

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RICHARD R. POYNER,</p> <p>v.</p> <p>Respondent:</p> <p>PARK COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 45188</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 7, 2006, and October 11, 2006, Sondra W. Mercier and MaryKay Kelley presiding. Petitioner appeared pro se. Respondent was represented by Stephen A. Groome, Esq. Petitioner is protesting the 2005 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

- Park County Schedule No. 91826:** 33.33% interest in the 80 acre Boston Placer Mine
- Park County Schedule No. 91827:** 33.33% interest in the 110 acre New York Placer Mine
- Park County Schedule No. 91805:** 50% interest in the 8 acre Buckskin Placer Mine

The subject properties are unimproved patented mining claims located near the city of Alma in mountainous terrain. The subject properties are classified as mineral.

FINDINGS OF FACT:

1. Evidence and testimony from Docket 45462 was incorporated into this hearing.
2. The subject properties are located in steep terrain between 10,500 and 11,500 feet in elevation. Access is difficult, although it is possible via an easement through the Buckskin Placer. There are limited building sites on the subject properties.

3. The properties have not been mined since 1981, although production is expected to resume when warranted by the price of gold. As required for future placer mining, the Boston Water Ditch 93 is continually maintained and has no other legal use. Petitioner testified that it is imperative for properties saturated with minerals to be preserved and that assessments should remain consistent with prior years, as production will be taxed when it resumes. Petitioner presented an indicated value of \$100.00 per acre for each of the properties but did not present any supportive sales data.

4. Respondent reported that Park County is one of the fastest growing areas in Colorado due to its proximity to Breckenridge and access from Highways 285 and 9. Residential demand has increased, and property values have increased from 10% to 15% per year. Land use for some mining properties is changing to recreational and residential.

5. There are 1,769 mining properties located in Park County, 19 of which sold during the extended five-year base period. Two of the 19 sales were purchased for residential use. Re-zoning or securing a Conditional Use Permit is required for residential construction on properties with patented mining claims. Park County will not issue building permits for sites above 11,500 feet in elevation, as they are considered too steep for development.

6. The median sales price of the 19 sales is \$1,940.00 per acre, which Respondent refers to as “base value.” The “base value” of the Boston Placer and the New York Placer was reduced to reflect difficult access, resulting in an actual value of \$1,008.71 per acre and \$1008.70 per acre respectively.

7. Respondent presented three comparable sales for the Boston and New York Placers that sold within the extended base period. After adjustments for size, access, and power lines, the values ranged from \$1,085.00 per acre to \$1,476.00 per acre for the Boston Placer and from \$1,506.00 per acre to \$2,413.00 per acre for the New York Placer. Respondent presented three comparable sales for the Buckskin Placer that sold within the extended base period. After adjustments for size and access, the values ranged from \$1,171.00 per acre to \$1,642.00 per acre.

8. Respondent assigned the following values for tax year 2005:

<u>Park County Schedule Number</u>	<u>Mining Claim</u>	<u>2005 Actual Value</u>
91826	Boston Placer – 33.33%	\$26,899.00
91827	New York Placer – 33.33%	\$36,986.00
91805	Buckskin Placer – 50%	\$ 7,760.00

CONCLUSIONS OF LAW:

1. Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2005 valuation of the subject property was incorrect.

2. Based on the evidence and testimony presented, we determined that a greater adjustment was warranted for the terrain and difficult access of each of the subject properties.

3. Classification is not at issue in this hearing. The subjects are classified mineral. The market dictates the use of the property. The Board does not have jurisdiction over the preservation of mining claims. The Board does not have jurisdiction over matters involving changes in zoning or the issuance of Conditional Use Permits.

4. The Board concluded that the actual value of each of the subject properties should be reduced to \$220.00 per acre.

ORDER:

Respondent is ordered to reduce the 2005 actual value of the subject properties as follows:

<u>Park County Schedule Number</u>	<u>Mining Claim</u>	<u>2005 Actual Value</u>
91826	Boston Placer – 33.33%	\$5,866.00
91827	New York Placer – 33.33%	\$8,066.00
91805	Buckskin Placer – 50%	\$ 880.00

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

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 October 2006.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier
Sondra W. Mercier

MaryKay Kelley
MaryKay Kelley

This decision was put on the record

OCT 31 2006

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

