BEFORE THE STATE BOARD OF EQUALIZATION

FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL OF	)	
JACOB STETLER	)	**Docket No. 2025-03**
FROM A DECISION BY THE FREMONT	)	
COUNTY BOARD OF EQUALIZATION	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND ORDER

APPEARANCES

Marshall E. Keller, Keller Law Firm, PC, attorney for Petitioner Jacob Stetler (hereafter Stetler).

Terrance Martin, Deputy Fremont County and Prosecuting Attorney, attorney for Assessor Tara Berg (hereafter Assessor).

DIGEST

[¶ 1] The Fremont County Board of Equalization (County Board)[1] certified this property tax dispute to the State Board of Equalization (State Board) pursuant to Wyoming Statutes section 39-13-102(c) (2025). Stetler seeks refunds of property taxes on agricultural property paid from 2021 through 2023. That land included a right-of-way for which Fremont County was responsible. Assessor, having reduced Stetler's property taxes for 2024, responds that Stetler is not entitled to refunds for prior years because he did not appeal those assessments. It also asserts that the County Board of Equalization lacks jurisdiction to preside over the dispute. Assessor objected to certification following a hearing before the County Board.

[¶ 2] The State Board, Chairman E. Jayne Mockler, Vice-chairman Martin L. Hardsocg, and Board Member Karl D. Anderson[2], conducted a contested case. The parties declined

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[1] The distinction between the Fremont County Board of Equalization and the Fremont County Board of Commissioners, although comprised of the same persons, is an important one. *See* Wyo. Stat. Ann. §§ 39-13-102 and 39-13-109 (2025). "County Board" in this ruling refers to the former, as it is the Fremont County Board of Equalization that certified this appeal. *See infra* ¶ 14.

[2] Mr. Anderson joined the Board after the hearing date, but he participated in the Board's deliberation and decision.

to submit briefs. We conclude that the County Board lacked subject matter jurisdiction to consider Stetler's refund claims and, consequently, the State Board lacks jurisdiction to consider the matter on certification. We therefore withdraw our Order of Certification and return the appeal to the County Board, which we hold must dismiss for lack of subject matter jurisdiction. Stetler's recourse lies with the Fremont County Board of Commissioners, or appropriate district court, pursuant to Wyoming Statutes section 39-13-109(c) (2025).

ISSUES

[¶ 3] Stetler frames the issues as:

1. Whether Jacob Stetler was erroneously taxed[?].

2. Whether the Board of Equalization can determine if Fremont County's assessment and collection from the Stetler's was an erroneous tax[?].

3. Whether Fremont County was to take responsibility for all taxes from the moment they signed the Rails to Trails agreement[?].

(Stetler's Updated Sum. of Contentions, pp. 1-2).

[¶ 4] Assessor asks:

1. May the CBOE circumvent the Wyoming Constitution, Wyoming Statute §§ 39-13-101 et seq. and relevant case law by merely certifying questions to the SBOE for any real estate in which Fremont County possesses a subservient easement or right of way.

2. Whether Taxpayer's real estate, which contains Fremont County easement, is tax exempt?

3. Is a County Assessor a necessary party in an action where a taxpayer is claiming a property tax refund?

(Assessor's Updated Summary of the Contentions, p. 4).

[¶ 5] The County Board certified the following questions for resolution:

> Question A. May Fremont County assess and/or impose ad valorem taxes on Stetler for the Rails to Trails Easement land acquired by Fremont County pursuant to the National Trails System Act, 16 U.S.C. § 1247(d)?

Question B. If the answer to Question A is no, are the assessments and/or impositions of taxes for tax years prior to 2024 considered to be "erroneous or illegal" for purposes of a refund under W.S. § 39-13-109(c)(ii)?

JURISDICTION

[¶ 6] The County Board certified this property tax appeal pursuant to Wyoming Statutes sections 39-11-102.1(c), 39-13-102(c)(iv), and section 35, chapter 2 of the State Board's rules. The State Board shall adjudicate property tax appeals that county boards of equalization certify when a county board determines that the county itself may be liable. Wyo. Stat. Ann. § 39-13-102(c)(iv) (2025). Stetler claims that Fremont County was liable for property taxes in dispute and, consequently, Assessor erroneously or illegally assessed Stetler's property taxes for Fremont County's property. *Infra* ¶ 8. The State Board is authorized to hear local property tax appeals that county boards of equalization certify. Wyo. Stat. § 39-11-102.1(c) (2025); Rules, Wyo. St. Bd. of Equalization, Ch. 2 § 35 (2021). The County Board complied with procedural guidelines to certify the appeal.

[¶ 7] After the County Board certified the appeal, however, Assessor claimed the State Board could not hear the dispute. We examine Assessor's objections to the State Board's exercise of jurisdiction below.

PROCEEDINGS AND EVIDENCE BEFORE THE COUNTY BOARD

[¶ 8] Stetler purchased property and lands used for residential and agricultural purposes in 2021. (Stetler Exh. 105). Following a 2024 property tax assessment of Stetler's property, Stetler sent Assessor a letter "disputing" the tax liability. (Assessor Exhs. 500 and 501). He objected that Fremont County had, years ago, assumed responsibility for 11 acres of abandoned railway easement that cut across a portion of his agricultural land. *Id.* He demanded a refund of property taxes. *Id.*

[¶ 9] A little more than ten days later, May 15, 2024, Assessor issued an Amended Assessment Notice for 2024 decreasing taxable value by $696 ($8,282 to $7,587) to account for two distinct easements, the portion of Stetler's agricultural property occupied by the railway in question, and a separate highway easement that Stetler did not raise in his refund claim. (Assessor Exhs. 502-503). Assessor explained:

> Enclosed please find an amended notice, and map, reflecting the adjustment for the land under the easement for both the Rails to Trails and Highway Right of Way.

> The easement was in place when you purchased the property. Each year you received an assessment notice which indicated you had 30 days to appeal the property value and address your concerns. This is the first year I have heard your concerns, and addressed them immediately.

(Assessor's Exh. 503).

[¶ 10] Stetler (and his wife) then wrote a letter to both the Assessor and County Clerk "officially requesting a formal hearing with the County Commissioners to receive a refund for the taxes paid out over the years." (Assessor's Exh. 504).

[¶ 11] The Chairman of the Fremont County Board of Commissioners wrote back to the Stetlers on June 4, 2024, informing them that their failure to timely appeal each assessment prevented the County Board from granting a hearing to consider the refund request. (Assessor's Exh. 505). The chairman did so without convening the board.

[¶ 12] Although the chairman's letter did not constitute a county board of equalization decision, Stetler appealed to the State Board on June 24, 2024, to secure property tax refunds for the railway easement that passed through his property. (Assessor's Exh. 506). Assessor moved to dismiss the appeal on grounds that Stetler's demands for refunds were too late. She asserted that both the Fremont County Board of Equalization and State Board lacked jurisdiction. (Assessor's Mot. to Dismiss dated July 12, 2024).

[¶ 13] Without considering the merits of Stetler's refund claims, or Assessor's responsive motion to dismiss, the State Board remanded the matter to Assessor. We found that the Chairman of the Fremont County Board of Commissioners had not issued an appealable decision. *In re Appeal of Jacob Stetler*, 2024 WL 3758584, Doc. No. 2024-16, * 2, ¶¶ 7-11 (Wyo. St. Bd. of Equalization, Aug. 1, 2024). We ordered that the proceedings begin anew to ensure compliance with the statutory tax appeal process, i.e. convene as a board of equalization, give notice to the parties, and proceed as required under applicable rules. *Id.*; *see* Wyo. Stat. Ann. 39-13-109(b) (2025).

[¶ 14] Thereafter, the County Board conducted proceedings to consider whether it had jurisdiction to hear an appeal from Assessor's denial of Stetler's refund claim, and to receive evidence on the claim's merits. The County Board, upon consideration of the parties' respective positions and evidence, certified the appeal to the State Board pursuant to Wyoming Statutes section 39-13-102(c)(iv) (2025). It reasoned that because resolution of the appeal could result in tax liability to Fremont County, certification was necessary. (Cty. Board rec. at 00059-71). The County Board further determined that it lacked subject matter jurisdiction under either Wyoming Statutes sections 39-13-109(c)(i), or (c)(ii). It proffered two questions:

> May Fremont County assess and/or impose ad valorem taxes on Stetler for the Rails to Trails Easement land acquired by Fremont County pursuant to the National Trails System Act, 16 U.S.C. § 1247(d)?
>
> If the answer to Question A is no, are the assessments and/or impositions of taxes for tax years prior to 2024 considered to be "erroneous or illegal" for purposes of a refund under W.S. § 39-13-109(c)(ii)?

Id.

[¶ 15] After the State Board accepted certification on February 3, 2025, Assessor moved to remand the matter back to the County Board. (Assessor's Mot. to Remand to Cty. Bd., dated March 18, 2025). Assessor argued that she removed the taxable value arising from the easement property in Stetler's 2024 assessment. *See supra* ¶ 9. *Id.* Assessor insisted that she was not a proper party to the prior year refund claims and that Stetler had to pursue those in district court rather than before the Fremont County Board of Equalization or State Board. *Id.* Stetler objected to Assessor's remand motion. (Stetler's Obj. to Remand, dated March 26, 2025).

[¶ 16] The State Board held a contested case hearing on September 9, 2025, to resolve the certified appeal, including the jurisdiction questions Assessor raised. The facts and circumstances giving rise to Fremont County's responsibility for the railway easement across Stetler's agricultural land are largely undisputed. The Bad Water Railroad Line (Bad Water) owned a railroad right-of-way through property Stetler purchased in 2021. Also prior to Stetler's 2021 acquisition, Fremont County assumed responsibility for the right-of-way in accordance with the "Rails to Trails" component of the National Trails System Act, 16 U.S.C. 1247(d). The right-of-way would become available for public recreational use.

[¶ 17] Fremont County assumed responsibility for the Bad Water right-of-way in 1991 before the Interstate Commerce Commission. Those proceedings were document-intensive and occurred over several months, which we need not detail further. Suffice to say, Bad Water conditionally abandoned its right-of-way, and Fremont County stepped into Bad Water's shoes. Fremont County became responsible for management and maintenance of the right-of-way, agreeing that it would "pay all taxes which may be levied or assessed against the Premises …." (Stetler's Exhs. 102-104).

[¶ 18] Several exhibits revealed the precise area and status of the right-of-way at issue. (Stetler's Exhs. 107-110). But earlier county mapping systems did not, a point Stetler seized upon to assert that he could not have reasonably known of the easement to appeal previous tax year assessments. *Id.*; (Hr'g Rec. at 1:04:00-1:10:15).

CONCLUSIONS OF LAW

[¶ 19] Upon accepting certification of an appeal from a county board of equalization, the State Board proceeds as the trial court and "consider[s] [the appeal] pursuant to [Chapter 2 of the State Board's Rules]." Rules, Wyo. St. Bd. of Equalization, Ch. 2 § 35 (2021).

[¶ 20] "[T]ax refunds are a matter of legislative grace, and the right to such a refund does not exist in the absence of statutory authorization." *In re Black*, 775 P.2d 484, 487 (Wyo. 1989) (citing *Atlantic Richfield Co. v. Bd. of Cty. Comm'rs. of Cty. of Sweetwater*, 569 P.2d 1267, 1271 (Wyo. 1977)).

[¶ 21] Assessor claims that only the refund claims for the past years remain disputed since she corrected Stetler's 2024 tax assessment by removing the value associated with the easement in question. *Supra* ¶¶ 9, 12, 15. When Stetler persisted in his appeal to the County Board, Assessor resisted certification arguing that neither the County Board, nor the State Board on certification, has authority to adjudicate Stetler's remaining refund claims. *Id.* She cites the property tax refund provisions of Wyoming Statute sections 39-13-109(c) (2025). (Assessor's Mot. to Remand to the Cnty. Bd.).

[¶ 22] This jurisdictional question is not an issue of first impression. *See In re Appeal of Glenn Kessler*, 1988 WL 221021, Doc. No. A-87-46 (Wyo. St. Bd. of Equalization, Aug. 23, 1988) (Sheridan County Board of Equalization lacked jurisdiction to resolve past year property tax refund claims, but county board of commissioners had jurisdiction). Even so, county boards of equalization have adjudicated prior year refund denial disputes. *See e.g. In re Black*, 775 P.2d 484 (Wyo. 1989) (County board of equalization granted prior year property tax refunds, but denied claim for interest); *but see also Appeal of Paradise Valley Country Club*, 748 P.2d 298, 301-02 (Wyo. 1988) (whether county board of equalization could consider tax valuation claim for prior year). There is only one correct answer.

[¶ 23] "As an arm of the state, [a] county has only those powers expressly granted by the constitution or statutory law or reasonably implied from powers granted." *Bd. of Trustees of Laramie Cty. v. Bd. of Cnty. Comm'rs of Laramie Cnty.*, 2020 WY 41, ¶ 12, 460 P.3d 251, 257 (Wyo. 2020) (quoting *Ford. v. Bd. of Cnty. Comm'rs of Converse Cnty*, 924 P.2d 91, 95 (Wyo. 1996). An agency has no discretion to determine whether it has subject matter jurisdiction; it either exists or it does not. *Amoco Prod. Co. v. Wyo. State Bd. of Equalization*, 7 P.3d 900, 904 (Wyo. 2000) (internal citations omitted). "Subject matter jurisdiction is 'the power to hear and determine cases of the general class to which the proceedings belong.'" *Id.*, citing *Lacey v. Lacey*, 925 P.2d 237, 238 (Wyo. 1996).

[¶ 24] Because we occupy the County Board's role as a board of equalization on certification, we must determine whether the County Board could have adjudicated Assessor's denial of Stetler's refund claims *as presented*. To resolve this question, we begin with the prescribed process for challenging property tax assessments and collections in total. A county board, sitting as a board of equalization, finds its base adjudicative authority in Wyoming Statutes section 39-13-102(c) (2025), which provides in part:

> The county board of equalization shall:
>
> . . .
>
> (iv) Hear and determine the complaint of any person relative to any property assessment or value as returned by the county assessor subject to W.S. 39-13-109(b)(i). The county board of equalization may request that a case be certified directly to the state board of equalization as provided in W.S. 39-11-102.1(c). If the case involved property that may subject the county to tax liability, the county board of equalization shall certify the case directly to the state board of equalization and the state board of county commissioners shall have standing to appeal any decision made by the state board of equalization regarding the property.

Wyo. Stat. Ann. § 39-13-102(c) (2025). This statute sets in place an overall framework for not just county boards and county boards of equalization, but for property tax abstract review, approval, and conveyance of each year's assessment roll to the county treasurer's office for tax collection. *See id.* at § 39-13-102(d) through (k) (2025).

[¶ 25] More definitive are the taxpayer remedies and processes set forth in Wyoming Statutes section 39-13-109 (2025). That statute sets forth the specific process for appealing property tax assessments, as well as for seeking property tax refunds. First, taxpayers are entitled to review property tax assessments and underlying valuation materials before formally contesting a tax assessment. Wyo. Stat. Ann. § 39-13-109(a) (2025). However, taxpayers must file appeals with the county board of equalization no later than 30 days after the date of assessment. Wyo. Stat. Ann. § 39-13-109(b) (2025). Subsection 39-13-109(b)(i) sets forth the basic appeal process and responsibilities for both taxpayers and assessors. *Id.* It explains how county boards of equalization are to proceed. It references the State Board's appellate role. *Id.*

[¶ 26] The process for seeking refunds falls under the next subsection, 39-13-109(c) (2025), and raises the possibility of a different tax assessment defect and remedy: refunds following an illegal or erroneous assessment, levy, or collection. The statutory language unfortunately does not clearly answer the questions presented. But conspicuously, it does not include a role for county boards of equalization:

> (i) Within one (1) year following an illegal assessment, levy or collection of taxes an action may be filed in district court to enjoin the illegal assessment, levy or collection. The action shall be against the county assessor in the case of an illegal assessment, the governmental entity which levies an illegal levy,

> the county treasurer if the levy is entered on the tax list, or against the governmental entity if the taxes were collected and paid to the entity;
>
> (ii) If any person pays any tax, or portion thereof, found to have been erroneous or illegal, the board of county commissioners shall direct the county treasurer to refund the erroneous or illegal payment to the taxpayer. When an increase in the value of any product is subject to the approval of any agency of the United States of America or the state of Wyoming, or of any court, the increased value shall be subject to property taxation. In the event the increase in value is disapproved, either in whole or in part, then the amount of tax which has been paid on the disapproved part of the value shall be considered excess tax. Within one (1) year following the final determination of value, any person who has paid any such excess tax may apply for a refund, and the board of county commissioners shall refund the amount of excess tax paid. Any refund may, at the discretion of the board of county commissioners, be made in the form of credit against future tax payments for a period not to exceed five (5) years. Unless otherwise agreed to by the taxpayer, refunds in the form of credit against future tax payments shall be made in no less than equal annual amounts. The board of county commissioners shall not provide a credit for interest on the excise tax paid unless the taxes are paid under protest due to an appeal pending before the state board of equalization and the taxpayer prevails in the appeal;

Wyo. Stat. Ann. § 39-13-109(c) (2025).

[¶ 27] In essence, the statutory refund provisions outline two scenarios: an illegal assessment, levy, or collection which must be pursued within one year, and, an illegal or erroneous tax paid and "found to have been erroneous or illegal, … ." after the fact. *Id.*; *supra* ¶ 26. The latter refund scenario requires that, after a taxpayer has *paid taxes and found such to be erroneous or illegal*, he or she must apply to the county board of commissioners for a refund within one year "following the final determination of value[.]" Wyo. Stat. Ann. § 39-13-109(c)(i), (ii) (2025). *Id.*; *see In re B&G Industries, LLC*, 2016 WL 4432578, Doc. Nos. 2015-43, 2015-01, ** 20-22, ¶¶ 94-103 (Wyo. State Bd. of Equalization, July 25, 2016) (discussing *Atlantic Richfield Company v. Board of County Commissioners of Sweetwater County*, 569 P.2d 1267 (Wyo. 1977)).

[¶ 28] As to whether a county board of equalization has jurisdiction over refund claims relating to previous tax years, *they do not*. A careful reading of the statutes indicates that their jurisdiction arises from a timely appeal of an assessment pursuant to subsection 109(b). *Supra* ¶ 25. A county board of equalization also exercises jurisdiction during the assessment year while an abstract or tax roll is reviewed. *See* Wyo. Stat. Ann. § 39-13-102 (2025), *supra* ¶ 24; *see also In re Appeal of Glenn Kessler, supra*, ¶ 22.

[¶ 29] Reading subsections 109(c)(i) and (ii) together, a taxpayer may seek a refund of taxes, found to have been erroneously or illegally assessed or collected, from a district court or a county board of commissioners. The language in subsection 109(c)(i) is permissive, providing that a claimant "may" file an action in district court. Yet, no authority to resolve past-year refund claims is assigned to county boards of equalization. Given this lack of statutory authority, we may not infer such. *See Board of Trustees of Laramie County v. Board of County Commissioners of Laramie County,* 2020 WY 41, ¶ 12, 460 P.3d 251, 257 (Wyo. 2020).

[¶ 30] In any event, the Wyoming Supreme Court's analysis in *Atlantic Richfield Company*, *supra*, sufficiently answers the questions herein presented, should they now go to the Fremont County Board of Commissioners. We must, for our part, withdraw our Order of Certification, as we lack authority to accept certification in the absence of the County Board's authority to exercise jurisdiction.

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ORDER

[¶ 31] **IT IS, THEREFORE, ORDERED** that the State Board's Order of Certification is **withdrawn** or **vacated** because the State Board lacked subject matter jurisdiction, and the matter is remanded to the Fremont County Board of Equalization for **dismissal** because it lacked subject matter jurisdiction as well.

[¶ 32] Pursuant to Wyoming Statutes section 16-3-114 (2025) and Rule 12, Wyoming Rules of Appellate Procedure, any taxpayer aggrieved or adversely affected in fact by this decision may seek judicial review in the appropriate district court by filing a petition for review within 30 days after the date of this decision.

DATED this 28 day of October 2025.

STATE BOARD OF EQUALIZATION

E. Jayne Mockler, Chairman

Martin L. Hardsocg, Vice Chairman

Karl D. Anderson, Board Member

CERTIFICATE OF SERVICE

I hereby certify that on the 28 day of October 2025, I served the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND ORDER** by placing a true and correct copy thereof in the United States Mail, postage prepaid, and properly addressed to the following:

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