

CHECKLIST ENVIRONMENTAL ASSESSMENT

Project Name:	Land Banking Administrative Rule Changes - 2011
Proposed Implementation Date:	December 2011
Proponent:	MT Dept of Natural Resources and Conservation, Real Estate Management Bureau
Location:	Statewide
County:	All Counties

I. TYPE AND PURPOSE OF ACTION

The Department of Natural Resources and Conservation (DNRC) is proposing to amend ARM 36.25.801, 36.25.802, 36.25.805, 36.25.808, 36.25.809, and 36.25.811 pertaining to the land banking program. A synopsis of the proposed amendments follows:

Amendments to allow DNRC to sell state land in "sale units" that can be made up of multiple parcels, when the sale unit configurations provide the best financial and management advantage to the affected trust beneficiary.

Amendments to comply with Section 20, Chapter 465, 2009 Laws of Montana deleted any authority to use land bank funds to reimburse DNRC's costs incurred in conducting land banking transactions, but alternatively granted DNRC the authority to expend trust land administration account funds for those same purposes. The rule amendments also clarify that transaction costs outlined in ARM 36.25.807 or 36.25.808 are to be paid by the lessee nominator if the sale is terminated by the lessee nominator or the purchaser if the sale is consummated.

Amendments clarify that DNRC will comply with the most recent version of Uniform Standards of Professional Appraisal Practice (USPAP) since the state Board of Real Estate Appraisers has adopted USPAP for standards of practice (37-54-403, MCA). The amendments also clarify when a land banking appraisal has to supply a discounted value for lack of legal access.

An amendment to increase the time for DNRC to return bid deposits from five to 15 days, because the interplay between DNRC and Department of Administration accounting processes generally requires additional time.

An amendment to cite the correct statutory authority, because the 2001 Legislature repealed 77-6-304 and 77-6-305, MCA. The pertinent authorizing statutory language now exists in 77-6-302 and 77-6-303, MCA.

Amendments to remove obsolete language since the 2009 Legislature repealed the sunset date of the land banking program in Chapter 209 of the 2009 Montana Session Laws. The amendments also account for the process for using funds from multiple trusts to purchase tracts, and the ability to substitute purchase funds from one trust to another within one year of an acquisition.

Amendments that also correct minor formatting and grammatical errors.

II. PROJECT DEVELOPMENT

1. PUBLIC INVOLVEMENT, AGENCIES, GROUPS OR INDIVIDUALS CONTACTED:

Provide a brief chronology of the scoping and ongoing involvement for this project.

DNRC prepared draft rule amendments and took the proposed amendments to the Land Board on 8/15/2011 to get preliminary approval to start the rule making process. Sponsoring legislators of land banking legislation were notified of the proposed rule amendments by 8/12/2011.

A notice of public hearing on the proposed rule amendments was filed on 8/25/2011.

A public hearing on the proposed rule amendments was held at 2:00 PM on September 15th, 2011, in the Director's Conference room at 1625 11th Avenue, Helena, Montana. No members of the public attended the hearing and no comments for or against the proposed rule amendments were received.

The public comment period on the proposed rule amendments closed on September 22, 2011. No comments were received on the proposed rule amendments.

OTHER GOVERNMENTAL AGENCIES WITH JURISDICTION, LIST OF PERMITS NEEDED:

None

3. ALTERNATIVES CONSIDERED:

Proposed Alternative: Amend land banking rules to comply with current statute, to clarify processing, to implement recommendation from the September 2010 Legislative Audit of the Land Banking program, and amendments to allow for greater efficiency in conducting land banking sales and acquisitions.

No Action Alternative: Defer amendment of the land banking rules. This alternative would leave rules in place that are contrary to statute and recommendation made by the legislative audit division. It would also leave program processes in place that are less efficient or practical to implement.

<p align="center">III. IMPACTS ON THE PHYSICAL ENVIRONMENT</p>

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| <ul style="list-style-type: none">• <i>RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.</i>• <i>Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.</i>• <i>Enter "NONE" if no impacts are identified or the resource is not present.</i> |
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4. GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE:

Consider the presence of fragile, compactable or unstable soils. Identify unusual geologic features. Specify any special reclamation considerations. Identify any cumulative impacts to soils.

Proposed Alternative/No Action Alternative:

There would be no expected direct, indirect, or cumulative effects to geology and soil quality, or stability under the action or no action alternative.

5. WATER QUALITY, QUANTITY AND DISTRIBUTION:

Identify important surface or groundwater resources. Consider the potential for violation of ambient water quality standards, drinking water maximum contaminant levels, or degradation of water quality. Identify cumulative effects to water resources.

Proposed Alternative/No Action Alternative:

There would be no expected direct, indirect, or cumulative effects to water quality, quantity and distribution under the action or no action alternative.

6. AIR QUALITY:

What pollutants or particulate would be produced? Identify air quality regulations or zones (e.g. Class I air shed) the project would influence. Identify cumulative effects to air quality.

Proposed Alternative/No Action Alternative:

There would be no expected direct, indirect, or cumulative effects to air quality under the action or no action alternative.

7. VEGETATION COVER, QUANTITY AND QUALITY:

What changes would the action cause to vegetative communities? Consider rare plants or cover types that would be affected. Identify cumulative effects to vegetation.

Proposed Alternative/No Action Alternative:

No direct, indirect or cumulative effects are anticipated to occur to vegetation as a result of the action or no action alternative.

8. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS:

Consider substantial habitat values and use of the area by wildlife, birds or fish. Identify cumulative effects to fish and wildlife.

Proposed Alternative/No Action Alternative:

There would be no expected direct, indirect, or cumulative effects to terrestrial or avian life and habitat under the action or no action alternative.

9. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES:

Consider any federally listed threatened or endangered species or habitat identified in the project area. Determine effects to wetlands. Consider Sensitive Species or Species of special concern. Identify cumulative effects to these species and their habitat.

Proposed Alternative/No Action Alternative:

There would be no expected direct, in-direct or cumulative effects to aquatic life or fish with implementation of the action or no-action alternatives.

10. HISTORICAL AND ARCHAEOLOGICAL SITES:

Identify and determine effects to historical, archaeological or paleontological resources.

Proposed Alternative/No Action Alternative:

No direct or cumulative impact to historical or archeological sites is anticipated as a result of the action or no action alternative.

11. AESTHETICS:

Determine if the project is located on a prominent topographic feature, or may be visible from populated or scenic areas. What level of noise, light or visual change would be produced? Identify cumulative effects to aesthetics.

Proposed Alternative/No Action Alternative:

No direct or cumulative impact to aesthetics is anticipated under the action or no action alternative.

12. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY:

Determine the amount of limited resources the project would require. Identify other activities nearby that the project would affect. Identify cumulative effects to environmental resources.

Proposed Alternative/No Action Alternative:

There would be no expected direct, indirect, or cumulative effects on environmental resources of land, water, air or energy under the action or no action alternative.

13. OTHER ENVIRONMENTAL DOCUMENTS PERTINENT TO THE AREA:

List other studies, plans or projects on this tract. Determine cumulative impacts likely to occur as a result of current private, state or federal actions in the analysis area, and from future proposed state actions in the analysis area that are under MEPA review (scoped) or permitting review by any state agency.

Proposed Alternative/No Action Alternative:

Asset Management Plan, Habitat Conservation Plan, Real Estate Management Plan apply to trust lands statewide.

There would be no expected direct, indirect, or cumulative effects anticipated as result of the action or no action alternative

IV. IMPACTS ON THE HUMAN POPULATION
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| <ul style="list-style-type: none">• <i>RESOURCES</i> potentially impacted are listed on the form, followed by common issues that would be considered.• Explain <i>POTENTIAL IMPACTS AND MITIGATIONS</i> following each resource heading.• Enter "NONE" if no impacts are identified or the resource is not present. |
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14. HUMAN HEALTH AND SAFETY:

Identify any health and safety risks posed by the project.

Proposed Alternative/No Action Alternative:

No direct or cumulative impact to human health and safety would occur under either alternative.

15. INDUSTRIAL, COMMERCIAL AND AGRICULTURE ACTIVITIES AND PRODUCTION:

Identify how the project would add to or alter these activities.

Proposed Alternative/No Action Alternative:

No direct or cumulative impacts are anticipated to industrial, commercial and agriculture activities and production would occur as a result of either alternative.

16. QUANTITY AND DISTRIBUTION OF EMPLOYMENT:

Estimate the number of jobs the project would create, move or eliminate. Identify cumulative effects to the employment market.

Proposed Alternative/No Action Alternative:

There would be no expected direct, indirect, or cumulative effects on the quantity and distribution of employment under the action or no action alternative.

17. LOCAL AND STATE TAX BASE AND TAX REVENUES:

Estimate tax revenue the project would create or eliminate. Identify cumulative effects to taxes and revenue.

Proposed Alternative/No Action Alternative:

No direct or cumulative impacts are anticipated to local and state tax base and tax revenues as a result of either alternative.

18. DEMAND FOR GOVERNMENT SERVICES:

Estimate increases in traffic and changes to traffic patterns. What changes would be needed to fire protection, police, schools, etc.? Identify cumulative effects of this and other projects on government services

Proposed Alternative/No Action Alternative:

There would be no expected direct, indirect, or cumulative effects anticipated as result of the action or no action alternative.

19. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS:

List State, County, City, USFS, BLM, Tribal, and other zoning or management plans, and identify how they would affect this project.

Proposed Alternative/No Action Alternative:

There would be no expected direct, indirect, or cumulative effects anticipated as result of the action or no action alternative

20. ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES:

Identify any wilderness or recreational areas nearby or access routes through this tract. Determine the effects of the project on recreational potential within the tract. Identify cumulative effects to recreational and wilderness activities.

Proposed Alternative/No Action Alternative:

There would be no expected direct, indirect, or cumulative effects on access to and quality of recreational and wilderness activities as result of the action or no action alternative.

21. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING:

Estimate population changes and additional housing the project would require. Identify cumulative effects to population and housing.

Proposed Alternative/No Action Alternative:

No direct or cumulative impact to density and distribution of population and housing would occur under either alternative

22. SOCIAL STRUCTURES AND MORES:

Identify potential disruption of native or traditional lifestyles or communities.

Proposed Alternative/No Action Alternative:

Either alternative would not directly or cumulatively impact native, unique or traditional lifestyles or communities.

23. CULTURAL UNIQUENESS AND DIVERSITY:

How would the action affect any unique quality of the area?

Proposed Alternative/No Action Alternative:

Either alternative would not directly or cumulatively impact cultural uniqueness or diversity.

24. OTHER APPROPRIATE SOCIAL AND ECONOMIC CIRCUMSTANCES:

Estimate the return to the trust. Include appropriate economic analysis. Identify potential future uses for the analysis area other than existing management. Identify cumulative economic and social effects likely to occur as a result of the proposed action.

No Action Alternative:

Under the no action alternative land banking program processes will be left in place that are less efficient or practical to implement, and can potentially result in less revenue generated for the affected trust.

Proposed Action Alternative:

Amendments to allow DNRC to sell state land in "sale units" that can be made up of multiple parcels, when the sale unit configurations provide the best financial and management advantage to the affected trust beneficiary will potentially increase trust revenues.

EA Checklist Prepared By:	Name: John Grimm	Date: 10/1/2011
	Title: Real Estate Section Supervisor	

V. FINDING

25. ALTERNATIVE SELECTED:

I have selected the proposed alternative.

I recommend the proposed rule amendments be submitted to the State Board of Land Commissioners for final approval for adoption.

26. SIGNIFICANCE OF POTENTIAL IMPACTS:

I have evaluated the comments received and potential environment effects and have determined significant environmental impacts would not result from the adoption of the proposed rule amendments. I have reviewed the comments and believe that all concerns have been adequately addressed under the appropriate headings.

27. NEED FOR FURTHER ENVIRONMENTAL ANALYSIS:

EIS
 More Detailed EA
 No Further Analysis

EA Checklist Approved By:	Name: Jeanne Holmgren	
	Title: Real Estate Bureau Chief	
Signature: /s/ Jeanne Holmgren	Date: 10/7/2011	