

BEFORE THE STATE BOARD OF EQUALIZATION

FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF )  
WESTMORELAND KEMMERER, LLC ) Docket No. 2017-35  
FROM A DECISION BY )  
THE DEPARTMENT OF REVENUE )

---

HEARING ORDER

---

**THIS MATTER** came before the State Board of Equalization (State Board) on its own motion, and the State Board having reviewed the file herein and being otherwise fully advised in the premises;

**IT IS ORDERED** a hearing before the State Board shall commence at **9:00 a.m., October 17, 2017**, and continue as necessary through October 18, 2017, in Room 1699, Herschler Building, Cheyenne, Wyoming; and

**IT IS FURTHER ORDERED:**

A. The record of this hearing shall be made by digital recording; however, any party at its option, may make arrangements for appearance and payment of a court reporter;

B. The State Board notes the parties have filed Preliminary Statements and a Scheduling Conference was held May 9, 2017;

C. All discovery shall be completed on or before **September 12, 2017**;

D. The parties shall exchange complete copies of proposed exhibits marked as appropriate 100 through 199 by Petitioner, and 500 through 599 by the Department, and identify the names and address with a brief description of expected testimony of each possible witness including any expert witness, and shall designate all confidential exhibits and potential confidential testimony not later than **September 26, 2017**;

E. **It shall be the responsibility of the party filing any and all confidential exhibits and testimony, throughout the duration of this case, to notify the State Board of the confidential status of the documents at the time of filing.**

F. Pursuant to Rules, Wyo. State Bd. of Equalization, ch. 2 § 9, and Wyo. Stat. Ann. § 16-3-112(b), Gayle R. Stewart is hereby appointed and shall act as hearing officer in this matter.

G. The State Board, through Gayle R. Stewart, Staff Attorney, shall hold a prehearing conference at **10:30 a.m., October 3, 2017**, in Room 1722, State Board Room, Herschler Building, Cheyenne, Wyoming.

H. **Prior to the scheduled prehearing conferences, the parties shall confer regarding stipulations to uncontroverted facts and the use of joint exhibits to avoid unnecessary duplication.**

I. At the prehearing conference, each party, having fully exchanged all proposed exhibits, shall have thoroughly reviewed all proposed exhibits of the other parties and be prepared to acknowledge the specific exhibits to which they intend to object and the specific exhibits to which they will stipulate to admission. At the prehearing conference, each party shall file with the State Board (original and four copies) the following described documents. *The parties shall segregate the requested information in to separate documents.*

1. An updated summary of the contentions of the party *entitled “(Petitioners, Joined Parties’ or Department’s) Updated Summary of Contentions;*
2. A *stipulated (by all parties)* updated summary of the uncontroverted and stipulated facts *entitled “Stipulated Updated Summary of Uncontroverted Facts.”*
3. A summary of remaining issues of fact and law for determination by the State Board, *with an index of exhibits referenced by number and brief description denoting the specific issue or fact the exhibit is anticipated to be offered to prove, entitled “(Petitioner’s, Joined Parties or Department’s) Issues of Fact and Law and Exhibit Index.” The exhibit index shall be in table format with separate columns titled “stipulated” “offered” “objection” and “admitted.”*
4. A list of proposed witnesses with a brief summary of proposed testimony *entitled “(Petitioner’s, Joined Parties’ or Department’s) Witness List and Summary of Proposed Testimony” specifically denoting the related issue(s) each witness’ testimony will address.*

5. All proposed exhibits, **designated with exhibit stickers** and numbered as provided in Paragraph C, secured in a **three ring binder**, with each page of each exhibit consecutively numbered, preferably by Bates stamp. Each exhibit shall be tabbed and the tab shall be marked with the exhibit number for ready State Board reference. Each exhibit notebook shall be labeled with the appeal caption name and docket number, and identification of party exhibits (e.g. Petitioner's Exhibits, Intervenor's Exhibits, Department's Exhibits or Joint Exhibits). The original copy shall be denoted on the label.

J. Pursuant to Rules, Wyo. State Bd. of Equalization, ch. 2 § 31, "resolution of any pending case may be made by agreed settlement. Upon filing of a stipulated motion to dismiss with prejudice **signed by all parties** to the case, the State Board shall dismiss the case with prejudice."


K. The State Board's procedural rules may be accessed on the Internet at the following address: <http://taxappeals.state.wy.us>.

The applicable rules for a contested case proceeding are found in Chapter 2 "Rules of Practice and Procedure for Cases Before the Wyoming State Board of Equalization." A hard copy of Chapter 2 may be received upon request and prepayment of the copying costs of \$5.90 (Chapter 2 only).

**This order of the State Board is interlocutory, and not dispositive of the appeal; it is not subject to judicial review pursuant to Wyo. Stat. § 16-3-114 (2015), and Rule 12, Wyoming Rules of Appellate Procedure.**

Dated this 16<sup>th</sup> day of May, 2017.

STATE BOARD OF EQUALIZATION

  
\_\_\_\_\_  
Martin L. Hardsocg, Chairman

ATTEST:

  
\_\_\_\_\_  
Nadia Broome, Executive Assistant

## CERTIFICATE OF SERVICE

I hereby certify that on the 16<sup>th</sup> day of May, 2017, I served the foregoing **HEARING ORDER** by placing a true and correct copy thereof in the United States Mail, postage prepaid, and properly addressed to the following:

Walter F. Eggers, III, P.C.  
Samuel R. Yemington  
Matthew J. Micheli  
Holland & Hart  
2515 Warren Ave, Ste. 450  
P.O. Box 1347  
Cheyenne, WY 82001

Karl D. Anderson  
Senior Assistant Attorney General  
Wyoming Attorney General's Office  
Kendrick Building  
2320 Capitol Avenue  
Cheyenne, WY 82002



Nadia Broome  
Executive Assistant  
State Board of Equalization  
P.O. Box 448  
Cheyenne, WY 82003  
Phone: (307) 777-6989  
Fax: (307) 777-6363

cc: State Board of Equalization  
Craig Grenvik, Mineral Tax Division, Department of Revenue  
ABA State and Local Tax Reporter