

STATE OF NORTH CAROLINA BEFORE THE PROPERTY TAX COMMISSION
COUNTY OF WAKE SITTING AS THE STATE BOARD OF
 EQUALIZATION AND REVIEW
 15 PTC 0138
 15 PTC 0139

IN THE MATTER OF:
THE APPEAL OF:

**Reynolds Mineral Inc. and
Randolph Reynolds Sr., et al.**

FINAL DECISION

from the decisions of the Mitchell
County Board of Equalization and
Review concerning the valuation
of certain mineral rights for tax
year 2015

These Matters came on for hearing before the Property Tax Commission (“Commission”) sitting as the State Board of Equalization and Review in the City of Raleigh, Wake County, North Carolina at its regularly scheduled session of hearings on Thursday, January 14, 2016, pursuant to the appeals of **Reynolds Mineral Inc. and Randolph Reynolds Sr., et al.** (“Appellants”). In these matters, Appellants appeal from the decisions of the Mitchell County Board of Equalization and Review (“County Board”) not to reduce the valuation of certain mineral rights concerning the property subject to these appeals.

Vice Chairman Terry L. Wheeler presided over the hearing with Commission members David A. Smith, Jack C. Morgan III and Alexander A. Guess participating.

Michaelle Poore, Esquire, appeared at the hearing on behalf of the Appellants; Lloyd Hise, Esquire, appeared at the hearing on behalf Mitchell County.

STATEMENT OF CASE

The property under appeal consists of two parcels 000-00-00-0000M17 and 000-00-00-0000M19. The Appellants own an undivided 1/5th interest each in the mineral rights only of these parcels. The remaining mineral interest in the parcels is owned by Virginia Reynolds heirs (1/5th interest) and an undivided 2/5th interest is owned by the Nature Conservancy. For the year at issue, Mitchell County taxed the Appellants’ ownership interest at \$100.00 per acre for a total of 58,000 acres. Prior to the hearing, the parties agree that 6,200 acres located in the Pisgah National Forest should be assessed at \$3.00 per acre.

As of January 1, 2015, the County Board assigned a value of \$1,160,000 to Appellants’ interest in the 58,000 acres of mineral rights¹ that Mitchell County believed was owned by the Appellants. On appeal to the Commission, the Appellants contend that the mineral rights should

¹ 58,000 acres multiplied by \$100.00 per acres for a total value of \$5,800,000 divided by 5 equals \$1,160,000.

be valued at \$185,000. In the alternative, Mitchell County contends that its assessment of the subject mineral rights is presumed right; and that the value of \$1,160,000 assigned to the subject mineral rights by the County Board should be affirmed.

ANALYSIS AND ISSUES

A county's ad valorem tax assessment is presumptively correct.² The taxpayer rebuts this presumption by presenting competent, material, and substantial evidence that tends to show that: "(1) [e]ither the county tax supervisor used an *arbitrary method* of valuation; or (2) the county tax supervisor used an *illegal method* of valuation; AND (3) the assessment *substantially* exceeded the true value in money of the property".³ If the taxpayer rebuts the initial presumption, then the burden shifts to the taxing authority to demonstrate that its methods produce true values.⁴

Under this analysis, the Commission must consider the following issues:

1. Did the Appellants carry their burden of producing competent, material and substantial evidence tending to show that:
 - (a) Mitchell County employed an arbitrary or illegal method of appraisal in reaching the mineral rights value for Appellants' interest in the mineral rights for tax year 2015; and (b) The County Board assigned a value that was substantially greater than the true value of the mineral rights for tax year 2015?
2. If the above issues are answered in the affirmative, did Mitchell County demonstrate that its appraisal methodology produced true value in view of both sides' evidence and the weight and sufficiency of the evidence, the credibility of the witnesses, and inferences as well as conflicting and circumstantial evidence?⁵

FROM THE APPLICATIONS FOR HEARING FILED IN THESE MATTERS, STIPULATIONS, IF ANY, AND THE EVIDENCE PRESENTED, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

1. The Commission has jurisdiction over the parties and the subject matter of these appeals.
2. The subject appeals concern the Appellants' 1/5th undivided interest in certain mineral rights associated with two parcels 000-00-00-0000M17 and 000-00-00-0000M19. The Appellants do not own the surface rights.

² In re Amp, Inc., 287 N.C. 547, 563, 215 S.E.2d 752, 762 (1975).

³ Id. (capitalization and emphasis in original).

⁴ In re Appeal of S. Ry. Co., 313 N.C. 177, 323 S.E.2d 235 (1985). In re IBM Credit Corporation, (IBM Credit II), 201 N.C. App. 343, 689 S.E.2d 487 (2009), disc. review denied and appeal dismissed, 363 N.C. 854, 694 S.E.2d 204 (2010).

⁵ In re Parkdale Mills & Parkdale Am., 225 N.C. App. 713, 741 S.E.2d 416 (2013).

3. The remaining mineral interest in the property is owned by Virginia Reynolds heirs (1/5th) and an undivided 2/5th is owned by the Nature Conservancy.

4. Even though the mineral rights in Mitchell County are not mapped, the Mitchell County Assessor (“Assessor”) taxed Appellants for a total of 58,000 acres of mineral right ownership at a value of \$100.00 per acre. As such, the County Board assigned a total value of \$1,160,000 to Appellants’ mineral rights as of January 1, 2015.

5. As stated in the Order on Final Pre-Hearing Conference, the parties agree that the 6,200 acres located in the Pisgah National Forest should be valued at \$3.00 per acre.⁶

6. At the hearing, Mr. Randolph Nicklas Reynolds testified that he owns a fifth ownership interest in the mineral rights; and that he is the Vice President of Reynolds Minerals, Inc. that also owns a fifth ownership interest in the mineral rights.

7. Mr. Reynolds further testified that 44,000 acres is the best estimate for concerning the total acreage of the subject mineral rights ownership, and not 58,000 acres, and that Mitchell County contends is the correct acreage. Mr. Reynolds further testified that Mitchell County’s assessment of the Appellants’ mineral rights at a value of \$100.00 per acre exceeds the market value when the property adjacent to the subject parcels consisting of 16,000 acres of mineral rights is assessed at \$25.00 per acre and is not part of Pisgah National Forest.

8. Mr. Alexander S. Glover, Jr., a professional geologist and an expert in the field of geology and minerals, also testified at the hearing on behalf of the Appellants.

9. Based on his expertise, Mr. Glover performed a literature search of the subject parcels and then he visited the North Carolina Geological Survey Office in Swannanoa. Based on his research, he relied on five reports to perform his study concerning the types of minerals located on the subject parcels.

10. In addition, Mr. Glover gathered several outcrop excursions from the property as part of his field study that confirmed his geological data in the literature search.

11. As a result of his research, Mr. Glover determined that the subject parcels are not located within the Spruce Pine pegmatite district of Avery, Mitchell and Yancey Counties, which are the high value mineral deposit zones as shown on the geologic map of the area.⁷

12. The Appellants’ parcels, consisting of 44,000 acres, are not located with the Cane Creek Township of Mitchell County.⁸

13. Mr. Glover’s research found that there are differences in the mineral types in Mitchell County, namely; dark and white minerals (i.e. dark and daylight).

⁶ Stipulation Number 3(E).

⁷ See Appellants’ Exhibit Number 19, showing the mapped pegmatite with the pink area being of high value.

⁸ Testimony of Mr. Glover and Mr. Hyder.

14. The minerals located on the subject parcels are mafic, which are dark minerals that have no marketable value. No deposits of white minerals were found on the subject parcels, which are minerals of value and are marketable.⁹

15. The dark minerals found on the subject parcels, which consisted of micas, are uneconomic micas since the micas are not concentrated, but are disseminated. Additionally, there is sand, impure quartz, pyroxene, hornblende and epidote located at the parcels. There are no economic minerals on the subject parcels.¹⁰

16. The 2014 Mitchell County Schedule of Values, adopted by the Board of County Commissioners, provides a price range of \$3.00 to \$100.00 for the County's assessment of mineral interests in the County.¹¹

17. When appraising real property in North Carolina, an appraiser has a duty in determining the true value of land, "to consider as to each tract, parcel, or lot separately listed at least its advantages and disadvantages as to location; zoning; quality of soil;.....; mineral, quarry, or other valuable deposits and any other factors that may affect its value except growing crops of a seasonal or annual nature."¹²

18. The County representatives did not visit the parcels to perform any type of survey for minerals to determine the advantages and disadvantages as to the nature of mineral quality or lack thereof, or any other types of valuable mineral deposits associated with the property.¹³

19. Mitchell County (the "County") arrived at total value of \$1,160,000 by only applying a negative 80 percent influence factor to value Appellants' partial ownership interest in the subject mineral rights.¹⁴ When valuing the subject mineral rights ownership at \$100.00 per acre, the County did the following: (1) compared the sales of properties without a mineral right interest,¹⁵ and (2) relied on Cane Creek Township property sales¹⁶ to determine the value of the mineral rights even though the subject parcels are not part of Cane Creek Township.

20. The County did not consider size when valuing Appellants' partial mineral rights interest even though the sales of mineral rights properties in the County showed that size is a factor that the appraiser should consider to determine the value of mineral rights.

⁹ Testimony of Alexander S. Glover, Jr.

¹⁰ Id.

¹¹ Effective January 1, 2014. Mr. Gary Eanes developed in the Schedule of Values (mineral rights) for the 2009 and 2014 reappraisals in Mitchell County.

¹² See N.C. Gen. Stat. § 105-317.

¹³ Id.

¹⁴ Testimony of Mr. Blair Hyder, Mitchell County Assessor.

¹⁵ Id.

¹⁶ Sales occurring before the 2014 reappraisal and the one sale occurring before the 2009 reappraisal showed sale prices ranging from \$22.96 per acre to \$66.49 per acre for properties ranging in size from 130.66 acres to 7.52 acres.

21. The County used an arbitrary method to value Appellants' mineral rights ownership by failing to consider factors such as size of the parcels, the nature of mineral quality or lack thereof, or any other types of valuable mineral deposits associated with the property.¹⁷

22. The Appellants did produce competent, material and substantial evidence tending to show that: (a) the County employed an arbitrary or illegal method of appraisal in reaching the assessments for Appellants' mineral rights ownership for tax year 2015; and (b) the County Board assigned a value that was substantially greater than the true value of the mineral rights for tax year 2015.

23. When the burden shifted, Mitchell County did not demonstrate that its appraisal methodology produced true value in view of both sides' evidence and the weight and sufficiency of the evidence, the credibility of the witnesses, and inferences as well as conflicting and circumstantial evidence¹⁸

BASED ON THE FOREGOING FINDINGS OF FACT, THE COMMISSION CONCLUDES AS MATTER OF LAW:

1. Appellants' evidence did tend to show that the county tax supervisor used an *arbitrary method* of valuation and that assessment *substantially* exceeded the true value in money of the property when Mitchell County failed to consider the size of the property, the nature of mineral quality or lack of, or any other types of valuable mineral deposits associated with the property.¹⁹ As such, the total value of \$1,160,000 assigned to Appellants' mineral rights ownership *substantially* exceeds the true value in money of the property.

2. Since the Appellants rebutted the presumption of correctness of Mitchell County's tax assessment of the parcels, then the burden shifted to Mitchell County to demonstrate that its method produced the true value for the subject parcels as of January 1, 2015.

3. The County did not demonstrate that its appraisal methodology produced true value for the property based on the County's total assessment of \$1,160,000 for Appellants' mineral rights ownership when the County failed to consider factors such as the size of the parcels, the parcels advantages and disadvantages as to nature of mineral quality or lack of, or other valuable deposits associated with the property.²⁰

WHEREFORE, THE COMMISSION ORDERS AND DECREES that the decision of the 2015 County Board is modified and the County is instructed to revise its tax records to reflect the findings of fact and conclusions of law of the Commission determining that: (a) the total acreage of mineral rights is 44,000 acres; (b) the value of the 6,200 acres remains at a value of \$3.00 per acre; and (c) the remaining 37,800 acres shall be given a size reduction of fifty percent (50%) resulting in a total value of \$381,720 based on the Commission's calculations.

¹⁷ G.S. 105-317.

¹⁸ *In re Parkdale Mills & Parkdale Am.*, 225 N.C. App. 713, 741 S.E.2d 416 (2013).

¹⁹ the minerals located on the subject parcels are mafic, which are dark minerals that have no marketable value

²⁰ See G.S. 105-317.

NORTH CAROLINA PROPERTY TAX COMMISSION



A handwritten signature in black ink, appearing to read "T. Wheeler", written over a horizontal line.

Terry L. Wheeler, Vice Chairman

Commission Members Smith, Morgan and Guess concur.
Chairman William W. Peaslee did not participate in the hearing or
deliberation of these appeals.

Entered: April 29, 2016

ATTEST:

A handwritten signature in black ink, appearing to read "Janet L. Shires", written over a horizontal line.

Janet L. Shires, Secretary and General Counsel