

Updated:
June 2026



The Montana Department of Natural Resources & Conservation

FREQUENTLY ASKED QUESTIONS

DNRC STATE 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 the State Water Projects Bureau, which can be found at:*

<https://dnrc.mt.gov/Water-Resources/State-Water-Projects-Lands-Cabin-Home-Site-Sales/>

NOTE: The process established for DNRC State Water Project Lands cabin/home site sales differs from the process in place for DNRC Trust Lands cabin site sales. As such, the provisions in Title 77, Montana Code Annotated (MCA), and any Administrative Rules of Montana (ARM) implementing those statutes are not applicable here.

Basics

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

During the 2021 67th Legislative Session, House Bill 131 (HB 131) was passed. HB 131 has been codified at MCA. §§ 85-1-811, 812, and 813. HB 131 allows for the sale of leased cabins/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/home site for sale if you plan to continue leasing.

3. Who can nominate a cabin/home site lot for sale?

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

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

Per HB 131, the Lessee may request that their cabin/home site be sold, commencing on January 1, 2022. Painted Rocks and Tongue River Reservoirs cabin/home site sale nominations will be received by the State Water Projects Bureau semiannually, only during the months of January and July.

5. How long does the sale process take?

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

6. 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 to ensure the Department receives full market value for the sale of such lands and to comply with the other requirements of HB 131.

Getting Started

7. How do I request to purchase my cabin/home site lot?

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

<https://dnrc.mt.gov/Water-Resources/State-Water-Projects-Lands-Cabin-Home-Site-Sales/>

8. What are the preliminary sale criteria?

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

- *Whether any mortgagee, or other owner of an interest in the cabin/home site improvements, consents to the sale.*
- *Whether there are any outstanding Lease violations.*

9. What if my cabin/home site does not meet the preliminary criteria?

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

10. How do I find out if my cabin/home site lot has been surveyed? What if it has not been surveyed?

You may contact the State Water Projects Bureau in Helena to see whether your lot has a current survey that is usable to convey title. The lot will not be saleable until it has been properly surveyed. The Department will prepare and assume the cost of the survey as required by HB 131.

11. How will the State Water Projects Bureau prioritize sale requests?

Sale requests will be prioritized in the order they are received by the State Water Projects Bureau; staffing limitations may result in longer communication periods.

Risks/Cost

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

Yes, but if you are the current Lessee, you have the right of preference to match the high bid in accordance with HB 131. 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 the maximum 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 the maximum 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/home site lease lot for sale. These costs are non-refundable and must be paid up front.

Processing costs include, but are not limited to, the appraisal attributable to the improvements (the cost of the appraisal attributable to the land is paid by the Department), legal advertisements for the sale, water rights transfer fees, and indirect administrative fees. 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 for the sale of the land. Buyer shall pay one-half (½) of the closing agent's closing and escrow fees for the sale of the land. In addition, Buyer shall pay all other closing costs and escrow fees related to the sale of the improvements, 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/home site lot?

A Montana Certified General Appraiser will complete a market value appraisal of both the leased land and the improvements under consideration for sale. The Department then sets the minimum bid amount for the leased land, 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 leased land and the 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 land sale, based on the appraiser's determination of the improvements' appraised value.

17. Who does the appraisal?

The Department will contract with a Montana Certified General Appraiser to appraise both the cabin/home 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 the cabin/home site Lessee with a list of at least two (2) third-party independent appraisers. 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 leased land and improvements. The Department shall appoint a Hearing Examiner who will review the arguments and evidence presented at the hearing and recommend the values to the Department. A Lessee may also choose to withdraw the cabin/home site from the sale process and continue leasing; however, fees paid to the Department for your portion of the processing costs will not be refunded.

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

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

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

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

If the Lessee is not the highest bidder at the conclusion of the public auction, the Department will prorate the Lease Fee and reimburse the Lessee for their rental fee based on the auction date. The Lessee will receive their reimbursement from the Department after final closing of the sale.

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

To maintain the preference right to match a 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/home site lot from sale?

Yes, if you are the current Lessee. The Lessee may withdraw from the sales process at any time up to 10 days before the auction date. The Lessee must send written notice to the Department by mail or email no later than 10 days before the auction date. Fees paid to the Department for your portion of the processing costs will not be refunded.

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

Each qualified bidder wishing to participate in the auction must submit an Offer to Purchase Agreement and Bid Deposit Receipt Form along with a deposit equal to 5% of the minimum bid amount for the cabin/home site land, no later than 15 days before the auction date. You may contact the Department after the bid deposit deadline to inquire whether any bidders are qualified 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. The auction location will be advertised prior to the auction.

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?

Department staff will hold a public oral auction to sell 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 land's appraised value. Bids below 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 may match the highest bid until there is no longer a higher bid, or until the current Lessee no longer wishes to match the highest bid.

The land will be sold to the highest bidder who consummates the terms of the sale. All improvements owners are required to sign an Agreement to Sell Improvements Form prior to the auction. The closing of the sale of the improvements is conducted separately between the seller of the improvements 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 the State of Montana Cabin/Home Site Form at the close of the auction.

Closing

28. What happens after the auction?

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

29. How is the title transferred?

The Department conveys title to the land by Quit Claim Deed. The State does not warrant title, but you have the option to purchase title insurance at your own expense. The transfer of the improvements occurs 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 120 days from the Department's final approval of the sale 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 occurs 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 Water Project Lands are on a cash-only basis. Purchasers will need to seek financing from a lending agency if necessary. All bidders who plan to obtain financing to purchase the cabin/home site will be required to provide a letter of prequalification from a mortgage broker or lending institution for at least the minimum bid amount plus the value of the Improvements and provide said lender's conditions for the closing. All other bidders must provide proof of funds demonstrating cash deposits equal to at least the minimum bid amount plus the value of the Improvements.

Questions/Contacts

33. Who do I contact with additional questions?

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