

Revised and released  
10/01/2014

TITLE POLICY PROCEDURES WITH  
THE MONTANA DEPARTMENT OF TRANSPORTATION

- I. Since November, 2000 the Montana Department of Transportation (MDT) has agreed to order title commitments instead of highway memorandums.
- II. MDT will obtain title insurance policies for purchased right-of-way, and litigation guarantees for right-of-way that must be acquired through condemnation proceedings.
- III. Fees and procedures negotiated between MDT and Montana Land Title Association (MLTA)
  - A) MDT or its consultant will order title commitments based on the following fee schedule

FEE	\$300.00	\$250.00
DELIVERY TIME IN DAYS FROM ORDER DATE	< 30 Days	>30 Days

- B) Title agents will issue the commitment for coverage equal to that available for the premium charge of \$300.00 or \$250.00 or the closest amount thereto. Title agents will follow the same procedure and fee schedule for title commitments ordered by MDT's consultants, and be sure that MDT is the proposed insured. After the right of way is acquired by MDT, title agents will insure for the actual amount paid for the right-of-way. Title agents would then reduce its coverage liability to the amount paid for the right-of-way and keep the remaining difference of the original fee as the extra work charge. If it is more than the original fee, then title agents would bill the Montana Department of Transportation for the additional charge, based on the present rate filings by the underwriter.
  - a. Title agents will extend the terms of the commitment from six months to no more than two years.
  - b. Title agents will provide one date down endorsement to each commitment for no additional charge, and subsequent date down endorsements will be billed at \$50.00 each, within the two-year time frame.
  - c. If the commitment exceeds the two years, it can be reissued for an additional two years for a fee of \$100.00 per commitment, as long as it is ordered within one year after the two years has expired.
- C) Unusually long or difficult examination fees are negotiable with MDT, but **MUST** be approved by MDT prior to incurring these costs.
- D) When ordering commitments, MDT or its consultant will send its highway right-of-

way map, showing the area in which parcels are needed. This is preliminary, and the title agents will determine and number the parcels by ownership.

- E) If it appears that the project may affect condominium ownerships, the title agent will contact MDT and/or its consultant and receive approval before preparing title commitments for each individual unit owner.
  - F) Commitments will be delivered to MDT in an electronic .pdf format and MUST provide MDT with copies of the vesting deeds, associated Certificate of Survey's, plats and instruments shown on Schedule "B". If Title Agents are unable to provide the electronic .pdf format, paper copies of all items will be mailed to MDT.
  - G) File naming structure for the electronic commitments will correspond with an index map provided by the Title agent. Files can be delivered via e-mail, FTP Site or CD depending on the right-of-way designer's request. Multiple documents should be compiled into a single file if possible before delivery.
  - H) If MDT orders a commitment on a parcel and it becomes necessary for MDT to acquire the right-of-way through condemnation proceedings, MDT will then request that the commitment be converted to a Litigation Guarantee. The parties agree that such conversion would be done under the minimum premium agreement. Should MDT wish an owner's policy of title insurance following the condemnation proceeding, it would be provided at the reduced rate as contained in the present rate filings by the underwriters.
  - I) It is required that the title commitment on Schedule "A" contains the project ID number, the project designation, and the project number. (These are found on the original title commitment request.)
  - J) MDT has in some cases been securing 'access control only' where MDT is limiting the point of access abutting a state highway, county road, etc. MDT secures access rights with a bargain and sale deed. These are mainly for safety reasons and do not require a policy. Within the two-year time frame, if the title agent has issued a commitment and MDT secures 'Access Control only' with a bargain and sale deed the title agent will convert these commitments to lot book guarantees at no additional cost.
  - K) Do not provide title commitments on parcels located on unpatented U.S. Government or State of Montana land, however please place the name of the agency that owns or manages these lands on the plan sheets that will be returned to MDT.
- IV. MDT and its consultants will attempt to patronize title agents equitably in placing orders, and has requested that any title agents not wishing to participate in this program advise MDT, so as to avoid delays in placing orders.
- V. If you encounter any problems or have questions, please contact Russ Gowen at Helena Abstract & Title Company at; e-mail [rtgowen@helenaabstract.com](mailto:rtgowen@helenaabstract.com) - Phone, (406) 442-5080 or FAX (406) 442-6179 or the MDT Lands Section Supervisor,

David Hoerning 406-444-7686 or the MDT R/W Financial Manager, Carly McNulty at 406-444-6060.

This procedural outline was prepared for the Montana Land Title Association by Russ Gowen, Helena Abstract and Title Company and David Hoerning, Montana Department of Transportation.