



## FREQUENTLY ASKED QUESTIONS

### DNRC WATER PROJECT LANDS CABIN SITE SALES PAINTED ROCKS AND TONGUE RIVER RESERVOIRS

*\*This FAQ pamphlet is based on 2021 HB 131 and the process developed for implementation thereof by State Water Projects which can be found at:*

<http://dnrc.mt.gov/divisions/water/state-water-projects-lands-cabin-home-site-sales>

*NOTE: THE PROCESS ESTABLISHED FOR DNRC WATER PROJECT LANDS CABIN SITE SALES IS DIFFERENT FROM THE PROCESS IN PLACE FOR DNRC TRUST LANDS CABIN SITE SALES. AS SUCH, THE PROVISIONS IN TITLE 77, MCA, AND ANY ADMINISTRATIVE RULES IMPLEMENTING THOSE STATUTES ARE INAPPLICABLE HERE*

### **Basics**

1. **Why is the DNRC selling Leased cabin/home sites on State Water Project Lands?**

*During the 2021 67<sup>th</sup> Legislative Session, House Bill 131 (HB131) was passed. HB 131 has been codified at Mont. Code Ann. §§ 85-1-811, 812, and 813. This bill allows for the sale of leased cabin/home sites on State Water Project Lands at the request of the lessee and is consistent with the Department's mandate to attain full market value.*

2. **Will my cabin/home site lot be sold out from under me?**

*No. Initiation of the cabin/home site sale process is voluntary. You will not be required to nominate your cabin site for sale if you wish to continue leasing.*

3. **When can I request my leased cabin/home site to be sold?**

*Per HB 131, the lessee can request their cabin/home site to be sold commencing on January 1, 2022. Painted Rocks and Tongue River Reservoirs cabin site sale nominations will be received by the State Water Project Bureau bi-annually, only during the months of January and July.*

4. **How long does the sale process take?**

*The estimated timeline for a cabin/home site sale from will take approximately 10-12 months or longer to allow sufficient time for State Water Projects to conduct site surveys, appraisals and other steps appropriate or necessary to complete the sale process.*

5. **Why does the land have to be sold at a public auction?**

*State Water Project lands under HB 131 will be sold by public auction in order to ensure the state receives full market value for the sale of such lands and complies with the other requirements of HB 131.*

## **Getting Started**

### **6. How do I request to purchase my cabin site lot?**

*State Water Projects has prepared and made available a Cabin Site/Home Sale Nomination Form on DNRC's website.*

### **7. What are the preliminary sale criteria?**

*The Department may consider the following factors in the preliminary review:*

- *whether the any mortgagee, or other owner of an interest in the cabin or home site improvements consents to the sale;*
- *whether there are any outstanding lease violations on the parcel.*

### **8. What if my cabin lot does not meet the preliminary criteria?**

*You can work with DNRC State Water Projects Bureau staff to address the issues. The sales process will be on hold until all preliminary criteria are met.*

### **9. How do I find out if my cabin site lot has been surveyed? What if it has not been surveyed?**

*You may contact the DNRC State Water Projects Bureau office in Helena to see if your lot has a current survey useable to convey title. The lot will **not** be saleable until it has been properly surveyed. DNRC will prepare and assume the cost of the survey as required by HB131.*

### **10. Who can nominate a cabin site lot for sale?**

*Leased cabin/home sites can be nominated for sale by a current lessee or improvement(s) owner.*

### **11. How will DNRC prioritize sale requests?**

*Sale requests will be prioritized in the order they are received by DNRC. DNRC staffing limitations may result in longer communication periods.*

## **Risks/Cost**

### **12. Can someone outbid me if I own improvements on the cabin site lot?**

*Yes, but if you are the current lessee you have the preference right to match the high bid in accordance with HB131. If you are only the improvements owner, and not a current lessee, you do not have the same right to match the high bid; you must bid higher.*

### **13. What happens to my improvements if someone outbids me?**

*You must sell the improvements to the winning bidder, and the winning bidder must purchase the improvements from you for (at most) the value determined by the appraiser and set by the Department prior to the public auction. The owner of the improvements will be required to complete an Agreement to Sell Improvements Form agreeing to sell their improvements for (at*

most) the amount set by the Department and is entitled to the proceeds of the sale of such improvements.

#### **14. What are the costs involved?**

##### Processing Costs

The lessee or improvements owner is responsible for Processing Costs associated with preparing a cabin site lease lot for sale. These costs are non-refundable and must be paid up front.

They include but are not limited to the cost of the appraisal attributable to the improvements (cost of the appraisal attributable to the land paid by the Department), legal advertisements of the sale, water rights transfer fees, and the indirect costs administrative fee. This cost is an estimate only. If actual costs differ from this estimate, either credit or debit will be reflected on the settlement statement at closing.

##### Closing Costs

The Department shall pay one-half (½) of the closing agent's closing and escrow fees. Buyer shall pay one-half (½) of the closing agent's closing and escrow fees. In addition, Buyer shall pay all other closing costs related to the sale, including but not limited to, recording fees, title insurance (to be purchased only at buyer's option), and lender fees (if any).

## **During the Process**

#### **15. How is the sale price determined for the cabin site lot?**

A Montana Certified General Appraiser will complete a market value appraisal of both the lease site and the improvements under consideration for sale. The Department then sets the minimum bid for the lease lot including the value of any necessary easement across State lands.

#### **16. How will the sales price for my improvements be determined?**

A Montana Certified General Appraiser will complete a market value appraisal of both the lease site and improvements under consideration for sale. The appraisal will include separate values for the land and the improvements. The Department then sets the maximum asking price for the improvements associated with the sale of the land based on the appraised value of the improvements as determined by the appraiser.

#### **17. Who does the appraisal?**

The Department will contract with a Montana Certified General Appraiser to appraise both the cabin site and all improvements under consideration for sale. The appraisal must comply with Uniform Standards of Professional Appraisal Practices (USPAP) as adopted by the state Board of Real Estate Appraisers in ARM 24.207.402.

#### **18. How is an Appraiser selected?**

The Department will provide a list of at least two third-party independent appraisers to the cabin or home site lessee. The lessee will return a list of at least 50% of the appraisers from the Department's initial list. The Department will then select the appraiser from the list provided by

the lessee.

**19. What if I don't agree with the appraised value?**

*You may request an administrative hearing before the Department to contest those valuations by submitting a Notice of Appeal of Value Form within 10 days of the Department's notification of the appraised value of the land and improvements. The Department shall appoint a Hearing Examiner who will review the arguments and evidence received at the hearing and make a recommendation of the values to the Department. A lessee may also choose to withdraw the parcel from the sale process and continue to lease.*

**20. What if I don't want to sell my improvements?**

*The owner of any improvements located on the lease site must complete an Agreement to Sell Improvements Form agreeing to sell their improvements to the highest bidder on the land for the amount set by the Department.*

**21. Do I still need to pay my lease fee while my cabin site lot is going through the sale process?**

*Yes. All lease fees must be paid through closing of the sale. Lessees will be reimbursed a prorated rental fee of the Lease amount based on the date of closing.*

*If the Lessee is not the ultimate high bidder at the conclusion of the public auction, the Department will prorate the Lease Fee and reimburse the Lessee his/her rental fee based on the auction date. The Lessee will receive his/her reimbursement from the Department after final closing of the sale.*

**22. What if my lease expires before my lot is selected for sale?**

*In order to maintain a preference right to match high bid, the lease must be in good standing. In order to maintain the preference right, and the priority status, the lease would have to be renewed upon expiration.*

**23. Can I withdraw my cabin site lot from sale?**

*Yes, if you are the current lessee. The lessee can withdraw from the sales process at any time up until 10 days before the date of the auction. The lessee must send written notice by email or certified mail to the Department, postmarked no later than 10 days before the date of the auction.*

**24. Will I know if there are any other people interested in bidding on my lot?**

*Each bidder wishing to participate in the auction as a qualified bidder must submit an Offer to Purchase Agreement along with a bid deposit equal to 5% of the minimum bid amount for the cabin site lot, no later than 3 days before the date of the auction. You may contact the Department after the date that the bid deposits are due and inquire whether or not there are any qualified bidders for the sale.*

**25. Where will the auctions take place?**

*Typically, auctions will take place in the County where the parcel is located. Specific locations are usually at the county courthouse, a public building, or in some instances, the local DNRC office.*

**26. Do I have to be present for the auction?**

*Yes. All qualified bidders wishing to participate in the auction must appear in person or be represented by a legal representative at the auction.*

**27. What is the process for bidding on auction day?**

*DNRC staff will hold a public oral auction for the sale of the land. All qualified bidders wishing to participate in the auction must appear in person or be represented by a legal representative at the auction to present an oral bid. All bidding will be for the land only. Only qualified bidders will be allowed to bid. The minimum bid amount will be set by the Department based on the appraised value of the land. Bids for less than the minimum amount will not be accepted. If there are multiple qualified bidders, the bidding will continue until no one wishes to offer a higher bid. If one of the qualified bidders is a current lessee, they will be allowed to match the highest bid until such time that there is no longer a higher bid, or the current lessee does not wish to match the highest bid. The land will be sold to the highest bidder who consummates the terms of the sale. All improvements owners will have signed an Agreement to Sell Improvements Form prior to the auction. The closing of the sale of the improvements is conducted separately between the improvements seller and the purchaser and must be completed prior to or simultaneously with the closing of the land sale. The successful bidder will sign a Real Estate Buy-Sell Agreement for the Sale and Purchase of State of Montana Cabin Site Sale Form at the close of the auction*

## **Closing**

**28. What happens after the auction?**

*The Department will prepare closing documents, including settlement statements and drafting of deeds and any necessary easements.*

**29. How is title transferred?**

*The Department conveys title to the land by Quitclaim Deed. The state does not warrant title, but you have the option to purchase title insurance at your own expense.  
Transfer of the improvements happens between the seller and the purchaser.*

**30. How long will the winning bidder have to close on the sale of land and improvements?**

*The Department will allow 60 days from the sale's Final Approval from the Department for closing. An extension of time may be granted on a case by case basis for good cause.*

**31. How will closing occur on the sale of the land?**

*Closings may occur by mail or with a Title Company, Closing of the improvements happens between the seller and the purchaser and must be completed prior to or simultaneously with the closing of the land.*

**32. What are my financing options?**

*Sales of state land are on a cash only basis. Purchasers will need to seek financing from a lending*

agency if necessary.

## **Questions/Contacts**

### **33. Who do I contact with additional questions?**

Contact DNRC, State Water Projects Bureau

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