

A PROFESSIONAL LAW CORPORATION

APR 2 / 2010

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215 SOUTH STATE STREET • SUITE 750 POST OFFICE BOX 810 SALT LAKE CITY • UTAH 84110-0810 TELEPHONE: 801-364-8300 FACSIMILE: 801-364-8355

www.e.i 2010

Environmental Response & Remediation

April 26, 2010

Vili - U.S. Mail

Morgan Atkinson UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY DIVISION OF ENVIRONMENTAL RESPONSE AND REMEDIATION LEAKING UNDERGROUND STORAGE TANK P.O. Box 144840 Salt Lake City, UT 84114-4840

RE: Gunnison City, et al. v. Wind River Petroleum Inc., et al. – Carissa Kuhni. Property

Dear Morgan,

I am writing on behalf of our client, Carissa Kuhni. I understand that you and Ms. Kuhni have recently been in contact regarding some of her property concems caused by the Top Stop Release and remediation efforts. Ms. Kuhni has requested that we provide you with some additional information in response to your April 16, 2010 email.

First, Ms. Kuhni is aware that any of her communication with the State, Wind River or Wasatch Environmental will be public information and discoverable for purposes of the above-mentioned matter regardless of whether you forward your most recent email exchange to Wasatch/Wind River. You may forward the conversation to Wasatch or Wind River as you see fit.

Second, we would request that you or the DERR write a letter to the Sanpete County Tax Assessor, Kenneth Bench, in support of Ms. Kuhni's position that the remediation garage and equipment should be valued at zero. Ms. Kuhni's parcel number is 2289. In 2008, Stirba & Associates successfully assisted several of our clients, including Ms. Kuhni, in their land/lot tax assessment appeals. The Sanpete County Board of Equalization determined that all of the land/lots at issue were without any value. In 2009, our finn again wrote to Kenneth Bench on behalf of a number of our clients whose land/lots were, in our opinion, overvalued based on the

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ongoing remediation efforts. In response to Ms. Kuhni's 2009 appeal, the Sanpete County Board of Equalization reduced her land/lot value to zero, yet still assessed the garage's market value at \$11,544.00. Further, the value of Ms. Kuhni's home increased from \$84,030.00 in 2008 to \$114,317.00. I have attached documents pertaining to Ms. Kuhni's appeal of her 2008 and 2009 property tax assessment Any further assistance from your office regarding this issue would be much appreciated.

I understand from your April 12, 2010 email that Wind River has calculated the increased utility costs to homeowners to operate the SVE systems and is planning to send checks to compensate the affected homeowners. To date, neither Ms. Kuhni herself nor our Firm has received any such checks from Wind River or their Counsel. Please let me know if there has been any progress on this issue. Additionally, seeing as Wind River has already calculated the increased utility costs, I do not feel it necessary for Ms. Kuhni to spend the time and expense to locate and copy her utility bills for the past two years. If such documentation is required, perhaps Wind River could subpoena these records from the utility company directly.

Finally, your April 16, 2010 email states that you will provide Ms. Kuhni with several documents including the CAP document(s), DERR Summary Reports and the UST Compliance File. To date, Ms. Kuhni has not received these items but I understand that these will take time to compile and process. We would request you send these items to Stirba & Associates directly and we will pass them along to Ms. Kuhni. If this is not possible, I will direct Ms. Kuhni to provide a copy to us.

I should also note that on April 14, 2010, Ms. Kuhni called to inform me that she noticed two large drums within the fenced garage/shed area on her property. She recognized these drums as those where contaminant-soaked "socks" are held until they can be transported from the property. Ms. Kuhni was very upset that Wasatch was possibly storing hazardous chemicals on her property and suspected that these drums were actually the same drums that had been removed from her property over a year ago. I contacted Lance Hess on Ms. Kuhni's behalf Mr. Hess contacted Les Pennington and the drums were promptly removed on April 15.1 share this infonnation with you to highlight Ms. Kuhni's ongoing worry and frustration in dealing with these issues. I sincerely appreciate your efforts on her behalf and look forward to working with you reach an appropriate resolution. If you have any questions, please contact me.

Thank you.

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Sincerely,

STIRBA & ASSOCIATES

KATHI EEN ABKE

KA/ms

Enclosures

cc: Carissa Kuhni w/out enclosures

Peter Stirba w/out enclosures



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August 18, 2008

Kenneth Bench Sanpete County Assessor 160 Nortir Main P.O. Box 158 Manti, UT 84642

Dear Mr. Bench:

I am writing this letter to file a protest on some of the properties in Gunnison, Utah that have lost value due to the Top Stop gasoline spill. These properties are each listed separately in Exhibit A enclosed with this letter. We are not appealing the actual assessment value of Sanpete County, and thus, no appraisals are included with this letter.

Our appeal is based on two cases, Schmidt v. Utah State Tax Commission, 980 P.2d 690 (Utah 1999) and Salt Lake County Board of Equalization v. Utah State Tax Commission (Utah Ct. App. 2005). These cases are attached for your review. In both cases, the value of the land was determined to have zero value because the cost of cleaning up the land was more than the value of the land; however, the improvements were valued at their actual tax rate because families were still living in, and using, their homes. Ultimately, we believe the property values in the gasoline plume are diminished beyond the value of the land; however, at this time we do not have the necessary documentation to support a further reduction in the tax. In addition to appealing the land values, as you will see in Exhibit A, one home is not inhabitable and we are appealing both the land and the improvement value.

Our appeal does not include other Gunnison properties that are adjacent to the plume. We believe that properties adjacent to the plume have also suffered a diminution in value; however, at this time, we do not have the necessary documentation to support a tax appeal.

Sincerely,

STIRBA & ASSOCIATES,

CARRIE L. TOWNER



Exhibit A

The Top Stop gasoline plume has indisputably impacted the following properties:

1.	The Casino Star Theatre Foundation	2337
2.	Steve L. Anderson	2290
3.	Real Protection Trusts	2289x
4.	Claire Neilson Trustee	2289x2
5.	Eugene R. Lund, Trustee	2289x3
6.	Carissa M. Kuhni	2289
7.	Jeremy R. Taylor, et al.	2216
8.	Rodney R. Taylor	2217
9.	Rodney R. Taylor	2567
10.	Rodney R. Taylor	2634x1
11.	Sally N. Neal	2366x
12.	T. Mark Hopkins	2363
14 .	Dale Dorius	2368
15.	Andover, LLC (Gunnison Valley Bank)	2354
16.	David M. Lambertsen	2352
17.	Gunnison Phuming and Heating	2352
	(Dale Peterson)	
18.	Jon Fred Spencer, et al.	2367x

The following property is uninhabitable:

1.	Jeremy R. Taylor, et al.	2216



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September 14, 2009

Kenneth Bench Sanpete County Assessor 160 North Main P.O. Box 158 Manti, UT 84642

Dear Mr. Bench:

Thank you for talking with me on the phone the other day. In regard to the Gunnison properties listed in Exhibit A to this letter, and expert witnesses we have hired, we have done a market value assessment as of the day of the spill, to establish our starting point in calculating market value and diminution thereof, based on the catastrophic Gunnison Top Stop gasoline leak. We have not yet finalized any reportable diminution of value appraisals post gasoline leak. Post release appraisals will occur in the finture, and I will make sure you know the results. These are not typical appraisals, but deal more with expert economic analysis of how the gasoline being under the home, and the vapors which impact each home differently, affects overall property value. Our opinion is that there is a significant diminution of both land value, and improvement value, on each of the properties affected by the Top Stop leak.

Regardless, I am writing this letter to file a protest the "land or lot values" assessed on my clients' properties in Gunnison, Utah that have lost value due to the Top Stop gasoline spill. These properties are each listed separately in Exhibit A enclosed with this letter. We are not appealing the building or improvement "live in" value assessed by Sanpete County, only the "land or lot values."

Our protest is based on two cases from the State of Utah, Schmidt v. Utah State Tax Commission, 980 P.2d 690 (Utah 1999) and Salt Lake County Board of Equalization v. Utah State Tax Commission, 2005 UT App 360. These cases are attached for your review. Both cases involve similar environmental catastrophes. In both cases, the taxable "land or lot value" of the contaminated property was determined to be zero. Improvements or "live in values" were valued at their actual tax rate because families were still living in, and using, their homes, similar to many of my clients. Here, just like in the cases enclosed, there is undisputable evidence that any property within the Top



Stop Plume is contaminated. Thus, both the Utah Supreme Court, and the Utah Court of Appeals, would expressly guide that your assessment of these property values should be zero.

In addition to protesting the land values, as you will see in Exhibit A, Jeremy Taylor's home is not inhabitable, per the State of Utah, and we are appealing both the land and the improvement value with regard to Mr. Taylor's home. I am hopeful that in regard to all other homes listed on Exhibit A, you will assess their lot value at zero, and tax only the improvements on their lots.

Sincerely,

STIRBA & ASSOCIATES,

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MEB W. ANDERSON



Exhibit A

Properties where the lot lies directly above the indisputable Top Stop gasoline spill plume:

.	The Casino Star Theatre Foundation	2337
\int_{3}	Steve L. Anderson	2290
	Real Protection Trusts	2289x
14. 15.	Claire Neilson Trustee	2289x2
√ 5. ·	Eugene R. Lund, Trustee	2289x3
√ 6.	Carissa M. Kuhni	2289
J .7.	Jeremy R. Taylor, et al.	2216
J ₈ .	Rodney R. Taylor	2217
J,9.	Rodney R. Taylor	2567
$V_{10.}$	Rodney R. Taylor	2634x1
V 11.	Sally N. Neal	2366x
$J_{12.}$	T. Mark Hopkins	2363
1 4.	Dale Dorius	2368
√ y5.	Andover, LLC (Gunnison Valley Bank)	2354
1 6.	David M. Lambertsen	2352
X 7.	Gunnison Pluming and Heating	2352
•	(Dale Peterson)	
√ 18.	Jon Fred Spencer, et al.	2367x

The following property is uninhabitable – per the State of Utah:

1.	Jeremy R. Taylor, et al.	2216
1.	Joiethy R. Laytor, Clar.	2210

Decision Letter - Real Property Sanpete County Board of Equalization 160 North Main, Manti, Utah 84642

Carlssa M Kuhni PO Box 175 Guonison, UT 84634 Property Identification Number 2289

Appeal Number 251

Date of Hearing Sept 30, 2009

October 1, 2009

Dear Property Owner,

The Sanpete County Board of Equalization reviewed your appeal and has made a final determination of your property's value as indicated below. Your 2009 tax notice will reflect any changes made by the Board.

If you disagree with the Board's decision, you may appeal to the Utah State Tax Commission. The appeal must be filed within 30 days of the date of this letter November 2, 2009. Please contact the Connty Auditor's office at 160 North Main, Manti, Utah 84642, or (435) 835-2142 for forms and instructions.

Respectfully, Ilens B Roth, Sanpete County Auditor

Record of Final Decision - Real Property Sanpete County Board of Equalization

UCA §59-2-1001 Form PT-015 PT-015 at Rev 1/00

Real Estate
Improvemente
Total Value

	Pre-Board Market	Equalized Market	Adjusted Value (if changed)	Adjusted Tax Amount (if changed)
a [\$27,980.00	\$0.00	\$27,980.00	
ə [\$125,861 ,00	\$125,861.00	\$0.00	
∍ [\$153,841.00	\$125,861.00	\$27,980.00	\$0.00

If taxes have been paid for 2009, any credit on the parcel will be applied to 2010. Assessment changes will show on 2009 notices.

Explanation to support Board's final decision: Lowered value of land to \$0 as per attorney's letter, subject to annual review						
Boa	ard Authorized Signatur	e or County Seal		<u></u>		
X	Sans BRoth	llens B. Roth, County Auditor	Date	October 1, 2009		

SANPETE COUNTY 2009 Notice of Property Valuation & Tax Change

«This is NOT a Bill - Do NOT Pay»

SE THIS PARCEL NUMBER ON ALL OORRESPONDENCE
PROWED IN ELECTRONIC AND VIDEN BELLEVILLE OF THE PROPERTY OF T
0000002289
KUHNI CARISSA M
PO BOX 175 GUNNISON UT 84834-000D
GUINISON OI 0403T-00DD



ILENE ROTH

Sanpete County Auditor Po Box 128 180 N Main Menti UT 84642-0128 (435) \$35-2142

MARKET VALUE OF YOUR PROPERTY

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LAST YEAR, CURRENT, AND PROPOSED PROPERTY TAXES

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Board of Equalization is for ASSESSED PROPERTY VALUES not tax dollar fissues. Questions? Call or visit Assessor's Office (435) 835-2111. Applications are available at the AUDITOR'S Office 7:30 am-8pm Mon-Thurs. DOCUMENTATION establishing a basis for an appeal of Market Value is REQUIRED. Also, APPEALS ARE ACCEPTED BY MAIL, Sanpete County Auditor's Office, PO Box 128, Mantl, UT 84642 (with completed application). BOE hearings held in Commission Chambers 180 N Main, Manti B/19/09 Noon-7pm, and 8/20/09 9ain-noon, 1pm-5pm. ***Board of Equalization closes on September 15, 2009. *** Abatement programs are available to qualified individuals: Circuit Breaker, Indigent, Veterans disabled from service & 8lind, Contact Auditor's office for applications. LEGAL DESCRIPTIONS ARE FOR CONVENIENCE ONLY, NOT TO BE USED FOR OFFICIAL PURPOSES. REMEMBER, YOUR FINAL TAX STATEMENT WILL BE MAILED BY NOV. 1.

DO NOT PAY! THIS IS NOT A BILL

BEG SW COR LOT 2,BLK 10,PLAT A,GUNNISON CITY SURVEY,N89°W 85 FT,N1°E 217.80 FT,S89°E 85 FT,E 101 FT,S 3.30 C,W 101 FT TO BEG CONT .81 AC

2009 Notice of Property Valuation & Tax Change <<This is NOT a Bill - Do NOT Pay>>

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MARKET VALUE OF YOUR PROPERTY

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LAST YEAR, CURRENT, AND PROPOSED PROPERTY TAXES

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PROPERTY DESCRIPTION

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COUNTY BOARD OF EQUALIZATION

Board of Equalization is for ASSESSED PROPERTY VALUES not lax dollar issues. Questions? Coll or visit the Assessor's Office (435) 895-2111. Applications are available at the AUDITOR'S Office 7:30 pm-6pm Mon-Thurs, DOCUMENTATION establishing a basis for an appeal of Market Value is REQUIRED, Also, APPEALS ARE ACCEPTED BY MAIL, Sanpala County Auditor's Office, PO Box 123, Marnil, UT 84642 (with complete application). BOE nearings held in Commission Chambers 150 N Main, Manii a/19/00 Noon-7pm, and 8/20/09 0mm-Noon, 1pm-5pm. **Board of Equalization closes on Beplamber 16, 2009,*** Abelsmanl programs are evallable to qualified individuals: Circuit Broaker, Indigent, Valerans disabled from Barrico & Blind. Contact Auditor's office for applications, LEGAL DESCRIPTIONS ARE FOR CONVENIENCE ONLY, NOTTO BE USED FOR OFFICIAL PURPOSES, REMEMBER, YOUR FINAL TAX 3 TATEMENT WILL BE MAILED BY NOV 1.

AA 8368-1/1_P18 T12

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KUHNI CARISSA M PD Box 175 Sunnison UT 84534-0175 Sanpete County Auditor liene B. Roth PO Box 128 160 North Main Manti, UT 84642 (436) 836-2142

Oct. 27. 2009 9:34AM

REAL PROPERTY TAX NOTICE

No. 8689 2P. 279

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