

Lucas v. Montana DOR

Petitioners' Presentation
to
AGRICULTURAL LAND AND FOREST LAND REAPPRAISAL SUBCOMMITTEE
Montana Legislature's Revenue and Transportation Interim Committee

April 29, 2010

- **Petitioners:**
 - Charles “Bernie” Lucas
 - Lucas Ranch, Inc.
 - Montana Farm Bureau Federation
 - The Montana Taxpayers' Association
- **Presenter/Attorney:**
 - Michael Green
 - (mgreen@crowleyfleck.com or 406-449-4165)

C R O W L E Y | F L E C K PLLP
A T T O R N E Y S

Filings and Status

- February 12, 2010- Petition filed in Meagher Co.
- March 29, 2010- DOR filed Answer
- April 5, 2010- Petitioners served Discovery Requests
- April 9, 2010- Petitioners served Motion for Class Certification
- April 12 or 13, 2010- DOR retained Mike McMahon
- April 14, 2010- DOR filed Notice of Representation
- April 27, 2010- DOR filed Response to Motion to Certify Class
 - (the Court granted a 3 day extension after briefing by the parties)
- Upcoming Deadlines-
 - May 5, 2010- DOR's responses to discovery requests due
 - May 14, 2010- Petitioners' Reply to Motion for Class Cert.
 - We anticipate filing the week of May 2, 2010
- Significant events to be scheduled- Class Certification hearing, depositions, pre-trial motions deadlines, trial

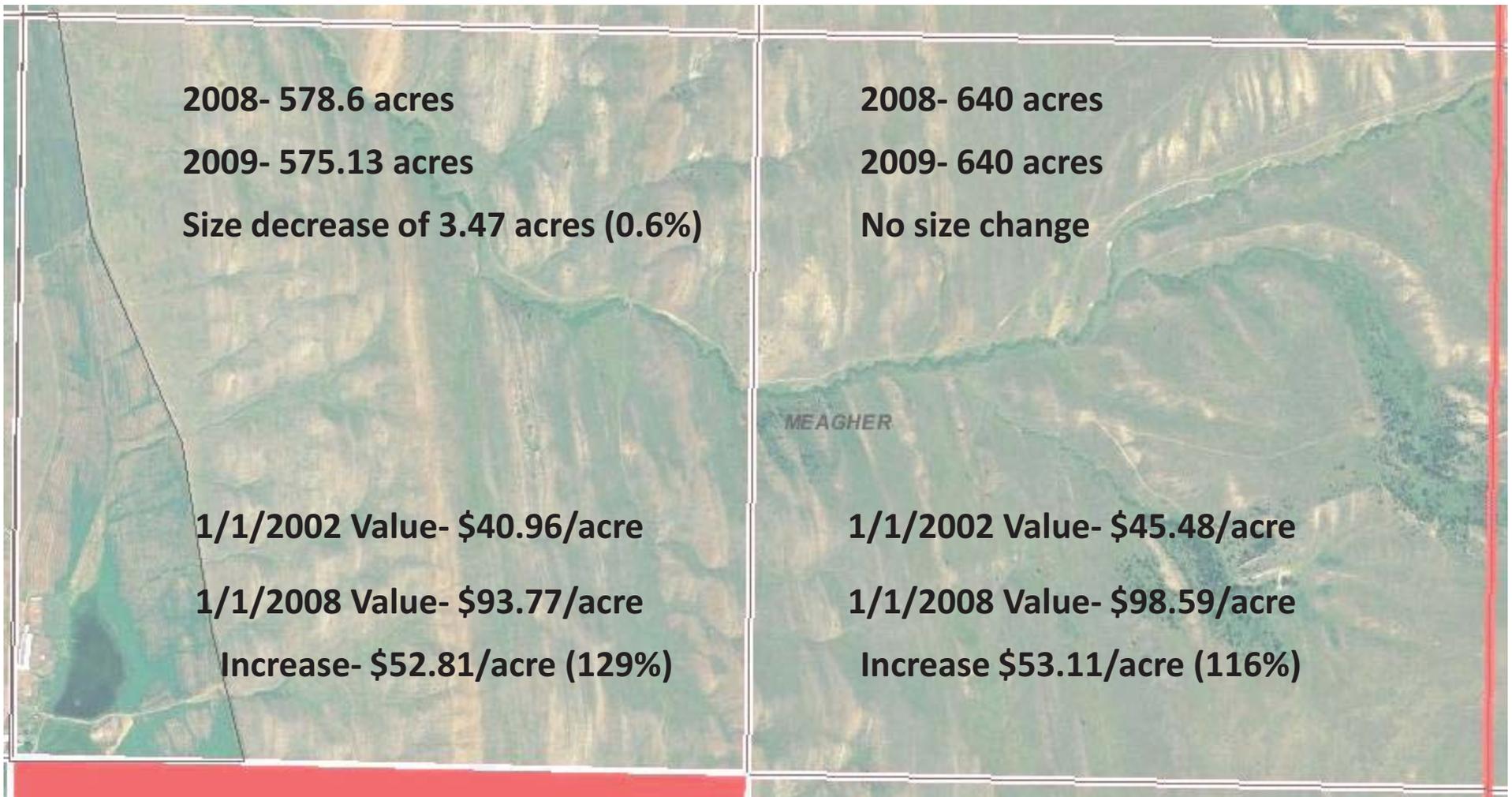
Basis for Lawsuit

- DOR's Failure to comply with § 15-7-111, MCA
 - “(3) . . . The amount of the change in valuation from the 2002 base year for each property in classes three, four, and ten must be phased in each year at the rate of 16.66% of the change in valuation.”
- § 15-1-406, MCA grants the right to seek a declaratory ruling directly from District Court for “illegal or improper” method or procedure of assessment
 - Subsection 2- decision applies to “all similarly situated taxpayers”
 - § 15-1-407, MCA, sets forth the procedures for pursuing class action
- § 28-26-101, et seq., MCA allows the District Court to issue a Writ of Mandate in special circumstances
 - In this case, Petitioners' contend the DOR has failed to follow its obligation under § 15-8-601, MCA to correct erroneous assessments

Grazing VBR Examples- Lucas Ranch

Section 14

Section 13



Grazing VBR Examples- Lucas Ranch

Section 14

- Size Changed- No VBR Recalculation under Proposed Rule

2009 Original Assessment Values

- 2008 Value- \$40.96/acre
- VBR- \$76.39/acre
- 2009 Phased In Value- \$79.28
 - 72.75% in Year 1
 - 5.48% in Years 2-6

2009 Assessment after DOR Proposed Rule Change

- No Change to VBR- \$76.39/acre
- 2009 Phased In Value- **\$79.28**
 - 72.75% in Year 1
 - 5.48% in Years 2-6

Section 13

- Productivity Only- Recalculated VBR under Proposed Rule

- 2008 Value- \$45.48/acre
- VBR- \$80.50/acre
- 2009 Phased In Value- \$83.51
 - 84.7% in Year 1
 - 3.06% in Years 2-6

- Corrected VBR- \$ 45.48/acre
- 2009 Phased in Value- **\$54.33**
 - 16.66% in Years 1-6

Grazing VBR Examples- Lucas Ranch

Section 14

Section 13

1/1/2008- \$93.77/acre

1/1/2008- \$98.59/acre

Full Value- Section 13 is \$4.82 or 5.15% higher

Under DOR Proposed Rule

2009 Phased in Value for Section 14 is \$24.95/acre or 45.9% higher

If VBRs are not corrected for both parcels, Section 14 will have a higher taxable value than Section 15 until the last year of reappraisal cycle- 2014

MEAGHER