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| <p><b>BOARD OF ASSESSMENT APPEALS,<br/>STATE OF COLORADO</b><br/>1313 Sherman Street, Room 315<br/>Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>NABORS DRILLING USA LP,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>MESA COUNTY BOARD OF EQUALIZATION.</b></p> | <p><b>Docket No.: 60911</b></p> |
| <p><b>ORDER</b></p>  |                                 |

**THIS MATTER** was heard by the Board of Assessment Appeals on November 18 and 19 2013, Diane M. DeVries and Gregg Near presiding. Petitioner was represented by Arthur F. Hoge III, Esq. Respondent was represented by David Frankel, Esq. Petitioner is protesting the 2012 actual value of the subject property.

The parties agreed to the admission of the exhibits submitted and to a stipulated value for Rig 926 of \$1,769,680 at the beginning of the hearing.

The subject property consists of different types of drilling rigs used in oil and gas service and is described as follows:

| <b>Mesa County Schedule Number</b> | <b>Drill Rig Number</b> |
|------------------------------------|-------------------------|
| P014956                            | M11                     |
| P015293                            | M37                     |

Each of the drill rigs travelled between Mesa and Garfield Counties during the valuation year. The parties agreed that the actual value of the rigs should be allocated between Mesa County and Garfield County based on the county of origin and the number of days each rig spent in either county. Mesa County was the county of origin for rigs M11 and M37 and their day-count allocation is as follows:

- M11 (Garfield County 276 days; Mesa County 89 days)
- M37 (Garfield County 249 days; Mesa County 116 days)

Petitioner presented the following indicators of value prior to any apportionment:

**Rig M11**

Market: \$7,270,000  
Cost: \$8,132,000  
Income: Not Applied

**Rig M37**

Market: \$9,050,000  
Cost: \$9,275,000  
Income: Not Applied

Petitioner is requesting a combined value for both Rigs M11 and M37 of **\$4,648,849** for the subject property for tax year 2012 after apportionment (e.g., Mesa only value). Similarly, Respondent assigned a combined value of **\$6,196,340** for the subject property for tax year 2012 after apportionment.

Petitioner's witness, Mr. Dean Sherrill, Senior Equipment Manager for Nabors Drillings USA LP ("Nabors") testified regarding the production of drilling rigs at the location of his employment, the "Rockwell Yard." Mr. Sherrill provided background information on the type of rigs under consideration; the primary features; how modifications are common when dealing with specific conditions or locations and how modifications are needed for imported sub-standard equipment. Mr. Sherrill also presented his opinion of the market for new and used drilling equipment as of the beginning of 2012. Mr. Sherrill stated the additional cost of the rig modifications does not result in an equal increase upon resale and the market as of January 2012 was saturated. Imported rigs may require up to \$500,000 in upgrades to meet U.S. standards. Another common modification is a top drive, a system that is necessary for simultaneous drilling operations (multiple wells from a single pad). The top drive has a cost of \$750,000 more or less. The last "M" series rig (the subject type) the Rockwell Yard developed was in 2010 at an estimated cost of \$13,000,000.

Petitioner's witness Mr. Duke Coon, a Certified General Appraiser and Vice President of Hadco International ("Hadco") testified to having appraised over 80% of the national fleet of drilling rigs and from 85% to 90% of the international fleet. Mr. Coon noted that Colorado is a client of his company as Hadco provided assistance to the State of Colorado several years ago in development of the Market Value Schedule currently used by the State to value stationary mechanical drills that were common more than a decade ago. Mr. Coon also stated he co-publishes an equipment newsletter, "The Oilfield Appraiser." The newsletter is provided to some 2,500 subscribers, including taxing authorities, lenders and other operators.

Mr. Coon presented a market approach to value utilizing data within his publication. Four comparable sales were considered. The comparables ranged in sale price from \$7,800,000 to \$11,000,000. The rigs varied from 10,000 feet to 22,000 feet in depth capability; from 1,000 horsepower (m/l) to 2,000 horsepower (m/l); electric or mechanical controls; and availability of

connection to a top drive. All the sales were in better condition than the subject units. Mr. Coon testified the sales reported were the only transactions that occurred during the valuation period.

Rig M11 was considered to be in “good” condition which required downward adjustments to each of the comparable sales. Other adjustments were applied for depth ratings; horsepower; date of sale; operating system (mechanical or electric); connection to a top drive and connection to a skidding system. After adjustments were made, the sales ranged from \$6,577,000 to \$7,270,000. Mr. Coon concluded to an individual value of \$7,270,000 for each of the rigs. After adjustments were made, the sales ranged from \$6,577,000 to \$7,270,000. Mr. Coon concluded to a value of \$7,270,000 for M11.

Rig M37 was considered to be in “very good” condition. After adjustments were made, the sales ranged from \$7,347,000 to \$10,000,000. Mr. Coon concluded to a value of \$9,050,000 for this rig.

Mr. Coon presented a cost approach to derive a value for Rig M11 of \$8,132,000 and for Rig M37 a value of \$9,275,000.

To determine the replacement cost, Petitioner’s appraiser presented “recent cost data” for five drilling rigs. The cost data was obtained from rig manufacturers and drilling contractors. Nabors was the data source for two of the rigs. Mr. Coon reported that each of the drill rigs were similar in type to the subject units. The five rigs were developed at cost figures from \$10,302,119 to \$16,418,614. The costs were averaged to an average replacement cost new of \$13,290,000.

Rig M11 was constructed in 2007 and has an actual age of 5 years. The useful life of this type of equipment is 11.6 years. Application of an age/life approach to depreciation resulted in a physical depreciation estimate of 43.1%, or, \$5,728,248. Mr. Coon determined no functional or economic obsolescence to be present. As the comparable sales did not include drill pipe or collars, the cost figure was adjusted upward \$570,000 for these features. The concluded value for M11 was \$8,132,000.

Rig M37 was constructed in 2008 and has an actual age of 4 years. The useful life of this type of equipment is 11.6 years. Application of an age/life approach to depreciation resulted in a physical depreciation estimate of 34.5%, or, \$4,585,257. Mr. Coon determined no functional or economic obsolescence to be present. As the comparable sales did not include drill pipe or collars, the cost figure was adjusted upward \$570,000 for these features. The concluded value for M37 was \$9,275,000.

Respondent presented the following indicators of value prior to any apportionment to the individual counties:

| <b>Rig M11</b> |              |
|----------------|--------------|
| Market:        | Not Applied  |
| Cost:          | \$10,114,180 |
| Income:        | Not Applied  |

### Rig M37

Market: Not Applied  
Cost: \$11,920,250  
Income: Not Applied

Respondent's witness Matthew Kramer, a Certified General Appraiser, applied the procedures required by the state and the Assessor's Reference Library ("ARL") for valuation of "high-technology rigs" to derive a cost value for the subject property.

Mr. Kramer was previously supplied fixed asset lists by Petitioner. The lists were totaled to determine the original acquisition cost of each of the rigs. The acquisition price was adjusted based upon the Cost Factor Table provided by the ARL. For Rig M11, constructed in 2007, the factor was 1.10. For Rig M37, constructed in 2008, the factor was 1.05.

After application of the "rollback factor", each rig was adjusted for physical depreciation based upon the General Percent Good Table. The Table indicates a 10-year life for this type of equipment. Rig M11, 5 years old, was adjusted for depreciation at a factor of 60% good. Rig M37, 4 years old, was adjusted at a factor of 68% good.

After adjustment for depreciation, the cost of drill pipe and collars was added from the tables provided within the ARL to determine the cost as of the end of the year. A rollback factor of 0.97% was then applied to represent the correct figure as of the date of value.

Mr. Kramer testified that he considered both the income approach and the market approach but found both to be unreliable due to insufficient information.

For Rig M11, Respondent assigned an actual value of \$10,114,180 for tax year 2012 (prior to apportionment).

For Rig M37, Respondent assigned an actual value of \$11,920,250 for tax year 2012 (prior to apportionment).

Petitioner contends that the Colorado statutes require the consideration of all three approaches to value in valuing the subject. Petitioner's appraiser was able to find sufficient sales in order to develop a market approach. The sales were appropriately adjusted based upon information within the Hadco newsletter. Petitioner noted Respondent's appraiser relied upon outdated reference materials and wrongly applied the cost approach by failing to determine "replacement" rather than "reproduction" cost. According to Petitioner, Petitioner's appraiser correctly applied the proper valuation practices as set forth by the American Society of Real Estate Appraisers (ASA). Petitioner contends the Board is not bound by the ARL but rather by Colorado statutes. Petitioner also asserts that the costs of installation, including sales/use tax and freight are not pertinent to the valuation of drilling rigs.

Respondent contends that Petitioner has presented a mass valuation analysis solely relying upon data contained within a publication produced by Petitioner's own appraisal witness. Respondent's appraiser was unable to confirm the sales relied upon by Petitioner. Respondent questions Mr. Coon's adjustments based upon "historic" paired sales. These "historic" transactions are not described in the appraisal report and there is no way to determine the reliability of the appraiser's adjustments. Respondent pointed to Mr. Coon's statements that there are sometimes insufficient sales within the survey periods. With insufficient sales between the survey periods, Respondent questions the reliability of the time trending data presented within the appraiser's publication. Respondent questions why Petitioner's appraiser presented both a market approach and cost approach value but consistently reconciled to the lower value determined by the market approach. Respondent notes that Petitioner's market approach simply corresponds to an appropriate category presented in the Hadco newsletter. This is reliance upon mass data and is therefore not appropriate in this context.

Petitioner presented insufficient probative evidence and testimony to prove that Rig M11 and Rig M37 were incorrectly valued for tax year 2012.

The Board is not persuaded by Petitioner's market approach or cost approach. Petitioner's market approach relied upon transactions that were not verifiable by a third party. Petitioner's descriptions of clearly expensive modifications were incomplete. Petitioner made only a limited amount of adjustments that were dependent upon data contained within the Hadco data base. The Board agrees with Respondent that Petitioner's market approach is a mass appraisal and the "comparable" sales reported are insufficiently complete to be reliable in developing a value.

The Board also finds Petitioner's cost approach to be misleading. Despite Petitioner's protestations to the contrary, the Board finds it inconceivable that the appropriate development of replacement cost new is accomplished by simple averaging of the reported sale prices of disparate collections of machinery.

The Board does find some adjustment is needed to the value opinions derived by Respondent's appraiser.

According to the Assessor's Reference Library, Vol. 5, Ch. 7.59, the correct order of adjustment for determination of reproduction cost new is as described as follows:

**For Rig M11**

|  |                     |
|--|---------------------|
| County of Original Assessment (COA)              | Mesa County         |
| Year Acquired                                    | 2007                |
| Rig Depth Capacity                               | 13,100              |
| Original Cost                                    | \$15,225,229        |
| Drill Pipe 13,100' X \$25.14                     | \$329,334           |
| Collars 12,501' & Over                           | \$49,000            |
| <b>Current level of value of rig and related</b> | <b>\$15,603,563</b> |

|                                  |                    |
|----------------------------------|--------------------|
| <b>equipment</b>                 |                    |
| Cost Factor                      | 1.10               |
| % Good 10-year Life – 5-year Age | 0.60               |
|                                  | \$10,298,352       |
| Rollback to 6/30/2010            | 0.97               |
| RpdCNLD (Rounded)                | \$9,989,401        |
| RpdCNLD/DAY                      | \$27,368           |
| <b>Mesa: 89 Days</b>             | <b>\$2,435,772</b> |
| <b>Garfield: 276 Days</b>        | <b>\$7,553,629</b> |

**For Rig M37**

|  |                    |
|--|--------------------|
| County of Original Assessment (COA)                        | Mesa County        |
| Year Acquired  | 2008               |
| Rig Depth Capacity   | 13,100             |
|  |                    |
| Original Cost  | \$16,681,493       |
| Drill Pipe 13,100' X \$25.14                               | \$329,334          |
| Collars 12,501' & Over                                     | \$49,000           |
| <b>Current level of value of rig and related equipment</b> | \$17,059,827       |
| Cost Factor  | 1.05               |
| % Good 10-year Life – 5-year Age                           | 0.68               |
|  | \$12,180,716       |
| Rollback to 6/30/2010                                      | 0.97               |
| RpdCNLD (Rounded)  | \$11,815,295       |
| RpdCNLD/DAY  | \$32,371           |
| <b>Mesa: 116 Days</b>                                      | <b>\$3,754,998</b> |
| <b>Garfield: 249 Days</b>                                  | <b>\$8,060,297</b> |

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

**ORDER:**

The Petition is granted. Respondent is ordered to reduce the 2012 actual value of Rig 926 to the CBOE value of \$1,769,680.

Respondent is also ordered to reduce the value of Rig M11 to \$9,989,401 (Mesa **\$2,435,772**) and the value of Rig M37 to \$11,815,295 (Mesa **\$3,754,998**).

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

**APPEAL:**

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

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

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

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

~~DATED and~~ MAILED this 7th day of February, 2014.



BOARD OF ASSESSMENT APPEALS

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

\_\_\_\_\_  
Gregg Near

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

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Milla Lishchuk