

BOARD OF COUNTY COMMISSIONERS  
Carbon County, Wyoming  
Meeting as the County Board of  
Equalization  
1941

MINUTES OF MEETING:

The Board of County Commissioners of Carbon County, Wyoming met June 9th, 1941 at 10:00 A.M. as provided by Ch. 115, Art 22, W.R.S., 1931, the meeting being the second meeting of the County Board of Equalization.

Chairman of the Board, John F. Gooldy, Eugene McCarthy and Fred F. Hansen, Commissioners, were present. R. A. Hakala, Deputy County Assessor, was appointed clerk of the meeting.

The Board recessed at noon and reconvened at 2:00 P.M. and adjourned at 5:00 P.M. to meet the following day.

Meeting called to order 10:00 A.M. June 10th, 1941. All members present. The Union Pacific Coal Co. of Rock Springs, Wyoming, represented by Mr. J. A. Brown, Tax Agent, Mr. John U. Loomis and Mr. A. R. McMicken, Attorneys, requested that the action of the first meeting of the Board of Equalization, 1941, in which meeting the Board upheld the assessment of Mining Machinery in the U.P. Coal Co. Mine No. 4 in Hanna, be reconsidered and that the assessment be revoked. Mr. Loomis further requested that the Board withhold action until the Attorney General for the State of Wyoming renders a decision. Upon being advised by Mr. J. J. Hickey, County Attorney, action was postponed until further notice, motion being made by Mr. Hansen, "that the Board await the opinion of the Attorney General before making a final decision," seconded by Mr. McCarthy. All members voting aye, the motion was carried. Meeting recessed for lunch and reconvened at 2:00 P.M. In a telephone conversation with Mr. Hickey, the office of the Attorney General informed Mr. Hickey that the only ruling made by the legal department of the State was one made by Mr. Arthur Kline, a copy of which is in the possession of the Assessor, which ruling states that "We wish to advise that we are of the same opinion as Mr. Galicich and Mr. Hickey, and we feel that all personal property belonging to mining companies, including movable machinery, coal cars, etc., is taxable as personal property by the counties of the State. We base this ruling on the reasons given by Mr. Galicich and Mr. Hickey in their opinions to their respective county assessors." This ruling sustained the opinions of Mr. Hickey and Mr. Galicich, County Attorney for Sweetwater County, in which opinions the two attorneys are in close accord, and which Mr. Hickey states: "Machinery used in mining or manufacturing or other business establishments constituting a part of the plant and indispensable to the operation as such is commonly taxed with, and as a part of, the realty and is not subject to taxation as personal property. While

portable or movable machinery or equipment ordinarily remains personality and is taxable only as such. In my opinion the leading machines ..... would remain personality ..... under the law set forth in Corpus Juris under taxation and revenue, pages 188 and 189, section 151 K." Mr. Hickey was further advised by the attorney general's office that their opinion would not be forthcoming as an opinion had not been requested and that the confirmation of the opinions of Mr. Hickey and Mr. Galicich by Mr. Kline would stand as the official action of the Attorney General's Office until a request came from the State Board of Equalization for an opinion. The Board thereupon ordered the clerk of the board to advise the agents of the Union Pacific Coal Co. by registered mail that the decision of the Board would be announced at 10:00 A.M. June 14th, 1941. The following notices were sent to the agents to the company: "You are hereby notified that the Board of County Commissioners of Carbon County, Wyoming will give their decision on the matter of taxing personal property in the Union Pacific Coal Co. Mine No. 4 in Hanna for the year 1941, which decision was reserved by the Board of County Commissioners pending advice from the Office of the Attorney General for the State of Wyoming, on June 14, 1941 at 10:00 A. M. at their offices in the Carbon County Courthouse, Rawlins, Wyoming." The Board then adjourned until June 14th, 1941.

Meeting called to order 10:00 A.M. June 14th, 1941 with all Commissioners present, with J. J. Hickey and Wm. A. Johnson, County Assessor, advising the Board. The following letter, addressed to the State Board of Equalization by Mr. Ewing T. Kerr, Attorney General, was read by the commissioners:—"You have requested and official opinion from this office upon the proper interpretation of Article XV, Section 3, of the Constitution of Wyoming, and particularly with respect to the duty of the County Assessors to assess personal property within the mine.....By reason of the importance of this question we have taken a great deal of time to study the history of this constitutional provision as well as legislative enactments since statehood. Taking all and all into consideration, we are of the opinion that under the construction placed upon Article XV, Section 3, of the Constitution, by administrative officials of this state since statehood, our opinion should be and is that County Assessors of this State should not attempt to assess the personal property and equipment located within a mine in this state." The Board considered the contents of this opinion, and with a complete discussion of the probable outcome of the case, should an appeal be made, heard the motion of Mr. McCarthy "That upon the advice of the Attorney-General and considering the inadvisability of the additional expense involved in litigating the question of the taxability of personal property in the mines, the question be answered in the negative and that the assessment of personal property for the year 1941 in the Union Pacific Coal Co. Mine No. 4 in Hanna be cancelled."

Motion being duly made seconded and carried, the decision of the board was to cancel the assessment in question. There being no further business before the Board, it adjourned for the year 1941.

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Chairman of the Board

Rawlins, Wyoming  
June 14, 1941

*R. Hassakala*.....  
clerk of the board