

**DNRC Trust Lands Active Litigation Report
for July 13, 2007**

Minerals Management Bureau

<p>1. <u>Energy Partners of Montana v. DNRC</u>, Cause No. ADV-2007-25, Mont. 1st Judic. Distr. Ct., Lewis and Clark County (Judge McCarter)</p>	<p>Energy Partners filed this Petition for Judicial Review to challenge the automatic termination of several oil & gas leases on state trust lands. The lessee, Energy Partners, had failed to remit its annual rental payments in a timely manner. The Department gave the lessee notice and opportunity for an administrative hearing to show that it has properly remitted the required rental payments. At the hearing the lessee failed to show timely payment and the automatic termination was upheld by the Department's hearing examiner. The Department has filed a motion for Summary Judgment, and this motion is currently under consideration by the Court.</p>
<p>2. <u>Energy Partners of Montana, LLC. v. Mason and David</u>, Cause No. CDV-2007-245, Mont. 1st Judic. Distr. Ct., Lewis and Clark County (Judge Honzel)</p>	<p>This action was filed under 42 USC §1983 by Energy Partners, alleging that it was denied procedural due process as a result of the hearing afforded the lessee. The State has filed a motion to dismiss this action based upon the qualified immunity status of the employees named in the action. A Summary Judgment hearing will be held on July 24th at 9:00 A.M.</p>
<p>3. <u>Maxine UpDeGraff v. State of Montana</u>, Cause No. DV-04-57, Mont. 22nd Judic. Distr. Ct., Stillwater County</p>	<p>This case involved a quiet title action involving the vertical emergence of an island between the low-water marks of the Yellowstone River near Columbus, Montana. The Department filed a motion for Summary Judgment and settlement is likely. The boundary between state and private ownership will likely be the medial line of the last watercourse between the riverbank and the island. We are currently awaiting a survey to clarify the location of the boundary.</p>

<p>4. <u>Barbara Todd v. State of Montana</u>, Cause No. DV 01-97, Mont. 6th Judic. Distr. Ct., Park County</p>	<p>This is a quiet title action involving two State islands on the Yellowstone River in the Paradise Valley. The Settlement Agreement was approved by Land Board and filed with the District Court. Disclaimer filed.</p>
<p>5. <u>Clark Fork Pend’Oreille Coalition and Mark Gerlach v. Montana Board of Land Commissioners</u>, Cause No. BDV-99-445 Mont. 1st Judic. Distr. Ct., Lewis & Clark</p>	<p>This was an action challenging the validity of the Seven-up Pete mineral lease. The State has filed Motion to Dismiss the action as moot since prior litigation upheld the automatic termination of the leases in question.</p>
<p>6. <u>DNRC v. AABCO, et al</u>, Cause No DV-06-52, Mont. 7th Judic. Distr. Ct., Richland County (Large number of defendants)</p>	<p>This is a Quiet title action involving riparian lands on the Missouri River near Sidney, Montana. The State needs to conduct a survey to better define the parcel claimed.</p>
<p>7. <u>DEQ v. BNSF, et al. and DNRC</u> Cause No. BDV-2004-596 1st Judic. Distr. Ct., Lewis & Clark County</p>	<p>This is an action for recovery of clean-up costs under state "Superfund" laws for the clean-up of the Reliance Oil Refinery. A Consent Decree has been entered. Pursuant to the Consent Decree, the District Court has dismissed DNRC from the remainder of this action.</p>
<p>8. <u>Michael Graham v. State of Montana</u>, Cause No. DV-05-191c, Mont. 11th Judic. Distr. Ct., Flathead County</p>	<p>This is a quiet title action involving lands adjacent to the Whitefish River formed by highway construction activity. This case is on appeal to the Montana Supreme Court. The appeal asks the Court to identify the owner of artificially-formed accretions of land within navigable waters.</p>
<p>9. <u>Berrum v. Coffman</u> quiet title action Cause No. DV-07-86 Mont. 6th Judic. Distr. Ct., Park County</p>	<p>In this Quiet title, a private land owner is claiming ownership of an abandoned channel of the Yellowstone River. The State may file a Disclaimer of Interest pending technical review to verify that no state interest is affected.</p>

Real Estate Management Bureau

<p>10. <u>Only-a-mile, LLP v. State of Montana</u>, Cause DV-03-1016, Mont. 4th Judic. Distr. Ct., Missoula County</p>	<p>This quiet title action will determine whether the Old Blanchard Road is a County road which provides access to a</p>
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<p>11. <u>Ash Grove Cement v. Jefferson County and the State of Montana, et al.</u> Cause No. DV-06-10516, Mont. 5th Judic. Distr. Ct., Jefferson County, MT</p>

<p>tract of state trust lands. The Plaintiff, Only-a-Mile, contends that the County road does not touch the state lands. Summary Judgment was denied by Court. A new schedule needs to be set for a trial date.</p>
<p>This action seeks to quiet title to the Microwave Hill Road and Ash Grove Cement is requesting damages for an unconstitutional taking of property.</p>

Forest Management Bureau

<p>12. <u>DNRC v. North Shore Development, LLC</u>, Cause No. DV-06-611C, Mont. 11th Judic. Distr. Court, Flathead County, Montana</p>
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<p>This suit will determine the ownership of all submerged logs lying upon the bed of Flathead Lake. This declaratory judgment action was directed to be filed by Land Board. The State has filed motions and briefs for Summary Judgment. Court-ordered Mandatory Mediation will be held on July 25th.</p>
