



STATE OF NEVADA
STATE BOARD OF EQUALIZATION

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Governor

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DEONNE CONTINE
Secretary

In the Matter of

Marigold Mining Company
Marigold Mine
PIN Number: 3343-08-001
Humboldt County, Nevada
PETITIONER

Department of Taxation
RESPONDENT

Case No. 16-330

NOTICE OF DECISION

Appearances

Jeffrey Knoll, Esq. of DuCharme, McMillen & Associates appeared on behalf of the Marigold Mining Company (Taxpayer).

Jeff Mitchell, Supervisor of the Centrally-Assessed Section of the Division of Local Government Services, appeared on behalf of the Department of Taxation (Department).

Summary

The matter of the Taxpayer's petition for review of prior year valuations on the Unsecured Roll in Humboldt County, came before the State Board of Equalization (State Board) for hearing in Carson City, Nevada, on June 29, 2016 after due notice to the Taxpayer and the Department.

Pursuant to NAC 361.7014, the Secretary to the State Board examined the petition of the Taxpayer and found the Taxpayer's appeal was for the tax years 2013-14 and 2014-15. The appeal was received on June 14, 2016. See *Tr.*, 6-29-16, p. 252, *ll.* 7-10.

The appeal for the tax year 2013-14 was due on May 15, 2013 under NRS 361.360(3) and was therefore 3 years late. The appeal for the tax year 2014-15 was due on May 15, 2014 and was therefore 2 years late. In addition, prior to the change in the law in 2015, those appeals should have been first heard by the Humboldt County Board of Equalization but were not. Under the old and revised laws, the appeals were filed late. Accordingly, the Secretary recommended to the State Board that the appeals for the years 2013-14 and 2014-15 be dismissed for lack of jurisdiction due to untimely filing of the appeal. See *Tr.*, 6-29-16, p. 252, *ll.* 11-19.

The State Board, having considered all evidence, documents and testimony pertaining to the jurisdiction of the State Board in accordance with the requirements of NRS 361.360, 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.
- 2) The State Board is mandated to hear all appeals of property tax assessments pursuant to NRS 361.360 and NRS 361.400.
- 3) The Taxpayer and the Assessor 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 241.020. The Department provided evidence to show the Taxpayer received notice of the hearing. *See Record, SBE pages 56-58.*
- 4) The subject property is a mine known as the Marigold Mine located in Township 33 North, Range 43 West in Humboldt County, Nevada.
- 5) Pursuant to NRS 361.360 (3), any taxpayer aggrieved at the action of the county board of equalization in equalizing, or failing to equalize, the value of his property, or property of others, or a county assessor, may file an appeal with the State Board of Equalization on or before May 15 in the current assessment year. The appeal to the State Board was received on June 14, 2016 and was untimely filed for the 2013-14 and 2014-15 tax years. The appeals for 2013-14 and 2014-15 appeals were filed from two to three years late. In addition, the appeals should first have been heard by the County Board. *See Tr., 6-29-16, p. 253, l. 10 through p. 254, l. 12.*
- 6) The State Board found the appeals were filed untimely and the Taxpayer did not show under what legal authority the State Board could hear the appeal for the 2013-14 and 2014-15 tax years. The State Board declined to accept jurisdiction. *See Tr., 6-29-16, p. 264, ll. 14-22.*
- 7) Any finding of fact above construed to constitute a conclusion of law is adopted as such to the same extent as if originally so denominated.


CONCLUSIONS OF LAW

- 1) The State Board has authority to determine whether it has jurisdiction to hear a matter. The State Board has the authority to determine matters necessary to carry out the power conferred on the State Board by statute. *Checker, Inc. et al. v. Public Serv. Comm'n*, 84 Nev. 623, 629-630, 446 P.2d 981 (1968).
- 2) The State Board did not accept jurisdiction to determine case number 16-330, based on the failure of the Taxpayer to show any legal authority which would allow the State Board jurisdiction to hear the case. *First American Title Company v. State of Nevada*, 91 Nev. 804, 543 P2d 1334 (1975).
- 3) 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 State Board held it is without jurisdiction to hear case number 16-330. The Department and the Humboldt County Comptroller are instructed to certify the assessment roll of the county consistent with this decision.

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



Deonne Contine, Secretary
DC/ter