02-1616
PROPERTY TAX- GREEN BELT
TAX YEAR: 2002
SIGNED: 04-08-2003
COMMISSIONERS: P. HENDRICKSON, R. JOHNSON, P. DEPAULIS, M. JOHNSON
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	:	
	:	**Initial Hearing Decision and Order**
Petitioner,	:	
	:	Appeal No. 02-1616
v.	:	
	:	Parcel. No. #####- 1
		#####- 2
Board of Equalization of RURAL COUNTY, Utah,	:	Tax Type Property Tax/Greenbelt
	:	
Respondent.	:	Tax Year 2002

Presiding:
R. Bruce Johnson, Commissioner, and Pam Hendrickson, Commissioner

Appearances:
For Petitioner: PETITIONER, Petitioner
For Respondent: RESPONDENT REP. 1 and RESPONDENT REP. 2, County Assessor's Office

STATEMENT OF THE CASE

PETITIONER brings this appeal from a decision of the RURAL COUNTY Board of Equalization. This matter was argued in an Initial Hearing on March 21, 2003.

The Subject property consists of two parcels of land, totaling approximately 480 acres. Both parcels are irrigated by pivot sprinkling systems. Because of the design of those systems, portions of each parcel, primarily at the corners, are outside the reach of the sprinklers. PETITIONER argues that it is inappropriate to value those portions (referred to herein as the "dry land") as irrigated land and that the dry land should be valued as dry grazing land. The County, on the other hand, argues that it is appropriate to value each parcel based on its predominant use as irrigated land. The breakdown of each parcel, according to PETITIONER's notice of appeal, is as follows:

	Irrigated land	Dry land	Total
#####- 1	100 acres	60 acres	160 acres
#####- 2	250 acres	70 acres	320 acres
	350 acres	130 acres	480 acres

PETITIONER also testified that he did not own sufficient water rights to actually irrigate all the land and may, in fact, have been using more water than he was entitled to. A portion of a report from the water engineer indicates that PETITIONER is entitled to 390.80 acres and is actually irrigating 400 acres. The 400 irrigated acres consist of the 350 acres listed above and 50 acres of adjoining land, not under appeal.

APPLICABLE LAW

Generally, land must be valued at its highest and best use. The Utah Constitution, however, authorizes the Legislature to provide by statute that land used for agricultural purposes may be taxed at its value for agricultural use. Pursuant to that constitutional authorization, the Legislature enacted the Farmland Assessment Act, Title 59, Chapter 2, Part 5 of the Utah Code. The Act provides, in part, that "land may be assessed based on the value which the land has for agricultural use if the land: . . . is actively devoted to agricultural use." Section 59-12-503(1)(b). Land is actively devoted to agricultural use if "the land produces in excess of 50% of the average agricultural production per acre for the given type of land and the given county or area." Section 59-12-503(2)(a).

DISCUSSION

This case involves the application of the preferential valuation procedures allowed for agricultural land under the Farmland Assessment Act. There is no dispute as to the majority of PETITIONER's property. Approximately 350 acres are actively irrigated and were properly valued as irrigated land. Approximately 130 acres are outside the reach of the sprinklers. PETITIONER argues that the 130 acres should be valued as dry graze land.

We reject PETITIONER's argument. The Utah property tax system is based on parcels of property. Under the Farmland Assessment Act, the assessor must determine if each parcel meets the agricultural production requirements of the Act. If PETITIONER's argument is accepted, the Assessor would not only have to determine if the parcel qualified, he would have to determine if each portion of the parcel qualified. Although such scrutiny may be necessary in

some circumstances,[1] we see no reason to require such an examination where the irrigation systems are designed to reach as much of the parcel as possible.

Nor are we convinced that PETITIONER's argument, if accepted, would achieve the result he requests. He argues that the dry land should be valued as grazing land. There is no evidence in the record, however, to support this contention. The testimony indicated that the land was non-productive. Accordingly, if every portion of each parcel must be valued separately, it would follow that the dry portions of PETITIONER's property are not "actively devoted to agricultural use" at all. In some cases a property owner may choose to fence the "dry portions" of his or her land and actively devote those dry portions to grazing. An assessor would presumably take that into account. In this case, however, PETITIONER did not fence the dry land and did not use if for grazing.

PETITIONER testified that the land had been irrigated in the past with "wheel lines." Wheel lines, unlike pivots, could reach every portion of the parcels in question.[2] PETITIONER made a business decision to use pivot sprinklers instead, presumably because they are more efficient and cost-effective in the long run. In the absence of any evidence to the contrary, we must assume that that decision was a reasonable way to manage each entire parcel. Each entire parcel meets the production requirements for irrigated land.

We find that PETITIONER's decision to use one irrigation system rather than another, did not have the legal effect of withdrawing the corners of his parcels from agricultural use. Nor did it have the legal effect of converting those corners to grazing land.

Finally, PETITIONER argues that he could not irrigate all 130 acres of dry land in any event, because he only owns sufficient water rights to irrigate a total of 390 acres. This argument suffers from the same weakness outlined above. No grazing is occurring on the dry land. PETITIONER made a presumptively reasonable business decision to irrigate both parcels with pivot irrigation systems. It appears from maps provided by PETITIONER that the pivots are reasonably sized to maximize coverage given the configuration of the parcels. (Indeed, the pivot

[1] An assessor may need to classify some portion of an agricultural parcel as a primary residence, for example, if the farmer makes his home there. Similarly, a taxpayer could not expect to receive agricultural valuation on a portion of an agricultural property if that portion was actively devoted to a commercial use.

[2] We recognize that many parcels of agricultural land are irregular in shape and would be difficult to completely irrigate even with wheel-lines. We do not believe that the practical inability of any irrigation system to reach every square-foot of any agricultural parcel should require a different valuation to be applied to that square-footage.

on one parcel also irrigates some land on an adjoining property.) PETITIONER had sufficient water rights, given the design of his irrigation system, to cover the parcels in question.

DECISION AND ORDER

For the reasons set forth above, the decision of the Board of Equalization is upheld.

BY ORDER OF THE COMMISSION:

DATED this _____ day of _____, 2003

_____
R. Bruce Johnson
Commissioner

The undersigned Commissioners have reviewed this matter and concur in this decision.

Pam Hendrickson
Commission Chair

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner

NOTICE OF APPEAL RIGHTS: This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become final unless a party to this case files a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. The written request must include the appeal number and the above captioned case name, and it must be delivered to the Tax Commission Appeals Unit, 210 North 1950 West, Salt Lake City, Utah 84134. Failure to timely request a Formal Hearing will preclude any further appeal rights in this matter.

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