

**Evans, Krista Lee**

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**To:** Hagener, Jeff; Sexton, Mary  
**Cc:** Rep Chris Harris (E-mail); Rep. Debby Barrett (E-mail); Everts, Todd; Smith, Barbara; Purdy, Taryn; Schenck, Clayton  
**Subject:** State Land Management panel discussion

March 8, 2006

Director Hagener, Director Sexton, and Senator Cooney --

Outlined below are questions that I put together with input from the co-chairs. I wanted to get it to you with enough advance notice that you could put some thought into - I will be providing copies of the questions to the EQC members so that they know what you have been requested to discuss. I will also be supplying the EQC members with a summary printout of agencies that manage property held in the name of the state so that they can get a feel for the number of agencies involved and the acreage associated with each. If I can help provide clarification or answer any questions, please do not hesitate to contact me.

- Amount of property managed by your agency
- Entity that provides oversight to your agency - how much, when, etc.
- Do you think it would be beneficial to conduct a study to better understand how state land is managed and how or if it varies between agencies?
- How do agencies deal with issues associated with land management if there is more than one state agency involved and their objectives are different and not necessarily complimentary?
- How do DNRC and FWP coordinate on management and wildlife habitat and other issues?
- Do you think a study is necessary? useful? helpful? waste of time?, etc.

Additional questions that Rep. Barrett would like you to address:

- How much money does your agency spend annually on management of land under your jurisdiction?
- How much does it cost for administration for land under your jurisdiction?
- Do the previous two costs come before the legislature for funding and FTE's?
- Are the lands that you manage sustainable to your agency -- do they pay for themselves and benefit the people of Montana? - if not: will taxpayers and licensees be required to help pay for the management of these lands?
- Where is the revenue from these lands deposited -- general fund, trust, etc?

Krista Lee Evans  
Resource Policy Analyst

ENVIRONMENTAL QUALITY COUNCIL  
March 17, 2006  
Exhibit 14

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## Part 7

### Ownership Records of State-Owned Land

#### Administrative Rules:

Title 36, chapter 2, subchapter 9, ARM Ownership records for nonschool trust land.

**77-1-701. Definitions.** When used in this part, unless a different meaning clearly appears from the context, the following definitions apply:

(1) "Ownership record" means the original deed, abstract, and any other instrument signifying state ownership or other interest in real property.

(2) "State agency" means any board, bureau, department, commission, or officer of the state.

\* (3) "State land" means land held, possessed, or administered by the state by virtue of fee simple title, grant, or deed. This term does not include:

(a) land acquired through investments under the provisions of 17-6-201;

(b) land used by virtue of an interest temporary in nature, such as a lease, license, or permit; or

(c) land used for easements and rights-of-way.

History: En. Sec. 1, Ch. 467, L. 1987; amd. Sec. 3, Ch. 32, L. 1997.

#### Compiler's Comments:

*1997 Amendment:* Chapter 32 in definition of state land, in (a) after "through", deleted "foreclosure of any", after "investments" deleted "purchased", and at end substituted "17-6-201" for "17-6-211".

**77-1-702. Transfer of records held by secretary of state.** By November 1, 1987, the secretary of state shall transfer all ownership records on file in his office to the department. The department shall further transfer the records of land held or administered by the department of transportation for highway rights-of-way and maintenance to the department of transportation and any remaining ownership records, other than those of state lands, to the state agency administering the interest or property described in such records.

History: En. Sec. 2, Ch. 467, L. 1987; amd. Sec. 3, Ch. 512, L. 1991.

#### Compiler's Comments:

*1991 Amendment:* Substituted references to Department of Transportation for references to Department of Highways. Amendment effective July 1, 1991.

#### Cross References:

Custody and reproduction of records by Secretary of State, 2-6-111.

Duties of Secretary of State, 2-15-401.

**77-1-703. Filing of ownership records.** Except as provided in 77-1-706, state agencies shall file with the department ownership records of state lands held by the agency.

History: En. Sec. 3, Ch. 467, L. 1987.

#### Administrative Rules:

ARM 36.2.901 Purpose.

ARM 36.2.903 Filing of ownership records.

ARM 36.2.905 Index and verification of ownership records.

**77-1-704. Department to maintain repository.** The department shall provide a secure yet accessible repository for the ownership records of state land.

History: En. Sec. 4, Ch. 467, L. 1987.

**Compiler's Comments:**

*1987 Statement of Intent:* The statement of intent attached to Ch. 467, L. 1987, provided: "A statement of intent is required for this bill because it grants rulemaking authority to the department of state lands [now department of natural resources and conservation] to implement and administer the transfer and filing of ownership records of state lands.

Currently, certain records regarding state ownership of land are held by the secretary of state. This bill requires the secretary of state to transfer these records to the department of state lands [now department of natural resources and conservation] by November 1, 1987. It further requires the department of state lands [now department of natural resources and conservation] to transfer records of land held or administered by the department of highways [now department of transportation] for highway rights-of-way and maintenance to that department. Finally, the bill requires the department of state lands [now department of natural resources and conservation] to transfer any remaining ownership records, other than those of state lands, to the state agency administering the interest or property described in such records.

The legislature intends that the department of state lands [now department of natural resources and conservation] be the sole repository for records of all state lands owned by virtue of fee simple title, grant, or deed except for land specifically excluded under the bill. State land with buildings attached to it and used by the department of highways [now department of transportation] for maintenance must be recorded on records maintained by the department of state lands [now department of natural resources and conservation].

It is intended that the department of state lands [now department of natural resources and conservation] may adopt rules to specify which records will be kept by the department and which records will be transferred to other agencies, including records of lesser interests such as leases. In addition, it is intended that the rules clarify which records must be filed in the future with the department of state lands [now department of natural resources and conservation] and specify the format that the records must follow to ensure a reliable and uniform body of records and index as required under section 5 [77-1-705]."

**Administrative Rules:**

ARM 36.2.901 Purpose.

ARM 36.2.904 Department to maintain central record depository.

ARM 36.2.905 Index and verification of ownership records.

**77-1-705. Index and verification of ownership records.** (1) The department shall establish and maintain a filing system and index of the following information on state land:

- (a) legal description of the land;
- (b) when the land was acquired or disposed of;
- (c) name of the state agency administering or disposing of the land; and
- (d) name of the grantor or grantee.

(2) To the extent feasible within available funding and personnel, the department shall:

- (a) verify the accuracy of information contained in the ownership records; and
- (b) perfect title to state land whenever necessary.

History: En. Sec. 5, Ch. 467, L. 1987.

**Administrative Rules:**

ARM 36.2.902 Definitions.

ARM 36.2.905 Index and verification of ownership records.

**77-1-706. Treatment of highway lands.** The department of transportation is not required to file with the department records of land used for highway rights-of-way and maintenance but is required to file with the department ownership records of state land held for administrative purposes.

History: En. Sec. 6, Ch. 467, L. 1987; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 316, Ch. 418, L. 1995.

**Compiler's Comments:**

*1995 Amendment:* Chapter 418 in two places, after "department", deleted "of state lands". Amendment effective July 1, 1995.

*Transition:* Section 499, Ch. 418, L. 1995, provided: "The provisions of 2-15-131 through 2-15-137 apply to [this act]."

*Saving Clauses:* Section 503, Ch. 418, L. 1995, was a saving clause.

Section 571, Ch. 546, L. 1995, was a saving clause.

*1991 Amendment:* Substituted references to Department of Transportation for references to Department of Highways. Amendment effective July 1, 1991.

**Administrative Rules:**

ARM 36.2.903 Filing of ownership records.

**77-1-707. Rules.** The department may adopt rules for implementing and administering this part concerning transfer and filing of ownership records.

*History:* En. Sec. 7, Ch. 467, L. 1987; amd. Sec. 317, Ch. 418, L. 1995.

**Compiler's Comments:**

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**Cross References:**

Adoption and publication of rules -- Montana Administrative Procedure Act, Title 2, ch. 4, part 3.

**Administrative Rules:**

Title 36, chapter 2, subchapter 9, ARM Ownership records for nonschool trust land.