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| <p><b>BOARD OF ASSESSMENT APPEALS,<br/>STATE OF COLORADO</b><br/>1313 Sherman Street, Room 315<br/>Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>WEXPRO COMPANY,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>RIO BLANCO COUNTY BOARD OF<br/>COMMISSIONERS.</b></p> | <p><b>Docket No.: 47088</b></p> |
| <p><b>ORDER</b></p>   |                                 |

**THIS MATTER** was heard by the Board of Assessment Appeals on December 5, 2006, Karen E. Hart and Sondra W. Mercier presiding. Petitioner was represented by Alan Poe, Esq. Respondent was represented by Alan N. Hassler, Esq. Respondent moved to dismiss the appeal on the grounds that the Petition to the State Board of Assessment Appeals was not filed within 30 days of Respondent’s denial as required by C.R.S. § 39-10-114.5 (1).

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**Various oil and gas operations located in Rio Blanco County  
Rio Blanco County Schedule Nos. 124699, 124711, 124710, 124719, 124717,  
124721, 124726, 124706, 124718, 124715, 124716, 124724, 124723, 124722,  
125008, 125007, 125006, 125005, and 125138**

Petitioner’s agent filed for an abatement or refund of taxes from Rio Blanco County for tax years 2004 and 2005 in a petition dated June 9, 2006. On July 10, 2006, the Rio Blanco Board of County Commissioners denied the petition for abatement. On July 14, 2006, Nancy R. Amick, Clerk to the Rio Blanco County Board of Commissioners, sent the notice of the denial to Wexpro Company, 180 East 100 South, P.O. Box 45601, Salt Lake City, UT 84145-0601, the mailing address shown on the Petition for Abatement. Respondent’s Exhibit 1 includes a date stamped copy of the notice of denial indicating it was received by J.R. Livsey at Wexpro Company on July 18, 2006.

Wexpro informed its agent of the notice of denial on September 1, 2006. Petitioner's agent completed a petition to the Board of Assessment Appeals (BAA) on September 1, 2006. The Board of Assessment Appeals received the petition on September 5, 2006.

Respondent asserts that it properly provided notice of the action to taxpayer at the taxpayer's last known address and that the taxpayer is obligated to file with the Board of Assessment Appeals within the 30 day time period pursuant to C.R.S. § 39-10-114.5(1). Petitioner contends that Respondent should have mailed the notice of denial to the agent rather than to the taxpayer, and that the deadline for filing an appeal with the BAA should therefore be extended.

Pursuant to the Court's decision in *Tri-Havana Limited Liability Co. v. Arapahoe County Board of Equalization*, 961 P.2d 604 (Colo.App.1998) the Board of Assessment Appeals lacks jurisdiction over appeals that are not timely filed. The Court also held that "While it may be the common and better practice to notify an agent appearing for the taxpayer, there is no such requirement in these statutory provisions or elsewhere. Rather, because the statutory scheme requires mailing only to the taxpayer, we agree with the BOE that it complied with these statutory notification requirements upon the mailing of its decision directly to the taxpayer at taxpayer's address of record."

Petitioner's deadline for filing an appeal with the Board of Assessment Appeals was August 17, 2006, 30 days after Petitioner's receipt of the notice of denial. The Petition to the State Board of Assessment Appeals was postmarked September 2, 2006, more than two weeks after the filing deadline.

The Board has determined that Respondent has no legal requirement to notify Petitioner's agent but believes Respondent should make every effort to notify both Petitioner and agent when requested. This Petitioner had a reasonable expectation that its agent would be sent the notice of denial as the agent was sent the notice of denial in Petitioner's other appeal and all other notices regarding this appeal had been sent to the agent. The Board finds it disturbing that only the notice of denial for this appeal was not sent to the agent, ultimately resulting in dismissal of the appeal.

### **ORDER:**

The appeal is dismissed.

### **APPEAL RIGHTS:**

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

In addition, if the decision of the Board is against the Respondent, the Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when the Respondent alleges procedural errors or errors of law by the Board of Assessment Appeals.

If the Board recommends that this decision is a matter of statewide concern, or if it results in a significant decrease in the total valuation of the county, Respondent may petition the Court of

a significant decrease in the total valuation of the county, Respondent may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, the Respondent may petition the Court of Appeals for judicial review of such questions with 45 days from the date of this decision.

**DATED and MAILED** this 19<sup>th</sup> day of January 2007.

**BOARD OF ASSESSMENT APPEALS**

*Karen E Hart*

Karen E. Hart

*Sondra W. Mercier*

Sondra W. Mercier

This decision was put on the record

**JAN 19 2007**

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

