MACo MIDWINTER CONFERENCE
BEST WESTERN HERITAGE INN, 1700 FOX FARM ROAD, GREAT FALLS
406/761-1900
MONDAY, FEBRUARY 22 – THURSDAY, FEBRUARY 25, 2010

MONDAY, FEBRUARY 22, 2010 – Clerk & Recorders Meeting

8:00 a.m. - 8:30 a.m.	**Clerk & Recorder business, pledge, attendance, etc…**
9:00 a.m. – 9:30 a.m.	**Proposed changes to administrative rules on filing surveys #1104/#1107 presented by Steve Anderson, followed by Clerk & Recorder open discussion**
9:30 a.m. – 9:45 a.m.	**Folding machine and letter opener demonstrated by Rina Moore. DynaFold DE-322 and a Martin Yale letter opener Model # 62001**
9:45 a.m. – 10:00 a.m.	**BREAK**
10:00 a.m. – 11:00 a.m.	**Simplifile eRecording presented via satellite presented by Alan Hogan Overview of eRecording practices in Flathead County presented by Monica Eisenzimer, Records Manager, followed by Clerk & Recorder open discussion**
11:00 a.m. – 11:45 a.m.	**Linda Stoll overview of Title Companies document standards request.**
11:45 a.m. – 1:00 p.m.	**Lunch**
1:15 p.m. – 2:30 p.m.	**Secretary of State Office, Rusty Harper, Deputy and Lori Hamm, Notary Compliance and Training presenting general overview of basic notary requirements, journal and its requirements and the new stamp/seal and when it's required. Questions, answers and general discussion.**
2:30 p.m. – 2:45 p.m.	**BREAK**
3:00 p.m. – 4:30 p.m.	**Clerk and Recorder round table general discussion topics to include:** • **Linda Stoll discussion elections – revisit Bales Bill – develop plan of action.** • ***OTHER* ?**

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MACO MIDWINTER CONFERENCE - BEST WESTERN HERITAGE INN
MONDAY – FEBRUARY 22, 2010

Monday, February 22, 2010

Following the agenda, the meeting was called to order at 8:00 am.

Steve Anderson, a surveyor from Gallatin County, and a representative from MARLS (Montana Association of Registered Land Surveyors) presented the proposed changes to administrative rules on filing surveys. A copy of the proposed changes are attached as 'Exhibit A'.

There was also discussion about the uniform standard for Corner Record Forms. There are two forms, the corner recordation form and also the public land survey forms. He said that the corner record survey of record index has been mis-used. He noted that the correct forms are available on the MARLS website.

He noted that there have been requests to put additional non-survey information on plats. He said that the information on the surveys must be based on the field data. There was discussion about filing a supplementary document with the recording information being listed on the plat. He said that a supplemental exhibit would not need to have an amended survey filed. They want flexibility and don't want to have to change a mylar. The example that came up was if the they were to place covenants on the plat face, and those covenants were changed, then an entire amended plat would have to be filed rather than just the supplemental document.

A committee was set up to further discuss this with MARLS. The committee members are:

Tony Kalfell
Rina Fontana Moore
Bonnie Ramey
Charlotte Mills

Rina Moore & Shantell McGraw demonstrated the Dynafold DE-322 Folding Machine and a Martin Yale letter opener Model #62001.

Alan Hogan presented an overview of eRecording practices in Flathead County via satellite. Monica Eisenzimer, Records Manager for Flathead County Clerk & Recorder assisted Alan with his satellite presentation.

Linda Stoll spoke about some of the changes that the title companies wanted for the recording standards. She mentioned that some of the issues were county specific and that we need to develop a consensus. She suggested that we should wait and hear from them before we act. She said that she would question Stuart Doggett so that she could stay ahead of the game. It was mentioned that the title companies are complaining that the fees and the non-conforming documents are not the same from county to county. Font has also become an issue.

The document standards committee should discuss this and have some formal training in August.

Tony Kalfell mentioned that the 3" margin was for the Clerk stamp and the font and the margin was so the document could be reproduced. The different fonts have created problems in this area.

Linda Stoll said that she would get in touch with the title company to see what they were looking for.

Rusty Harper and Lori Hamm from the Secretary of States Office gave an overview of the basic notary requirements, the journal and its requirements and the new stamp/seal. The handout is attached as Exhibit 'B'. He mentioned that the changes had been started by Brad Johnson.

Linda Stoll told us that Tropila will head the SAVA committee. We need to approach the League of Women Voters, the Conservation Voters and any other opponents of the bill. We must have a committee bill ready for 2010.

The meeting was adjourned at 4:47 pm.

Exhibit 'A'

Changes to these administrative rules first suggested by Myra Shults, July 2009, then modified by the working group January 12, 2010, and further modified by Roger Millar and Candi Beaudry, planners, by 1/19/10 (highlighted in green) and by Steve Anderson (surveyor) [highlighted in light blue]. Editing changes since January 12th are highlighted in yellow. Sue Shanon, planner, comments are highlighted in pink.

24.183.1104 UNIFORM STANDARDS FOR CERTIFICATES OF SURVEY

(1) A certificate of survey may not be filed by a county clerk and recorder unless it complies with the following requirements:

(a) A certificate of survey must be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches, or 24 inches by 36 inches, overall to include a 1 1/2 inch margin on the binding side.

(b) One signed copy on cloth-backed material or on 3 mil or heavier matte stable-base polyester film or equivalent and one signed reproducible copy on a stable-base polyester film or equivalent must be submitted.

(c) If more than one sheet must be used to adequately depict the land surveyed, each sheet must show the number of that sheet and the total number of sheets included. All certifications must be placed or referred to on one sheet.

(d) A certificate of survey must show or contain on its face or on separate sheets referred to on its face the following information. The surveyor may, at his or her discretion, provide additional information regarding the survey.

(i) A title or title block including the quarter-section, section, township, range, principal meridian and county, and, if applicable, city or town in which the surveyed land is located. Except as provided in (1) (f) (v) , a certificate of survey must not bear the title "plat," "subdivision" or any title other than "Certificate of Survey."

(ii) The name(s) of the person(s) who commissioned the survey, the name(s) of the owner of the land to be subdivided if other than the person(s) commissioning the survey, and the names of any adjoining platted subdivisions and the numbers of any adjoining certificates of survey previously filed.

Comment [s1]: Language would make this consistent with requirements of 24.183.1107 and makes sense.

(iii) The date the survey was completed and a brief explanation of why the certificate of survey was prepared, such as to create a new parcel, retrace a section line or retrace an existing parcel of land.

(iv) A north arrow.

(v) A scale bar. (The scale must be sufficient to legibly represent the required information and data.)

(vi) The location of, and other information relating to all monuments found, set, reset, replaced or removed as required by ARM 24.183.1101(1) (c) .

(A) If additional monuments are to be set after the certificate of survey is filed, these monuments must be shown by a distinct symbol, and the certificate of survey must bear a certification by the surveyor as to the reason the monuments have not been set and the date by which they will be set.

(B) All monuments found during a retracement that influenced the position of any corner or boundary indicated on the certificate of survey must be clearly shown as required by ARM 24.183.1101(1) (c) .

(vii) The location of any section corners or corners of divisions of sections the surveyor deems to be pertinent to the survey.

(viii) Witness and reference monuments and basis of bearings. For purposes of this rule the term "basis of bearings" means the surveyor's statement as to the origin of the bearings shown in the certificate of survey. The basis of bearings may refer to a particular line between monumented points in a previously filed survey document. If the certificate of survey shows true bearings, the basis of bearings must describe the method by which these true bearings were determined.

(ix) The bearings, distances and curve data of all boundary lines. If the parcel surveyed is bounded by an irregular shoreline or a body of water, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given.

(A) The courses along a meander line are shown solely to provide a basis for calculating the acreage of a parcel that has one or more riparian boundaries as the parcel existed at the time of survey.

(B) For purposes of this rule a line that indicates a fixed boundary of a parcel is not a "meander" or "meander line" and may not be designated as one.

(x) Data on all curves sufficient to enable the reestablishment of the curves on the ground. For circular curves these data must at least include radius and arc length. For nontangent curves, which must be so labeled, the certificate of survey must include the bearings of radial lines or chord length and bearing.

(xi) Lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically.

(xii) A narrative legal description of the parcel surveyed as follows:

(A) If the parcel surveyed is either an aliquot part of a U.S. government section or a U.S. government lot, the information required by this subsection is the aliquot or government lot description of the parcel.

(B) If the survey depicts the retracement or division of ~~a~~ one or more parcels or lots ~~that is~~ shown on a filed certificate of survey or subdivision plat, the information required by this subsection is the number or name of the certificate of survey or plat and the parcel or lot number of the parcel surveyed.

(C) If the parcel surveyed does not fall within (1) (d) (xii) (A) or (B), above, the information required by this subsection is the metes-and-bounds description of the perimeter boundary of the parcel surveyed.

(D) If the certificate of survey establishes the boundary of a parcel containing one or more ~~interior~~ parcels not shown of the filed certificate of survey or plat, the information required by this subsection is the legal description of the encompassing parcel.

(E) The requirement of this rule does not apply to certificates of survey that depict a partial retracement of the boundaries of an existing parcel or establish the location of lines or corners that control the location of an existing parcel.

(xiii) Except as provided by (1) (f) (iv), all parcels created by the survey, designated by number or letter, and the dimensions, ~~and~~ area of each parcel, and the acreage of each parcel. (Excepted parcels must be marked "Not included in this survey.") If a parcel created by the survey is identifiable as a 1/32 or larger aliquot part of a U.S. government section or as a U.S. government lot, it may be designated by number or letter or by its aliquot part or government lot identification.

(xiv) The location of any easement that will be created by reference to the certificate of survey.

(xv) The dated signature and the seal of the surveyor responsible for the survey. The affixing of this seal constitutes a certification by the surveyor that the certificate of survey has been prepared in conformance with Parts 1 through 4 of the Montana Subdivision and Platting Act (76-3-101 through ~~76-3-625~~ ~~76-3-407~~ 76-3-411, MCA) and the regulations adopted under that Act.

(xvi) A memorandum of any oaths administered under 76-3-405, MCA.

(xvii) Space for the county clerk and recorder's filing information.

(e) Certificates of survey that do not represent a division of land, such as those depicting the retracement of an existing parcel and those prepared for informational purposes, must bear a statement as to their purpose and must meet applicable requirements of this rule for form and content.

(f) Procedures for divisions of land exempted from public review as subdivisions. Certificates of survey for divisions of land meeting the criteria set out in 76-3-207, MCA, must meet the following requirements:

(i) A certificate of survey of a division of land that would otherwise be a subdivision but that is exempted from subdivision review under 76-3-207, MCA, may not be filed by the county clerk and recorder unless it bears the acknowledged certificate of the property owner stating that the division of land is exempt from review as a subdivision and citing the applicable exemption.

(ii) If the exemption relied upon requires that the property owner enter into a covenant running with the land, the certificate of survey may not be filed unless it bears or is accompanied by a recitation of the covenant signed and acknowledged by all parties to the agreement.

(iii) If a certificate of survey invokes the exemption for gifts and sales to members of the landowner's immediate family:~~,~~

(A) the certificate must indicate the name of the proposed grantee, the relationship of the grantee to the landowner and the parcel to be conveyed to the grantee, and

(B) the certificate must be accompanied by the documents transferring ownership to the grantee.

(iv) If a certificate of survey invokes the exemption for the relocation of common boundary lines:

(A) The certificate of survey must bear the signatures of all landowners whose parcels will be altered by the proposed relocation. The certificate of survey must show that the exemption was used only to change the location of or eliminate a boundary line dividing

Comment [s2]: Language would make this consistent with requirements of 24.183.1107 and makes sense.

Comment [s3]: Lake County currently does this to incorporate additional restrictions adopted in the evasion criteria of our subdivision regulations.

two or more parcels, and must clearly distinguish the prior boundary location (shown, for example, by a dashed or broken line or a notation) from the new boundary (shown, for example, by a solid line or notation) ;

(B) The certificate of survey must show the boundaries of the area that is being removed from one parcel and joined with another parcel. The certificate of survey may, but is not required to, establish the exterior boundaries of the resulting parcels. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient to clearly identify both the location and the extent of the boundary relocation; and

(C) the certificate must be accompanied by the documents transferring ownership of the area being joined to the adjacent parcel.

~~(C) If a boundary line will be completely eliminated, the certificate must establish the boundary of the resulting parcel.~~

New Section

(v) If a boundary line will be completely eliminated pursuant to 76-3-207(1)(f), the certificate must clearly distinguish the prior boundary location (shown, for example, by a dashed or broken line or a notation) and establish the boundary of the resulting parcel.

[Renumber]

(v) A survey document that modifies lots in a platted and filed subdivision and invokes an exemption from subdivision review under 76-3-201 or 76-3-207 (1) (d) or (e) , MCA, must be entitled "amended plat of the (name of subdivision) ," but for all other purposes is to be regarded as a certificate of survey and comply with all other requirements of 24.183.1104 as applicable. ~~The document must contain a statement signed by the property owner that approval of the local government body is not required and citing the applicable exemption.~~

(vi) If the certificate of survey invokes an exemption from subdivision review under 76-3-207, MCA, the certificate of survey must:

(A) bear, or be accompanied by, a certification by the county treasurer that all taxes and special assessments assessed and levied on the surveyed land have been paid;

(B) be accompanied by a certificate of a title abstractor showing the names of the owners of record of the land to be divided and the names of any lien holders or claimants of record against the land and the written consent to the division by the owners of the land, if other than the person commissioning the survey, and any lien holders or claimants of record against the land; and

(C) If applicable, for lots less than 20 acres in size, must be accompanied by a certification from the state Department of Environmental Quality stating that it has approved the plans and specifications for water supply and sanitary facilities pursuant to 76-4, MCA.

(vii) For purposes of (1) (f), when the parcel of land for which an exemption from subdivision review is claimed is being conveyed under a contract-for-deed, the terms

Comment [s4]: There are boundary relocation surveys filed in Lake County that have never been "recognized" by the Clerk and Recorder because the legal documents transferring the property were never recorded.

Comment [s5]: Needs to be amended to address 76-3-207(1)(f)

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Comment [s6]: makes sense to update the rules to acknowledge recent legislative changes

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Comment [s7]: redundant; already stated in 24.183.1104(1)(f)(i)

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Comment [s8]:

Comment [s9]:

Comment [s10]: 76-4-104(2) MCA states "The rules and standards must provide the basis for approving subdivisions for various types of public and private water supplies, sewage disposal facilities, storm water drainage ways, and solid waste disposal."

"property owner", "landowner" and "owner" mean the seller of the parcel under the contract-for-deed.

(g) Procedures for filing certificates of survey of divisions of land entirely exempted from the requirements of the Act. The divisions of land described in 76-3-201, 76-3-205 and 76-3-209, MCA, and divisions of federally owned land made by a United States government agency are not required to be surveyed, nor must a certificate of survey or subdivision plat showing these divisions be filed with the clerk and recorder. A certificate of survey of one of these divisions may, however, be filed with the clerk and recorder if the certificate of survey meets the requirements for form and content for certificates of survey contained in this rule and bears a certificate of the surveyor performing the survey citing the applicable exemption from the Act or, when applicable, that the land surveyed is owned by the federal government.

History: 76-3-403, MCA; IMP, 76-3-403, MCA; NEW, Eff. 1/5/74; EMERG, AMD, Eff. 7/1/74; AMD, Eff. 10/5/74; AMD, Eff. 4/5/76; AMD, 1977 MAR p. 955, Eff. 1/26/77; AMD, 1980 MAR p. 2806, Eff. 10/17/80; TRANS, from Dept. of Comm. Affairs, Ch. 274, L. 1981, Eff. 7/1/81; AMD, 2000 MAR p. 462, Eff. 2/11/00; TRANS, from Commerce, 2005 MAR p. 966.

24.183.1107 UNIFORM STANDARDS FOR FINAL SUBDIVISION PLATS

(1) A final subdivision plat may not be approved by the governing body or filed by the county clerk and recorder unless it complies with the following requirements:

(a) Final subdivision plats must be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches or 24 inches by 36 inches overall to include a 1 1/2-inch margin on the binding side.

(b) One signed copy on cloth-backed material or on 3 mil or heavier matte stable-base polyester film or equivalent and one signed reproducible copy on a stable-base polyester film or equivalent must be submitted.

(c) If more than one sheet must be used to adequately depict the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications must be placed or referred to on one sheet.

(d) A survey that modifies ~~the property boundaries of in~~ a filed subdivision plat must be entitled "amended plat of (lot, block and name of subdivision being amended) ," and unless it is exempt from subdivision review by 76-3-201 or 76-3-207 (1) (d) or (e) , MCA, may not be filed with the county clerk and recorder unless it meets the filing requirements for final subdivision plats specified in this rule.

(2) Except as provided in 24.183.1107(4), a ~~A~~ final plat submitted for approval must show or contain, on its face or on ~~separate~~ additional sheets ~~referred to on the plat~~ as provided in 24.183.1107(1)(c) the following information. The surveyor may, at his or her discretion, provide additional information regarding the survey.

(a) A title or title block indicating the quarter-section, section, township, range, principal meridian, county and, if applicable city or town, in which the subdivision is located. The title of the plat must contain the words "plat" and either "subdivision" or "addition".

(b) The name of the person(s) who commissioned the survey and the name(s) of the owner of the land to be subdivided if other than the person(s) commissioning the survey, the names of any adjoining platted subdivisions, and the numbers of any adjoining certificates of survey previously filed.

(c) A statement that federal, state and local plans, policies, regulations and/or conditions of subdivision approval that may limit the use of the property, including the location, size and use of buildings constructed thereon, are not shown on the face of the plat.

(d) A statement that buyers of property should ensure that they have obtained and reviewed all sheets, supplements and attachments to the plat and that buyers of property are strongly encouraged to contact the local planning department and become informed of any limitations on the use of the property prior to closing.

(e) A statement that a supplementary exhibit depicting conformance with the conditions of approval of the preliminary plat application, entitled "Supplement to [insert name of] Subdivision," ~~was~~ will be filed with the plat."

[Renumber]

(c) A north arrow.

(d) A scale bar. (The scale must be sufficient to legibly represent the required information and data on the plat.)

(e) The location of, and other information relating to all monuments found, set, reset, replaced or removed as required by ARM 24.183.1101(1) (c) .

(i) If additional monuments are to be set after the plat is filed, the location of these monuments must be shown by a distinct symbol, and the plat must bear a certification by the surveyor as to the reason the monuments have not been set and the date by which they will be set.

(ii) All monuments found during a retracement that influenced the position of any corner or boundary indicated on the plat must be clearly shown as required by ARM 24.183.1101(1) (c) .

~~(f) The location of any section corners or corners of divisions of sections pertinent to the survey.~~

(g) Witness and reference monuments and basis of bearings. For purposes of this rule the term "basis of bearings" means the surveyor's statement as to the origin of the bearings shown on the plat. The basis of bearings may refer to a particular line between monumented points in a previously filed survey document. If the plat shows true bearings, the basis of bearings must describe the method by which these true bearings were determined.

(h) The bearings, distances and curve data of all boundary lines. If the subdivision is bounded by an irregular shoreline or body of water that is a riparian boundary, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given.

(i) The courses along a meander line are shown solely to provide a basis for calculating the acreage of a parcel with one or more riparian boundaries as the parcel existed at the time of survey.

(ii) For purposes of these regulations a line that indicates a fixed boundary of a parcel is not a "meander" or "meander line" and may not be designated as one.

(i) Data on all curves sufficient to enable the re-establishment of the curves on the ground. For circular curves these data must at least include radius and arc length. For non-tangent curves, which must be so labeled, the plat must include the bearings of radial lines or chord length and bearing.

(j) Lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically.

(k) The location of any section corners or corners of divisions of sections the surveyor deems to be pertinent to the subdivision.

(l) All lots and blocks in the subdivision, designated by number, the dimensions of each lot and block, the area of each lot, and the total acreage of all lots. (Excepted parcels must be marked "Not included in this subdivision" or "Not included in this plat," as appropriate, and the bearings and lengths of these excepted boundaries must be shown.)

(m) All streets, alleys, avenues, roads and highways; their widths (if ascertainable) from public records, bearings and area; the width and purpose of all road rights-of-way and all other easements that will be created by the filing of the plat; and the names of all streets, roads and highways.

(n) The location, dimensions and areas of all parks, common areas and other grounds dedicated for public use.

(o) The total acreage of the subdivision.

(p) A narrative legal description of the subdivision as follows:

(i) If the parcel being subdivided is either an aliquot part of a U.S. government section or a U.S. government lot, the information required by this subsection is the aliquot or government lot description of the parcel.

(ii) If the plat depicts the division of one or more ~~a~~ parcels or lots ~~that is~~ shown on a filed certificate of survey or subdivision plat, the information required by this subsection is the number or name of the certificate of survey or plat and the number of the parcel or lot affected by the survey.

(iii) If the parcel surveyed does not fall within (2) (p) (i) or (ii) , above, the information required by this subsection is the metes-and-bounds description of the perimeter boundary of the subdivision.

(iv) If the plat establishes the boundaries of a subdivision containing one or more ~~interior~~ parcels not shown of a filed certificate of survey or plat, the information required by this subsection is the legal description of the perimeter boundary of the subdivision.

(q) The dated signature and the seal of the surveyor responsible for the survey. The affixing of this seal constitutes a certification by the surveyor that the survey portion of the final plat has been prepared in conformance with Parts 1 through 4 of the Montana Subdivision and Platting Act (76-3-101 through ~~76-3-625~~ 76-3-411, MCA) and the regulations adopted under that Act.

(r) A memorandum of any oaths administered under 76-3-405, MCA.

(s) The dated, signed and acknowledged consent to the subdivision of the owner of the land being subdivided. For purposes of this rule when the parcel of land proposed for subdivision is being conveyed under a contract-for-deed, the terms "owner" and "owner of the land" refers to the seller under the contract-for-deed.

(t) Certification by the governing body that the final subdivision plat is approved.

(u) Space for the clerk and recorder's filing information.

(3) The following certifications of final plat approval must appear on the face of the final plat or on a separate sheet referred to on the face of the plat:

~~(3) The following documents must appear on the face of or accompany the approved final plat when it is presented to the county clerk and recorder for filing:~~

(a) If applicable, the owner's certificate of dedication of streets, parks, playground easements or other public improvements.

(b) If applicable, a certificate of the governing body expressly accepting any dedicated land, easements or improvements. An acceptance of ~~a~~ the dedication is ineffective without this certification.

~~(c) A certificate of a title abstractor showing the names of the owners of record of the land to be subdivided and the names of any lien holders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lien holders or claimants of record against the land.~~

~~(d) Copies of any covenants or deed restrictions relating to the subdivision.~~

~~(e) If applicable, a certificate from the state department of environmental quality stating that it has approved the plans and specifications for water supply and sanitary facilities.~~

~~(f)~~ (c) A certificate from the subdivider indicating which required public improvements have been installed, ~~and a copy of any subdivision improvements agreement securing the future construction of any additional public improvement to be installed.~~

~~(g) Unless otherwise provided by local subdivision regulations, copies of final plans, profiles, grades and specifications for improvements, including a complete grading and drainage plan, with the certification of a registered professional engineer that all required improvements which have been installed are in conformance with the attached plans. Local subdivision regulations may authorize the subdivider, under conditions satisfactory to the governing body, to prepare these plans and specifications after the~~

~~final plat has been filed or file them with a government official other than the county clerk and recorder, or both.~~

~~(h)~~ (d) If applicable, the certificate of the examining land surveyor.

~~(i) If a street created by the plat will intersect with a state highway, a copy of the state highway access or encroachment permit.~~

~~(j)~~ (e) The certification of the county treasurer that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid.

(f) If applicable, certification of the sanitarian.

(4) **New section.** If applicable, a supplementary exhibit to the plat depicting conformance with the conditions of approval of the preliminary plat application, shall be entitled "Supplement to [insert name of] Subdivision" with a title block indicating the quarter-section, section, township, range, principal meridian, county and, if applicable city or town in which the subdivision is located and shall contain:

(a) Any text or graphic representations of requirements by the governing body for final plat approval as set forth in the preliminary plat approval, including but not limited to setbacks from streams or riparian areas, floodplain boundaries, no-build areas, building envelopes, the use of particular parcels or clear vision triangles. Information described in this subsection, as well as covenants and restrictions, shall not be shown on the face of the plat.

(b) A certification that the ~~sheets~~ supplementary exhibit of the final plat, following the sheets certified by a professional land surveyor, ~~have~~ has been prepared in conformance with the Montana Subdivision and Platting Act (76-3-101 through 76-3-625, MCA) and the regulations adopted under that Act, by a dated signature and the seal of a Montana licensed surveyor, engineer or architect who is the representative of the subdivider, that ~~all~~ conditions for final plat approval as shown on the supplementary exhibit have been satisfied.

(c) A notation stating that the information shown is current as of the date of the certification and that changes to any land use restrictions or encumbrances may be made by amendments to covenants, zoning regulations, easements or other documents, as allowed by law or by local regulations.

(5) **New section.** Any change to a supplementary exhibit which is approved by the governing body must be depicted upon an amended supplementary exhibit. ~~which~~ An amended supplementary exhibit is not an amended plat as referenced in 24.183.1107(1)~~(b)~~ d, but is required to comply with 24.183.1107(4) except it shall be entitled "Amended Supplement to [insert name of] Subdivision".

~~(5)~~ (6) **New section.** The following documents must accompany the approved final plat, and recording information for each document must be referenced on a sheet of the plat ~~or its supplementary exhibit~~, when it is presented to the county clerk and recorder for filing:

(a) A certificate of a title abstractor showing the names of the owners of record of the land to be subdivided and the names of any lien holders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lien holders or claimants of record against the land.

Comment [s11]: Adds clarity

Comment [s12]: Should be consistently in one location. The face of the plat would be most consistent since not all plats will require supplements.

(b) ~~Copies of~~ any covenants or deed restrictions relating to the subdivision.

(c) If applicable, For lots less than 20 acres in size, a certification from the state department of environmental quality stating that it has approved the plans and specifications for water supply and sanitary facilities pursuant to 76-4 MCA.

(d) If required by the governing body, for lots 20 acres or greater in size, written documentation that the subdivider has demonstrated that there is an adequate water source and at least one area for a septic system and replacement drainfield for each lot in accordance with 76-3-604(8)(b), MCA.

(e) If applicable, Aa copy of any subdivision improvements agreement securing the future construction of any additional public improvement to be installed.

(f) Unless otherwise provided by local subdivision regulations, copies of final plans, profiles, grades and specifications for improvements, including a complete grading and drainage plan, with the certification of a registered professional engineer that all required improvements which have been installed are in conformance with the attached plans. Local subdivision regulations may authorize the subdivider, under conditions satisfactory to the governing body, to prepare these plans and specifications after the final plat has been filed or file them with a government official other than the county clerk and recorder, or both. When plans and specifications are filed with a government official other than the county clerk and recorder, a document stating where the plans can be obtained shall be required in lieu of the plans and specifications.

(g) If a street created by the plat will intersect with a state highway, a copy of the state highway access or encroachment permit.

(h) Any other documents satisfying preliminary plat approval required to be recorded by the governing body.

Comment [s13]: Unless the covenants are existing an original document is necessary for recordation.

Comment [s14]: 76-4-104(2) MCA states "The rules and standards must provide the basis for approving subdivisions for various types of public and private water supplies, sewage disposal facilities, storm water drainage ways, and solid waste disposal."

Comment [s15]: Would help landowners and jurisdictional agencies locate the documents in the future

(4) NEW SECTION. If applicable, a supplementary exhibit to the plat depicting conformance with the conditions of approval of the preliminary plat application, shall be legible and in a form currently acceptable for filing or recording and shall be entitled "Supplementary Exhibit to [insert name of] Subdivision" with a title block indicating the quarter-section, section, township, range, principal meridian, county and, if applicable, city or town in which the subdivision is located and shall contain:

Comments or questions can be addressed to Steve.Anderson@tdhbozeman.com

work 586-0277, cell 579-3850.

Or the Board of Professional Engineers and Land Surveyors 841-2367

Or Myra Shults of MACO 449-4360.

Exhibit 'B'

New Notary Law Overview

Effective October 1, 2009

- Journals required for all notaries
- Disposition of journals and seals clarified
- Phase-in of new seal/stamp begins

Effective July 1, 2010

- Residency requirement drops to 30 days
- Training required for NEW notaries and those who have notarized improperly

Reasons for the Changes

1. *To Protect* notaries, their employers, and the public
2. *To Prevent* fraud, forgery, identity theft
3. *To Ensure* the accuracy and completeness of notarial blocks

The Notary Journal

In order to provide evidentiary value…

- Must be the property of the individual notary, who has sole responsibility for its safekeeping and contents
- Must be a bound book, designed to deter alteration
- Must record every notarial act in chronological order
- Must contain the specific details as required by 1-5-416(1)(g), MCA
- **Must be turned into County Clerk & Recorder when notary ceases to be a notary**

JOURNAL ISSUES

- RETENTION
  - Where
  - Locator Database
  - Charging
- PUBLIC RECORD / PRIVACY

The Notarial Block*

*Also Known as a "Notarial Certificate"

Tells a Story

•Where – **Venue**
•When – **Date**
•What – **Description**
•Who – **the Signer**
•By Whom – **the Notary**
(and we need to know all about the notary)

NOTARIAL BLOCK
9 Required Elements

1. **VENUE** – State and **County** where the notarial act is being performed.

   Examples:

   State of Montana
   County of Teton
   Or
   State of Wyoming
   County of Laramie

NOTARIAL BLOCK
9 Required Elements – continued

2. Date on which the notarization took place
   Example:
   "On this 25th day of February, 2009..."

3. **Declaration** describing the type of notarial act performed.
   Example:
   "...this instrument was signed before me by John Doe..."

NOTARIAL BLOCK
9 Required Elements – continued

4. **The notary's official signature**
   Notes:

   √ The name on the seal, the printed, typed or stamped name, and signature must be exactly the same

   √ The notary's signature must be original – not stamped or electronic

NOTARIAL BLOCK
9 Required Elements – continued

5. **The notary's name typed, stamped or printed** (legibly!)

   (This is the **second of three** appearances of the notary's name in the notarial block)

6. **The notary's official title**
   "Notary Public for the State of Montana"

   (NOTE: Officials other than notaries can perform notarizations!)

NOTARIAL BLOCK
9 Required Elements – continued

7. **The words, "Residing at"** with the city or town where the notary *LIVES.*
   "Residing at Billings"

8. **Commission expiration date – must show month, day, and four–digit year.**
   My commission expires on 05/10/2010
   or
   My commission expires on May 10, 2010

9. **The notary's official seal**

Phase-in of New Seal/Stamp

- **Required for all notaries with commissions beginning on or after October 1, 2009**
- **Current notaries can use whatever style they now have (even crimpers!) until they renew next time**
- **Contains five of nine elements required to be in every notarial block and ensures that the information will be:**

  ✓**100% correct**

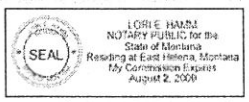
  ✓**100% complete**

  ✓**100% of the time**

NEW Style Combination Seal/Stamp

Seal: → **(Step 9)**
- **Notary's Name**
- **"State of Montana"**
- **"Notarial Seal"**

[1-5-416(1)(d), MCA]



↑

Stamp:
- **Notary's Printed Name (Step 5)**
- **Title [Notary Public for the State of Montana] (Step 6)**
- **"Residing at" + City (Step 7)**
- **Commission expiration date (Step 8)**

WHAT'S WRONG WITH THESE PICTURES?

(1.)

Applicant's signature (Must match the name printed/typed above and on bond!)

State of Montana
County of _____

Sworn to and subscribed before me this _____day of _____A.D., 20_____.

Notary Public for the State of Montana (signature)

Notary Public (name typed/stamped or printed)

[SEAL]

NOTARY PUBLIC - MONTANA
MICHAEL GRUBB
Residing at Great Falls, Montana
Date FEB 1 2010
My Comm. Expires Dec 20, 2010

Residing at [city]: _____

Commission expiration _____
(Month/Day/YYYY)

(2.)

Borrower: Charles Alan Kester Date 2/12/010

STATE OF MONTANA
County of Yellowstone

This instrument was acknowledged before me on Feb 12, 2010 by Charles Alan Kester.

Carmen Waters
Notary Public for the State of Montana
Residing at Billings, MT
My Commission Expires: 10/12/2013

(3)

State of Montana
County of Yellowstone

Joseph V. Obmack
Applicant's signature (Must match the name printed/typed above and on bond!)

Sworn to and subscribed before me this 1st day of February A.D., 2010.

Barbara Fisgus
Notary Public for the State of Montana (signature)

Barbara Fisgus
Notary Public (name typed/stamped or printed)

Residing at (city): Billings

Commission expiration 07-28-2013 (Month/Day/YYYY)

BARBARA FISGUS
NOTARY PUBLIC for the State of Montana
Residing at Billings, Montana
My Commission Expires
July 28, 2013
(SEAL)

(4)

State of Montana
County of CARBON

Jeanne P. Carroll
Applicant's signature

Sworn to and subscribed before me this 23rd day of July A.D., 2007.

Patricia Eik
Notary Public for the State of Montana (signature)

Patricia Eik
Notary Public (name typed/stamped or printed)

Residing at (city): Joliet

Commission expiration 10-01-2007 (Month/Day/YYYY)

PATRICIA EIK
NOTARY PUBLIC - MONTANA
Residing in Joliet, Montana
My Commission Expires:
10-01-2007
(SEAL)

(5.)

STATE OF Montana

COUNTY OF Dawson

I declare, subject to penalties for perjury and false swearing, that I have read the foregoing affidavit and that the information contained in it and all attachments to it is true and correct to the best of my knowledge, information and belief.

2-11-2010
Date

Affiant

Signed and sworn before me, a Notary Public for this State, on the date and at the place written above.

SHELLEY R. GUSTAFSON (SEAL) NOTARIAL SEAL STATE OF MONTANA

Shelley R. Gustafson
NOTARY PUBLIC
Print Name: Shelley R. Gustafson
Residing at: Glendive MT
My Commission Expires: February 25, 2010

(6.)

Patricia L Bonilla
Applicant's signature (Must match the name printed/typed above and on bond)

State of Montana
County of Lake

Sworn to and subscribed before me this 6th day of November A.D., 2009

Jim Ferguson
Notary Public for the State of Montana (signature)

JAMES S. FERGUSON
(SEAL) Notarial Seal
State of Montana

Jim Ferguson
Notary Public (name typed/stamped or printed)

Residing at Dayton, Montana

Commission expiration: 2 / 22 / 2010
(Month/Day/YYYY)

RECEIVED
2010 NOV 1 AM 9:14
SECRETARY OF STATE
STATE OF MONTANA

Acceptable pre-10/1/2013 SEALS:

Embossed Seal with name, "State of Montana" & "Notarial Seal" or "Notary Public"

****

Ink Seal (any shape, color, or size) with notary's name, "State of Montana", and "Notarial Seal" or "Notary Public"

WYTNI D. SPRANGET
NOTARIAL
SEAL
STATE OF MONTANA

JENNIFER M. VOLKERT
(SEAL)
Notarial Seal
State of Montana

****

Combination Seal/Stamps with handwritten information or corrections

NOTARY PUBLIC - MONTANA
MICHAEL GRUBB
Residing at Great Falls, Montana
Date FEB 1 2010
My Comm. Expires Dec 20, 2010
MICHAEL GRUBB
NOTARIAL
SEAL
STATE OF MONTANA

****

Combination Seal/Stamps with some but not all information included (the notarial block must be complete!)

AARON T. HUGHES
NOTARIAL
SEAL
STATE OF MONTANA

Notary Public - Montana
Residing at Polson, Montana
My Comm. Expires April 15, 2011

Unacceptable pre-10/1/2013 SEALS:

(***This is not a comprehensive list –*** *The creativity of the human mind is unlimited.)*

****

Use of "Great Seal" is never valid!

Mable L Deane
Notary Public for the
State of Montana
Residing In Three Forks, Montana
My Commission Expires 2/28/2012

PATRICIA EIK
NOTARY PUBLIC - MONTANA
Residing in Joliet, Montana
My Commission Expires:
10-01-2007

****

The "stamp" is fine – still need "seal"

Jocelyne D Mann
Notary Public for the State of Montana
Residing at Bozeman, Montana
My Commission Expires
05/15/2011

****

Additional wording invalidates seal

CHERRY COLGAN
NOTARIAL
(SEAL)
My Comm. Expires
March 18, 2010
No. 303766
SEAL
STATE OF MONTANA

OFFICIAL SEAL
Sally A. Monn
Notary Public
State of Montana
Residing at Billings, MT

****

Unacceptable Post 10/1/2013 SEALS

(Anything other than Acceptable SEAL/STAMP Combination on reverse!)

For instance:

CARMEN WATERS
NOTARIAL
SEAL
STATE OF MONTANA

Carmen Waters
Carmen Waters
Notary Public for the State of Montana
Residing at Billings, MT
My Commission Expires: 10/12/2013