

Michael Green
CROWLEY FLECK PLLP
100 North Park, Suite 300
P. O. Box 797
Helena, MT 59624-0797
Telephone: (406) 449-4165

Attorneys for Petitioners

MONTANA FOURTEENTH JUDICIAL DISTRICT COURT, MEAGHER COUNTY

CHARLES B. LUCAS;)	
LUCAS RANCH, INC.; MONTANA FARM)	Case No. DV-10-02
BUREAU FEDERATION; and THE)	
MONTANA TAXPAYERS')	
ASSOCIATION,)	
)	
Petitioners,)	PETITIONERS' FIRST COMBINED
)	DISCOVERY REQUESTS TO
vs.)	RESPONDENT MONTANA
)	DEPARTMENT OF REVENUE
MONTANA DEPARTMENT)	
OF REVENUE)	
)	
Respondent.)	

Charles B. Lucas; Lucas Ranch, Inc.; Montana Farm Bureau Federation; and the Montana Taxpayers' Association ("Farm Bureau"), submits the following combined discovery requests to the Montana Department of Revenue ("DOR"):

INSTRUCTIONS AND DEFINITIONS

- 1. Requests for Admission.** Pursuant to Rule 26 and 36 M.R.Civ.P., each request for admission shall be answered separately and fully under oath. A copy of the admissions shall be served upon the undersigned counsel at the offices of Crowley Fleck PLLP, 100 North Park, Suite 300, P.O. Box 797, Helena, Montana 59624-0797, within thirty (30) days after service of the requests for admission.
- 2. Interrogatories.** Pursuant to Rules 26 and 33 M.R.Civ.P., each interrogatory shall be answered separately and fully in writing under oath. A copy of the answers shall be served upon the undersigned counsel at the offices of Crowley Fleck PLLP, 100 North Park, Suite

300, P.O. Box 797, Helena, Montana 59624-0797, within thirty (30) days after service of the interrogatories.

3. Requests for Production of Documents. Pursuant to Rules 26 and 34, M.R.Civ.P., Farm Bureau requests DOR to produce and to permit Farm Bureau to inspect and copy each of the documents described in this Request.

If any documents are not produced by reasons of a claim of privilege, please identify each document by date, author, title, address and name of each person in possession of the original or a copy. Each document shall be produced on or before thirty (30) days of the service of this Request, at the office of Michael Green, of Crowley Fleck PLLP, 100 North Park, Suite 300, P.O. Box 797, Helena, Montana 59624-0797, or at such other time and place as mutually agreed.

4. Definitions.

A. The term “document” shall mean, without limitation, all writings, recordings, readable or comprehensible materials of any kind, whether or not in the possession, custody or control of DOR, whether printed or reproduced by any process, or written or produced by hand, including without limitation, writings, drawings, blueprint, graphs, charts, sketches, photographs, phonograph records, tape recordings, summaries, records of transcripts of tape recordings, computer or data compilations from which information can be obtained or translated, memoranda, reports, notes in any form, papers, books, graphs, interoffice and intraoffice communications, letters, minutes, diaries, desk pads, calendars, contracts, agreements, memoranda of agreements, licenses, microfilms, films, sound recordings, publications, accounts, financial reports, assignments, telegrams, telexes, cables, translations, summaries and records of telephone interviews or conversations, minutes or records of conferences or meetings, summaries and reports of investigations, opinions and reports of consultants, summaries and reports of negotiations, brochures, pamphlets, advertisements, circulars, catalogs, press releases and articles, receipts, orders, invoices, routing slips, statements, bills, checks, vouchers, data sheets, manuals and articles, including all modifications or drafts. Any such document bearing on any side sheet, attachment or enclosure thereof, any marks, such as, without limitation, initials, stamped initials, comments or notations or any characters, which are not part of the original text or photographic reproduction thereof, is to be considered and produced as a separate document.

B. The term “Lucas Parcel” means the parcel of grazing land owned by Charles B. Lucas, the assessment notice for which is attached as Exhibit A to the Petition.

C. The term “Lucas Ranch Parcel” means each separate parcel owned by Lucas Ranch, Inc. and appraised by the Department. The Assessment Notice for the Lucas Ranch Parcels is attached to the Petition as Exhibit B.

D. The term “VBR” means Value Before Reappraisal as that term is defined and used in the Department’s rules.

E. “Relating to” includes any direct connection, reference or association.

F. "Person" includes natural persons, corporations, partnerships, associations, governmental agencies and any other kind of entity.

G. The term "you" and "your" shall be construed to mean any officials, directors, administrators, employees, representatives, agents and any person acting or purporting to act on behalf of DOR, the DOA, or the Tenant Agencies.

H. The term "communications" shall mean any exchange or transmission of words or ideas to another person or entity, whether oral or written, including without limitation discussions, conversations, conferences, meetings, speeches, memoranda, letters, reports, notes, statements and questions.

I. The terms "list," "describe," "specify," and/or "state" shall mean to set forth fully and unambiguously each and every fact of which the person has knowledge which pertains to the answer called for by the interrogatory, including, but not limited to, an identification of all persons, communications, acts, transactions, events, agreements, recommendations and documents that are necessary or desirable to make such statement or description complete; the date of each such act or event; and the place where such act or even occurred.

J. The term "identify," when used herein in reference to a natural person, means to state the person's full name, present or last known address and telephone number, and the person's present employer, title and business address. When used herein in reference to an entity other than a natural person, the term "identify" shall mean to state the full name of the entity, the present or last known address of the entity's principal office or place of business and the type of entity (e.g., corporation or partnership). When used herein in reference to communications, the term "identify" shall mean to state the full name and present or last known address of the person making such communication, the full name and present or last known address of each person to whom such communication was made, the date and place at which such communication was made, the name and present or last known address of each other person present at the time of such communication, the substance of the communication, the source of your information about the communication, and any and all documents relating to such communications. When used herein in reference to a document, "identify" means provide a description of the document's subject matter, author, addressee, and the name and address of each person having custody of it.

K. The term "relating" means, in whole or in part, referring, discussing, concerning, describing, embodying, mentioning, considering, comprising, constituting or otherwise having to do with.

L. Terms in the plural include the singular, and terms in the singular include the plural.

M. These interrogatories, requests for admission and requests for production shall be deemed continuing so as to require further and supplemental answers and production, without further notice, if the DOR receives, generates or becomes aware of additional documents or

information within the scope of the requests between the time of original production and the time of the ultimate determination of the action.

N. Unless otherwise required by the context, each request for admission and each interrogatory shall be construed independently, and not by reference to any other request for admission or interrogatory herein for purpose of limitations.

O. If you have no information about the subject of a particular request for admission or interrogatory, or if for some other reason you are unable to answer fully, your response to that request for admission or interrogatory, you should specifically so state, and no request for admission or interrogatory should be without some response.

P. If you have some information responsive to a request for admission or an interrogatory but believe that further information not now available to you would also be responsive, you should provide the information you now have and you should specifically state when the balance of the information will be provided. The fact that a fully responsive answer cannot be given at this time is not a basis for you to fail to provide such information as is available to you at the time you submit your response to these requests for admission and interrogatories.

Q. If, in answering any request for admission or interrogatory, you encounter any ambiguity in construing either the request for admission or interrogatory or a definition or instruction relevant to the request for admission or interrogatory, you should set forth the matter deemed ambiguous, and set forth the construction used by you in answering that request for admission or interrogatory.

R. In the event that any request for admission or interrogatory calls for a document or communication you claim is privileged, state the ground upon which the privilege is claimed and specify, to the extent known, (a) the type of document or communication; (b) the general subject matter of the document or communication; (c) the date of the document or communication; and (d) the author(s), addressees, and recipients of each such document or communication.

INTERROGATORY NO. 1: Please identify each person who prepared or assisted in the preparation of the Department's responses to these discovery requests.

ANSWER:

INTERROGATORY NO. 2: Please identify the person or persons with the most knowledge regarding the Department's agricultural reappraisal for the current reappraisal cycle.

ANSWER:

INTERROGATORY NO. 3: Please identify the person or persons who prepared the Department's assessments of the Lucas Parcel and the Lucas Ranch Parcels.

ANSWER:

INTERROGATORY NO. 4: For the Lucas Parcel and each Lucas Ranch Parcel please describe the entire process by which the current year taxable value for 2009 was calculated, including a description of the calculation of each VBR.

ANSWER:

REQUEST FOR PRODUCTION NO. 1: Please produce all documents that support the Department's response to the preceding interrogatory.

RESPONSE:

INTERROGATORY NO. 5: Please identify each step described in response to the preceding interrogatory which the Department acknowledges did not comply with applicable statutes or rules, and describe what corrections would be necessary to the calculations to comply with existing statutes or rules.

ANSWER:

REQUEST FOR PRODUCTION NO. 2: Please produce all documents that support the Department's response to the preceding interrogatory.

RESPONSE:

INTERROGATORY NO. 6: For the Lucas Parcel and each Lucas Ranch Parcel the Department identified as containing errors in the assessment in response to Interrogatory 4, please describe the calculation by which the Department would determine a current year taxable value for 2009 that complies with existing statutes and rules.

ANSWER:

REQUEST FOR ADMISSION NO. 1: Please admit the Department failed to correctly calculate the current year taxable value for 2009 for other agricultural landowners in Montana.

ANSWER:

REQUEST FOR ADMISSION NO. 2: Please admit the Department has the statutory authority to correct erroneous assessments under § 15-8-601, MCA.

ANSWER:

REQUEST FOR ADMISSION NO. 3: Please admit the Department has the authority to correct the assessed value on a parcel of real property even after the Department certifies taxable values to the counties, whether or not a taxpayer has appealed or sought an informal review.

ANSWER:

REQUEST FOR ADMISSION NO. 4: Please admit the Department has exercised that authority to change the assessed value of parcels since certifying values to the counties in 2009, whether or not a taxpayer has appealed or sought an informal review.

ANSWER:

REQUEST FOR ADMISSION NO. 5: Please admit the Department has changed the classification of parcels of real property since certifying the taxable values to counties in 2009, whether or not a taxpayer has appealed or sought an informal review.

ANSWER:

REQUEST FOR ADMISSION NO. 6: Please admit the Department failed to correctly calculate the VBR for taxpayers who experienced productivity-only changes in their agricultural property.

ANSWER:

REQUEST FOR ADMISSION NO. 7: Please admit the Department failed to correctly calculate the VBR for parcels that experienced reclassifications within the agricultural calculation (e.g. reclassification from grazing to tillable).

ANSWER:

REQUEST FOR ADMISSION NO. 8: Please admit that the Department is required to calculate a VBR for reclassified agricultural property.

ANSWER:

REQUEST FOR ADMISSION NO. 9: Please admit that for an agricultural parcel that contains a land reclassification the Department is required to calculate a VBR based on the prior year VBR of the new classification.

ANSWER:

REQUEST FOR ADMISSION NO. 10: Please admit that where a parcel contains a land reclassification and a productivity or grade change, the VBR of such parcel will be the VBR of the new classification at the prior grade.

ANSWER:

REQUEST FOR ADMISSION NO. 11: Please admit that the productivity value as of 1/1/2002 for the grazing land in Section 10 of the Lucas Ranch Parcels was \$38.52 per acre.

ANSWER:

REQUEST FOR ADMISSION NO. 12: Please admit the VBR for tax year 2009 for the grazing land in Section 10 of the Lucas Ranch Parcels should have been \$38.52 per acre.

ANSWER:

REQUEST FOR ADMISSION NO. 13: Please admit that the VBR for the 160 acres of grazing land in Section 10 of the Lucas Ranch Parcels should have been \$6,163.

ANSWER:

INTERROGATORY NO. 7: If your Answer to any of the preceding Requests for Admission is anything other than an unqualified admission, please state in detail the complete factual basis on which you refuse to admit the request.

ANSWER:

REQUEST FOR PRODUCTION NO. 3: Please produce all documents that support the Department's response to the preceding interrogatory.

RESPONSE:

INTERROGATORY NO. 8: Paragraph 19 of the Department's Answer states, in part, the Department "has publicly indicated it will correct for tax year 2009 the VBR for taxpayers that experienced productivity-only changes if those taxpayers filed timely AB-26s, or appeals for 2009." Please identify the number of taxpayers and parcels in each county the Department has corrected for tax year 2009.

ANSWER:

INTERROGATORY NO. 9: Please identify the number of taxpayers, by county, who filed timely AB-26's or appeals for tax year 2009.

ANSWER:

INTERROGATORY NO. 10: Paragraph 19 of the Department's Answer states in part "the Department would correct all other affected taxpayers in tax year 2010." Please identify the number of taxpayers and parcels in each county the Department contends would be corrected in 2010.

ANSWER:

INTERROGATORY NO. 11: Please describe the process by which the Department intends to correct its assessments for affected taxpayers in 2010, including a description of the Department's calculation of the tax impacts on affected taxpayers over the reappraisal cycle.

ANSWER:

INTERROGATORY NO. 12: Please describe the basis for the Department's refusal to correct the VBR for all taxpayers that experienced productivity-only changes for tax year 2009.

ANSWER:

Dated this ____ day of _____, 2010.

CROWLEY FLECK PLLP

Michael Green
Attorneys for Petitioners

CERTIFICATE OF SERVICE

I, Michael Green, one of the attorneys for the law firm of Crowley Fleck PLLP hereby certify that on the 5th day of April, 2010, I had hand delivered and by electronic mail, a true and correct copy of the foregoing document to the following:

C.A. Daw
Michele Crepeau
Montana Department of Revenue
Legal Services Office
125 N. Roberts
P.O Box 5805
Helena, MT 59604-5805
