

## **FACT SHEET**

### **Indemnity Selection Effort State of Montana**

The Enabling Act of 1889, under which Washington, North Dakota, South Dakota, and Montana were admitted to the Union, states, "That upon admission of each of said states into the Union, sections numbered sixteen and thirty-six in every township of said proposed states ... are hereby granted to said states for the support of common schools....". Over time, most of the obligation due Montana has been satisfied, including the transfer of substantial acreage in lieu of Sections 16 and 36 where prior appropriation prevented transfer to the State. The most recent indemnity selections in Montana were approved in 1984, and again in 1990, leaving a balance of 1184.16 acres still subject to indemnity selection. At that time, the State determined they would defer additional applications to complete the selection due to staffing and resource constraints.

In November 2012, the BLM and the Western States Land Commissioners Association entered into a Memorandum of Understanding emphasizing the priority of completing land selections across the states which have not yet been made whole. The Montana/Dakotas Bureau of Land Management (BLM) and the State of Montana (State), through the efforts of the Department of Natural Resources and Conservation (DNRC), have been working together in conducting pre-application review and coordination to satisfy the final federal land transfer obligation outlined in the Act.

In the spring and summer of 2015, the State and the BLM reviewed the 1184.16 acres known as "base land" and agreed to freeze the value of the remaining entitlement while a selection application is perfected. Based on a comparable sales approach, the obligation to the State has been determined to be \$4,104,727. This is consistent with a Supreme Court ruling under *Andrus v. Utah*, 446 U.S. 500 (1980) that provides selections for base land indemnity can be based on "roughly equivalent value" rather than a tract-by-tract match. The same methodology will be used to determine the value of the selected lands.

After substantial coordination with BLM, the State of Montana submitted a selection application dated December 2, 2015. The application includes lands located in Chouteau, Custer, Fallon, Hill, Prairie, Richland, and Yellowstone counties. These lands are administered by three different field offices in the Montana/Dakotas BLM organization—Billings, Havre and Miles City.

The BLM has begun a formal review of this application and will process it in accordance with BLM manual and regulatory guidance on indemnity selections, which includes an environmental review process. Formal public meetings will be held and both the BLM and the DNRC will seek substantial public comment. It may take up to two years to make a determination as to which lands are suitable for selection and should be transferred to the State.