

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RALSTON PURINA COMPANY,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Norman H. Wright, Esq. Holme Roberts & Owen LLP</p> <p>Address: 1700 Lincoln Street, Suite 4100 Denver, Colorado 80203-4541</p> <p>Phone Number: (303) 861-7000</p> <p>E-mail:</p> <p>Attorney Reg. No.: 030625</p>	<p>Docket Number: 37517</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 30, 2001, Debra A. Baumbach, Mark R. Linné, and Karen E. Hart presiding. Petitioner was represented by Norman H. Wright, Esq. Respondent was represented by Maria Kayser, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**PERSONAL PROPERTY
(Denver County Schedule No. 124-070-004)**

Petitioner is protesting the 2000 actual value of the subject property, industrial personal property located at 4555 York Street in Denver, Colorado.

ISSUES:

Petitioner:

Petitioner contends that they had an appraisal of their assets completed in 1999. They then filed a complete asset list, which was more accurate than previously filed information. They believe that Respondent is valuing some items that should not be considered personal property. They also believe some assets have no market value, and that sales tax, installation, and freight charges should not be included in the original cost value of the equipment. They also believe that the depreciation residual floor of 15%, as found in the Division of Property Taxation, Assessors Reference Library Volume 5, is too high.

Respondent:

Respondent contends that they used Petitioner's supplied asset list to value the subject property. They agree to the original cost of the assets and those items valued via the market approach. They believe that some items shown by Petitioner as real property are actual personal property fixtures. They are required to use the Division of Property Taxation, Assessors Reference Library Volume 5, to value personal property, which requires sales tax, freight, and installation costs be included in the equipment original cost value. The value of equipment piping, wiring, tubing, et cetera, is based on their value to the equipment, not their stand-alone value.

FINDINGS OF FACT:

1. Petitioner's witness, Mr. Robert Cousens, Senior Staff Engineer with Ralston Purina, testified that the facility manufactures dry pet products. He presented a flow diagram of the facilities' operations. Raw ingredients are delivered, with some needing processed at the plant. The ingredients are then mixed by batch and further ground. A wet mix is then added to the product, which is then cooled and sent to packing. There are various packing lines that place the product on pallets and package them for shipping. They ship the product directly to the customer.

2. Mr. Cousens testified that the subject facility started operations in 1957. The plant operates 24 hours a day, 5 days a week. There are several different buildings. The last upgrade was an automated warehouse expansion, which was completed in September of 1996. Most of the investment is machinery personal property.

3. Mr. Cousens testified that as project manager, he is involved in upgrading, replacing, or repairing the equipment. Most of the equipment is purchased new according to specification. Half of the equipment is manufactured by Ralston Purina. He orders the equipment, then he arranges for contractors to do the mechanical and electrical installation. Generally, the equipment lasts about seven years before needing replaced. The existing piping, wiring, and tubing is typically torn out and scrapped when new equipment is installed. The new installation costs are accounted for in the cost of the equipment.

4. Under cross-examination, Mr. Cousens testified that the batching, processing, and packing occurs in multiple buildings. Various liquids are piped in during the wet mixing process by pumping. The associated infrastructure with old equipment is removed and disposed of. All conduit and wiring is removed, as well as process piping; all new is installed. Each piece of equipment has its own set of installation utilities.

5. Petitioner's witness, Mr. Roger R. Chantal, ASA, a Machinery and Equipment Appraiser, testified that he was engaged in 1999 by Ralston Purina to value their equipment. He conducted a physical inspection in January of 2000. He discussed the business operation with the plant manager and Mr. Cousens. He investigated the life of the equipment and disposal practices. He was given the depreciation schedule of the equipment, which he assumes included all associated costs.

6. Mr. Chantal testified that the income approach is seldom used for personal property, and he did not use it for the subject property.

7. Petitioner's witness presented a value of \$18,787,000.00 based on a combination of the market and cost approaches.

8. Mr. Chantal testified that he used the market approach to value when sufficient information was available, searching for nationwide sales, using those most current, and applying appropriate adjustments. He testified that the sales comparison approach was of limited use, as half of the equipment was shop-built by Ralston Purina or was purchased and modified per Ralston Purina specifications. His Ralston sales information is from their sale of equipment in the marketplace; he feels these are arm's-length transactions.

9. Mr. Chantal testified that he used a cost approach to value, using the original cost from the company asset listing and applying Marshall & Swift (M&S) indexes to achieve a replacement cost new. He then used M&S depreciation tables to achieve a fair market value. He separated the classes of property according to depreciation table categories. Most of the equipment is used for manufacturing and processing. He utilized a percent good factor to arrive at an actual value. He used a 10-year life, which is consistent with the Marshall & Swift "Feed" category. Although the actual life was usually 7 years, he felt the 10-year life was supportable as the equipment was regularly repaired and maintained. Equipment that has reached the end of its useful life is determined to be at or below salvage value, for which he used 8% good. Regardless of the age, he does not go below the suggested residual percentage so long as the equipment is in service. The lowest percent good he applied was 8%, other than the 4% he applied to Ralston-built assets.

10. Regarding original costs, Mr. Chantal testified that all the assets' costs included FOB freight, sales tax, and installation. Any line items that were strictly freight, sales tax or installation costs were considered to be "no value" assets. If these costs were not listed separately, they were included in the appraisal value.

11. Mr. Chantal testified that he removed all real property, repair costs, refurbishment, and modification expenses, as those items are not personal property. Modifications are changes made to original equipment that allows the equipment to perform a different function. Rebuilds occur when equipment is no longer functioning properly, and without the rebuild the equipment would not bring market value. The same principle applies to replacements, repairs, and refurbishing. Total real estate not valued included sprinkler systems, fire extinguishers, alarm systems, roofing, wall constructions, additions, wiring, and electrical for the buildings. Retirements are items still listed that are no longer physically there.

12. Mr. Chantal concluded to a fair market value of \$18,787,000.00 as of January 1, 2000.

13. Mr. Chantal testified that the electrical, piping, ductwork, et cetera, are often 50% of the asset cost. The cost of removal exceeds the market value of the equipment. Typically a salvage company is called to remove the lines, and they keep the removed items in addition to their removal fee. However, he did calculate a value for these assets; most were valued at 5% good. But he does not believe there is any value in the market. The total value of these items is \$1,058,373.00. This value is not included in the \$18 million value.

14. Mr. Chantal testified that “value-in-exchange” means the sale of an asset removed from the plant and sold to a buyer, which would not include sales tax, installation, et cetera.

15. Under cross-examination, Mr. Chantal testified that his field data is not included in the exhibits; it may include added information regarding the assets in the plant as gathered from plant employees. He has read the Colorado statutes, but not the Division of Property Taxation (DPT) manual. The Marshall & Swift tables are similar to the DPT tables for the first five years of the asset’s life.

16. Regarding real property exclusions, Mr. Chantal relied on the nomenclature of the owner, as well as those items that were physically attached to the building. He agrees that the piping, electrical, et cetera, that is tied to the equipment is necessary for the operation of the equipment, but he does not believe it has market value. The process plumbing contributes to the operation of the business “in-use,” not “in-exchange.” Equipment control wiring was excluded because it is not truly marketable and the cost to remove it exceeds the market value, if any. He did not value freight, installation, and sales tax; he understands that the State of Colorado requires “value-in-exchange,” and “value-in-exchange” does not reflect value for these items. He has not recognized any difference in value due to the 24-hour operation of the equipment. His use of 10-year life versus 7-year life was how he recognized the extended life of the equipment as a result of repairs, refurbishments, and replacements.

17. Upon questioning from the Board, Mr. Chantal admitted that the equipment could not be used without the piping, wiring, et cetera, in place. He clarified that the Iowa Curves were not set up to value machinery and equipment; they were set up to value real property. Marshall & Swift is now using their own tables based on other information including data from the Department of Commerce. He believes that any ancillary items that support the equipment have no value; in fact, it costs money when they are removed.

18. Under redirect, Mr. Chantal testified that some of the wiring and plumbing is attached to the real estate, but most has no market value when removed, even though it is necessary for the operation of the equipment. He has not applied any excessive obsolescence. He applied tables for physical depreciation. He used 4% salvage value for Ralston equipment sales because that equipment is special-built and has no value in the marketplace. He understands that the DPT tables bottom out at 15% good.

19. Petitioner is requesting a 2000 actual value of \$18,787,000.00, but no more than \$20,580,040.00 for the subject property.

20. Respondent's witness, Ms. Peggy Komosinski, a Senior Auditor with the City and County of Denver, presented an indicated value of \$29,562,561.00, based on the cost approach to value.

21. Ms. Komosinski testified that she requested documentation from Petitioner, reviewed the sales data and invoices, and conducted a physical inspection along with Larry George, a Commercial Appraiser with the Denver Assessor's Office. She asked for 145 invoices, but only received a small sampling. She had audited the business in 1996 and felt that the original costs shown were accurate.

22. Ms. Komosinski testified that Mr. Chantal's appraisal did not have any supporting documentation; therefore, she carried forward the prices from the previous year.

23. Ms. Komosinski testified that they take the original cost including sales tax, use tax, shipping, and installation charges, apply a factor to bring the value to January 1, 2000, then apply a rollback factor to achieve a replacement cost new as of June of 1998. Then they apply a percent good factor to arrive at a depreciated value.

24. Ms. Komosinski testified that she took the assessable assets listed in Mr. Chantal's appraisal, used a cost basis, categorized them, and calculated their value using the DPT tables.

25. Ms. Komosinski testified that she accepted Mr. Chantal's market derived values.

26. Ms. Komosinski testified as to which items she agreed were not taxable; capital interest, repairs, replacements, retirements, and software. She believes sales tax, piping, wiring, catwalks, freight, and installation costs are taxable. She also feels that rebuilds should be valued, as they increase the life of the equipment. She followed the Del Mesa Farms court case language to determine what equipment served the building versus what should be considered personal property fixtures.

27. Ms. Komosinski testified that she has followed the DPT guidelines. She cannot use Marshall & Swift tables; she must use DPT tables. The tables differ in the residual values and in the indexes, which must freeze at a particular level. The DPT residual floor is 15%, versus 5-8% in Marshall & Swift.

28. Under cross-examination, Ms. Komosinski testified that she has attended personal property workshops and experienced on-the-job training. She only audits personal property. Both parties agree to the original cost of the equipment. She has been responsible for Ralston Purina's account since 1996, when she performed an audit. The 1996 audit was based on Ralston's reported asset listing. At that time Ralston did not include tubing, piping, et cetera, as real estate in their listing. She did not originally value the subject property using the appraisal report information; instead she used the previous year information. She has since reviewed the requested information and recalculated the value. They do not dispute the market approach values. Her position is that they must follow the DPT guidelines. She did not do an independent appraisal analysis. Regarding the paging system, it is comparable to a communication system; it is not necessary to the building, therefore, it is personal property. She has not done market studies on the tubing, piping, et cetera, to determine a market value. She has no evidence to support her position that modifications increase the equipment value. She has not made an independent investigation of the 15% depreciation floor; that is the duty of the DPT.

29. Respondent's witness, Mr. Steven Ellington, Acting Director of Personal Property Assessments, City and County of Denver, testified that his duties include reviewing audits and declarations, policy and procedure issues. He was involved in the 1996 audit of Ralston. He has reviewed the current documentation. He is Ms. Peggy Komosinski's supervisor.

30. Mr. Ellington testified that currently they are using Mr. Chantal's appraisal. They agree on a portion of the report. However, they are valuing some of the items Mr. Chantal did not value. They agree with the cost/basis column on page 12, Exhibit B. Their differences start with the index column; they are similar until they reach the residual value. The DPT sets the maximum value as the original cost, and the residual value at 15%, not the 8% used by Mr. Chantal. They have not received information to support the 8% residual value. They have some discretion for market data that is supported, otherwise they have no discretion on the DPT tables.

31. Regarding real versus personal property, Mr. Ellington testified that the equipment used for the machinery would be personal property; that used for the building would be real property. In the cost approach, they must include total costs to get the equipment in place. He knows the DPT uses the Iowa Curve, but he does not know specifics.

32. Under cross-examination, Mr. Ellington testified that he did not do an independent appraisal of Ralston's assets. They asked several times for market data and supporting documentation. The real dispute over the piping, wiring, et cetera, is whether there is value to these items, not whether they are personal property. They do not dispute the real property items.

33. Respondent assigned an actual value of \$26,885,312.00 to the subject property for tax year 2000.

34. Petitioner's rebuttal witness, Mr. Charles Jerominski, P.E., ASA, Vice President of AUS Consultants-Valuation Services Group, testified that he has reviewed the DPT manual and discussed it with DPT staff. Percent good tables are used to convert replacement cost into market value. In the DPT tables, every type of personal property is calculated at a percent good using a single table. The percent good tables are built upon the Iowa study, a specified rate of return, and an average condition and usage of typical property. He suggests that physical condition is completely separate from the interest rate. According to a table shown in an article he wrote, identified as Exhibit H, on page 577, the discount factor can affect the condition percent good in a wide range. Residual values vary from type of property; he believes a 15% floor is unrealistic. Mr. Chantal's methodology is used by many appraisers. Mr. Jerominski does not use Marshall & Swift, which is based on the Iowa tables; they do not use the interest factor.

35. Under cross-examination, Mr. Jerominski testified that the use of an interest rate with the Iowa Curve starts to get into present worth discussions. For his calculation, the witness testified that he uses lifeing techniques, actuarial studies, and then linear studies, not Marshall & Swift.

CONCLUSIONS:

1. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2000.

2. There were a number of issues in disagreement in this case. The Board will attempt to address each issue in turn.

3. First, should the piping, wiring, tubing, et cetera, necessary to the operation of the machinery be taxable?

Mr. Chantal testified that these items are personal property and admitted that they are necessary to the operation of the equipment. Mr. Cousens also testified that these items are necessary to the equipment operation. The Board, therefore, concludes that these items are taxable personal property necessary to the operation of the business.

4. Second, once determined to be taxable, what value should be applied to these items?

Mr. Cousens testified that these items are completely removed and replaced when the equipment they serve is replaced, and that Petitioner pays contractors to remove these items in addition to allowing them to retain the removed items. Mr. Chantal testified that such personal property does not have market value, or in the alternate, the value is very minimal. Respondent argues that the value is in the contribution to the equipment these items serve, as they are necessary for the operation of the equipment.

ARL Volume 5 at page 4.12 reads, “The actual value of the personal property must be determined as long as the property is still in use.”

Based on these arguments, the Board believes that these items are an integral part of the equipment they serve, and would have the same life expectancy as said equipment. So long as the piping, wiring, tubing, et cetera, are “in use,” they should be valued using the same methodology as the equipment they serve. Until these items are no longer in service, the Board believes that these items have value. The Board concluded that Respondent properly valued these items.

5. Third, Respondent also argued that other assets, categorized by Petitioner as equipment foundations, fire extinguishers, portable office building, paging systems, catwalks, bumpers, signs, oil tank, and security systems are all personal property that is necessary to the business, and as such should be taxable. The Board agrees that these disputed items are taxable personal property necessary to the operation of the business and concludes they were properly valued by Respondent.

6. Fourth, Respondent argued that the assets categories “Rebuilds and Modifications” are taxable personal property.

Mr. Chantal’s definition of modification is “Charges for the change of personal property that modifies the shape, function and/or capacity of an asset, however, does not increase personal property ‘Fair Market Value.’” He further supplies a definition for “Refurbished, Replacement & Rebuild” as “Charges for work and parts related to the repair of personal property assets to place them back to good operational condition.” This expenditure brings asset value back up to “Fair Market Value,” however, does not increase personal property “Fair Market Value.”

DPT ARL Volume 5, page 4.13 reads, “The assessor should also consider the frequency and extent of maintenance to the property. Extensive maintenance or reconditioning of the property may extend the economic life of the property just as a lack of maintenance may shorten the economic life.”

The DPT manual repeatedly notes exceptions to the normal residual life of equipment as being affected by reconditioning to extend its remaining economic life.

Respondent agreed that “Replacements and Refurbishments” were not taxable expenses, but disagreed regarding “Rebuilds or Modifications.” However, the Board does not see any difference between these asset categories. All four of these asset expenses relate to the ability of Petitioner to continue to keep their equipment in good working condition. At most, according to the DPT manual and testimony of Petitioner’s witness, these items may extend the life of the property, which could affect the remaining depreciable life, but the Board does not believe these costs are separately taxable.

7. Fifth, Petitioner argued that sales tax, freight, and installation costs should not be taxable as part of the cost of equipment.

The Board found reference to installation costs for personal property in C.R.S. 39-1-103(13)(a) and (b). This statute deals with, among other things, the maximum value for personal property being set by the cost approach when “all costs incurred in the acquisition and installation of such property are fully and completely disclosed.” It would seem clear that installation costs were meant to be included in the original cost of items valued according to the cost approach.

In addition, the Personal Property Declaration form and the DPT ARL Volume 5 both require the inclusion of sales/use tax, freight, and installation costs in the original equipment cost calculation.

DPT ARL Volume 5, page 3.5 reads, “Original installed cost is the amount that was paid for the personal property when it was new. Original installed cost includes the purchase price of the item, freight to the point of use, applicable sales/use tax and any installation charges necessary to ready the property for use in the business location. . . . It represents the cost to the owner for acquiring the item.”

This Board has consistently ruled that sales tax, freight, and installation costs must be considered part of the cost of equipment and as such are taxable. Petitioner’s witness, Mr. Chantal, testified that these costs could be as much as half again the cost of the equipment purchase. The Board believes these costs would be part of a potential purchaser’s consideration as the total cost of equipment. The Board concluded that those costs related to the acquisition of the equipment and installation charges necessary to render the equipment ready for use are taxable.

8. Sixth, what is the appropriate residual depreciation factor for determining the value floor of assets that have reached their fully depreciated value?

ARL Volume 5 at page 4.12 reads, “The minimum percent good shown for each of the columns is useful as a guide to residual value. It is not absolute and must be reconciled with market information for similar types of property in order to be valid. If the market shows that the actual value of personal property is lower than the value arrived at by using the minimum percent good, the use of the minimum percent good should be reflected in favor of the lower value. The actual value of the personal property must be determined as long as the property is still in use.”

ARL Volume 5 at page 4.13 reads, “When an item of personal property has reached its minimum depreciated value (15%), the applicable Replacement Cost New (RCN) trending factor in use at the time is ‘frozen.’ . . . An exception to this rule applies when the property has been reconditioned to extend its remaining economic life. . . . In addition, as property ages, the use of original installed cost multiplied by trending factors may not yield reasonable RCN values. Any RCNLD estimate should be cross-checked with sales comparison (market) and income information sources, if possible, and the appropriate value used.”

Three different methods of determining residual value were presented by witnesses in this case. The various strengths and weaknesses of the different approaches were discussed. All three approaches are recognized by the Board as being acceptable depreciation determination methodology. However, the determination of a residual value ultimately becomes appraiser judgment when insufficient market data support is available to provide an actual value.

Both parties agreed on the market value of those items for which there was sufficient market data available, which would establish the actual value of those items regardless of cost residual tables. It would therefore appear that there was insufficient market data available to determine whether any deviation from the DPT residual tables for the remaining assets would be supportable. The presented depreciation floor factors ranged from 4% to 15%. After careful consideration of all the testimony and evidence, the Board affirms Respondent’s use of the DPT tables with a 15% depreciation floor in determining the residual value of the assets valued according to the cost approach.

9. In conclusion, both parties presented valuation conclusions that were supportable in certain categories. However, after careful examination and consideration of all the evidence and testimony presented, the Board concluded that Respondent properly valued all of Petitioner’s personal property assets with the exception of asset categories “Rebuilds and Modifications.”

10. Respondent originally used previous year data to determine an assigned value of \$26,885,312.00. In this hearing, Respondent presented an amended value of \$29,562,561.00, based on the tax year 2000 submitted asset listing supplied by Petitioner, which both parties agree is a more accurate listing of Petitioner’s personal property. Even though the Board has determined that Respondent improperly valued assets categorized as “Rebuilds and Modifications,” the Board takes notice that the original cost of these items was \$763,877.00, with an actual value determined by Respondent of \$333,249.00. The subtraction of these values from the presented corrected value would still result in a value higher than the assigned value.

ORDER:

The petition is denied.

APPEAL:

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

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

DATED and MAILED this 31st day of December, 2001.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

Mark R. Linné
Mark R. Linné

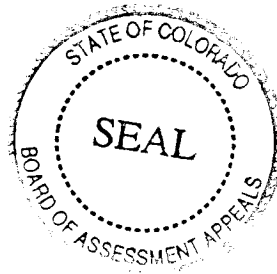
Karen E. Hart
Karen E. Hart

This decision was put on the record

DEC 31 2001

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

Diane Von Dollen
Diane Von Dollen



37517.02

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Petitioner:

RALSTON PURINA COMPANY,

v.

Respondent:

DENVER COUNTY BOARD OF EQUALIZATION.

Attorney or Party Without Attorney for the Petitioner:
Name: Norman H. Wright, Esq.,
Holme Roberts & Owen LLP
Address: 1700 Lincoln Street, Suite 4100
Denver, CO 80203-4541
Phone Number: (303) 861-7000
Attorney Reg.: #030625

Docket Number: 37517

ORDER ON MOTION FOR RECONSIDERATION OR MODIFICATION

The Board received Petitioner's Motion for Reconsideration or Modification on January 11, 2002, and Respondent's Objection to Motion for Reconsideration or Modification on January 15, 2002. The Board has reviewed the motions.

The Board denies Petitioner's motion.

ORDER:

Petitioner's Motion for Reconsideration or Modification is denied.

DATED this 18th day of January, 2002.

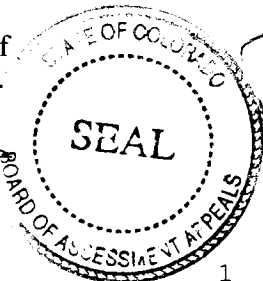
BOARD OF ASSESSMENT APPEALS

This decision was put on the record

JAN 18 2002

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

Diane Von Dollen
Diane Von Dollen



Debra A. Baumbach
Debra A. Baumbach

Mark R. Linne
Mark R. Linne

Karen E. Hart
Karen E. Hart

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RALSTON PURINA COMPANY,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Victor F. Boog, Esq. Victor F. Boog & Associates PC</p> <p>Address: 143 Union Boulevard, Suite 625 Lakewood, Colorado 80228</p> <p>Phone Number: (303) 986-5769</p> <p>E-mail: vfbfirm@vfblaw.com</p> <p>Attorney Reg. No.: 2561</p>	<p>Docket Number: 37517</p>
<p align="center">ORDER ON REMAND (RETAINING JURISDICTION)</p>	

THIS MATTER is on remand from the Court of Appeals, Case No. 02CA0318. Additional hearings were held by the Board of Assessment Appeals on July 16, 2003, Debra A. Baumbach, Rebecca A. Hawkins, and Karen E. Hart presiding. Petitioner was represented by Victor F. Boog, Esq. Respondent was represented by Maria Kayser, Esq.

ISSUES:

Petitioner:

Petitioner contends that Respondent does not know what equipment was included in the original assigned valuation, as they relied on a 1999 declaration, which was a summary of different types of equipment. Respondent must now show that the Board determined non-taxable items were omitted from the original assessment. If they cannot, the value reduction

for these items must be taken from the original value rather than from the adjusted value presented at the October 30, 2001 hearing. Respondent had Petitioner's appraisal in April 2000 that showed every item that was at the plant and chose not to use that list. Respondent has not claimed that there are omitted items in their revised valuation.

Respondent:

Respondent contends that the "Rebuilds" and "Modifications" valuations were correctly offset in the original Board Order. The 2000 value was based on a summarized 1999 asset listing submitted by Petitioner. The Chantal appraisal included a higher original cost value. Respondent agrees that the "Rebuilds" and "Modifications" costs are not taxable. However, there is no tie from the revised asset list to the original summarized asset list to indicate whether the "Rebuilds" and "Modifications" were included in the original assigned value.

FINDINGS OF FACT:

1. This matter was presented to the Board on remand from the Court of Appeals to hold additional hearings to determine whether the properties concluded by the Board to be non-taxable were included in the original assigned value of the subject property.

2. Respondent's witness, Ms. Kristine Hart, an auditor with the Denver County Assessor's Office, testified that she has been involved in different aspects of the Ralston Purina file and that she also conducted an inspection of the subject property.

3. Respondent's Exhibit 1 is the 1999 Ralston Purina declaration with an attached summary list of equipment. The 2000 assigned valuation is based on this original list, even though Petitioner submitted a declaration schedule with an appraisal report attached. A detailed equipment listing was included in the appraisal report. The Assessor's Office needed time to review the documentation, including the market data, and to confirm or deny the asset information. Petitioner's appraisal was reviewed; however, the review was not completed until just prior to the original BAA hearing. There was no way to tie the itemized asset list to the summary list submitted in the previous year.

4. Under cross-examination, Ms. Hart admitted that Petitioner timely presented an asset list for 2000. There was no in-depth study of the Petitioner's appraisal at the Assessor's level.

5. Respondent assigned an actual value of \$26,885,312.00 to the subject property for tax year 2000, based on a 1999 declared summarized asset listing.

CONCLUSIONS:

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2000.

2. Respondent used a summary list of asset costs from 1999 and did not use the detailed asset listing that was timely submitted on April 17, 2000. Contained within the exhibit were statements that previous listings submitted to Respondent included items that this Board has determined were not taxable. Respondent cannot establish whether or not the items were included in the previous declarations. Petitioner maintains that such items were included in the original assigned value.

3. At this hearing, Respondent still did not know if the value of “Rebuilds” and “Modifications” was included in its original valuation, which was based on a summarized 1999 listing; however, it is clear that these values were included in the revised valuation. The Board has determined that it is likely that the original valuation did include some of these items and that the value of these items should be removed from the tax year 2000 assigned value of \$26,885,312.00.

4. The Board reviewed the disputed items in detail and has determined that all “Rebuilds” and “Modifications” expenses reported to have been expensed prior to 1999 were likely included in Respondent’s original valuation. These expenses total an original cost of \$162,927.30 for “Modifications” and an original cost of \$445,770.92 for “Rebuilds.” The expenses incurred in 1999 (an original cost of \$49,979.17 for “Modifications” and an original cost of \$105,199.08 for “Rebuilds”) would not have been included in the 1999 declaration, as these expenses had not yet occurred and they would not have been reported until 2000. Respondent’s assigned valuation was based on a 1999 declaration.

5. The Board concluded that the 2000 original cost value of the subject property should be reduced by an original cost of \$608,698.22 for pre-1999 expensed “Rebuilds” and “Modifications.” The Board was unable to determine what the depreciated actual assigned value of these items was from the exhibits presented. Therefore, the Board concluded that Respondent should calculate the assigned actual value of the items using Division of Property Taxation manual procedures and tables.

ORDER:

The Board retains jurisdiction for 10 days from the date of this Order for the Respondent to submit to the Board the adjusted actual values as set forth in Conclusions, paragraph 5, above.

DATED and MAILED this 30th day of August, 2003.

BOARD OF ASSESSMENT APPEALS

Rebecca Hawkins

Rebecca A. Hawkins

Debra A. Baumbach

Debra A. Baumbach

Karen E. Hart

Karen E. Hart

This decision was put on the record

AUG 29 2003

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

Penny S. Lowenthal
Penny S. Lowenthal



<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RALSTON PURINA COMPANY,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Victor F. Boog, Esq. Victor F. Boog & Associates, PC</p> <p>Address: 143 Union Boulevard, Suite 625 Lakewood, Colorado 80228</p> <p>Phone Number: (303) 986-5769</p> <p>E-mail: vfbfirm@vfblaw.com</p> <p>Attorney Reg. No.: 2561</p>	<p>Docket Number: 37517</p>
<p>FINAL ORDER ON REMAND</p>	

THIS MATTER is on remand from the Court of Appeals, Case No. 02CA0318. Additional hearings were held by the Board of Assessment Appeals on July 16, 2003, Debra A. Baumbach, Rebecca A. Hawkins, and Karen E. Hart presiding. Petitioner was represented by Victor F. Boog, Esq. Respondent was represented by Maria Kayser, Esq.

The Board retained jurisdiction in order for the Respondent to submit information regarding the depreciated actual assigned value for pre-1999 expensed "Rebuilds" and "Modifications." On September 8, 2003, the Board received Respondent's revised actual value for "Rebuilds" and "Modifications" (\$206,494.00), resulting in a final actual value of the subject property of \$26,678,818.00.

ORDER:

The Respondent is ordered to reduce the value of the subject property to \$26,678,818.00.

APPEAL:

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

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

DATED and MAILED this 12th day of September, 2003.

BOARD OF ASSESSMENT APPEALS

Rebecca Hawkins

Rebecca A. Hawkins

Debra A. Baumbach

Debra A. Baumbach

Karen A. Hart

Karen A. Hart

This decision was put on the record

SEP 11 2003

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

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