

**AN APPRAISAL OF THREE PARCELS OWNED BY THE STATE OF
MONTANA AND LOCATED IN LIBERTY COUNTY, MONTANA
SALE 1042 – 120 ACRES
SALE 1043 – 80 ACRES**

DATE OF VALUATION

April 24, 2019

**FOR
STATE OF MONTANA,
DEPARTMENT OF NATURAL RESOURCES & CONSERVATION**

*ELKHORN APPRAISAL SERVICES
P.O. BOX 448
HELENA, MONTANA 59624*

ELKHORN APPRAISAL SERVICES

P.O. BOX 448
HELENA, MONTANA 59624
PHONE (406) 449-7646
FAX (406) 449-7887

June 7, 2019

State of Montana
Department of Natural Resources & Conservation
Trust Land Management Division
P.O. Box 201601
Helena, MT 59620-1601

RE: An appraisal of three parcels owned by the State of Montana, State Lands, further described as:

- Sale 1042 - 120 acres, W2NE4, NW4SE4, Township 35 N, Range 4 E, Section 9
- Sale 1043 - 80 acres, W2SE4, Township 35 N, Range 4 E, Section 4
Liberty County, Montana

This appraisal report establishes an “as is” value in fee ownership.

In accordance with the letter of engagement, I have made the necessary site visit and analysis to appraise the above referenced property. The attached report provides the essential data and detailed reasoning employed in estimating my final value estimate.

In the body of the report is a detailed description of the subject parcels.

This appraisal assumes an “as is” value. I assume no responsibility for matters that are legal in nature nor do I render any opinion as to title.

The value reported is qualified by certain definitions, assumptions and limiting conditions, hypothetical conditions and certification, which are set forth within the attached report. This appraisal report is intended to conform to the Uniform Standards of Professional Appraisal Practice, and State of Montana, DNRC reporting requirements.

Based on my analysis, the market value of the subject property, as set forth, documented and qualified in the attached report under conditions prevailing on April 24, 2019 was:

| | |
|----------------------|------------------|
| Parcel – 1042 | \$42,000* |
| Parcel – 1043 | \$28,000* |

* These values are subject to the Hypothetical Conditions on page 8

I direct your attention to the data, discussions and conclusions which follow.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'G. A. Thornquist', with a stylized flourish at the end.

Gregory A. Thornquist
General Real Estate Appraiser
License # REA-RAG-LIC-867
6/7/2019

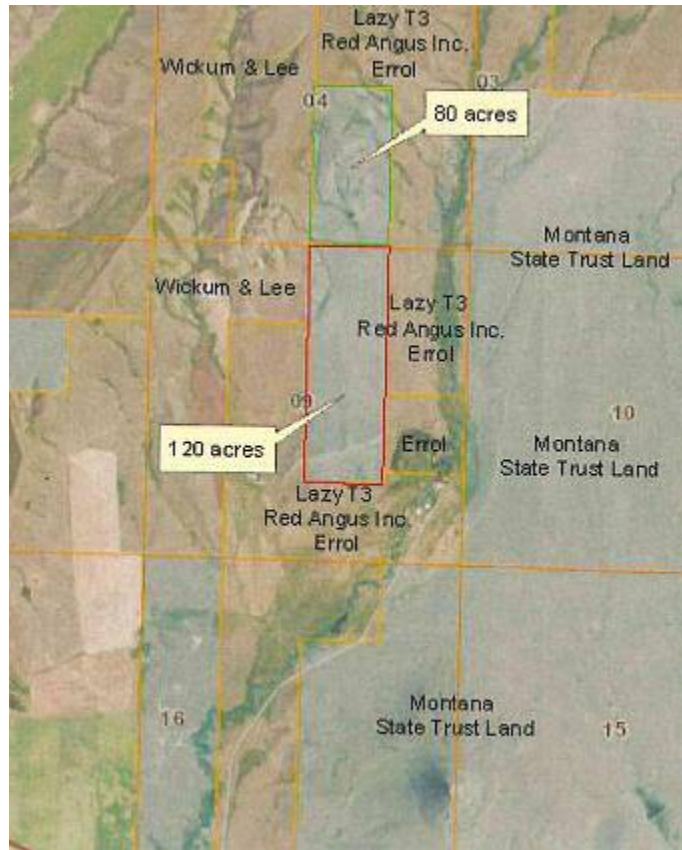
Table of Contents

| | |
|---|----|
| SUBJECT PARCELS | 5 |
| SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS..... | 6 |
| ASSUMPTIONS AND LIMITING CONDITIONS | 7 |
| HYPOTHETICAL CONDITIONS..... | 8 |
| SCOPE OF THE APPRAISAL | 9 |
| DEFINITION OF MARKET VALUE..... | 10 |
| PURPOSE OF THE APPRAISAL | 10 |
| INTENDED USE OF THE APPRAISAL AND CLIENT..... | 10 |
| PERSONAL PROPERTY | 10 |
| PROPERTY RIGHTS APPRAISED | 10 |
| IDENTIFICATION OF PROPERTY AND LEGAL DESCRIPTION..... | 11 |
| PURPORTED OWNER..... | 11 |
| SALES HISTORY OF THE PROPERTY | 11 |
| REGIONAL MAP..... | 12 |
| REGIONAL ANALYSIS..... | 12 |
| REAL ESTATE TAXES..... | 13 |
| PHOTOGRAPH – SALE 1042 | 14 |
| PHOTOGRAPH – SALE 1043 | 14 |
| PROPERTY DESCRIPTION | 15 |
| HIGHEST AND BEST USE..... | 16 |
| HIGHEST AND BEST USE AS VACANT..... | 16 |
| PROPERTY VALUATION..... | 17 |
| DEFINITIONS | 17 |
| SITE VALUATION | 18 |
| LAND SALES MAP | 20 |
| LAND SALE GRID | 21 |
| RECONCILIATION AND CONCLUSION | 22 |
| VALUE ESTIMATE AND CERTIFICATION..... | 23 |

Addenda

- Contract
- Scope of Work
- State of Montana Cadastral Data
- Appraiser's Qualifications
- Appraiser's License

SUBJECT PARCELS



SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS

PURPORTED OWNER: State of Montana Trust Land

PROPERTY TYPE: Agricultural

LOCATION OF PROPERTY: Liberty County, Montana

SITE: Sale 1042 – 120 acres
Sale 1043 – 80 acres

PROPERTY RIGHTS APPRAISED: Fee simple

ZONING: None

PRESENT USE: Vacant land

HIGHEST AND BEST USE: Agricultural

DATE OF VALUATION: April 24, 2019

DATE OF REPORT: June 7, 2019

LAND VALUE

Parcel – 1042 \$42,000*

Parcel – 1043 \$28,000*

* These values are subject to the Hypothetical Conditions on page 8

ASSUMPTIONS AND LIMITING CONDITIONS

This is to certify that the appraiser, in submitting this statement and opinion of value of subject property, acted in accordance with and was bound by the following principles, limiting conditions and assumptions. Unauthorized use of this report is set forth below.

- No responsibility is assumed for matters that are legal in nature nor is any opinion rendered on title of property appraised.
- Unless otherwise noted, the property has been appraised as though free and clear of all encumbrances.
- All maps, areas, plans, specifications, and other data furnished your appraiser were assumed to be correct. No survey of the property was made by this firm. Furthermore, all numerical references to linear measurements, area, volume or angular measurements should be assumed to be "more or less" (+/-) and are accurate to a degree consistent with their use for valuation purposes.
- This appraisal considers only surface rights to the property with consideration of current zoning and land use controls. The estimate of **highest and best** use will form the basis for the value estimate. This appraisal does not consider mineral, gas, oil or other natural resource rights that may be inherent in the ownership of the property.
- In this appraisal assignment, any potentially hazardous material found on the land or used in the construction of the buildings, such as urea formaldehyde foam insulation, petroleum residue, asbestos and/or existence of toxic waste or gases, which may or may not be present on the property, has not been considered. The appraiser is not qualified to detect such substances. Any interested party is urged to retain an expert in this field if there is any question regarding such potentially hazardous material. If such material or substance is present it could adversely affect the value reported herein.
- I am not a seismologist and this appraisal should not be relied upon as to whether a seismic problem exists, or does not actually exist on the property. The property which is the subject of this appraisal is within a geographic area where earthquakes and other seismic disturbances have previously occurred and where they may occur again. Except as specifically indicated in the report, no seismic or geologic studies have been provided to the appraiser concerning the geologic and/or seismic condition of the property. The appraiser assumes no responsibility for the possible effect on subject property on seismic activity and/or earthquakes. I have not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed seismic requirements by the City or County. It is possible that a survey of the property could reveal that the property does not meet the required seismic requirements. If so, this fact could have a negative effect upon the value of the property. Since I have no direct evidence relating to this issue, I did not consider possible noncompliance requirements in estimating the value of the property.
- All data contained in this report and in the appraiser's files, as obtained from other sources, upon which to any degree the opinions and conclusions were based, are considered reliable and believed to be true and correct. However, the appraiser does not assume responsibility for the accuracy of such items that were obtained from other parties.
- There shall be no obligation to give testimony or attendance in court by reason of this appraisal with reference to the property in question unless arrangements have been previously made and at an additional fee.

- Neither all nor any part of the contents of this report, especially the conclusions to value, the identity of the appraiser or the firm with which he is connected shall be disseminated to the public through advertising media, news media, public relations media, sales media, or any other public means of communication without the prior written consent of the appraiser.
- Gregory A. Thornquist does not authorize the out-of-context quoting from, or partial reprinting of this appraisal report.
- The liability of Gregory A. Thornquist is limited to the client and to the fee collected. Further, there is no accountability, obligations or liability to any third party. If this report is placed in the hands of anyone other than client, the client shall make such party aware of all limiting conditions and assumptions of the assignment and related discussions. The appraiser assumes no responsibility for any costs incurred to discover or correct any deficiencies of any type present in the property; physically, financially, or of a legal nature.
- The fee for this appraisal report is for the service rendered and not for time spent on the physical report or for the physical report itself.
- This appraisal report is prepared for the sole and exclusive use of the client, State of Montana, Montana Board of Land Commissioners and the Department of Natural Resources and Conservation (DNRC). No third parties are authorized to rely upon this report without the expressed written consent of the appraiser.
- This Appraisal Report is intended to comply with the reporting requirements set forth under Standard Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice. As such, it presents only summary discussions of the data, reasoning, and analysis that were used in the appraisal process to develop the appraiser's opinion of value. Supporting documentation concerning the data, reasoning and analysis is contained in the appraiser's files.

HYPOTHETICAL CONDITIONS

- The subject parcels are owned by the State of Montana and this appraisal assumes the property is in held in private ownership. This is noted in the *"Scope of Work for Appraisals of Potential Property Sales through the Land Banking Program"* which is included in the addenda
- The *"Scope of Work for Appraisals of Potential Property Sales through the Land Banking Program"* also notes that *"Landlocked parcel, (parcels with no legal access), will be appraised with the hypothetical condition of having legal access and should be appraised as the property currently exists, which is without legal access, ("as is")*. This is further discussed in the highest and best use section of this report.

SCOPE OF THE APPRAISAL

I retained by the Montana DNRC Trust Land Management Division, State of Montana to appraise the subject parcels. I was provided the following information:

- Scope of work
- Parcel description
- Contact information for inspecting the subject property.

On April 24, 2019, I met with Erik Eneboe, Conrad Unit Manager, DNRC Central Land Office, and Mr. Eneboe drove me to the subject parcels.

The subject parcels are currently leased to the Lazy T3 Red Angus, Inc, and the lessee contacted the DNRC inquiring about purchasing the subject property.

The neighborhood and surrounding competitive market areas were researched to find comparable market data. Real Estate agents, property owners, and real estate appraisers in the area were interviewed in an attempt to find relevant market data. This market data has been confirmed by personal contact with the buyer, seller, broker, appraiser, and/or property owner.

All of the comparable sales described in the body of the report are shown in detail on the summary sheets in a separate document. I did not physically inspect each of the comparable sales and the photos on the sales data sheet are from Google Earth.

Effective Date:

The effective date of this appraisal report is April 24, 2019. This is the date of valuation and was the actual date of the property inspection. This appraisal report was completed June 7, 2019.

DEFINITION OF MARKET VALUE

Market value, as used in this report, was provided by the client and is defined as follows:

Current Fair Market Value ~ (MCA 70-30-313) Current fair market value is the price that would be agreed to by a willing and informed seller and buyer, taking into consideration, but not limited to, the following factors:

- (1) the highest and best reasonably available use and its value for such use, provided current use may not be presumed to be the highest and best use;
- (2) the machinery, equipment, and fixtures forming part of the real estate taken; and
any other relevant factors as to which evidence is offered.

PURPOSE OF THE APPRAISAL

The purpose of this appraisal is to arrive at a supportable estimation of the market value.

INTENDED USE OF THE APPRAISAL AND CLIENT

The intended use is for the decision making process concerning the potential sale of the subject parcels. The clients and intended users are the State of Montana, the Montana Board of Land Commissioners and the Department of Natural Resources and Conservation (DNRC).

PERSONAL PROPERTY

None

PROPERTY RIGHTS APPRAISED

This appraisal is made with the understanding and assumption that present ownership of the subject parcels includes all rights that may be lawfully owned, and is therefore, title in fee simple as of April 24, 2019. A fee simple estate is subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power and escheat.

IDENTIFICATION OF PROPERTY AND LEGAL DESCRIPTION

The property which is the subject matter of this report consists of:

An appraisal of three parcels owned by the State of Montana, State Lands, further described as:

- Sale 1042 - 120 acres, W2NE4, NW4SE4, Township 35 N, Range 4 E, Section 9
- Sale 1043 - 80 acres, W2SE4, Township 35 N, Range 4 E, Section 4
Liberty County, Montana

PURPORTED OWNER

The subject parcels are owned by the State of Montana.

SALES HISTORY OF THE PROPERTY

The subject parcels have been owned by the State of Montana for a number of years. The parcels were nominated by the lessee and may be sold through the State of Montana's Land Banking Program.

REGIONAL MAP



REGIONAL ANALYSIS

Liberty County is a county located in the U.S. state of Montana. As of the 2010 United States Census, the population was 2,339. Its county seat is Chester. The decision to separate the future Liberty County area from the previous Hill and Chouteau counties was carried in a 1919 vote; the organization was authorized to commence in the following February.

The SW corner of Liberty County holds Tiber Dam, a popular tourist and recreation area.

Liberty County is on the state's north line, so that it shares the US border with Canada. It abuts the Canadian province of Alberta. According to the US Census Bureau, the county has a total area of 1,447 square miles (3,750 km²), of which 1,430 square miles (3,700 km²) is land and 17 square miles (44 km²) (1.2%) is water.

Economy

Agriculture — small grains and cattle — is the largest income producing segment of the Liberty County economy. Most farms are family-owned and of above average size.

The median income for a household in the county was \$40,212 and the median income for a family was \$44,957.

REAL ESTATE TAXES

The subject parcels are owned by the State of Montana and are currently exempt from taxation. If the parcels sell and are in private ownership they will be subject to taxation pursuant to the applicable laws and administrative rules of the State of Montana.

PHOTOGRAPH – SALE 1042



Looking south across Sale 1042

PHOTOGRAPH – SALE 1043



Looking north across Sale 1043

PROPERTY DESCRIPTION

| | |
|------------------------------|--|
| <i>Size & Shape:</i> | Sale 1042 – 120 acres Rectangular Sale 1043 – 80 acres Rectangular |
| <i>Topography:</i> | Rolling |
| <i>Soil Conditions:</i> | Soil conditions are unknown. No soil tests were provided to your appraiser. |
| <i>Easements:</i> | No title policy was provided to your appraiser. |
| <i>Access:</i> | There is no legal access to the subject parcels. |
| <i>Water:</i> | Seasonal |
| <i>Flood Plain:</i> | Not within a designated flood zone. |
| <i>Nuisances or Hazards:</i> | None of the surrounding uses appear to have an adverse impact on the subject property. |
| <i>Improvements:</i> | None |
| <i>Zoning:</i> | None |

HIGHEST AND BEST USE

"The reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, financially feasible and that results in the highest value."¹

The definition above applies to the highest and best use of vacant land or improved property. It is to be recognized that in cases where a site has existing improvements on it, the highest and best use may very well be determined to be different from the existing use. The existing use will continue, however, unless and until land value in its highest and best use exceeds the total value of the property in its existing use.

Quite often in estimating the highest and best use of land, the appraiser is controlled by governmental regulations. These controls are generally zoning ordinance, parking requirements and building codes. Also, in the estimate of highest and best use, one must recognize the attitude of typical investors in the marketplace.

Real estate will usually fall into certain definite development patterns, and their uses can be classified as: residential, agricultural, recreational, industrial, commercial or public use. In valuing the highest and best use of the land both as if vacant and improved, the following criteria must be met:

- 1) Legally permissible
- 2) Physically possible
- 3) Financially feasible
- 4) Maximally productive

HIGHEST AND BEST USE AS VACANT

Legally Possible

The subject property has no underlying zoning. The subject has historically been used as agricultural grazing. Based upon the location there is no apparent need for the property to be used as commercial, industrial, or by a government entity (public use).

Physically Possible

This area is predominately agricultural lands and is currently leased by the Lazy T# Red Angus, Inc. The lessee owns adjacent land and this land would be assembled.

¹ *The Appraisal of Real Estate, 12th Edition*, (Appraisal Institute, 2001), p. 305.

The “Assignment Conditions” as provided by the client instruct the appraiser to appraise the property as though legal and physical access exists.

The topography of the subject parcel is overall rolling.

Financially Feasible

Predominate use in the area is agricultural. The subject is bordered by agricultural land owned by the lessee. The lessee contacted the DNRC with respect to potentially purchasing the property through the Land Banking Program. If the sale occurs this parcel would be assembled.

Maximally Productive

The use that conforms to the requirements of the first three tests and would provide the maximum productivity of the subject site, is for continued agricultural use and assembled with the lessee’s adjacent land.

PROPERTY VALUATION

Whenever possible, all three basic approaches to value (Cost Approach, Sales Comparison Approach and Income Approach) are utilized. The resulting indications of value are then correlated into a final estimate of market value. In this analysis I have utilized the Sales Comparison approach.

DEFINITIONS

Sales Comparison Approach:

The process of deriving a value indication for the subject property by comparing similar properties that have recently sold with the property being appraised, identifying appropriate units of comparison, and making adjustments to the sale prices (or unit prices, as appropriate) of the comparable properties based on relevant, market-derived elements of comparison. The sales comparison approach may be used to value improved properties, vacant land, or land being considered as through vacant when an adequate supply of comparable sales is available.²

² The Appraisal of Real Estate, 14th Edition

SITE VALUATION

The method employed to value the site as if vacant and available for sale is the Sales Comparison Approach. An investigation of the market revealed four sales which are indicative of what a well-informed buyer or seller would consider in forming an opinion of value.

Montana is a non-disclosure State, which means sales information is not made public. Therefore, an appraiser must rely upon other sources, i.e. realtors, appraisers, property owners, etc. In many instances for a property of this type, it may never be exposed to the market. I spoke with Gordon Smedsrud, owner of Tiber Agency Real Estate in Shelby, and he provided me with sales data utilized in this appraisal. Mr. Smedsrud is familiar with the real estate market and familiar with the area the subject is located.

The sales utilized in this analysis are gleaned to be the best extracted from the market.

Adjustments

All of the comparable properties differ somewhat from each other, and from the subject in various ways. The usual differences are for cash equivalency, market conditions, location, and a number of physical characteristics. Many of these factors, in varying degrees, are applicable in the appraisal of the subject property. When dissimilarities are found in comparable properties, they are adjusted for by adding to the comparable price when the dissimilar factor is inferior to the same factor found in the subject property. Likewise, a minus adjustment should be made when the comparable sale has a factor which is superior to that found in the subject property. The sale properties then are adjusted to the subject property.

However, in the market it is often difficult and sometimes impossible to accurately isolate a given factor. In short, one very seldom finds sales which are identical in all respects but one, and thus is able to prove conclusively the value, or lack of it, for any one factor due to a difference in sale price. Often, there are plus and minus factors which offset each other. Thus, the use of subjective judgment, to some degree, may be exercised.

Nevertheless, the differences in values are real and adjustments based on as much fact as can be found, will be made. Then, the appraiser may call upon experience to make subjective judgments.

Property Rights

Each of the sales involves fee simple property rights. As a result, no property rights adjustments are warranted.

Financing:

All sales are cash to the seller and no adjustment is necessary.

Conditions of Sale:

No non-market conditions motivating the buyer or seller involved in the transactions are known, therefore no adjustments are required.

Market Conditions:

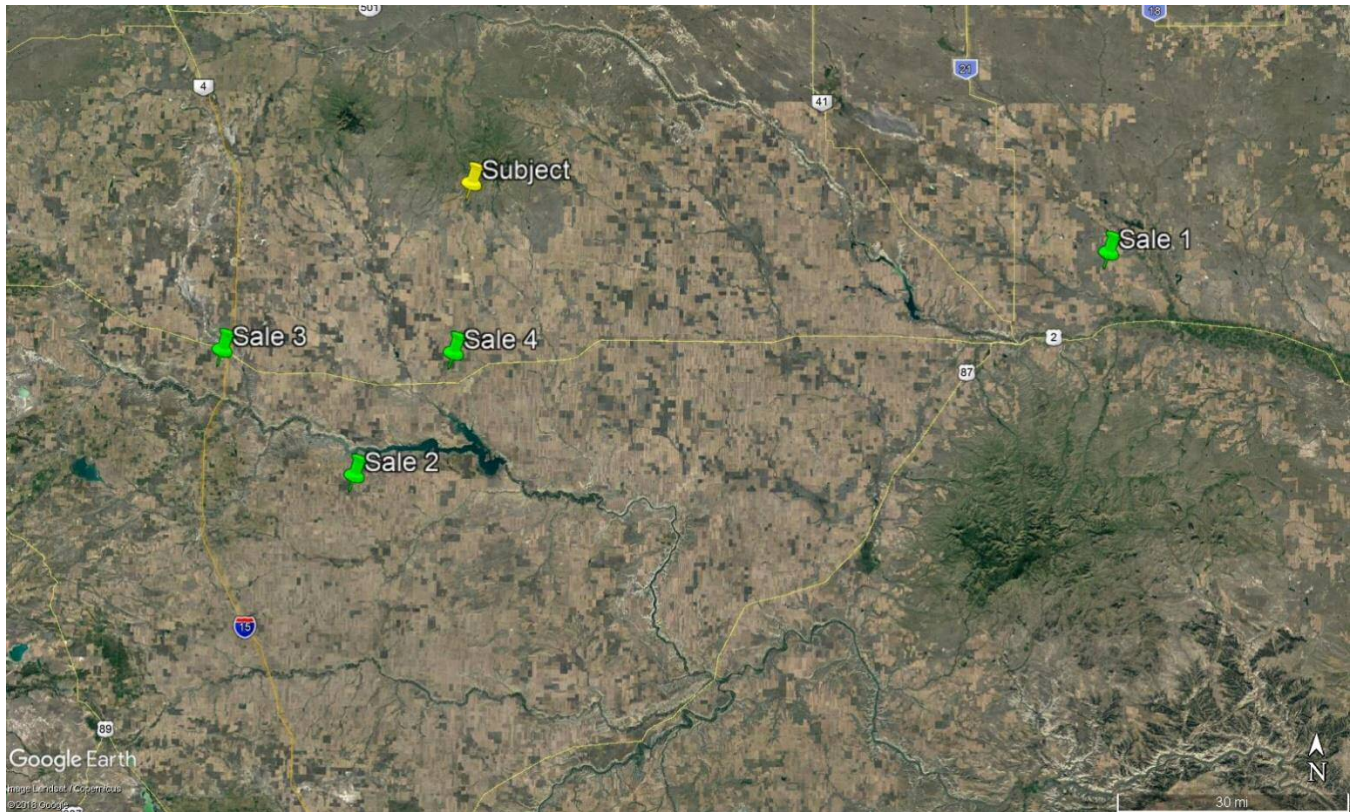
Typically, in an active market an adjustment for market conditions is required to bring all comparable sales up to the effective date of the appraisal report, April 24, 2019. The sales utilized in this analysis occurred from 6/2017 to 2/2019. Considering the property type and discussions with various real estate professionals familiar with the market, any adjustment upward or downward could not be quantified.

Remaining Adjustments:

The remaining adjustments will be explained in a qualitative analysis which is an effective technique that recognizes the inefficiencies of a real estate market and the difficulty in expressing the adjustments with mathematical precision.

The land sales map follows and detailed sales sheets which further describe the sales are within a separate document for confidentially purposes.

LAND SALES MAP



LAND SALE GRID

| | <u>Subject</u> | <u>Sale #1</u> | <u>Sale #2</u> | <u>Sale #3</u> | <u>Sale #4</u> |
|-----------------------|----------------|----------------|-----------------|-----------------|----------------------------|
| Sale Date | NA | 2/2019 | 1/31/2019 | 6/14/2018 | 6/29/2017 |
| Size – acres | | 160 | 320 | 637 | 1,584.2 |
| Sale 1042 | 120 | | | | |
| Sale 1043 | 80 | | | | |
| Sale Price | NA | \$95,000 | \$264,700 | 896,308 | \$1,267,527 |
| Price Per Acre | NA | \$594 | \$1,140 | \$1,407 | \$800 |
| Location | Liberty County | Blaine County | Toole County | Toole County | Liberty & Toole Counties |
| Comparison | | Similar | Similar | Similar | Similar |
| Land Use – Size | | | | | |
| Grazing Acres | 200 | 40 | 87 | None | None |
| Crop Acres | None | 120 | 233 | 637 | 1,584.2 |
| Comparison | | Superior | Superior | Superior | Superior |
| Water | Seasonal | Seasonal | Seasonal | Seasonal | Well |
| Comparison | | Similar | Similar | Similar | Superior |
| Topography | Rolling | Rolling | Generally level | Generally level | Rolling to generally level |
| Comparison | | Similar | Superior | Superior | Similar |

The following table is an array of the price per acre of the aforementioned sales:

| Sale No. | Price Per Acre |
|-----------------|-----------------------|
| Sale No. 1 | \$594/Ac |
| Sale No. 4 | \$800/Ac |
| Sale No. 2 | \$1,140/Ac |
| Sale No. 3 | \$1,407/Ac |

The subject consists of one 120-acre parcel and one 8040-acre parcel. The properties are contiguous and there is seasonal water. Each of the sales are overall superior to the subject as a result of all or a portion of the ground is cropland.

Discussions with a local real estate broker in Sidney, along with an appraiser in Havre, it was reported the price per acre for grazing land in the area ranges from \$300 to \$350 per acre. Considering the subject has decent seasonal water, I have concluded to a value of **\$350 per acre**.

Parcel – 1042 \$42,000*

Parcel – 1043 \$28,000*

* These values are subject to the Hypothetical Conditions on page 8

RECONCILIATION AND CONCLUSION

In this analysis, I have identified eight sales to estimate the value for the subject. Montana is a non-disclosure state which means sales prices are not public information. In essence, confirming sales information is difficult at best and the data utilized in this analysis is considered appropriate in determining a value for the subject. Therefore, it is my opinion a reasonable estimate of value as of April 24, 2019, was:

| | |
|----------------------|------------------|
| Parcel – 1042 | \$42,000* |
| Parcel – 1043 | \$28,000* |

* These values are subject to the Hypothetical Conditions on page 8

VALUE ESTIMATE AND CERTIFICATION

The undersigned does hereby certify that, to the best of his knowledge and belief, except as otherwise noted in this appraisal report:

- The statements of fact contained in this report are true and correct.
- The reported analysis, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and/or those found in the letter of engagement or appraisal consultation contract authorizing this report and is my personal, impartial, and unbiased professional analysis, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting a predetermined value.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal. This appraisal assignment was not based on a requested minimum valuation, a specific valuation or the approval of a loan.
- My analysis, opinions and conclusions were developed, and this report has been prepared, in conformity with The Uniform Standards of Professional Appraisal Practice and with the requirements of the Code of Professional Ethics and the Standards of Professional Practice of the Appraisal Institute.
- I have physically visited the subject parcels.
- I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- Gregory A. Thornquist is currently licensed in the State of Montana (Certificate #867) as a Certified General Real Estate Appraiser. Regarding the Competency Provision of USPAP, I further attest I've had substantial approved education and experience in the appraisal of various property types.

Based upon all the elements of which I am aware, and which could reasonably affect value, I have estimated market value of the subject, as of April 24,2019:

| | |
|----------------------|------------------|
| Parcel – 1042 | \$42,000* |
| Parcel – 1043 | \$28,000* |

* These values are subject to the Hypothetical Conditions on page 8



Gregory A. Thornquist
General Real Estate Appraiser
License # REA-RAG-LIC-867
6/7/2019

ADDENDA

FOR DNRC USE ONLY

Amount under this Agreement: **[REDACTED]**

Source of Funds

Fund Name

Land Banking Private Closing Costs

Fund No.

02031

Subclass

555HA

Org. No.

6049-59

Percent

100%

Approved

No. 195051

Division WDR

Legal DS

F.S.O. Che



**TRUST LAND MANAGEMENT DIVISION
APPRAISAL OF POTENTIAL LAND BANKING SALES IN LIBERTY COUNTY**

THIS CONTRACT is entered into by and between the State of Montana, Department of Natural Resources and Conservation (hereinafter referred to as "the State"), whose address and phone number are PO Box 201601, 1539 Eleventh Avenue, Helena, MT 59620-1601, (406) 444-4165 and Gregory A. Thornquist, Elkhorn Appraisal Services, (Contractor), whose address and phone number are PO Box 448, Helena, MT 59624 and (406) 449-7646.

1. EFFECTIVE DATE, DURATION, AND RENEWAL

1.1 Contract Term: The contract's initial term is upon contract execution, through February 30, 2019, unless terminated earlier as provided in this contract. In no event is this contract binding on the State unless the State's authorized representative has executed it in Section 34. The appraisal report is to be completed and forwarded to DNRC, Kelly Motichka, at PO Box 201601, 1539 Eleventh Avenue, Helena, MT 59620-1601 by December 31, 2018.

1.2 Contract Renewal: N/A

2. COST ADJUSTMENTS – N/A

2.1 Cost Increase by Mutual Agreement: N/A

3. SERVICES AND/OR SUPPLIES

The Contractor shall provide the State the following: the Contractor shall be responsible for providing a credible appraisal for the parcels in Liberty County as described in Attachment B, *Supplemental Appraisal Instructions: 2018 Liberty County Appraisals*. The appraisal will be an Appraisal Report, conducted and prepared in compliance with the Uniform Standards of Professional Appraisal Practice that will describe adequately the information analyzed, appraisal methods and techniques employed, and reasoning that support the analyses, opinions, and conclusions.

Attachment A and B are attached hereto and incorporated herein by reference.

The appraisal must comply with the instructions in Attachment A, *Scope of Work for the Appraisal of Potential Property Sales Through the Land Banking Program: 2018 Liberty County Appraisals*, and all provisions in the body of this contract including the following:

- 1) The appraisal report will be one document containing the property data and analysis, opinions, and conclusions of value for the properties. If deemed necessary by the Contractor rather than including the specific market data in the appraisal report, a separate addendum may be submitted containing the specific market data as a stand-alone document, which must be reviewed and accepted along with the appraisal, and can be returned to the Contractor for retention in his/her files. The Contractor must submit an electronic copy as well as a printed copy of the appraisal report.
- 2) Each sale parcel listed in Attachment B, *Supplemental Appraisal Instructions: 2018 Liberty County Appraisals* must be assigned separate values.
- 3) The definition of market value is that as defined in 70-30-313, MCA.

4. **WARRANTIES**

4.1 Warranty of Services: The Contractor warrants that the services provided conform to the contract requirements, including all descriptions, specifications, and attachments made a part of this contract. The State's acceptance of services provided by Contractor shall not relieve Contractor from its obligations under this warranty. In addition to its other remedies under this contract, at law, or in equity, the State may, at Contractor's expense, require prompt correction of any services failing to meet Contractor's warranty herein. Services corrected by Contractor shall be subject to all the provisions of this contract in the manner and to the same extent as services originally furnished.

5. **CONSIDERATION/PAYMENT**

5.1 Payment Schedule: In consideration of the successful submission of the appraisal report to be provided, the State shall pay Contractor \$1,800.00. The Contractor shall, at no additional expense to the State, correct unsatisfactory work before payment is made.

In no case shall the State's total cumulative payment under this contract exceed ~~one thousand eight hundred dollars and NO/100 (\$1,800.00)~~

5.2 Withholding of Payment: N/A

5.3 Payment Terms: Unless otherwise noted in the solicitation document, the State has thirty (30) days to pay invoices, as allowed by 17-8-242, MCA. The Contractor shall provide banking information at the time of contract execution in order to facilitate the State's electronic funds transfer payments.

5.4 Reference to Contract: The contract number MUST appear on all invoices, packing lists, packages, and correspondence pertaining to the contract. If the number is not provided, the State is not obligated to pay the invoice.

5.5 Fuel Surcharge: N/A

6. **PREVAILING WAGES REQUIREMENTS** – N/A

7. ACCESS AND RETENTION OF RECORDS

7.1 Access to Records: The Contractor shall provide the State, Legislative Auditor, or their authorized agents access to any records necessary to determine contract compliance. The State may terminate this contract under Section 20, without incurring liability, for the Contractor's refusal to allow access as required by this section (18-1-118, MCA).

7.2 Retention Period: The Contractor shall create and retain all records documenting the appraisal report for a period of eight years after either the completion date of this contract or termination of the contract.

8. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING

The Contractor may not assign, transfer, or subcontract any portion of this contract without the State's prior written consent (18-4-141, MCA). The Contractor is responsible to the State for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by the Contractor. No contractual relationships exist between any subcontractor and the State under this contract. The Contractor is responsible to ensure that any assignee, transferee, or subcontractor is subject to all of the terms and conditions of this contract as fully set forth. Consent of the State to assign, transfer, or subcontract any portion of this contract does not relieve the Contractor in any manner of his/her responsibilities under this contract.

9. HOLD HARMLESS/INDEMNIFICATION

9.1 Claims under this provision also include any claim arising out of or in any way connected with the Contractor's breach of this contract, including any claims asserting that any of the Contractor's employees are actually employees of the State or common law employees of the State or any of its agencies or political subdivisions, including but not limited to excise taxes or penalties imposed on the State under Internal Revenue Code §§ 4980H, 6055, or 6056 and any subsequent amendments or additions to these Sections. The Contractor shall be responsible for implementation of all aspects of the Affordable Care Act as this Act may apply to the Contractor and shall be responsible for any violations including any sanction, penalty, fee, or tax and shall indemnify the State and hold harmless and defend the State for any omission or failure of the Contractor to meet his/her obligations under Sections 13 and 14.

9.2 The Contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of State, under this contract.

10. CONTRACTOR REGISTRATION (for construction) – N/A

11. CONTRACTOR WITHHOLDING (for construction) – N/A

12. REQUIRED INSURANCE

12.1 General Requirements: The Contractor shall maintain for the duration of this contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work

by the Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

12.2 Primary Insurance: The Contractor's insurance coverage shall be primary insurance with respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees, or volunteers shall be in excess of Contractor's insurance and shall not contribute with it.

12.3 Specific Requirements for Commercial General Liability: N/A

12.4 Specific Requirements for Automobile Liability: The Contractor shall purchase and maintain coverage with split limits of \$500,000 per person (personal injury), \$1,000,000 per accident occurrence (personal injury), and \$100,000 per accident occurrence (property damage), OR combined single limits of \$1,000,000 per occurrence to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns, or subcontractors.

The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for automobiles leased, hired, or borrowed by Contractor.

12.5 Specific Requirements for Professional Liability: The Contractor shall purchase and maintain occurrence coverage with combined single limits for each wrongful act of **\$500,000** per occurrence and **\$500,000** aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns, or subcontractors. Note: If "occurrence" coverage is unavailable or cost prohibitive, the Contractor may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of this contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three-year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

12.6 Deductibles and Self-Insured Retentions: Any deductible or self-insured retention must be declared to and approved by the State. At the request of the State either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as pertain to the State, its officers, officials, employees, or volunteers; or (2) at the expense of the Contractor, the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

12.7 Certificate of Insurance/Endorsements: A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages, must be received by the State at DNRC, PO Box 201601, Helena, MT 59620-1601. The Contractor must notify the State immediately of any material change in insurance coverage, including but not limited to changes in limits, coverages, and status of policy. The Contractor must provide the State with copies of insurance policies upon request.

13. COMPLIANCE WITH WORKERS' COMPENSATION ACT

The Contractor shall comply with the provisions of the Montana Workers' Compensation Act while performing work for the State in accordance with 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither the Contractor nor its employees are State employees. This insurance/exemption must be valid for the entire contract term and any

renewal. Upon expiration, a renewal document must be sent to the State at DNRC, PO Box 201601, Helena, MT 59620-1601.

14. COMPLIANCE WITH LAWS

14.1 Federal, State, or Local laws, Rules, and Regulations: The Contractor shall, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules, and regulations, including but not limited to the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. The State may audit or request from the Contractor at any time a statement that it is fully compliant with all requirements of this Section.

14.2 Contractor as Employer under the Patient Protection and Affordable Care Act and this Contract: The Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees, and taxes under the Patient Protection and Affordable Care Act (PI 111-148, 124 Stat. 119). The Contractor represents and warrants that all individuals who perform services for an agency of the State for the Contractor under this contract are without exception the Contractor's common law employees at all times and that the Contractor acknowledges that the Contractor has the responsibility and retains the obligation to direct and control its employees providing services under this contract for the term of this contract. The Contractor is responsible for providing healthcare benefits for its employees under the Patient Protection and Affordable Care Act.

14.2.1 State Benefits Plans: The Contractor acknowledges and agrees that it, its agents or employees are not employees of the State and that its agents or employees have no nexus with the State to participate in any of the State's benefits plans or programs that the State offers its employees and maintains for its employees.

14.2.2 Contractor-Provided Health Care Coverage: The Contractor shall, if required by the Patient Protection and Affordable Care Act, offer to all its agents or employees who perform services for the State under this contract for 30 or more hours a week and for employee's or agent's dependents under age 26 health care coverage under its health care plans. Such coverage must provide minimum essential coverage and minimum value and be affordable for purposes of the employer responsibility provisions under Internal Revenue Code §§ 4980H and otherwise satisfy the requirements of Code §§ 4980H if provided by the State. It shall be the Contractor's sole responsibility to determine applicability and compliance requirements that may apply to the Contractor under the Patient Protection and Affordable Care Act.

14.2.3 Contractor Reporting Requirements: The Contractor acknowledges that if it is subject to any reporting requirements under Code §§ 6055 and 6066 that the Contractor will fully comply with any required reporting with respect to individuals who perform services for the State.

14.3 Any partial or whole assignment, transfer, subletting, or subcontracting by Contractor subjects subcontractors to the same provisions of this Section, and it is the responsibility of the Contractor to ensure any agreement to assign, transfer, sublet, or subcontract binds any successor to this contract in whole or in part or binds any subcontractor to all the terms and conditions of this contract as if a party to the contract from inception.

14.4 In accordance with 49-3-207, MCA, the Contractor agrees that the hiring of persons to perform this contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin of the persons performing this contract.

15. COMPLIANCE WITH DARK MONEY SPENDING DISCLOSURE REQUIREMENTS: N/A

16. DISABILITY ACCOMMODATIONS

The State does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids, alternative document formats, or services for effective communications or other disability related accommodations in the programs and services offered are invited to make their needs and preferences known to this office. Interested parties should provide as much advanced notice as possible.

17. REGISTRATION WITH THE SECRETARY OF STATE

Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the office of the Secretary of State at (406) 444-3665 or visit their website at <http://sos.mt.gov>.

18. INTELLECTUAL PROPERTY/OWNERSHIP

18.1 Mutual Use: The Contractor shall make available to the State, on a royalty-free, nonexclusive basis, all patent and other legal rights in or to inventions first conceived and reduced to practice, or created in whole or in part under this contract, if such availability is necessary for the State to receive the benefits of this contract. Unless otherwise specified in a statement of work, both parties shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use copyrightable property created under this contract. This mutual right includes (1) all deliverables and other materials, products, modifications that the Contractor has developed or prepared for the State under this contract; (2) any program code, or site-related program code that the Contractor has created, developed, or prepared under or primarily in support of the performance of its specific obligations under this contract; and (3) manuals, training materials, and documentation. All information described in (1), (2), and (3) is collectively called the "Work Product".

18.2 Title and Ownership Rights: The State retains title to and all ownership rights in all data and content, including but not limited to multimedia or images (graphics, audio, and video), text, and the like provided by the State (the "Content"), but grants the Contractor the right to access and use Content for the purpose of complying with its obligations under this contract and any applicable statement of work.

18.3 Ownership of Work Product: The Contractor shall execute any documents or take any other actions as may reasonably be necessary, or as the State may reasonably request, to perfect the State's ownership of any Work Product.

18.4 Copy of Work Product: The Contractor shall, at no cost to the State, deliver to the State, upon the State's request during the term of this contract or at its expiration or termination, a current copy of all Work Product in the form and on the media in use as of the date of the State's request, or such expiration or termination.

18.5 Ownership of Contractor Pre-Existing Materials: The Contractor retains ownership of all literary or other works of authorship (such as software programs and code, documentation, reports, and similar works), information, data, intellectual property, techniques, subroutines, algorithms, methods or related rights, and derivatives that the Contractor owns at the time this contract is executed or otherwise developed or acquired independent of this contract and employed by the Contractor in connection with the services provided to the State (the "Contractor Pre-Existing Materials"). Contractor Pre-Existing Materials are not Work Product. The Contractor shall provide full disclosure of any Contractor Pre-Existing Materials to the State before its use and to prove its ownership. If, however, the Contractor fails to disclose to the State such Contractor Pre-Existing Materials, the Contractor shall grant the State a nonexclusive, worldwide, paid-up license to use any Contractor Pre-Existing Materials embedded in the Work Product to the extent such Contractor Pre-Existing Materials are necessary for the State to receive the intended benefit under this contract. Such license shall remain in effect for so long as such Contractor Pre-Existing Materials remain embedded in the Work Product. Except as otherwise provided for in **Section 18.3** or as may be expressly agreed in any statement of work, the Contractor shall retain title to and ownership of any hardware it provides under this contract.

19. **PATENT AND COPYRIGHT PROTECTION** – N/A

20. **CONTRACT PERFORMANCE ASSURANCE** – N/A

21. **CONTRACT TERMINATION**

21.1 Termination for Cause with Notice to Cure Requirement: The State may terminate this contract in whole or in part for Contractor's failure to materially perform any of the services, duties, terms, or conditions contained in this contract after giving the Contractor written notice of the stated failure. The written notice must demand performance of the stated failure within a specified period of time of not less than 14 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

21.2 Termination for Cause with Notice to Cure Requirement: The Contractor may terminate this contract for the State's failure to perform any of its duties under this contract after giving the State written notice of the failure. The written notice must demand performance of the stated failure within a specified period of time of not less than 14 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

21.3 Reduction of Funding: The State must by law terminate this contract if funds are not appropriated or otherwise made available to support the State's continuation of performance of this contract in a subsequent fiscal period (18-4-313(4), MCA). If state or federal government funds are not appropriated or otherwise made available through the state budgeting process to support continued performance of this contract (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, the State shall terminate this contract as required by law. The State shall provide the Contractor the date the State's termination shall take effect. The State shall not be liable to the Contractor for any payment that would have been payable had the contract not been terminated under this provision. As stated above, the State shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to the Contractor up to the date the State's termination takes effect. This is the Contractor's sole remedy. The State shall not be liable to the Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

22. EVENT OF BREACH – REMEDIES

22.1 Event of Breach by Contractor: Any one or more of the following Contractor acts or omissions constitute an event of material breach under this contract:

- Products or services furnished fail to conform to any requirement;
- Failure to submit any report required by this contract;
- Failure to perform any of the other terms and conditions of this contract, including but not limited to beginning work under this contract without prior State approval or breaching Section 27.1, obligations; or
- Voluntary or involuntary bankruptcy or receivership.

22.2 Event of Breach by State: The State's failure to perform any material terms or conditions of this contract constitutes an event of breach.

22.3 Actions in Event of Breach: Upon the Contractor's material breach, the State may:

- Terminate this contract under section 21.1; or
- Treat this contract as materially breached and pursue any of its remedies under this contract, at law, or in equity.

Upon the State's material breach, the Contractor may:

- Terminate this Contract under Section 21.2 and pursue any of its remedies under this contract, at law, or in equity; or
- Treat this contract as materially breached and, except as the remedy is limited in this contract, pursue any of its remedies under this contract, at law, or in equity.

23. FORCE MAJEURE

Neither party is responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party uses its best efforts to remedy such failure or delays. A party affected by a force majeure condition shall provide written notice to the other party within a reasonable time of the onset of the condition. In no event, however, shall the notice be provided later than 5 working days after the onset. If the notice is not provided within the 5-day period, then a party may not claim a force majeure event. A force majeure condition suspends a party's obligations under this contract, unless the parties mutually agree that the obligation is excused because of the condition.

24. WAIVER OF BREACH

Either party's failure to enforce any contract provisions after any event of breach is not a waiver of its right to enforce the provisions and exercise appropriate remedies if the breach occurs again. Neither party may assert the defense of waiver in these situations.

25. CONFORMANCE WITH CONTRACT

No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without the State's prior written consent. Product or services provided that do not conform to the contract terms, conditions, and specifications may be rejected and returned at Contractor's expense.

26. LIAISONS AND SERVICE OF NOTICES

26.1 Contract Liaisons: All project management and coordination on the State's behalf must be through a single point of contact designated as the State's liaison. The Contractor shall designate a liaison that will provide the single point of contact for management and coordination of the Contractor's work. All work performed under this contract must be coordinated between the State's liaison and the Contractor's liaison.

Kelly Motichka, Lands Section Supervisor, is the State's liaison.

Address: PO Box 201601

City, State, Zipcode: Helena, MT 59620-1601

Telephone: (406) 444-4165

Fax: (406) 444-2684

E-Mail: kmotichka@mt.gov

Gregory A. Thornquist is Contractor's liaison.

Address: PO Box 448

City, State, Zipcode: Helena, MT 59624

Telephone: (406) 449-7646

E-Mail: greg@elkhornappraisal.com

26.2 Notifications: The State's liaison and the Contractor's liaison may be changed by written notice to the other party. Written notices, requests, or complaints must first be directed to the liaison. Notice may be provided by personal service, mail, or facsimile. If notice is provided by personal service or facsimile, the notice is effective upon receipt; if notice is provided by mail, the notice is effective within 3 business days of mailing. A signed and dated acknowledgement of the notice is required of both parties.

26.3 Identification/Substitution of Personnel: N/A

27. MEETINGS

27.1 Technical or Contractual Problems: The Contractor shall meet with the State's personnel, or designated representatives, to resolve technical or contractual problems occurring during the contract term or to discuss the progress made by Contractor and the State in the performance of their respective obligations, at no additional cost to the State. The State may request the meetings as problems arise and will be coordinated by the State. The State shall provide Contractor a minimum of three full working day notice of meeting date, time, and location. Face-to-face meetings are desired; however, at Contractor's option and expense, a conference call meeting may be substituted. Consistent failure to participate in problem resolution meetings, two consecutive missed or rescheduled meetings, or failure to make a good faith effort to resolve problems, may result in termination of the contract.

27.2 Progress Meetings: N/A

27.3 Failure to Notify: N/A

27.4 State's Failure or Delay: N/A

28. TRANSITION ASSISTANCE

If this contract is not renewed at the end of this term, if the contract is otherwise terminated before project completion, or if particular work on a project is terminated for any reason, the Contractor shall provide transition assistance for a reasonable, mutually agreed period of time after the expiration or termination of this contract or particular work under this contract. The purpose of this assistance is to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. The parties agree that such transition assistance is governed by the terms and conditions of this contract, except for those terms or conditions that do not reasonably apply to such transition assistance. The State shall pay the Contractor for any resources utilized in performing such transition assistance at the most current contract rates. If the State terminates a project or this contract for cause, then the State may offset the cost of paying the Contractor for the additional resources the Contractor utilized in providing transition assistance with any damages the State may have sustained as a result of the Contractor's breach.

29. CHOICE OF LAW AND VENUE

Montana law governs this contract. The parties agree that any litigation concerning this bid, proposal, or this contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees (18-1-401, MCA).

30. TAX EXEMPTION

State of Montana is exempt from Federal Excise Taxes (#81-0302402) except as otherwise provided in the federal Patient Protection and Affordable Care Act (PI 111-148, 124 Stat. 119).

31. AUTHORITY

This contract is issued under authority of Title 18, Montana Code Annotated (MCA), and the Administrative Rules of Montana (ARM), Title 2, Chapter 5.

32. SEVERABILITY CLAUSE

A declaration by any court or any other binding legal source that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually and materially dependent.

33. SCOPE, ENTIRE AGREEMENT, AND AMENDMENT **32.1 Contract:** This Contract consists of 11 numbered pages, Attachment A – *Scope of Work for the Appraisal of Potential Property Sales Through the Land Banking Program: 2018 Liberty County Appraisals* and Attachment B – *Supplemental Appraisal Instructions: 2018 Liberty County Appraisals* on pages 12 through 15, the Solicitation, as amended, and the Contractor's response, as amended. In the case of dispute or ambiguity arising between or among the documents, the order of precedence of document interpretation is the same.

33.2 Entire Agreement: These documents are the entire agreement of the parties. They supersede all prior agreements, representations, and understandings. Any amendment or modification must be in a written agreement signed by all the parties.

34. WAIVER

The State's waiver of any Contractor obligation or responsibility in a specific situation is not a waiver in a future similar situation or is not a waiver of any other Contractor obligation or responsibility.

35. EXECUTION

The parties through their authorized agents have executed this contract on the dates set out below.

A scanned copy or facsimile copy of the original has the same force and effect as the original document.

STATE OF MONTANA

**Dept. Natural Resources & Conservation
Trust Land Management Division
PO Box 201601
1539 Eleventh Avenue
Helena, MT 59620-1601**

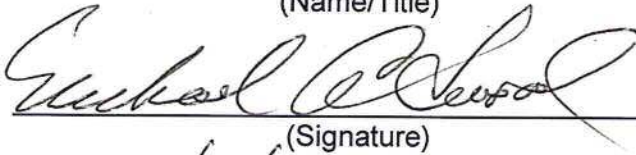
CONTRACTOR

**Gregory A. Thornquist
Elkhorn Appraisal Services
PO Box 448
Helena, MT 59624**

FEDERAL ID #: 32-0228888

BY: Michael Atwood, Real Estate Management
Bureau Chief

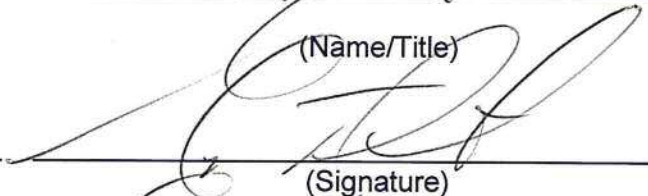
(Name/Title)


(Signature)

DATE: 1/9/2019

BY: GREG THORNTON

(Name/Title)


(Signature)

DATE: 1/8/19

ATTACHMENT A

DNRC TLMD Real Estate Management Bureau Land Banking Program

Scope of Work for the Appraisal of Potential Property Sales Through the Land Banking Program: 2018 Liberty County Appraisals

CLIENT, INTENDED USERS, PURPOSE AND INTENDED USE:

The clients are the State of Montana, the Montana Board of Land Commissioners (Land Board), and the Department of Natural Resources and Conservation (DNRC). The intended users are State of Montana, the Montana Board of Land Commissioners (Land Board), the Department of Natural Resources and Conservation (DNRC), and Lessee Lazy T3 Red Angus, Inc. The purpose of the appraisal is to provide the clients with a credible opinion of current fair market value of the appraised subject property and is intended for use in the decision-making process concerning the potential sale of said subject property.

DEFINITIONS:

Current fair market value. (MCA 70-30-313) Current fair market value is the price that would be agreed to by a willing and informed seller and buyer, taking into consideration, but not limited to, the following factors:

- (1) the highest and best reasonably available use and its value for such use, provided current use may not be presumed to be the highest and best use;
- (2) the machinery, equipment, and fixtures forming part of the real estate taken; and
- (3) any other relevant factors as to which evidence is offered.

Highest and best use. The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum profitability.

PROPERTY RIGHTS APPRAISED:

State of Montana lands are always to be appraised as if they are in private ownership and could be sold on the open market and are to be appraised in Fee Simple interest. For analysis purposes, properties that have leases or licenses on them are to be appraised with the Hypothetical Condition the leases/licenses do not exist.

EFFECTIVE DATE OF VALUATION AND DATE OF INSPECTION:

The latest date of inspection by the appraiser will be the effective date of the valuation.

SUBJECT PROPERTY DESCRIPTION & CHARACTERISTICS:

The legal descriptions and other characteristics of the state's property that are known by the state will be provided to the appraiser. However, the appraiser should verify, as best as possible, any information provided. Further, should any adverse conditions be found by the appraiser in the course of inspecting the property and neighborhood, or through researching information about the property, neighborhood, and market, those conditions shall be communicated to the clients and may change the scope of work required.

ASSIGNMENT CONDITIONS:

The appraiser must be a Montana certified general appraiser and be competent to appraise the subject property. The appraisal is to conform to the latest edition of USPAP, and the opinion of value must be credible. The appraiser is to physically inspect the subject properties at a level that will allow the appraiser to render a credible opinion of value about the properties. For those properties which consist of more than one section, the appraiser must at least view each section. The appraiser must have knowledge of the comparables through either personal inspection or with use of sources the appraiser deems reliable and must have at least viewed the comparables.

The appraiser will consider the highest and best use of the subject property. (Note: It may be possible that because of the characteristics of a subject property or market, there may be different highest and best uses for different components of the property. Again, that will depend on the individual characteristics of the subject property and correlating market. The appraiser must look at what a typical buyer for the property would consider.)

Along with using the sales comparison approach to value in this appraisal (using comparable sales of like properties in the subject's market or similar markets), the appraiser will also consider the cost and income approaches to value. The appraiser will use those approaches, as applicable, in order to provide a credible opinion of value. Any approaches not used are to be noted, along with a reasonable explanation as to why the approach or approaches were not applicable.

The appraisal will be an Appraisal Report, as per USPAP, that will describe adequately the information analyzed, appraisal methods and techniques employed, and reasoning that support the analyses, opinions, and conclusions. All hypothetical conditions and extraordinary assumptions must be noted. The appraiser will provide one appraisal report that includes analysis and appraised values of the two (2) sites identified in the Supplemental Appraisal Instructions.

The subject property must be valued with the actual or hypothetical condition that the sites have legal access. Parcels with no legal access will be appraised with the hypothetical condition of having legal access.

The site (land) should be valued under the hypothetical condition that it is vacant raw land, without any site improvements, utilities, or buildings. The appraisal on the state's lands must include state-owned improvements in the valuation, but the appraisal on the state's lands must exclude lessee-owned or licensee-owned improvements in the valuation.

All appraisals are to describe the market value trends, and provide a rate of change, for the markets of the subject property. Comparable sales used should preferably be most recent sales available or be adjusted for market trends if appropriate. The comparable sales must be in reasonable proximity to the subject, preferably within the same county or a neighboring county. Use comparable sales of like properties.

ATTACHMENT B

DNRC TLMD Real Estate Management Bureau Land Banking Program

Supplemental Appraisal Instructions: 2018 Liberty County Appraisals

This Scope of Work and Supplemental Appraisal Instructions are to be included in the appraiser's addendum.

Subject Property in Liberty County:

| Sale # | Acres | Legal Description |
|---------------|--------------|---|
| 1042 | 120 | W2NE4, NW4SE4 T35N-R4E, Sec. 9 Liberty County |
| 1043 | 80 | W2SE4 T35N-R4E, Sec. 4 Liberty County |

DNRC Contact Information:

Erik Eneboe, Unit Manager
DNRC Conrad Unit Office
PO Box 961
Conrad, MT 59425
Phone: (406) 278-7869
eneboe@mt.gov

Renee Kelley, Real Estate Sales Specialist
DNRC TLMD Real Estate Management Bureau
PO Box 201601
Helena, MT 59620-1601
Phone (406) 444-4289
renee.kelley@mt.gov

Lessee:

Lazy T3 Red Angus, Inc.
c/o Errol Fritz
1465 Whitlash Road
Chester, MT 59522
(406) 432-5045

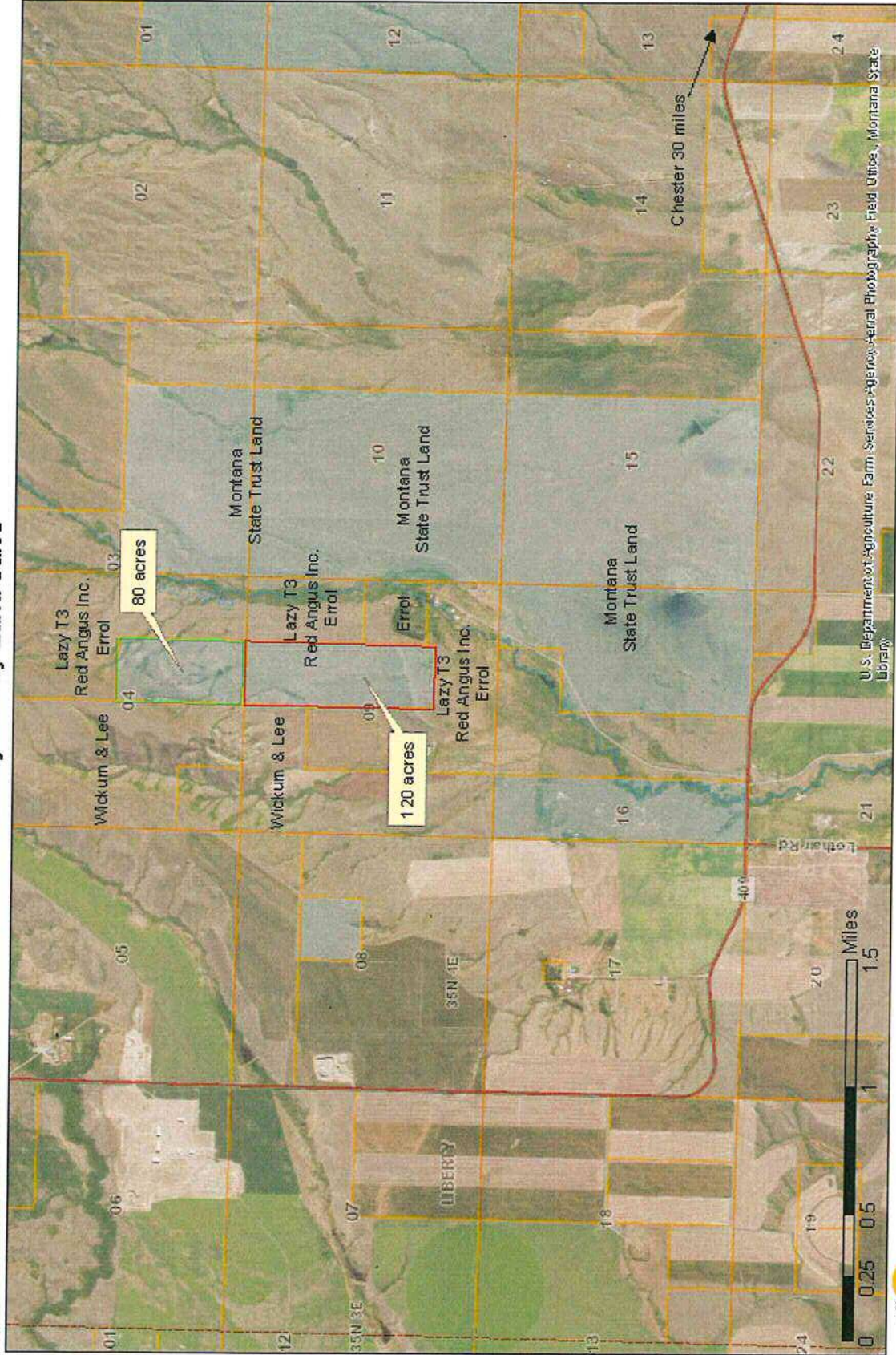
The following will be located in the body of the contract:

The appraisal report will be one document containing the parcel data and the analysis, opinions, and conclusions of value(s) for the parcel. If deemed necessary by the contractor rather than including the specific market data in the appraisal report, a separate addendum may be submitted containing the specific market data as a stand-alone document, which must be reviewed and accepted along with the appraisal, and will be returned to the appraiser for retention in his/her files. The appraiser must submit an electronic copy as well as a printed copy of the appraisal report.

The definition of market value is that as defined in 70-30-313, MCA.

The DNRC will provide access to the state parcel record, as maintained by the land office, including but not limited to aerial photos, land improvements, current lease data (lease #, name of lessee, acreage, costs, etc.), any known property issues, any surveys, and production history. The local land office will provide contact information to the appraiser, if necessary, in order for the appraiser to obtain access to the property.

Liberty County Land Sales



Location: Section 4 & 9 T35 N, R4 E
 Prepared by: RMW
 Prepared on: 2 AUG 2018
 Projection: NAD 1983 - MT State Plane

Legend

- Land Sale #1042
- Land Sale #1043
- Parcel
- Montana State Trust Land

Property Record Card

Summary

Primary Information

Property Category: [RP](#) **Subcategory:** [Government Property](#)
Geocode: [48-4751-04-4-01-01-0000](#) **Assessment Code:** [000008563A](#)
Primary Owner: [STATE OF MONTANA](#) **PropertyAddress:**
[PO BOX 201601](#) **COS Parcel:**
[HELENA, MT 59620-1601](#)
[NOTE: See the Owner tab for all owner information](#)

Certificate of Survey:

Subdivision:

Legal Description:

[S04, T35 N, R04 E, W2SE](#)

Last Modified: [5/21/2019 11:38:43 PM](#)

General Property Information

Neighborhood: [248.001](#) **Property Type:** [EP - Exempt Property](#)
Living Units: [0](#) **Levy District:** [48-2236-48-R](#)
Zoning: **Ownership %:** [100](#)
Linked Property:

[No linked properties exist for this property](#)

Exemptions:

[No exemptions exist for this property](#)

Condo Ownership:

General: [0](#) **Limited:** [0](#)

Property Factors

Topography: [8](#) **Fronting:** [0 - None](#)
Utilities: [0](#) **Parking Type:**
Access: [0](#) **Parking Quantity:**
Location: [0 - Rural Land](#) **Parking Proximity:**

Land Summary

| <u>Land Type</u> | <u>Acres</u> | <u>Value</u> |
|-------------------|------------------------|--------------------------|
| Grazing | 0.000 | 5,202.00 |
| Fallow | 0.000 | 00.00 |
| Irrigated | 0.000 | 00.00 |
| Continuous Crop | 0.000 | 00.00 |
| Wild Hay | 0.000 | 00.00 |
| Farmsite | 0.000 | 00.00 |
| ROW | 0.000 | 00.00 |
| NonQual Land | 0.000 | 00.00 |
| Total Ag Land | 80.000 | 5,202.00 |
| Total Forest Land | 0.000 | 00.00 |
| Total Market Land | 0.000 | 00.00 |

Deed Information:

| Deed Date | Book | Page | Recorded Date | Document Number | Document Type |
|-----------|------|------|---------------|-----------------|---------------|
|-----------|------|------|---------------|-----------------|---------------|

Owners

Party #1

Default Information: STATE OF MONTANA
 PO BOX 201601
Ownership %: 100
Primary Owner: "Yes"
Interest Type: Conversion
Last Modified: 12/20/2007 11:02:33 PM

Other Names

Other Addresses

Name

Type

Appraisals

Appraisal History

| Tax Year | Land Value | Building Value | Total Value | Method |
|----------|------------|----------------|-------------|--------|
| 2019 | 5202 | 0 | 5202 | COST |
| 2018 | 4855 | 0 | 4855 | COST |
| 2017 | 4855 | 0 | 4855 | COST |

Market Land

Market Land Info

No market land info exists for this parcel

Dwellings

Existing Dwellings

No dwellings exist for this parcel

Other Buildings/Improvements

Outbuilding/Yard Improvements

No other buildings or yard improvements exist for this parcel

Commercial

Existing Commercial Buildings

No commercial buildings exist for this parcel

Ag/Forest Land

Ag/Forest Land Item #1

Acre Type: G - Grazing

Class Code: 1651

Productivity

Quantity: 0.322

Units: AUM/Acre

Valuation

Acres: 1.802

Value: 142

Irrigation Type:

Timber Zone:

Commodity: Grazing Fee

Per Acre Value: 79.06

Ag/Forest Land Item #2

Acre Type: G - Grazing

Irrigation Type:

Class Code: 1651

Productivity

Quantity: 0.177

Units: AUM/Acre

Valuation

Acres: 27.114

Value: 1178

Ag/Forest Land Item #3

Acre Type: G - Grazing

Class Code: 1651

Productivity

Quantity: 0.309

Units: AUM/Acre

Valuation

Acres: 43.284

Value: 3280

Ag/Forest Land Item #4

Acre Type: G - Grazing

Class Code: 1651

Productivity

Quantity: 0.315

Units: AUM/Acre

Valuation

Acres: 7.8

Value: 602

Timber Zone:

Commodity: Grazing Fee

Per Acre Value: 43.44

Irrigation Type:

Timber Zone:

Commodity: Grazing Fee

Per Acre Value: 75.78

Irrigation Type:

Timber Zone:

Commodity: Grazing Fee

Per Acre Value: 77.19

Property Record Card

Summary

Primary Information

Property Category: [RP](#) **Subcategory:** [Government Property](#)
Geocode: [48-4751-09-1-01-01-0000](#) **Assessment Code:** [000008563A](#)
Primary Owner: [STATE OF MONTANA](#) **PropertyAddress:**
[PO BOX 201601](#) **COS Parcel:**
[HELENA, MT 59620-1601](#)
[NOTE: See the Owner tab for all owner information](#)

Certificate of Survey:

Subdivision:

Legal Description:

[S09, T35 N, R04 E, W2NE, NWSE](#)
Last Modified: [5/21/2019 11:38:43 PM](#)

General Property Information

Neighborhood: [248.001](#) **Property Type:** [EP - Exempt Property](#)
Living Units: [0](#) **Levy District:** [48-2236-48-R](#)
Zoning: **Ownership %:** [100](#)
Linked Property:

[No linked properties exist for this property](#)

Exemptions:

[No exemptions exist for this property](#)

Condo Ownership:

General: [0](#) **Limited:** [0](#)

Property Factors

Topography: [8](#) **Fronting:** [0 - None](#)
Utilities: [0](#) **Parking Type:**
Access: [0](#) **Parking Quantity:**
Location: [0 - Rural Land](#) **Parking Proximity:**

Land Summary

| <u>Land Type</u> | <u>Acres</u> | <u>Value</u> |
|-------------------|--------------|--------------|
| Grazing | 0.000 | 9,222.00 |
| Fallow | 0.000 | 00.00 |
| Irrigated | 0.000 | 00.00 |
| Continuous Crop | 0.000 | 00.00 |
| Wild Hay | 0.000 | 00.00 |
| Farmsite | 0.000 | 00.00 |
| ROW | 0.000 | 00.00 |
| NonQual Land | 0.000 | 00.00 |
| Total Ag Land | 120.000 | 9,222.00 |
| Total Forest Land | 0.000 | 00.00 |
| Total Market Land | 0.000 | 00.00 |

Deed Information:

| Deed Date | Book | Page | Recorded Date | Document Number | Document Type |
|-----------|------|------|---------------|-----------------|---------------|
|-----------|------|------|---------------|-----------------|---------------|

Owners

Party #1

Default Information: STATE OF MONTANA
PO BOX 201601
Ownership %: 100
Primary Owner: "Yes"
Interest Type: Conversion
Last Modified: 12/20/2007 11:02:33 PM

Other Names

Other Addresses

Name

Type

Appraisals

Appraisal History

| Tax Year | Land Value | Building Value | Total Value | Method |
|----------|------------|----------------|-------------|--------|
| 2019 | 9222 | 0 | 9222 | COST |
| 2018 | 8598 | 0 | 8598 | COST |
| 2017 | 8598 | 0 | 8598 | COST |

Market Land

Market Land Info

No market land info exists for this parcel

Dwellings

Existing Dwellings

No dwellings exist for this parcel

Other Buildings/Improvements

Outbuilding/Yard Improvements

No other buildings or yard improvements exist for this parcel

Commercial

Existing Commercial Buildings

No commercial buildings exist for this parcel

Ag/Forest Land

Ag/Forest Land Item #1

Acre Type: G - Grazing

Class Code: 1651

Productivity

Quantity: 0.299

Units: AUM/Acre

Valuation

Acres: 29.206

Value: 2145

Irrigation Type:

Timber Zone:

Commodity: Grazing Fee

Per Acre Value: 73.44

Ag/Forest Land Item #2

Acre Type: G - Grazing

Irrigation Type:

Class Code: 1651

Productivity

Quantity: 0.309

Units: AUM/Acre

Valuation

Acres: 30.772

Value: 2332

Ag/Forest Land Item #3

Acre Type: G - Grazing

Class Code: 1651

Productivity

Quantity: 0.322

Units: AUM/Acre

Valuation

Acres: 60.022

Value: 4745

Timber Zone:

Commodity: Grazing Fee

Per Acre Value: 75.78

Irrigation Type:

Timber Zone:

Commodity: Grazing Fee

Per Acre Value: 79.06

Gregory A. Thornquist
Elkhorn Appraisal Services
State of Montana, Certified General #867
P.O. Box 448
Helena, MT 59624

Appraisers Qualifications

| | | |
|--------------------|---|---------------|
| EMPLOYMENT: | Present, Elkhorn Appraisal Services A real estate appraisal firm. | Helena, MT |
| | July 2006 to February 2008, Joki & Associates Real Estate Appraisers, Staff real estate appraiser. | Helena, MT |
| | July 1995 to July 2006, Montana State Tax Appeal Board, Board Member/Chairman | Helena, MT |
| | 1993 - 1995, Rutherford & Associates Appraisals, Inc, Apprentice Appraiser | Billings, MT |
| | 1987 - 1995, Thornquist Property Tax Consulting, Owner/ Tax Consultant | Billings, MT |
| EDUCATION: | Carroll College Business Studies | Helena, MT |
| | 1984 - 1986 University of Northern Colorado Business Studies | Greeley, CO |
| | 1983 Arapahoe Community College Business Studies | Littleton, CO |
| | Specialized Real Estate courses: | |
| | Report Writing American Society of Farm Managers and Rural Appraisers, January 30, 2018 | |
| | National UPAP Update Course American Society of Farm Managers and Rural Appraisers, January 29, 2018 | |
| | Uniform Appraisal Standards for Federal Land Acquisitions – Practical Applications Appraisal Institute, May 22 & 23, 2017 | |
| | The Valuation of Intangible and Non Financial Assets American Society of Farm Managers and Rural Appraisers , Bozeman, February 22 & 23, 2017 | |
| | National UPAP Update Course Appraisal Institute, January 25, 2016 | |
| | Litigation Appraising: Specialized Topics and Applications Appraisal Institute, November 6 & 7, 2014 | |

General Appraiser Market Analysis and Highest & Best Use
Appraisal Institute, April 29-May 2, 2014

National USPAP Update Course
Appraisal Institute Seminar, January 31, 2014

Business Practices and Ethics
Appraisal Institute, September 13, 2013

National USPAP Update Course
Appraisal Institute Seminar, January 27, 2012

The Discounted Cash Flow Model: Concepts, Issues, and Apps
Appraisal Institute Seminar, October 5, 2010

Hotel Appraising – New Techniques for Today’s Uncertain Times
Appraisal Institute Seminar, October 4, 2010

Using Spreadsheet Programs in Real Estate Appraisals
Appraisal Institute Seminar, April, 2010

National USPAP Update Course
Appraisal Institute Seminar, February 5, 2010

Appraisal Curriculum Overview
Appraisal Institute Seminar, September 24-25, 2009

Requirements of UASFLA – The Yellow Book
American Society of Farm and Rural Appraisers, October 14, 2008

Office Building Valuation: A Contemporary Perspective
Appraisal Institute Seminar, September, 19, 2008

Report Writing and Valuation Analysis
Appraisal Institute, June, 2007

Uniform Standards of Professional Appraisal Practice (USPAP)
Lincoln Graduate Center, August, 2006

General Applications - Online Course
Appraisal Institute, January, 2006

Using Your HP-12C Financial Calculator - Online Course
Appraisal Institute, October, 2005

The Appraiser as an Expert Witness
Appraisal Institute, January, 2005

Separating Real & Personal Property from Intangible Business Assets
Appraisal Institute, October, 2003

Appraisal Procedures
Appraisal Institute, March, 2002

Partial Interest Valuation - Divided
Appraisal Institute, September, 2001

Litigation Skills for the Appraiser
Appraisal Institute, April, 2000

Residential Case Study
Appraisal Institute, June, 1999

Sales Comparison Valuation of Small Mixed Use Properties
Appraisal Institute, January, 1999

General Applications
Appraisal Institute, December, 1997

Basic Income Capitalization
Appraisal Institute, June, 1997

Income Approach to Valuation
International Association of Assessing Officers, October 1990

Other Related Training

Administrative Law Fair Hearing
The National Judicial College, November, 1995

Logic and Opinion Writing for Administrative Law Judges
The National Judicial College, June, 1999

STATE CERTIFICATION: State of Montana, Certified General #867, Issued December, 2007

TYPICAL APPRAISALS: Multifamily, office, skilled nursing/convalescent facility, retail, commercial, industrial, special purpose, residential condominiums, vacant land, residential and commercial subdivision land.

CLIENTS: Wells Fargo Bank, Stockman Bank, Opportunity Bank, Valley Bank of Helena, United States of America – Department of Veterans Affairs, State of Montana – Department of Natural Resources, State of Montana – Fish Wildlife and Parks, Lewis and Clark County, City of Helena, Butte-Silver Bow County, First Community Bank, Bank of Baker, 1st Interstate Bank, Citizens State Bank, Western Security Bank, First Montana Bank, Mountain West Bank, Rocky Mountain Bank, Amegy Bank, Allstate Appraisal Services, and other private parties.

ORGINIZATIONS/BOARDS:

- General Manager for the Helena American Legion Baseball (2016 – current)
- Board Member – Montana Real Estate Appraiser's (2017 – current)
- Board Member – American Legion Institute of Family Living, Broadwater Village Apartments (2017 – current)
- American Legion (2015 – current)

MILITARY SERVICE: United States Navy – 1978 – 1982, Honorable Discharge



State of Montana
Business Standards Division
Board of Real Estate Appraisers

REA-RAG-LIC-867

Status: **Active**
Expires: **03/31/2020**

This certificate verifies licensure as:

CERTIFIED GENERAL APPRAISER

With endorsements of:

* **REAL ESTATE APPRAISER MENTOR**

GREGORY THORNQUIST
1522 CHOTEAU ST
HELENA, MT 59601

 Montana Department of
LABOR & INDUSTRY
RENEW OR VERIFY YOUR LICENSE AT:
<https://elbiz.mt.gov/pol>