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September 6, 1991

CINDY RAMBO
Executive Director

No. 91/62

TO COUNTY ASSESSORS:

MINING PROPERTY STOCKPILED ORE

The purpose of this letter is to clarify the views of the Board's staff on the classification and assessability of stockpiled ore.

Classification

In the normal course of business, mining companies remove material (rock, ore, and minerals) from the earth. Although the material has been severed from the earth, the materials still have to be processed to separate the valuable minerals from the waste. Rule 121 states in part that "Land consists of the possession of, claim to, ownership of, or right to possession of land; mines, quarries, and unextracted mineral products; . . ." (Emphasis added.) It has been argued that the reference to unextracted mineral products includes material such as ore in stockpiles that has not yet been processed. That is, the minerals have not been "extracted" from the ore, so Rule 121 declares those minerals must be classified as land.

In our view, material that has been severed from the land must be classified as personal property. At any given time, the material may be in movement, such as loaded on a truck or conveyor belt, or it may be temporarily resting in a stockpile, awaiting further movement. A stockpile is clearly intended to be a temporary resting place; it does not suggest the intent of permanence required for classification as real property. The term "unextracted mineral products" in Rule 121 means the unsevered minerals in the earth, not unprocessed ore.

In the process of mining, some severed rock, minerals, or sub-economic ores are discarded as waste. These materials have no value as personal property. At some point in the mining process, the materials will be permanently deposited and should be classified as land.

Assessability

The material severed from the earth by the mine operator falls into three broad categories: (1) economic-grade ores that are ready for processing; (2) low-grade ores that cannot be processed economically today but will be processed if future economic conditions improve; and (3) waste material (e.g., "tailings").

September 6, 1991

The first category is raw material held for processing and ultimate sale. It is clearly exempt as business inventory. (See Section 129 of the Revenue and Taxation Code and Rule 133 of the California Code of Regulations).

The second category--low-grade ores that will be processed if economic conditions improve--are more difficult to categorize. It can be argued that these ores do not fall within the scope of the business inventory exemption because the operator is not holding them for current processing and does not know whether they will ever be processed. At the same time, it can be argued that the stockpiles of such ores have some value; a purchaser of the property would pay more for a property with stockpiles of such ore than a similar property without such stockpiles, gambling that future price increases will result in ready-to-process raw materials.

In order to assess these stockpiles, it is necessary to assume that the ore does not have value and therefore is not held as a raw material for purposes of the business inventory exemption, but at the same time it does have value as personal property. In other words, the ore must have two values at the same time.

We believe that a dual approach to value is not logical. There are many examples of inventories that are warehoused (not openly offered for sale or held for current processing) awaiting more favorable selling or other economic conditions. In the case of stockpiled sub-economic ores, the mine operator does not know for a certainty that the ores will ever be processed. However, the stockpiles are not being used for any purpose (use of a property by the taxpayer would disqualify it from the business inventory exemption), and the only purpose for creating and maintaining the stockpiles is for processing and sale. Thus, we believe these sub-economic ores are best classified as business inventory (raw material held for ultimate sale and therefore exempt). The only logical alternative classification is personal property with no value. In either case, there is no assessable value.

The third category--waste materials or tailings--is personal property of no value. Ultimately, it will be deposited at a permanent resting place, at which time it becomes land. If in the future such materials become economic to mine, they should be treated as proved reserves and assessed in the manner specified by Rule 469.

If you have questions or comments on the content of this letter, please contact Ray Rothermel or Jim McCarthy of our staff; their telephone number is (916) 445-4982.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

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