

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>PARK LAKE RESOURCES, LLC</p> <p>v.</p> <p>Respondent:</p> <p>PARK COUNTY BOARD OF EQUALIZATION</p>	<p>Docket No.: 45441</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 10, 2006, Karen E. Hart and MaryKay Kelley presiding. Petitioner was represented by Maury Reiber. Respondent was represented by Stephen Groome, Esq. Petitioner is protesting the 2005 actual value of the subject properties.

PROPERTY DESCRIPTION:

Subject properties are described as follows:

<u>Park County Schedule Number</u>	<u>Mining Claim</u>
90374	Mary Adair (100% Interest)
90450	No information presented
90451	No information presented
90508	Rough & Ready (100% Interest)
90559	Shelby Lode (100% Interest)
90619	Congress (100% Interest)
90881	Franklin (100% Interest)
90895	Legal Tender Lode (100% Interest)
90940	Little Pearl Lode (100% Interest)
90964	John Logan (100% Interest)
90970	Boston City (100% Interest)
90971	Boston City # 1 (100% Interest)

90973	Boreas Lode (100% Interest)
90974	Mable (100% Interest)
91489	Glorianna (50% Interest)

The subject properties are unimproved patented mining claims located near the city of Alma in mountainous terrain. The subject properties are classified as mineral.

FINDINGS OF FACT:

1. The parties stipulated to the following values for nine properties; however, Schedule No. 90873 was not part of the appeal:

<u>Park County Schedule Number</u>	<u>Mining Claim</u>	<u>2005 Actual Value</u>
90374	Mary Adair – 100%	\$981.00
90619	Congress – 100%	979.00
90873	Bendigo – 50%	491.00
90881	Franklin – 100%	905.00
90964	John Logan – 100%	317.00
90970	Boston City – 100%	670.00
90971	Boston City # 1 – 100%	670.00
90974	Mable – 100%	513.00
91489	Glorianna – 50%	491.00

2. No information was presented by either party for Schedule Nos. 94050 and 94051.

3. The value of the following five properties remains at issue:

<u>Park County Schedule Number</u>	<u>Mining Claim</u>	<u>Size</u>
90559	Shelby Lode	10.330 acres
90895	Legal Tender Lode	7.668 acres
90940	Little Pearl Lode	5.839 acres
90973	Boreas Lode	2.124 acres ¹
90508	Rough & Ready	10.330 acres

4. The subject properties have not been mined since the 1940’s, although production is expected to resume when warranted by the prices of lead, silver and zinc. Petitioner testified that it is imperative for properties saturated with minerals to be preserved and that assessments should remain consistent with prior years, as production will be taxed when it resumes.

¹ Respondent agreed to correct the size from 5.395 acres to 2.124 acres and adjust the value to \$467.00.

5. The subject properties are located in steep terrain. Petitioner presented a map showing that the elevation of four of the subject properties exceeds 11,500 feet. The fifth property, the Rough and Ready, has cliffs, is extremely steep and has no buildable sites. The Rough and Ready spans both sides of the 11,000 foot elevation contour line. The elevation and terrain of the five subject properties are similar to the properties with stipulated values of \$95.00 per acre.

6. Petitioner presented two mining sales from 2000 with prices ranging from \$42.55 per acre to \$93.29 per acre. Petitioner is requesting an actual value of \$90.00 to \$95.00 per acre for each of the five subject properties.

7. Respondent reported that Park County is one of the fastest growing areas in Colorado due to its proximity to Breckenridge and access from Highways 285 and 9. Residential demand has increased, and property values have increased from 10% to 15% per year. Land use for some mining properties is changing to recreational and residential.

8. There are 1,769 mining properties located in Park County, 19 of which sold during the extended five-year base period. Two of the 19 sales were purchased for residential use. Re-zoning or securing a Conditional Use Permit is required for residential construction on properties with patented mining claims. Park County will not issue building permits for sites above 11,500 feet in elevation, as they are considered too steep for development.

9. The median sales price of the 19 sales is \$1,940.00 per acre, which Respondent refers to as “base value.” Respondent contends that the subject properties are located below 11,500 feet in elevation yet have steep terrain and difficult access. The “base value” of the subject properties was reduced to reflect steep terrain and difficult access, resulting in a concluded value of \$220.00 per acre.

10. Respondent assigned the following actual values for tax year 2005:

Shelby Lode	\$10,421.00
Legal Tender Lode	\$ 7,737.00
Little Pearl Lode	\$ 5,891.00
Boreas Lode	\$ 1,187.00
Rough & Ready	\$ 9,419.00

11. Respondent is recommending a reduction in value to \$220.00 per acre to arrive at the following actual values for tax year 2005:

Shelby Lode	\$ 2,273.00
Legal Tender Lode	\$ 1,687.00
Little Pearl Lode	\$ 1,285.00
Boreas Lode	\$ 1,187.00
Rough & Ready	\$ 2,273.00

CONCLUSIONS OF LAW:

1. Sufficient evidence and testimony was presented to prove that the subject properties were overvalued for tax year 2005.
2. Classification is not at issue in this hearing. The subjects are classified mineral. The market dictates the use of the property. The Board does not have jurisdiction over the preservation of mining claims. The Board does not have jurisdiction over matters involving changes in zoning or the issuance of Conditional Use Permits.
3. Petitioner’s evidence related to the elevation of the subject properties was convincing.

ORDER:

Pursuant to the Stipulations entered into the record at hearing, Respondent is ordered to reduce the value of the properties listed below as follows:

<u>Park County Schedule Number</u>	<u>Mining Claim</u>	<u>2005 Actual Value</u>
90374	Mary Adair – 100%	\$981.00
90619	Congress – 100%	979.00
90881	Franklin – 100%	905.00
90964	John Logan – 100%	317.00
90970	Boston City – 100%	670.00
90971	Boston City # 1 – 100%	670.00
90974	Mable – 100%	513.00
91489	Glorianna – 50%	491.00

Given that Petitioner and Respondent did not present any evidence or testimony related to Schedule Nos. 94050 and 94051, that portion of the appeal is dismissed.

Pursuant to the evidence and testimony presented at hearing, and to remain consistent with Respondent’s valuation of properties located above 11,500 feet in elevation, Respondent is ordered to reduce the value of the remaining properties to \$95.00 per acre:

<u>Park County Schedule Number</u>	<u>Mining Claim</u>	<u>2005 Actual Value</u>
90508	Rough & Ready – 100%	\$981.00
90559	Shelby Lode – 100%	981.00
90895	Legal Tender Lode – 100%	728.00
90940	Little Pearl Lode – 100%	555.00
90973	Boreas Lode – 100%	202.00

The Park County Assessor is directed to change his/her records accordingly.

APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 31st day of October 2006.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

MaryKay Kelley

MaryKay Kelley

This decision was put on the record

OCT 31 2006

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Penny S. Lowenthal
Penny S. Lowenthal

