

**BOARD OF ASSESSMENT APPEALS,  
STATE OF COLORADO**

1313 Sherman Street, Room 315  
Denver, Colorado 80203

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**Docket No.: 48951**

Petitioner:

**WRIGHT TRUST AND BEN L. WRIGHT JR.,**

v.

Respondent:

**PARK COUNTY BOARD OF EQUALIZATION.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on October 2, 2008, Diane M. DeVries and Karen E. Hart presiding. Petitioner was represented by Ben L. Wright and Maurice Reiber. Respondent was represented by Herbert C. Phillips, Esq. Petitioner is protesting the 2007 actual value of the subject properties.

## **PROPERTY DESCRIPTION:**

Subject properties are described as follows:

<b>Schedule No.</b>	<b>Property Name – Interest %</b>	<b>Acres</b>
R0090019	AJV No. 1 - 33.33%	13.50
R0090089	Ant Hill No. 3 - 100%	10.33
R0090217	Golden Era - 50%	10.33
R0090339	Ogden - 50%	10.31
R0090342	Jacobs Wonder - 100%	10.33
R0090343	Wonderful - 100%	10.33
R0090376	Tunnel - 100%	10.33
R0090412	Missouri - 100%	10.33
R0090413	La Clede - 100%	6.80
R0090541	American Eagle - 50%	10.26
R0090665	Magnolia - 100%	6.80
R0090674	Triangle - 100%	4.53
R0090728	Little Champion - 12.5%	10.08
R0090731	Little Champion - 37.5%	10.08
R0090744	Grand Prize - 100%	10.33
R0090882	Jo Dandy - 100%	7.06
R0091000	Pt of Nova Scotia - 100%	2.26
R0091023	Shearwater Placer (part)	15.97
R0091294	Maine 2 - 18.75%	10.33
R0091392	St. John's - 100%	10.33
R0091401	Crisis Placer - 75%	128.74
R0091484	Collingswood - 75%	10.22
R0091583	Wealth - 100%	5.05
R0091584	Vulcan - 100%	5.05
R0091586	Dewey Mine - 100%	1.51
R0091590	Goldsmith - 100%	10.10
R0091613	Bob - 50%	8.72
R0091643	Pocahontas - 50%	10.33
R0091646	Emma - 50%	10.33
R0091647	Vanderbilt - 50%	7.36
R0091678	Commission - 100 %	1.11
R0091742	White Swan No. 7 - 100%	17.89
R0091765	London Mill Site - 100%	4.95
R0091795	Pt of Shearwater Placer - 100%	15.69
R0091863	Lehigh Valley Placer - 100%	130.00
R0091865	Wly part of Glengary - 100%	29.00
R0091886	Mater - 100%	3.65
R0091901	Frisbee Placer - 100%	120.00
R0091902	Towne -	10.33

At the hearing, the parties presented the Board with a Stipulation. The parties agreed that the 2007 actual value for 33 of the 39 subject schedule numbers should be as follows:

<b>Schedule No.</b>	<b>Property Name – Interest %</b>	<b>Value Assigned by Respondent</b>	<b>Stipulated Value</b>
R0090019	AJV No. 1 - 33.33%	\$980.00	\$427.00
R0090089	Ant Hill No. 3 - 100%	\$2,273.00	\$981.00
R0090217	Golden Era - 50%	\$1,136.00	\$491.00
R0090339	Ogden - 50%	\$1,134.00	\$490.00
R0090342	Jacobs Wonder - 100%	\$2,273.00	\$981.00
R0090343	Wonderful - 100%	\$2,273.00	\$981.00
R0090412	Missouri - 100%	\$2,273.00	\$981.00
R0090413	La Clede - 100%	\$1,496.00	\$646.00
R0090665	Magnolia - 100%	\$1,496.00	\$646.00
R0090674	Triangle - 100%	\$997.00	\$430.00
R0090728	Little Champion -12.5%	\$277.00	\$120.00
R0090731	Little Champion - 37.5%	\$832.00	\$359.00
R0090744	Grand Prize - 100%	\$2,273.00	\$981.00
R0090882	Jo Dandy - 100%	\$19,415.00	\$671.00
R0091000	Pt of Nova Scotia - 100%	\$497.00	\$215.00
R0091023	Shearwater Placer (part)	\$3,513.00	\$1,517.00
R0091294	Maine 2 - 18.75%	\$426.00	\$184.00
R0091392	St. John's - 100%	\$2,273.00	\$981.00
R0091583	Wealth - 100%	\$1,111.00	\$480.00
R0091584	Vulcan - 100%	\$1,111.00	\$480.00
R0091586	Dewey Mine - 100%	\$367.00	\$143.00
R0091590	Goldsmith - 100%	\$2,222.00	\$960.00
R0091613	Bob - 50%	\$959.00	\$414.00
R0091643	Pocahontas - 50%	\$1,136.00	\$491.00
R0091646	Emma - 50%	\$1,136.00	\$491.00
R0091647	Vanderbilt - 50%	\$810.00	\$350.00
R0091678	Commission - 100 %	\$246.00	\$105.00
R0091742	White Swan No. 7 - 100%	\$3,936.00	\$1,700.00
R0091765	London Mill Site -100%	\$1,089.00	\$470.00
R0091795	Pt of Shearwater Placer - 100%	\$3,452.00	\$1,491.00
R0091886	Mater - 100%	\$803.00	\$347.00
R0091901	Frisbee Placer - 100%	\$26,400.00	\$11,400.00
R0091902	Towne -	\$2,273.00	\$981.00

The Stipulation is attached to this Order for reference. The Board concurs with the Stipulation.

The remaining subject properties consist of the following six non-producing patented mining claims, all located below 11,500 feet in elevation:

<b>Schedule No.</b>	<b>Property Name – Interest %</b>	<b>Acres</b>
R0090376	Tunnel - 100%	10.33
R0090541	American Eagle - 50%	10.26
R0091401	Crisis Placer - 75%	128.74
R0091484	Collingswood - 75%	10.22
R0091863	Lehigh Valley Placer - 100%	130.00
R0091865	Wly part of Glengary - 100%	29.00

Petitioner’s witness, Mr. Maurice Reiber, indicated that he had purchased numerous properties from \$46.00 to \$95.00 per acre and that six properties had been purchased in 2007 for \$90.00 per acre. No sale documentation or detailed data was presented regarding specific comparable sales. Additionally, the Board cannot consider sales that occurred during 2007 as they are outside the data collection period ending June 30, 2006.

Mr. Reiber testified that the subject properties are mining properties and should not be valued as residential properties unless an actual change in use occurs. Mr. Reiber agrees that Respondent’s comparable properties are sales of non-producing patented mining claims. However, he believes the assessor should also consider treasurer deeds, quit claim deed sales, partial interest sales, and multiple schedule sales. He believes the assessor has set an arbitrary minimum value of \$220.00 per acre regardless of the physical attributes or location of the sale properties. The Board determined that treasurer deeds and partial interest sales should not be used to determine value on the market approach as these are not fee simple, arm’s-length transactions. The use of quit claim deeds and multiple schedule sales most likely should not be used as they usually prove to not be arm’s-length transactions or may have discounted sale prices. Only after thorough investigation and after finding arm’s-length sale circumstances should sales of these types be used.

Mr. Reiber testified that some of the subject properties are located on the side of a cliff and cannot be built upon.

Petitioner’s witness, Mr. Ben Wright, testified that the subject properties are intended to be used for mining and not as building sites. The Collingswood and Crisis Placer mines are land locked, and Petitioner does not own all of the interest in these properties. Respondent’s comparable sale located next to the Collingswood property was purchased for development as ranchettes, and he does not believe it should be used as a comparable for mining claim properties. He admitted that the American Eagle and the Crisis Placer have building sites but that a residential use is not compatible with patented mining claim use.

Both witnesses testified that mill tailings are buried on the Lehigh Valley Placer, the site of the former north London mine. The surface cannot be disturbed, and the property cannot likely be developed.

Petitioner is requesting a 2007 actual value for the subject properties of \$95.00 per acre, delineated as follows per Petitioner’s Exhibit C:

<b>Schedule No.</b>	<b>Property Name – Interest %</b>	<b>Petitioner’s Requested Value</b>
R0090376	Tunnel - 100%	\$981.35
R0090541	American Eagle - 50%	\$974.40
R0091401	Crisis Placer - 75%	\$12,230.30
R0091484	Collingswood - 75%	\$970.90
R0091863	Lehigh Valley Placer - 100%	\$12,350.00
R0091865	Wly part of Glengary - 100%	\$2,755.00

Respondent’s witness, Ms. Kristy Gould, Deputy Park County Assessor, indicated that the subject properties have difficult access to maintained access, steep to sloping topography, average to heavy tree cover and excellent mountain views. Ms. Gould testified that she looked for comparable properties of similar size and location within the same mining district. All her comparables are non-producing patented mining claims, none have conditional use permits, all are located below 11,500 feet in elevation or are adjusted for location above 11,500 feet, and cannot be used for residential purposes. Her building site attribute is linked to topography and is determined from aerial photos. She did not investigate either the subject properties or the comparables for geologic or contamination issues, though she pointed out that one of the comparables had visible mining tailings located on it at the time of sale.

Respondent presented an indicated value of \$408,739.00 for the subject properties based on the market approach, delineated as follows:

<b>Schedule No.</b>	<b>Property Name – Interest %</b>	<b>Respondent’s Indicated Value</b>
R0090376	Tunnel - 100%	\$14,770.00
R0090541	American Eagle - 50%	\$7,900.00
R0091401	Crisis Placer - 75%	\$138,074.00
R0091484	Collingswood - 75%	\$14,610.00
R0091863	Lehigh Valley Placer - 100%	\$207,725.00
R0091865	Wly part of Glengary - 100%	\$25,660.00

Regarding subject property Schedule R0090376, Tunnel, Respondent presented three comparable sales ranging in sales price from \$11,633.00 to \$20,000.00 and in size from 9.81 acres to 10.55 acres. After adjustments were made, the sales ranged from \$11,028.00 to \$22,400.00. Ms. Gould testified that her adjustments included an adjustment for a pond/wetland area of approximately 3 to 4 acres located on the subject property. The indicated subject property value is \$14,770.00.

Regarding subject property Schedule R0090541, American Eagle, Respondent presented three comparable sales ranging in sales price from \$11,633.00 to \$20,000.00 and in size from 9.81 acres to 10.55 acres. After adjustments were made, the sales ranged from \$12,236.00 to \$22,608.00. Adjustments included access and utilities as the subject property is bisected by a road and has

electrical service available. The indicated subject property value is \$7,900.00 for the subject's 50% interest.

Regarding subject property Schedule R0091401, Crisis Placer, Respondent presented three comparable sales ranging in sales price from \$111,250.00 to \$390,000.00 and in size from 97.86 acres to 155.70 acres. After adjustments were made, the sales ranged from \$191,460.00 to \$280,835.00. Adjustments included utilities as the subject property has electrical service available. The indicated subject property value is \$138,074.00 for the subject's 75% interest.

Regarding subject property Schedule R0091484, Collingswood, Respondent presented three comparable sales ranging in sales price from \$11,633.00 to \$20,000.00 and in size from 9.81 acres to 10.55 acres. After adjustments were made, the sales ranged from \$8,628.00 to \$14,698.00. Adjustments included topography as the subject property is a difficult building site. The indicated subject property value is \$14,610.00. The Board determined that this value is for a 100% interest and not for the partial interest of the subject property.

Regarding subject property Schedule R0091863, Lehigh, Respondent presented three comparable sales ranging in sales price from \$111,250.00 to \$390,000.00 and in size from 97.86 acres to 155.70 acres. After adjustments were made, the sales ranged from \$194,925.00 to \$335,000.00. Adjustments included access and utilities as the subject property is located on a county maintained road and has electrical service available. The indicated subject property value is \$207,725.00

Regarding subject property Schedule R0091865, Glengary, Respondent presented three comparable sales ranging in sales price from \$15,000.00 to \$190,000.00 and in size from 9.81 acres to 41.65 acres. After adjustments were made, the sales ranged from \$25,663.00 to \$54,131.00. Adjustments included access as a road bisects the subject property. The indicated subject property value is \$25,660.00

Respondent assigned an actual value of \$280,687.00 to the subject properties for tax year 2007, delineated as follows:

<b>Schedule No.</b>	<b>Property Name – Interest %</b>	<b>Value Assigned by Respondent</b>
R0090376	Tunnel - 100%	\$2,273.00
R0090541	American Eagle - 50%	\$7,900.00
R0091401	Crisis Placer - 75%	\$138,074.00
R0091484	Collingswood - 75%	\$21,079.00
R0091863	Lehigh Valley Placer - 100%	\$31,603.00
R0091865	Wly part of Glengary - 100%	\$79,758.00

Sufficient probative evidence and testimony was presented to prove that Schedules R0091865 and R0091484 were incorrectly valued for tax year 2007.

Respondent recommends a reduction from \$79,758.00 to \$25,660.00 for subject property Schedule R0091865, Glengary. The Board agrees with Respondent's recommended value.

Regarding Schedule R0091484, Collingswood, the Board reviewed the evidence presented by Respondent and the indicated value, and found inconsistencies in the mathematical calculations for the percentage valuations. The Board determined that the valuation of the property in fee simple 100% interest should be \$14,610.00 as shown in Exhibit 1, page 22. Therefore the 75% interest for the property should be \$10,957.50.

Respondent presented sufficient probative evidence and testimony to prove that the remaining four subject properties were correctly valued for tax year 2007.

The Board does not have jurisdiction over the preservation of mining claims or the zoning regulations of Park County. Classification is not at issue as the subject properties are classified as non-producing patented mining claims. The only issue is valuation, and the market dictates the most probable use and corresponding value of the subject properties. The Board was convinced that Respondent used sales of similar mining claims to value the subject properties.

Petitioner disputed the use of Respondent's comparable sales but presented no documented sales for the Board to consider. In contrast, Respondent presented an appraisal report using three comparable sales for each of the subject properties with adjustments made for differences in physical characteristics. Petitioner did not present sufficient evidence to prove that Respondent's sales were not the best available or that the adjustments used were incorrect.

## **ORDER:**

Respondent is ordered to reduce the 2007 actual values of the following Schedules, as set forth in the attached Stipulation: R0090019, R0090089, R0090217, R0090339, R0090342, R0090343, R0090412, R0090413, R0090665, R0090674, R0090728, R0090731, R0090744, R0090882, R0091000, R0091023, R0091294, R0091392, R0091583, R0091584, R0091586, R0091590, R0091613, R0091643, R0091646, R0091647, R0091678, R0091742, R0091765, R0091795, R0091886, R0091901, and R0091902.

Respondent is ordered to reduce the 2007 actual value of Schedule R0091865 to \$25,660.00 and Schedule R0091484 to \$10,957.50.

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

The remainder of the petition is denied.

**APPEAL:**

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of CRS § 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the Respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of CRS § 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

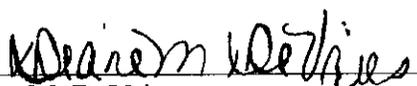
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

CRS § 39-8-108(2) (2008).

**DATED and MAILED** this 30<sup>th</sup> day of January 2009.

**BOARD OF ASSESSMENT APPEALS**

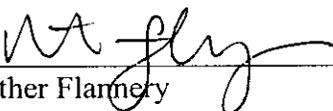
  
\_\_\_\_\_  
Diane M. DeVries

This decision was put on the record

**JAN 30 2009**  
\_\_\_\_\_

  
\_\_\_\_\_  
Karen E. Hart

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

  
\_\_\_\_\_  
Heather Flannery



**BOARD OF ASSESSMENT APPEALS  
STATE OF COLORADO**

Docket No. 48951

Multiple County Schedule Numbers: (As set forth in Attachment A)

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STIPULATION (As to tax year 2007 actual value)

Petitioner:  
WRIGHT TRUST

v.

Respondent:  
PARK COUNTY BOARD OF EQUALIZATION

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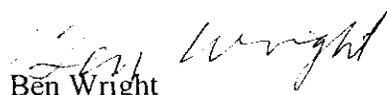
Petitioner and Respondent hereby enter into this Stipulation regarding the tax year 2007 valuation of the subject properties, and jointly move the Board of Assessment Appeals to enter its order based on this stipulation.

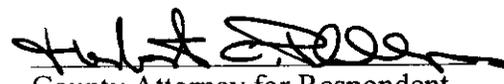
Petitioner and Respondent agree and stipulate as follows:

1. The subject properties subject to this Stipulation are described as set forth in the County Schedule Numbers on Attachment A to this Stipulation.
2. The subject properties are classified as non-producing mining claims.
3. Attachment A reflects the actual value of the subject properties after a timely appeal, as assigned by the Board of Equalization.
4. After further review and negotiation, Petitioner and Respondent agree to the tax year 2007 actual values of the subject properties, as shown on Attachment A.
5. The valuations, as established on Attachment A, shall be binding with respect to only tax year 2007.
6. Brief narrative as to why the reduction was made: Subject properties were adjusted based on location, if the property was located above 11,500 ft. in elevation the value was adjusted to \$95 per acre

DATED this 2<sup>nd</sup> day of October, 2008.

\_\_\_\_\_  
Petitioner or Agent or Attorney

  
Ben Wright  
3243 S. Columbine St.  
Denver, CO 80210

  
County Attorney for Respondent,  
Board of Equalization

Park County  
PO Box 1373  
Fairplay, CO 80440

  
County Assessor

Park County  
PO Box 636  
Fairplay, CO 80440

Docket No. 48951

## ATTACHMENT A

Docket No. 48951 Wright Trust v. Park County Board of Equalization

Schedule No.	Property Name	Value assigned by Park County Board of Equalization	Stipulation Value
R0090019	AJV No. 1	\$980.00	\$427.00
R0090089	Ant Hill No. 3	\$2,273.00	\$981.00
R0090217	Golden Era	\$1,136.00	\$491.00
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