STATE OF CALIFORNIA *738.0010*

STATE BOARD OF EQUALIZATION
1020 N STREET, SACRAMENTO, CALIFORNIA
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October 24, 1991

Dear Mr.

This is in response to your letter of September 10, 1991, concerning the application of the 1990 amendment to Property Tax Rule 469, Mining Properties (Section 469 of Title 18 of the California Code of Regulations). You asked for our advice as to when an amendment to a property tax rule becomes effective for the purposes of a taxpayer who has a number of assessment appeals pending before the county Board of Equalization.

As amended, Rule 469 interprets and makes specific the provisions of section 1 of Article XIII and section 2 of Article XIIIA of the California Constitution as well as sections 51 and 110.1 of the Revenue and Taxation Code. As indicated in subdivision (a), Rule 469 sets forth the valuation standard for the rights to explore, develop and produce minerals, other than oil, gas and geothermal resources, and the real property associated with these rights. Thus, the rule sets forth the valuation standards which are to be applied under Proposition 13 in the valuation of the described property. The rule, as amended, became effective August 26, 1990. Since nothing in the amended Rule 469 contains any limitation upon its applicability, the rule sets forth the valuation standard which is to be applied on or after the effective date. This is consistent with the views previously expressed by this office in connection with the amendment of other regulations, such as the 1984 amendment of Property Tax Rule 2.

Accordingly, it is the opinion of this office that since the amendments to Rule 469 became effective on August 26, 1990, they apply to (1) all assessments made on or after August 26, 1990, and assessment appeal hearings associated therewith, and (2) all assessment appeal hearings in progress on or held subsequent to August 26, even though the protested assessment was made prior to August 26.

It is our further opinion that the Rule 469 amendment cannot be applied to assessments and hearings which were final on or prior to August 25, 1990. Further, these matters cannot be reheard in order to apply the amended version of Rule 469 since, under Property Tax Rule 326, an assessment appeal hearing is final when the decision is announced. If the decision was announced at the conclusion of the hearing, the case is final even though findings are subsequently prepared and adopted.

Please accept my apology for the lateness of this response. I sincerely regret that circumstances beyond my control have prevented me from responding in a more timely fashion.

Very truly yours,

Richard H. Ochsner
Assistant Chief Counsel

RHO: ta

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Cc: Mr. John W. Hagerty
Mr. Verne Walton
Mr. Ray Rothermel
Mr. Eric F. Eisenlauer