

DNRC March 23, 2011

CabinSite Rental Comparisons

Assumption: FY2012 ALL lessees would pay at percentages listed below.

Fiscal year 2012	Total Revenues	Comparison	Common Sch	Mt. Tech	MSU
Lessess paying 3B	\$2,791,299		28%	28%	33%
leases paying fee at 1.5%	\$1,159,820	(\$1,631,479)	(\$456,814.12)	(\$456,814.12)	(\$538,388.07)
leases paying fee at 2%	\$1,546,426	(\$1,244,873)	(\$348,564.44)	(\$348,564.44)	(\$410,808.09)
leases paying fee at 3%	\$2,319,639	(\$471,660)	(\$132,064.80)	(\$132,064.80)	(\$155,647.80)
leases paying fee at 3.61%	\$2,791,299	\$0	\$0.00	\$0.00	\$0.00
leases paying fee at 4%	\$3,092,852	\$301,553	\$84,434.84	\$84,434.84	\$99,512.49
leases paying fee at 5%	\$3,866,065	\$1,074,766	\$300,934.48	\$300,934.48	\$354,672.78

SENATE NATURAL RESOURCES
 COMMITTEE NO. 3
 DATE 3/23/11
 BILL NO. SB 409

SB 409 Questions from Committee 3-21-2010 Hearing

Senate Natural Resources

Chairman Senator Barrett:

Question:

1. Several lessees testified that their lease rates were changed during their lease terms. Did the court address that?

Response

1. The Supreme Court ruling and subsequent rules that set the lease fee at 5% of the DOR appraised value was implemented when the leases were renewed. The lease rate was then reflected in the new contract with the lessee. No lease agreements were violated.
2. The most recent change was offered to the lessee through a supplemental lease agreement. The new lease fee under Alternative 3b was implemented when a lessee sign the supplemental lease agreement. No lease agreements were violated

Question:

2. Did anyone consider grandfathering at least the present owners of the leases and then have the leases go back to the state?

Response:

1. Grandfathering the current lessees would have violated the Supreme Court Ruling providing those lessees with below market lease fees.

Question:

3. Can I have a list of the beneficiaries of the 23 lots?

Response:

1. There are only 3 lots (#16 – 18) that are physically available for lease. All other leases either require roads or other improvements before they can be leased. See notes below the table.

#	Description	Acres	Beneficiary	2009 DOR value
1	DOGTOWN, LOT 45*	0.935	Mont. State Univ.	\$51,787
2	DOGTOWN, LOT 52*	1.199	Mont. State Univ.	\$53,872
3	DOGTOWN, LOT 53*	1.241	Mont. State Univ.	\$54,204
4	DOGTOWN, LOT 58*	1.143	Mont. State Univ.	\$53,430
5	DOGTOWN, LOT 59*	1.219	Mont. State Univ.	\$54,030

6	DOGTOWN, LOT 63*	0.934	Mont. State Univ.	\$51,779
7	DOGTOWN, LOT 64*	1.356	Mont. State Univ.	\$55,112
8	DOGTOWN, LOT 65*	1.351	Mont. State Univ.	\$55,073
9	FLATHEAD LAKE AREA, LOT 17*	2.213	Common Schools	
10	FLATHEAD LAKE AREA, LOT 18*	2.266	Common Schools	
11	FLATHEAD LAKE AREA, LOT 19*	2.208	Common Schools	
12	FLATHEAD LAKE AREA, LOT 20*	2.131	Common Schools	
13	FLATHEAD LAKE AREA, LOT 21*	2.04	Common Schools	
14	FLATHEAD LAKE AREA, LOT 23*	2.789	Common Schools	
15	MORRELL FLATS, LOT 12†	1.277	Mont. State Univ.	\$43,610
16	SPERRY GRADE, LOT 5‡	2.679	Common Schools	\$100,800
17	SPERRY GRADE, LOT 11‡	1.95	Common Schools	\$93,500
18	SPERRY GRADE, LOT 16‡	1.716	Common Schools	\$91,200
19	SOUTH ROGERS LAKE, LOT 1*	20.0	Common Schools	\$14,573
20	SOUTH ROGERS LAKE, LOT 2*	20.0	Common Schools	\$14,573
21	SOUTH ROGERS LAKE, LOT 3*	5.0	Common Schools	\$4,163
22	SOUTH ROGERS LAKE, LOT 5*	5.0	Common Schools	\$4,287
23	DELANEY LEASE SITE LOTS E & F×	25.5	Public Buildings	\$224,150

* Currently has limited access; DNRC is working to improve road access and get the lot leased.

† Restricted from septic development due to flooding potential.

‡ Available for lease at this time.

× Former mining-related lease; requires division into smaller lots suitable for residential leasing.

Question:

4. In 1968, leases were \$35.00. What was in-state tuition then?

Response:

1. Tuition was \$399 per year in 1970.

Senator Brenden:

Question:

1. How can these lots cost 3, 4, or 5 times more than other lots? Every lot on Ashley Lake is \$350. Get me the prices. My taxes went up 4 times. Why have theirs gone up so much more? Get those prices for me.

Response:

1. The appraised values of the state leases on McGregor Lake and Rogers Lake are attached. The DOR appraised the land. The differences in the appraised values for these properties are best answered by the DOR. (see pages 5 & 6)

Sen. Wanzenreid:

Question:

1. Does DNRC have a projection about expected abandonments? At 10% abandonment, what is the loss of revenue? Does this disadvantage the beneficiaries?

Response:

1. The department predicted that over time that there would be vacancies and the prediction of revenues to the beneficiaries account for a 10% vacancy rate. No vacancies may suggest that the lease fee was less than market value. Vacancies are not uncommon to owning and managing lease/rental properties. Balancing the vacancies against the rate is not a disadvantage to the beneficiaries.

Sen. Larsen:

Question:

1. How can you appraise a piece of property that is owned compared to one that is leased?

Response:

1. The land the state owns is as valuable as the property next door. The department of revenue appraises the property for the State of Montana in the same manner as all privately owned lots.

Question:

1. When you are leasing, you know you are never going to own it, so isn't the land next door which is owned more valuable?

Response:

1. The lease rate takes into consideration the terms and conditions of the lease. That was the reason why the lease rate was set at 5% rather than 8 – 12% as noted in the Duffield Study. The factors related to leasing are in the **rate**, not the **appraised value**.

If the appraised value of the land were reduced because the land is being leased and the lease rate is reduced because the land is being leased, then these factors would be compounded to the benefit of the lessee and a corresponding reduction to the beneficiary.

Sen. Keane:

Question:

1. The prices on the pictured homes on the handout are way low. These lessees will never recover the money they put into their land because their (homes?) are valued lower. Is that fair?

Response:

1. The lessee owned improvements are valued by the DOR for taxation purposes. The value of the improvements is based on the cost to replace the improvements and the condition of the improvements. There is no reduction in that value because those improvements are on land owned by the state.

The lessee does not pay taxes on the land.

Question:

1. The pendulum has swung way over to the beneficiaries. How do we get the pendulum back?

Response:

1. The department analyzed a variety of alternatives for assessing lease fees. The current process moderated and reduces the 2009 DOR appraised values. The average increase in 2009 DOR value for the state leases was 173%. The current process lowered that average increase by 127%. Therefore, instead of a 173% increase, the pendulum swung back to a 46% increase in lease fee.

State land on McGregor Lake

AgreementNumber	AreaOffice	UnitOffice	Neighborhood	2002 DOR Value	2009 DOR Value
3050276	NWLO	KAL	McGreg	\$78,810.00	\$185,085.00
3050748	NWLO	KAL	McGreg	\$119,255.00	\$372,175.00
3051979	NWLO	KAL	McGreg	\$123,200.00	\$385,648.00
3051982	NWLO	KAL	McGreg	\$122,320.00	\$385,648.00
3051988	NWLO	KAL	McGreg	\$123,200.00	\$388,916.00
3051989	NWLO	KAL	McGreg	\$116,550.00	\$366,743.00
3051990	NWLO	KAL	McGreg	\$121,500.00	\$380,646.00
3051991	NWLO	KAL	McGreg	\$115,625.00	\$363,315.00
3051992	NWLO	KAL	McGreg	\$116,134.00	\$309,261.00
3052002	NWLO	KAL	McGreg	\$115,625.00	\$363,315.00
3052005	NWLO	KAL	McGreg	\$123,300.00	\$387,324.00
3052034	NWLO	KAL	McGreg	\$119,680.00	\$375,843.00
3052131	NWLO	KAL	McGreg	\$124,080.00	\$388,916.00
3052167	NWLO	KAL	McGreg	\$121,500.00	\$380,646.00
3052190	NWLO	KAL	McGreg	\$124,080.00	\$388,916.00
3052203	NWLO	KAL	McGreg	\$122,320.00	\$382,379.00
3052251	NWLO	KAL	McGreg	\$116,235.00	\$363,823.00
3052306	NWLO	KAL	McGreg	\$117,900.00	\$367,290.00
3052377	NWLO	KAL	McGreg	\$117,900.00	\$367,290.00
3052380	NWLO	KAL	McGreg	\$80,640.00	\$251,298.00
3052384	NWLO	KAL	McGreg	\$124,960.00	\$392,184.00
3052385	NWLO	KAL	McGreg	\$113,520.00	\$356,234.00
3052555	NWLO	KAL	McGreg	\$126,018.00	\$392,801.00
3052643	NWLO	KAL	McGreg	\$120,093.00	\$373,978.00
3053015	NWLO	KAL	McGreg	\$109,688.00	\$304,032.00
3053398	NWLO	KAL	McGreg	\$109,150.00	\$342,750.00
3053411	NWLO	KAL	McGreg	\$119,380.00	\$372,424.00
3053450	NWLO	KAL	McGreg	\$130,050.00	\$407,898.00

State land on Rogers Lake

AgreementNumber	AreaOffice	UnitOffice	Neighborhood	2002 DOR Value	2009 DOR Value
3052200	NWLO	KAL	RogLak	\$91,800.00	\$178,059.00
3052258	NWLO	KAL	RogLak	\$68,676.00	\$134,109.00
3052261	NWLO	KAL	RogLak	\$90,112.00	\$172,417.00
3052328	NWLO	KAL	RogLak	\$111,504.00	\$216,726.00
3052438	NWLO	KAL	RogLak	\$126,540.00	\$245,681.00
3052572	NWLO	KAL	RogLak	\$98,112.00	\$188,434.00
3052579	NWLO	KAL	RogLak	\$93,971.00	\$200,272.00
3052588	NWLO	KAL	RogLak	\$108,120.00	\$207,576.00
3052589	NWLO	KAL	RogLak	\$106,656.00	\$204,544.00
3052590	NWLO	KAL	RogLak	\$86,352.00	\$166,721.00
3052627	NWLO	KAL	RogLak	\$94,340.00	\$183,285.00
3052631	NWLO	KAL	RogLak	\$100,744.00	\$194,508.00
3052633	NWLO	KAL	RogLak	\$119,600.00	\$232,836.00
3052678	NWLO	KAL	RogLak	\$97,060.00	\$185,147.00
3052679	NWLO	KAL	RogLak	\$102,992.00	\$200,784.00
3052696	NWLO	KAL	RogLak	\$82,040.00	\$159,643.00
3052701	NWLO	KAL	RogLak	\$118,556.00	\$229,131.00
3052754	NWLO	KAL	RogLak	\$79,376.00	\$146,997.00
3052755	NWLO	KAL	RogLak	\$134,244.00	\$261,602.00
3052760	NWLO	KAL	RogLak	\$112,700.00	\$217,344.00
3052764	NWLO	KAL	RogLak	\$103,880.00	\$199,063.00
3052766	NWLO	KAL	RogLak	\$89,856.00	\$173,650.00
3052805	NWLO	KAL	RogLak	\$110,744.00	\$213,201.00
3052806	NWLO	KAL	RogLak	\$97,800.00	\$189,619.00
3052831	NWLO	KAL	RogLak	\$67,328.00	\$131,433.00
3052832	NWLO	KAL	RogLak	\$96,600.00	\$184,155.00
3052833	NWLO	KAL	RogLak	\$62,464.00	\$121,330.00
3052835	NWLO	KAL	RogLak	\$109,440.00	\$228,560.00
3052836	NWLO	KAL	RogLak	\$73,728.00	\$142,616.00
3052838	NWLO	KAL	RogLak	\$77,760.00	\$145,600.00
3052841	NWLO	KAL	RogLak	\$96,768.00	\$184,540.00
3052842	NWLO	KAL	RogLak	\$78,925.00	\$134,794.00
3052865	NWLO	KAL	RogLak	\$116,596.00	\$224,917.00
3052907	NWLO	KAL	RogLak	\$126,392.00	\$243,532.00

SB 409 Questions from Committee 3-21-2010 Hearing

Senate Natural Resources

Chairman Senator Barrett:

Question:

1. Several lessees testified that their lease rates were changed during their lease terms. Did the court address that?

Response

1. The Supreme Court ruling and subsequent rules that set the lease fee at 5% of the DOR appraised value was implemented when the leases were renewed. The lease rate was then reflected in the new contract with the lessee. No lease agreements were violated.
2. The most recent change was offered to the lessee through a supplemental lease agreement. The new lease fee under Alternative 3b was implemented when a lessee sign the supplemental lease agreement. No lease agreements were violated

Question:

2. Did anyone consider grandfathering at least the present owners of the leases and then have the leases go back to the state?

Response:

1. Grandfathering the current lessees would have violated the Supreme Court Ruling providing those lessees with below market lease fees.

Question:

3. Can I have a list of the beneficiaries of the 23 lots?

Response:

1. There are only 3 lots (#16 – 18) that are physically available for lease. All other leases either require roads or other improvements before they can be leased. See notes below the table.

#	Description	Acres	Beneficiary	2009 DOR value
1	DOGTOWN, LOT 45*	0.935	Mont. State Univ.	\$51,787
2	DOGTOWN, LOT 52*	1.199	Mont. State Univ.	\$53,872
3	DOGTOWN, LOT 53*	1.241	Mont. State Univ.	\$54,204
4	DOGTOWN, LOT 58*	1.143	Mont. State Univ.	\$53,430
5	DOGTOWN, LOT 59*	1.219	Mont. State Univ.	\$54,030

6	DOGTOWN, LOT 63*	0.934	Mont. State Univ.	\$51,779
7	DOGTOWN, LOT 64*	1.356	Mont. State Univ.	\$55,112
8	DOGTOWN, LOT 65*	1.351	Mont. State Univ.	\$55,073
9	FLATHEAD LAKE AREA, LOT 17*	2.213	Common Schools	
10	FLATHEAD LAKE AREA, LOT 18*	2.266	Common Schools	
11	FLATHEAD LAKE AREA, LOT 19*	2.208	Common Schools	
12	FLATHEAD LAKE AREA, LOT 20*	2.131	Common Schools	
13	FLATHEAD LAKE AREA, LOT 21*	2.04	Common Schools	
14	FLATHEAD LAKE AREA, LOT 23*	2.789	Common Schools	
15	MORRELL FLATS, LOT 12†	1.277	Mont. State Univ.	\$43,610
16	SPERRY GRADE, LOT 5‡	2.679	Common Schools	\$100,800
17	SPERRY GRADE, LOT 11‡	1.95	Common Schools	\$93,500
18	SPERRY GRADE, LOT 16‡	1.716	Common Schools	\$91,200
19	SOUTH ROGERS LAKE, LOT 1*	20.0	Common Schools	\$14,573
20	SOUTH ROGERS LAKE, LOT 2*	20.0	Common Schools	\$14,573
21	SOUTH ROGERS LAKE, LOT 3*	5.0	Common Schools	\$4,163
22	SOUTH ROGERS LAKE, LOT 5*	5.0	Common Schools	\$4,287
23	DELANEY LEASE SITE LOTS E & F×	25.5	Public Buildings	\$224,150

* Currently has limited access; DNRC is working to improve road access and get the lot leased.

† Restricted from septic development due to flooding potential.

‡ Available for lease at this time.

× Former mining-related lease; requires division into smaller lots suitable for residential leasing.

Question:

4. In 1968, leases were \$35.00. What was in-state tuition then?

Response:

1. Tuition was \$399 per year in 1970.

Senator Brenden:

Question:

1. How can these lots cost 3, 4, or 5 times more than other lots? Every lot on Ashley Lake is \$350. Get me the prices. My taxes went up 4 times. Why have theirs gone up so much more? Get those prices for me.

Response:

1. The appraised values of the state leases on McGregor Lake and Rogers Lake are attached. The DOR appraised the land. The differences in the appraised values for these properties are best answered by the DOR. (see pages 5 & 6)

Sen. Wanzenreid:

Question:

1. Does DNRC have a projection about expected abandonments? At 10% abandonment, what is the loss of revenue? Does this disadvantage the beneficiaries?

Response:

1. The department predicted that over time that there would be vacancies and the prediction of revenues to the beneficiaries account for a 10% vacancy rate. No vacancies may suggest that the lease fee was less than market value. Vacancies are not uncommon to owning and managing lease/rental properties. Balancing the vacancies against the rate is not a disadvantage to the beneficiaries.

Sen. Larsen:

Question:

1. How can you appraise a piece of property that is owned compared to one that is leased?

Response:

1. The land the state owns is as valuable as the property next door. The department of revenue appraises the property for the State of Montana in the same manner as all privately owned lots.

Question:

1. When you are leasing, you know you are never going to own it, so isn't the land next door which is owned more valuable?

Response:

1. The lease rate takes into consideration the terms and conditions of the lease. That was the reason why the lease rate was set at 5% rather than 8 – 12% as noted in the Duffield Study. The factors related to leasing are in the **rate**, not the **appraised value**.

If the appraised value of the land were reduced because the land is being leased and the lease rate is reduced because the land is being leased, then these factors would be compounded to the benefit of the lessee and a corresponding reduction to the beneficiary.

Sen. Keane:

Question:

1. The prices on the pictured homes on the handout are way low. These lessees will never recover the money they put into their land because their (homes?) are valued lower. Is that fair?

Response:

1. The lessee owned improvements are valued by the DOR for taxation purposes. The value of the improvements is based on the cost to replace the improvements and the condition of the improvements. There is no reduction in that value because those improvements are on land owned by the state.

The lessee does not pay taxes on the land.

Question:

1. The pendulum has swung way over to the beneficiaries. How do we get the pendulum back?

Response:

1. The department analyzed a variety of alternatives for assessing lease fees. The current process moderated and reduces the 2009 DOR appraised values. The average increase in 2009 DOR value for the state leases was 173%. The current process lowered that average increase by 127%. Therefore, instead of a 173% increase, the pendulum swung back to a 46% increase in lease fee.

State land on McGregor Lake

AgreementNumber	AreaOffice	UnitOffice	Neighborhood	2002 DOR Value	2009 DOR Value
3050276	NWLO	KAL	McGreg	\$78,810.00	\$185,085.00
3050748	NWLO	KAL	McGreg	\$119,255.00	\$372,175.00
3051979	NWLO	KAL	McGreg	\$123,200.00	\$385,648.00
3051982	NWLO	KAL	McGreg	\$122,320.00	\$385,648.00
3051988	NWLO	KAL	McGreg	\$123,200.00	\$388,916.00
3051989	NWLO	KAL	McGreg	\$116,550.00	\$366,743.00
3051990	NWLO	KAL	McGreg	\$121,500.00	\$380,646.00
3051991	NWLO	KAL	McGreg	\$115,625.00	\$363,315.00
3051992	NWLO	KAL	McGreg	\$116,134.00	\$309,261.00
3052002	NWLO	KAL	McGreg	\$115,625.00	\$363,315.00
3052005	NWLO	KAL	McGreg	\$123,300.00	\$387,324.00
3052034	NWLO	KAL	McGreg	\$119,680.00	\$375,843.00
3052131	NWLO	KAL	McGreg	\$124,080.00	\$388,916.00
3052167	NWLO	KAL	McGreg	\$121,500.00	\$380,646.00
3052190	NWLO	KAL	McGreg	\$124,080.00	\$388,916.00
3052203	NWLO	KAL	McGreg	\$122,320.00	\$382,379.00
3052251	NWLO	KAL	McGreg	\$116,235.00	\$363,823.00
3052306	NWLO	KAL	McGreg	\$117,900.00	\$367,290.00
3052377	NWLO	KAL	McGreg	\$117,900.00	\$367,290.00
3052380	NWLO	KAL	McGreg	\$80,640.00	\$251,298.00
3052384	NWLO	KAL	McGreg	\$124,960.00	\$392,184.00
3052385	NWLO	KAL	McGreg	\$113,520.00	\$356,234.00
3052555	NWLO	KAL	McGreg	\$126,018.00	\$392,801.00
3052643	NWLO	KAL	McGreg	\$120,093.00	\$373,978.00
3053015	NWLO	KAL	McGreg	\$109,688.00	\$304,032.00
3053398	NWLO	KAL	McGreg	\$109,150.00	\$342,750.00
3053411	NWLO	KAL	McGreg	\$119,380.00	\$372,424.00
3053450	NWLO	KAL	McGreg	\$130,050.00	\$407,898.00

State land on Rogers Lake

AgreementNumber	AreaOffice	UnitOffice	Neighborhood	2002 DOR Value	2009 DOR Value
3052200	NWLO	KAL	RogLak	\$91,800.00	\$178,059.00
3052258	NWLO	KAL	RogLak	\$68,676.00	\$134,109.00
3052261	NWLO	KAL	RogLak	\$90,112.00	\$172,417.00
3052328	NWLO	KAL	RogLak	\$111,504.00	\$216,726.00
3052438	NWLO	KAL	RogLak	\$126,540.00	\$245,681.00
3052572	NWLO	KAL	RogLak	\$98,112.00	\$188,434.00
3052579	NWLO	KAL	RogLak	\$93,971.00	\$200,272.00
3052588	NWLO	KAL	RogLak	\$108,120.00	\$207,576.00
3052589	NWLO	KAL	RogLak	\$106,656.00	\$204,544.00
3052590	NWLO	KAL	RogLak	\$86,352.00	\$166,721.00
3052627	NWLO	KAL	RogLak	\$94,340.00	\$183,285.00
3052631	NWLO	KAL	RogLak	\$100,744.00	\$194,508.00
3052633	NWLO	KAL	RogLak	\$119,600.00	\$232,836.00
3052678	NWLO	KAL	RogLak	\$97,060.00	\$185,147.00
3052679	NWLO	KAL	RogLak	\$102,992.00	\$200,784.00
3052696	NWLO	KAL	RogLak	\$82,040.00	\$159,643.00
3052701	NWLO	KAL	RogLak	\$118,556.00	\$229,131.00
3052754	NWLO	KAL	RogLak	\$79,376.00	\$146,997.00
3052755	NWLO	KAL	RogLak	\$134,244.00	\$261,602.00
3052760	NWLO	KAL	RogLak	\$112,700.00	\$217,344.00
3052764	NWLO	KAL	RogLak	\$103,880.00	\$199,063.00
3052766	NWLO	KAL	RogLak	\$89,856.00	\$173,650.00
3052805	NWLO	KAL	RogLak	\$110,744.00	\$213,201.00
3052806	NWLO	KAL	RogLak	\$97,800.00	\$189,619.00
3052831	NWLO	KAL	RogLak	\$67,328.00	\$131,433.00
3052832	NWLO	KAL	RogLak	\$96,600.00	\$184,155.00
3052833	NWLO	KAL	RogLak	\$62,464.00	\$121,330.00
3052835	NWLO	KAL	RogLak	\$109,440.00	\$228,560.00
3052836	NWLO	KAL	RogLak	\$73,728.00	\$142,616.00
3052838	NWLO	KAL	RogLak	\$77,760.00	\$145,600.00
3052841	NWLO	KAL	RogLak	\$96,768.00	\$184,540.00
3052842	NWLO	KAL	RogLak	\$78,925.00	\$134,794.00
3052865	NWLO	KAL	RogLak	\$116,596.00	\$224,917.00
3052907	NWLO	KAL	RogLak	\$126,392.00	\$243,532.00