

# DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

## Trust Land Management Division



STEVE BULLOCK, GOVERNOR

1625 ELEVENTH AVENUE

DIRECTOR'S OFFICE (406) 444-2074  
TELEFAX NUMBER (406) 444-2684

PO BOX 201601  
HELENA, MONTANA 59620-1601

November 19, 2015

Name  
Address  
Address

RE: **NOTICE OF CABIN AND HOME SITE LEASE PROGRAM CHANGES**  
**Lease #xxxxxxx**

Dear Lessee,

This letter is to notify you that the Cabin and Home Site lease program will be changing as the result of the settlement of a civil lawsuit. **These changes will affect the lease fee and other conditions of all leases upon their renewal.**

### **The Civil Lawsuit:**

The lawsuit is commonly referred to as Montrust III. Montrust III was initiated by MonTrust (Montanans for the Responsible Use of the School Trust) in 2012 against the State of Montana, the Montana Board of Land Commissioners (Land Board), and the Department of Natural Resources and Conservation (DNRC). MonTrust was joined by the Board of Regents, and these two groups alleged that the administrative rules regarding lease fee calculation methods for cabin and home site leases on state trust land violated the fiduciary, trust, and constitutional duties of the State of Montana, the Land Board, and the DNRC, and failed to secure for the trust a full market value rate of return. Specifically, Montrust III addressed the terms of SB409, which was enacted into law in 2011, and the subsequent administrative rules, as well as the administrative rules that existed regarding Alternative 3B. Montrust III alleged that the rules related to both SB409 and Alternative 3B included fee calculation methods that created lease fees below full market value.

A Settlement Agreement to resolve Montrust III was approved by the Land Board at their October 19, 2015 meeting, and was subsequently approved by the District Court on November 10, 2015.

The Settlement Agreement provided for specific changes in the lease fee structure that will apply to any new lease issued after the date the settlement was approved by the District Court. This means that the terms of the Settlement Agreement will apply to any renewed lease, or any lease issued through a competitive bid after November 10, 2015.

### **What are key points of the Settlement Agreement?**

- All rules implementing SB409 and the lease fee calculations of Alternative 3B are void.
- All current leases remain in place until expiration.
- The fee for all renewed leases will be set at 5% of the land value.
- The rate for new bidding on unleased tracts will start at 6.5% of the land value; and the DNRC may reduce the rate to 5% of the land value after 60 days. In neighborhoods with vacancy rates over 30%, the DNRC may

reduce the minimum bid rate incrementally until the vacancy rate of the neighborhood is no longer greater than 30%. However, in no case may a bid rate be less than 3.5% of the land value.

- The minimum annual lease fee for all renewals and/or new bidding will be \$800.
- Lease rates will be reevaluated by the Land Board through a contracted Lease Rate Valuation Analysis every two years to consider bidding and bid rates, as well as vacancy numbers within the program.

### **How Does this impact you?**

Your lease will not be affected by the Settlement Agreement until your lease expires. Your lease is scheduled to expire on xx/xx/xxxx.

If you are in compliance with your lease and all lease fees are paid, your lease will be offered to you for renewal. Your annual lease fee at renewal will be 5% of the most recent Department of Revenue valuation at the time of expiration, or \$800, whichever is greater. The DNRC will contact you at least 60 days in advance to offer you the lease for renewal, and to inform you of your new lease fee.

**If you are on Alternative 3B, your lease fee will not be impacted by this settlement agreement until your lease expires on xx/xx/xxxx.** If this date falls in 2016 or 2017, you will receive a second notice from the Department this month.

If you are not on Alternative 3B, and therefore already have a lease fee calculation method that is 5% of the most recent DOR appraised value, your lease fee will change with each new DOR appraised value, per the terms of your lease. You will receive a second notice from the Department this month.

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### **What is Next?**

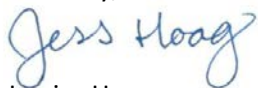
The DNRC will be writing Administrative Rules of Montana (ARM) in the coming months to implement the Settlement Agreement. The ARM writing process will include public hearings, and opportunity for public comment. Concerned persons may submit their data, views, or arguments, either orally or in writing, at a hearing.

Additionally, the DNRC maintains a list of interested persons who wish to receive notices of their rulemaking actions. Persons who wish to have their name added to the list must make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specify what area that the person wishes to receive notices regarding: conservation districts and resource development, forestry, oil and gas conservation, trust land management, water resources, or a combination thereof. Cabin sites are a facet of trust land management. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Lucy Richards, PO Box 201601, 1625 Eleventh Avenue, Helena, MT 59620; fax (406) 444-2684; e-mail lrichards@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

An electronic copy of the proposal notice for the cabin site ARM will be also available through the department's web site upon filing at <http://www.dnrc.mt.gov>.

Enclosed is a Frequently Asked Questions sheet on the Settlement Agreement that you may find helpful.

Sincerely,



Jessica Hoag  
Property Management Supervisor  
Real Estate Management Bureau