



October 9, 2017

Via Email to: [klemons@cochise.az.gov](mailto:klemons@cochise.az.gov)  
[arios@cochise.az.gov](mailto:arios@cochise.az.gov)

Cochise County Board of Supervisors  
Clerk of the Board  
C/O Arlethe Rios  
1415 Melody Lane, Building G  
Bisbee, AZ 85603

*Re: Letter of Dissent - 2018 Tax Year Real Property NOV Hearing Officer's Decisions*

Dear Cochise County Board of Supervisors:

Thank you for providing Phelps's Dodge/Freeport McMoRan ("Taxpayer") the opportunity to lodge this taxpayer dissent to the 2018 tax year real property petition decisions. This letter is provided for record purposes and to notify the Cochise County Board of Supervisors of Taxpayer's dissent to various representations and the ending valuations as a result of the August 9, 2017 in-person assessor meeting and October 5, 2017 hearing.

Property Tax Petitions ("Petitions") on a portion of Taxpayers significant property holdings in Cochise County, including land and obsolete improvements, were timely filed for the 2018 tax year in May 2017 for the following Cochise County parcels:

- |               |               |               |
|---------------|---------------|---------------|
| - 408-01-007  | - 408-31-006T | - 409-06-020D |
| - 408-18-025C | - 408-31-006V | - 611-05-119  |
| - 408-31-006C | - 408-31-006W | - 611-05-123  |
| - 408-31-006D | - 408-31-006X | - 611-05-130  |
| - 408-31-006F | - 408-31-006Y | - 408-31-022D |
| - 408-31-006Q | - 408-31-022E |               |

In particular, parcels 408-31-022E, 611-05-119, 611-05-123 & 611-05-130 include land and improvements. The remaining parcels are valued as land only. These parcels are not for sale and remain part of various remediation and ongoing company efforts by Taxpayer. Their current use is decidedly limited by the nature of Taxpayer's business.

Collectively the parcels are referred to as "Subject Property" or specifically via individual parcel number designations. Taxpayer requested that overvalued, forty to seventy-five-year-old antiquated, unused or un-useable structures, office space and sheds be valued in their current use



and condition,<sup>1</sup> that partially occupied improvement space should be allocated appropriate depreciation and obsolescence and further, that land should be valued based on the physical and actual characteristics and current use of the subject land.

## **I. Background**

The 2018 tax year Petitions for the Subject Property were initially reviewed by the County Assessor from May 2017 through August 15, 2017 and included a joint assessor level in-person meeting on August 9, 2017. A site visit was offered by Taxpayer and the assessing office declined this year.

Prior to the hearing on October 5, 2017, Taxpayer provided two Property Condition Reports to the assessing office for structures on parcel 408-31-022E.

After various hours of hearing the matter on October 5, 2017, the Hearing Officer indicated that the Taxpayer's provided information and representations would be taken under consideration. The Subject Property parcels are unique in their use and special considerations and use constraints based on actual current use.

## **II. Dissent Specifics**

### **A. Land Matters –**

We respectfully request a reduction to the land value to \$465/Acre for land acreage the assessor noticed at non-statutory value and considered general business commercial.

The Assessing office valued for the 2018 tax year based on general commercial market valuation approach. The Assessor acknowledged on the official record in the 2016 calendar year during the 2017 tax year appeal process that there are insufficient land sales to make a market for the Subject Property. Below are actual significant land sales in Cochise County since 2011.

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<sup>1</sup> The vast majority of the structures are not connected to utilities, are not occupied/inactive and have been shuttered for decades. Remaining structures have limited use and none of the improvements are viable or suited for resuming active mining activities. Please see attached Exhibit A Affidavit of Taxpayer representative - Mr. Robert Quintanar.



## Significant Reported Land Sales in Cochise County Over 6 years

Land Sales Sale #	County	Lead Parcel	Property Name	Date of Sale	Land - Acres	Land Sale Price	Land P/per Acre
1	Cochise	107-19-various	Lone Mountain	January 13, 2011	2,154.40	\$1,900,000	\$881.92
2	Cochise	209-56-006A	Antelop	February-11	5,180.00	\$2,460,000	\$474.90
3	Cochise	305-25-012	Apache Pass FYL	July-11	4,256.00	\$1,835,000	\$431.16
4	Cochise	103-17-002	Saddle Tree	November-13	925.67	\$288,000	\$311.13
5	Cochise	112-01-002	Lazy NJ	December-13	2,453.08	\$1,000,000	\$407.65
6	Cochise	405-37-009	Hunt NI	September-14	2,462.27	\$1,137,500	\$461.97
7	Cochise	402-11-029A	Split Rock Ranch East	December-14	4,700.00	\$1,500,000	\$319.15
8	Cochise	406-17-002	Rocker M & Rogers	June-15	3,776.00	\$956,000	\$253.18
9	Cochise	304-01-005	P Lazy P	July-15	2,633.00	\$703,000	\$267.00
10	Cochise	Multiple - Not provided	Little Oaks	December-14	787.00	\$850,000	\$1,080.05
11	Cochise	Multiple - Not provided	Christiansen	August-14	1,575.00	\$787,415	\$499.95
12	Cochise	Multiple - Not provided	Red Top	April-14	3,802.00	\$630,000	\$165.70

*Subject per Acre Value overstated.  
Significant Land sales - 10.2017*

**Avg.  
P/Acre = \$462.55**

2018 tax year Assessing office land notices of value range from approx. \$7,500 to over \$43,000 per acre for Taxpayer's land the assessing office considers to *not be impacted* by the mining operation and available as 'general business commercial' or "general commercial" subject to the open real estate market. This is erroneous. Why? Because the land is not for sale and is used as a part of Taxpayers ongoing operations.

No empirical evidence or reasoning was provided in support of the Assessor's position to generally allocate a land valuation at a base value of \$7,500 to over 43,000 per acre.<sup>†</sup> Last year, Taxpayer provided in excess of 20 state-wide significant land sales. 12 in Cochise County with an average price per acre of less than \$500. This year, the land sales were limited to the 12 Cochise County land sales as preferred per last year's administrative process. The average price per acre is \$462.55.

<sup>†</sup> Note, a few land parcels do have a 'blended rate' applied depending on the pits, piles and ponds "PPP" thereon which is delineated in Exhibit A.



**This letter is a specific request valuation adjustment as set forth in Exhibit A.**

**B. A Few Dissent Specifics - Improvements<sup>‡</sup> & Land Matters -**

For 408-31-022E –

- i. Improvements - Assessing office made a recommendation to reduction the improvement value which was accepted by the Hearing Officer.
- ii. Land - Assessor land valuation and discussion included the Assessor's valuation of Taxpayer's other properties. No empirical evidence or reasoning was provided in support of the Assessor's position to generally allocate a land valuation at a base value of \$15,000 per acre.<sup>§</sup>

For 611-05-119 -

- i. Improvements  
Notice value was not adjusted by Assessor at A-Level. Value adjustment took place verbally at the October 6, 2016 hearing by the Assessor's representatives for the 2017 tax year.
- ii. Land  
Taxpayer stated that in the nature of a compromise in valuation which appeared in process at the time, that it would accede to a land argument for this tax year assuming the improvement value was reduced to salvage or other *De Minimis* level. See previous land sections.

For 611-05-123

- i. Improvements  
At the Hearing, there is an issue of a possible mobile office pod on the property that we think is either gone or is treated as personal property. The assessing office stated they will work with taxpayer representation on this matter with the possibility to fix any error via notice of Claim.
- ii. Land - See previous land sections.

For 611-05-130

- i. Improvements  
Three improvements (2 storage listings and 1 industrial heavy) now have cost of construction beginning values of \$588.95/SF for storage 1, \$565.71/SF for storage 2 and \$172.38/SF for the industrial heavy as cost to construction.

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<sup>‡</sup> Disputed improvement values are on four parcels - 408-31-022E, 611-05-119, 611-05-123 and 611-05-130.

<sup>§</sup> See Exhibit A.



Interestingly, the start total cost for each of these three improvements per the assessor is the same value - \$3,957,767.

It is evident this is in error.

Based on the other improvements valued by the assessing office, these improvements are at best light industrial and the values should begin at an estimated \$40-\$55/SF. This value reduction *has not* been applied to the improvement adjustment set forth in Exhibit A.

As the hearing officer reported previously, the improvements are not being used serve no economic purposes. They are disconnected/"inactive", lack amenities, and none are viable or suited for resuming active mining activities.

ii. Land

Taxpayer stated that in the nature of a compromise in valuation which appeared in process at the time, that it would accede a land argument for this tax year assuming the improvement value was reduced to salvage or other *De Minimis* level. See previous land sections.

For all other parcels, see land discussion and Exhibit A.

### III. Administrative Issue

Taxpayer timely submitted the 2018 tax year administrative appeal petitions for 17 Parcels.

In the petitions for the Subject Property Parcels, taxpayer specifically requested a meeting with the assessing office. Taxpayer, and this firm as its representative, received no correspondence from the Assessing office through mid-July.

After significant attempts to corresponded with the Cochise County Assessing Office via telephone and email without response, Mr. Ted Offut emailed me on July 19, 2017. An Assessor level meeting was then set for August 9, 2017. On August 9, 2017 I met with Mr. Offut and some assessing staff members along with a visit from Mr. Leindecker, the elected Assessor.

At the August 9, 2017 in-person meeting, we discussed what additional materials the Assessor and his office wanted in order to support a downward valuation adjustment. As the statutory deadline for County Assessor decision letters was August 15, 2017, Mr. Offut informed me the County Assessor decision letters would be issued with 'no-change' to value recommendations.<sup>5</sup> However, if taxpayer provided valuation reports and/or other information, it would be considered as the petitions moved ahead.

<sup>5</sup> See A.R.S. 42-42-16055.



At the Assessor level meeting, I reminded the assessing staff that the land values were excessive based on actual sales in Cochise County as provided in the 2017 tax year packet. I also added we were working on property condition reports for submission to the assessing office for specific Douglas buildings.

Additionally, we gently reminded the assessing office, that per Arizona Revised Statute, property is to be assessed and valued based on its *current use*.<sup>6</sup> Not based on speculative, possible future considerations. Additionally, the Subject Property is not for sale and most either have pits, piles and ponds (“PPP”) on the parcels or are adjacent to a parcel with such landscape infractions. I then personally asked Mr. Offut and those present if there were any other issues with the 2018 tax year petitions for the 17 parcels filed. I was told there were no issues for the filed petitions.

Unfortunately, it was not until late August when the Cochise County Assessor actually mailed the Assessor Level Decisions to the office did we discover the Assessor’s Office did not issue decisions for three parcels – 408-31-006W, 408-31-006Y and 408-18-025C. In a letter dated August 30, 2017, this office filed copies of the 2018 tax year administrative appeal petitions to the County Board of Equalization including the three parcels that did not receive an Assessor Decision Letter in the mail.<sup>7</sup> In the cover letter to the County Board of Equalization filing, it was specifically noted that three Assessor Decisions were not received.

In early September, after some email correspondence to Mr. Offut at the assessing office and Ms. Lemons at the Cochise County Board office, my office was informed the assessing office *emailed* three rejection notices to the office on or about May 3, 2017. We did not receive this email and informed both Mr. Offut and Ms. Lemons of this fact. And, statute requires that rejection of petitions are to be mailed pursuant to A.R.S. 42-16053.<sup>8</sup>

Rejections of petitions for parcels 408-31-006W, 408-31-006Y and 408-18-025C were not actually mailed to the address on the petition. Statute requires the actual mailing of rejections for notice purposes and the opportunity to remedy the matter.

Taxpayer had no knowledge of the rejections until the Assessor Decisions were issued. There was no opportunity for these the rejected petitions to be corrected as described and required by statute. Had the rejections been provided via mail per statute, the rejection issue would have been timely noticed to taxpayer and taxpayer would have corrected the issue.

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<sup>6</sup> See A.R.S. 42-11054(C).

<sup>7</sup> The petitions provided to the County Board of Equalization filing were copies of those filed to the Assessor’s office as originally mailed in May 2017.

<sup>8</sup> See A.R.S. 42-16053: specifically, “If the county assessor rejects a petition because it fails to include substantial information required by sections 42-16051 and 42-16052, and if the notice of rejection is mailed: 1. On or before June 15, the petitioner may file an amended petition with the assessor within fifteen days after the notice of rejection is mailed.”...



Note, it is not the Assessor's office standard procedure to email rejections. In fact, during the October 5, 2017 hearing, we were informed this is the first year it had occurred. Perhaps this is a misunderstanding. Regardless, taxpayer was not properly noticed of the rejection and did not receive notice until months after the filing date due to lack of Assessor Level Decision.

The three rejected petitions were not allowed to be submitted to the Hearing Officer. It is now the Cochise County Board of Supervisors opportunity to correct this unfortunate matter and hear the petitions for these three parcels.

#### **IV. Summary**

Taxpayer respectfully submits this letter of dissent with a request for valuation reduction below per Exhibit A. Taxpayer has been and remains a significant business contributor to Cochise County. We want you to know that the Hearing Officer spent considerable time reviewing various forms of evidence for land and improvements. The issue remains the Subject property is restricted in its use and is not for sale. The current use is limited to ongoing operations.

We respectfully dissent to the hearing officer land based decisions, reserve Taxpayer's Rights for appeal and request the Cochise County Board of Supervisors to adjust the 2018 tax year valuations for the subject parcels as set forth in this letter and Exhibit A.

#### **V. Request to the Cochise County Board of Supervisors**

It is respectfully request that the County Board of Equalization determine the 2018 tax year values for the Subject Property as set forth in Exhibit A.

If you have any questions, please contact me. Unfortunately, I am pre-scheduled for hearings or would attend the Board of Supervisor's Meeting this week to be on hand for questions.

Thank you for your time and attention.

Very Truly Yours,

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Jodi A. Bain