

Painted Rocks and Tongue River Reservoirs Cabin Site Leases

This *Procedure Disclosure Form* summarizes the sales procedure from nomination to closing, but it is not a complete source or the only source of information. Additional process information is available from the Department of Natural Resources and Conservation (the Department). Terms in the *Agreement to Sell Improvements, Cabin/Home Site Offer to Purchase and Bid Deposit Receipt*, and the *Cabin/Home Site General Terms and Conditions of Sale Form (Buy-Sell Agreement)* override any statements in this disclosure form. All applicable Administrative Rules of Montana and applicable laws of the State of Montana override any statements in this disclosure form.

The Department cannot provide you with any legal advice. If you have any questions regarding the legal implications of moving forward in the Cabin/Home Site Sale process, you should engage the services of a private attorney before returning the *Nomination Form*.

Please read the entire document. If you have questions about an item, ask for clarification before initialing the line. The person(s) initialing this disclosure form has read the statements and understands the disclosures made. **All Lessees of record must Initial each paragraph and sign where indicated at the bottom of the back page to show that you have read the form completely and understand the disclosures.** Return by mail to:

Montana DNRC, State Water Projects Bureau
1424 9th Avenue, PO Box 201601
Helena, MT 59620-1601

_____ 1) Prior to being accepted for nomination for sale, all payments due and owing under the terms of your lease must be current, and the lease must, in all other respects, be in good standing. If there are payments due and owing under your lease, or if the lease is otherwise not in good standing, the Department reserves the right to withdraw the parcel from sale.

_____ 2) If a parcel is removed from sale consideration by the Department, you have 15 days from the date of the Department’s notification to you to appeal the Department’s decision and the Department will make the final determination of whether or not to sell the parcel.

_____ 3) If you are the current lessee of the land nominated for sale, you have the right to withdraw from the sale process at any time up to 10 calendar days prior to the auction date by notifying the Department in writing, either by letter or email.

_____ 4) Improvement owners who are not also the lessees do not have the right to withdraw the parcel from sale once it has been nominated.

_____ 5) After the lessee or improvement owner submits the completed *Nomination Form*, and completed *Procedure Disclosure Form*, the Department will provide the lessee a list of no fewer than two acceptable appraisers to conduct the appraisal for both the land and the improvements, based on comparable sales of nearby existing properties. The lessee will select 50% of the appraisers on the list. The Department will solicit for bids to the selected appraisers. The Department will choose from the responding appraisers to conduct the appraisal. The Department will assume the proportionate cost of

the appraisal of the land and the lessee will assume the proportionate cost of the appraisal of improvements.

_____ 6) You will be notified of the estimated processing costs that will be required to move forward with the sale process, and you will have 10 calendar days after the Department's notification to submit payment for such processing costs. These costs include but are not limited to appraisal attributable to the improvements under consideration for sale on the state-owned lease site, advertising, and indirect costs pursuant MCA §17-1-106. These costs are estimated and may vary from actual expenses. Upon receipt of payment for the estimated processing costs, the Department will contract for the appraisal. Payment of estimated processing costs does not relieve the lessee from payment of the actual full amount of processing costs, as determined at closing, in the event actual processing costs exceed the estimate therefor. The Department will prepare and assume the cost of the land survey unless paid for in advance by the lessee or improvements owner, as permitted by Mont. Code Ann. § 85-1-812(6)(c). If the lessee or improvements owner paid in advance for the survey, and if the payor is not the purchaser of the parcel, the cost of the survey will be refunded to the payor by the department at closing.

_____ 7) If you are the current lessee and do not want to pay the processing costs and/or do not want to proceed with the sale process, you must notify the Department in writing, either by letter or email, and the parcel will be removed from consideration for sale. Once costs are incurred in the sale process, limited, if any, refunds can be made.

_____ 8) Parcels with legal access are appraised as such. Parcels without legal access are appraised as if they had legal access. The appraiser will provide separate values for the state-owned land and non-state-owned improvements under consideration for sale. Once the appraisal has been reviewed by the Department, the lessee or improvements owner will be notified of the appraised value(s).

_____ 9) If you do not agree with the recommended appraised values, you must notify the Department in writing within 10 calendar days of your receipt of notification of the appraised values if you wish to be granted a contested case hearing before the Department to dispute the appraised value. The only disputable issue in such a hearing will be whether the appraisal reflects full market value for the parcel. If you are the current lessee and have initiated the sale and submitted the estimated processing costs, you may remove the parcel from the sale process by notifying the Department in writing that you wish to withdraw, and the existing lease will continue under the present terms. If any estimated processing cost funds remain, they will be refunded. If actual expenses exceed estimates, you will be billed.

_____ 10) The Department will finalize the appraisal and appraisal review along with the Department's findings, conclusions, and recommended values from the administrative hearing, if any. The Department will then set the minimum bid for the land and the maximum value of the improvements under consideration for sale. If you are the current lessee and have initiated the sale and submitted the estimated processing costs, you may remove the parcel from the sale process by notifying the Department in writing that you wish to withdraw, and the existing lease will continue under the present terms. If any estimated processing cost funds remain, they will be refunded. If actual expenses exceed estimates, you will be billed.

_____ 11) If, after the Department has set the minimum bid for the land and the maximum value of the improvements, you wish to move forward with the sale and consent to the terms and conditions of the proposed sale, you must complete an *Agreement to Sell Improvements* contract. The *Agreement to Sell Improvements* contract will include the terms of the improvements sale, including maximum value of the improvements (see #10), and marketing obligations. The owner of any improvements will be contractually obligated to transfer any and all interest in the improvements located upon the lease lot, with clear title, should the improvements owner not be the highest bidder at auction.

_____ 12) Current Lessee and improvements owner will be required to allow reasonable access for prospective bidders to view the potential sale parcel and improvements under consideration for sale.

_____ 13) All parcels are sold through a public auction. The Department will set a location, date and time for the auction. All qualified bidders must appear in person or designate a legal representative to appear and bid on their behalf. The Department shall, at a minimum, publish the notice of the auction in a newspaper of general circulation in said county once a week for at least four consecutive weeks preceding the due date for bid deposits, and will post the cabin or home site on the Department website.

_____ 14) All qualified bidders, including the current lessee or improvements owner, shall submit an *Offer to Purchase and Bid Deposit Receipt* form along with a bid deposit, by certified check or electronic funds transfer drawn on any Montana bank, equal to or greater than 5% of the minimum bid amount for the land only. Said bid deposit must be postmarked and/or received no later than 3 calendar days before the auction (see item #18). The *Offer to Purchase and Bid Deposit Receipt* form will be available online after the Department sets the minimum bid (per item #11). The form will also be mailed by the Department directly to the lessee or improvements owner who nominated the sale.

_____ 15) It is your responsibility to verify whether any additional bid deposits have been received by the Department if you are concerned about competitive bidding. If you are the current lessee and have initiated the sale and submitted the estimated processing costs and wish to remove the parcel from the sale process, you must notify the Department in writing by certified mail so that notice is received by the Department no less than 10 calendar days before the date of the auction (see #17). If you remove the parcel from the sale process, the existing lease continues under the present terms. All costs incurred in preparing the parcel for sale will be paid out of the money submitted for estimated processing costs and your bid deposit. Any funds submitted by a cancelling lessee for estimated processing costs or bid deposit, and which have not been expended as of the date of cancellation of the sale process, will be returned to the lessee. If actual expenses exceed estimates you will be billed.

_____ 16) If the current lessee fails to notify the Department in writing by certified mail no less than 10 calendar days before the date of the auction, the auction will not be cancelled. Improvements owners, who are no longer the current lessee, do not have the right to withdraw the parcel from sale.

_____ 17) You are responsible for meeting established deadlines for any submission or notification to the Department. If you are sending mail from a location that is expected to have slow mail service to

the Department for any reason (from outside of the US, outside of Montana, or other reason), you are responsible for ensuring the Department receives your mail in the established timeframe. This may require sending submissions or notices through expedited mail delivery.

_____ 18) All bidding is done by oral bid on the date of auction. Bidding will begin with the competitive bidder(s) submitting a bid of no less than the minimum bid amount listed in the auction notice. Bids for less than the minimum will not be accepted. Bidding will continue until the competitive bidders no longer wish to raise the bid. Incremental bid amounts are set at \$1,000.00. The Department representative conducting the auction will then ask the current lessee if they wish to exercise their lessee preference right to match the high bid. If the current lessee chooses to exercise that right, the bidding may begin again if the competitive bidders wish to bid a higher amount. The bidding only stops when the competitive bidders wish to cease bidding and/or the current lessee chooses not to match the high bid.

_____ 19) The parcel is sold to the highest bidder who consummates the terms of the sale (successful purchaser). The current lessee **has** the right to match the high bid at the oral auction. The owner of the improvements (if no longer the current lessee) **does not** have the right to match the high bid. The Department retains the bid deposit of the highest bidder and will return bid deposits of all unsuccessful bidders within 15 business days of the auction. If the highest bidder fails to comply with the terms of the sale, for any reason, and thus fails to consummate the sale, the bidder's bid deposit is forfeited unless the next higher bidder or a subsequent bidder, in sequence of bid amount, agrees to the terms of the sale and finalizes the sale.

_____ 20) If the successful purchaser is not the owner of the improvements, the owner of the improvements will be obligated to transfer any and all interest in the improvements upon the lease lot, with clear title, per the *Agreement to Sell Improvements* contract (See #11). The purchaser shall compensate the owner of the improvements no more than the maximum value of the improvements set by the Department (see #10). The owner of the improvements may choose to accept an amount less than the value set by the Department, but not more. The sale/purchase of the improvements must be completed prior to closing on the land.

_____ 21) All state land property is sold in "AS IS" condition. "AS IS" means that the buyer accepts the property in its present condition. The buyer takes the property at his or her own risk, without recourse against the seller for its condition or faults, whether the faults are apparent or not. No express or implied warranty(ies) will be provided by the Department with the sale. The failure of any bidder to inspect, or to be fully informed as to the condition of all or any portion of the property offered will not constitute grounds for any claim or demand for adjustment, reimbursement or withdrawal of a bid after the close of the auction.

_____ 22) Title to the land is conveyed by quit claim deed. The state does not furnish title insurance.

_____ 23) Mineral rights are reserved to the state.

_____ 24) The Department will transfer to the purchaser, at closing, any water rights owned by the department and appurtenant to the cabin or home site.

_____ 25) GRANT OF ACCESS: The State does not guarantee access. As part of the sale process, the State will convey an easement to the purchaser to secure access to the extent it is legally permitted to do so under MCA § 85-1-812(4)(a) or (b). RESERVED ACCESS: The State may reserve a right of access up to 60-feet wide upon existing access roads and/or driveways across the nominated sale parcel for the purpose of continuing access to adjoining leased or unleased lands owned by the State and/or for continued access to its state water project. It is understood and agreed that any such reservation by the State will be partially assigned to any subsequent purchasers of State Land who rely on these roads and driveways for legal access. GENERAL PROVISIONS OF ACCESS: Purchasers and Lessees are responsible for road maintenance. Purchaser's may be required to join a road users association when deemed necessary by the State to manage maintenance responsibilities.

By signing this document, you indicate that you have read the form including pages 1-3 and understand the disclosures therein.

Lessee/Improvement Owner Signature	Date
Printed Name	
Lessee/Improvement Owner Signature	Date
Printed Name	
Lessee/Improvement Owner Signature	Date
Printed Name	
Lessee/Improvement Owner Signature	Date
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