

Forest Lands Taxation Advisory Committee Meeting Minutes 12/14/2020

Committee Members Present:

Chairman Gordy Sanders
Sen. Pat Flowers
Rep. Marilyn Marler
Andy Hunthausen
Paul McKenzie
Randy Mannix

Department of Revenue Staff:

Kory Hofland- Administrator, PAD
Bonnie Hamilton- Management Analyst, PAD
Bill Billman- Program Support Specialist, PAD
Daniel Nelson- CAMA Unit Manager, PAD

Other Attendees:

Allen Chrisman- Montana Tree Farm Systems
And Montana Forest Owner Association
Don Patterson
Julia Altemus- Montana Wood Products
Association.

I. Call to Order, Chairman Gordy Sanders

Bonnie Hamilton starts the meeting at 9:00 a.m. and informs all attendees the meeting is being recorded and the minutes and meeting information have been posted to the website.

II. Introductions and General Housekeeping Information, Bonnie Hamilton, Management Analyst, DOR

Bonnie Hamilton takes roll call of the committee members; all members are present. She turns the meeting over to Chairman Gordy Sanders.

III. Minutes, Bill Billman, Program Support, DOR

Chairman Gordy Sanders asks the committee if there's any corrections, deletions or additions to the previous meetings minutes. Randy Mannix stated that there's a typo on Pg. 15, five-six lines down on Alan Chrisman's comment, he references nonindustrial private nonindustrial forest, but the minutes say non private forest on forest land. Bill Billman then said that he would make the appropriate changes. Chairman Gordy Sanders asked if there was any other corrections or additions? The committee has no more comments, so he asked if there's a motion to approve. Pat Flowers says, so moved, Gordy asks if there's a second. Andy Mannix says second. Gordy asks, all those in favor, committee members say aye.

IV. Committee Discussion and Recommendations

Chairman Gordy Sanders moves forward with discussion on draft recommendations and asks the committee if they have any edits to be made. Marilyn Marler said it was a thorough recap of everything they have discussed. Senator Flowers expresses that he appreciates the time and effort that went into putting this draft together and that he has a few edits to be made. First, on the 3rd page under the first bulleted paragraph there's another bullet underneath that states develop a discount rate to be used on the DNRC dataset, the discount rate portion should be changed to downward adjustment rather than discount rate. Chairman Sanders asks if there's any comments on this adjustment and Paul McKenzie says he agrees with the change and that they could also use "adjustment". Pat agreed that either is fine and moves on to his next correction. Under recommendations for future reappraisal cycles, 3rd bullet down, it reads, consider retaining university of Montana Bureau and business of economic research to develop stumpage values for future valuation cycles. Senator Flowers says there's certainly one option and would make sense as an advisory committee to make a broader recommendation to advertise a request for proposal to develop stumpage values for future valuation cycles in a time frame that allows the involvement of the Montana Forest Tax advisory committee as described above. Just above that portion, a valid point was made that whoever is doing the valuation should present the methodology to us as an advisory committee before applying. Although Bureau of Business and Economic Research is a viable entity to do the work rather than point to them, ask for request for proposal now that Dr. Jackson isn't interested in continuing his valuation work, request for proposal is warranted. Paul says that it's a good way to go, the selection criteria for RFP should be discussed but he agrees with Senator Flowers. Andy also agrees, Randy agrees, Marilyn says they are great suggestions as well. Gordy asks if Bill has Pat's language and Flowers says he will forward his changes made to the document to Bill in an email. Pat says he has one last comment on the second to last paragraph closing statement he would like to insert a sentence after In closing, thank you for the opportunity to provide comment to the department on this issue we appreciate the work of the department and Dr. Jackson in preparation for the 2021 valuation, and recognize the limitations caused by delayed appointments to the Montana Forest Land Tax Advisory Committee. He expresses that the department was faced with a tough set of circumstances because of delayed appointments and that it should be acknowledged. Gordy says it was a good comment and

asks for a reaction from the committee. Randy says its appropriate, Andy says it makes sense and he appreciates the comment. It's supportive of staff and overall, it points out the situation they've been put in as a committee, Paul says he agrees wholeheartedly. Kory Hofland with the Department of Revenue suggests that rather than having Bill Billman make changes to the recommendations of the committee that they be made by the committee and then be forwarded to the department. Flowers says he will forward his edits to the committee.

Gordy asks if there's any other edits or corrections to be made to the document? No comments were made by the committee, so he asks if the department has any questions for the committee? No comments. Paul McKenzie has a procedural question. Once submitted to the department what's the process of the timeline? Kory expresses that once the committee makes the final recommendations with a deadline of January 15th, the recommendations will be taken to the director and his staff where they will review them, make necessary changes and then implement any changes made. He will check with the director regarding a written response to the comments. Bonnie comments that in the past the department did not give a written response, but the changes made were brought up in the first meeting in the next cycle. Gordy then says that the advisory committee will provide a recommendation and thinks it would be appropriate for department to give a heads up in which direction they take because outside people will be asking questions. Kory says he appreciates that and will take that advice forward during the meeting with the director and his advisory staff. Senator Flowers says that as a follow up, add a final sentence that explicitly asks for a response from the department on the final dispositions of the recommendation. Kory says that the Department of Revenue concurs that's a good plan, we'd advise that as well. Paul says "Mr. Chair, I think that's real important given that certain residents might wish to pursue their alternatives with the legislative session, having a deadline would be helpful given the timelines established through the legislature. Chairman Gordy asks Kory if he has an estimated time for response from the department. Kory says he doesn't, it will depend on the new director. If the department received the recommendation soon, the decision would be made by the current administration and if it goes until January 15, it would go to the new administration for a response.

Gordy asks if there are any other questions from the committee members? Randy asks if the department anticipates any other changes with the new administration? Kory says, I don't know what to expect from the new administration., We don't know who the new director or administration is going to be or will want to do.

Gordy asks if there's any other questions from committee members and if the committee members are thumbs up in terms of the recommendation based on the edits proposed so far? Everyone on the committee gave a thumbs up. He then proceeds with when the red lined version comes out to the committee, they will turn it into a final copy and forward it to Bonnie Hamilton. Bonnie has a question. With the recommendations, do you want the final copy to be posted to the website? Unless requested, it won't be on there.

Gordy asks the committee what they think, he feels it should be on the website, committee members agree. Any other comments from committee members? Any other business to conduct amongst the committee? Randy had a question for the department, on tax receipts there's a charge from state forester, can anybody explain where that goes if it goes to the state or the county? Kory said he thinks it goes to DNRC forest fees for wildland fires.

Gordy asks if there's any other questions? Commissioner Andy asks Mr. Chair is it necessary to take formal action on the recommendations moving them forward just for the record? Past committees have moved to pass the recommendations forward to the department. Gordy asks if he'd like to make a motion. Andy says I move that we move the recommendations forward to the department as discussed and amended, Paul, second. All in favor. AYE.

Gordy says thank you everyone for your hard work and thanks to the department. Any other comments before we get to public comments? Don Patterson said he doesn't have anything to add. Allen said thank you Mr. Chairman and members of committee. Montana Forest Owners Association and Montana Tree Farm submitted comments Friday afternoon with hopes they were able to contribute to the discussion and decisions to the recommendations. Without being able to see the draft recommendations its difficult to know whether they align or not. We know our concerns have been heard and they appreciate the work of the committee to address this issue. We appreciate the opportunity to participate and make recommendations. Julia Altemus comments that the committee has done a lot of work in a short time with thoughtful conversation about all this and appreciate the attention to the matter and look forward to seeing what comes from the department.

Gordy asks if there's any other public comments? There's no comments. Gordy says thank you all, I appreciate all the hard work. Is there any other business of the committee? Bonnie says she has nothing else, thanks for the work put in. Paul requests that along with the recommendations that the public comment that's been submitted be made available to the director. Kory said, thanks for that, we've received all the comments and all comments and recommendations will be given to the director. Gordy says thank you all for participating and he wishes everyone well.

V. Adjourned

Gordy thanks everyone for participating in the meeting and says there's no plans of a future meeting. Meeting is adjourned at 9:30 a.m.

VI. Written Public Comment Received

See the following:



To: Forest Land Taxation Advisory Committee, Montana Department of Revenue
Re: **Comments and Recommendation on Forest Land Valuation Revision**
From: Montana Forest Owners Association and Montana Tree Farm System
Date: December 11, 2020

In previously submitted comments (November 23, 2020), Montana Forest Owners Association and Montana Tree Farm System expressed concerns about the proposed Forest Land Valuation Revision.

Montana Forest Owners Association (MFOA) and the Montana Tree Farm System (Montana Tree Farm) have a combined membership of approximately 500 Non-Industrial Private Forest Owners (NIPF) in Montana. These organizations represent the interests of more than 28,000 landowners. Montana NIPF lands comprise over 30% of Montana's total forestlands and 40% of Montana's forestland classified as "productive." Approximately 90,000 individual tracts provide a range of 30-50% of the raw materials for our wood products industry as well as high value wildlife habitat, clean water, and recreation opportunities for Montana citizens.

Most of our collective memberships own forest lands of ten to a few hundred acres. The commercial timber harvests associated with these family forest lands are often only one component of an overall ecosystem conservation and enhancement philosophy practiced by most NIPF landowners (reference: MSU Extension Forestry Landowner Objectives; Kolb and Peterson, personal communication, 2020).

After actively participating in both Forest Taxation Advisory Committee Meetings (November 23 and December 7, 2020), we would like to submit the following Comments and Recommendation for the Record and encourage you to include them in your Recommendation to the Department of Revenue:

- **Family forests tax valuation should reflect the Montana Legislature's intent to encourage NIPF land conservation practices that include, but are not exclusive to sustainable wood fiber production, clean water and functional watersheds, wildlife habitat, recreation opportunities, wildfire hazard reduction, aesthetics, natural heritage and quality of life:** *"In order to encourage landowners of private forest lands to retain and improve their holdings of forest lands, to promote better forest practices, and to encourage the investment of capital in reforestation...."* Sec. 15-44-103, MCA 2019.
- **From the Legislature's Intent, the following provides the intent behind the Valuation:** *"(iv) verify for each forest valuation zone and forest land classification and subclassification under subsection (3) that the income determined in subsection (5) reasonably approximates that which the average Montana forest landowner could have attained;"* (Emphasis added) Sec. 15-44-103, MCA 2019.

- **The Advisory Committee, whose first meeting was on November 23, 2020, was convened too late to provide adequate involvement in reviewing the Evaluation and suggesting substantive changes.** The Forest Land Reappraisal Tasks Timeline called for the Committee to be commissioned and begin meetings in the Fall of 2018, - *over two years ago!* **The State of Montana and the Department of Revenue failed to adhere to their own Timeline**, which in turn has not allowed meaningful and fair participation by the Private Forest Owners in the State. Opportunities to provide timely and constructive suggestions to the Evaluation Process were *effectively eliminated*. This process must be restored in the next Re-Appraisal Cycle and adhered to in order to meet the committee mandate in a fair and transparent manner.
- **Dr. Jackson's Valuation Model used the relatively large acreage and timber volume DNRC timber sales as a basis for the estimates applied to private lands, and discarded data from small direct sales.** We questioned Dr Jackson during the public comment period at the November 23 meeting asking him if his DNRC Timber Sale Data included Sale volumes as low as those commonly found in sales from private forest land of 100 to 300 thousand board feet. Dr. Jackson responded that **small volume sales are not represented in his data set**, and he had not been asked that question before. We contend that the economies of scale with the DNRC Sales of 1 to 3 million board feet or more, make the Valuation model unsuitable for application to small private forest lands.
- **The disparity indicated in the previous bullet point was validated by the Analysis presented to the Committee on December 7 by Committee Member Paul McKenzie.** This Analysis highlighted the unexplained and significant difference between the Residual Stumpage Values developed by McKenzie using University of Montana Bureau of Business and Economic Research data and the valuation developed by the Jackson model. The BBER and McKenzie data more accurately reflect the actual logging and hauling costs applied to delivered log prices from NIPF lands, and is in sharp contrast to Jackson's Valuation Model.
- **We recognize that the Department of Revenue has few immediate options to remedy the Valuation Model this late in the Calendar.** If the Committee had been convened as it was intended, this certainly could have been worked out in a constructive manner.
- **Presuming the DOR has no choice but to proceed with the Valuation Model it has, there are two possible remedies to avoid extraordinary adverse tax impacts to Private Forest Landowners:**
 - **First, a percentage reduction in the Valuation could be used.** Unfortunately, there is no clear, unbiased formula for doing this that could assure that it would be equitable to private landowners. Something on the order of a 30-40% reduction that reflects the approximate difference in values shown in Paul McKenzie's analysis of BBER data versus the Jackson model might be appropriate, but again, there is no clear basis. A further analysis of data differences would be recommended to develop an actual adjustment percentage.
 - **Second, Taxable Value Neutral Rates could be applied to the Valuations.** This would assure that the property tax burden of Private Forest Owners is not unfairly escalated based on a model that does not adequately reflect private forest land values.

- We appreciate and support the work the Committee is doing to make Recommendations on assuring the Process for Convening the Committee is followed in the future.
- In addition, during the next Re-Appraisal Cycle, we encourage the DOR to engage in a robust Valuation Analysis that more realistically modeled levels of revenue realized from all private forest lands, especially smaller acreage, Non-Industrial Forest Owners.
- It appears that the voice of small, non-industrial private forest owners is missing from the Committee. We note there is currently a vacant seat on the Committee. In the interest of fairness and transparency, we would encourage the DOR to consider adding a forestry expert representative of small (15 to a few hundred acres) non-industrial private forest owners to the Committee for the next Appraisal period. We believe this would result in a product that better reflects the Valuation of private forestlands in the State. Both MFOA and Montana Tree Farm stand ready to assist the DOR on this issue.

In summary, the Legislature's intent was clear: *that the income determined in subsection (5) reasonably approximates that which the average Montana forest landowner could have attained;*"

While the DOR does not have the time to revise the Valuation Model to *reasonably approximate* the values that Montana Forest Landowners could have attained, other methods are available to avoid disparate tax treatment.

Recommendation: *The Montana Forest Owners Association and the Montana Tree Farm System recommend that the Department of Revenue adopt a Taxable Value Neutral Rate to apply to the Forest Land Valuation derived from Jackson's Model as a stop-gap measure, pending a more representative and inclusive analysis for the next Appraisal Cycle.*

Thank you for considering these comments on behalf of the family forest owners across Montana who are represented by the Montana Forest Owners Association and the Montana Tree Farm System.

Sincerely,



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