

PETITIONER REPLY BRIEF

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IN THE NEVADA STATE BOARD OF EQUALIZATION

EMPIRE SOUTHWEST LLC,

Petitioner,

v.

ELKO COUNTY ASSESSOR

Respondent.

CASE NO. 26-112

PETITIONER'S REPLY BRIEF

[HEARING DATE 6-4-26]

Petitioner Empire Southwest LLC ("Empire"), through undersigned counsel, hereby replies to the Respondent Elko County Assessor's ("Assessor") submission dated May 22, 2026, and served via email on May 25, 2026 ("Response").

I. Introduction.

Empire filed its Opening Brief on May 1, 2026, where it identified several issues. The Response makes only two arguments. One is that Empire failed to provide a list of property to the Assessor. One is that a new Department of Taxation Advisory Opinion should result in affirming the Assessor's taxable values. Neither argument has merit.

1 II. Legal Analysis.

2 A. Empire complied with its requirement to submit a declaration timely.

3 NRS § 361.265 states as follows:

4 **NRS 361.265 Written statement concerning personal property: Demand;**
5 **contents; return of statement; valuation of unlisted property claimed by absent**
6 **or unknown person; penalties.**

7 1. To enable the county assessor to make assessments, he or she shall demand
8 from each natural person or firm, and from the president, cashier, treasurer or
9 managing agent of each corporation, association or company, including all banking
10 institutions, associations or firms within the county, a written statement, signed
11 under penalty of perjury, on forms and in the format prescribed by the county
12 assessor of all the personal property within the county, owned, claimed, possessed,
13 controlled or managed by those persons, firms, corporations, associations or
14 companies. The signature required by this subsection may include an electronic
15 signature as defined in NRS 719.100.

16 The Assessor states that despite the clear words of the statute, the Assessor “has been unable
17 to obtain a complete, clear listing of Empire’s personal property in Elko County.” Response at 2.
18 What Empire reported, timely, and on the form prescribed met the statute’s requirements.

19 As an initial matter, the Elko County Board of Equalization decision states “the subject
20 property was found to be appraised at the proper taxable value in accordance with NRS 361.” SBOE
21 p. 664. There is no mention in the decision about a “complete” listing of Empire’s property not
22 being furnished. The motion leading to the decision was merely “Board Member James Winer
23 moved to deny the appeal.” SBOE p. 655. While there was discussion about the completeness of
24 Empire’s declaration form, nothing in the decision stated the basis for the appeal denial. Thus, the
Response’s point is somewhat lost.

Next, each property declaration form contains the following instructions for completion.

WHEN PREPARING YOUR EQUIPMENT/ASSET/PERSONAL PROPERTY LIST,
PLEASE DO NOT INCLUDE:

- Any equipment/assets/personal property acquired after July 1, 2025;
- Sales tax;

- Licensed vehicles subject to the Department of Motor Vehicles governmental service tax;
- Inventory held for resale;
- Raw materials held for manufacturing into finished goods;
- Supplies that are consumed during day-to-day operations, that have a useful life of less than one year.

SBOE p. 179 (emphasis added).

In July 2025, Empire was litigating the application of NRS § 361.068 to its Caterpillar and Allied equipment before the SBOE. Thus, following the form's instructions, Empire did not list Caterpillar and Allied equipment on the form. The Assessor cannot complain about Empire not listing items it asserted were inventory when the Assessor-provided form states to not list inventory items. Empire's timely filed declaration is SBOE p. 190. Empire then supplemented that filing with additional items after the State Board of Equalization hearing. SBOE p. 183.

Next, the property declaration form provides the additional instruction "Please carefully review the following list of previously reported property and cross out any items that are no longer in your possession." SBOE p. 181. Empire did carefully review the listing and determined that it had NOT previously reported the items. All the Assessor's information was wrong.

Thus, Empire deleted the entire list and submitted a spreadsheet for license BU002495 with the information that included asset number, description, acquisition date and acquired value. SBOE pp. 185-187. The property location was Empire's Elko facility. After the July 2025, submission, Empire submitted additional information in December 2025. SBOE p. 183.

After submission of Empire's information, and after the County Board hearing and Empire's appeal to the State Board of Equalization, Empire sent an email around noon on April 3, 2026. (Exhibit A). The email provided two attached spreadsheets, one for license BU002495 showing each item for tax years 2023-24 through 2025-26. The Assessor had provided the spreadsheet and Empire reviewed the 2025-26 tax year tabs and reconciled the items listed to Empire's records. The other spreadsheet was for the large Caterpillar rental machines in the yard

1 that Empire asserts were exempt inventory. There are 14 machines with an acquisition cost of \$7.5
2 million.

3 On the same day, the Assessor responded, stating that while she had not read any of the
4 information, the Assessor needed Empire to produce a mountain of data and documents. Exhibit B
5 hereto. Empire's review of the list indicated that the Assessor was on a wild fishing expedition
6 seeking completely irrelevant information that would entail substantial hours to comply.

7 For example, the Assessor demands:

8 Property appraisal(s), broker opinions of value, or other valuation
9 documentation, statements, contracts, or loan documents supporting the transfer of:

10 -The reported \$18 million building acquisition (identified during the 2026
County BOE: no correspondence acquisition is currently reflected in Elko County
records)

11 - The reported \$500 million transaction involving Empire Southwest (as
12 discussed during the 2026 County BOE)

13 Empire's appeal involves a personal property exemption for items it asserts are inventory.
14 The Assessor requests information on Empire's acquisition of Cashman Equipment for \$500
15 million for all of Cashman's Nevada property. Providing any response to the above demand will
16 have no impact at all on Empire's appeal involving a personal property exemption. To Empire, this
17 is the type of frivolous demand that the Assessor now complains Empire has failed to comply with.

18 Additional examples of frivolous demands are the following:

19 Detailed capital asset listings or depreciation schedules (current and for 2025, 2024,
20 2023 and anything Cashman turned over to you in 2022), including supporting
documentation such as invoices indicting:

- 21 1. Physical assets owned by the business
- 22 2. Cost of each asset
- 23 3. Date place in service.

24 This information is necessary because each asset is to be reported annually until
disposed and then reported as disposed before permanently removed.

1 Empire's declaration included a spreadsheet with several hundred separate items for the
2 various personal property accounts for on rent items. SBOE pp. 210-212. Empire's declaration for
3 the personal property account for the in the yard assets included a spreadsheet with over a hundred
4 separate items. SBOE pp. 185-187. Empire's spreadsheet delivered April 3 with its email
5 contained a reconciliation of all assets for the 2025-26 tax year. The Assessor's demand for
6 documentation including invoices for hundreds of separate items for a three-year period is over the
7 top and demonstrates the Assessor's overreaching. Empire will not comply with demands from
8 overreaching government officials.

9 B. The 2026 Advisory Opinion has no impact at all on this appeal.

10 The Assessor included an Advisory Opinion dated March 2, 2026 ("Opinion") with the
11 Response. Based on the Opinion, the Assessor claims that personal property held for sale and lease
12 is subject to property tax unless the taxpayer can demonstrate that no lease occurred. Response p. 4.
13 From the Opinion's conclusion, the Assessor states that because large Caterpillar equipment is
14 placed in the rental fleet, it must be declared because there are leases and thus they are taxable.
15 Response at 5. There is much to unravel here, and thus this will be organized by section.

16 1. The Opinion applies, if at all, from the date it was issued.

17 Property taxation is based upon valuation on a specific date. NRS § 361.260 states that the
18 Assessor shall determine the taxable value for all property in the county as of July 1. Empire's
19 protest is for the property's taxable value on July 1, 2025. The issuance of the Opinion nine months
20 after the valuation date, and after Empire had already had its appeal heard at the County Board of
21 Equalization and already filed its appeal to the SBOE, makes it inapplicable to any current appeal.

22 2. The Opinion has a specific use and does not bind the SBOE or Empire.

23 The Opinion states "It should be noted that the conclusions reached in this advisory opinion
24 are not binding on any administrative body or any court of law, but rather these findings are the

1 Department's interpretation of the applicable statutes, case law, regulations, and other rules."
2 Further, the Opinion states "This opinion is based upon the representations, documents, facts, and
3 assumptions that have been included or referenced therein and the assumption that such information
4 is accurate, true, and authentic."

5 The request for an advisory opinion was made on December 30, 2025. The SBOE had ruled
6 that Empire's Caterpillar equipment met the statutory exemption requirement in a decision dated
7 December 9, 2025. Thus, at the time the request was made, the Assessor had the opportunity to
8 appeal the SBOE decision but chose not to. Instead, it appears now, the Assessor prompted the
9 Assessor's Association of Nevada to make an advisory opinion request.

10 The request notes the SBOE decision in Empire. It claims the earlier advisory opinion has
11 caused "confusion and potential misapplication." Id. The request states:

12 Furthermore, during the September 2025 State Board of Equalization hearings State
13 Board Member Bancroft opined that when the tax-exempt heavy equipment is rented
14 that the property becomes taxable pursuant to NRS 361.159 and that county assessor
15 could assess and collect taxes from the renter for the proportional use of the tax
16 exemption equipment/inventory. Such an interpretation is not consistent with the
17 current provisions of Nevada law and would be impracticable for county assessor as
18 equipment could be rented to multiple people throughout the fiscal year. SBOE p.
19 172.

20 The SBOE minutes from the September 2025 meeting reflect the following:

21 25-128 – Jim Susa appeared on behalf of the Petitioner. Andy Heiser appeared on
22 behalf of the Humboldt County Assessor's Office. Member Bancroft made a motion
23 to incorporate all testimony and discussion from case 25-127 in case 25-128.
24 Chairman Morse seconded the motion. All in favor. Motion carried. Member
Bancroft made a motion that the Caterpillar equipment acquired by Empire
Southwest for the purpose of resale, even though a portion may be rented, be treated
as exempt inventory. Chairman Morse seconded the motion. Chairman Morse and
Members Bancroft and Cadwell voted aye. Member Burke voted nay. Motion
carried. (SBOE minutes for September 29-30, 2025, p. 3).

25 There is no mention of NRS § 361.159 in the SBOE's minutes. However, the transcript of
the SBOE hearing is included in the SBOE record in this matter. Member Bancroft states that NRS

1 § 361.159 “does not apply to an assessment of a tax against an owner of the property.” SBOE p.
2 279. Next, during deliberations, Member Bancroft states the “statute does not control the disposition
3 in this case.” SBOE p. 325. These two statements caused Empire to change its litigation arguments
4 for this year, as noted in the Opening Brief, p. 6. NRS § 361.159 only applies to tax the user, not the
5 owner. See NRS § 361.159(2) (Taxes must be assessed to lessees or users of exempt property).

6 From Member Bancroft’s comments, the advisory opinion request concludes that his
7 comments are “not consistent with the provisions of Nevada law.” Instead, the request states that it
8 would be impractical for Assessors to implement and thus Member Bancroft’s comments on how
9 Nevada law works should be ignored in favor of a simpler rule. The simpler rule sought would be
10 that the use of any exempt personal property, even for one day, extinguishes completely the exempt
11 nature of the property and that the property owner, not the user, should therefore be taxed.

12 3. The Opinion’s conclusion ignores the statute’s wording and narrow purpose.

13 The Opinion cites NRS § 361.159 and then states that “property that is otherwise exempt
14 loses its tax-exempt status when leased or used in a for-profit business.” The cited statute does not
15 conclude that the property loses its tax-exempt status. The statute states “the leasehold interest,
16 possessory interest, beneficial interest or beneficial use of any such lessee or user of the property is
17 subject to taxation.” NRS § 361.159(1). That use is measured by a formula that has two
18 apportionment factors, one based on value used, and one based on time used. For example, if **one**
19 machine is rented for **one** day in the fiscal year prior to July 1, the statute measures the beneficial
20 use by the machine’s taxable value times 1/365, and that is then the taxable portion of the taxable
21 value. The Opinion states the entire machine is subject to tax, and that the machine owner, not the
22 user is to be taxed.

23 The narrow purpose of NRS § 361.159 can be shown through the court cases that led to the
24 statute’s enactment and later amendment. The statutory framework arose from federal cases

1 involving property owned by the United States but utilized by private parties in connection with for-
2 profit business activity. In United States v. City of Detroit, 355 U.S. 466 (1958), the United States
3 Supreme Court upheld a Michigan statute taxing a private party's use of government-owned
4 property, concluding the tax was imposed on the private user's interest and not on the exempt
5 government property itself. See also United States v. Township of Muskegon, 355 U.S. 484 (1958)
6 (upholding local tax on federally owned manufacturing plant used by private company in
7 performance of government contract); United States v. Boyd, 378 U.S. 39 (1964) (upholding
8 Tennessee's contractor's use tax as applied to private companies contracting with the Atomic
9 Energy Commission to manage, operate, and maintain plants).

10 Nevada later enacted NRS §§ 361.157 and 361.159 in 1965 to address similar use of
11 federally owned property at the Nevada Test Site in Nye County. See U.S. v. State ex rel. Beko, 88
12 Nev. 76, 493 P.2d 1324 (1972).

13 The original Nevada statutes taxed the private contractor "in the same amount and to the
14 same extent as though the lessee or user were the owner" of the exempt property. However, in
15 United States v. Nye County, Nevada, 938 F.2d 1040 (9th Cir. 1991), the Ninth Circuit held the
16 prior version of NRS § 361.159 unconstitutional because it failed to segregate the contractor's
17 possessory or beneficial use interest from the exempt federal government ownership interest. The
18 Ninth Circuit specifically explained that Nevada could constitutionally enact "a statute taxing a
19 lessee's possessory interest in, or a user's beneficial use of, property owned by the United States,"
20 but that the prior statute improperly taxed the contractor "as if it were the owner of the property."
21 Id. at 1043.

22 In direct response to Nye County, the Nevada Legislature amended NRS §§ 361.157 and
23 361.159 to tax only the "leasehold interest, possessory interest, beneficial interest or beneficial use"
24 of the user, measured proportionally by the portion of property used and the percentage of time

1 used. The amended statutes were later upheld as constitutional in United States v. Nye County,
2 Nevada, 178 F.3d 1080, 1085 (9th Cir. 1999), where the Ninth Circuit explained that Nevada had
3 “shifted the subject of the taxes from the property itself to the beneficial use of that property.”

4 Thus, the statutory and judicial history of NRS § 361.159 confirms that the statute was
5 enacted and amended to address taxation of a nonexempt user’s limited beneficial use of otherwise
6 exempt property — primarily federally-owned property used by private contractors — not to render
7 the entirety of exempt inventory taxable whenever a lease occurs.

8 4. Citations regarding exemption cases are inapplicable.

9 The Opinion cites several cases for the proposition that “tax exemptions are strictly
10 construed in favor of finding taxability.” SBOE p. 169. Each case demonstrates how the Opinion
11 misunderstands the exact language it quotes. Shetakis Distributing v. State, 108 Nev. 901, 839 P.2d
12 1315 (1992) involved a sales tax audit and assessment of a business that sold food and non-food
13 items to hotels, restaurants and other businesses involved in food preparation. The assessment was
14 based on Shetakis failure to collect sales tax on rock salt, waxed paper and foil. The appeal issue
15 was whether Shetakis was a retailer. A retail sale is defined as a sale for any purpose other than for
16 resale in the regular course of business. NRS § 372.050(1).

17 The case was about the scope of the tax applying to Shetakis, who argued that all its sales
18 were for “resale in the regular course of business.” Shetakis 108 Nev. at 906, 839 P. 2d at 1319. The
19 Court’s analysis determined that Shetakis’ evidence of the rock salt being resold because it was
20 rubbed on prime rib was not credible because of the volume sold (\$1,000 in salt sales over a 45-day
21 period – that is a lot of prime rib!). The Court’s then concluded that the evidence of wax paper and
22 foil being resold “is even scantier than that offered for the rock salt.” Id. Contrary to the Opinion’s
23 citation, the case had nothing to do with interpreting whether the terms of a tax exemption applied
24 to the questioned activity.

Next, Sierra Pacific Power v. Department of Taxation, 96 Nev. 295, 607 P.2d 1147 (1980) involved a sales tax exemption. The specific exemption language provided a sales tax exemption for “matter used to produce domestic heat.” Id. 96 Nev. at 297, 607 P.2d at 1148. Sierra Pacific purchased oil to utilize in its electric generating. It unsuccessfully asserted that because the electricity was utilized for households, it met the “domestic heat” component of the statute. The Court noted that the Legislature’s use of the term “domestic” must have meant some limitation on the exemption. The Court applied the rule of statutory interpretation that ambiguous words in statutes granting tax exemption should be construed against the exemption to conclude Sierra Pacific’s use of the oil was commercial or industrial, and not domestic.

Empire asserts that it meets the requirements of NRS § 361.068 that provides a property tax exemption for “personal property held for sale by a merchant.” Which of those eight statutory words does the Opinion conclude is ambiguous requiring the statutory interpretation rule to be applied? If it is the word “sale” then it is undisputed that all large Caterpillar equipment Empire holds is purchased with the sole intention, not just primary purpose, to sale the equipment.

II. Conclusion.

The Response cobble's together various legal citations in an effort to present the Assessor's case for upholding the County Board's decision. Each argument lacks merit. The Opinion is highly suspect for multiple reasons and only applies to the party that requested it. While all county assessors are bound to follow the Department of Taxation's interpretation of taxing statutes, nobody else is.

RESPECTFULLY SUBMITTED this 28th day of May, 2026.

DeCONCINI McDONALD YETWIN & LACY, P.C.

By: /s/ James M. Susa

James M. Susa

Attorneys for Petitioner

1 ORIGINAL of the foregoing E-Filed
2 this 28th day of May, 2026, with:

3 Nevada State Board of Equalization
4 stateboard@tax.state.nv.us

5 I hereby certify that I have this day served the foregoing document upon all parties of record in this
6 proceeding by mailing a copy thereof, properly addressed, to the following:

7 Janet Iribarne
8 Elko County Assessor
9 550 Court Street
10 Elko, NV 89801

11 /s/ Edwina Campbell
12 Legal Assistant
13 DeConcini McDonald Yetwin & Lacy, PC
14 Tucson, Arizona
15
16
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21
22
23
24

Exhibit A

Exhibit A

Susa, James M.

From: Huizingh, Dale <Dale.Huizingh@empire-cat.com>
Sent: Friday, April 3, 2026 12:21 PM
To: Janet Iribarne
Cc: Turley, Tiffani; Susa, James M.
Subject: FW: Acct BU002495
Attachments: Copy of Empire BU002495 PRC EXCEL w-dbh notes v2.xlsx; 07-01-25 Heavy CAT machines in the yard in Elko.xlsx

Janet – Checking in on this account...

I pulled our copy of the Cashman PPT filing for Elko County at 7/1/22 and I see the acquisition cost reported for FF&E was apx \$7.1M. Most of the cost is in assets acquired in 2013 or before so I assume the taxable value is substantially less.

Empire's PPT filing at 7/1/23 and later years included the shorter list of assets acquired from Cashman for \$1.8M, which was based on the purchase agreement.

As was discussed in the Elko County BOE hearing, I'm open to reporting our FF&E based on the Cashman's original schedule (and depreciation status) in lieu of the \$1.8M acquisition cost in 2022 included in our filings. And, of course, reporting the FF&E acquired by Empire since then.

I think there are some assets on the Cashman list that may have been disposed of, like the phone system installed in 1999, but we can let that ride until our local team has chance to make a thorough inventory.

I've tied out most of the items on the 7/1/25 bill for the BU002495 account - both the FF&E and the Rental Fleet. See the attached copy of your list w/notes added. Aside from the potential change on FF&E described above, I think the other "loose ends" are:

- 1) The Rental Fleet *attachments* and the Engine & Pump Rental Fleet assets need to be added to the bill. I think we've given you complete information but that was after the 2025/2026 bill was created.

I was surprised that the Engine and Pump group had a substantial inventory at the Elko store.

- 2) The bill the County provided has several lines for estimates:

num	cd	alt_dscr	serial_num	yr_acq	yr_ro
71	Y15	ESTIMATE OF VALUE- ALLIED RENTAL EQUIP VALUE FROM SBOE TESTIMONY		2025	:
72	Y15	ESTIMATE OF VALUE- ANTI COLLISION FOR CRANES		2025	:
73	Y15	ESTIMATE OF VALUE- CAT RENTAL EQUIPMENT		2025	:
74	Y15	ESTIMATE OF VALUE- CONEXES		2025	:
75	Y20	ESTIMATE OF VALUE- CRANES		2025	:
76	Y15	ESTIMATE OF VALUE- DIKE TANK		2025	:
77	Y20	ESTIMATE OF VALUE- GENERATORS		2025	:
78	Y05	ESTIMATE OF VALUE- PHONES AND RADIOS		2025	:
79	Y07	ESTIMATE OF VALUE- POS SYSTEM		2025	:
80	Y07	ESTIMATE OF VALUE- SECURITY SYSTEM		2025	:
81	Y05	ESTIMATE OF VALUE- SERVERS		2025	:
82	Y07	ESTIMATE OF VALUE- SERVICE TRUCK TOOLING		2025	:
83	Y15	ESTIMATE OF VALUE- SHOP EQUIPMENT 15Y		2025	:
84	Y07	ESTIMATE OF VALUE- SHOP EQUIPMENT 7Y		2025	:
85	Y15	ESTIMATE OF VALUE- WASTE WATER TREATMENT		2025	:
86	Y15	ESTIMATE OF VALUE-GAS PUMPS AND TANK		2025	:

- a) The Rental Fleet estimate for Allied Rental Equipment (line 71) appears to duplicate the individual assets reported and taxed.
- b) The Rental Fleet estimate for CAT Rental equipment (line 73) might be the same situation, or it might be a placeholder for the Heavy-CAT rental fleet assets we contend are not taxable.
I'm not sure whether we provided your office a list of the in-yard Heavy-CAT equipment at 7/1/25 so have attached it here.
- c) I assume the \$800K estimate on line 77 will drop off when you add the actual Engine & Pump assets to the bill.
- d) The other estimates (green highlighted) appear to be FF&E estimates. If we revert to starting with Cashman 7/1/22 FF&E list, do these go away?

- 3) The other loose end is the taxability of the Heavy-CAT Rental Fleet equipment but that is for the SBOE to decide.

Janet, if possible, I would like to resolve the other issues before the hearing, both to simplify what the Board needs to decide and so we have an agreed basis on how Empire should file at 7/1/26.

When you are ready to share Cashman's 7/1/22 FF&E list, we can work on an updated filing to add their FF&E items (and remove the ones based on the acquisition).

If you like, we can provide a combined list of all of the in-yard Rental Fleet assets to make sure we have the same list.

Lastly, I'd appreciate your confirmation or feedback on the estimates and how they will be resolved.

Please advise if you have any questions.

Thx, Dale

Dale Huizingh
Controller
Empire Southwest
Cell (480) 204-3859
Dale.Huizingh@empire-cat.com

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From: Huizingh, Dale <Dale.Huizingh@empire-cat.com>
Sent: Monday, March 9, 2026 3:43 PM
To: Janet Iribarne <jjiribarne@elkocountynv.net>
Cc: Turley, Tiffani <Tiffani.Turley@empire-cat.com>; Susa, James M. <jsusa@dmyl.com>; Gillian Jones <gillian.jones@elkocountynv.gov>; Tammie Dickenson <tdickenson@elkocountynv.net>
Subject: RE: Acct BU002495

Janet – That's fine. I'll work with the info I have in the Cashman files for now.

When it's available, I'd still appreciate an Excel version of 2022/23.

Please advise if you have any questions.

Thx, Dale

Dale Huizingh
Controller
Empire Southwest
Cell (480) 204-3859
Dale.Huizingh@empire-cat.com

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From: Janet Iribarne <jjiribarne@elkocountynv.net>
Sent: Monday, March 9, 2026 6:18 AM
To: Huizingh, Dale <Dale.Huizingh@empire-cat.com>
Cc: Turley, Tiffani <Tiffani.Turley@empire-cat.com>; Susa, James M. <jsusa@dmyl.com>; Gillian Jones <gillian.jones@elkocountynv.gov>; Tammie Dickenson <tdickenson@elkocountynv.net>
Subject: RE: Acct BU002495

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Dale,

The exemption details for the 2025–26 tax year are included in the County Board of Equalization packet under Assessor Exhibit F. I am currently awaiting confirmation from the District Attorney before providing you with the detailed data from the 2022–23 Cashman Equipment files.

Sincerely,

Janet Iribarne

Elko County Assessor

550 Court St. Elko, NV 89801

t(775)738-5217 dt (775)748-0343 f (775)778-6795

e jiribarne@elkocountynv.gov w [Elko County, NV](http://ElkoCounty.NV)

From: Huizingh, Dale <Dale.Huizingh@empire-cat.com>

Sent: Tuesday, March 3, 2026 8:59 AM

To: Janet Iribarne <jiribarne@elkocountynv.net>

Cc: Turley, Tiffani <Tiffani.Turley@empire-cat.com>; Susa, James M. <jsusa@dmyl.com>

Subject: RE: Acct BU002495

Janet – Thank you.

We'll work on sorting through the listed Rental Fleet equipment, categorizing and reconciling it.

On the sheet for 2025-2026, I think you have items listed that may also in your estimate for "Allied Rental Equip Value from SBOE testimony" (\$3M) and your estimate for "CAT Rental Equipment" (\$936K) but we can sort that out.

Re your FF&E estimates for 2025-2026 (rows 72 + 74-86) could you provide a little more info on where those numbers came from?

Based on the dialog during the CBOE hearing, I thought we might be headed toward Empire continuing to report the FF&E Cashman reported at 7/1/22 (instead of Empire's acquisition list) plus, of course, adding what Empire has purchased since them.

Could you provide the list of what Cashman reported for 7/1/22? The tab in the for that year only has some totals.

Please advise if you have any questions.

Exhibit B

Exhibit B

Susa, James M.

From: Janet Iribarne <jiribarne@elkocountynv.net>
Sent: Friday, April 3, 2026 5:48 PM
To: Huizingh, Dale
Cc: Turley, Tiffani; Susa, James M.; Gillian Jones; Tammie Dickenson
Subject: RE: Acct BU002495
Attachments: image003.emz; BU002495 Cashman 2022.xlsx; BU002495 Empire EQ.xlsx

Thank you Mr. Huizingh.

I appreciate your email. I will read through the materials you've presented and will get back to you. I too would like to resolve previous matters as well as current matters regarding these cases as soon as possible.

Attached is the Cashman Equipment data requested in excel format. This submission completes the documentation previously requested of me. However, to date, I have not received the materials requested substantiating the items reported or estimated for the 2023-24 year. Attached is a list of Empire Equipment that was discovered during the 2023 audit. Please indicate the items that are Small Cat, Heavy Cat, or Non-Cat and return.

Additionally, I am again requesting documentation necessary to refine a personal property valuation estimate for your business assets located in Elko County. Specifically, I am seeking information related to furniture, fixtures, machinery, and equipment at the Elko Campus. As discussed during the County Board of Equalization meeting on February 19, 2026, these items appear to be absent from your July 2025 declarations and prior filings. The equipment information submitted on February 18, 2026, remains incomplete.

To clarify, I have outlined the requested items below. In the past you've indicated that Empire's accounting records are not separated by location, if Empire's accounting records do not distinguish asset locations (e.g., Elko County vs. Elko Campus vs other locations and campuses), please provide the documentation in its entirety, and our team will identify and estimate the applicable assets within our jurisdiction. To be less intrusive, you may provide the relevant parts of the information as suggested by County Board of Equalization Chair, Sharon Byram.

Please provide relevant portions of the following:

- Property appraisal(s), broker opinions of value, or other valuation documentation, statements, contracts, or loans documents supporting the transfer of:
 - The reported \$18 million building acquisition (identified during the 2026 County BOE; no corresponding acquisition is currently reflected in Elko County records)
 - The reported \$500 million transaction involving Empire Southwest (as discussed during the 2026 County BOE)
- Updated the equipment list previously requested in connection with the 2023–2024 State BOE decision (September 2025) and attached. This information is necessary for compliance with the State BOE (2025) determination.

- Detailed capital asset listings or depreciation schedules (current and for 2025, 2024, 2023 and anything Cashman turned over to you in 2022), including supporting documentation such as invoices indicating:
 1. Physical assets owned by the business
 2. Cost of each asset
 3. Date placed in service

This information is necessary because each asset is to be reported annually until disposed and then reported as disposed before permanently removed
- General ledger (current and for 2025, 2024, and 2023)
- Humboldt, Clark, and Washoe County declarations filed (for 2025, 2024, and 2023)
(Requested to determine whether Elko-based equipment may have been reported in another jurisdiction.)
- Complete and detailed inventory lists to validate exempt status, including:
 1. Equipment type
 2. Serial number
 3. Year of manufacture
 4. Current equipment hours
 5. Acquisition type (e.g., new, trade-in, rental fleet)
- Rental receipt Sample (10–15 receipts per equipment type; small Cat, Hvy Cat, Non-Cat)
- Any additional documentation that may assist Elko County in determining the taxable value of the property

Additional questions:

- Does Empire own the FF&E equipment, or does Cashman retain ownership? Current assessor records indicate that Cashman continues to own all buildings previously in its possession, with no recorded transfers to Empire. Real Estate properties currently under Empire Southwest ownership appear to have been acquired from parties other than Cashman.
- Is there any leased equipment? Leased equipment is to be reported. If the equipment is leased there is a potential that the Lessor is responsible for the taxes.
- Would you prefer an alternative reporting structure for FF&E and building improvements? We recommend dividing account BU002495 into eleven (11) separate accounts—one for each building at the Elko Campus. Each account would report personal property within the building and associated equipment under its authority. Or we could separate the accounts – one for each situs address as currently the Elko Campus is comprised of (10) different situs addresses. I have compiled a list of the properties at the Elko Campus which assets are being reported under the one account BU002495. The list below includes the 37,000 sf +/- spaced occupied by Empire Southwest at the Nevada Gold Mine warehouse operation located at 4218 Ruby Vista Dr Ste 100 that is .5 half a mile west of the primary Campus location.

Empire Southwest - Elko Campus Real Property Summary. Currently all assets reported under BU002495

- 001860033 – 5260 Idaho St | Empire Southwest LLC (Owner) | Empire Southwest (Occupant)
- 001860038 – 5247 Idaho St | Cashman Eq Co LLC (Owner) | Empire Southwest (Occupant)



- 001860085 – 5244 Idaho St | Cashman Eq Co LLC (Owner) | Empire Southwest (Occupant)
- 001860084 – 5241 Manzanita Ln | Empire Southwest LLC (Owner) | Empire Southwest (Occupant)
- 001860090 – 5190 Idaho St | Cashman Eq Co LLC (Owner) | Empire Southwest (Occupant)
- 001860091 – 5180 Idaho St | Cashman Eq Co LLC (Owner) | Empire Southwest (Occupant)
- 001860021 – 5010 Idaho St | Cashman Eq Co LLC (Owner) | Empire Southwest (Occupant)
- 001860076 – 5004 Idaho St | CIPO Ent LLC (Owner) | Empire Southwest (Occupant)
- 001860077 – 5000 Idaho St | NEVL Ent LLC (Owner) | Empire Southwest (Occupant)
- 001860111 – 4218 Ruby Vista Dr| Realty Income Properties 6 LLC (Owner) | Empire Southwest (Occupies 37,000 sf.+/-) remaining portion of the building 162,124 sf. building is occupied by Nevada Gold Mine

Please provide the requested materials at your earliest convenience so we can proceed with our estimate of value.

Sincerely,

Janet Iribarne

Elko County Assessor

550 Court St. Elko, NV 89801

t(775)738-5217 dl (775)748-0343 f (775)778-6795

e jiribarne@elkocountynv.gov w Elko County, NV

From: Huizingh, Dale <Dale.Huizingh@empire-cat.com>

Sent: Friday, April 3, 2026 12:21 PM

To: Janet Iribarne <jiribarne@elkocountynv.net>

Cc: Turley, Tiffani <Tiffani.Turley@empire-cat.com>; Susa, James M. <jsusa@dmyl.com>

Subject: FW: Acct BU002495

Janet – Checking in on this account...

I pulled our copy of the Cashman PPT filing for Elko County at 7/1/22 and I see the acquisition cost reported for FF&E was apx \$7.1M. Most of the cost is in assets acquired in 2013 or before so I assume the taxable value is substantially less.

Empire's PPT filing at 7/1/23 and later years included the shorter list of assets acquired from Cashman for \$1.8M, which was based on the purchase agreement.

As was discussed in the Elko County BOE hearing, I'm open to reporting our FF&E based on the Cashman's original schedule (and depreciation status) in lieu of the \$1.8M acquisition cost in 2022 included in our filings. And, of course, reporting the FF&E acquired by Empire since then.

I think there are some assets on the Cashman list that may have been disposed of, like the phone system installed in 1999, but we can let that ride until our local team has chance to make a thorough inventory.

SBE NOTICE OF HEARING



STATE OF NEVADA

JOE LOMBARDO
Governor

DEPARTMENT OF TAXATION

GEORGE KELESIS
Chair, Nevada Tax Commission

MAIN OFFICE
3850 Arrowhead Drive
Carson City, Nevada 89706

SHELLIE HUGHES
Executive Director

August 4, 2026

**STATE BOARD OF EQUALIZATION
NOTICE OF HEARING**

CERTIFIED MAIL– 9489 0090 0027 6528 6947 03

PETITIONER:

Empire Southwest LLC
Richard Cunningham
3300 Saint Rose Parkway
Henderson NV 89052

CERTIFIED MAIL – 9489 0090 0027 6528 6948 64

RESPONDENT:

Janet Iribame
Elko County Assessor
550 Court Street, Courthouse Annex
Elko NV 89801

DATE/ TIME: Wednesday, August 26, 2026 at 9:00 a.m.

PLACE: Nevada Department of Taxation
9850 Double R Blvd., Ste 101
Reno, Nevada 89521

ZOOM

<https://us02web.zoom.us/j/81875193317>

Webinar ID: 818 7519 3317

Phone Number: 1-669-900-9128

Hearings begin on the first day. It is each taxpayer's or his representative's responsibility to be present when the case is called.

LEGAL AUTHORITY AND JURISDICTION OF THE STATE BOARD OF EQUALIZATION: NRS 361.360 & NRS 361.400.

BRIEF STATEMENT OF MATTER: Appeal from the action of the Elko County Board of Equalization

Case No: 26-112

Account No: BU002495

The State Board of Equalization (State Board) will hear the Petitioner's appeal at the time and place stated above. Please be aware that the time is approximate and although you may be assured the appeal will not be heard prior to the stated time, be prepared for possible delays as several appeals are scheduled at the same time. If the taxpayer or his representative is not present when his hearing is called, the State Board will invoke the requirements of NRS 361.385 and NAC 361.708(4). The State Board may (a) proceed with the hearing; (b) dismiss the proceeding with or without prejudice; or (c) recess the hearing for a period to be set by the State Board to enable the party to attend.

Please be aware the State Board will limit its consideration to the issues and contentions set forth in the petition. Other issues may be heard if the requirements of NAC 361.745 are met.

Information regarding the rules of practice and procedure before the State Board is provided on the attached information sheet.

A meeting agenda will be posted on the Department's website (<https://tax.nv.gov>) three (3) days prior to the scheduled meeting. If you would like an agenda emailed or mailed to you, please contact Denise Mosely at (775) 684-2160 or stateboard@tax.state.nv.us. If a party wishes to obtain a transcript of any hearing conducted before the State Board, the party must pay for the transcript or obtain a copy from the reporter provided by the State Board at the party's expense pursuant to NAC 361.731.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations during this hearing should notify the Department at least 3 days before the hearing. In order to comply with the security procedures of the Department, you will be required to show identification and sign a visitor's log prior to entering the hearing room.

If you need an accommodation in order to communicate during the hearing, the Department will provide one at no cost to you. Arrangements for an interpreter should be made as soon as possible, but no later than 14 days before the scheduled meeting. Please contact Denise Mosely at (775) 684-2160 at least 14 days in advance to request an interpreter in your preferred language. You may also submit your request through stateboard@tax.state.nv.us.

Si necesita una ayuda para comunicarse durante la audiencia, el Departamento se lo proporcionará sin costo alguno. Los trámites para conseguir un intérprete deben hacerse lo antes posible, pero a más tardar 14 días antes de la cita programada. Por favor, póngase en contacto con Denise Mosely al (775) 684-2160 con al menos 14 días de anticipación para solicitar un intérprete en su idioma de preferencia. También puede solicitarlo a través de stateboard@tax.state.nv.us.

If you have any questions, please call (775) 684-2160.

Shellie Hughes
Secretary to the State Board of Equalization

By: 
Denise Mosely
Program Officer II, Boards and Commissions
Department of Taxation

CC: **CERTIFIED MAIL** - 9489 0090 0027 6528 6947 34
PETITIONER AUTHORIZED AGENT:
DeConcini McDonald Yetwin & Lacy, PC
James M Susa, Attorney
2525 E. Broadway Blvd., Suite 200
Tucson AZ 85716

CC: **CERTIFIED MAIL** - 9489 0090 0027 6528 6947 27
PETITIONER ADDITIONAL AUTHORIZED AGENT:
Empire Southwest LLC
Chad Olsen
3300 St Rose Parkway
Henderson NV 89052

**STATE BOARD OF EQUALIZATION
NOTICE OF HEARING
CERTIFICATE OF SERVICE
26-112**

I hereby certify that on this day I served the foregoing document upon all parties of record in this proceeding by placing a true and correct copy thereof in the United States Mail, postage prepaid, and properly addressed to the following:

CERTIFIED MAIL– 9489 0090 0027 6528 6947 03

PETITIONER:

Empire Southwest LLC
Richard Cunningham
3300 Saint Rose Parkway
Henderson NV 89052

CERTIFIED MAIL – 9489 0090 0027 6528 6948 64

RESPONDENT:

Janet Iribame
Elko County Assessor
550 Court Street, Courthouse Annex
Elko NV 89801

CERTIFIED MAIL - 9489 0090 0027 6528 6947 34

PETITIONER AUTHORIZED AGENT:

DeConcini McDonald Yetwin & Lacy, PC
James M Susa, Attorney
2525 E. Broadway Blvd., Suite 200
Tucson AZ 85716

CERTIFIED MAIL - 9489 0090 0027 6528 6947 27

PETITIONER ADDITIONAL AUTHORIZED AGENT:

Empire Southwest LLC
Chad Olsen
3300 St Rose Parkway
Henderson NV 89052

Dated at this 4th day of the month of August 2026.

A handwritten signature in blue ink, reading "Denise Mosely". The signature is fluid and cursive, with a horizontal line drawn underneath it.

Denise Mosely, Program Officer II
Department of Taxation
State Board of Equalization



August 11, 2026

Dear State Board:

The following is in response to your request for proof of delivery on your item with the tracking number:
9489 0090 0027 6528 6947 03.

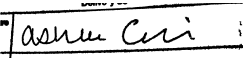
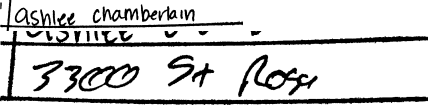
Item Details

Status:	Delivered, Front Desk/Reception/Mail Room
Status Date / Time:	August 10, 2026, 09:45 am
Location:	HENDERSON, NV 89052
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic

Shipment Details

Weight: 3lb, 4.9oz

Recipient Signature

Signature of Recipient:	
Address of Recipient:	

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004



August 11, 2026

Dear State Board:

The following is in response to your request for proof of delivery on your item with the tracking number:
9489 0090 0027 6528 6948 64.

Item Details

Status: Delivered, Front Desk/Reception/Mail Room
Status Date / Time: August 10, 2026, 09:35 am
Location: ELKO, NV 89801
Postal Product: First-Class Mail®
Extra Services: Certified Mail™
Return Receipt Electronic

Shipment Details

Weight: 1lb, 13.6oz

Recipient Signature

Signature of Recipient:	INFO www.usps.com/track Delivery Section
	DATE TIME X <u>2026-08-10</u> BY <u>Mike Snabes</u> BY <u>571 Idaho St</u>
Address of Recipient:	

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475 L'Enfant Plaza SW
Washington, D.C. 20260-0004



August 11, 2026

Dear State Board:

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9489 0090 0027 6528 6947 27.

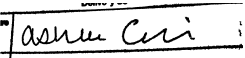
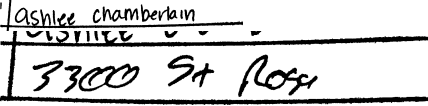
Item Details

Status:	Delivered, Front Desk/Reception/Mail Room
Status Date / Time:	August 10, 2026, 09:45 am
Location:	HENDERSON, NV 89052
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic

Shipment Details

Weight: 3lb, 4.3oz

Recipient Signature

Signature of Recipient:	
Address of Recipient:	

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475 L'Enfant Plaza SW
Washington, D.C. 20260-0004



August 11, 2026

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9489 0090 0027 6528 6947 34.

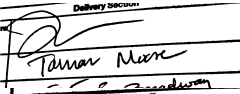
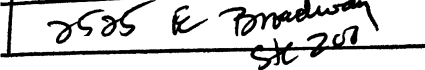
Item Details

Status:	Delivered, Front Desk/Reception/Mail Room
Status Date / Time:	August 10, 2026, 09:50 am
Location:	TUCSON, AZ 85716
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™
	Return Receipt Electronic

Shipment Details

Weight: 3lb, 4.9oz

Recipient Signature

Signature of Recipient:	
Address of Recipient:	

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

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Washington, D.C. 20260-0004