

STATE OF NEVADA STATE BOARD OF EQUALIZATION

BRIAN SANDOVAL Governor

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In th	e Matter of)	
	Department of Taxation PETITIONER)~ }~ }	Case No. 16-295
	National Oilwell Varco Big Ledge Mine RESPONDENT)))	

NOTICE OF DECISION

Appearances

Jeff Mitchell appeared on behalf of the Department of Taxation (Department).

No one appeared on behalf of National Oilwell Varco / Big Ledge Mine (Taxpayer).

Summarv

The matter of the Department's request for the State Board of Equalization (State Board) to receive evidence and hear testimony regarding the disallowance of certain claimed deductions pertinent to the net proceeds of mineral tax came before the State Board for hearing in Carson City, Nevada, on June 30, 2016, after due notice to the Taxpayer and the Assessor.

The State Board, having considered all evidence, documents and testimony pertaining to the valuation of property in accordance with NRS 362.100 and 362.120, hereby makes the following Findings of Fact, Conclusions of Law and Decision.

FINDINGS OF FACT

- 1) The State Board is an administrative body created pursuant to NRS 361.375. The State Board is mandated to hear all appeals of determinations of net proceeds tax assessments pursuant to NRS 362.135 and 361.402.
- The Taxpayer and the Department were given adequate, proper and legal notice of the time and place of the hearing before the State Board, and the matter was properly noticed pursuant to the Open Meeting Law, at NRS 241.010 et seq. See Record, SBE page 111.
- Based on the recommendation of the Department, the State Board found a certain portion of the gross yield reported as an advance royalty did not qualify as a taxable royalty at this point in

time and consequently could not also be deducted as a royalty expense by the operator. See Record, SBE page 6; Tr. 6-30-16, p. 8, l. 4 through p. 9, l. 24.

- 4) The Department is required to determine and certify the net proceeds of all minerals extracted. *NRS 362.100.*
- 5) The State Board affirmed the correction to the certified net proceeds proposed by the Department. See Tr., 6-30-16, p. 10, II. 2-24.

CONCLUSIONS OF LAW

- 1) The notice of appeal was timely filed by the Department, and the State Board has jurisdiction to determine this matter.
- 2) The Taxpayer and the Department are subject to the jurisdiction of the State Board.
- 3) The State Board has the authority to determine the amount of net proceeds and tax due in the State pursuant to NRS 362.135.
- The amount of net proceeds and tax due as affirmed by the State Board results in the proper amount of net proceeds and tax due in accordance with NRS 362.105 and 362.120.
- Royalties do not include (a) rents or other compensatory payments which are fixed and certain in amount and payable periodically over the duration of the lease regardless of the extent of extractions; or (b) minimum royalties covering periods when no mineral is extracted if the payments are fixed and certain in amount and payable on a regular periodic basis. See NRS 362.105(2).
- Any conclusion of law above construed to constitute a finding of fact is adopted as such to the same extent as if originally so denominated.

DECISION

Based on the foregoing Findings of Fact and Conclusions of Law the certification of net proceeds of minerals tax by the Department is affirmed. The Department is instructed to certify the assessment consistent with this decision.

2015-2016 Unsecured Roll

	Original Certification		Corrected Certification	
Big Ledge Mine	Calculated Net Proceeds	Royalty Basis	Calculated Net Proceeds	Royalty Basis
Net Proceeds	\$2,379,484.08	\$80,351.00	\$2,429,484.08	\$30,351.00
TOTAL	\$2,379,484.08	\$80,351.00	\$2,429,484.08	\$30,351.00

The Department is instructed to certify the assessment consistent with this decision.

BY THE STATE BOARD OF EQUALIZATION THIS 30 DAY OF AUGUST, 2016.

Deonne Contine, Secretary

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