

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

Gehart Suppiger, III;)	
dba Big Sky Forest)	DOCKET NO.: PT-1998-13
Products,)	
)	
Appellants,)	
)	
-vs-)	
)	
THE DEPARTMENT OF REVENUE)	FACTUAL BACKGROUND,
OF THE STATE OF MONTANA,)	CONCLUSIONS OF LAW,
)	ORDER and OPPORTUNITY
Respondent.)	<u>FOR JUDICIAL REVIEW</u>

The above-entitled appeal was heard on January 19, 2000, in the City of Superior, in accordance with an order of the State Tax Appeal Board of the State of Montana (the Board). The notice of the hearing was given as required by law.

Gehart (Gary) Suppiger, III, owner, presented testimony in support of the appeal. Kevin Chamberlain, MSU Extension Agent for Mineral County was called as a witness for the taxpayer. The Department of Revenue represented by Gary Peterson, appraiser, presented testimony in opposition to the appeal. Testimony was presented and exhibits were received. The Board took the appeal under advisement; and the Board having fully considered the testimony, exhibits, and all things and matters presented to it by all parties, finds and concludes as follows:

FACTUAL BACKGROUND

1. The property which is the subject of this appeal is described as follows:

9.4 acres in Section 19, Township 18N,
Range 27W and improvements located
thereon. Assessor # - P000231230100.

2. For the 1998 tax year, the DOR appraised the subject property at a value of \$31,960 for the land and \$271,700 for the improvements.
3. The taxpayer appealed to the Mineral County Tax Appeal Board on June 19, 1998, requesting a reduction in value to \$20,000 for the land and \$142,795 for the improvements, stating: "Over Valuation."
4. In its September 8, 1998 decision, the county board denied the taxpayer requested values, stating: "Nothing has changed since our findings last year."
5. The taxpayer appealed that decision to this Board on September 15, 1998, stating: "Over Valuation".
6. On September 15, 1998, this Board returned to the taxpayer the appeal form, stating in summary:

"We are unable to accept your 1998 appeal as it appears that you were unable to satisfactorily demonstrate to the Mineral County Tax Appeal Board that your property had changed since 1997 when you filed an appeal before the county board."

"Pursuant to Section 2.51.307 (4) of the Administrative Rules of Montana:"

"With respect to taxable real property and improvements thereon, the decision of a county tax appeal board shall be final and binding unless reversed by the state tax appeal board. If the decision of the county

tax appeal board is not reviewed by the state tax appeal board, it is final and binding for all subsequent tax years unless there is a change in the property itself or circumstances surrounding the property which affect its value. Statutory reappraisal by the department of revenue pursuant to 15-7-111, MCA, is a circumstance affection the value of real property and improvements thereon."

"Therefore, the 1997 decision of the Mineral County Tax Appeal Board, which was not appealed to this Board, is final and binding for the remainder of the current reappraisal cycle."

7. The taxpayer submitted an undated letter to the Board that was received on September 25, 1998. The issues discussed per this letter are outlined in the taxpayer's contentions below. Based on this letter and the fact the DOR revalued the subject property the appeal was accepted by the Board for tax year 1998.

TAXPAYER'S CONTENTIONS

Mr. Suppiger's reasons for appeal are as follows (appeal to STAB received September 25, 1998):

RE: My appeal of decision of the Mineral County Tax Appeal Board (County pocket (sic) #98-1)

I am writing to protest the decision by the Montana Tax Appeal Board not to hear my case. I believe there were significant changes and circumstances that warrent (sic) an appeal. Those changes are as follows:

- 1) Significant increase in appraised value from 1997 to 1998. The property was appraised for \$273,932 in 1997. The 1998 appraisal is \$303,660. The property sold on the open market in March 1997 for \$162,795.
- 2) Circumstances concerning the property have changed. The property is a Forest products manufacturing facility whos (sic) ability to aquire (sic) raw material has changed. Mineral County is 85% Federal Land. This facility is dependent on Forest Service Timber to survive. Without Federal timber the facilities future and value are drastically affected. Since the last appraisal the following events have

affected timber availability on the Lolo National Forest.

- a) The Lolo National Forest budget to prepare and administer timber sales has been reduced 50% from 1997 to 1998. The budget was reduced by 30% in 1997 and faces another significant reduction in 1999.
 - b) The bull trout has been listed as an endangered species in 1998. This effectively takes thousands of acres out of the timber base.
 - c) The Lolo Forest is being included in the Interior Columbia Basin Ecosystem Management Project. This is a Federal attempt that will manage the entire Columbia Basin collectively. The effect will be to take input away from local communities and authority away from land managers. The availability of timber will further shrink.
 - d) Road Building Moratorium – The chief of the Forest Service administratively enacted a moratorium on new road construction during 1998. The Lolo National Forest is significantly unroaded (sic). New roads are necessary to access (sic) timber. Without new roads, the timber base will further shrink.
- 3) Comparable properties – A large industrial site in Mineral County (a good comparable) has traded on the open market. The figures on this have recently become available. I went (sic) to present this comparable as evidence to the State Tax Appeal Board.

Taxpayer's exhibit #1, titled "Buyer's Statement" in pertinent part illustrates the following:

Buyer: Gerhart Schott Suppiger, III
Seller: Small Business Administration

Settlement Date: 03-04-97

Purchase Price: \$162,795.00

Mr. Suppiger acknowledged the fact the property was purchased at a public auction. This auction was well publicized and well attended. Mr. Suppiger testified he paid cash for the property even though favorable financing was available. It is his opinion that an auction is true test of the market value. The auction price for this property adheres to the definition used by the State of Montana. Mr.

Suppiger testified, "An auction sale is defined in the real estate manual as a public sale in which the goods are sold to the highest bidder". "Market value, assessed valuation and an auction sale are the identical thing."

Mr. Suppiger testified to a comparable sale located in Mineral County. This property was the Crown Pacific Millsite. Taxpayer's exhibit #2 compares this sale to subject property and illustrates the following:

**COMPARABLE PROPERTY COMPARISON
MINERAL COUNTY**

Property Description	Crown Pacific Millsite	Big Sky Forest
Products		
Location	Superior	St. Regis
Owner	Johnson Bros	Suppiger
Sale Date	July 96	March 97
Acreage	108	9.5
Covered building space	305,000 ft2	40,000 ft2
Finished (heated) building space	3,500 ft2	500 ft2
Hard surface yard area	450,000 ft2	5,000 ft2
3 phase industrial power source	yes	yes
Railroad siding and loading dock	yes	no
Wells	3	1
Platform scale for weighing		
Semi trucks	yes	no
Yard lights	yes	no
Fenced	yes	no
Purchased price	Less than \$500,000	\$162,795

Mr. Suppiger testified the previous owner of the subject property operated it as a large saw log mill. The prior owner went bankrupt when he was unable to obtain the large saw logs. Mr. Suppiger converted the facility to one that manufactures a product that utilizes small diameter log pole pine logs. The mill in its current state is a post and rail

mill.

Mr. Suppiger requests the Board consider functional obsolescence that has affected the value of the subject property. Mr. Suppiger testified "The property was built and designed as a forest products manufacturing facility and because of the inability to procure timber here in Mineral County it has been drastically affected by functional obsolescence as was this Crown Pacific mill-site".

Kevin Chamberlain, MSU Extension Agent for Mineral County was called as a witness for the taxpayer and offered additional testimony to support taxpayer's exhibit #3, titled, "Functionally Obsolescent Real Estate". This exhibit illustrates the following:

This property is a Forest Products manufacturing facility that has become functionally obsolescent because of a raw material shortage. Mineral County is 88% Federal Land. This facility is dependent on Forest Service Timber to survive. Since the last appraisal the following events have affected timber availability on the Lolo National Forest.

- a) The Lolo National Forest budget to prepare and administer timber sales has been reduced 50% from 1997 to 1998. The budget was reduced by 30% in 1996-1997 and faced another significant reduction in 1999.
- b) The bull trout has been listed as an endangered species in 1998. The Grizzley (sic) has been listed as endangered for several years. Because of these Endangered species listings the FS has dedicated tens of thousands of acres as habitat and significantly reduced timber base on Lolo National Forests.
- c) The Lolo Forest is being included in the Interior Columbia Basin Ecosystem Management Project. This is a Federal attempt that will manage the entire Columbia Basin collectively. Timber in Montana will take a back door to Salmon in the Columbia River. Another set of rules and another layer of beauracracey (sic) will come between the Federal Land Managers and the people and business of Western Montana. The effect will be to take input away from local communities and authority away from land managers. The availability of timber will further shrink.
- d) Road Building Moratorium – The chief of the Forest Service administratively enacted a moratorium on new road construction during 1998. The Lolo National

Forest is significantly unroaded (sic). New roads are necessary to access timber. Without new roads, the timber base will further shrink.

- e) Bill Clintons (sic) roadless (sic) area management initiative – The President, by executive order, has taken 40-50 million acres of roadless (sic) are across the country on National Forests out of management and into preservation. This precludes all timber harvests, even salvage sales. The Lolo National Forest lands surrounding St. Regis are 50% in this category.
- f) A Federal Judge in Illinois eliminates “Categorical exclusions” timber sales, under categorical exclusions the Forest Service in Montana could sell up to 1 million feet of salvage timber sales without preparing a complete environmental impact statements. Complete environmental impact statements are costly and time consuming to prepare. Without categorical exclusions diseases, burnt, or insect infected timber can not be harvested timely before it rots.

The current administration through budget cuts, executive orders, and litigation has reduced the available timber for harvest on the Lolo National Forest by 85%. Just a few years ago the Superior RD of the Lolo National Forest was harvesting 60 million board feet of timber annually. This year the sales will total 7 million feet. Without timber Big Sky Forest Products will not survive.

Big Sky Forest Products has a CDBG grant loan from Mineral County and the State of Montana for \$500,000. Because of these raw material issues, Big Sky notified the state (sic) in 1998 that it would not be drawing the final \$200,000 loan installment and had suspended the expansion on the facility.

The value of the Real Estate and equipment at Big Sky Forest Products is functionally obsolescent because of timber shortages. The previous owner of this property went bankrupt and has (sic) his real estate and equipment liquidated by the SBA because he could not procure cedar product and large saw logs from public lands.

Mr. Chamberlain testified to the status of the health of the forest in Mineral County, i.e. the infestation of the Mountain Pine Beetle, Doug Fir Beetle, and the potential fire danger based on the amount of fuel (timber) which exists.

Mr. Chamberlain testified “... the timber availability has been declining simply because the private lands have had to take on more of the burden as far as the timber demand. Those areas are reaching a point where they can’t log them anymore, so it’s not to long into the future that that resource for private or for timber in general is going to go

away..." .

Mr. Chamberlain offered testimony to the impact economically and socially of the Federal Land Management initiatives over the past three years. Summarized, his testimony is as follows:

- ◆ 150 direct jobs were lost when the Crown Pacific Mill shut down.
- ◆ 358 indirect jobs were lost when the Crown Pacific Mill shut down.
- ◆ School populations have declined.
- ◆ Increased reported alcoholism, spousal abuse, welfare, school lunch program, etc.

Mr. Chamberlain indicated that 88% percent of the land in Mineral County is federally owned, and of the 12% remaining private land, approximately 4% to 5% timberland. The Federal Government owns approximately 95% of the resource.

DOR'S CONTENTIONS

DOR exhibit A are photographs of the subject structures:

- ◆ #1 - Main warehouse
- ◆ #2 - Saw mill
- ◆ #3 - Cedar facility
- ◆ #4 - Dry Kiln (storage shed)

DOR exhibit B is a copy the 1997 "Property Adjustment Form" filed by the taxpayer on February 1, 1997 and processed by the DOR on November 13, 1997. In summary this exhibit illustrates the following:

I am dissatisfied with the appraisal, assessment...because: This property has been sold at public auction. I purchased only the real property. Personal property was purchased by others and removed from the site. The purchase (market) price for the real property is considerably less than the

assessment.

As a result of this review, an adjustment was made for the following reason: Increased depreciation was granted (sic) the buildings damaged by the snow load. Machinery & equipment was adjusted to reflect sale.

DOR exhibit C is Mr. Peterson's reply to the taxpayer's request for review in 1998, dated August 3, 1998. This exhibit states the following:

I have made a review of your facility based on the information you provided in your request for review and in our previous telephone conversation. I have made no changes in the valuation of the facility. The County Tax Appeal Board determined that the valuation was fair and equitable at the hearing in 1997. Since there have been no changes in 1998 (sic) I believe that the valuation continues to be a fair and equitable estimation of Market Value.

Mr. Peterson testified that the cost approach to value was employed by the DOR in valuing the subject structures. The cost approach is normally the recognized method for industrial properties because sufficient income or sales data is not available.

Mr. Peterson testified that substantial adjustments were made to the values of the various structures based on the observed physical condition.

DOR exhibit D is a spreadsheet detailing the land value, the depreciation i.e. physical, functional and economic factors and the final value determinations for the various subject structures. In pertinent part, this exhibit illustrates the following:

(Department of Revenue Exhibit D in pertinent part)

Bldg. #	Yr. Blt.	Description	Size (SF)	RCN/ Sq. Ft.	RCN	Functional Depreciation		Physical		Economic Obsolescence		Base Value	Value Sq. Ft.
						%	\$	%	\$	%	\$		
1	89	Warehouse	21,000	\$15.66	\$328,941	0	0	32%	\$105,261	0	0	\$223,680	\$10.65
3	80/89	Sawmill	6,928	\$20.77	\$143,900	0	0	90%	\$129,510	0	0	\$ 14,390	\$ 2.08
4	78	Shop/Shake	8,056	\$20.71	\$166,800	0	0	90%	\$150,120	0	0	\$ 16,680	\$ 2.07
7	82	Well House	48	\$45.49	\$ 2,183	0	0	40%	\$ 873	0	0	\$ 1,310	\$27.29
8	82	Fuel Tank	1	NA	\$ 2,317	0	0	40%	\$ 927	0	0	\$ 1,390	NA
9	82	Propane Tank	1	NA	\$ 4,167	0	0	40%	\$ 1,667	0	0	\$ 2,500	NA
		Kiln as Shed	1,200	\$14.41	\$ 17,294	0	0	32%	\$ 5,534	0	0	\$ 11,760	\$ 9.80
Total Improvements												\$271,710	
Land			Size	\$/Unit									
			9.48	\$3,371.71									\$ 31,960
Total Land & Improvements												\$303,670	

Mr. Peterson testified that building #1 is a metal structure with no floor in approximately 1/3 of the building. Buildings #3 and #4 have been depreciated 90% due to the physical condition. The structure identified as a kiln/shed was reclassified from a kiln, class eight, personal property to a shed, class 4, real property. Mr. Peterson testified that no functional or economic obsolescence was applied to the subject structures that are portrayed on exhibit D.

DOR exhibit G is a copy of the Mineral County Commissioners approval for tax incentives for new and expanding industry. The County Commissioners granted this tax incentive pursuant to 15-24-14 MCA.

Mr. Peterson testified that the true issue before the Board is the purchase price of the subject property. The DOR does not dispute the sale price, but they are not in agreement with the taxpayer that this transaction represents market value. Mr. Peterson testified, "Market value is actually the probable price that would be received on the market if it was between a willing buyer and a willing seller, both being reasonably informed of the uses of the facility. It also indicates that it would be on the market for a reasonable length of time and it would be an arm's-length transaction." Mr. Peterson does not dispute that some of the criteria in the State of Montana's definition of market value has been met based on the sale at auction, but

not in its entirety. This transaction is perceived by the DOR to be an atypical sale. Most transactions are not auction sales. Conditions that are present in auction sales are:

- ◆ The property is not on the market for a reasonable length of time.
- ◆ At an auction, there is always a compulsion to sell. The seller is highly motivated to sell.

Another condition that questions the arm's-length nature of the transaction is the fact the subject property was not in operation at the time of sale. Facilities that are in operation, carry a higher value than those that are vacant. Based on the foregoing, the auction price does not meet the definition of market value.

Page one of DOR exhibit H is a copied page of The Appraisal of Real Estate. The emphasis of this exhibit is to the conditions of sale, and states:

...Although conditions of sale are often perceived as applying only to sales that are not arm's-length transactions, some arm's-length sales may reflect atypical motivations or sale conditions due to unusual tax considerations, sale at legal auction, lack of exposure on the open market, or eminent domain proceedings. If the sales used in the sales comparison approach reflect such situations, an appropriate adjustment must be made for motivation or conditions of sale.

Mr. Peterson testified that the DOR does not consider auction sales because typically there is insufficient information to apply an appropriate adjustment for conditions of sale.

Page 2 of exhibit H is a copied page from The Appraisal

of Machinery & Equipment. The DOR's reference to this portion of the exhibit states:

...It is incorrect to compare the sale of idle facilities to similar facilities that are operating without a through analysis of the industry and an analysis of the earning potential of the subject property.

Mr. Peterson testified, "...using the auction price as market value is a violation of appraisal principle."

The sale of the Crown Pacific property was not considered to be an arm's-length transaction, therefore not permitting the DOR to take into account the use in a sale comparison analysis.

Mr. Peterson testified, "Economic conditions were looked at but there was no economic obsolescence granted to this facility. As a matter of fact we have not granted economic obsolescence to any of the facilities in the timber industry. We are looking at that, and there may be a time down the road when we would grant that. We're not able to quantify and we're not even certain that there is a quantifiable amount of economic depreciation in the market here. A possible explanation for what's happening is a shake out in the industry due to a lack of timber. No we did not grant any economic obsolescence to this facility."

BOARD'S DISCUSSION

The Board is faced with three issues presented by the taxpayer:

1. The purchase of the subject property at public

auction for \$162,795.

2. The economic influences that have adversely affected the market value.
3. The sale of the Crown Pacific mill site as a comparable property.

MCA 15-8-111. Assessment - market value standard - exceptions. (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

(2)(a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

It was testified that the Small Business Administration (SBA), foreclosed on the prior owner. The property was therefore sold at a public auction to Big Sky Forest Products. Foreclosure is defined as *"The legal process in which a mortgagee forces the sale of a property to recover all or part of a loan on which the mortgagor has defaulted."*, The Dictionary of Real Estate Appraisal, Third Edition.

There was nothing presented to the Board to suggest that the SBA recovered the balance owed or settled for something less. It is the opinion of the Board that the auction sale or foreclosure sale is an atypical transaction. Based on the evidence and testimony presented, the SBA is not perceived by the Board as a "willing seller" as described in the State of Montana's definition of market value.

Mr. Suppiger testified that the issues with respect to the forest management as illustrated on exhibit #3 surfaced after the time he purchased the subject property. Upon

further examination and explanation the taxpayer agreed that the issues stated on exhibit #3 are more appropriately functions of economic obsolescence rather than functional obsolescence. Economic obsolescence is defined in The Dictionary of Real Estate Appraisal, Third Edition as "An *element of accrued depreciation; a defect, usually incurable, caused by negative influences outside a site and generally incurable on the part of the owner, landlord, or tenant.*" The Board does not dispute that there are economic circumstances that the taxpayer testified to that may adversely impact the market value of the subject property, but no testimony was given to quantify an appropriate factor which the Board could consider.

The taxpayer testified to the Crown Pacific sale as a comparable property. As illustrated on exhibit #2, there are immeasurable differences between this property and the subject property, i.e. size, use, etc. **MCA 15-1-101.**

Definitions. (e) The term "comparable property" means property that:

- (i) has similar use, function, and utility.
- (ii) is influenced by the same set of economic trends and physical, governmental, and social factors; and
- (iii) has the potential of a similar highest and best use.

It was testified that the Crown Pacific property was not purchased with any intention to operate a saw mill. The testimony related to the intended use and Crown Pacific's

motivation behind the sale was provided from either Mr. Peterson or Mr. Suppiger, not persons directly involved with the transaction. It was testified the current owner purchased the property with the intention of developing an industrial park. Based on the information provided to this Board, there are far too many differences between the Crown Pacific sale and the subject sale to arrive at a reasonable conclusion to make a direct comparison in the sales comparison approach to value.

The final question for the Board to answer, is did the DOR appropriately value the subject property through its application of the cost approach to value?

The Property Assessment Valuation, Second Edition,
illustrates the steps in the cost approach as follows:

1. Estimate the land (site) value as vacant and available for development to its highest and best use.
2. Estimate the total cost new of the improvement as of the appraisal date, including direct costs, indirect costs, and entrepreneurial profit from market analysis.
3. Estimate the total amount of accrued depreciation attributable to physical deterioration, functional obsolescence, and external (economic) obsolescence.
4. Subtract the total amount of accrued depreciation from the total cost new of the primary improvements to arrive at the depreciated cost of improvements.
5. Estimate the total cost new of any accessory improvements and site improvements. Then, estimate and deduct all accrued depreciation from the total cost new of those improvements.
6. Add site value to the depreciated cost of the primary improvements, accessory improvements, and site improvements, to arrive at a value indication by the cost approach.

It was testified by the taxpayer that the value allocated to land and improvements of \$20,000 and \$142,795 respectively, was not determined by analyzing sales or any other appraisal methodology. The taxpayer is simply requesting the total value of the property for taxation purposes equal the purchase price. Therefore, nothing was presented to the Board that the DOR's land value of \$31,960 is not appropriate.

There are five separate structures being valued by the cost approach (Exhibit D). Buildings identified as #3 and #4 have been depreciated 90% based on their physical condition. These two structures are essentially being valued at what could be considered salvage value. There is nothing to suggest that the value of these structures should be further reduced. In addition, there is nothing to suggest that the "Well House" (#7), "Fuel Tank" (#8) and "Propane Tank" (#9) have not been properly valued. Mr. Peterson testified that the structure identified as a kiln was originally Class 8, personal property. Upon the DOR's on-site review of the property, it was discovered that this structure was no longer being used as a kiln, therefore, it was determined it should be assessed as a shed, Class 4, real property. The DOR has determined a depreciated value of \$11,760 for this structure. There was nothing presented to the Board to suggest this value is not a true reflection of its market value. Building #1, the warehouse is where the manufacturing process takes

place and carries the greatest proportionate value of the overall value. Mr. Peterson testified that the industrial bureau uses various cost manuals when establishing reproduction costs for industrial property.

ARM 42.22.1304 Valuation of Industrial Improvements (1)
 If the reproduction cost of the property is not listed or is not accurately listed in the 1996 Montana appraisal manual for the specific property being appraised, then the department may use other appropriate cost manuals such as "Means" or "Marshall Valuation Service" to obtain the best estimate of reproduction cost. This reproduction cost would be depreciated on an age/life basis to arrive at market value for assessment purposes.

With respect to the warehouse (#1), the information listed on exhibit D compares to pricing data in the 1996 Montana appraisal manual as follows:

Building Data:

Building area – 21,000 SF Year built – 1989

1996 Montana Appraisal Manual

Warehouse – Code 398 – page 45-45

Cost per SF – \$15.32¹ – page 45-45

Economic life – 30 years – page 47-18

Physical condition/functional utility rating:

Physical condition – Fair; Functional utility – Average – page 47-21

Percent good – 80% (depreciation – 20%) – page - 47-23

Effective age = Actual age – 7 years (1996 – 1989)

	<u>Exhibit D</u>	<u>Montana Appraisal Manual</u>
Building Area	21,000	21,000
Replacement Cost New per Square Foot	<u>\$15.66</u>	<u>\$15.32</u>
Total Replacement Cost New	\$328,941	\$321,720
Less: Physical Depreciation	32%	20%
Less: Functional Obsolescence	NA	included with physical
Less: Economic Obsolescence	<u>NA</u>	<u>NA</u>
Total Depreciation/Obsolescence	(\$105,261)	(\$64,344)
Depreciated Value	\$223,680	\$257,376
Depreciated Value per Square Foot	\$10.65	\$12.26

¹ The base price used in this analysis is unadjusted. Based on the limited information in the record, upward or downward adjustments could be required to the base price for interior finish, heating, plumbing, electrical, etc.

The foregoing illustration was provided to test the reasonableness of the DOR's market value determination for the main structure.

MCA 18-8-111. Assessment - market value standard - exceptions.

(1)(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

(c) If the department uses the capitalization of net income method as one approximation of market value and sufficient, relevant information on comparable sales and construction cost exists, the department shall rely upon the two methods that provide a similar market value as the better indicators of market value.

15-8-111, MCA instructs the DOR to consider all forms of depreciation. The DOR has considered physical and has applied 32%. Mr. Peterson testified that no additional depreciation or obsolescence has been measured in the market place to apply to the subject property.

It is the opinion of the Board the DOR has adequately established a value indication from the cost approach to value for the subject property.

CONCLUSIONS OF LAW

1. The State Tax Appeal Board has jurisdiction over this matter. **§15-2-301 MCA.**

2. **§15-8-111, MCA. Assessment - market value standard - exceptions.** (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

3. **15-2-301, MCA, Appeal of county tax appeal board decisions.** (4) In connection with any appeal under this

ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Mineral County by the Assessor of that county at the value of \$31,960 for the land and the improvements at a value of \$271,700, for a total market value of \$303,660. The appeal of the taxpayer is therefore denied and the decision of the Mineral County Tax Appeal Board is upheld.

Dated this 16th day of February, 2000.

BY ORDER OF THE
STATE TAX APPEAL BOARD

(S E A L)

GREGORY A. THORNQUIST, Chairman

JAN BROWN, Member

JEREANN NELSON, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 16th day of February, 2000, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

Gerhart Suppiger, III
P.O. Box 250
Cocolalla, Idaho 83813

Office of Legal Affairs
Department of Revenue
Mitchell Building
Helena, Montana 59620

Mineral County Appraisal Office
Mineral County Courthouse
Superior, Montana 59872

Mineral County Assessor
Mineral County Courthouse
Superior, Montana 59872

DONNA EUBANK
Paralegal