and Water Pollution Control State Revolving Fund programs. These bonds were used for Drinking Water and Water Pollution Control project loans. At June 30, 2012, the department had a total of $15,490,000 in General Obligation bonds outstanding for these programs.

In fiscal year 2010-11 and in prior fiscal years, the state of Montana issued General Obligation bonds for the Renewable Resource Grant and Loan program. These bonds were used for private loans for irrigation projects. At June 30, 2012, the department had a total of $1,650,000 of General Obligation bonds outstanding for this program.

In fiscal year 2010-11, the state of Montana issued General Obligation bonds for the Trust Lands program. These bonds were used for the acquisition of lands for trust land purposes, and paying costs associated with such acquisition and costs of issuing the bonds. At June 30, 2012, the state had a total of $20,400,000 of General Obligation bonds outstanding for this program. Debt service payments for this bond are made by the Montana Department of Administration.

In fiscal year 2010-11 and in prior fiscal years, the department issued Coal Severance Tax bonds for the Renewable Resource Grant and Loan program. These bonds were used for public loans for irrigation, water, sewer and dam projects. At June 30, 2012, the department had a total of $20,630,000 of Coal Severance Tax bonds outstanding.

The department has a loan from the U.S. Bureau of Reclamation to fund the Middle Creek Dam project. The unpaid loan principal and interest during construction balance as of June 30, 2012, was $2,476,732.

The Northern Cheyenne Tribe and the department entered into an agreement on July 1, 1994, in which the tribe agreed to loan the state up to $11,500,000 of federal funds appropriated as part of the Northern Cheyenne Indian Reserved Water Rights Settlement. The noninterest bearing loan was used to help finance the costs of the Tongue River Dam Project. The actual amount of the loan was $11,300,000. The outstanding loan balance at June 30, 2012, was $7,533,333. In March 2005, the department issued Coal Severance Tax bond to the tribe for $9,851,282 as security for the loan. The bond, which is noninterest bearing, provides a means of prepayment to the tribe in the event pledged revenues are insufficient for loan repayment.

5. Transfers-In

The Schedule of Total Revenues and Transfers-In contain the following activity in the transfers-in class:

- **State Special Revenue Fund** – A portion of this activity is the transfer of Common School Permanent Trust Fund earnings to the Guarantee Account for distribution to school districts. Transfers-In activity also includes the movement of loans receivable from other funds, the transfer of federal funds from the Department of Environmental Quality for the Water Pollution Control and Drinking Water State Revolving Fund Programs, and the transfer of funds from the trusts to administer state trust lands.
- **Debt Service Fund** – This activity is comprised of the movement of loans receivable from other funds.
- **Permanent Fund** – This activity represents the allocation of interest and income within the trust funds administered by the department.

6. Permanent Fund Revenues

The department receives bonus payments when renting new or expired oil and gas leases on state trust lands. Bonus payments are any amount bid over the $1.50 per acre rental (with a minimum rental of $100) and are only paid in the first year of the lease. In fiscal year 2010-11, total permanent fund bonus payments totaled approximately $13 million. In fiscal year 2011-12, total permanent fund bonus payments totaled approximately $15.5 million.

7. Revenue Estimates

As part of the fiscal year-end procedures, the department adjusts revenue estimates to closely reflect actual revenues for each year. Significant revenue estimate adjustments for fiscal year 2010-11 were $9.8 million decrease for the Guarantee Fund, $16.2 million increase for Water Pollution Control State Revolving Fund Program, $3.3 million decrease in Drinking Water State Revolving Fund Program, and $6.5 million increase in the Trust Land Administration account. Significant adjustments for fiscal year 2011-12 included were $22.3 million decrease for the Guarantee Fund, $4.3 million increase for Water Pollution Control State Revolving Fund Program, and $11.6 million increase in Drinking Water State Revolving Fund Program.

8. Unspent Budget Authority

The table below summarizes significant unspent budget authority by program. For fiscal year 2011-12, most amounts are related to biennial and continuing appropriations and the budget authority extends to fiscal year 2012-13.

Unspent Budget Authority

	FY 2010-11	FY 2011-12
Oil & Gas Conservation Division		
Oil & Gas ERA	1,678,481	2,286,921
Conservation & Resource Development Division		
Treasure State Endowment	3,902,637	
State Revolving Fund Federal Authority	2,403,359	4,291,283
Natural Resource Projects Account		12,191,663
Water Resources Division		
Water Project Loans	2,815,269	
State Project Hydro Earnings	2,710,039	2,076,646
Federal Grant Funds		2,138,428
Reserved Water Rights Compact Commission		
Blackfeet Mitigation & Infrastructure	18,500,000	15,150,000
Forestry/Trust Lands Division		
Fire Suppression Fund	22,311,901	7,218,371
Federal Grant Funds	7,322,943	8,058,944
PPL Land Trust-Lands Acquired		60,885,000

In addition, Fiscal Year 2010-11 balances include mandated general fund budget reductions of $731,780 as result of the 2009 Legislative Session.

9. American Recovery and Reinvestment Act

The American Recovery and Reinvestment Act (ARRA) was enacted by the United States Congress to preserve and create jobs and promote economic recovery.

The department received federal funding from ARRA totaling approximately $29,900,998. In fiscal year 2010-11, the department spent $23,062,763. The amount spent includes $19,402,850 in loans forgiven for the Water Pollution Control and Drinking Water State Revolving Fund programs. In fiscal year 2011-12, the department spent $1,091,856. The amount spent includes $218,700 in loans forgiven for the Water Pollution Control State Revolving Fund program.

In addition, the department was awarded $551,430 through other competitive or noncompetitive grants, of which $416,619 was spent by June 30, 2012.

10. Contingencies

PPL Montana, LLC v. State of Montana: In June 2008, the district court decided in favor of the state, ordering PPL Montana, LLC to pay $40,956,180 in rent for hydroelectric dams located on state-owned riverbeds. The decision recognizes rent from year 2000 through 2007, the time period PPL Montana owned and operated the dams. In March 2010, the Montana Supreme Court upheld the district court decision. In August 2010, PPL Montana, LLC, appealed to the U. S. Supreme Court. In February 2012, the U. S. Supreme Court reversed the Montana Supreme Court's affirmation of the summary judgment determination of navigability for title and remanded for the District Court to determine navigability for title. With this decision, the department reversed the PPL Montana, LLC accounts receivable entries for principal and accrued interest.

11. State Revolving Fund Transfers Between Debt Service Funds & State Special Revenue Funds

The State Revolving Fund (SRF) program bond indenture requires transfers of excess account balances between debt services funds and state special revenue funds. Transfers from the debt service and loan loss reserve funds occur when the account balances exceed the debt service and debt reserve requirements. Additionally, transfers of interest earnings are made between funds.

12. State Revolving Fund Program Federal Grant Expenditures

DNRC and the Montana Department of Environmental Quality (DEQ) jointly administer the SRF program. The SRF program provides loans at reduced rates to finance construction of publicly owned water pollution control and drinking water treatment facilities. The loans are comprised of federal grants from the Environmental Protection Agency (EPA) and state match funds. DEQ is the recipient of the EPA SRF federal grants awards and revenues are recognized at DEQ. DNRC expended EPA SRF grant funds of $16,753,219 in fiscal year 2010-11 and $274,961 in fiscal year 2011-12.

13. Reserved Water Rights Compact Commission Move to the Water Resource Division

In fiscal year 2011-12, the department reorganized and moved the Reserved Water Rights Compact Commission from administratively attached at the agency level to the division level. Administratively attaching the Commission to Water Resources Division (WRD) will facilitate the scheduled sunset, and incorporation of remaining

responsibilities. The Commission staff will remain a principle unit within the department and the Commission shall direct and assign staff until the sunset on July 1, 2013.

14. Subsequent Event

As of September 10, 2012, the department's estimated fire costs for the 2012 calendar year/fire season is approximately $43 Million. The Governor has issued Executive Orders declaring emergencies exist and mobilizing state resources and the Montana National Guard. Costs are expected to rise as extremely hazardous wildland fire conditions continue to exist.

Department of Natural Resources and Conservation

Department Response

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

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1625 ELEVENTH AVENUE
STATE OF MONTANA
DIRECTOR'S OFFICE (406) 444-2074
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OCT 03 2012
LEGISLATIVE AUDIT DIV.

October 4, 2012

Tori Hunthausen
Legislative Auditor
Legislative Audit Division
P O Box 201705
Helena, MT 59620-1705

RE: DNRC Written Response to the Legislative Audit Division Financial-Compliance Audit for the Two Fiscal Years Ended June 30, 2012

RECOMMENDATION #1

We recommend the department implement procedures to ensure compliance with state laws and the Montana Constitution when additional funds are needed from other beneficiaries to acquire land that they do not benefit from.

Concur: If short-term funding is needed to acquire land, Inter-Entity loans will be used per 17-2-107, MCA. If Inter-Entity loans are made between trust land beneficiaries, the department will implement a process to receive authorization from the other beneficiaries prior to the loan and pay appropriate interest on the funds to them.

RECOMMENDATION #2

We recommend the department:

A. Maximize trust revenues for land utilized by First Peoples Buffalo Jump State Park.

B. Ensure fair market value is reflected in the final easement transaction for land utilized by First Peoples Buffalo Jump State Park.

Response to both A and B:
Partially Concur: In 2007, the department purchased 897.82 acres from the Eustance Ranch for $800 per acre. The appraised value for the property was $1,080 per acre. The Land Board approved the disposition of an interest in state land (under a five-year option agreement) for park purposes to the Montana Department of Fish Wildlife & Parks (FWP) for $800 per acre for 418 acres. This was the same price that department paid for the land, but was $280 less per acre than the appraised value.

Per the 2008 Audit Recommendation 8B, the department approached FWP and the Land Board staff to ascertain their interest in revisiting the option agreement that

was previously approved by FWP and the Land Board. There was no interest in adjusting the $800 per acre price that was previously negotiated.

In accordance with the option agreement, FWP made annual payments of approximately $11,704 per year for two years. The department received an easement application per the option agreement for the park easement application in January 2010. The easement application was processed and taken to the November 15, 2010, Land Board for final approval.

Additionally, after the last audit, the department discussed the potential for issuing a grazing lease on the site prior to the final Land Board approval of the conservation easement, which was completed in November 2010. The department did not attempt to let a bid for a grazing lease due to the pending approval and completion of the easement. The easement allows the Grantee to "make exclusive use of the surface for a State Park."

On February 17, 2012, FWP made final payment for an easement totaling 431.33 acres and paid a total of $345,064.00, for the easement.

C. **Quantify and seek full compensation on behalf of the Common School and Montana Tech trusts for historical use of trust lands for Madison Buffalo Jump and Lewis & Clark Caverns state parks.**

D. **Continue to work with the Department of Fish, Wildlife and Parks to enter into agreements necessary to ensure proper and full compensation to the Common School and Montana Tech trust funds in the future.**

Response to both C and D:
Partially Concur: The department conducted meetings and field trips with FWP personnel in 2011 to determine the best solution for the trust to be compensated for FWP use of trust lands. It was agreed that initially Land Use Licenses (LULs) would be issued to allow FWP time to secure funding to purchase permanent easements. Applications for LULs were sent to FWP on January 18, 2012, actual drafts of the LULs were sent February 3, 2012, and final documents were sent shortly thereafter.

The licenses that were written did not compensate the trusts for past unlicensed use. The department generally does not receive compensation for use prior to a lease or license being executed. Based on FWP's unwillingness to execute a current LUL, it is very unlikely they would compensate the trust for past use.

FWP did not respond by either submitting the LUL application or executing the LULs. LULs were sent again by Joe Lamson, DNRC Deputy Director on May 4, 2012. There has been additional follow up with no action by FWP to execute the LULs.

The department will continue to work with FWP on implementing LULs to compensate trusts in the short term, with the long term solution of FWP obtaining permanent easements on these parcels.

If FWP does not want to commit to a license or lease on the Madison Buffalo Jump Parcel, we will consider putting most of the parcel out for lease for grazing.

RECOMMENDATION #3
We recommend the department implement internal control procedures to identify new or changed legislation to ensure compliance with state law and accounting policy.

Concur: The department has implemented internal control procedures to identify new or changed legislation to ensure compliance with state law and accounting policy.

RECOMMENDATION #4
We recommend the department comply with state law and policy regarding the accumulation, use and payment of excess vacation leave.

Concur: The department has developed and implemented a process to ensure that state law and policy regarding the accumulation, use and payment of excess vacation leave will be adhered to.

RECOMMENDATION #5
We recommend the department:

A. Seek authorization for increased meal allowance rates for firefighters from the Department of Administration, as required by state law.

Concur: The department will seek authorization from the Department of Administration for increased meal allowance rates for firefighters.

B. Implement internal control procedures to ensure itemized receipts are received in all cases, as required by department policy.

Concur: The department will implement internal control procedures to ensure itemized meal receipts are received for fire meals.

RECOMMENDATION #6
We recommend the department comply with state law by:

A. Ensuring short-term workers are terminated within 90 days, or if needed beyond 90 days, are hired as 'seasonal' and provided benefits, as required by state law.

Partially Concur: 2-18-101, MCA, states that short-term employees are paid an hourly wage and may not work for an agency for more than 90 days in a continuous 12-month period. The department does not terminate short-term employees within 90 days of hire because it does not interpret the 90 days to be consecutive. The department interprets the 12 months to be consecutive therefore it has established a procedure to terminate all short-term employees within 12 consecutive months of their hire date.

B. Establishing an Appraisal Review Board as required by state law.

Partially Concur: The sale of cabinsite and homesite leases are authorized under 77-2-318, MCA, and are conducted using the procedures set out in ARM 36.25.801-817. ARM 36.25.805 (9) & (10) define the process for appraising land banking sale parcels and securing an alternate appraisal if any party disagrees with the first appraisal. Both appraisals are presented to the Land Board (Board). The Board considers each appraisal and then sets the minimum bid for the sale. No land banking sales are sold at less than the minimum bid set by the Board.

When and if the department sells land outside of the land banking program, we will establish an appraisal review board. To do so prior to the need for an appraisal review board would be an additional cost to the beneficiaries as the department would be required to go out for bid and contract with private appraisers as well as keep them on retainer.

C. Modifying procedures to ensure the high-hazard dams or reservoirs determination is made within 60 days as required by state law.

Concur. The following five alternatives were chosen for implementation:

1. Application completeness: Staff will pay increased attention to reviewing application for completeness and contact applicant for missing information as soon as the application is received.
2. Increased attention by managers to due dates and priorities: Regional Office Managers will be included in distribution list for Monday morning email reminder of dam safety deadlines. Dam Safety Program manager will provide additional oversight of application milestones to assure application is proceeding on schedule.
3. Analysis from outside consultants will no longer be used in classification: Experience has shown that use of analysis from outside consultants causes delays. All classifications will be done independently.
4. Hazard Classification applications from non-jurisdictional dams will not be accepted: The program will assist the U.S Department of Agriculture Forest Service in conducting hazard assessments on a case by case basis according to a Memorandum of Understanding currently in development.
5. Remove detailed secondary review: Current procedures require staff members to get a detailed secondary review of their analysis. This detailed review will be replaced by a cursory review, resulting in substantial time savings in processing application.

These alternatives will be implemented immediately and discussed with staff in detail in an upcoming work planning meeting. A performance review will be conducted in September 2013 following the summer field work season.

D. Modifying the standard lease agreement to require a cashier's check for the first annual rental payment as required by state law.

Concur: The department will modify their standard lease agreement to require a cashier's check for the first annual rental payment at the execution of a lease.

E. Giving proper notice concerning the exchange of timbered lands as required by state law.

Concur: The department's interpretation of 77-2-215, MCA, was to conduct its land exchange hearing not less than 20 days and not more than 60 days from the date the Land Board will meet to consider final approval of the land exchange and hear public comment on the proposed action. If the correct legal interpretation of the statute is to publish notice of the exchange hearing, conducted by the department, not less than 20 days and not more than 60 days from the date of the hearing; the department will ensure notices of land exchange public hearings fall within the statutory timeframes.

Sincerely:

Mary Sexton
Director