



May 26, 1982

RE: Possessory Interests -- Mining Claims

In your recent letter, you posed two questions concerning the application of Article XIII A of the California Constitution to unpatented mining claims. Our understanding of the questions and our responses are as follows:

1. Does the fact that the holder of such a claim must perform assessment work and file annual proof of such work or lose his claim qualify such filing as a renewal of a possessory interest so as to constitute a change of ownership under Section 61(b) of the Revenue and Taxation Code? (All section references are to Revenue and Taxation Code unless otherwise specified.)

It is our opinion that the annual work and filing requirements are conditions to the continuation of a right granted for an indefinite term much like the payment of rent is a condition of continued possession under a lease. The lease is not renewed or extended with each payment, it merely continues. Likewise, the claimant's rights continue subject to termination for failure to make the necessary filing. There is no change of ownership because of the annual filings.

2. What is the appropriate procedure for appraising and enrolling new construction in progress which takes place in the exploration and development of a mining property?

Assuming that the exploration and development activity results in new construction as that term is defined in Section 70, the appraisal and enrollment of that new construction while it is in progress is governed by Section 71; i.e., the new construction in progress on the lien date shall be appraised at its full cash value on such date and each lien date thereafter until the date of completion at which time the entire property which is newly constructed shall be appraised at its full value.

May 26, 1982

Under Section 110.1, the full value of the completed improvement becomes its base year value which is entered on the roll for the lien date next succeeding the date of completion as provided by Section 50.

Very truly yours,

Glenn L. Rigby
Assistant Chief Counsel

GLR:jlh
