

III. APPROVAL OF MINUTES:

MOTION: Board Member Kelly Buckner moved to approve the minutes for the Board of Equalization meeting held on February 19, 2008. Board Member Wes Bowlen seconded the motion. The motion passed unanimously.

IV. COMMENTS BY THE GENERAL PUBLIC:

In accordance with the Open Meeting Law, Chairman Leberski asked for any public comments that members of the audience might have. No public comment was submitted. Chairman Leberski closed the period for public comment.

V. ACTION TO BE TAKEN ON APPEALS:

Chairman Walt Leberski explained the procedure for the hearing under the Nevada Revised Statutes and the Nevada Administrative Code.

Board Member Wes Bowlen requested a clarification on the definition of agricultural assessment. Kristin McQueary read statute 361A.020 into the record. She stated there were further definitions of assessment under 361A.110 and reviewed that definition. Chairman Leberski noted that over the last eighteen months there had been policies established for agricultural use. He requested that the Assessor review those policies. Katrinka Russell reported that in the Board's packet it contained the policy letter that was sent out to all ranch/agricultural operators in Elko County. She stated their office tried to set policies wherein everyone was treated the same. Katrinka Russell stated they could use income tax forms, profit or loss financial statements, etc. She stated that they set policies so that when they reappraised the properties, as required by statutes once every five years, they would be required to reapply. She stated they would have to submit proof of income to maintain the current agricultural status on the property. Katrinka Russell stated that they notified every operator in Elko County in 2008 that these would be the standards required. However, if they had some properties that overlapped into other areas they could apply for all their appraisal districts. Board Member Al Plank inquired if there was a \$5,000 income threshold associated with that and if anyone had failed that. Katrinka Russell replied that was the minimum amount required to qualify for proof of agricultural income. She stated a couple had failed to meet that requirement and have voluntarily removed themselves from the program. She stated they were not agricultural operators and were just leasing the land. Board Member Wes Bowlen understood that when the land came out of Ag and went to special lands the agricultural deferred taxes were set aside. If that property was not sold and seven years pass, then that agricultural deferred bill would go away. Kristin McQueary noted the \$5,000 was the minimum to qualify for the agricultural deferment.

TAPE 1A POINT 8.1

NEVADA LAND & RESOURCE CO.

Case Nos. 09-029 and 09-114

Hearing Date: February 17, 2009

SUBJECT MATTER:

This being the time set for hearing the petition of Nevada Land & Resource Company for review of recommended taxable valuation on 86 parcels.

DOCUMENTS SUBMITTED BY PETITIONER:

- I. Letter from James Cavilia, Esquire dated February 10, 2009.
- II. NLRC letter to Assessor dated January 29, 2009.
- III. Grazing Lease 189012 – Elko Land & Livestock
- IV. Grazing Inv/Lease 181619 – Palisade Ranch
- V. Grazing Inv/Lease 189019 – Glaser Land & Livestock
- VI. Grazing Inv/Lease 182216 – Reed Ranching
Assignment to Lee Wilson & Company
Grazing Lease No. 3013-A So Pacific Co/Lee Wilson Co
Assignment to Reed
- VII. Grazing Inv/Lease 189123 – Gary Snow Livestock
Grazing Lease 189103 – Demar Dahl
Amendment to 189103
- VIII. Grazing Inv/Lease 183929 – Scott Egbert
- IX. Grazing Inv/Lease 189125 – Pequop Conservancy
Predecessor Lease 182361 – Newmont Gold Company
Grazing Lease Assignment 182361 – Merrill Family Trust
- X. Applications for Agricultural Use Assessment
- XI. Timeline of contact March 2008 to January 2009 w/attachments
- XII. Assessor Letter of removal from Agriculture Use Assessment

DOCUMENTS SUBMITTED BY ASSESSOR FOR THE RECORD:

1. Letter to Board

EXHIBITS SUBMITTED BY ASSESSOR'S OFFICE:

- A. BOE Map of Properties
- B. Petition for Review - B-1 Petition, B-2 Parcel List, B-3 Map
- C. Reason for Appeal - C-1 Parcel Information, C-2 Legal Description
- D. History & Correspondence, D-1 History, D-2 Chronological Order
Contact
- E. Request & Leases - E-1 Introduction, E-2 Elko County Request
Letter, E-3 NLRC Response, E-4 Lease Summaries, E-5 Lease
Area Map
- F. Appendix - F-1 Taxes Owed Breakdown, F-2 NAC, F-3 NRS,
F-4 Policy letter, F-5 Reevaluation map

Chairman Walter Leberski stated they would hear all the cases listed under Nevada Land and Resource Company at the same time.

process. James Cavilia introduced Don Pattalock, the Vice President of Nevada Land and Resource Company, and Danielle Bettridge who was the Administrative Services Manager who oversees the grazing leases. James Cavilia referred to NRS 361.355 spoke about the assessments made by the Assessor's Office between May 1 and September 15th for the ensuing year. He stated the Assessor was to provide an assessment notice to the property owner who then has until January 15th to appeal that assessment to this body. James Cavilia stated they continued to work with the Assessor's Office until the end of the last calendar year to qualify for agriculture deferment. Nevada Land and Resource Company had owned these properties since 1994. The properties were interspersed, surrounded by, and adjacent to Bureau of Land Management properties. The property had been in the agriculture program for fifteen years. James Cavilia submitted copies of Petitioner's timeline (Exhibit XI). James Cavilia noted there was no statutory requirement that there had to be a lease for agriculture use but there was a statutory requirement that there be an agriculture use to comply for the agriculture program. James Cavilia believed that all Nevada Land and Resource Company's leases were valid or had been held over by the continued payment. He contended the income for qualification of agricultural use was not the lease payment but the income from the sale of cows or calves. Danielle Bettridge, Administrative Services Manager for Nevada Land and Resource Company, reported their contact started in March of 2008 when they received a letter from the Assessor's Office requesting agricultural income information. She had received an e-mail from Julie Eaklor in June stating the documents submitted, which included the grazing leases and the QuickBooks software invoices for their grazing leases, were insufficient. Danielle Bettridge contacted their lessees asking for income information without a great response and had sent copies of those letters to the Assessor. She reported they received their tax bills in July stating they were still in agricultural use. In January, she received an inquiry from a former pasture lessee stating he had been removed from agricultural use. She had contacted Julie Eaklor and was informed they had been removed from agricultural status and Julie Eaklor had sent her an appeal form. Danielle Bettridge reported that Ms. Eaklor sent an e-mail to her addressing the issues with each grazing lease. Danielle Bettridge reported they had a conference call on the 22nd of January. Board Member Wes Bowlen commented the Board had received their timeline packet an hour into the meeting. He noted the Board did not have time to check or verify the information. Board Member James Winer commented that most of their correspondence was in the documentation submitted by the Assessor. James Cavilia did not know they had an appeal until the day the appeal was due to be filed. He stated the last assessment notice they received showed they were still agriculture but in the first week of February they were notified they lost their agricultural designation. Board Member Wes Bowlen asked for clarification; he understood that they were notified on January 15, 2009. James Cavilia stated they were notified by phone on January 15th informally but they had

not received written notification until February. James Cavilia stated the assessment notices were dated January 23rd and assumed that those notices went out of the Assessor's office after that date. Board Member Kelly Buckner noted in the Assessor's packet was Exhibit A, a letter dated February 15, 2008 where the information was requested on their leases. He commented that on March 6, 2008, there was correspondence from Julie Eaklor to Danielle Bettridge with regards to some values on the parcels. He noted at that point in time they asked if NLRC wanted to remove any portions of their property from the agricultural program. Board Member Kelly Buckner asked if this action was properly noticed. Kristin McQueary, Deputy District Attorney, replied there were different viewpoints. They were dropping the agricultural assessment unless they get proof for the 2009-2010 tax year which starts January 1, 2009. She stated under NRS 361A.110(1) "*any application for agricultural assessment must be filed on or before June 1 of any year*". Kristin McQueary reviewed NRS 361A.115(3) "*within thirty days after agricultural property becomes disqualified under subsection 1, the Assessor shall send a written notice of disqualification by certified mail with return receipt requested to each owner of record. The notice must contain the non agricultural assessed value for the ensuing fiscal year*". Kristin McQueary stated if they look at James Cavilia's point of view, they just got notice. If they look at it in regards to they were in the 2009-2010 tax year, they still have time. Kristin McQueary stated the Assessor had phrased it, to deny the agricultural deferment if they don't supply the agricultural use. Board Member Kelly Buckner noted the letter sent from the Assessor's Office in March was notifying all agriculture users (Tab 4/Exhibit E Letter dated March 3, 2008). James Cavilia acknowledged they had a copy of that letter and stated this letter went to numerous ranch operators. Board Member Kelly Buckner inquired if this notification placed notice on the taxpayer that their agricultural assessment might be changed based upon qualifications listed in the letter. Kristin McQueary reported it was a warning letter under the statute for absolute qualification and it was to be sent certified/return receipt requested. Board Member Kelly Buckner inquired if those letters were sent certified/return receipt requested. The Assessor replied that their policy letters were sent regular mail. She reported they send the agricultural deferred calculations and the notice that they were disqualified certified mail. Board Member James Winer inquired what that date was. The Assessor stated they sent certified mail January 23rd and NLRC received it on January 26, 2009. Board Member James Winer asked if they had received the letter dated March 3, 2008. James Cavilia stated they had and believed that part of this was miscommunication and the staff of Nevada Land and Resource was unaware of these statutes. He was contacted about this issue on January 16, 2009, when notified that they had to appeal. He contended the notice was late under the statute and therefore the disqualification could not take place at this point. James Cavilia stated Nevada Land and Resources was asked to file applications for Ag status in January. He was not sure he would have legally told

them that was appropriate or that they should do that. They did file the applications on January 28, 2009 which was part of the packet of information they received from his office. Board Member Wes Bowlen questioned why he would say they were not notified and had no knowledge if they received the letter of February 15, 2008 asking them if they planned to continue in the agriculture deferred program in 2009-2010. Don Pattalock, Nevada Land and Resource Company, stated they had been working back and forth with the Assessor's office, providing leases and clarification. He believed their correspondence had been sufficient when they received their first ag assessment notice. Chairman Walter Leberski inquired when they sent out the assessment notice. Katrinka Russell reported they sent out an assessment notice in June for any property that would change from January to June and another notice was sent out in December. Katrinka Russell stated on January 12th they received a call from Dale Morgan who questioned his assessment notice with regards to the ICL Cattle. James Cavilia stated that was the third party that purchased property from Nevada Land and Resource. James Cavilia stated NLRC was contacted and they in turn called the Assessor's Office. Chairman Walter Leberski inquired if Nevada Land and Resource received an assessment notice which stated their parcels would be assessed a certain amount of money. Don Pattalock stated they received notice on January 25th with the new assessments. Chairman Leberski asked if that was the first notice received informing them that agricultural use had been removed. James Cavilia replied that was sent certified mail. Board Member James Winer stated Mr. Cavilia's argument was if they were going to have notice, it was to come between May 15th and December 15th but they received it January 15th outside the statutory window. Kristin McQueary stated NRS 361A gave a specific statutory interpretation to the Ag deferred tax issue. She noted specific statutes took over general statutes and James Cavilia was citing was out of NRS Chapter 361, a general assessment statute. Board Member James Winer inquired if the January 15th notice was adequate. Kristin McQueary did not believe they were outside any time frames because the Petitioner was proactive in getting on the agenda. James Cavilia disagreed with Mrs. McQueary's statute interpretation because the notice was received January 25, 2009, ten days after the time by which they have to appeal by State Law. James Cavilia noted this Board met once a year as a result of the petitions filed before January 15th; if they were to file after January 15th this Board could not hear them until next year. James Cavilia noted that NAC 361A.150 (3) stated the notice was to be sent in writing by certified mail with the non-agricultural assessed value. Kristin McQueary read NRS 361A.150(3) into the record clarifying that the letter must be sent 30 days after agricultural real property becomes disqualified. James Cavilia argued they appealed it prior to getting that letter and believed the notice was late. Board Member Kelly Buckner understood that 30 days after the decision to change the Ag deferment they had to notify the taxpayer of their decision to change the assessed value. He inquired how that impacts the date for filing an appeal, if the date to file an appeal was January 15,

2009. He asked: 1) when the decision was made to change the tax evaluation, 2) when the notice was sent, 3) how did that impact the January 15th date to appeal. Kristin McQueary clarified that they filed in time and the tax year had not taken effect. Chairman Walter Leberski asked for a consensus of the Board that they proceed on the basis that the appeal was timely filed and they can proceed to hear their protest. The Board members agreed to proceed on the applications.

Chairman Walter Leberski noted there was a question as to the consistency on the leases. He believed the Assessor observed that the leases were no longer in good standing or had expired. The Assessor verified the leases at the recorder's office and some had expired so she asked that they file an appeal to the County Board. She stated they have worked with them prior to May and on May 30th Nevada Land and Resource Company submitted their documentation. On June 3rd the Petitioner was informed that their documents did not meet the requirements. Board Member James Winer commented that under the Nevada Lease Law Statutes if a lease had a holdover clause it went month to month, until there was notice to get off the property. Chairman Leberski stated there was a clause in the lease that they could continue on after the termination date by annual payments. James Cavilia stated that subject to the consent of the parties, and acceptance by the Lessor of advanced annual rental payment, the lease continues for a successive annual term. Katrinka Russell asked which lease he was referring to. James Cavilia stated it was Applications 1 and 2, Lease Number 189012 (Exhibit III). He stated in reviewing the leases each one he thumbed through had the same provision. He pointed out on the top of the second page of the lease with Elko Land and Livestock and read the second paragraph into the record: "2. --- *This Lease may be continued in effect from year to year subject to all its provisions, including the right of termination by Lessor at any time upon 15 days' notice in writing to that effect, and subject to the consent of the parties hereto and the acceptance by Lessor of the advance annual rental payment for each such successive annual term.*" James Cavilia stated that when the year comes up, they send an invoice to the tenant and if the tenant sends a check then they were still the tenant and NLRC was the Lessor.

Board Member Wesley Bowlen inquired if they had leases with livestock people in the Woodhills area outside of Wells. Chairman Walter Leberski questioned why they had a lease for one month with Gary Snow. Don Pattalock stated in the Woodhills/Independence Valley/Pequop Mountain areas they had two lessees, one lessee was the Pequop Conservancy LLC, which was a new owner who bought Mr. Owens' property and before that it was leased by Scott Egbert and Newmont Mining Company. The other lease was with Gary Snow Livestock Auction. He explained their billing cycle was annually from July 1 through June 30th so when Mr. Snow's lease came in May 8th the initial lease was until the end of June. After that, they continued their normal billing cycle with Mr. Snow. Board Member Wes Bowlen inquired if Mr. Snow owned a lot of the grazing land. Don

Pattalock stated Mr. Snow grazed about 16,000 acres. Board Member Wes Bowlen inquired if Mr. Snow subleased. Don Pattalock explained that usually the cooperators with the BLM (the permittees with the BLM) get a lease from Nevada Land and Resource Company for their private property within their allotments that allowed the cooperators to get an exchange of AUMS use, under their federal permit. They had a lessee several years ago who decided to no longer lease the Nevada Land and Resource Company property. NLRC leased it to a third party in that allotment. Don Pattalock stated the BLM operator and the Nevada Land and Resource Company operator run in common on that allotment. Board Member Wes Bowlen asked how the lessee's cows feed on the land when there was no fence. Don Pattalock explained when the BLM did their grazing assessments of the property; they look at the utilization values in those allotments. The BLM monitored the number of head they turned out and the period of use on federal and private lands.

Board Member James Winer noticed that the Newmont lease was not notarized and asked if that was a statutory requirement or a county policy requirement. Katrinka Russell replied it was county policy. Board Member James Winer if as proof they needed this lease and proof of every payment for the last ten or eleven years to show that it was continual. He inquired if a sworn affidavit from Danielle Bettridge would fill the gap so that the Assessor would have the proof. Chairman Walter Leberski stated the problem was all the assignments were not of record with the Assessor. Board Member James Winer stated that the County needed proof that the leases were valid and if the lease was assigned then there should be an assignment, notarization, affidavits, etc. Don Pattalock stated that everything he spoke about was correct except they were dealing with grazing leases which were not normally recorded in the County. He stated if they record a memorandum of lease they were notarized, stamped and put in the county record. He reported that most of their grazing leases, assignments and amendments were not recorded. Board Member James Winer asked if the County had copies of all the leases, assignments, parts and pieces on this lease. The Assessor clarified that they would like a current lease. She stated that on the two leases with Gary Snow in the Pequop area, Nevada Land and Resource Company had updated their leases and assignments so those two leases were almost approved because most of the paperwork was in order. She stated that the other grazing leases were outdated and there were no assignments. She noted that if the payments that came in match what was on the lease; that would then provide a paper trail. Board Member James Winer did not think statutorily they could force NLRC to go out and get signed leases. Kristin McQueary read into the record: NRS 111.200 *Limitations on terms of leases. 1. No agricultural or grazing lands within the state shall hereafter be conveyed for agricultural or grazing purposes by lease or otherwise, except in fee and perpetual succession, for a longer period than 25 years.* Kristin McQueary stated that this may have some bearing on the other leases. She read into the

record NRS 111.205: 1. *No Estate or interest in lands, other than for leases for a term not exceeding 1 year,*” Kristin McQueary noted the statute said that anything over one year had to be in writing. Board Member James Winer questioned if the County could tell the taxpayer how to run their business and paperwork. Chairman Leberski noted the Assessor questioned these leases because of the lack of chain of title. Chairman Leberski inquired if Mr. Pattalock had submitted a chain of title on the Newmont lease. Mr. Pattalock stated if Nevada Land and Resource Company had sold five sections out of the Newmont lease there was a letter that went to Newmont saying these sections had been reduced and the lease amount had been reduced. Chairman Leberski did not believe the Assessor had that chain of title. Don Pattalock stated they had provided all the leases showing the chain of title. He stated the Assessor was going back and looking at their annual billing trying to correspond it to the current AUMs in that lease. Don Pattalock stated that they could provide a chain of title back to the 1960’s with all these operators. He felt they had provided the current leases, and all the revenue they received showing they were in good standing. Board Member Kelly Buckner stated it was incumbent upon Nevada Land and Resource to provide the necessary information to the County Assessor so that they can properly identify their property as agricultural use. He noted the Assessor had sent out a letter requesting current information, current documentation as far as payment. Board Member Kelly Buckner inquired if there were any parcels they want to remove from agricultural use. Don Pattalock stated they have two parcels south of South Fork along Twin Bridges that they do not have grazing leases on and they would like to remove those parcels. Chairman Leberski asked if those had been previously parceled out. Don Pattalock stated those were already taken out by a sister company and the taxes were paid on that transfer. Board Member Wes Bowlen noted they were talking about leases made 10 or 15 years ago but this Board only had to worry about the last 3 years. In his opinion, they had to show the Assessor on the parcels that they have receipts from the Lessor that stated they received over \$5,000 for Ag use. He noted that income relevant to that lease was the number of AUMs in that lease because it was the income from the lease and not the hypothetical case of how much money the lessee got for the cattle. Kristin McQueary read the statutory guidance NRS 361A.120 (2) into the record: 2. *The Assessor or the Department may inspect the property and request such evidence of use and sources of income as is necessary to make an accurate determination of use.*” Kristin McQueary believed they were struggling with whether there was enough information to determine an accurate use. Chairman Leberski stated determination should be what the lease was worth. James Cavilia disagreed and believed the statute talked about the amount of money generated from the agricultural use and not the leasing of the property. James Cavilia stated this would be new ground if they took the position that they had to generate \$5,000 on a lease payment from a grazing lease. He understood that the money generated from the Ag use was through sale of

crops, grazing of livestock, etc. He stated that their position historically was \$5,000 of gross income to be generated from the agriculture use not necessarily the leasing of the property. Board Member Wes Bowlen stated he did not disagree with him but they could not prove the \$5,000. James Cavilia stated historically those things have been treated as an operation. If the agricultural operation itself whether it involved six sections of property or one section of property generated \$5,000 of income it was given an Ag exemption. Board Member Wes Bowlen reviewed a case last year wherein the Board of Equalization explained to Mr. Payton that each piece of property must stand on its own. James Cavilia agreed that it was a difficult policy issued that needed to be addressed for the rural counties. He questioned what they were trying to encourage. Board Member Wes Bowlen noted that Mr. Payton bought the property from the Nevada Land and Resource Company, fenced the property and showed proof where he had \$5,000 income for two years. Board Member Wesley Bowlen stated that even if Mr. Payton had a legitimate agricultural use he had to show for the last three years agricultural use. Don Pattalock noted the statutes were clear that if they change ownership of the property they had to prove they maintained their agricultural status. Don Pattalock noted that Mr. Payton bought a piece of property from them and was notified of the agricultural sale tax lien against the property. He stated that if Mr. Payton was going to maintain the agricultural status then he had to submit his own Ag application. Board Member Wes Bowlen stated he did not disagree with that if they were legitimate livestock owners and running a livestock operation. He stated that Nevada Land and Resource were not; they were property speculators and property owners. Don Pattalock stated that NLRC did not run cattle on their property but their property ran in the checkerboard allotments from Reno to Wendover. He stated their property was part and parcel to all these Ag operators that run on their property. Board Member Wes Bowlen noted there was no injury to the Nevada Land and Resource Company until such time as they sell the property. James Cavilia stated that was not true because there would be a change to the assessment from this point forward. Board Member Wes Bowlen stated hypothetically if they sold some land it was taken out and put into special lands. He understood the back taxes were set aside and Nevada Land and Resource Company did not have to pay the back taxes at all if they don't sell that property within the last seven years. James Cavilia noted that there would be a new assessment rate so there was an injury. Don Pattalock stated on the 80 parcels it meant a \$250,000.00 difference.

Board Member Al Plank noted there was some discussion on the interpretation of the statute and whether or not a lease payment represents legal income. He believed the statutes were written that they needed to show revenue. James Cavilia believed they have to go after the purpose of the statute. They wanted to encourage agricultural use and want it to continue in the state especially in the rural counties. He stated that if they don't look at the use and the money generated from the agricultural use, then it defeated the purpose. The statutes were

written in the terms of the use and what money was generated from the agricultural use and not from the leasing of the property. James Cavilia stated there was some ambiguity in the statute whether it was parcel by parcel or if it was a contiguous operation. He believed the reason they have local Boards of assessment in the state was to make those initial policy decisions as to what was appropriate and what they think was appropriate when they were applying this to Elko County. Board Member Al Plank did not believe there was any doubt that it was being used for agricultural but they need to get to the Assessor's Office a current lease and they established that it was customary for the leases to holdover. He noted that somewhere in the documentation they had submitted QuickBooks records to the County Assessor's Office. Board Member Al Plank asked what more documentation would be required for revenue and current leases in order to get the Ag exemption. The Assessor suggested an Affidavit stating that this payment was for this lease. She questioned how hard it was to update their current leases. Chairman Leberski commented that he was familiar with these leases and if a lease was assigned then they do an assignment. He stated if they have not presented that to the Assessor, then the Assessor needs to decide what was required. Katrinka Russell stated that they have a policy in place but they could change the office policy or modify it. Kristin McQueary reiterated that under NRS 361A.120 the Assessor needs evidence of use and sources of income to make an accurate determination. She read NAC 361A.130 *"Additional documentation may be requested by the assessing authority relating to a determination of agricultural pursuit or conducting a business venture for profit, including, without limitation, leases, receipts, or rent paid, account balance sheets, profit and loss statements, audited financial statements and federal income tax returns. Such additional documentation must accompany the application but does not need to be recorded."* Kristin McQueary noted the regulations allow all sorts of different types of income but the overriding statutory part that the Assessor was working under was making an accurate determination. Chairman Leberski inquired if the Assessor could accept an Affidavit as to the amount of money they received the last three years on a particular lease. Kristin McQueary felt they would have to break it down on what was acceptable to this board because they would be bound to accept that type of information in all similar cases.

Board Member James Winer stated he had a hypothetical question. If the Board was to deny the ag use status as the County was recommending for this tax year coming up and they took the next year to supply all this information they say they have, then would the Assessor go back the following year. Katrinka Russell stated the Board could make the motion that that if they provide the required documents then they could give them the agricultural assessment for the 2009-2010 year. Board Member James Winer inquired if they could put in a time period of sixty days. Katrinka Russell stated they would need to make them aware of the time limit.

Board Member James Winer asked if she wanted the Board to define what adequate proof was. Katrinka Russell stated that was correct and noted the NLRC

had not provided income for a range of parcel numbers. She referred to the Gary Snow Livestock lease wherein there was no proof of income from 2005 to 2008 on those parcels. Board Member James Winer stated that the packet stated it was not just about leases and referenced that there were several leases where the lessee was not a valid livestock operator. Don Pattalock stated according to the last conversation he had with the Assessor's Office, the leases were not valid currently. He stated their income request was not warmly received by their lessees. Board Member Wes Bowlen stated the Board of Equalization had the ability to approve Ag this year and reevaluate it next year. He agreed that they ran cattle but the law stated the Assessor needed proof that property made X amount of money. He noted Mr. Payton had to show proof of \$5,000 in invoices, per parcel and they were demanding he had to come up with the proof for ag. Don Pattalock stated a lot of their purchasers were notified who the grazing cooperators was. He understood Mr. Payton fenced his property and became an operator so for him to qualify, he would have to stand alone and qualify in front of this board. Chairman Leberski noted that once they sell a piece of property then it became separate and had to stand on its own. Board Member Kelly Buckner asked if the Assessor's Office look at the actual agricultural production on the property in addition to the lease to determine the value. The Assessor replied they look at the production. Board Member Kelly Buckner pointed out that in the leases there were several parcels. He asked if they use the combined number of parcels under the lease as opposed to individual parcels or sections. Katrinka Russell stated they calculate on the property and they determine the classification of the property. The majority of the Nevada Land and Resource Company's land was fourth class grazing. Board Member Kelly Buckner believed that none of those parcels would qualify if they stood alone. Katrinka Russell commented that lumped together under one lease, they would qualify.

Board Member James Winer noted that Nevada Land and Resource Company turned in QuickBooks statements and staff had stated those were inadequate for proof. He inquired if a signed affidavit from their firm saying they were collecting the money would be sufficient. Katrinka Russell stated that would be acceptable. James Cavilia stated Danielle Bettridge could make a statement now under oath, that what they submitted to them was an accurate record in what they received. Board Member James Winer inquired if she would rather have a signed Affidavit from the operator, such as Elko Land and Livestock that paid the amount. Katrinka Russell questioned which would be legal. Board Member Al Plank requested Kristin McQueary to review the NAC code as to what forms of proof was acceptable. Kristin McQueary read NAC 361A.060 in the record: *"Operator" defined. "Operator" means a person who engages in an agricultural pursuit as a business venture for profit. The operator may be either the owner or occupant of the agricultural real property.*" Kristin McQueary re-read NAC 361A.130 into the record. She referred them to NAC 361A.160 and read 1 through 2 B into the record. Kristin McQueary stated they should be aware that there was documentation put out by the State

Department of Taxation called 2009-2010 Agricultural Land Values and Open Space Property Procedures which had a valuation methodology. James Cavilia noted NAC 361A.160 talked about what an agricultural operation was and the activity so it was not necessarily the property owner but the operator. He felt they should be able to provide them proof of what their occupant was doing on that property in terms of agriculture, and what revenue that occupant was generating from their agricultural activities. Katrinka Russell clarified that was an Administrative Code and not a statute that Mr. Cavilia was referring to. Board Member Wes Bowlen noted that if the Assessor was to accept an affidavit, they would have set precedence. Katrinka Russell agreed they would have to do it for everyone. Board Member Wes Bowlen believed people would commit perjury. He commented that they previously had the case with the Governor on the piece of property in Lamoille but there was no problem because the Governor withdrew his Ag deferment. Chairman Leberski suggested they submit the Affidavit with their invoices attached. Kristin McQueary asked them to review NAC 361A.180: *“Annual study of value of lands designated for agricultural use. 2(b) For pasture and grazing lands”*. Kristin McQueary noted it spoke about animal use, rental fees, etc., which might be useful.

Chairman Leberski called a recessed at 11:15 a.m. and reconvened the meeting at 11:23 a.m.

TAPE 2 B

Kristin McQueary reviewed NAC 361.180 (2b) with the Board.

Board Member Kelly Buckner inquired what AUMs the Assessor used for the carrying capacity on those parcels. Janet Iribarne replied the subject property had third or fourth class grazing and was given .009 animal units, per acre for third class grazing; a 320 acre parcel would amount to 2.61 animals. On a ½ section it could generate \$1,600 per year, given the months they use this acreage.

TAPE 2B POINT 3.2

NEVADA LAND & RESOURCE CO.

CASE 09-029 through CASE 09-114

DECISION:

MOTION: Board Member Kelly Buckner moved, subject to discussion and possible amendments by the other members of the committee, that they approve the agriculture assessment value for the parcels involved with the exception of the parcels near Huntington Creek (Parcel No. 006-060-005 and 006-060-006); provided that Nevada Land and Resources provide the Assessor’s Office Affidavits signed by the Lessees on these parcels with regard to the amount of lease payment that they have paid and that Nevada Land and Resource has received.

Board Member James Winer seconded the motion with discussion.

Chairman Leberski asked if he wished to include a time limit for the Affidavits. Kelly Buckner replied for 60 days. Chairman Leberski asked the Nevada Land and Resource representatives if they could produce the Affidavits within 60 days. Don Pattalock stated Danielle Bettridge had informed him they could do that within 60 days. Board Member James Winer asked for clarification of how many years back the Assessor would need that information. Janet Iribarne replied for the last two years. She reviewed their Office Policy wherein the Lessee was to provide a worksheet of production documentation of what they allow on the property whether it was grazing or harvesting. Board Member Kelly Buckner believed that if they could calculate using the carrying capacity provided by the County as their threshold they would know what the AUM s were so he was more concerned with an Affidavit from the Lessee of how much they paid in lease payments.

Board Member Kelly Buckner amended his motion to include the time frame of 60 days. Board Member James Winer seconded the amendment.

Board Member Al Plank voiced concern about setting a precedent by requesting the signed Affidavit from the Lessee. Board Member James Winer stated it was his personal opinion that they needed adequate proof from the person paying the rent to the person collecting it. He noted that the Affidavits in the form of a receipt would be one of the ways to prove the collection of the rent. Chairman Leberski asked if Danielle Bettridge could obtain these Affidavits within sixty days. James Cavilia felt it was appropriate that they go to the operator. The Assessor asked if the Board wanted to make this a policy and if the Affidavit would be used to extend the lease from year to year. Board Member James Winer felt it could be proof of payment but voiced concern with going into the statutory lease laws. He noted the lease lived if there was a provision for continued payments to be made. Kristin McQueary noted there was an exception of 25 years in the grazing lease laws and some of these leases may have gone beyond the 25 years. James Cavilia noted that every time it was renewed it was a new term so it was only a one year lease. Board Member Kelly Buckner disagreed because of the 25 year lease limitation. Kristin McQueary stated that could be addressed next year.

The motion carried the following vote:

Voting Aye:	Chairman Walter Leberski
	Member Wes Bowlen
	Member James Winer
	Member Al Plank
	Member Kelly Buckner
Voting Nay:	None
Abstaining:	None
Absent:	None

Board Member James Winer suggested that staff encourage all taxpayers to bring their leases current. He noted that if they had a lease that was 23 years old

and the statute limit was 25 years, they should notify them ahead of time that this could be a problem. Mr. Winer reiterated that they could not require that but they could suggest it. Danielle Bettridge inquired if they were requesting a new lease or a signed extension of the original lease. Board Member James Winer stated he was only suggesting staff to encourage the taxpayers to bring their leases current. He noted some of the leases were dated 1982 and suggested an amendment to the lease to bring it current. Don Pattalock stated that they provide the Lease as part of their proof of agriculture use. He noted the lease was not a requirement under the statutes. Board Member Kelly Buckner stated the income from the operation should reference the lease.

Chairman Leberski noted Dennis de Arrieta, Appraiser submitted the State Board of Equalization Appeal Forms to Petitioner's representatives.

TAPE 2B POINT 15
PACIFIC RIDGE IDAHO ST LLC
Case Nos. 09-012
Parcel No. 001 276 004

Hearing Date: February 17, 2009

Board Member James Winer disclosed that he had a business relationship with Pacific Ridge and abstained from discussion and vote. Mr. Winer left the meeting room at 11:38 p.m.

SUBJECT MATTER:

Formerly the Citibank Building located at 852 Idaho Street, in Elko, Nevada. The parcel consists of .63 acres with frontage on Idaho Street and is located in a portion of the NE 1/4 of Section 15, in Township 34 North, Range 55 East, MDB&M.

DOCUMENTS SUBMITTED BY PETITIONER:

None

DOCUMENTS SUBMITTED BY ASSESSOR FOR THE RECORD:

1. Letter to Board

EXHIBITS SUBMITTED BY ASSESSOR'S OFFICE:

- A. BOE Map of Properties
- B. Sales Comparison Chart, B-1 Sales Comparison Map, B-2 Reason for Appeal, B-3 Property Listing, B-4 Total Calculated Costs, B-5 Pictometry Image, B-6 Legal Description, B-7 Chain of Title
- C. Letter to Assessor from Petitioner 1/14/09 with enclosures: C-1 Principal Confidentiality Agreement,

- C-2 Assessment Notice, C-3 Grant Bargain and Sale Deed,
- C-4 State Declaration of Value
- D. Petition for Review

APPRAISER, PREVIOUSLY SWORN IN: DENNIS DE ARRIETA

SUMMARY:

Dennis de Arrieta, Appraiser, stated Pacific Ridge Idaho Street LLC filed a petition protesting the current replacement cost value stating they recently purchased the property for \$375,000 in an arms length sale and felt that was the true market indicator of value.

ASSESSOR'S RECOMMENDATION:

The Assessor's recommendation to the Board would be to use the \$156.50 per square feet value based on comparable sales placing the value for the property at \$481,394.00.

PETITIONER PREVIOUSLY SWORN IN: ROB HARDY

DISCUSSION:

Rob Hardy stated that they had purchased the property this year. He stated the assessed value was significantly higher than another property they have here in Elko which was virtually the same size and the same age so they filed the necessary appeal paperwork in mid January. Chairman Walter Leberski inquired what amount he suggested. Rob Hardy stated they paid \$375,000 in an arm's length transaction so they did not think the value for tax purposes should be higher than that. He asked if the assessed value would be greater than the purchase price. Chairman Walter Leberski stated it was to be market value and 35% of the market value became the assessed value. Chairman Leberski stated that they use Marshall and Swift. Board Member Kelly Buckner requested clarification that it was an arm's length transaction on a building which was not in use and was vacant at the time. Rob Hardy stated it was vacant and apparently it had been for sale for some time.

SUMMARY:

Dennis de Arrieta stated this building was built in 1992 and consists of 3,076 square feet. There is a drive up window with an outside drive up ATM. He stated that Cal-Fed purchased the property in 1999 for \$1,056,000 which works out to \$343.30 per square foot. He stated the Assessor's Office had to value the property based upon the cost approach. He stated the current land value was \$385,029 with the improvements for that being \$479,337 for a total replacement cost of \$864,366.00. Dennis de Arrieta stated if this property was to be used as a retail

store or an office space then it would reduce the cost to \$490,000, a \$150,000 reduction. He stated the statute required them to value it "as is" or what its current use is now. He stated the building was vacant at the time of the sale. Dennis de Arrieta had a phone conversation with the broker who felt that the property was an arm's length transaction. He stated the listing was put on in September 2008 and it sold on January 6, 2009 for \$375,000 to Pacific Ridge. Dennis de Arrieta stated the Assessor's Office viewed it as a distressed sale due to a number of factors. They believed the property sold under market value. Dennis de Arrieta stated the cost approach was currently the method used to value the property and that was the value in question. There was no income so they could not use the income approach to value this property. Therefore, the market value was the only avenue in which to value this property. In looking at recent, comparable sales, they show a median value of \$156.50 per square foot which would bring the value of this property to \$481,394. He stated that was the Assessor's recommendation at this time.

DISCUSSION:

Dennis de Arrieta stated one of the sales that Pacific Ridge had compared the building to was the Payless Shoe Store which was similar in square footage and they did have a recent sale of that building for \$800,000 and to his knowledge that building was to be torn down and a Burger King put there. He stated they would have to add the demolition costs to that \$800,000 to come up with a true indicator to determine what they paid for the land. Chairman Walter Leberski asked how that land and building compared to the office building that Stewart Title and the real estate company was in. Dennis de Arrieta noted that was the building that came in at \$156.50 per square foot. He stated that was the median price and in that particular sale it included the medical offices behind it. He noted the comparable sales included the Stewart Title building directly west to the subject property; that sale also included a piece to the east directly across the street from the subject property. He stated that with those square footages together came to \$156.50. Chairman Walter Leberski inquired if U.S. Bank was comparable with what the Assessor's Office had come up with. Dennis de Arrieta stated they could look at their computer to see if they were close to that one. Chairman Leberski stated that if that building was assessed at a similar value with those in that neighborhood, then the Board should look at that.

Rob Hardy stated Pacific Ridge was in agreement with the Assessor's recommendation of \$156.50 per square feet because it was similar to the adjacent properties' value.

TAPE 2B POINT 27.3

PACIFIC RIDGE IDAHO ST LLC

CASE 09-012

DECISION:

MOTION: Board Member Kelly Buckner moved that based upon the testimony, he would move to accept the Assessor's valuation on the property of \$481,394.00.

Board Member Wes Bowlen seconded the motion.

The motion carried the following vote:

**Voting Aye: Chairman Walter Leberski
Member Wes Bowlen
Member Al Plank
Member Kelly Buckner**

Voting Nay: None

Abstaining: James Winer

Absent: None

Rob Hardy thanked the Assessor's Office for helping him make the appeal.

TAPE 2B POINT 30.8
PETERSON, MELVIN D
PETERSON, DARLENE
Case Nos. 09-015
Parcel No. 010-131-052

Hearing Date: February 17, 2009

SUBJECT MATTER:

Parcel number 010-131 (i)-052 owned by Melvin and Darlene Peterson is located in the Cobre area, southwest of Montello and in Township 38 North, Range 67 East, MDB&M., Section 29.

DOCUMENTS SUBMITTED BY PETITIONER:

None

DOCUMENTS SUBMITTED BY ASSESSOR FOR THE RECORD:

1. Letter to Board

EXHIBITS SUBMITTED BY ASSESSOR'S OFFICE:

A. BOE Map of Properties

B. Legal Description, B-1 Assessment Map, B-2 Taxable Values 2009/10

C. Letter from Petersons to Assessor dated 2/04/09 - C-1 Letter from Peterson to Assessor dated 9/30/08, C-2 Letter from Assessor to Peterson re: Petition Form, C-3 Letter from Peterson to Assessor dated 1/7/09

D. Photos of structure (13)

E. Petition for Review

APPRAISER, PREVIOUSLY SWORN IN: DENNIS de ARRIETA

SUMMARY:

Dennis de Arrieta, stated the Assessor's Office had valued the improvements based upon the replacement cost new, minus depreciation. The residence was built in 1981 and has been valued as a low quality 1.5 storey unfinished home. The value placed on the improvements for 2008-09 was \$10,820 assessed which is \$30,914 appraised.

PETITIONER WAS NOT PRESENT

Dennis de Arrieta stated Mr. and Mrs. Peterson have asked and given permission for him to read a letter on their behalf.

"Elko County Assessor/Board of Equalization:

We have been trying to get this property tax problem solved since 2002. For years, we have been paying on the Valuation of the structure which has been totally out of line. The structure is worth nothing and that was the way we bought it.

It would cost several thousand dollars to have the building torn down and hauled away and that's the only reason we haven't done it.

We have written letters every year since 2002 requesting help with no avail.

What we are saying in this letter is true and the tax bill should have no value on the structure.

Thank you, Melvin and Darlene Peterson"

ASSESSOR'S RECOMMENDATION:

Dennis de Arrieta stated it was the Assessor's recommendation the shed value of \$2,216 be assessed for the improvements.

DISCUSSION:

Chairman Leberski commented that four or five years ago when Raine Mine closed they put a value on those improvements. Board Member Kelly Buckner inquired what the total assessed value was prior to the improvements. Board Member Wes Bowlen noted it would not cost very much to haul it off if it was burned down. Dennis de Arrieta noted they had the original value of \$9,309 for the land and the residence value of an unfinished, one and one-half story home was \$30,914. He explained putting it down to a shed value reduced it to \$6,331, and the land value remained the same. Mr. De Arrieta stated the assessed value on the improvements went from \$10,820 to \$2,216. Board Member Wes Bowlen inquired if there was a septic tank. Dennis de Arrieta replied there was no septic or well in place. He stated that the wall structure was sound and technically the roof structure

was solid even though there were holes in the roof. He reported the outside of the building was still intact. Board Member Wes Bowlen noted that with approximately \$20,000 they could make a house. Dennis de Arrieta stated there was some serious damage and there may be some mold. Board Member Kelly Buckner asked if it was a brick building or brick veneer and received the reply of brick.

TAPE 2B POINT 35

PETERSON, MELVIN D

PETERSON, DARLENE

CASE 09-015

DECISION:

MOTION: Board Member Kelly Buckner moved to accept the Assessor's taxable value of \$5,474.00 on the parcel. Board Member Wes Bowlen seconded the motion.

The motion carried the following vote:

**Voting Aye: Chairman Walter Leberski
Member Wes Bowlen
Member Al Plank
Member Kelly Buckner**

Voting Nay: None

Abstaining: None

Absent: Member James Winer

Chairman Leberski called a lunch recess at 11:59 a.m. The meeting was reconvened at 1:30 p.m.

Chairman Leberski noted for the record that Board Member James Winer was not present at this time.

TAPE 3 POINT .01

SMITH, JULIAN C. JR.,

SMITH, JOANNA

Case Nos. 09-001

Parcel No. 007 340 013

Hearing Date: February 17, 2009

SUBJECT MATTER:

Property described as follows: Near Deeth at the Deeth/Starr Valley Interstate-80 freeway interchange, the North portion of Township 37 North, Range 57 East MDB&M, in Section 23.

DOCUMENTS SUBMITTED BY PETITIONER:

- I. Letter from Petitioner dated February 4, 2009.

- II. Selected Land Wells Area Map
- III. Parcel Map Section 8 T37N, R62E. MDB&M

THE PETITIONER WAS NOT PRESENT

DOCUMENTS SUBMITTED BY ASSESSOR FOR THE RECORD:

- 1. Letter to Board

EXHIBITS SUBMITTED BY ASSESSOR'S OFFICE:

- A. BOE Map of Properties
- B. Petition for Review
- C. Reason for Appeal, C-1 Land Valuation Review Map, C-2 Topographical Map, C-3 Boundary Line Adjustment/ROS, C-4 Legal Description and C-5 Chain of Title
- D. Market Value and History
- E. Appendix: E-1 Boundary Line Adjustment Deed and E-2 Grant Bargain Sale Deed

APPRAISER, PREVIOUSLY SWORN IN: JANET IRIBARNE

Janet Iribarne, Appraiser, noted the Petitioners were not present but had submitted documentation. Ms. Iribarne read a portion of Mr. Smith's letter regarding the interchange: *"We bought T37N, R59E, Section 23 from Nevada Land and Resources for \$200 per acre on December 18, 2000. We paid this price because a large portion of the feed yard for the Rafter Diamond Ranch was on the south portion of this section. We paid less per acre for the 8000 acre land north of the freeway at the same time. Approximately 80 acres of the parcel is under Interstate 80 and totally unusable. The \$168.00 per acre is high but fair but if only for the portion of the land usable. It is very questionable if we could get domestic water on the land if we chose to develop it. There have been numerous dry wells in the area. I believe the \$164.724 purchase price your records show, include the other 800 acres were purchased in the same transaction plus all of Section 23."*

Board Member James Winer arrived at 1:33 p.m.

SUMMARY:

Janet Iribarne stated 76.144 acres were under the Interstate. They recommended reduction of the value based on obsolescence of 17% for the area unusable under the interstate; contingent upon the exception if ever the Interstate 80 was re-routed or abandoned, the property would increase to the full case value for the whole 437.144 acres. A commercial communications tower was discovered last week. The variance was done in 1999 by Nevada Land and Resource for the Conditional Use Permit for 1.37 acres. Chairman Walter Leberski asked if the property was zoned commercial. Janet Iribarne stated that based on the adjustment

to the acreage that was commercial it changed the Assessor's recommendation from \$63,175 to \$67,768. This was a reduction from the original \$73,220.

DISCUSSION:

Board Member Kelly Buckner inquired about the value of the pad. Janet Iribarne replied commercial sites were valued at \$3,500 an acre, and this was over an acre for a total value of \$4,820.

Board Member James Winer noted Mr. Smith was adamant that \$168,000 per acre was reasonable and asked where Mr. Smith got his \$168,000 per acre. Janet Iribarne stated when it came out of Ag and was put onto this system but it was not done correctly. Janet Iribarne stated that \$175,000 was the correct value in that area and they were making that correction for the commercial site.

Board Member Kelly Buckner inquired if Mr. Smith was notified of that commercial site. Janet Iribarne replied no; she just discovered it late last week. She believed that he might be getting commercial rent on that site. She stated that they did plot it and from the description on the Resolution for Conditional Use. Board Member Kelly Buckner asked if that parcel was fenced. Janet Iribarne believed the communication site might be fenced. Board Member Kelly Buckner inquired if the entire parcel was fenced. Janet Iribarne replied no. Chairman Leberski inquired if they could approve that change for the commercial without prior notification to the Petitioners. Board Member James Winer noted Mr. Smith could protest the entire case. Chairman Leberski voiced concern that Mr. Smith had no opportunity to look at that commercial acreage. Board Member Kelly Buckner inquired how Mr. Smith would be notified of his right to appeal to the State Board. Marilyn Tipton, Deputy Clerk stated the Clerk's office sent out Notice of Decision letters to the Petitioners in each case after the hearing. Board Member Kelly Buckner asked when the deadline was for the Appeal and Kristin McQueary replied March 10, 2009.

TAPE 3A POINT 11

SMITH, JULIAN C. JR

SMITH, JOANNA

Case 09-001

Parcel No. 007-340-013

DECISION:

MOTION: Board Member Kelly Buckner moved to accept the Assessor's valuation on this parcel adjusting for the property located under the freeway and the adjustment for the commercial 1.377 acres for a total assessed (taxable) value of \$67,768.00. Board Member Al Plank seconded the motion

The motion carried the following vote:

Voting Aye:	Chairman	Walter Leberski
	Member	Wes Bowlen
	Member	James Winer
	Member	Al Plank
	Member	Kelly Buckner
Voting Nay:		None
Abstaining:		None
Absent:		None

Chairman Leberski requested the Assessor to inform the Petitioners of the commercial assessment. Janet Iribarne, Appraiser, would call the Petitioners to inform them of that assessment.

TAPE 3A POINT 12.7
SMITH, JULIAN C. JR.,
SMITH, JOANNA
Case Nos. 09-002
Parcel No. 008 340 028

Hearing Date: February 17, 2009
SUBJECT MATTER:

Vacant land located on the outskirts of West Wells that is 230.79 acres legally described as Parcel 7 of Parcel Map File No. 428376 situated in a portion of Section 8, Township 37 North, Range 62 East, MDB&M. The property is currently valued at \$244 per acre with a taxable value of \$56,289.00.

DOCUMENTS SUBMITTED BY PETITIONER:

- I. Letter from Petitioner dated February 4, 2009.
- II. Selected Land Wells Area Map
- III. Parcel Map Section 8 T37N, R62E. MDB&M

THE PETITIONER WAS NOT PRESENT

DOCUMENTS SUBMITTED BY ASSESSOR FOR THE RECORD:

1. Letter to Board

EXHIBITS SUBMITTED BY ASSESSOR'S OFFICE:

- A. BOE Map of Properties
- B. Petition for Review

- C. Reason for Appeal, C-1 Topographical Map, C-2 Land Valuation Review Map, C-3 Legal Description, C-4 Chain of Title, C-5 Parcel Map
- D. Market Value and History
D-1 Sales Comparison Map
- E. Appendix, E-1 US Dept of Interior letter dated 7/2/35, E-2 Material Site Application/US Memorandum 7/12/95, E-3 Material site/Parcel Map, E-4 Corporation Deed Humboldt West Inc/Smith

APPRAISER, PREVIOUSLY SWORN IN: JANET IRIBARNE

SUMMARY:

Janet Iribarne stated the reason for the appeal was this property was acquired from the BLM. It is subject to a gravel pit easement to the Nevada Department of Transportation for the NE 40 acres that prevents access from Pacific Avenue. This renders the balance of the parcel marginally unusable.

PETITIONER'S STATEMENT:

Janet Iribarne noted the Petitioner provided the following statement:

"This property, part of Section 8, was purchased from the BLM in 1997 and included land on both sides of I-80. The south portion was divided by the Angel Lake Road. The North portion subject to this appeal has limited utility because the NE 40 acres are subject to a gravel pit easement granted by the BLM to NDOT. I have asked NDOT to abandon the gravel pit and they refuse. The gravel pit prevents access to the balance of the parcel from Pacific Street, a paved street in Wells. The alternate access is via a gravel road, Union Street. I have previously sent the Assessor documents on the gravel pit of which they were not aware when they did the assessment. The North portion is much less valuable than the South portion. See exchange map enclosed and proposed parcel map that was never completed because of the gravel pit. You should have the appraised value of this land in the exchange.

There is simply no market for this land in this market, a great portion of the 230 acres is a very steep hillside. The old value of \$1,969 may be low but \$250 per acre is high considering the problems with use or development. A realistic price would be \$50 per acre or \$11,500.00"

Petitioner provided them a Memorandum from the United States Government dated 1995 disclosing an application for a "material site". On June 25, 1935, the United States Department of the Interior approved an application for the Department of Highways of Nevada for an appropriation of a tract of land for use as a source of materials needed in construction of the Federal All Highway project. The said memorandum was for the right-of-way described as the NE ¼ of the NE¼ of the

said Section 8 to be used by Nevada Department of Transportation. Janet Iribarne stated the parcel did not appear on their tax rolls until 1997. It was possible for this petitioner to have this material site relinquished and an Affidavit of No Interest recorded to give him full use of the property. Petitioner had inquired about the relinquishment in 2000. Janet Iribarne spoke to NDOT and they felt the relinquishment should be approved as they look into the paperwork.

ASSESSOR'S RECOMMENDATION:

Janet Iribarne stated the Assessor's recommendation is contingent upon that right of way being relinquished. If the right of way was relinquished to the property owner, it should be valued at the \$244.00 per acre. If not, they could give some functional obsolescence of 17.3% to reduce it to \$46,570. When the gravel pit became active and used for income generating purposes, then that portion of the gravel pit would be deemed at a higher use and therefore assessed at the higher amount.

DISCUSSION:

Chairman Walter Leberski believed that the gravel pit was almost gone. Janet Iribarne stated no one had used the gravel pit since 2001.

Board Member James Winer noted their argument was Pacific Avenue was the ideal access to their other property but because of gravel pit easement they were not allowed to cross that area. He inquired if Union was useable. Dennis de Arrieta stated Union was accessible. Jeff Secord gave a GIS display of the gravel pit and Union access on the screen.

Board Member Kelly Buckner inquired if the state was abandoning their right of way. Janet Iribarne stated in their packet Appendix Tab 3 there was a map of the material site. She noted the right of way was within the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of that section, so there was access below that. Board Member Jim Winer asked about relinquishment. Janet Iribarne replied it had one final approval before it was relinquished. Board Member Kelly Buckner asked if they could then access Pacific, and if the pit was a big hole. Dennis de Arrieta stated if they access it off of Pacific there is not a big hole. There is a slight incline to the water tank. Board Member Kelly Buckner inquired if Mr. Smith would have to level it out to get access through the property. Dennis de Arrieta replied no, absolutely not. Janet Iribarne noted Mr. Smith also submitted in his packet (the last page) a parcel map that he had drawn up but was not filed. Jane Iribarne noted Petitioner wanted to put in a road, a cul-de-sac for the four parcels; this would be contingent upon access to Pacific. Board Member Kelly Buckner inquired when Mr. Smith filed the parcel map. Janet Iribarne stated it was never filed or recorded possibly because of the right of way issue.

Board Member James Winer inquired if NDOT gave them a timeline. Janet Iribarne replied in a couple of weeks. She explained that Mr. Smith started this

process in 2000 and at that time there was a contractor who used the site until 2001. Janet Iribarne was told by NDOT that they would start the process again for relinquishment. She stated that an Affidavit would be recorded to remove their interest on that site. The Assessor noted that this was for 2009-10 year, and when they make their motion, it could be based upon that site being relinquished.

TAPE 3 A POINT 27.5

SMITH, JULIAN C. JR.,

SMITH, JOANNA

Case Nos. 09-002

Parcel No. 008 340 028

DECISION:

MOTION: Board Member James Winer moved that they go with the Assessor's recommendation that the property should be valued at the full cash value of \$244 per acre resulting in a taxable land value of \$56,313; contingent upon the right of way being relinquished by the Nevada Department of Transportation.

Board Member James Winer inquired if he should set a deadline.

Janet Iribarne stated that if it had not been relinquished by June 30th then they could go back to the \$46,570 which had 17.3% functional obsolescence.

Board Member James Winer amended his motion subject to June 30, 2009 and if not; then it would be back to the total tax value of \$46,570 which had a 17.3% functional obsolescence due to the right of way.

Board Member Wes Bowlen seconded the motion.

Board Member James Winer noted there was a difference in the narrative recommendation of \$56,313 but the valuation in the Assessor's documents was \$56,289. Janet Iribarne clarified that the Assessor's recommendation was \$56,289.

Board Member James Winer amended his motion to reflect the value of \$56,289. Board Member Wes Bowlen seconded the amendment.

The motion carried the following vote:

Voting Aye:	Chairman	Walter Leberski
	Member	Wes Bowlen
	Member	James Winer
	Member	Al Plank
	Member	Kelly Buckner
Voting Nay:	None	
Abstaining:	None	

Absent: None

TAPE 3A POINT 33.4

SMITH, JULIAN C. JR.,

SMITH, JOANNA

Case Nos. 09-003

09-005 through 09-011

**Parcel Nos. 003-302-005, 003 307 001, 003 303 001, 003 305 001,
003 301 002, 003 301 009, 003 306 001 and
003 306 002**

Hearing Date: February 17, 2009

SUBJECT MATTER:

Parcel Numbers: 003-302-005, 003 307 001, 003 303 001, 003 305 001, 003 301 002, 003 301 009, 003 306 001 and 003 306 002 are residential parcels located in the town of Deeth. The town is located by Starr Valley, south of I-80 Interstate West of Wells, Nevada.

DOCUMENTS SUBMITTED BY PETITIONER:

- I. Letter from Petitioner dated February 4, 2009.
- II. Selected Land Wells Area Map
- III. Parcel Map Section 8 T37N, R62E. MDB&M

THE PETITIONER WAS NOT PRESENT.

DOCUMENTS SUBMITTED BY ASSESSOR FOR THE RECORD:

1. Letter to Board

EXHIBITS SUBMITTED BY ASSESSOR'S OFFICE:

- A. BOE Map of Properties
- B. Petitions for Review (4)
- C. Reason for Appeal:
C-1 Case 09-008/APN 003-301-002, C-2 Case 09-009/APN 003-301-009, C-3 Case 09-003/APN 003-302-005, C-4 Case 09-006/APN 003-303-001, C-5 Case 09-007/APN 003-305-001, C-6 Case 09-010/APN 003-306-001, C-7 Case 09-011/APN 003-306-002, C-8 Case 09-005/APN 003-307-001
Legal Descriptions:
C-9 APN 003-301-002, C-10 APN 003-301-009, C-11 APN 003-302-005, C-12 APN 003-303-001, C-13 APN 003-305-

001, C-14 APN 003-306-001, C-15 APN 003-306-002,
C-16 APN 003-307-001, C-17 APN 003-301-002 Chain of
Title, C-18 Parcel Map, C-19 Topographical Map,
C-20 Evidence Photo 003-302-005 - Improvement
C-21 Residential Values/Photo, C-22 Standard
Report/Residence, and C-23 Appraisal Info 003-302-005

D. Market Value and History

APPRAISER, PREVIOUSLY SWORN IN: JANET IRIBARNE

SUMMARY:

Janet Iribarne stated they had combined these eight parcels because the land value has one common reason for appeal, the size of the parcels were unbuildable.

All residential parcels are located in the town of Deeth, south of I-80 Interstate West of Wells, Nevada. There are no paved roads or utilities. In order to build a residence, each parcel would have to have a well and septic. One of the smaller improved parcels has deteriorated improvements, that would be grandfathered in from meeting this requirement since it already has a well and septic situated on it. The land values for the Town of Deeth were brought up in this year's reappraisal of the area; there were enough sales (4) in the town over the last few years to bring up the values in Deeth. There are sales of small parcels outside of the town that support the increase in values. Janet Iribarne stated historically the obsolescence that was applied to the parcel with improvements was the "salvage" value of \$1,000 as a whole. This year, upon re-appraisal, they applied the obsolescence in the proper format. The house received 87.5% depreciation and obsolescence, but the hookup only received 75% depreciation.

PETITIONER'S STATEMENT:

Janet Iribarne read from Mr. Smith's February 1, 2009 correspondence (Petitioner's Exhibit I). *"Development of the lots in the town of Deeth and between the railroad tracks and east of the Deeth-Starr Valley Road is extremely challenging.*

There is a gravel road from the Deeth-O'Neil Basin road to Starr Valley that crosses both mainline railroad tracks that are uncontrolled. The result is that trains use both tracks and going both ways are required to sound their horns several times approaching the crossings. You have both the sound of the frequent trains but also their whistles. Additionally, the challenge to development is the fact there is no municipal water or sewage facilities, so to develop a residential site requires an acre of land and installation of a well and septic. The area is also subject to flooding in high water springs. The dedicated streets on the town plot exist only on paper. The county has not graveled the streets or ever graded them during our ownership.

Several of the dedicated streets are grown up with brush and not passable.”

ASSESSOR’S RECOMMENDATION:

Janet Iribarne stated the market sales in the area had increased the market value and the parcels were currently assessed at \$4,600 per acre.

DISCUSSION:

Board Member James Winer inquired if Starr Valley sales were compared to Deeth property and received a negative response. Janet Iribarne reviewed the four Deeth sales spanning from 2001 to 2005 in Blocks 301, and 304. Board Member Jim Winer noted that there was a sale in 2005 from Mr. Smith, Parcel No. 003 304 003 for \$2,500.00. Chairman Walter Leberski noted that Mr. Smith said it was sold to the adjacent landowner so he could get a permit to build a house. Board Member Walt Leberski inquired if this was in the flood plain and received an affirmative response. Chairman Walt Leberski inquired if there were many owners in Deeth. Janet Iribarne noted that Mr. Smith has the majority and Jeffrey McCune had several parcels. Chairman Leberski inquired if Mr. McCune was being assessed the same per lot. Janet Iribarne replied yes, at the \$4,600 per acre.

Board Member James Winer inquired if there was a statute regarding reassessment on a certain amount of sales over a certain period of time, to establish the market value. Janet Iribarne replied not that she was aware of. Board Member James Winer noted the four sales established the market as \$4,913 per acre but the Assessor’s Office was recommending \$4,600. The Assessor explained that if they do not have enough sales each year they leave the area alone or they can expand the radius. Board Member James Winer noted they used the rule of thumb that if there were three or more sales over a certain period of time that was enough sales to establish a new market. The Assessor stated they try to stay within five or six years. She stated that within the Deeth area they were talking about three different books and pages because of how the Township and Range fell. The GIS helped them to pull it all together and they were trying to maintain uniformity. Board Member James Winer asked prior to this when was the last major adjustment in the Town of Deeth. Katrinka Russell replied in 2004, five years ago. Chairman Walt Leberski commented they have to consider that on one of these parcels there was an old building and felt they should work on that separately, Parcel No 003 302 005. Board Member Kelly Buckner inquired if because there was a building did the parcel have to have a value. Kristin McQueary reviewed NRS 361.227 (1a): “The full cash value of : ... (2b) *any improvements made on the land by subtracting from the cost of replacement of the improvements all applicable depreciation and obsolescence. Depreciation of an improvement made on real property must be calculated at 1.5 percent of the cost of replacement for each year of adjusted actual age of the improvement, up to a maximum of 50 years.*” She stated this was part of

their statutory mandate.

TAPE 3B POINT 1.7

SMITH, JULIAN C. JR.,

SMITH, JOANNA

Case Nos. 09-003

09-005 through 09-011

Parcel Nos. 003-302-005, 003 307 001, 003 303 001, 003 305 001,
003 301 002, 003 301 009, 003 306 001, and
003 306 002

DECISION:

MOTION: Board Member Kelly Buckner moved to accept the Assessor’s recommendation on Parcel Nos. 003 301 002, 003 301 009, 003 303 001, 003 305 001, 003 306 001, 003 306 002, and 003 307 001. Board Member James Winer seconded the motion.

Board Member James Winer’s stated he found in poking around for the last nineteen years the assessed value was 30% to 35% lower than what market value tends to be. He noted in looking at the sale from the Petitioner, Mr. Smith, the most recent data was \$59.80 per acre. Board Member James Winer stated that if they take 65% of the established market value; it was \$3,887.65 which was \$712.35 lower than \$4,600.

The motion carried the following vote:

Voting Aye:	Member	Wes Bowlen
	Member	Al Plank
	Member	Kelly Buckner
Voting Nay:	Chairman	Walter Leberski
	Member	James Winer
Abstaining:	None	
Absent:	None	

TAPE 3B POINT 5

SMITH, JULIAN C. JR.,

SMITH, JOANNA

Case No. 09-003

Parcel No. 003-302-005

DECISION:

MOTION: Board Member Kelly Buckner moved on Parcel No. 003 302 005 to reduce the value of the improvement to \$250.00; therefore the

value would be \$2,227.00 on that parcel. (It was confirmed by later correspondence that Board Member Kelly Buckner's intention was the \$250 value was for the structure and the total property value would be \$2,227 taxable). **The rationale being that the so called improvement, if they could find someone to burn it, would add value to the property as opposed to the decrease of the property. Board Member Wes Bowlen seconded the motion.**

Board Member Alan Plank inquired what the value would be if it was fully depreciated up to the 50 years. Janet Iribarne stated that was 75% depreciation plus the obsolescent for a total of 87%. Katrinka Russell explained most of the value was in the hookups, the well and septic. Janet Iribarne clarified that those hookups were grandfathered in.

The motion carried the following vote:

Voting Aye:	Chairman Walter Leberski
	Member Wes Bowlen
	Member James Winer
	Member Al Plank
	Member Kelly Buckner
Voting Nay:	None
Abstaining:	None
Absent:	None

TAPE 3B POINT 7.8
SMITH, JULIAN C. JR.,
SMITH, JOANNA
Case Nos. 09-004
Parcel No. 007 560 027

Hearing Date: February 17, 2009

SUBJECT MATTER:

An irregular wedge shaped parcel located in Sections 19 & 20; Township 37 North, Range 60 East MDB&M. Located east of the town of Deeth, this parcel fits in between the Southern Pacific and Western Pacific Railroads. The subject has similar characteristics to an adjacent parcel and could possibly provide access to it.

DOCUMENTS SUBMITTED BY PETITIONER:

- I. Letter from Petitioner dated February 4, 2009.
- II. Selected Land Wells Area Map
- III. Parcel Map Section 8 T37N, R62E. MDB&M

THE PETITIONER WAS NOT PRESENT

DOCUMENTS SUBMITTED BY ASSESSOR FOR THE RECORD:

1. Letter to Board

EXHIBITS SUBMITTED BY ASSESSOR'S OFFICE:

- A. BOE Map of Properties
- B. Petitions for Review
- C. Reason for Appeal: C-1 Legal Description, C-2 Chain of Title, C-3 Land Valuation Review Map, and C-4 Topographical Map
- D. Market Value and History
- E. Legal Description: E-1 Legal Description – Neighboring Property (2 pgs), E-2 Chain of Title – Neighboring Property, and E-3 Land Valuation Review – Map
- F. Appendix: F-1 Grant Bargain Sale Deed, and F-2 Cessation Form

REASON FOR APPEAL:

Janet Iribarne stated this property was not properly fenced so it could not be used for livestock pasture. She stated the value was the same as when it was assessed as agricultural and it has the same value per acre as an adjacent parcel No. 007-340-023.

PETITIONER'S STATEMENT:

Janet Iribarne read a portion of Mr. Smith's letter into the record as follows: *"This parcel floods and is bordered by two mainline railroads. The railroad refuses to fence their right-of-way. The only use for this land would be cow pastures and because of the shape it would not be feasible to fence it. It is unusable. A nominal value of \$180 as it was last assessed is realistic."*

SUMMARY:

Janet Iribarne noted the Mr. Smith was assessed as agricultural prior to 2009. In March 2008, the Assessor requested Mr. Smith to submit an agricultural application because he was due for a revaluation. Mr. Smith was unable to provide the documents to support a functional agricultural operation or agricultural income so Mr. Smith signed a cessation form for removal from the Ag deferred assessment. After researching the property, this property does lie between the Western and Pacific Railroads and was unusable. The parcel runs a mile long and was viewed by the Board on a GIS map. Janet Iribarne noted the other parcel referred to was a larger parcel also between the Southern Pacific and Western Pacific Railroad tracks and the boundary lines extend in the same direction as the subject's. Janet Iribarne noted one part of this parcel was in one Township and Range and the other was in

another township and range so they felt it could have possibly been one large piece and the Petitioner wanted this piece for access. Chairman Walt Leberski confirmed this piece was just a remnant from another sale they made. Janet Iribarne stated they have reviewed the parcel; it does sit between the railroads tracks. It was not 27 acres as they originally assessed him; it was four acres after they combine the distance with the width.

ASSESSOR'S RECOMMENDATION:

Janet Iribarne stated the Assessor's Office recommended that the Board consider the subject and the adjacent parcel as a whole, with these parcels being valued as one piece, which would generate a cost of \$500 per acre. The subject property would result in a decrease in value to \$2,000 taxable value.

DISCUSSION:

Board Member James Winer voiced concern that the County had charged Petitioner for a larger parcel than discovered. Janet Iribarne stated that it was previously agriculturally assessed and he could get a refund for this year and the year before. She stated they usually correct the tax roll and go forward. Janet Iribarne reported there were no surveys done in the area. Chairman Walter Leberski commented that the Petitioners could apply for a refund. Janet Iribarne stated the Treasurer could make the change for the current year but anything before that would have to go before the County Commission.

Board Member Kelly Buckner asked if there was a point in time when land like this has no value. Janet Iribarne stated the minimum assessment was \$1.25 acre which was \$3.00 taxable for fourth class grazing under agricultural use. Chairman Walt Leberski inquired if both pieces combined were four acres. Katrinka Russell noted if the parcels were to be combined it would be a total of 34 acres. She explained that the township and range kept them from combining the two parcels into one. If the County went to a GIS system they could combine the parcels but presently they were on a book and page assessment. Chairman Walt Leberski asked if they went to that parcel and received a negative reply. He informed them that there was a dipping vat on one side of the road. Janet Iribarne stated that was on Rafter Diamond property. Chairman Walter Leberski felt that \$500 was too high for the use of the property.

Board Member Al Plank stated this appeared to have no value in the shape it was. Chairman Leberski stated no one would buy that for a residence to live between those two tracks. Janet Iribarne stated one theory was it provided access to the railroad crossing so he kept the land in order to move up and down between the tracks. Chairman Walt Leberski commented that previously it was a portion of the Mary's River Ranch and when it sold, this piece was left.

Board Member Kelly Buckner expressed concern with the \$2,000 valuation

and questioned what they would use that parcel for. Chairman Walt Leberski inquired how wide the parcel was. Board Member Jim Winer noted that even if it was fifty feet wide; the railroad had easement and setbacks so they could not build on it. Janet Iribarne reported they had calculated it was 20 feet wide between the centerlines. Board Member James Winer pointed out the setbacks were usually 50 feet. He believed the easements would overlap so they could not build upon it.

TAPE 3B POINT 20.2
SMITH, JULIAN C. JR
SMITH, JOANNA
CASE 09-004
PARCEL NO. 007-560-027

DECISION:

MOTION: Board Member Kelly Buckner moved that they lower the assessed value on the property to \$500.00. Board Member James Winer seconded the motion.

The motion carried the following vote:

Voting Aye:	Chairman Walter Leberski
	Member Wes Bowlen
	Member James Winer
	Member Al Plank
	Member Kelly Buckner
Voting Nay:	None
Abstaining:	None
Absent:	None

TAPE 3 B POINT 21.4
ROCCO, PHILLIP W
ROCCO, KATHLEEN
Case Nos. 09-013
Parcel No. 010 741 112

Hearing Date: February 17, 2009

SUBJECT MATTER:

This property is described as follows: 505 North Tibbets Blvd., in West Wendover, Nevada. It is a condo unit #12 that resides in the Village on the Green Condominiums. It is an end unit that consists of 864 square feet and built in 2002.

DOCUMENTS SUBMITTED BY PETITIONER:

Petitioner has sent a letter and given consent for Dennis de Arrieta to read it into the record.

“Dear Board Members:

We respectfully and sincerely request a revised and lowered valuation of our property as referenced above, for the following reasons:

- a. The West Wendover area’s housing market is depressed. Housing sales are stagnant. Building or construction of new housing is non-existent. Older trailers or mobile homes make up a large number of the living units. In our particular condominium complex, a number of units are still unsold that have been on the market for well over a year.*
- b. Businesses are closing their doors. Employment opportunities are non-existent.*
- c. Services are limited. There is no hospital or medical facility. No shopping choices for food, clothing, or basic needs including technology, automotive, home repair, entertainment, etc. No city offices (although there is a promise of offices to come). No selection of schools, including no opportunity or facilities for higher education.*
- d. The West Wendover area is remote. The town is located approximately two hours from the nearest major cities (Salt Lake City, Utah or Elko, Nevada). There is no public means of transportation to the nearest major cities. Professionals, contractors, repair people do not want to travel to Wendover because it is too far for them to go. This makes it difficult to have any needed work or urgent repairs performed. The old World War II airport, hangars, and buildings are in dilapidated condition. Only casino flights are in/out. Normal or regular public air transportation is not available.*
- e. The West Wendover area is a unique town, like none other in the State of Nevada. We don’t believe it should be considered with the same valuation multipliers as other towns or cities and/or gambling cities in the state such as Reno or Las Vegas. (There are four Casino’s in West Wendover).*

We sincerely appreciate your consideration of our request, that valuation multipliers and any other valuation numbers, formulas, or tools be drastically lowered or dropped to more realistically address the depressed housing market, employment market, and lack of basic needs services (medical, educational, etc.), that currently exists in West Wendover, Nevada and that will ultimately reflect the true value of the area and lowered value of our property.

Respectfully, Phillip and Kathleen Rocco”

DOCUMENTS SUBMITTED BY ASSESSOR FOR THE RECORD:

1. Letter to Board

EXHIBITS SUBMITTED BY ASSESSOR'S OFFICE:

- A. Legal Description:
A-1 Chain of Title, A-2 Sales Chart – Village on the Green
A-3 Village on the Green – Airspace Isometric 1st Floor/2nd
Floor, A-4 Reason for Appeal, A-5 Pictometry – Village on the
Green, A-6 Overview Map, and A-7 Taxable Values 2009-10
- B. Petitioner's Letters:
B-1 Letter giving authorization to Assessor dated 2/09/09
B-2 Letter to Board of Equalization 2/5/09
B-3 Letter to BOE 2/5/09 (2 pages)
- C. Petition for Review

APPRAISER, PREVIOUSLY SWORN IN: DENNIS de ARRIETA

THE PETITIONER WAS NOT PRESENT

DISCUSSION:

Chairman Walt Leberski inquired when they would reappraise that area. Dennis de Arrieta replied it was appraised two years ago. Chairman Leberski inquired if the other condos were assessed at the same value. Dennis de Arrieta replied yes, and the Roccas paid \$98,000 in April of 2008. Board Member James Winer stated two other condos sold for \$95,000 in 2008. He noted they referenced that there were still units unsold and on the market for over a year. He inquired if the Assessor's Office had done research on what the asking price was for those unsold units. Dennis de Arrieta stated he did not find any information that there were any currently listings or that there was an internet sale. Board Member James Winer commented that they may be for sale by the owner because the Petitioners were from Utah. Board Member James Winer asked if it was a rental. Dennis de Arrieta stated they do not rent it but only use it when they come for a visit. The Rocco's live in Sandy, Utah. Board Member James Winer noted the Petitioner's did not have a high regard for Wendover yet invested \$98,000 for the condo in the community in 2008. Dennis de Arrieta had asked her on the phone if she had bought this at an auction or if they were unaware of the fact that there were no medical facilities or shopping. Dennis de Arrieta stated Mrs. Rocco told him it was the only place that was affordable to invest in this type of a condo. Board Member James Winer commented the most recent sales data in 2008, was \$95,000, \$98,000 and \$95,000 which by the Assessor's rule of thumb derived a market. He noted their neighbors look to have identical units.

TAPE 3B POINT 28.8
ROCCO, PHILLIP W
ROCCO, KATHLEEN
CASE 09-013

DECISION:

MOTION: Board Member James Winer moved to deny their request and that it remains as County staff has said unchanged at \$92,051.00, which was less than what they paid for it.

Board Member James Winer stated they could appeal their decision but believed more sales would reflect what happened to the Wendover market.

Board Member Wes Bowlen seconded the motion.

The motion carried the following vote:

Voting Aye:	Chairman	Walter Leberski
	Member	Wes Bowlen
	Member	James Winer
	Member	Al Plank
	Member	Kelly Buckner
Voting Nay:	None	
Abstaining:	None	
Absent:	None	

Board Member James Winer inquired if there were more sales in the next several years and the market decreased; could the Rocco's file again. Board Member Wes Bowlen replied yes and noted everything the Rocco's quoted was there when they bought the parcel.

TAPE 3B POINT 30.8
DINSMORE, JOHN S TR ET AL
Case Nos. 09-014
Parcel No. 007-08A-010

Hearing Date: February 17, 2009

SUBJECT MATTER:

This property is described as follows: 51.5 acres of property located at 210 Ridgeway Road on County Road 708 known as the Lower Lamoille Road. The property is located 2.5 miles north of the Town of Lamoille.

DOCUMENTS SUBMITTED BY PETITIONER:

- I. Letter with attachments:

- #1 Neighbor's Assessment roll, Petitioner's Assessment roll
- #2 E-mail from Bartolowits to Assessor

DOCUMENTS SUBMITTED BY ASSESSOR FOR THE RECORD:

- 1. Letter to Board

EXHIBITS SUBMITTED BY ASSESSOR'S OFFICE:

- A. BOE Map of Properties
- B. Petition for Review
- C. C-1 Reason for Appeal, C-2 Subject Photo, C-3 Land Valuation Review –Map, and C-4 Legal Description
- D. Timeline – Order of Correspondence
 - D-1 Letter w/ag application to Petitioners
 - D-2 e-mail between Bruce Bartolowits (State), Assessor and Petitioner
 - D-3 Letter from Petitioner to Julie Eaklor dated 6/24/08
 - D-4 Letter from Buzzettis to Assessor 6/25/08
 - D-5 Lease Agreement dated 6/25/08
 - D-6 e-mail Assessor/Iribarne to Petitioner 6/25/08
 - D-7 Land Valuation Review
 - D-8 Application for Ag
 - D-9 Notice of Attachment
- E. Location/History/Taxable Values:
 - E-1 Neighbor Taxable Values, E-2 Agricultural Office Policy, E-3 Statutes for determination, E-4 Tax Differences – graph, E-5 Assessor's Recommendation, E-6 Topographical Map
 - E-7 Land Value Review – Dinsmore, E-8 Land Value Review – Ruby Mountain Livestock, E-9 Land Value Review – Jack Walther, And E-10 Land Value Review – Mattern
- F. Photo – Site Improvements:
 - F-1 Sketch Are Table Addendum, F-2 Appraisal Info for Parcel
 - F-3 Standard Report
- G. Market Value
- H. Appendix:
 - H-1 Nevada Administrative Code, H-2 Nevada Revised Statutes
 - H-3 Nevada Agricultural Bulletin, H-4 Elko County Ag Use Policy

THE PETITIONER WAS NOT PRESENT

Board Member Al Plank disclosed that he had an ongoing business relationship with Dr. Dinsmore, and abstained from the discussion and the vote.

APPRAISER, PREVIOUSLY SWORN IN: JANET IRIBARNE

SUMMARY:

Janet Iribarne, Appraiser, stated one portion of the property was leased and utilized for agricultural use but the other portion is not in production. The property sits on the Lamoille Valley Rim and is Parcel 10 in the amended Record of Survey, File No. 482009 in Section 6, in Township 33 North, Range 58 East M.D.B&M. The property was once a portion of the Ogilvie Ranch. The west rim of the Ogilvie Ranch was split from the operation sometime in the 1950's and divided into ten parcels, each about 40 to 45 acres in size. These ten parcels were specified in a Record of Survey map filed in 1972. The boundary line adjustment Record of Survey in 2002 expanded Mr. Dinsmore property size from 42.73 to 51.5 acres.

PETITIONER'S STATEMENT:

Janet Iribarne read Petitioner's Letter into the record:

"To Whom It May Concern"

I would ask the Board of Equalization to review this letter and my associated documentation and kindly recommend that my parcel be reassessed. Currently this 51.5 acre parcel has been assessed as 20 acres for residential/non-agriculture use and the remainder is considered meadow/agriculture use. It should be understood that we have already provided the assessor with all the documentation to obtain agricultural deferment, including notarized documents as well as a lease agreement with the Buzzetti family allowing them to harvest and sell hay produced and also graze their cattle on meadow aftermath and sagebrush ground. Joe Aguirre has reviewed this documentation and did concur that we met the criteria for agricultural deferment, but he only allowed deferment on approximately 60% of the parcel instead of the entire parcel. This is why I am asking for the Board of Equalization review. Reasons to change my current assessment: 1) The neighbors to the north have similar parcels i.e. 40 acre parcels but only 2.5 acres are designated as residential or non-agriculture use. I questioned why my 50 acre parcel has 39% designated residential, whereas each of my neighbors have only approximately 5% designated residential. My two neighbors to the north are Dr. Jack Walther and Dr. Erich Von Mattern and I have provided documentation to support my above statement. See Attachment #1. 2) Bruce Bartolowits is the supervisor of locally assessed properties for the State of Nevada and he reviewed my parcel and sent an e-mail to the Elko County Assessor dated June 18, 2008 that states my parcel should be assessed approximately 20 acres of Number 3 grazing and 24 acres of Number 2 meadow. I have included a copy of this e-mail. See attachment #2. 3) Prior to Jo Aguirre's retirement he stated that he did not want to designate any more of my parcel as agricultural because it is not fenced to support grazing of the upper 20 acres of sagebrush ground. This statement is incorrect. The upper 20 acres is fenced and has been grazed. In Summary: I would hope that the board agrees that I should be entitled to the same treatment as my neighbors. I expect the Elko

County Assessor to use the advice of the Nevada Department of Taxation auditor and classify my property as one half Number 3 grazing and one-half Number 2 meadow. I would hope the board realizes that even my shop attached to my home is used for agricultural purposes, so it would be my contention that my entire parcel should be assessed as agricultural, but I understand that there may be minimum limits. Thank you for your time and consideration in this matter.”

DISCUSSION:

Janet Iribarne concurred that they do have the other agricultural parcels valued at the 2.5 acre for residential sites. She stated after reviewing the Petition they noticed there were other properties in the ag deferred program that perhaps lean to agricultural/businesses. They received the deferred tax on all their properties except the residential home site. Steps should be taken to verify the details of their property leases and possibly these parcels should be reexamined and corrected.

Janet Iribarne stated under Tab 4, Page 3 (Exhibit E-2) was the Agricultural table of property in the neighborhood and gave the applicant information. Janet Iribarne noted it was 50/50 in that neighborhood and some have submitted the appropriate documentation for ag deferment. She stated the few that don't will be required to file their income and a new application within the next four years.

Board Member Wes Bowlen noted Mr. Dinsmore stated it was fenced and he did graze it. Janet Iribarne noted there was a three strand barbed wire fence around the twenty acres. The home sat in the middle so if the cattle were to be grazed there they would wander in and out of his yard and up on his porch. Board Member Wes Bowlen asked if the other acreage was in fact fenced and could be grazed. He did not see how they could exclude it. Janet Iribarne stated that they had to assess the property on how it was being used and there was no evidence the twenty acres were grazed. She reviewed NRS 361A statute for leased property. She stated only a portion of where the operator uses should be in the Ag program and given the Ag deferment. Janet Iribarne stated where the home site sits should not receive the Ag use benefit. Board Member Wes Bowlen inquired if 2.5 acres was taken out for the residence and the balance taxed as Ag. Janet Iribarne stated they were taxed as Ag other than residence according to the State. She noted that Mr. Dinsmore had put in his letter that the State said that he should have this. Janet Iribarne reported that the State went to the site with her and corrected her theory, which she would have given him the entire piece, but only the portion that was in production that was being used by the agricultural operation should get the Ag deferment. Janet Iribarne stated that Bruce Bartolowits did write an e-mail clarifying what he meant on June 18th and submitted a copy of that e-mail. Janet Iribarne explained Mr. Dinsmore called the State and Bruce Bartolowits together with the two local appraisers, I and Julie Eaklor, did an inspection. She noted Mr. Bartolowits stated there was nothing

being used on this property and reviewed the e-mails he had received regarding the Buzzetti's lease. Janet Iribarne noted Mr. Dinsmore's letter stated it was being used for grazing.

Board Member James Winer stated in order for them to fall into Ag they would have to revise the lease agreement. He noted the lease agreement Mr. Dinsmore supplied with the Buzzetti's, and the Buzzetti's notarized, clearly states that they were only using the meadows for grazing. The aftermath was they irrigate the meadows, they drag the meadows, and they harvest the meadows. Board Member James Winer stated that in the future if Mr. Dinsmore and the Buzzetti's change their lease agreement, notarize it to say that they were using the meadows, the rest, and the house were fenced off, then he felt Mr. Dinsmore had a better argument. However, what Mr. Dinsmore supplied clearly states the only thing being used were the meadows. He noted that if the Board looked at the map supplied by the Assessor's Office the "in production part" he believed was the meadows and the rest was the highland which was fenced off separately. He did not think Mr. Dinsmore's documentation gave him a valid argument.

TAPE 4

Janet Iribarne stated NRS 361A.020 was the only guidance for them as appraisers for leased property on agricultural properties with regards to land leased by the owner to another person for agricultural use and composed of any lot or parcel which includes at least seven acres of land devoted to accepted agricultural practices; or is contiguous to another agricultural real property owned by the lessee. Janet Iribarne commented that Mr. Dinsmore met the criteria of seven acres but the operator was not contiguous to the property.

Board Member Kelly Buckner felt the Dinsmores were not allowing cattle to graze around their house. He agreed if they were to fence the home off so they could use that other parcel then it should fall under Ag assessment. Board Member Jim Winer reiterated that the lease would reflect that and the lease clearly said the meadows. Chairman Walt Leberski inquired about the parcel directly to the north that currently had the meadows fenced from the brush. Janet Iribarne replied that was Jack O. Walther's property. He applied in 1993 and was approved for Ag use. They believed it was a lease but their documentation did not meet the office policy. They would be requesting him to re-file and give them details of his lease, if he has a lease with Joe Key. Janet Iribarne stated just north of that piece was the Mattern property who had a lease agreement with Peter Bottari. She stated Mr. Mattern would also be contacted by their office for leasing details as to his qualification with regards to what was being utilized and produced upon that property. Janet Iribarne noted the blue line on the map (Exhibit E-6) was an irrigation ditch. Board Member James Winer inquired if they were all in the same tax season and why the other ones weren't before the Board too. Janet Iribarne explained that they have to apply for agricultural use. Board Member James Winer requested clarification the others

had not applied for Ag and they were paying higher taxes. Janet Iribarne stated that was correct but the Mattern and Walther properties had been in the Ag program for some time. Board Members James Winer inquired if the Assessor's Office sent them a letter in March requesting their documentation by December 15, 2009. Janet Iribarne stated they were not aware of these other parcels until Dr. Dinsmore filed his appeal. The Assessor explained that they implemented the policy after they had reappraised the green area so this whole area was re-appraised under the old policy. She stated Dr. Dinsmore came in and filed for an application under the new criteria of the policy which was why they saw the discrepancy between this property and the two other properties. When they return to this area for reappraisal, they would be required to file for Ag. Board Member Wes Bowlen inquired if they could ask that they qualify next year or did they have to wait for the area to be re-appraised. The Assessor stated they could next year. Board Member James Winer noted that Mr. Dinsmore clearly seems to think that the State of Nevada, Bruce Bartolowits, is viewing this his way. He noted there was a letter in their packet that clearly states no and inquired why Mr. Dinsmore does not have that letter. Janet Iribarne noted that the only correspondence she was aware of with regards to Dr. Dinsmore's contact with the State was the one e-mail dated June 18, 2008. Board Member James Winer pointed out that in the e-mail it was clear that the State was not agreeing with him but John wrote please disregard across it. Janet Iribarne felt that at the time that e-mail was wrote she believed it was under consideration. Board Member Kelly Buckner believed John was trying to say it produced more hay than assumed by the State. Janet Iribarne read another e-mail sent in response to that June 18th e-mail from Bruce Bartolowits to her dated February 11, 2009 into the record: *"In response to your request for clarification, I reviewed my e-mail dated June 18, 2008 regarding parcel #007-08A-010. At the time I was asked my opinion whether the parcel would qualify for an agricultural use deferment. In order to make that determination the parcel needed to be classified based on the productivity of the land. This was done by using the Department of Taxation Agricultural Bulletin which is published annually and approved by the Nevada Tax Commission. Approximately 24 acres meets the definition of Native Meadow or Wild Hay land. This is land which has not been cultivated but is irrigated by streams or rivers and will yield enough native wild hay growth to afford at least one hay cutting each season with average or better than average precipitation. Approximately 20 acres meets the definition of grazing land which is usually lacking irrigation and has a lower carrying capacity per acre than pasture land. The remaining acreage consists of the stream and home site. The Agricultural Bulletin is based on NRS 361.325. Using the feed charts in the bulletin, and hay and cattle prices provided by Nevada Agricultural Statistics Service, the potential gross income based on productivity would not meet the \$5,000 threshold. (NRS 361A.030). I viewed the property on June 10, 2008. Land can be classified by productivity, but must still be utilized and*

meet the income requirements to receive the agricultural deferment. The 20 acres of sage showed no signs of animals grazing and was not fenced from the home site. I would value the parcel as a mixed use property with the meadow as agricultural and the balance as residential.”

Board Member James Winer inquired if Doctor Dinsmore had this e-mail. Janet Iribarne replied no, this had been sent to her February 11, 2009. Chairman Leberski asked if the sagebrush knoll was fenced off from the meadows. Janet Iribarne replied yes. Chairman Leberski believed Mr. Bartolowits said it wasn't. Board Member Wes Bowlen understood the property above the meadow was in questioned if it was fenced and that was the part he was questioning. Board Member James Winer believed he stated in the letter it was not fenced from the home site. He noted that there was a fence running across the meadow but there was not a fence around the home. Chairman Leberski stated it was not fenced off and did not believe it was being used agriculturally.

TAPE 4A POINT 13.9

DINSMORE, JOHN S TR ET AL

CASE 09-014

PARCEL NO. 007-08A-010

DECISION:

MOTION: Board Member Kelly Buckner moved to accept the Assessor's valuation on Parcel No. 007-08A-010 because the parcel, as it currently exists; a portion was used and can be classified as agriculture exempt. The remaining 20 acres where the house is located does not appear to be grazed or used for agricultural assessment. There is a lease in effect on the agricultural productive land. Board Member James Winer seconded the motion.

Board Member Kelly Buckner inquired if the Assessor would look at the other neighboring parcels which might be in the same situation with the agricultural assessment. Janet Iribarne replied they would contact them immediately. Board Member Kelly Buckner stated he did not want to single out Dr. Dinsmore. Board Member James Winer stated Dr. Dinsmore was comparing it to his neighbors and believed the neighbors should be treated like him. He asked that they make sure Dr. Dinsmore received the communication from the State of Nevada. He inquired if it was the capacity of the County to tell Dr. Dinsmore about the conclusion that the Board came to that if he fenced off his house and drew up a new lease with the Buzzettis that included part of the 20 acres he could apply for agriculture use. Janet Iribarne explained that there was another statute that he had to show use over the

last two months, etc. Kristin McQueary noted that the minutes would be available to the general public.

The motion carried the following vote:

Voting Aye:	Chairman Walter Leberski
	Member Wes Bowlen
	Member James Winer
	Member Kelly Buckner
Voting Nay:	None
Abstaining:	Member Al Plank
Absent:	None

TAPE 4 POINT 14.2

PK SALES LLC

Case Nos. 09-020 through 09-027

**Parcel NOs: 001-660-036, 001 660 037, 001 660 045, 001 660 048
001 660 049, 001 660 050, 001 660 094 and 001 660 0AD**

Hearing Date: February 17, 2009

SUBJECT MATTER:

The property described as follows: eight parcels located in the Elko Junction Shopping Center located on Mountain City Highway in Elko, Nevada. The parcels are Raley's with attached buildings, Mattie's with attached buildings, Cinema Theater, Coffee Mug, Blockbuster Video, Builder's Mart and two vacant parcels.

DOCUMENTS SUBMITTED BY PETITIONER: None

DOCUMENTS SUBMITTED BY ASSESSOR FOR THE RECORD:

1. Letter to the Board

EXHIBITS SUBMITTED BY ASSESSOR'S OFFICE:

- A. BOE Map of Properties
 - B. Petition for Review: B-1 Parcel List and B-2 Parcel Map
 - C. Reason for Appeal, Parcels Information:
Legal Descriptions, Chains of Title, Plat Map
- | | |
|--|-------|
| C-1 Parcel No 001 660 036 – Case No. 09-20 | |
| C-2 Parcel No 001 660 037 | 09-21 |
| C-3 Parcel No 001 660 045 | 09-22 |
| C-4 Parcel No 001 660 048 | 09-23 |
| C-5 Parcel No 001 660 049 | 09-24 |
| C-6 Parcel No 001 660 050 | 09-25 |

- | | | |
|----|--|-------|
| | C-7 Parcel No 001 660 094 | 09-26 |
| | C-8 Parcel No 001 660 0AD | 09-27 |
| D. | Petitioner's Income Statement of Operations | |
| | D-1 Tenant Roster, D-2 Requested Values, and | |
| | D-3 Agent Authorization | |
| E. | Assessor's Capitalization of Income | |
| F. | Market Value/Sales History | |
| G. | Appendix | |
| | G-1 Real Estate Listing and G-2 Area Map | |

APPRAISER, PREVIOUSLY SWORN IN: KATRINKA RUSSELL

SUMMARY:

PK Sales LLC requested a reduction in their value to \$11,500,000.00 based on income. They listed a total of eight parcels located in the Elko Junction Shopping Center on Mountain City Highway in Elko, Nevada which were purchased in February of 2007 for \$12,686,840.00. The improved parcels are all currently occupied with tenants, with the exception of the Mattie's building which has three vacancies in the seven-unit building. The market rental per square foot varies from parcel to parcel; it is not really consistent based on size. There are anomalies as follows: the Cinema Theater, a 9,712 square foot building sits on a 10.49 acre parcel and is currently occupying approximately 1.72 acres between the building and the parking lot, the Builder's Mart is a 48,700 square foot building and sits on a 6.26 acre piece with a asphalt parking lot on the majority of the parcel, the Coffee Mug a 3,660 square foot building sits on a 1.16 acre piece also with an asphalt parking lot on the majority. All the land values are based on \$90,000 per acre or \$130,000 per acre pending location for sales in prior years. The buildings were appraised based on the Marshall & Swift Commercial Manual (RCLND) Replacement Cost Less Net Depreciation. Without a per unit income information, it is difficult to compare values based on income. Petitioner did provide 2007 overall income information which the Assessor did capitalize with a 11.8% cap rate; the cap rate was agreed upon by the Petitioner and the Assessor's Office.

THE PETITIONER WAS NOT PRESENT

RECOMMENDATION:

The Assessor provided the Board with options for reduction in value for PK Sale LLC: 1) They could lower the value to reflect the sale price, purchased in February 2007. She had contacted Dave to get the 2008 income information so that they could go with the actual value but never received that information. 2) They could base it upon the 2007 income. She noted under Tab 3 (Exhibit D) a

Statement of Operations was provided to her. Under Tab 4 (Exhibit E) was their Capitalization of Income, wherein she took their Statement of Operations, added back in the property taxes, and used the 11.8% tax cap rate to come up with the capitalization of 12.1 million dollars.

DISCUSSION:

Board Member Kelly Buckner noted that 12.1 million was approximately what they had paid for it. The Assessor stated they paid 12.6 million dollars. Board Member James Winer inquired if PK agreed with the numbers that Kimco submitted for 2007. The Assessor replied that PK had not contacted her. She had received an e-mail from a co-worker that Dave would be out of the office until the eighteenth. Board Member James Winer inquired if the 11.8% tax cap rate was being applied to other similar commercial producing properties. The Assessor replied if they were to be based on income.

Board Member Kelly Buckner asked about the evaluation per acre. Katrinka Russell stated all the parcels that have direct access to the Mountain City Highway were at \$130,000 per acre which was what the sales reflected. All the parcels that were inside were at \$90,000 per acre. Board Member Kelly Buckner noted there was a big draw through the parcel by the theater. Katrinka Russell stated it was valued at \$90,000 per acre. Board Member Kelly Buckner felt some adjustment should be made with respect to the usefulness of those parcels because it was a huge expense to cover the Adobe Creek. Board Member James Winer reported Home Depot spent 1.2 million dollars covering up that creek. Board Member Kelly Buckner voiced concern with the usability of those particular parcels because some were next door to that ditch. He believed \$90,000 an acre was high if they value it by the acre. Board Member Kelly Buckner noted they had gone back to the cap rate. Board Member James Winer commented the cap rate analysis showed a lower value than if they broke out the land and went with the cost approach.

Board Member James Winer noticed that they want to apply the 11.8% cap rate but was trying to sell it on the internet at an 8.4% cap rate. He stated they have not received an 8.4% cap rate sale yet their own marketing materials said it was worth a lot more than what the Assessor was saying. He noted they had not achieved a sale. He had done some business lately with some appraisals of similar nature and the cap rates have come in at 9.5% to 10%. Board Member James Winer felt that on their actual numbers the 11.8% cap rate was generous because the higher the tax cap rates, the lower the value.

TAPE 4 A POINT 24.4

PK SALE LLC

Case Nos. 09-020 through 09-027

Parcel Nos: 001-660-036, 001 660 037, 001 660 045, 001 660 048

001 660 049, 001 660 050, 001 660 094 and
001 660 0AD

DECISION:

MOTION: Board Member James Winer moved to accept the Assessor's Recommendation of 11.8% cap rate which came in at \$12,133,144.00; based on the income approach and the 11.8%.

The Assessor stated it would be 12.1 million dollars.

Board Member James Winer amended his motion to reflect 12.1 million dollars.

Board Member Kelly Buckner seconded the motion.

Board Member James Winer stated his rationale was this was the best position for them. If they were to do a land valuation cost approach, then that number would be higher. If they were to argue the 11.8% cap rate, he could prove that it could be lower than that and their taxes should be approximately 15 million dollars. Their own marketing material shows that they truly think it is worth more but they have not achieved the 19 million dollars that they hope to get. He thought the 11.8% cap rate was appropriate based upon their income information submitted.

The motion carried the following vote:

Voting Aye:	Chairman Walter Leberski
	Member Wes Bowlen
	Member James Winer
	Member Al Plank
	Member Kelly Buckner

Voting Nay: None

Abstaining: None

Absent: None

TAPE 4A POINT 26.3
SAN JACINTO ASSOC.
Case Nos. 09-028
Parcel No. 009-005-093

Hearing Date: February 17, 2009

SUBJECT MATTER:

The property described as follows: A low income housing unit located in Jackpot, Nevada. The complex is located at 870 Lady Luck Drive. It was built in

2001 and made up of four buildings with 20 units. There are twelve 3-bedroom units and eight 2-bedroom units. Each unit has washer and dryer hookups, yet there is a laundry and office facility located on the premises. The 20 unit complex is currently set at approximately \$59,716 per unit. The land is 1.59 acres and is valued at \$15,114 which is \$9,505 per acre.

DOCUMENTS SUBMITTED BY PETITIONER: None

DOCUMENTS SUBMITTED BY ASSESSOR FOR THE RECORD:

1. Letter to Board

EXHIBITS SUBMITTED BY ASSESSOR'S OFFICE:

- A. Petition for Review
A-1 Reason of Appeal, A-2 Legal Description, A-3 Chain of Title
A-4 Parcel Map, and A-5 Pictometry Map
- E. SAGE Tax Group letter to Board 1/14/09
D-1 Statement of Operations, D-2 Income Statement
D-3 Tenant Roster/Rent and D-4 Agent Authorization

APPRAISER, PREVIOUSLY SWORN IN: KATRINKA RUSSELL

SUMMARY:

The Assessor stated the appeal for this parcel was filed on behalf of San Jacinto Apartments by the Sage Tax Group (TSTG). As with previous years, they submitted the income for 2008 along with the rent roll information. It was determined that the status of the property has not changed. The income submitted for 2008 supports the value requested by the Petitioner.

ASSESSOR'S RECOMMENDATION:

The Assessor's recommendation to the Board was to decrease the value to \$500,000.

THE PETITIONER DID NOT APPEAR.

DISCUSSION:

Board Member Kelly Buckner noted that last year the Board did not recommend an adjustment. The Assessor stated it was the same value every year.

Board Member James Winer asked they clarify the cap rate, either 9% or 12% on this case. The Assessor believed they used the same cap rate as last year and Tom was in agreement with that rate. The income produced a valuation of \$284,426 by using an actual three year average. The Assessor stated it was

\$546,513 if they add the net present value with the future tax credit but because they submitted the rental income, it was a lower than \$500,000. Therefore they recommended they settle at \$500,000. She noted there was a letter from Petitioner on Tab 2 page 1 agreeing to that \$500,000. Board Member James Winer asked if legitimate accounting was submitted and the Assessor responded she was satisfied with the documentation submitted.

TAPE 4 A POINT 32.3

SAN JACINTO ASSOC.

CASE 09-028

PARCEL NO. 009-005-093

DECISION:

MOTION: Board Member James Winer moved that they approve the County's recommendation to go with the value that the Petitioner agreed with as well, which was \$500,000. Board Member Wes Bowlen seconded the motion.

The motion carried the following vote:

Voting Aye:	Chairman Walter Leberski
	Member Wes Bowlen
	Member James Winer
	Member Al Plank
	Member Kelly Buckner
Voting Nay:	None
Abstaining:	None
Absent:	None

Chairman Leberski noted that those turned down would get a Notice of Decision and Appeal.

VI. WITHDRAWALS:

The Assessor noted the withdrawals were covered in the roll log changes. She stated that Generation 2000 which was the Stateline Nugget had withdrawn their petition. They reevaluated their appraisal based on income. She stated Oasis International which was located off of I-80, withdrew their petition.

Board Member James Winer asked about the 2 Pillows Homepark/Rental LLC. The Assessor replied that was placed on the list by mistake and it should not be on the list because they did a formal withdrawal.

TAPE 4 A POINT 36.6

MOTION: Board Member Kelly Buckner moved to accept the withdrawals. Board Member James Winer seconded the motion.

The motion carried the following vote:

Voting Aye: Chairman Walter Leberski
Member Wes Bowlen
Member James Winer
Member Al Plank
Member Kelly Buckner

Voting Nay: None
Abstaining: None
Absent: None

VIII APPROVAL OF RE-OPENED ROLL CHANGE LOGS:

TAPE 4 A POINT 37.1

MOTION: Board Member Kelly Buckner moved that they accept the roll change logs as presented by the Assessor. Board Member Al Plank seconded the motion.

The motion carried the following vote:

Voting Aye: Chairman Walter Leberski
Member Wes Bowlen
Member James Winer
Member Al Plank
Member Kelly Buckner

Voting Nay: None
Abstaining: None
Absent: None

COMMENTS BY BOARD MEMBERS AND STAFF:

Board Member James Winer felt they should clearly define the dates, the process and deadlines in the letters sent to ranchers for the Ag deferred. He felt that they might have avoided the communication issue with one of the previous cases. Chairman Walt Leberski stated they did that last year requesting notification by May 1, 2008. Board Member Wes Bowlen noted that those dates were in the letter. Julie Eaklor, appraiser stated the policy letter gave an overview of what they require. She stated the actual letter they sent to every rancher who had to reapply specifically had dates that they had to respond by. Kristin McQueary noted out of all the parcels subject to the Ag preferred there was only one property owner who was complaining about the timing of all Ag deferred parcels. Julie Eaklor drew the Board's attention to Tab 4, Page 2, (Exhibit E, Nevada Land and Resource Company). She stated that letter specifically gave the exact date and years they required the income information for. She noted the information was required to be returned to them before May 1, 2008. Board Member James Winer commented that

he was looking at the Appendix Tab the letter starts Dear Rancher and Operator. Julie Eaklor explained that was the overview letter and every rancher received that letter when they have to reapply. She stated they also received a personalized letter. Board Member James Winer asked if the personalized letter was sent registered. Julie Eaklor replied no. Board Member James Winer asked if the policy letter was sent certified, return receipt. Kristin McQueary stated that if the Assessor was denying Ag assessment, pursuant to statute, the letter had to be sent within 30 days certified, return receipt requested. The Assessor noted that Board Member James Winer had requested specific dates in the letter and questioned if the Assessor's Office should not be so lenient. She noted in the Nevada Land and Resource letter they were very specific before May 1st but they try to work with their taxpayers. Chairman Leberski noted the Nevada Land and Resource Company had submitted information at that time. Kristin McQueary read NRS 361A.150 (3) into the minutes. She noted there was no definitive date when a property becomes non agricultural because of the different ways it could be taken out of Ag whether they file for change of zoning, sale to non agricultural owner, etc. On this particular one, they filed an appeal in time by odd circumstance. Board Member James Winer asked if it made sense to reference the deadline of January 15th and there was 30 days so it was December 15. Board Member James Winer felt that was where they started their argument that they received a letter after the technical date and how could they be late on something that was not noticed. He noted Kristin McQueary pointed out that the Petitioners were before the Board so that claim went out the window. Board Member James Winer believed they would see that in the future because if that odd circumstance had not had happened with the person they sold the property to; then they would have that argument. He stated they received their notice after the appeal date. Kristin McQueary commented that they would have the opportunity under statute to go straight to the State Board or pay their taxes in full under protest and get on the next year's meeting agenda. Board Member James Winer noted Nevada Land and Resource had supplied information but the Assessor said it was insufficient. He felt they wanted a definition of what they should be supplying. He noted they now have it, a notarized Affidavit from the person paying the bill. The Assessor stated they were very specific and told them their leases were expired. Board Member James Winer did not believe the leases had expired because it continued every year but they did not show proof of that. The Assessor stated the Affidavit would show proof that their lessee was making the payments and would keep the lease current. She noted they would have to submit Affidavits every year. Kristin McQueary noted for the record that this was in the nature of public comment and the Board had decided the issue.

TAPE 4 B

Chairman Walt Leberski commented that they wanted the Board to reject the change because it was filed late.

VII. 2010 MEETING DATE:

The Board discussed scheduling a meeting date for the next meeting to be held in February 2010.

TAPE 4 B POINT .9

MOTION: Chairman Leberski moved that they start worrying about it the first of January and the Assessor calls around and it would be sometime in February before the deadline date. The motion died due to lack of a second.

The Assessor stated they need to work around Jim Winer’s annual trip. Kristin McQueary suggested that they set the date today. She knew her schedule for one-half of the month of February 2010. She noted February 15th was President’s Day. Katrinka Russell stated it was hard to get the information in timely manner because the deadline was January 15th and they have to wait several days for the mail. Kristin McQueary noted there was a 10 day notice time frame. She suggested Friday 19, 2010. She commented during the week of February 16th there was County Commission meeting, a Planning Commission meeting and a holiday. Kristin McQueary recommended the week of February 22, 2010. Several board members suggested Wednesday February 24, 2010.

TAPE 4 B POINT 4.2

MOTION: Board Member Kelly Buckner moved that they tentatively set the meeting for 2010 on February 24, 2010. Board Member James Winer seconded the motion.

The motion carried the following vote:

Voting Aye:	Member	Wes Bowlen
	Member	James Winer
	Member	Al Plank
	Member	Kelly Buckner
Voting Nay:	Chairman Walter Leberski	
Abstaining:	None	
Absent:	None	

PUBLIC COMMENT:

Board Member James Winer commended the staff on the quality of the reports submitted to the Board. The Assessor inquired if any of the members would like to work through an e-mail format with regards to their documentation they receive. Several board members requested the packet in paper form and not electronically submitted. Kristin McQueary noted that there was an internet access in this room. Board Member James Winer inquired if they would supply a laptop. Kristin McQueary stated they do not supply laptops.

TAPE 4B POINT 7

ADJOURNMENT:

There being no further business to come before the Board, Chairman Leberski adjourned the meeting at 3:57 p.m.

APPROVED,

WALTER LEBERSKI, Chairman

ATTEST:

MARILYN TIPTON, Deputy County Clerk