MINERAL PROPERTY AUTHORITATIVE CITATIONS

The following provides the authoritative citations for the Mineral Property Survey Topic. In general, citations include Constitutional provisions, sections of the Revenue and Taxation Code, other applicable statutes, court cases, Property Tax Rules, *Assessors' Handbook Sections*, Letters To Assessors, and legal annotations pertaining to the topic.

CITATION	DESCRIPTION
California Constitution	
Article XIII A	All classifications of real property including mineral properties are taxable pursuant to article XIII A.
Article XIII, Section 10	Real property greater than 10 ac. used exclusively for nonprofit golf course purposes for at least 2 years preceding the lien date shall be assessed for such use plus value attributable to hydrocarbon or other mineral extraction operations or the right to extract hydrocarbons or other minerals.
Revenue and Taxation Code	
§53.5	Each tailing facility, settling pond, or leach pad shall be a separate appraisal unit for purposes of determining taxable value.
§61(a)	Change in ownership includes the creation, renewal, sublease, assignment or other transfer of the right to produce or extract minerals regardless of the time period over which right can be executed. Change in ownership also includes a possessory interest for any term of possession.
§75.10(c)	New construction includes the discovery of previously unknown reserves of oil or gas. It does not include the addition of new reserves due to economic reasons.
§107.2	Federal government oil and gas leases created prior to the date on which the decision in De Luz Homes, Inc. v Sand Diego County, (1955) 45 Cal. 2d 546 became final (July 26, 1963) shall use royalty payments as a deductable expense for cash flow analysis.
§107.3	Federal government oil and gas leases created on or after the date on which the De Luz Homes became final (July 26, 1963) and on or before July 26, 1963 shall use royalty payments as a deductible expense for cash flow analysis. This section also applies to those properties to which section 107.2 does not apply because said interests were extended or reviewed on or before July 26, 1963.
§402.1(a)	Land Use restrictions – the assessment of land, which includes minerals, shall consider the effect upon value of any enforceable restrictions to which the use of the land may be subjected. This includes environmental constraints and conditional use permits.
§427	Nothing in the “open space” statutes shall prevent the assessor from taking into consideration the existence of any minerals in or upon the land being valued.
§607.5	The assessment of mineral rights shall include the right to enter in or upon the land

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	for the exploration, development, and production of minerals. The conveyance of a mineral interest in land creates two separate estates in the land, each of which is subject to taxation and may be separately taxed. If the mineral interest is for so long as minerals can be extracted in paying quantities, the interest is perpetual and considered a fee interest. If the interest is for a defined period, it is considered to be a chattel real, but is still an estate in land that is subject to taxation separate from the remaining interests.
Property Tax Rules	
Rule 8(c)	This rule defines what is acceptable for inclusion in a cash flow. Gross outgo does not include amortization, depreciation or depletion charges, debt retirement, interest on funds invested in the property, or rents and royalties payable by the assessee for the use of the property, except as provided for in Rule 27.
Rule 20	Subdivision (c)(7)(A)(4) and (5), for purposes of this subdivision, "exclusive uses" for taxable possessory interests includes concurrent use of real property by persons making qualitatively different uses of the same real property (for example, developing mineral resources and engaging in recreation on the property) or even qualitatively similar uses that diminish the quantity or quality of the real property (for example, concurrent grazing of cattle and extraction of oil and gas from the same property).
Rule 21	Implements procedures for sections 107 and 107.1. Prescribes valuation procedures and provides operative definitions for terms related to taxable possessory interest, such as "stated term of possession," "creation," and "economic rent."
Rule 27	Petroleum possessory interests created or last extended prior to July 26, 1963, and for which there was no reduction in the royalty rate was made to account for increased assessments of the interest, will be valued by an application of the comparative sales or income approach as prescribed in subsections (f)(1) and (f)(3) of Rule 21.
Rule 28	Provides examples of possessory interests, including the right to explore for, capture, and reduce to possession gas, petroleum, and other hydrocarbons in public lands.
Rule 121	Defines mines, quarries, and unextracted mineral products as land.
Rule 124	Provides examples of different property classifications. Land classification includes minerals and wells. Improvement classification includes storage tanks.
Rule 468	Specifically addresses issues regarding petroleum property valuations. • Defines the right to remove petroleum as a property interest. Dictates that

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	increases in the amount of recoverable minerals constitutes an addition to a property interest and conversely that reduction due to production or other reasons constitutes a reduction in the mineral interest. Physical changes to recovery methods should be examined under Rule 463(a) to determine if new construction exists. • Defines proved reserves for purposes of ad valorem taxation. • Establishes procedure for complying with article XIII A requirements for petroleum property valuations. Requires annual adjustment of base year value of reserves to account for production and changes in economic operating conditions.
Rule 469	Specifically addresses issues regarding mining property valuations. • Defines assessable rights • Defines minerals for purposes of this rule. Defines proved reserves and the three phases of development for mineral properties. • Establishes guidelines for valuing mineral properties prior to production. • Establishes guidelines for valuing mineral properties during production.
Rule 473	Specifically addresses issues relating to the appraisal of geothermal properties. • Defines taxable rights for geothermal properties. Gives definitions relating to geothermal properties including geothermal energy, proved reserves, geothermal projects, and energy conversion plants. • Establishes guidelines for valuing geothermal properties prior to production • Establishes guidelines for valuing geothermal properties during production
Assessors' Handbook	
AH 560 (March 1997)	*Assessment of Mining Properties*.
AH 566 (January 1999)	*Assessment of Petroleum Properties*.
Letters To Assessors	
79/196	Senate Bill 17 prevents reallocation of property value. Sections 441(d) and 470 states a person owning or controlling a property shall make available for examination information relevant to the determination of an estimate of value. Section 61(a) defines a change of ownership of mineral properties section 480 provides guidelines for taxpayer reporting for change of ownership.
80/09	Guidelines, questions and answers, and examples regarding the assessment of petroleum reserves and well improvements. As long as a property is capable of producing oil, subsurface equipment and the well hole retain value. Abandoned wells are removed from the roll except for salvageables. Rule 468 states depleted mineral reserves shall be removed at the previous year's average value and new

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	reserves added at determined value.
80/121	Notwithstanding the opinion of the Attorney General Rule that Rule 468 is unconstitutional in its requirement that petroleum-producing properties may be reappraised for value increases due solely to changing economic conditions, the Board notified assessors that Rule 468 remains in effect as a valid, binding regulation until such time as the rule might be amended to conform to a final court order arising from pending litigation. Note: Superior Court in Sacramento issued notice of intended decision on December 18 1981, finding that Rule 468 was consistent with the provisions of article XIII A.
81/15	A leasehold interest in a mineral right is the equivalent to a fee interest. The remaining royalty interest is not separately assessable from the working interest, but should be revalued as part of the transfer of the entire mineral right. If the royalty interest *alone* is transferred, there should be no reappraisal of the mineral right.
81/95	Valuation of wells under construction on the lien date. The drilling of oil, gas, and geothermal wells on lien date should be valued the same as any other project under construction as of the lien date. Related movable oilfield equipment should be assessed according to Rule 205, *Movable Property*.
82/77	Required annual labor and expenditures for possessory interests in mining claims satisfies a condition for the continuation of the right acquired by the holder when the claim was initially filed. The filing of proof of labor does not transfer a present interest and hence does not constitute a change in ownership.
84/44	The right to gather, extract and produce methane at landfills constitutes a real property interest subject to assessment. Assessment of methane production operated by the landfill's owner or a separate party is addressed in section 70(a)(2) and section 61 respectively. Due to the unstable nature of landfill methane, the concept of "reserves" is difficult to apply and should therefore be no adjustment for depletion.
85/99	The BOE is opposed to establishing minimum assessment for oil-producing property. The letter prescribes the appropriate use of unit multipliers for the income approach in the valuation of producing hydrocarbon properties. Price per daily working interest dollar, (PPDWDS) is derived from working interests in petroleum properties. The purchase price is divided by the daily income to determine the multiplier. The validity of this application is based on the assumption that the unit multiplier is used in formula with only the most similar producing comparable properties
85/126	Section 61(a) was amended to clarify that the creation, renewal, sublease, assignment, or other transfer of a mineral right is a change in ownership. This provision affects only the mineral right itself and has no application to the balance of the real property.

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87/40	The determination of the value of the new construction of a new well requires the appraisal of the total unit, well and mineral reserve prior to the allocation of value between the newly constructed well and the proved mineral reserve. If the new well cannot produce reserves and there are no future benefits anticipated from this new construction there is little if any, value attributable to the new well.

87/100	A series of question and answers on the assessment of mineral properties including the following topics:
	• Discovery Wells
	• Development Wells/Reworks/Recompletions/Redrills
	• Completion Date of a well
	• Base Year for Mineral Rights with Delayed Production
	  o Oil Discoveries
	  o Gas Discoveries
	  o Geothermal Development

91/62	Classification and assessability of stockpiled mine ore. Ore in a stockpile is considered personal property because it is material that has been severed from land, even though the minerals have not yet been extracted from it. Raw ore, both economic and sub-economic grade, if held for processing and ultimate sale, is exempt as business inventory. Waste material and tailings in a stockpile is personal property of no value.
92/52	Questions and answers regarding royalty interest payments for petroleum-producing properties. Royalty payments should be considered when estimating the economic life of such a property, because when the working interest's cash flow, minus the royalty payment, dwindles, the property no longer yields a profit to the lessee-operator and has in effect reached the end of its economic life. Generally, contract royalties are used for petroleum-producing properties, Although the Rule 8(e) concept of economic rent or royalty theoretically applies to petroleum-producing properties, in practice contract royalties are generally used, because a negotiated contract royalty remains in effect for the life of the property; there are generally no provisions in oil and gas leases for changing the royalty amount.
93/64	Congress suspended the assessment work requirement for unpatented mining claims and replaced it with a $100 annual rental fee. For purposes of property taxation, this change in administrative procedures should not affect the manner of assessing these taxable possessory interests.
96/52	Chapter 527 Stats. 1995 amended section 3913 of the Public Resources Code to require claimants to file affidavits with the county recorder whenever a maintenance fee is paid to the U.S. Bureau of Land Management on any mining claim. Since certain mining interests are no longer subject to mandatory

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	recordation, such interests may escape taxation.
2014/043	Effective Administrative Practices – Mining Properties
Annotations	
590.0020 - 590.0040	Legal correspondence on the following topics: • Oil-Producing Property Encumbered by a Lease • Appraisal Unit for Mineral Properties • Geothermal Properties – Base Year • Oil Well Royalty Rates • Patented and Unpatented Mining Claims • Proof of Labor • Stockpiled Ore and Tailings • Tax Refund – Abandoned Claim • Valuation Date per Rule 469 • Value Decline – Mineral Property Appraisal Unit
Legal Cases	
Union Oil Co. v. Ventura County (1974)	Without evidence of the existence of a reasonably probable market in certain tax years for the sale in separate form of an oil company's rights of surface entry for exploitation of its mineral rights, there was no support for an assessment which included, in an approximate $80 per acre assessment of the mineral rights, $58 per acre as the market value of the rights of surface entry
Roberts v. Gulf Oil Corporation, (1983)	Concluded that the county assessor has authority under Section 441 et seq. to require the disclosure of factual and interpretative information concerning oil and gas properties, providing that "the inquiry is within the authority of the agency, the demand is not too indefinite, and the information sought is reasonably relevant" to the discovery and valuation of taxable property. See also Union Pacific R.R. Co. v. SBE (1989) 49 Cal.3d 138, 146, 150, and Western Oil & Gas Assn. v. SBE (1987) 44 Cal.3d 208, 213-214.
Lynch v. State Board of Equalization, 1985)	The provisions of Proposition 13 (article XIII A of the California Constitution) apply to oil and gas producing properties Rejecting the pre-Proposition 13 method of annual reassessment of oil and gas interests, the court stated that when the voters enacted an acquisition system of taxation under Proposition 13, it became necessary to define more clearly the nature of the taxable interest in oil and gas property, and that Property Tax Rule 468 was the means of accomplishing this.
Tenneco West, Inc. v. County of Kern, (1987)	Held that the subsurface use of property, whether the right to store property (gas) in or upon property, or the right to enter upon the property and to produce and remove oil and gas, constitutes a taxable real property interest.
Howard v.	The surrender of certain mineral rights through the assignment of a mineral

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Amador, (1990)	sublease was, in effect, “the conveyance of a mineral interest in land,” and a change of ownership (per Section 60) and reassessment of the mineral rights (in fee) being transferred.
Freeport-McMoran Resource Partners v. Lake County (1993)	(Geothermal property) Under the income approach to valuation, only earnings from the property itself or the beneficial use thereof are to be considered. Income derived in large part from enterprise activity may not be ascribed to the property. When no sound basis appears for apportionment of income as between enterprise activity and the property itself, then a method may be employed which imputes an appropriate income to the property.
Oryx Energy Company v. County of Kern, (1993)	Held that the assessor properly assessed a taxable possessory interest in federal land under certain pre-DeLuz oil and gas leases by including the government royalty interest in the valuation, in accordance with Section 107.2, on the ground that the leases had been extended under terms which did not prohibit a reduction in the royalty rate.
Phillips Petroleum Co. v. County of Lake, (1993)	Held that Rule 468(c)(6) approaches the taxation of oil and gas interests in terms of an “appraisal unit,” consisting of four components: (1) proved reserves; (2) wells, casings, and parts thereof; (3) land (other than mineral interests); and (4) improvements.
Dominguez Energy v. County of Los Angeles (1997)	The provisions of section 402.1 state that the assessor shall consider the effect of any enforceable government restrictions when valuing the land. Furthermore, environmental cleanup expenses pursuant to statutes must be considered for the year in which they were incurred.
Maples v. Assessment Appeals Board (2002) (Elk Hills Occidental Sale)	[Rule 468] is applicable to establish the value property containing a mineral interest, rather than alternative methods of valuation, notwithstanding that the buyer of the property owned the entire fee interest. The Section contemplates that the base year value of the nonpetroleum interest is fixed in accordance with this article, but the petroleum interest is subject to revaluation based on changed in proved reserved, as defined in subdivision (b) thereof and as calculated pursuant to subdivision (c) thereof. The section does not preclude the assessor from assigning any value to unproved reserves.
California Minerals v. County of Kern (2007)	Proved reserves are not the only value component of an oil and gas mineral interest. The purchase price can represent the fair market value and assessable value of this type of property. A company's purchase of mineral rights can include more than just the right to remove oil and gas from land; it may also include rights to explore and develop oil and gas reserves. Such rights fall under the definition of land, which includes the right to use a property for all lawful purposes. Accordingly, proved reserves, as valued by Rule 468, are not the sole measure of determining the fair market value of an oil and gas interest. Instead, oil and gas interests are valued in terms of an appraisal unit in which proved reserves are merely one component; the "appraisal unit" includes proved reserves, land (other

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	than mineral interests), and improvements.