



Dan Bucks
Director

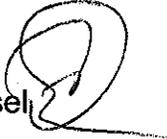
Montana Department of Revenue



Brian Schweitzer
Governor

MEMORANDUM

To: Dan Bucks, Director

From: C. A. Daw, Chief Legal Counsel 

Date: December 1, 2009

Subject: Department of Revenue Major Case Update –
September 2008 – December 2009

Federal Court – U.S. District of Montana

Lovaas, Patty: Seeking to enjoin tax notices. Motion to dismiss has been filed on behalf of the Department and the Governor.

Montana Supreme Court:

Fallon County (Administrative Rule): Fallon County, through its County Commissioners, filed a complaint in Fallon County District Court seeking to have new Administrative Rules 42.19.1401, 1402, and 1404 declared invalid. The District Court found in favor of Fallon County and the Department appealed to the Supreme Court. Oral argument was held on November 18, 2009.

Thill: The Thills were ordered by the District Court to show cause as to why tax returns should not be filed. They have appealed that order on constitutionalist grounds. The matter is in the process of being briefed by the parties.

District Court:

Fallon County Board of Commissioners, et al.: Complaint for Declaratory Relief seeking relief from the Department's refusal to certify a TIF District application. Argument on the parties' motions for summary judgment was held on November 3, 2009. We are awaiting a decision from the District Court.

Lovaas, Patty: Beaverhead County case challenging the operation of the state property tax system. Motion for summary judgment has been filed.

PacifiCorp (2005): PacifiCorp filed a notice of appeal to the District Court from STAB's decision. The Department challenged the form of the notice, which was denied by the

District Court. The Department then appealed to the Supreme Court, which ruled in favor of PacifiCorp. Oral Argument on the issues was held in District Court in October 2009.

PacifiCorp (2008): The Department contends that PacifiCorp missed their deadline to appeal to STAB from ODR. PacifiCorp has filed a declaratory judgment action under § 15-1-406, MCA, arguing that it is permitted to appeal its valuation case directly from ODR to district court. Oral argument was held in July 2009. We are awaiting the court's decision.

Puget Sound Energy: Puget Sound Energy has filed a Petition for Judicial Review of the STAB's decision relating to tax years 2005, 2006, and 2007. The Department's Response Brief is due December 18, 2009.

State Tax Appeal Board (STAB):

Gold Creek Cellular d/b/a Verizon Wireless (2007): Verizon is appealing the Department's decision to classify Verizon's property in Class 13 as allocations of a centrally assessed telecommunications services company. The case is in the discovery phase with both parties conducting depositions. The matter is scheduled for hearing in February 2010.

Gold Creek Cellular d/b/a Verizon Wireless (2008): Verizon is appealing the Department's classification decision and the market value determined by the Department for Verizon's property. The matter is scheduled for hearing in May 2011.

Gold Creek Cellular d/b/a Verizon Wireless (2009): Verizon is appealing the Department's classification decision and the market value determined by the Department for Verizon's property. Verizon filed its Complaint with STAB on October 28, 2009. The Department's Answer is due November 30, 2009.

Omimex: This matter was set for hearing before STAB in October 2009. Because the parties are continuing to work through various discovery disputes, the hearing has been continued with no date set.

PacifiCorp (2006 & 2007): The centrally assessed valuations for tax years 2006 and 2007 have been consolidated. The matter is scheduled for hearing in June 2010.

PacifiCorp (2009): PacifiCorp has petitioned STAB for redetermination of the Department's property assessment for 2009 of PacifiCorp's tangible, taxable property. We are awaiting a hearing date.

Qwest (2007): Hearing before STAB was held in February 2009. STAB issued its decision on November 30, 2009, affirming the Department in all respects. Qwest has until the end of January to appeal the decision to the District Court.

Qwest (2008): Qwest is appealing the Department's valuation and classification. Discovery is ongoing and the matter is set for hearing in March 2010.

Qwest (2009): In September 2009, Qwest filed its complaint appealing the Department's 2009 appraisal of its Montana properties. The Department filed its Answer in October 2009.

WWC Holding Co. (Alltel) (2008): WWC is appealing the Department's decision to classify Alltel's property in Class 13 as allocations of a centrally assessed telecommunications services company. The parties are currently conducting discovery and the matter is scheduled for hearing in April 2010.

WWC Holding Co. (Alltel) (2009): WWC is appealing the Department's classification decision and the market value determined by the Department for WWC's property. STAB has accepted the proposed scheduling order submitted by the parties. The matter is scheduled for hearing in September 2011.

Office of Dispute Resolution (ODR):

Fidelity Exploration & Production Co. (2009): The parties have exchanged letters in an effort to resolve the matter. A status conference is set for November 24, 2009.

Devon Energy Production Company (2009): The parties have agreed to a briefing schedule, with the taxpayer's Initial Brief due December 4, 2009, the Department's Answer Brief due January 15, 2010, and the taxpayer's Reply Brief due January 29, 2010.