

00-0769

TAX TYPE: CENTRALLY ASSESSED PROPERTY

TAX YEAR: 2001

DATE SIGNED: 5-10-2001

COMMISSIONERS: P. HENDRICKSON, P. DEPAULIS, M. JOHNSON

EXCUSED: B. JOHNSON

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)		
	)	<b>ORDER</b>	
Petitioner,	)		
	)	Appeal No.	00-0769
v.	)		
	)		
PROPERTY TAX DIVISION	)	Tax Type:	Property Tax/Centrally Assessed
OF THE UTAH STATE TAX	)		
COMMISSION,	)	Judge:	Phan
	)		
Respondent.	)		

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**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: REPRESENTATIVE FOR PETITIONER, Agent

For Respondent: REPRESENTATIVE FOR RESPONDENT, Assistant Attorney General

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. ' 59-1-502.5, on March 12, 2001.

Petitioner is appealing Respondent's market valuation for property tax assessment purposes of the subject property for the lien date of January 1, 2000. The appeal presented two issues to the Commission. The fist issue is whether the cash flow should be determined based on the

mine only, or whether the cash flow should be from both the mine and the mill. The second issue deals with the projected cash flow.

Petitioner argues that the appropriate cash flow for consideration in valuing the taxable property should be limited to the income from the mine. This is a departure from how the company had historically filed its Centrally Assessed Property Tax Reports. Historically, Petitioner included income from both the mine and the mill. Respondent points to statute and case law which supports the position that the income must be from both mine and mill. Respondent's representative also stated that in valuing similarly situated taxpayers, Respondent has included income from both mine and mill.

As Respondent indicated, the statutes, rule and case law make it clear that in determining a value for centrally assessed property tax purposes, the appropriate cash flow to consider for Petitioner's property includes income from both the mine and the mill. Utah Code Ann. Sec. 59-2-201(1)(e) & (f) provides that mines, machinery used in mining and property appurtenant to the mines are subject to property tax at 100% of its fair market value. Subsection (f) specifically states, "For the purposes of assessment and taxation, all processing plants, mills reduction works, and smelters which are primarily used by the owner of a mine or mining claim for process, reduction, or smelting minerals taken from a mine or mining claim shall be considered appurtenant to that mine or mining claim regardless of actual location." In this instance Petitioner's mine and mill are located adjacent to each other. The only product processed in the mill comes from the mine. Respondent's position is supported by the Utah Supreme Court's decision in Amax Magnesium Corp. v. Utah State Tax Comm'n, 796 P.2d 1256 (1990); and the decision of the Utah Court of Appeals in Chevron U.S.A., Inc. v. Utah State Tax Comm'n, 847 P.2d 418 (Utah Ct. App. 1993). Based on the statute

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and case, it is the Commission's conclusion that the appropriate cash flow for valuation purposes includes income from both the mine and the mill.

Once the first issue is decided, the Commission looks at the second issue presented which concerns the projected cash flow. In filing its 2000 Centrally Assessed Property Tax Report, Petitioner made the projections based on the cash flow of the mine only. Because this was such a departure from prior years, Respondent made its assessment based on the projected cash flows from the 1999 report. After filing this appeal and sometime prior to the hearing, Petitioner did submit projected cash flows which included income from both the mine and mill. These projections were considerably lower than the projections listed in Petitioner's 1999 report. Petitioner's representative stated that actual income for 1999 had been lower his 1999 projections and in fact for 2000 the income was lower than his 2000 projections. He stated that he had developed the revised 2000 projections based on the same formula used in 1999 and prior years and thus wondered why it should now be questioned.

Respondent was able to support its projected cash flow using historical data. The burden of proof is on the Petitioner to show both an error in Respondent's assessment and a sound evidentiary basis for establishing a new value. Petitioner simply did not provide enough support for its requested projections at the Initial Hearing level.

#### APPLICABLE LAW

The Petitioner has the burden to establish that the market value of the subject property is other than that as determined by Respondent. Utah Admin.. R. R861-1A-7(G). To prevail in a real property tax dispute, the Petitioner must (1) demonstrate that the County's original assessment

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contained error, and (2) provide the Commission with a sound evidentiary basis for reducing the original valuation to the amount proposed by Petitioner. *Nelson V. Bd. Of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997).

#### DECISION AND ORDER

Based on the forgoing, Petitioner's appeal in this matter is denied. Respondent's value is sustained. It is so ordered.

This decision does not limit a party's right to a Formal Hearing or the right of an affected county to show cause pursuant to section 59-2-1007 why the Commission should not adjust the values in accordance with this order. However, this Decision and Order will become the Final Decision and Order of the Commission unless an affected party files a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission  
Appeals Division  
210 North 1950 West  
Salt Lake City, Utah 84134

Failure to request a Formal Hearing will preclude any further administrative appeal rights in this matter. In that event, the Property Tax Division is ordered to adjust its records in accordance with this order. The Property Tax Division is also ordered to calculate the final adjustments to the values apportioned to tax districts as a result of this order and to deliver that information to the affected counties on behalf of the Commission. The auditors of the affected

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counties are ordered to use the information so provided to adjust their tax roles in accordance with this order.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
Jane Phan, Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION.

The Commission has reviewed this case and the undersigned concur in this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Palmer DePaulis  
Commissioner

Marc B. Johnson  
Commissioner

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