

# MONO COUNTY ASSESSMENT PRACTICES SURVEY

**JULY 2012**

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## CALIFORNIA STATE BOARD OF EQUALIZATION

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No. 2012/027

July 13, 2012

TO COUNTY ASSESSORS:

MONO COUNTY  
ASSESSMENT PRACTICES SURVEY

A copy of the Mono County Assessment Practices Survey Report is enclosed for your information. The Board of Equalization (BOE) completed this survey in fulfillment of the provisions of sections 15640-15646 of the Government Code. These code sections provide that the BOE shall make surveys in each county and city and county to determine that the practices and procedures used by the county assessor in the valuation of properties are in conformity with all provisions of law.

The Honorable Jody Henning, Mono County Assessor, was provided a draft of this report and given an opportunity to file a written response to the findings and recommendations contained therein. The report, including the assessor's response, constitutes the final survey report, which is distributed to the Governor, the Attorney General, and the State Legislature; and to the Mono County Board of Supervisors, Grand Jury, and Assessment Appeals Board.

Fieldwork for this survey was performed by the BOE's County-Assessed Properties Division from September through October 2010. The report does not reflect changes implemented by the assessor after the fieldwork was completed.

Ms. Henning and her staff gave their complete cooperation during the survey. We gratefully acknowledge their patience and courtesy during the interruption of their normal work routine.

These survey reports give government officials in California charged with property tax administration the opportunity to exchange ideas for the mutual benefit of all participants and stakeholders. We encourage you to share with us your questions, comments, and suggestions for improvement.

Sincerely,

/s/ David J. Gau

David J. Gau  
Deputy Director  
Property and Special Taxes Department

DJG:ps  
Enclosure

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## **INTRODUCTION**

Although county government has the primary responsibility for local property tax assessment, the State has both a public policy interest and a financial interest in promoting fair and equitable assessments throughout California. The public policy interest arises from the impact of property taxes on taxpayers and the inherently subjective nature of the assessment process. The financial interest derives from state law that annually guarantees California schools a minimum amount of funding; to the extent that property tax revenues fall short of providing this minimum amount of funding, the State must make up the difference from the general fund.

The assessment practices survey program is one of the State's major efforts to address these interests and to promote uniformity, fairness, equity, and integrity in the property tax assessment process. Under this program, the State Board of Equalization (BOE) periodically reviews the practices and procedures (surveys) of every county assessor's office. This report reflects the BOE's findings in its current survey of the Mono County Office.

The assessor is required to file with the board of supervisors a response that states the manner in which the assessor has implemented, intends to implement, or the reasons for not implementing the recommendations contained in this report. Copies of the response are to be sent to the Governor, the Attorney General, the BOE, and the Senate and Assembly; and to the Mono County Board of Supervisors, Grand Jury, and Assessment Appeals Board. That response is to be filed within one year of the date the report is issued and annually thereafter until all issues are resolved. The Honorable Jody Henning, Mono County Assessor, elected to file her initial response prior to the publication of our survey; it is included in this report following the Appendixes.

While typical management audit reports emphasize problem areas, they say little about operations that are performed correctly. Assessment practices survey reports also tend to emphasize problem areas, but they also contain information required by law (see *Scope of Assessment Practices Surveys* at page 2) and information that may be useful to other assessors. The latter information is provided in the hope that the report will promote uniform, effective, and efficient assessment practices throughout California.

## **SCOPE OF ASSESSMENT PRACTICES SURVEYS**

Government Code sections 15640 and 15642 define the scope of an assessment practices survey. As directed by those statutes, our survey addresses the adequacy of the procedures and practices employed by the assessor in the valuation of property, the volume of assessing work as measured by property type, and the performance of other duties enjoined upon the assessor.

In addition, pursuant to Revenue and Taxation Code<sup>1</sup> section 75.60, the BOE determines through the survey program whether a county assessment roll meets the standards for purposes of certifying the eligibility of the county to continue to recover costs associated with administering supplemental assessments. Such certification is obtained either by satisfactory statistical result from a sampling of the county's assessment roll, or by a determination by the survey team—based on objective standards defined in regulation—that there are no significant assessment problems in the county. The statutory and regulatory requirements pertaining to the assessment practices survey program are detailed in Appendix B.

Our survey of the Mono County Assessor's Office included reviews of the assessor's records, interviews with the assessor and her staff, and contacts with officials in other public agencies in Mono County who provided information relevant to the property tax assessment program.

Since this survey did not include an assessment sample pursuant to Government Code section 15640(c), our review included an examination to determine whether "significant assessment problems" exist, as defined by Rule 371.<sup>2</sup>

This report offers recommendations to help the assessor correct assessment problems identified by the survey team. The survey team makes recommendations when assessment practices in a given area are not in accordance with property tax law or generally accepted appraisal practices. An assessment practices survey is not a comprehensive audit of the assessor's entire operation. The survey team does not examine internal fiscal controls or the internal management of an assessor's office outside those areas related to assessment. In terms of current auditing practices, an assessment practices survey resembles a compliance audit—the survey team's primary objective is to determine whether assessments are being made in accordance with property tax law.

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<sup>1</sup> Unless otherwise stated, all statutory references are to the California Revenue and Taxation Code.

<sup>2</sup> All rule references are to sections of California Code of Regulations, Title 18, Public Revenues.

## **EXECUTIVE SUMMARY**

As stated in the Introduction, this report emphasizes problem areas we found in the operations of the assessor's office.

Many of our recommendations concern portions of programs that are currently effective, but need improvement. In many instances, the assessor is already aware of the need for improvement and is considering changes as time and resources permit.

In our review of the assessor's administration programs, we noted the assessor is satisfactorily handling staffing, workload, assessment forms, and appraiser certification. However, we made recommendations for improvement in the areas of staff property and activities, assessment appeals, and exemptions.

In the assessment of real property, we made recommendations in the areas of change in ownership, new construction, California Land Conservation Act (CLCA) property, taxable government-owned property, taxable possessory interests, and mineral property.

In the assessment of personal property and fixtures, the assessor has effective programs for conducting audits and processing business property statements, as well as discovering and valuing aircraft and vessels. However, we made recommendations for the assessor's programs for valuing business equipment and assessing manufactured homes.

Despite the recommendations noted in this report, we found that most properties and property types are assessed correctly.

We found no significant assessment problems as defined in Rule 371. Since Mono County was not selected for assessment sampling pursuant to Government Code section 15643(b), this report does not include the assessment ratios that are generated for surveys that include assessment sampling. Accordingly, pursuant to section 75.60, Mono County continues to be eligible for recovery of costs associated with administering supplemental assessments.

Following is a list of the formal recommendations contained in this report, arrayed in the order that they appear in the text.

- RECOMMENDATION 1:** Improve the assessment of staff-owned property by:  
(1) developing written procedures for the assessment of staff-owned property, and (2) ensuring that staff annually disclose their financial interests as required by section 672.....11
- RECOMMENDATION 2:** Request that applicants send appeal withdrawal forms directly to the clerk of the assessment appeals board (AAB). ....14
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**RECOMMENDATION 6:** Improve the valuation of CLCA properties by: (1) considering current market value when valuing CLCA property, (2) complying with the provisions of section 423 and Mono County Resolution R00-79 when valuing CLCA properties, and (3) deducting operating expenses from the gross income used to value restricted CLCA property. ....29

**RECOMMENDATION 7:** Improve the assessment of taxable government-owned property by: (1) exempting only government-owned property located within its agency's jurisdiction, (2) inventorying and documenting all taxable government-owned property, and (3) using only certified staff to value taxable government-owned property. ....31

**RECOMMENDATION 8:** Improve the taxable possessory interest program by: (1) implementing a program for the discovery of taxable possessory interests, (2) properly calculating supplemental assessments for taxable possessory interests, (3) excluding taxable possessory interests created by month-to-month agreements from supplemental assessments in accordance with section 75.5, (4) deducting allowed expenses from gross income when valuing taxable possessory interests by the direct income approach, (5) periodically reviewing all taxable possessory interests with stated terms of possession for declines in value, (6) ensuring the value of a taxable possessory interest on taxable government-owned lands does not exceed the value limits as provided in Rule 29, (7) reappraising taxable possessory interests in compliance with section 61, (8) using the direct income method to calculate the value of a taxable possessory interest in pipeline rights-of-way on public lands, (9) using market rents when valuing taxable possessory interests, and (10) using proper methods to develop the appropriate capitalization rate when valuing taxable possessory interests. ....34

**RECOMMENDATION 9:** Enroll unpatented mining claims as taxable possessory interests. ....41

**RECOMMENDATION 10:** Use the correct commercial equipment index factor table. ....45

**RECOMMENDATION 11:** Consistently review the assessments of manufactured homes on an annual basis when the enrolled value is less than the factored base year value.....46

## OVERVIEW OF MONO COUNTY

Mono County is located in the east-central portion of California to the east of the Sierra Nevada between Yosemite National Park and Nevada State. The county encompasses an area of 3,032 square miles, 94 percent of which is publicly owned. Mono County is bordered on the north by Alpine County; on the west by Tuolumne, Madera, and Fresno Counties; on the south by Inyo County; and on the east by Nevada State. As of 2009, Mono County's population was 12,927, reflecting little change since 2000, when its population was 12,853.

Mono County was created in 1861 from parts of Calaveras, Mariposa, and Fresno Counties. Prior to the admittance of Nevada as a state, the city of Aurora was simultaneously the county seat of Mono County and Esmeralda County. However, when Nevada became a state and the state lines were established, it was discovered that Aurora was entirely in Nevada State. Consequently, a special election was held in 1864 to relocate the county seat to Bridgeport. Mono County has only one incorporated city, Mammoth Lakes.

The following table sets forth information pertinent to the 2010-11 assessment roll:

	PROPERTY TYPE	ENROLLED VALUE
<b>Secured Roll</b>	Land	\$1,944,592,368
	Improvements	\$3,173,562,579
	Personal Property	\$29,796,410
	Total Secured	\$5,147,951,357
<b>Unsecured Roll</b>	Land	\$101,932,383
	Improvements	\$253,255,625
	Personal Property	\$64,528,841
	Total Unsecured	\$419,716,849
<b>Exemptions<sup>3</sup></b>		(\$38,290,310)
	<b>Total Assessment Roll</b>	<b>\$5,529,377,896</b>

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<sup>3</sup> The value of the Homeowners' Exemption is excluded from the exemptions total.

The next table sets forth the change in assessed values over recent years:<sup>4</sup>

<b>ROLL YEAR</b>	<b>TOTAL ROLL VALUE</b>	<b>CHANGE</b>	<b>STATEWIDE CHANGE</b>
2010-11	\$5,529,378,000	-6.8%	-1.9%
2009-10	\$5,932,036,000	0.8%	-2.4%
2008-09	\$5,887,331,000	10.8%	4.7%
2007-08	\$5,312,300,000	16.1%	9.6%
2006-07	\$4,574,226,000	20.0%	12.3%

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<sup>4</sup> State Board of Equalization Annual Report, Table 7.

## ADMINISTRATION

This section of the survey report focuses on administrative policies and procedures of the assessor's office that affect both the real property and business property assessment programs. Subjects addressed include the assessor's budget and staffing, workload, appraiser certification, staff property and activities, assessment appeals, exemptions, and assessment forms.

### **Budget and Staffing**

The following table sets forth the budget and staffing levels for the assessor's office over recent years:

BUDGET YEAR	GROSS BUDGET	PERCENT CHANGE	PERMANENT STAFF
2010-11	\$1,451,045	7.3%	12
2009-10	\$1,352,351	-0.5%	12
2008-09	\$1,358,578	8.0%	13
2007-08	\$1,257,571	4.1%	14
2006-07	\$1,208,350	11.0%	14

As shown in the table above, the assessor's gross budget has increased four of the past five years, with a slight decrease for the 2009-10 budget year. In the preceding table, the total assessed value also increased four of the past five years, with a decrease for the 2010-11 roll year.

At the time of the survey, the assessor's staff consisted of 12 permanent positions and included the assessor, 2 managers, 1 administrative services specialist, 5 real property appraisers, 1 auditor-appraiser, 1 appraiser aide, and 1 fiscal and technical specialist.

### **Workload**

Generally, the assessor is responsible for annually determining the assessed value of all real property and business personal property (including machinery and equipment) in the county. To accomplish this task, the assessor reviews recorded documents and building permits to discover assessable property. In addition, the assessor will identify and value all business personal property (including machinery and equipment), process and apply tax exemption claims for property owned by qualifying religious and welfare organizations, and prepare assessment appeals for hearing before the local board of equalization.

In addition, for most real property, the assessor is annually required to enroll the lower of current market value or the factored base year value. Therefore, when any factor causes a decline in the market value of real property, the assessor must review the assessment of the property to determine whether the decline has affected the taxable value of the property for that year. In certain economic times, this decline may greatly affect the workload of the assessor. Additionally, the number of assessment appeals may increase during this period.

We found that the number of assessable transfers due to a change in ownership have decreased three of the last four years, with the most recent year showing an increase. The number of permits filed resulting in assessable new construction have decreased over recent years, while the assessor's workload in the areas of decline-in-value assessments and assessment appeals filed has increased significantly.

These trends are shown in the following table:

<b>WORKLOAD DESCRIPTION</b>	<b>2009-10</b>	<b>2008-09</b>	<b>2007-08</b>	<b>2006-07</b>	<b>2005-06</b>
Changes in Ownership	729	544	782	865	1,389
New Construction	123	N/A	283	368	680
Declines In Value	2,161	N/A	1,110	1,100	1,100
Assessment Appeals	451	189	115	45	22

***Appraiser Certification***

Section 670 provides that no person shall perform the duties of an appraiser for property tax purposes unless they hold a valid appraiser's certificate issued by the BOE. There are eight certified appraisers on staff, including the assessor; six hold advanced appraiser's certificates. We found that the assessor and her staff possess the required appraiser's certificates. Additionally, we found that the auditor-appraiser performing audits meets the requirements referenced in section 670(d). The assessor currently uses one contract appraiser.

In Mono County, the appraisal operations manager and the administrative services specialist oversee the training and certification program for appraisers, and track individual appraisal education. Appraisers are encouraged to take the necessary courses to obtain their advanced certification as soon as possible; however, the assessor does not provide any financial incentive to obtain an advanced certificate.

According to the BOE report on training hours for certified appraisers in Mono County, two appraisers were deficient as of June 30, 2010. When the assessor was questioned on this subject, she said the appraisers would take the continuing education necessary to become current in their training hours as soon as possible. Current BOE reports indicate that there are no appraisers in Mono County that are deficient in training hours. We have no recommendations for this program.

***Staff Property and Activities***

The BOE's assessment practices survey includes a review of the assessor's internal controls and safeguards as they apply to staff-owned properties and conflicts of interest. This review is done to ensure there are adequate and effective controls in place to prevent the assessor's staff from being involved in the assessment of property in which they have an ownership interest and to prevent conflicts of interest.

The assessor discovers staff-owned property through name recognition when a recorded deed is received in the office, through self-declaration by the staff member acquiring the property, and from the annual filing of the California Fair Political Practices Commission Form 700, Statement of Economic Interests (Form 700).

The Fair Political Practices Commission requires most state and local government officials and employees to publicly disclose their personal assets and income. They also must disqualify themselves from participating in the decision-making process affecting their personal economic interests. For this purpose, Form 700 requests information regarding employee ownership in any real property within their employer agency's jurisdiction in which they, their spouse or registered domestic partner, or dependent children had a direct, indirect, or beneficial interest of \$2,000 or more during the reporting period, other than a residence used exclusively as a personal residence or an interest in real property held through a blind trust.

In Mono County, all certified staff are required to file Form 700. The assessor and the appraisal operations manager submit their Form 700 to the clerk of the board; other certified staff submit their forms to the assessor. The assessor's policy is that staff shall disclose their financial interests on an annual basis. We found inconsistent reporting of financial interests by certified staff for years 2009 and 2010.

In addition to Form 700, the assessor requires her staff to annually submit two other forms relating to the ownership of property within the county. The *Employee Property Activity Report* is for reporting all assessment events associated with their property. The second form, *Declaration of Taxable Property Owned by Employee*, is for staff to report all interests in real and personal property located within the county in which they, their spouse or registered domestic partner, or dependent children had a direct, indirect, or beneficial interest anytime during the reporting period. We found the assessor and her staff signed and submitted these forms for 2010.

We also reviewed existing county codes regarding conflicts of interest and found county employees and officers are prohibited from engaging in any employment, activity, or enterprise where compensation is inconsistent, incompatible, in conflict with, or inimical to their duties or responsibilities as they relate to employment with the county, or the duties, functions, or responsibilities relative to their appointing authority. Additionally, all outside employment is prohibited unless the employee, prior to engaging in any such employment, makes a complete written disclosure to the department head or appointing authority and receives written consent.

When an appraisal for either a change in ownership or completed new construction is required on a staff-owned property, the assignment is given to an appraiser other than the owner of the property. We reviewed a number of assessments on properties owned by assessor's staff. We found no evidence that any staff was directly involved in the assessment of their own property.

Based upon our review and the findings described above, we have the following recommendation:

**RECOMMENDATION 1:** Improve the assessment of staff-owned property by:  
(1) developing written procedures for the assessment of staff-owned property, and (2) ensuring that staff annually disclose their financial interests as required by section 672.

**Develop written procedures for the assessment of staff-owned property.**

We found the assessor does not have written procedures to address the assessment of real and personal property in which staff in the assessor's office holds an interest. We found two technical errors made by appraisers when assessing staff-owned property. Both errors may have been caught if the assessor had written procedures requiring an automatic review by management of assessments on staff-owned property.

Written procedures addressing the assessment of staff-owned property, as well as property owned by a spouse, a family member, or a dependent child, is considered sound management and is recommended. Development of and adherence to written procedures promotes an acceptable level of oversight regarding the assessment of staff-owned property. The lack of written procedures could invite the risk that staff-owned property could be assessed by the staff owner and could result in an appearance of impropriety. In addition, a lack of written procedures including an automatic review by management could cause incorrect assessments to be enrolled for staff-owned property.

**Ensure that staff annually disclose their financial interests as required by section 672.**

We found the assessor's procedures regarding statements of financial interests are not consistently followed. We obtained and reviewed the two 2010 forms submitted to the clerk of the board, but the assessor was unable to locate and provide copies of the 2010 forms for the remaining certified staff. She did provide forms for 2009 for the auditor-appraiser and four out of five real property appraisers, but was unable to locate the 2009 form for the fifth appraiser. Instead, she provided a copy of the 2008 form submitted by the fifth appraiser. Additionally, the assessor did not have any forms for contract appraisers employed by the assessor and did not certify to the BOE that all certified appraisers met the requirements of section 672 as required by Letter To Assessors (LTA) No. 2008/035.

Section 672 requires that at the time of certification, and annually thereafter, each appraiser must disclose their financial interests. As instructed in LTA No. 2008/035, the assessor should ensure compliance with this statute and so certify to the BOE. Additionally, LTA No. 96/34 states "...any person hired by or performing any duties on behalf of an assessor is subject to the same constitutional and statutory requirements as employees of the county assessor..." Thus, all certified appraisers, including both a contract appraiser and an appraiser employed in the assessor's office, are required to submit a statement of financial interests annually, and the assessor should report to the BOE that all staff submitted the required statements. Compliance with section 672 will allow the assessor to monitor the assessment of properties owned by staff or contract appraisers more easily.

## **Assessment Appeals**

The assessment appeals function is prescribed by article XIII, section 16 of the California Constitution. Sections 1601 through 1641.5 are the statutory provisions governing the conduct and procedures of assessment appeals boards and the manner of their creation. As authorized by Government Code section 15606, the Board has adopted Rules 301 through 326 to regulate the assessment appeals process.

Pursuant to section 1601, the body charged with the equalization function for the county is the appeals board, which is either the county board of supervisors meeting as a county board of equalization or an appointed assessment appeals board. Appeal applications must be filed with the clerk of the board (clerk). The regular time period for filing an appeal application, as set forth in section 1603, is July 2 to September 15; however, if the assessor does not provide notice to all taxpayers of real property on the local secured roll of the assessed value of their real property by August 1, then the last day of the filing period is extended to November 30. Section 1604(c) and Rule 309 provide that the appeals board must make a final determination on an appeal application within two years of the timely filed appeal application unless the taxpayer and appeals board mutually agree to an extension of time or the application is consolidated for hearing with another application by the same taxpayer.

Mono County has one assessment appeals board (AAB) that consists of three members and one alternate member. There are no hearing officers. All AAB members have completed the mandatory training as required by section 1624.01. The three-member panel hears cases for changes in value affecting properties on both the secured and unsecured rolls. Appeal hearings are typically scheduled two days a week during the last week of the month, starting in September and running through April, as needed. The filing period for assessment appeals in Mono County is from July 2 through November 30.

Applications for changed assessment can be obtained from the clerk of the AAB. All appeal applications are filed with the clerk. The clerk date stamps and reviews the application for completeness before forwarding it to the county counsel's office for a determination on whether the application is completed correctly and timely filed. If an application is completed incorrectly, county counsel notifies the taxpayer by mail of corrections needed for the application to proceed. If an application is received outside the filing period, county counsel notifies the taxpayer by mail that the application is invalid and cannot be accepted. Once an application has been accepted and approved, county counsel forwards a copy of the appeal application to the assessor.

The following table sets forth the assessment appeals workload over recent years:<sup>5</sup>

ASSESSMENT ROLL	2009-10	2008-09	2007-08	2006-07	2005-06
Appeals Filed	451	189	115	45	22
Appeals Carried Over From Prior Year	145	117	54	27	24
<b>Total Appeals Workload</b>	<b>596</b>	<b>306</b>	<b>169</b>	<b>72</b>	<b>46</b>
Resolution:					
Withdrawn	97	59	16	11	9
Stipulation	83	78	20	3	9
Appeals Reduced	0	3	12	0	0
Appeals Upheld	10	2	2	2	0
Appeals Increased	0	0	0	0	0
Other Determination*	5	3	0	2	8
<b>Total Resolved</b>	<b>195</b>	<b>145</b>	<b>50</b>	<b>18</b>	<b>26</b>
To Be Carried Over**	401	161	119	54	20

\* Note: Includes, but not limited to late-filed appeals, applicants' failure to appear and board denied applications

\*\* "To Be Carried Over" includes appeals with time extensions by mutual agreement of the parties.

The assessor logs each application into a spreadsheet for tracking purposes prior to assigning the file to an appraiser. Personal property assessment appeals are assigned to the assessor's sole auditor-appraiser. An appraiser or auditor-appraiser reviews each case and contacts the applicant with a valuation determination. If the appraiser and the applicant are able to come to an agreement, the applicant may decide to withdraw the application or stipulate to a new value. Applicants deciding to withdraw or stipulate are sent a form letter to sign and return to the assessor. Upon receipt of the signed form letter, the assessor forwards this to the AAB for approval. If no agreement can be reached, the appeals process continues and a hearing is scheduled.

Periodically, the assessor sends a list of unresolved assessment appeals to the clerk. The clerk schedules the appeals for hearing and notifies each applicant of their hearing date. The appraisal operations manager and an appraiser or auditor-appraiser represent the assessor's office at every hearing. We reviewed several assessment appeals prepared by the assessor's staff and found them appropriately documented and complete. However, we found one area of concern.

<sup>5</sup> The statistics presented are as reported by the assessor who acknowledged that there are some discrepancies.

**RECOMMENDATION 2:** Request that applicants send appeal withdrawal forms directly to the clerk of the assessment appeals board (AAB).

When an applicant wishes to withdraw an assessment appeal application, the assessor has a standard assessment appeal withdrawal form that is sent to the applicant. The assessor's staff requests that the assessee return the signed withdrawal form to the assessor's office.

The AAB is an independent entity, whose function is to resolve value disputes between taxpayers and the assessor. Therefore, it is inappropriate for the assessor to act as an intermediary between the AAB and taxpayers by requesting the applicant to submit withdrawal forms to the assessor.

The assessor's procedure could give an appearance that the assessor is intervening in the independent third-party review to which every appellant has the right. The assessor should revise the withdrawal form to instruct the applicant to submit the request for withdrawal directly to the clerk of the AAB rather than the assessor's office. The clerk should then timely forward a copy of the withdrawal letter to the assessor.

### ***Exemptions***

The exemptions portion of the Mono County survey included a review of all church, religious, welfare (including low-income housing and tribal housing), and disabled veterans' exemptions.

The assessor relies upon Assessors' Handbook Section 267, *Welfare, Church, and Religious Exemptions* (AH 267), and the exemptions manual compiled by the California Assessors' Association Education Committee for guidance. Additionally, the assessor is developing an internal procedures manual in reference to exemptions processing that will be useful as a staff training tool in the future.

The assessor conducts field inspections on all first-time filings for exemption and uses BOE-267-FIR, *Welfare Exemption Assessor's Field Inspection Report*, to report findings. The assessor sends annual exemption claim forms prior to the lien date as required by statute. The annual claims are date stamped by the assessor when received to provide a record of timely filing by the claimant.

Although Mono County is a smaller county and has relatively few properties with exemptions, it should be noted that a single staff member administers the entire exemptions program, including homeowners', church, religious, welfare, and disabled veterans' exemptions. Administering exemptions is coupled with her other tasks of processing deeds and roll corrections.

### **Church and Religious Exemptions**

Article XIII, section 3(f) of the California Constitution authorizes exemption of property used exclusively for religious worship. This constitutional provision, implemented by section 206, exempts buildings, the land on which they are situated, and equipment used exclusively for religious worship when such property is owned or leased by a church. Property that is reasonably and necessarily required for church parking is also exempt under article XIII, section 4(d) of the California Constitution, provided that the property is not used for commercial purposes. The

church parking exemption is available for owned or leased property meeting the requirements of section 206.1. The Legislature has also implemented the religious exemption in section 207, which exempts property owned by a church and used exclusively for religious worship or for both religious worship and school purposes (excluding property used solely for schools of collegiate grade).

County assessors administer the church and religious exemptions. The church exemption, including the church parking exemption, requires an annual filing of the exemption claim. The religious exemption requires a one-time filing by the claimant, although the assessor annually mails a form to claimants to confirm continuing eligibility for the exemption. Once granted, the religious exemption remains in effect until terminated or until the property is no longer eligible for the exemption.

The following table sets forth religious and church exemption data for recent years:

<b>ROLL YEAR</b>	<b>RELIGIOUS EXEMPTIONS</b>	<b>EXEMPTED VALUE</b>	<b>CHURCH EXEMPTIONS</b>	<b>EXEMPTED VALUE</b>
2010-11	10	\$6,621,892	4	\$480,060
2009-10	11	\$6,604,497	4	\$463,669
2008-09	11	\$6,609,797	3	\$222,171
2007-08	11	\$5,839,651	4	\$418,394
2006-07	11	\$5,725,157	4	\$410,190

The assessor requires annual filing for renewal of the church exemption. For claimants of the religious exemption, the assessor mails BOE-267-SNT, *Religious Exemption Change in Eligibility or Termination Notice*, as required by statute. As previously stated, the religious exemption does not require annual renewal; once filed, it remains in effect until the property changes title or is no longer eligible for the exemption. If the form is not returned by the claimant, the assessor field inspects the property to ensure continued compliance.

### Welfare Exemption

Article XIII, section 4(b) of the California Constitution authorizes the Legislature to exempt property owned and used exclusively for religious, hospital, or charitable purposes by organizations formed and operated exclusively for those purposes. When the Legislature enacted section 214 to implement this constitutional provision, a fourth purpose (scientific) was added. Both the organizational and property use requirements must be met for the exemption to be granted.

The welfare exemption is co-administered by the BOE and county assessors. The BOE is responsible for determining whether an organization itself is eligible for the welfare exemption and for issuing either *Organizational Clearance Certificates* (OCCs) to qualified organizations or *Supplemental Clearance Certificates* (SCCs) to limited partnerships, which have a qualified organization as the managing general partner, that own and operate low-income housing. The

assessor is responsible for determining whether the use of a qualifying organization's property is eligible for exemption and for approving or denying exemption claims.

The assessor may not grant a welfare exemption on an organization's property unless the organization holds a valid OCC issued by the BOE or a valid SCC issued by the BOE if the property is a low-income housing property owned and operated by a limited partnership, which has a qualified organization (OCC holder) as the managing general partner. The assessor may, however, deny an exemption claim based on nonqualifying use of the property, notwithstanding that the BOE has issued an OCC or SCC to the claimant.

The following table sets forth welfare exemption data for recent years:

<b>ROLL YEAR</b>	<b>WELFARE EXEMPTIONS</b>	<b>EXEMPTED VALUE</b>
2010-11	27	\$30,413,828
2009-10	23	\$15,393,763
2008-09	14	\$12,508,260
2007-08	18	\$14,319,390
2006-07	16	\$10,482,910

The assessor requires the claimant to have a valid OCC before a welfare exemption is granted. The assessor uses the BOE's website to confirm the OCC is valid for the year in which the welfare exemption is claimed.

In addition to an OCC, the assessor requires limited partnerships with nonprofit managing general partners claiming the welfare exemption for low-income housing to have a valid SCC. As is the case with OCCs, the assessor uses the BOE's website to confirm the SCC is valid for the year in which the welfare exemption is claimed. The assessor also requires a copy of the financing agreement and deed restrictions for low-income housing claims.

**Disabled Veterans' Exemption**

The disabled veterans' exemption is authorized by article XIII, section 4(a) of the California Constitution. This constitutional provision, implemented by section 205.5, exempts a specified amount of the value of a dwelling when occupied as a principal place of residence by a qualified disabled veteran (or the veteran's unmarried surviving spouse). The property must be owned by the veteran, the veteran's spouse, or the veteran and the veteran's spouse jointly. The amount of exemption is \$100,000 or, for qualifying low-income veterans, \$150,000. Both of these amounts are adjusted annually by a cost of living index.

The disabled veterans' exemption at the \$100,000 basis requires a one-time filing, while the low-income exemption at the \$150,000 level requires annual filings to ensure the claimant continues to meet the household low-income restriction.

The following table sets forth disabled veterans' exemption data for recent years:

<b>ROLL YEAR</b>	<b>DISABLED VETERANS' EXEMPTIONS</b>	<b>EXEMPTED VALUE</b>
2010-11	1	\$84,905
2009-10	1	\$112,832
2008-09	3	\$333,888
2007-08	5	\$514,174
2006-07	4	\$441,077

The assessor protects the confidential information furnished on disabled veterans' exemption claim forms by keeping all claim forms in a locked and secure area not accessible to the public.

We have one recommendation for the exemptions program.

**RECOMMENDATION 3:** Apply late-filing penalties in accordance with section 270.

The assessor allowed only 80 percent of the full exemption for both church and welfare exemption claims filed after February 15, 2010 and before the next lien date. Additionally, for the 2008 lien date, the assessor allowed only 85 percent of the full exemption for claims filed late, but still within the year 2008.

Section 255 provides that claims for exemptions, except the homeowners' exemption, shall be filed with the assessor between the lien date and 5 p.m. on February 15. Section 270 provides that late-filed claims for exemptions, other than the homeowners' exemptions, may be allowed 90 percent of the full exemption if the claim is filed after February 15, but on or before the next lien date, and 85 percent if the claim is filed after that time period. Only the homeowners' exemption receives a late-filing penalty cancellation of 80 percent.

The assessor's practice of not applying the late-filing penalty in accordance with section 270 is contrary to statute and may result in a qualified claimant paying higher taxes than warranted.

**Assessment Forms**

Government Code section 15606 requires the BOE to prescribe and enforce the use of all forms for the assessment of property for taxation.<sup>6</sup> Generally, the assessor may not change, add to, or delete the specific wording in a prescribed form. The assessor may, however, rearrange information on a form provided that the assessor submits such form to the BOE for review and approval. Assessors may also use locally developed forms to assist them in their assessment duties. However, such forms may not be used as substitutes for Board-prescribed forms, and no penalty may be imposed upon a property owner for failure to file a county-developed form or questionnaire.

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<sup>6</sup> Also sections 480(c), 480.2(b), 480.4, and Rules 101 and 171.

To enforce the use of prescribed forms, the BOE requires assessors to specify in writing each year the forms they will use in the succeeding assessment year. Assessors are also required to submit to the BOE copies of the final prints of all prescribed forms they intend to use.

The assessor participates in the annual forms approval process and submitted both checklists for the 2010 forms timely. The hard-copy forms reviewed match the forms posted on the assessor's website, including a county-developed form *Request for Informal Review*, and Board-prescribed forms BOE-502-A, *Preliminary Change of Ownership Report*, and BOE-305-AH, *Application for Changed Assessment*.

We have no recommendations for assessment forms.

## ASSESSMENT OF REAL PROPERTY

The assessor's program for assessing real property includes the following principal elements:

- Revaluation of properties that have changed ownership.
- Valuation of new construction.
- Annual review of properties that have experienced declines in value.
- Annual revaluations of certain properties subject to special assessment procedures, such as property subject to California Land Conservation Act contracts, taxable government-owned property, and taxable possessory interests.

Article XIII A of the California Constitution provides that, absent post-1975 new construction or changes in ownership, the taxable value of real property shall not exceed its 1975 full cash value, except that it can be adjusted annually for inflation by a factor not to exceed 2 percent.

### ***Change in Ownership***

Section 60 defines change in ownership as a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee simple interest. Sections 61 through 69.5 further clarify what is considered a change in ownership and what is excluded from the definition of change in ownership for property tax purposes. Section 50 requires the assessor to enter a base year value on the roll for the lien date next succeeding the date of the change in ownership; a property's base year value is its fair market value on the date of change in ownership.

The change in ownership division consists of the administration operations manager, an appraiser aide, and a fiscal and technical specialist (FTS). The assessor is in the process of writing procedures for processing changes in ownership.

### **Document Processing**

The assessor's primary means of discovering properties that have changed ownership is through the analysis of deeds and other recorded documents at the recorder's office. The recorder's office requires BOE-502-A, *Preliminary Change of Ownership Report (PCOR)*, to accompany documents submitted for recordation transferring ownership of real property. If a transfer document is received without a PCOR, a \$20 charge is applied to the recording fee. Mono County does not have a local ordinance requiring the assessor's parcel number to be indicated on all recorded documents involving real property.

The following table shows the total number of assessable transfers in Mono County for recent years:

<b>ROLL YEAR</b>	<b>ASSESSABLE TRANSFERS</b>
2009-10	729
2008-09	544
2007-08	782
2006-07	865
2005-06	1,389

Recorded documents are sent electronically from the recorder's office to the assessor's office. The assessor also receives original PCORs from the recorder's office. The administration operations manager or the appraiser aide reviews the recordings to verify the legal description, confirm prior ownership, and determine whether the transfer constitutes an assessable event. Then the appraiser aide inputs the information from the document into the computer system. If any additional information is required, the FTS is responsible for sending the appropriate letter or form to the property owner. Once the property owner returns the requested additional information, if applicable, the assessable events are given to the assigned appraiser.

We examined several recorded documents and found the assessor has an effective program for the discovery and determination of assessable events.

**Leases**

The assessor discovers lease transactions through recorded documents, news articles, and information from taxpayers. The assessor requests copies of all long-term leases to obtain details and terms of the lease. Once lease documents have been processed and determined to be assessable events, the information is sent to the appropriate appraiser or auditor-appraiser for valuation.

**Penalties**

When a recorded document is received without a PCOR or the PCOR is incomplete, the FTS sends BOE-502-AH, *Change in Ownership Statement (COS)*, to the property owner and allows them 45 days to return the completed COS. After about 30 days from the date the initial COS is sent, the FTS follows up with a courtesy phone call to the property owner and sends a second COS. A log is maintained and tracks the 45-day final deadline for the property owner to file the COS before a penalty applies and a notice of penalty letter is sent.

The Mono County Board of Supervisors adopted Resolution R06-31 pursuant to section 483(b), which allows for the automatic abatement of section 482 penalties if the assessee files the COS with the assessor no later than 60 days after the date on which the assessee was notified of a penalty. The log maintained by the assessor also tracks the 60-day deadline before the automatic abatement no longer applies.

In general, the assessor is correctly tracking COSs, allowing automatic abatements when applicable, and applying penalties when appropriate. However, we did find several examples of inconsistencies when determining if a penalty applies for failure to file a COS.

**RECOMMENDATION 4:** Apply penalties for failure to file a COS in accordance with sections 482(a) and 483(b).

In Mono County, a resolution allows the assessor to automatically abate penalties if a requested COS is received within 60 days from the date of notice of penalty. We found several examples where the assessor did not apply penalties for failure to file a COS, even though the COS was received more than 60 days past the notice of penalty.

Section 482(a) provides that if a person or legal entity required to file a statement described in section 480 fails to do so within 45 days from the date of a written request by the assessor, a penalty of either: (1) one hundred dollars (\$100), or (2) 10 percent of the taxes applicable to the new base year value reflecting the change in ownership of the real property or manufactured home, whichever is greater, but not to exceed two thousand five hundred dollars (\$2,500), shall be added to the assessment made on the roll.<sup>7</sup> The assessor should allow the property owner only 45 days to return a completed COS before a penalty is applicable for failure to file as described in section 482(a). In addition, section 483(b) states that the penalty provided for in section 482(a) shall be abated if the assessee files the change in ownership statement with the assessor no later than 60 days after the date on which the assessee was notified of the penalty.

The information contained in a properly completed COS is important because it assists the assessor in making an accurate assessment of a property. The assessor's current practice of not applying penalties to all property owners that fail to file a COS by the filing deadline gives some property owners more time to respond than is described in sections 482(a) and 483(b), and causes unequal treatment of property owners. Also, not applying applicable penalties could result in a loss of revenue.

## Transfer Lists

Pursuant to section 408.1(a), the assessor shall maintain a list of transfers of any interest in property, other than an undivided interest, within the county, which have occurred within the preceding two-year period. Section 408.1(e) states the provisions of section 408.1(a) shall not apply to any county with a population under 50,000 people, as determined by the 1970 federal decennial census. Based on the population in Mono County in 1970, the assessor is not required to maintain a transfer list. However, the assessor does have a transfer list available to the public and it includes the names of the transferor and transferee, the assessor's parcel number, the situs address of the property (if available), the date of recording, the document number, and the documentary transfer tax (if available).

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<sup>7</sup> Effective January 1, 2012, Senate Bill 507 (Stats. 2011, ch. 708) amends section 482(a) to allow property owners 90 days to return a completed COS when requested by the assessor before penalties are applicable.

## Legal Entity Ownership Program (LEOP)

Section 64 provides that certain transfers of ownership interests in a legal entity constitute a change in ownership of all real property owned by the entity and any entities under its ownership control. Rule 462.180 interprets and clarifies section 64, providing examples of transactions that either do or do not constitute a change in entity control and, hence, either do or do not constitute a change in ownership of the real property owned by the entity. Discovery of these types of changes in ownership is difficult for assessors, because ordinarily there is no recorded document evidencing a transfer of an ownership interest in a legal entity.

To assist assessors, the BOE's LEOP section gathers and disseminates information regarding changes in control and ownership of legal entities that hold an interest in California real property. On a monthly basis, LEOP transmits to each county assessor a listing, with corresponding property schedules, of legal entities that have reported a change in control under section 64(c) or change in ownership under section 64(d). However, because the property affected is self-reported by the person or entity filing information with the BOE, LEOP advises assessors to independently research each entity's property holdings to determine whether all affected parcels have been identified and properly reappraised.

Sections 480.1, 480.2, and 482 set forth the filing requirements and penalty provisions for reporting of legal entity changes in control under section 64(c) and changes in ownership under 64(d). A change in ownership statement must be filed with the BOE within 45 days of the date of change in control or change in ownership; reporting is made on BOE-100-B, *Statement of Change in Control and Ownership of Legal Entities*. Section 482(b) provides for application of penalty if a person or legal entity required to file a statement under 480.1 and 480.2 does not do so within 45 days from the earlier of (1) the date of change in control or ownership or (2) the date of written request by the BOE.<sup>8</sup> The BOE advises county assessors of entities that are subject to penalty so they can impose the applicable penalty to the entity's real property.

The assessor discovers potential changes in control or ownership of legal entities from news articles, commercial appraisers, information from taxpayers, and monthly LEOP reports from the BOE.

When the assessor receives the monthly LEOP reports, the transfer staff reviews the effective date and the change(s) that occurred. The parcels reported on BOE-100-B that are located in Mono County are checked against the assessor's database and a name search is also performed to determine if any other parcels in the county may be affected. Once it is determined that the transaction resulted in an assessable event, the information is sent to an appropriate appraiser or auditor-appraiser for valuation.

The assessor reviews the *Entities Indicating A Change in Control or Change in Ownership* report to determine if the assessor should apply penalties for late-filings of BOE-100-B. There have been no recent late-filings of BOE-100-B in Mono County.

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<sup>8</sup> Effective January 1, 2012, Senate Bill 507 (Stats. 2011, ch. 708) amends the filing requirement from 45 days to 90 days for a legal entity to report a change in control or change in ownership, or to comply with a written request from the BOE, whichever occurs earlier.

We reviewed several files involved in changes in control or ownership of a legal entity and found the assessor's LEOP program to be well administered.

**Change in Ownership Exclusions – Section 63.1**

Section 63.1 generally excludes from the definition of "change in ownership" the purchase or transfer of principal residences and the first \$1 million of other real property between parents and children. Section 63.1 also excludes qualifying purchases or transfers from grandparents to their grandchildren.

To enforce the \$1 million limit for property other than principal residences, the BOE maintains a database that lists transfers of such property statewide. To further the state and local interests served by tracking these transfers, section 63.1 encourages county assessors to report such transfers to the BOE on a quarterly basis. The quarterly reporting, which was formerly mandatory, is now optional. Even if an assessor opts not to report quarterly to the BOE; however, the assessor must track such transfers internally to be in compliance with section 63.1.

The BOE uses the information received by assessors to generate quarterly reports notifying assessors of any transferors who have exceeded their \$1 million limit. With this information, assessors are able to identify ineligible claims and, if necessary, take corrective action.

Applications and information regarding exclusions are available to the public at the assessor's office. The following table sets forth section 63.1 claims filed in recent years:

<b>ROLL YEAR</b>	<b>SECTION 63.1 CLAIMS FILED</b>
2009-10	52
2008-09	92
2007-08	97
2006-05	101
2005-06	149

If a PCOR or COS indicates a transfer may be between a parent(s) and child(ren) or from grandparent(s) to grandchild(ren), the assessor is proactive in notifying interested parties of a possible exclusion and sends a claim form. The FTS tracks the claim forms and, if the form is not returned within 30 days, the property is reassessed. It is at the discretion of the administrative operations manager whether a second claim form is sent, allowing additional time to respond before the property is reassessed. The administrative operations manager reviews all section 63.1 applications and determines if the exclusion will be granted or denied. The property owner is not formally notified when a claim is granted or denied. If a claim is denied, the property owner is notified by receipt of the notice of supplemental assessment.

The assessor submits optional quarterly reports to the BOE, listing approved section 63.1 transfer exclusions involving property other than the transferor's principal residence. When the assessor receives a *Report of Transferors Exceeding \$1,000,000* from the BOE, the report is reviewed to

determine if a transfer of property exceeding the limit is located in Mono County. If multiple properties transfer within a short period, the assessor allows the property owner or representative to determine which properties to exclude and which to reassess. If some of the parcels involved in a transfer exceeding the limit are located in another county, and the transfer dates are the same or within a short period, the assessor will first contact the property owner to determine how they would like to have the excess allocated and reassessed. Then the assessor will contact the other county to confirm how each county will handle the excess. If transfer dates are not the same and the transfer in Mono County is the most recent transfer exceeding the limit, the assessor will reassess the portion of the property that exceeds the limit.

Pursuant to section 63.1(i), the assessor protects confidential information furnished on claim forms by keeping all claim forms in a locked and secure area not accessible to the public.

**Change in Ownership Exclusions – Section 69.5**

Section 69.5 generally allows persons 55 years of age or older, or who are severely and permanently disabled, to transfer the base year value of a principal residence to a replacement residence of equal or lesser value located within the same county. A county board of supervisors may provide by ordinance that base year values may be transferred from properties located outside the county.

In general, a person may claim relief under section 69.5 only once during their lifetime. To prevent improper multiple claims for this relief, section 69.5 requires county assessors to report to the BOE, on a quarterly basis, any approved section 69.5 claims.

The BOE uses the information received by assessors to generate quarterly reports notifying assessors of any improper multiple claims. With this information, assessors are able to identify ineligible claims and, if necessary, take corrective action.

Mono County does not accept base year value transfers from other counties. The following table sets forth section 69.5 claims filed in recent years:

<b>ROLL YEAR</b>	<b>SECTION 69.5 CLAIMS FILED</b>
2009-10	0
2008-09	1
2007-08	0
2006-07	1
2005-06	1

If a PCOR or COS indicates a transfer may involve a base year value exclusion, the assessor sends interested parties a claim form along with a letter. The administration operations manager reviews all section 69.5 claims. Appraisers determine the fair market value of both the replacement and original properties. If the claim is denied, the assessor either calls the property owner or sends them a denial letter.

Section 69.5(b)(7) provides that in order to prevent duplication of claims under this section, county assessors shall report quarterly to the BOE a list of approved section 69.5 base year value transfers. The assessor submits required quarterly reports to the BOE listing approved section 69.5 exclusions.

Pursuant to section 69.5(n), the assessor protects confidential information furnished on claim forms by scanning all forms into the computer system and allowing only authorized personnel to access the information. Claim forms are not accessible to the public.

## Valuation

Once a transfer has been determined to be an assessable event, the information is sent to an appraiser for valuation. Every assessable transfer is reviewed to confirm the listed sale price accurately reflects market value; the sale price is not automatically enrolled. Residential changes in ownership are valued using the market approach, while commercial changes in ownership are valued using the income approach. If the property is unique, the cost approach may be considered, as well. Except for condominiums, field inspections are performed on all properties experiencing a change in ownership or new construction.

We reviewed several files and found the assessor has an effective program for valuing property in the county.

## **New Construction**

Section 70 defines newly constructed property, or new construction, as (1) any addition to real property since the last lien date, or (2) any alteration of land or improvements since the last lien date that constitutes a major rehabilitation of the property or converts the property to a different use. Further, section 70 establishes that any rehabilitation, renovation, or modernization that converts an improvement to the substantial equivalent of a new improvement, constitutes a major rehabilitation of the improvement. Section 71 requires the assessor to determine the full cash value of newly constructed real property on each lien date while construction is in progress and on its date of completion, and provides that the full cash value of completed new construction becomes the new base year value of the newly constructed property.

Rules 463 and 463.500 clarify the statutory provisions of sections 70 and 71, and the Assessors' Handbook Section 502, *Advanced Appraisal*, Chapter 6, provides guidance for the assessment of new construction.

There are several statutory exclusions from what constitutes new construction; sections 70(c) and (d), and sections 73 through 74.7 address these exclusions.

## Discovery

The assessor's primary means of discovering assessable new construction is through building permits. Currently, the assessor receives building permits from the following permit-issuing agencies: the Mono County Health Department, the Mono County Community Development Department, and the Town of Mammoth Lakes Community Development Department Building Division. In addition, permit information for grading and encroachments is provided by the

Mono County Public Works Department; however, these permits are obtained through the Mono County Community Development Department. Other methods used to discover new construction include newspaper articles, business property statements, new construction questionnaires from taxpayers, and field canvassing

The Town of Mammoth Lakes Community Development Department Building Division issues permits for new construction within the municipality, providing a hard copy of building plans and permits to the assessor's office in Mammoth Lakes. The Mono County Community Development Department issues permits for new construction within the rest of the county, providing a copy of building plans and permits to the assessor's office in Bridgeport. The Mono County Health Department issues permits for wells or septic systems. All of these permit-issuing agencies conduct final inspections, sign off permits, and issue certificates of occupancy for completed new construction when appropriate. In addition, most of these agencies provide a copy of the signed permits and certificates to the assessor.

## Valuation

Incoming permits are reviewed and culled by the assessor's office. If it is determined that the permit is for assessable new construction, the permit is scanned into the imaging portion of the assessment system and tracked through completion. Digital floor plans are prepared based on plans and revised as needed after field inspections are completed. Questionnaires are mailed to property owners for new residences, completed new construction, and miscellaneous new construction.

The assessor values new construction by estimating the market value of the improvements as of the date of completion for completed new construction. In addition, the assessor reviews and values new construction in progress as of the lien date. Field inspections are conducted for all new construction, with the exception of wells and septic systems. Base year values and completion dates are noted electronically and on the property record, and supplemental assessments are issued. Well bores and well casings are properly assessed to the land.

For each lien date, the assessor reviews and values construction in progress, assigning current costs to the completed portion of the new construction. If there has been no activity since the prior lien date, current new construction costs are enrolled for the completed portion.

We reviewed a number of parcels with recent new construction activity and found one area of concern.

**RECOMMENDATION 5:** Use the correct version of Assessors' Handbook Section 531, *Residential Building Costs* (AH 531), for the valuation of new construction.

During our review, we found the assessor uses the incorrect version of AH 531 for lien date valuation of new construction. For example, when valuing new construction in progress for lien date 2009, rather than using the most current version of AH 531, dated January 1, 2009, the assessor is using the prior version, dated January 1, 2008.

AH 531 is produced annually with updated costs based on the most current data available in the marketplace. The foreword of each AH 531 provides the date for which the costs are valid to be used, and the assessor should value new construction using the appropriate AH 531 that corresponds with the date of event of the new construction being valued. Thus, for new construction in progress as of lien date 2009 (January 1, 2009), the assessor should use the January 2009 version of AH 531 to determine the value.

The assessor's practice may result in incorrect assessments being placed on the roll.

***Declines in Value***

Section 51 requires the assessor to enroll on the lien date an assessment that is the lesser of a property's factored base year value (FBYV) or its current full cash value, as defined in section 110. Thus, if a property's full cash value falls below its FBYV on any given lien date, the assessor must enroll that lower value. If, on a subsequent lien date, a property's full cash value rises above its FBYV, then the assessor must enroll the FBYV.

With the recent downturn in the economy and housing market, Mono County has experienced a notable decline in property values. Consequently, there has been a significant increase in the total number of properties eligible for decline-in-value assessments. This increase represents a major addition to the assessor's workload.

The following table shows the number of decline-in-value assessments for recent years:

<b>ROLL YEAR</b>	<b>DECLINE-IN-VALUE ASSESSMENTS</b>
2009-10	2,161
2008-09	N/A
2007-08	1,110
2006-07	1,100
2005-06	1,100

The discovery of declines in value for commercial, industrial, residential, and agricultural properties is accomplished through several means. The assessor relies on her knowledge of market trends affecting real estate in the county, along with her appraisers' familiarity with their assigned geographic areas and specialties. In addition, taxpayer requests for review and assessment appeals trigger valuation review of surrounding neighborhoods.

Taxability codes within the "800" series identify all decline-in-value properties for valuation reductions in the assessment system. This code prevents the system from automatically applying the inflation factor to the prior year's taxable value. The code is removed when the property has been restored to its FBYV.

The assessor sends a *Notification of Assessed Value Change* when the assessed value has changed due to a decline in value, if the decline in value remains on the roll for the current assessment year, or if the decline in value has been fully or partially restored. The assessor's

value notice includes the current taxable value, the FBVY, the appeals filing period, and the location to file the appeal.

Taxpayers can initiate an informal assessment review by filing a *Request for Informal Assessment Review Proposition 8* with the assessor by November 1 of the assessment year. This form is available at the assessor's office and on the assessor's website. If a taxpayer disagrees with the assessor's opinion of value, they may additionally file an *Application for Changed Assessment*. This form is available at the county clerk's office and on the assessor's website.

We have no recommendation for this program.

### **California Land Conservation Act Property**

Pursuant to the California Land Conservation Act (CLCA) of 1965, agricultural preserves may be established by a city or county for the purpose of identifying areas within which the city or county will enter into agricultural preserve contracts with property owners.

Property owners who place their lands under contract agree to restrict the use of such lands to agriculture and other compatible uses; in exchange, the lands are assessed at a restricted value. Lands under contract are valued for property tax purposes by a method that is based upon agricultural income-producing ability (including income derived from compatible uses such as hunting rights and communications facilities). Although such lands must be assessed at the lowest of the restricted value, current market value, or factored base year value, the restricted value typically is the lowest.

Sections 421 through 430.5 prescribe the method of assessment for land subject to agricultural preserve contracts. Assessors' Handbook Section 521, *Assessment of Agricultural and Open-Space Properties* (AH 521), provides guidance for the appraisal of these properties.

The Mono County Board of Supervisors passed Resolution R00-79 authorizing the implementation of the California Land Conservation Act. This resolution was effective as of October 17, 2000. For the 2010-11 roll year, Mono County had 62 parcels encumbered by nine CLCA contracts, totaling approximately 13,349 acres with a total assessed value for land and improvements of \$12,478,521. Although the resolution allows for Farmland Security Zone contracts, none currently exist. Most of the agricultural property in Mono County under CLCA contract consists of pasture and grazing lands. Some lands are used for the production of alfalfa. The Mono County Board of Supervisors is no longer granting new contracts for the restricted valuation of open-space land.

All nine contracts created at the inception of the Mono County CLCA program are still active, and there have been no additions, cancellations, or nonrenewals. There also have been no changes in ownership of land subject to contract.

### **Discovery**

It is the responsibility of the assessor to discover, inventory, and value all CLCA property in the county. Although CLCA property is usually discovered by a recorded document, much of the information needed to value the property must be obtained from the property owner. Contact

with the property owner also is needed to gather ongoing information for the accurate valuation of the property. The assessor annually sends agricultural questionnaires to CLCA property owners.

## Valuation

The valuation of CLCA property in Mono County, including associated changes in ownership and new construction, is the responsibility of one real property appraiser. The county has adopted the provisions of section 423.3 and the appraiser includes the results of the section 423.3 valuation method in his comparison to determine taxable value. Section 423.3 limits the assessment of restricted land to a value no higher than a given percentage of the property's factored base year value. In determining the taxable value to enroll for CLCA property, the appraiser must make a three-way comparison between (1) current market value, (2) restricted CLCA value, and (3) factored base year value adjusted for section 423.3. The assessor is not making this comparison.

The appraiser values restricted grazing land based on the cash rent the land would most likely receive based on the land's current use. These rents vary based on the quality and production capability of the land. The gathering of good income and expense information not only aids in the appraisal of CLCA properties, but also will enable the appraiser to make more accurate appraisals of nonrestricted agricultural properties.

The appraiser utilizes a capitalization rate that includes the current interest component provided annually by the BOE, as well as components for risk and property taxes. The appraiser uses the appropriate tax rate based on the specific location of the property.

We found a few areas of the CLCA assessment program where improvements are needed.

**RECOMMENDATION 6:** Improve the valuation of CLCA properties by:  
(1) considering current market value when valuing CLCA property, (2) complying with the provisions of section 423 and Mono County Resolution R00-79 when valuing CLCA properties, and (3) deducting operating expenses from the gross income used to value restricted CLCA property.

### **Consider current market value when valuing CLCA property.**

The assessor does not consider current market value when making the three-way comparison to arrive at the taxable value of CLCA property. Section 423(d) states that the value calculated by the income method shall not exceed the lesser of the value determined under section 110 (current market value) or section 110.1 (factored base year value). To demonstrate that the comparison of the three values has been made, the assessor should also determine the current market value in order to compare all three values.

By not considering the current market value in the three-way comparison, it is difficult to ascertain whether the correct value has been enrolled.

**Comply with the provisions of section 423 and Mono County Resolution R00-79 when valuing CLCA properties.**

The assessor considers, and in some cases enrolls, the section 423.3 value for restricted land. As previously mentioned, section 423 states the value indicated by the income method shall not exceed the lesser of the section 110 (current market) or the section 110.1 (factored base year) values. Section 423.3 allows a city or county to limit assessments of CLCA land in each category to a value no higher than a given percentage of the property's factored base year value. Letter To Assessors No. 87/56 provides that in order to use section 423.3, the county must have included the provisions of section 423.3 in its original CLCA ordinance, or have passed a subsequent ordinance allowing for such.

Without the inclusion of section 423.3 language in the county's CLCA resolution, the assessor has no authority to consider the section 423.3 value indicator when arriving at the taxable value of CLCA property.

**Deduct operating expenses from the gross income used to value restricted CLCA property.**

When valuing CLCA properties, the assessor fails to consistently deduct allowable expenses from the gross income. AH 521 provides that allowed expenses should be deducted from the estimated gross economic rent in order to arrive at the net income to be capitalized. All properties, including grazing lands, will incur some expenses. Such expenses may include repair of fencing, property management, and insurance. Failure to deduct allowable expenses from gross income may lead to an over estimation of value.

***Taxable Government-Owned Property***

Article XIII, section 3 of the California Constitution exempts from property taxation any property owned by local governments, except as provided in article XIII, section 11. Section 11 provides that land, and improvements thereon, located outside a local government's or local government agency's boundaries are taxable at a restricted value if the property was taxable at the time of acquisition. Improvements that were constructed to replace improvements that were taxable when acquired are also taxable. These lands and taxable improvements are commonly referred to as taxable government-owned properties.

For the 2010-11 roll year, the assessor enrolled 187 parcels of taxable government-owned property at a total taxable value of \$263,257,420. The City of Los Angeles Department of Water and Power (LADWP) owns all of the taxable government-owned properties in Mono County.

Annually, the assessor receives a report from LADWP that lists the property the agency owns in Mono County. Upon receipt, the assessor compares the list to the one received for the previous year to check for potential changes.

We found the assessor correctly enrolls the restricted value, calculated by applying the appropriate Phillips factor to the 1967 enrolled value, for those parcels that were taxable when acquired. Improvements enrolled are annually factored. An appraiser aide annually updates the valuation spreadsheet for these assessments.

We reviewed several assessments and property records, including those with improvements and those without improvements. We reviewed assessments to verify that exempt government-owned property was treated as exempt, that nonexempt government-owned property was appropriately assessed, and that property with a zero value, regardless of ownership, was correctly given no enrolled value. Our research yielded a few areas where this assessment program needs improvement.

**RECOMMENDATION 7:** Improve the assessment of taxable government-owned property by: (1) exempting only government-owned property located within its agency's jurisdiction, (2) inventorying and documenting all taxable government-owned property, and (3) using only certified staff to value taxable government-owned property.

**Exempt only government-owned property located within its agency's jurisdiction.**

The assessor has not thoroughly reviewed government-owned property in Mono County to identify taxable parcels. We compared the tax rate areas for properties exempted from taxation by the assessor with the tax rate area chart provided to the assessor by the BOE's Tax Area Services Section, to verify whether government-owned property was sited within the agency's specified boundaries. We found several exempted parcels that were located outside the agency's jurisdiction making them potentially taxable.

Article XIII, section 11 of the California Constitution provides that real property owned by a local government situated outside the agency's boundaries is taxable if the property was taxable when acquired. The assessor should research the history of these parcels to confirm they are located outside the jurisdiction of the agency owning the parcel and that the parcels were taxable at the time of acquisition. If this is confirmed, the assessor should assess the property pursuant to section 11(a) of article XIII of the California Constitution.

**Inventory and document all taxable government-owned property.**

We found the property records for taxable government-owned property were lacking important information integral to the accurate assessment of the property. Following are examples:

- We found that for parcels reported as having improvements, the property records contained no data or insufficient data regarding the improvements. The assessor was unable to provide documentation to explain the improvement assessments other than the annual report submitted by the City of Los Angeles, where the improvements are very briefly referenced. Potential problems resulting from the property records having insufficient information or no information on the improvements include, but are not limited to, the following: the assessor has no way to validate whether the improvements are taxable; the assessor has no base year or base year value for the improvements; the assessor has no way to calculate the factored base year for purposes of comparing the factored base year value to the current market value for the enrollment of the lesser value of the improvements; the assessor has no way to develop a cost approach, an income approach, or a sales comparison approach to determine the current market value of the

improvements; the assessor is unable to confirm if the construction of the improvements were for the replacement of taxable improvements; and the assessor has no way to accurately remove improvement value, if necessary.

- We found parcels on the annual report from the City of Los Angeles where the city reported no assessable improvements, but where the assessor enrolled assessments for improvements.
- We found parcels where the City of Los Angeles reported there were possessory interests, but the assessor showed no possessory interest assessments; the assessor was unable to reconcile this inconsistency prior to the end of our fieldwork.
- We found no documentation in the property record for the water rights to explain the source of the water rights, the parcels on which the water rights exist, the base years for the water rights, the base year values for the water rights, nor the valuation analyses for the enrolled value.

From the Appraisal Institute's, *The Appraisal of Real Estate*, an appraisal is defined as the act or process of estimating value. Appraisers perform analyses and render opinions or conclusions relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate. Real estate appraisal involves selective research into appropriate market areas, the assemblage of pertinent data, the use of appropriate analytical techniques, and the application of knowledge, experience, and professional judgment to develop an appropriate solution to an appraisal problem. An appraisal record should possess all of the documentation necessary to support and validate the appraiser's estimate of value.

A comprehensive assessment program for government-owned property must include a complete inventory of all property owned by a public agency that is situated outside the agency's jurisdictional boundaries. This inventory should include details involving the land, the improvements, and the property rights pertinent to each parcel. Without this information, the assessor cannot be assured that all assessable property is being enrolled or that the assessments on the roll are appropriate. By not adequately inventorying government-owned property and documenting the appraisal records, the assessor's value conclusions, even if correct, may not be fully understood by taxpayers or other appraisers.

#### **Use only certified staff to value taxable government-owned property.**

We found an appraiser aide is performing the calculations for the assessments of the taxable government-owned property. These values are not subsequently reviewed or approved by a certified appraiser. We were unable to find a certified appraiser's initials as a reviewer or other evidence of approval on a valuation spreadsheet, an assessment system report, or in the assessment system itself. The appraiser aide is not a certified appraiser.

Section 670(a) provides, "No person shall perform the duties or exercise the authority of an appraiser for property tax purposes as an employee of the state, any county or city and county, unless they are the holder of a valid appraiser's or advanced appraiser's certificate issued by the

State Board of Equalization." For property tax purposes, Rule 281 defines an appraiser as one who renders value judgments.

The assessor's practice of using noncertified staff in the valuation process of taxable government-owned property is contrary to section 670, lacks recommended elements of oversight and review, and could lead to erroneous value conclusions.

***Taxable Possessory Interests***

A taxable possessory interest results from the possession, a right to possession, or a claim to a right to possession of publicly owned real property, in which the possession provides a private benefit to the possessor and is independent, durable, and exclusive of rights held by others. The assessment of a taxable possessory interest in tax-exempt publicly-owned property is based on the value of the rights held by the possessor; the value of the rights retained by the public owner is almost always tax exempt.

In Mono County, the assessor enrolled 709 taxable possessory interests for the 2010-11 roll year, totaling more than \$101 million. The following table shows the distribution of these assessments:

<b>TYPES OF TAXABLE POSSESSORY INTERESTS</b>	<b>NUMBER OF ASSESSMENTS</b>
United States Forest Service Cabins	247
Airport Hangars	134
Grazing Leases	54
Cable Television	1
Other	273
Total	709

The assessor assesses taxable possessory interests on both the secured and unsecured rolls. Taxable possessory interests are identified on the assessment roll by having an assessment number with an "860" prefix. The parent fee parcel is also noted on the assessor's inquiry screen for the "860" assessments. Ownership information on the parent fee parcels includes the specific local, state, or federal agency that owns the parcel, along with the mailing address and contact information.

There are no county fairgrounds or convention centers located in Mono County; therefore, the county does not have a low-value ordinance or resolution exempting taxable possessory interests with a base year value up to \$50,000 at these venues. The county does have a low-value property exemption resolution that exempts real and personal property and vessels with a value of less than \$1,000.

One real property appraiser and the auditor-appraiser are responsible for the assessment of all taxable possessory interests in the county. The real property appraiser is responsible for the assessment of taxable possessory interests in recreational cabins located on U.S. Forest Service (USFS) lands, employee-housing on USFS land and in state parks, cattle grazing on Bureau of

Land Management (BLM) lands, and for taxable possessory interests located at the airport owned by the town of Mammoth Lakes. For recreational cabins, taxable possessory interests at the airport, and grazing permits, the appraiser discovers changes in ownership through the recording process, or by telephone or email contact with the public agency.

The auditor-appraiser is responsible for all other taxable possessory interests, which include cable television, campground concessionaires, marinas located on USFS lands, and taxable possessory interests on section 11 lands. The auditor-appraiser discovers potential new taxable possessory interests from the processing of returned business property statements.

We reviewed the assessor's program for the discovery and assessment of taxable possessory interests and found several areas in need of improvement.

**RECOMMENDATION 8:** Improve the taxable possessory interest program by: (1) implementing a program for the discovery of taxable possessory interests, (2) properly calculating supplemental assessments for taxable possessory interests, (3) excluding taxable possessory interests created by month-to-month agreements from supplemental assessments in accordance with section 75.5, (4) deducting allowed expenses from gross income when valuing taxable possessory interests by the direct income approach, (5) periodically reviewing all taxable possessory interests with stated terms of possession for declines in value, (6) ensuring the value of a taxable possessory interest on taxable government-owned lands does not exceed the value limits as provided in Rule 29, (7) reappraising taxable possessory interests in compliance with section 61, (8) using the direct income method to calculate the value of a taxable possessory interest in pipeline rights-of-way on public lands, (9) using market rents when valuing taxable possessory interests, and (10) using proper methods to develop the appropriate capitalization rate when valuing taxable possessory interests.

**Implement a program for the discovery of taxable possessory interests.**

The assessor does not have a program in place for discovering new taxable possessory interests or for discovering changes to existing taxable possessory interests. The assessor does not annually contact all public agencies owning land in the county to obtain information on private users of these public lands. As mentioned previously, the assessor does have contact with some of the public agencies owning land in the county that have existing taxable possessory interests. However, the assessor is not actively seeking information regarding private uses of public lands from other public agencies owning property in the county.

We researched the Internet and found some private uses at the public airport in Mammoth Lakes that were not being assessed as taxable possessory interests. We also discovered there are seven community centers and two airports operated by the county that could potentially have private

uses that qualify as taxable possessory interests; however, without any system of discovery in place to obtain information on such uses, the assessor cannot readily confirm their existence.

Section 480.6 states that every state or local government entity that is the fee owner of real property in which one or more taxable possessory interests have been created shall annually file with the county assessor, no later than the 15<sup>th</sup> day of the first month following the month in which the lien date occurs, a real property usage report. The report shall include all of the following information:

- (1) The name and address of the fee owner of the real property.
- (2) The name and address of each holder of a possessory interest in the real property.
- (3) The types of transactions in which the holders of the possessory interests acquired those interests, whether creations, renewals, subleases, or assignments.
- (4) The description of the subject real property.
- (5) The date of each transaction in which a holder of a possessory interest in the real property acquired that interest.
- (6) The terms of each transaction described in paragraph (5), including all of the following:
  - (A) The consideration given for the possessory interest, whether paid in money or otherwise.
  - (B) The terms of the possessory interest, including any renewal or extension option.
  - (C) For any subleases, the original term and remaining term of the sublease, and the consideration paid for the master lease.
  - (D) For any assignments, the original term and remaining term of the assignment, and the consideration paid for the underlying lease.

BOE-502-P, *Possessory Interests Annual Usage Report*, satisfies all of the requirements as set forth in section 480.6.

By not having a program in place to annually contact all public agencies owning real property in the county, the assessor may be allowing assessable interests to escape assessment, resulting in a loss of revenue.

### **Properly calculate supplemental assessments for taxable possessory interests.**

We reviewed a number of taxable possessory interest appraisals made due to a change in ownership. We found the assessor correctly enrolled a base year value and issued a supplemental

assessment. However, the assessor is improperly offsetting the new base year value against the existing roll value when calculating the amount of the supplemental assessment.

Section 61(b) provides that the creation, renewal, extension, or assignment of a taxable possessory interest is a change in ownership. Section 75.11 provides that there shall be a supplemental assessment following a change in ownership or completion of new construction. According to Assessors' Handbook Section 510, *Assessment of Taxable Possessory Interests* (AH 510), when a supplemental assessment is issued due to a change in ownership, the supplemental assessment amount for the newly created taxable possessory interest should be based on its fair market value without offset for a prior value on the regular assessment roll when one taxable possessory interest is terminated during an assessment year and a second (but distinct) taxable possessory interest is created involving the same land and improvements during the same assessment year.

The assessor's failure to properly issue supplemental assessments results in a loss of revenue.

**Exclude taxable possessory interests created by month-to-month agreements from supplemental assessments in accordance with section 75.5.**

The assessor issues supplemental assessments on all taxable possessory interests, including those established by a month-to-month agreement. Employee housing located on USFS land is subject to month-to-month agreements. The assessor is assessing this use as a taxable possessory interest and assigning a reasonably anticipated term of possession of 5 years for valuation purposes. Upon creation as a taxable possessory interest, the assessor estimates the value, establishes a base year, and issues a supplemental assessment. Section 75.5(b) excludes from supplemental assessment a newly created taxable possessory interest that is established by a month-to-month agreement and has a full cash value of \$50,000 or less. The assessor's policy is contrary to statutory provisions.

**Deduct allowed expenses from gross income when valuing taxable possessory interests by the direct income approach.**

When valuing taxable possessory interests by the direct income approach, the assessor is not consistently making deductions from the gross rent for management and other operating expenses incurred by the public lessor. The assessor is making a deduction for management expense in some categories of properties, but not others.

AH 510 provides that allowed expenses paid by the public owner should be deducted from the estimated economic rent. Rule 21(e)(3)(C) provides that the income to be capitalized in the valuation of a taxable possessory interest is the "net return" (as defined in subsection (c) of Rule 8) attributable to the taxable possessory interest.

A public owner will incur at least some management expense with each taxable possessory interest. Some lease agreements may require the public owner to pay for insurance, maintenance, or utilities. By not recognizing these allowable expenses and subtracting them from the gross income to be capitalized, the assessor may be overstating the value of these taxable possessory interests.

**Periodically review all taxable possessory interests with stated terms of possession for declines in value.**

We found that, for lien dates subsequent to the establishment of the base year value, the assessor does not determine the market value of all taxable possessory interests with a stated term of possession unless taxpayers make formal requests for the assessor to review the assessed values. Instead, the assessor enrolls the factored base year value (FBYV) until the contract term of possession expires or there is a change in ownership.

Rule 21(d)(1) provides that a contract term of possession shall be deemed to be the reasonably anticipated term of possession unless there is clear and convincing evidence that the lessor and lessee anticipate a different term is appropriate through a mutual agreement or understanding. Rule 21(a)(6) defines the stated term of possession for a taxable possessory interest as the remaining period of possession as of the date specified in the lease, agreement, or permit, including any options to renew or extend the specified period of possession. Therefore, the stated term of possession declines each year, which may or may not have a material effect on the market value of the possessory interest. Thus, absent clear and convincing evidence of a mutual agreement or understanding as to a longer term of possession, the assessor must estimate the current market value of the taxable possessory interest on the lien date based on the remaining term of the contract, compare this value with the FBYV, and enroll the lower of the two values.

Although the assessor is not required to reappraise all properties each year, the assessor should develop a program to periodically review assessments of taxable possessory interests with stated terms of possession to ensure declines in value are consistently recognized. Failure to periodically review taxable possessory interests with stated terms of possession for possible declines in value may cause the assessor to overstate the taxable value of a taxable possessory interest.

**Ensure the value of a taxable possessory interest on taxable government-owned lands does not exceed the value limits as provided in Rule 29.**

Mono County has numerous parcels assessed pursuant to section 11 of article XIII of the California Constitution. Taxable government-owned (section 11) lands are owned by public entities and situated outside of the agency's jurisdiction; the lands are taxable if they were being taxed when acquired by the public entity. Even though they are being assessed and taxed under section 11 to the public entity, private uses on section 11 lands may be taxable.

We reviewed a number of assessments of taxable possessory interests on section 11 lands and found the assessor valued these interests by the direct income method. However, the assessor did not calculate the value limit for these taxable possessory interests as set forth in Rule 29 to ensure that their assessed values did not exceed the prescribed limits.

Rule 29 sets a limit on the value to be assessed to a taxable possessory interest on section 11 lands. According to AH 510, the section 11 taxable possessory interest limitation amount is the difference between the fair market value of the taxable government-owned real property on the lien date and the section 11 value of the taxable government-owned real property on the lien

date. By not calculating the value limitation amount to determine the maximum assessment of these interests, the assessor may be overassessing them.

**Reappraise taxable possessory interests in compliance with section 61.**

We found the assessor does not reappraise taxable possessory interests at the end of the anticipated term of possession used to value the taxable possessory interest. Instead, she enrolls the FBVY.

Section 61 provides that a change in ownership, as defined in section 60, includes the creation, renewal, extension, or assignment of a taxable possessory interest in tax-exempt real property for any term. Section 61(b)(2) provides that for renewals, the assessor shall, at the end of the initial term of possession used by the assessor, establish a new base year value based upon a new reasonably anticipated term of possession. By not revaluing possessory interests as provided in section 61(b)(2), the assessor has incorrectly valued these rights.

**Use the direct income method to calculate the value of a taxable possessory interest in pipeline rights-of-way on public lands.**

There are two natural gas companies that supply propane to property owners in the town of Mammoth Lakes. Each company distributes the gas through a network of pipelines located underground in land owned by the town of Mammoth Lakes. Each gas company pays the town a franchise fee to operate their distribution system. The use of these public rights-of-way constitutes a taxable possessory interest. The assessor is using the mileage rates specified under section 401.10 as the basis for the valuation of these taxable possessory interests.

Section 401.10 was enacted to specifically address the valuation and equalization of intercounty pipeline rights-of-way. The pipeline rights-of-way in question are intracounty and their valuation is not covered under section 401.10. The proper method of valuation is by the direct income method; that is, taking the franchise fee paid by the gas companies and calculating the present worth of that income stream over the anticipated term of possession. The assessor's method of valuation is contrary to statute and may be resulting in an erroneous valuation of these taxable possessory interests.

**Use market rents when valuing taxable possessory interests.**

We reviewed a number of records where the BLM had issued permits allowing private users to graze livestock on public lands. These uses constitute taxable possessory interests. Grazing permits are typically issued for a ten-year term and the grazing fee is set by the BLM. The BLM calculates its grazing fee using a 1966 base value and then adjusts that figure up or down based on current private grazing land lease rates, beef cattle prices, and the cost of livestock production. The grazing fee for 2009 was set at \$1.35 per animal unit month. BLM's use of an older base value as the starting point to calculate the grazing fee, even adjusted, results in a fee being charged that is below market. The assessor is using the grazing fee set by BLM to calculate the value of the taxable possessory interest.

Rule 21(e)(3)(C) provides that the income to be capitalized may be based on either the estimated economic rent for the subject taxable possessory interest or, if the estimated economic rent is

unreliable or unavailable, the estimated net operating income of a typical, prudent operator of the property subject to the taxable possessory interest. Information on market rents can be acquired from different sources. The assessor sends a questionnaire each year to owners of agricultural property under CLCA contract to acquire rent and expense data. Another source of information is the American Society of Farm Managers and Rural Appraisers' publication, *Trends in Agricultural Land and Lease Values*. In the 2009 publication, the indicated rent for rangeland in the north intermountain valley areas of California ranged from \$8 to \$28 per animal unit month, and grazing permits for northern Mono County cattle ranch operations had a rent range of \$12 to \$18 per animal unit month. The assessor's current practice results in the underassessment of these taxable possessory interests.

**Use proper methods to develop the appropriate capitalization rate when valuing taxable possessory interests.**

Several components are used by the assessor to develop a capitalization rate when valuing taxable possessory interests. The assessor applies either the annual open-space land interest component recommended by the BOE or a 10-year treasury yield rate, and then adds a component for risk and a component for management to develop an overall capitalization rate.

According to AH 510, and consistent with Rule 8, a capitalization rate for valuing a taxable possessory interest may be developed using any of the following methods:

- By comparing the anticipated net incomes from comparable taxable possessory interests with their sale prices stated in cash or its equivalent and adjusted as described in Rule 21(e)(1)(A).
- By comparing anticipated net incomes of comparable fee simple absolute interests in real property with their sale prices stated in cash or its equivalent, provided the comparable fee properties are not expected to produce significantly higher net incomes subsequent to the subject taxable possessory interest's term of possession than during it.
- By deriving a weighted average of capitalization rates for debt and equity capital appropriate for the subject taxable possessory interest, weighting the separate rates of debt and equity by the relative amounts of debt and equity capital expected to be used by a typical purchaser of the subject taxable possessory interest.

Also consistent with Rule 8(f), the capitalization rate should include a component for property taxes, where applicable. According to AH 510, when the landlord (lessor) is responsible for paying the property taxes, the capitalization rate should include a component for property taxes. However, if the tenant is responsible for paying the property taxes in addition to rent, the capitalization rate should not include a component for property taxes.

Using improper methodology to develop a capitalization rate when valuing taxable possessory interests may cause the assessor to apply an inappropriate capitalization rate and enroll incorrect assessments.

## **Mineral Property**

By statute and case law, mineral properties are taxable as real property. They are subject to the same laws and appraisal methodology as all real property in the state. However, there are three mineral-specific property tax rules that apply to the assessment of mineral properties. They are Rule 468, *Oil and Gas Producing Properties*, Rule 469, *Mining Properties*, and Rule 473, *Geothermal Properties*. These rules are interpretations of existing statutes and case law with respect to the assessment of mineral properties, and are specific to mineral properties only.

The value of the geothermal property in Mono County is about \$76 million. This represents a little more than 1 percent of the county's total roll value. There are no assessable petroleum properties located in Mono County.

### **Geothermal Properties**

Geothermal property mineral rights refer to the rights to explore for, develop, and produce useful geothermal energy, and the real property associated with these rights. Pursuant to Rule 473, the rights to enter in or upon the land for the purpose of exploration, development, or production of proved reserves are taxable real property interests to the extent that they individually or collectively have ascertainable value. "Proved reserves" means that quantity of geothermal energy, capable of supporting the economic life of the geothermal project(s), which geological and engineering information indicate with reasonable certainty to be recoverable in the future, taking into account reasonably projected physical and economic operating conditions.

Mono County has one major geothermal property that is divided into three plants. The Casa Diablo Geothermal Property is appraised by a mineral appraisal consultant hired by the assessor. A review of reports from this appraiser show that all three approaches to valuing property are considered and used when appropriate. The income approach is the primary method used to estimate the total current market value of the property. Some components, including improvements and fixtures, are valued separately using the cost approach, and their values are subtracted from the total property value to determine the value of the mineral rights. The appraisal reports that we reviewed show a thoughtful and detailed analysis of the California energy market and its potential effects on electricity prices received by the property.

There are no recommendations regarding geothermal property.

### **Mining Properties**

Mining property mineral rights refer to the rights to explore, develop, and produce minerals, other than oil, gas, and geothermal resources, and the real property associated with these rights. Pursuant to Rule 469, the rights to enter in or upon land for the purpose of exploration, development, or production of minerals are taxable real property interests to the extent they individually or collectively have ascertainable value. "Minerals" means organic and inorganic earth material including rock but excluding oil, gas, and geothermal resources.

There are six active mining properties located in Mono County according to United States Geological Survey data. The assessor is currently working with the operators to improve data collection for appraisals. There are no recommendations for mining property.

## Unpatented Mining Claims

Unpatented mining claims are administered under the Mining Law of 1872. In 1872, the federal government granted any citizen the right to explore, locate, and claim certain rights upon public lands. An unpatented mining claim pertains to a particular parcel of federal land for which an individual has asserted a right of possession because the land may be valuable due to a specific mineral deposit or deposits. The right is restricted to the extraction and development of a mineral deposit. Unpatented mining claims are filed with the Department of Interior Bureau of Land Management and recorded in the county in which the claim is sited. Mono County has more than 1,000 unpatented mining claims.

**RECOMMENDATION 9:** Enroll unpatented mining claims as taxable possessory interests.

The assessor does not enroll values for unpatented mining claims within the county. Although the value for most of the claims falls below the county's low-value property exemption threshold of \$1,000, many of the claims are contiguous with either one corporate owner or the same group of owners and would most likely be operated as a single property; a single appraisal unit might consist of over 600 claims. Thus, the aggregate value of grouped claims would likely exceed the value of the county's low-value property exemption threshold.

Rule 20(c)(7) provides the meaning of exclusive use, for the purposes of taxable possessory interests, to include the concurrent use of real property by people 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).

By not grouping unpatented mining claims operated as a single property and assessing them as a single unit, the county is failing to assess certain taxable possessory interests and is losing tax revenue.

## ASSESSMENT OF PERSONAL PROPERTY AND FIXTURES

The assessor's program for assessing personal property and fixtures includes the following major elements:

- Discovery and classification of taxable personal property and fixtures.
- Mailing and processing of annual property statements and questionnaires.
- Annual revaluation of taxable personal property and fixtures.
- Auditing taxpayers whose assessments are based on information provided in property statements.

In this section of the survey report, we review the assessor's programs for conducting audits, processing business property statements, valuing business equipment, as well as assessing manufactured homes, aircraft, and vessels. As of October 2010, the business property staff consisted of one auditor-appraiser.

### ***Audit Program***

A comprehensive audit program is essential to the successful administration of any tax program that relies on information supplied by taxpayers. A good audit program discourages deliberate underreporting, helps educate those property owners who unintentionally misreport, and provides the assessor with additional information to make fair and accurate assessments.

Prior to January 1, 2009, section 469 required county assessors to audit at least once every four years the books and records of any taxpayer engaged in a profession, trade, or business if the taxpayer had assessable trade fixtures and business tangible personal property valued at \$400,000 or more. These statutorily required audits are commonly referred to as mandatory audits. Additionally, a county assessor may audit the books and records of taxpayers with holdings below \$400,000 in value under the authority of section 470. These audits are referred to as nonmandatory audits. Generally, county assessors perform both mandatory and nonmandatory audits to ensure that their audit program includes a representative sample of all sizes and types of property taxpayers with personal property holdings subject to the property tax.

Effective January 1, 2009, county assessors are no longer required to audit all taxpayers with trade fixture and business tangible personal property holdings of \$400,000 or more at least once every four years. Instead, the county assessor is required to annually audit a significant number of audits as specified in section 469. The significant number of audits required is at least 75 percent of the fiscal year average of the total number of mandatory audits the assessor was required to have conducted during the 2002-03 fiscal year to the 2005-06 fiscal year, with at least 50 percent of those to be selected from a pool of those taxpayers with the largest assessments. Thus, while section 469 still mandates a certain level of audits that must be performed annually, assessors now have some flexibility in determining which accounts will comprise this mandated workload.

According to Letter To Assessors No. 2009/049, the amended statute requires the Mono County Assessor to complete two audits per year. We found for the 2009-10 roll year, the assessor

completed four audits. It appears the assessor will comply with the newly defined number of audits required by section 469.

### **Statute of Limitations**

Section 532 provides that when the assessor discovers through an audit that property has escaped assessment, an assessment of such property must be enrolled within four years after July 1 of the assessment year during which the property escaped assessment. If the assessor cannot complete an audit within the prescribed-time period, the assessor may request, pursuant to section 532.1, a waiver of the statute of limitations from the taxpayer to extend the time for making an assessment.

The assessor requests waivers of the statute of limitations when the audit introductory letter is sent each year for all scheduled audits. Waivers on record are kept with the audit package. We found them to be adequately prepared and well managed.

### **Audit Quality**

An audit should follow a standard format so that the auditor-appraiser may easily determine whether the property owner has correctly reported all taxable property. Audit narratives and summaries should include adequate documentation, full value calculations, reconciliation of the fixed assets totals to the general ledger and financial statements, review of asset invoices, reconciliation between reported and audit amounts, an analysis of expense accounts, and an analysis of depreciation and obsolescence factors that may affect the value of the business property.

We sampled several recently completed audits and found the audits were thoroughly conducted, well documented, and adequately referenced. We further found the assessor verifies leased equipment, enrolls construction in progress, accounts for supplies, and properly classifies equipment. Lastly, we reviewed the assessor's application of roll corrections to reflect audit findings. When correcting for multiple-year audit findings, the assessor properly enrolls roll corrections for each year in which the escape assessment took place pursuant to section 531. Overall, the assessor's audit program is effectively managed and we found no recommendations.

### ***Business Property Statement Program***

Section 441 requires that each person owning taxable personal property (other than a manufactured home) having an aggregate cost of \$100,000 or more to annually file a business property statement (BPS) with the assessor; other people must file a BPS if requested by the assessor. Property statements form the backbone of the business property assessment program. Several variants of the BPS address a variety of property types, including commercial, industrial, agricultural, vessels, and certificated aircraft.

The auditor-appraiser performs all of the BPS processing functions, except for date-stamping the incoming BPS. The auditor-appraiser enters into the database all changes in owner name, Doing Business As, situs, mailing address, and valuation adjustments. After the BPSs are processed and valuations are completed, the appraisal operations manager reviews all BPSs processed.

## Discovery

The assessor utilizes various tools for discovering taxable business property. Taxpayer self-reporting and periodic field canvassing are significant means of discovering assessable property. Other means of discovery utilized by the assessor include reviewing fictitious business name filings, real property appraiser referrals, city and county business licenses, and the local newspapers. We found the assessor employs acceptable methods for discovering taxable business property.

## General Statement Processing

We reviewed the use of Board-prescribed forms, taxpayer interactions, completeness of the BPSs, authorized signatures, application of penalties, and record retention. All BPSs sampled evidenced the proper usage of Board-prescribed forms. We verified the assessor's procedures for processing late and non-filed BPSs. The assessor applies a penalty as required by sections 501 and 463.

## Filing Procedures

Under section 441.5, in lieu of completing the BPS, information required of the taxpayer may be furnished to the assessor as attachments to the BPS provided that the attachments are in a format as specified by the assessor, a copy of the actual BPS is signed by the taxpayer, and carries appropriate reference to the data attached. In Mono County, the assessor allows taxpayers to submit the first page of the original signed BPS, along with any attachments.

## Direct Billing

Many California assessors utilize an assessment procedure called "direct billing" or "direct assessment." It is a method of assessing certain smaller business accounts without requiring the annual filing of a BPS. The assessor establishes an initial value and continues the value for several years with only periodic BPSs or field reviews. Examples of businesses suitable for direct billing include apartments, barber shops, beauty parlors, coin-operated laundrettes, small cafes, restaurants, and professional firms with small equipment holdings.

The direct billing program is beneficial to both taxpayers and the assessor. Direct billing streamlines filing requirements, reduces the amount of paperwork for small businesses, and reduces the number of BPSs that must be processed by the assessor.

In Mono County, the assessor plans to reinstate the direct billing program for the 2011-12 roll year. The assessor's guidelines for direct billing will include taxpayers with assets of less than \$1,000 and a history of asset stability. Taxpayers will be scheduled to receive a BPS every four years.

## Summary

Overall, the assessor's BPS processing program is effectively administered. The procedures in place are well structured and ensure that all BPSs are properly reviewed; the program is in compliance with existing law.

### **Business Equipment Valuation**

Assessors value most machinery and equipment using business property valuation factors. Some valuation factors are derived by combining price index factors with percent good factors, while other valuation factors result from valuation studies. A value indicator is obtained by multiplying a property's historical cost by an appropriate value factor.

Section 401.5 provides that the BOE shall issue information that promotes uniformity in appraisal practices and assessed values. Pursuant to that mandate, the BOE annually publishes Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factors* (AH 581).

The assessor uses the standardized assessment codes to classify business property accounts by industry type in the computer system.

#### **Application of Board-Recommended Index Factors**

The assessor has adopted the price indices recommended by the California Assessors' Association (CAA). These parallel the indices published in AH 581, with the exception of specific types of equipment (such as pagers, facsimile equipment, and high-tech medical equipment) that the CAA recommends should not be trended.

We found one area for improvement in the assessor's valuation of business equipment.

**RECOMMENDATION 10:** Use the correct commercial equipment index factor table.

The assessor incorrectly uses Table 2, *Industrial Machinery and Equipment Index Factors*, instead of Table 1, *Commercial Equipment Index Factors*, from AH 581 to value commercial equipment. General instructions and pertinent information regarding the use of Tables 1 and 2 are included in the text preceding the tables. The assessor should select which table to use by reviewing the commercial classes contained in Table 1 and the industry class descriptions for Table 2. Using the inappropriate table could result in inaccurate assessments for commercial business equipment.

### **Manufactured Homes**

A "manufactured home" is defined in Health and Safety Code section 18007, and statutes prescribing the method of assessing manufactured homes are contained in sections 5800 through 5842. A manufactured home is subject to local property taxation if sold new on or after July 1, 1980, or if its owner requests conversion from the vehicle license fee to local property taxation. Manufactured homes should be classified as personal property and enrolled on the secured roll.

For lien date January 1, 2010, the Mono County assessment roll included 252 manufactured homes in 34 mobilehome parks, with a total assessed value of \$5,552,850. Additionally, the roll included 96 manufactured homes not in parks and not situated on public land, with a total assessed value of \$1,577,025.

The responsibility for assessing these homes is assigned to the auditor-appraiser. Manufactured homes are assigned a fictitious parcel number and are enrolled on the secured roll as personal property. Before reclassifying a manufactured home that is placed on a permanent foundation from personal to real property, the assessor verifies the home qualifies as real property by confirming the final inspection on the foundation and the recordation of Department of Housing and Community Development (HCD) Form 433(A). There are no resident-owned mobilehome parks or any manufactured homes on which the owner received relief under the provisions of the Soldiers and Sailors Civil Relief Act in the county.

The auditor-appraiser uses periodic reports from HCD, dealer reports, and building permits, as well as change in ownership and preliminary change in ownership statements, to discover taxable manufactured homes. Valuations for declines in value, new construction, and changes in ownership are estimated with the use of the National Automobile Dealers Association, *Manufactured Housing Cost Guide* (NADA); sale prices are also considered. Use of NADA allows the assessor to account for potential site influence that may be reflected in the sale price. Supplemental assessments are processed in compliance with sections 75.5, 5802, and 5812.

We found one area where improvement is needed in this program.

**RECOMMENDATION 11:** Consistently review the assessments of manufactured homes on an annual basis when the enrolled value is less than the factored base year value.

The assessor does not consistently perform annual reviews for the assessments of manufactured homes in decline-in-value status. We found situations where manufactured homes in decline-in-value status were reviewed annually, while other manufactured homes were not reviewed annually, regardless of whether the manufactured home was located within a mobilehome park or located outside of a mobilehome park. When annual reviews did not occur, the values enrolled were derived in two different manners: the decline-in-value assessment from the prior year was compounded by the annual inflation factor or the decline-in-value assessment from the prior year was left unchanged.

Section 5813 provides that the taxable value of a manufactured home shall be the lesser of its base year value, compounded by the annual inflation factor, or its full cash value, as determined pursuant to section 110, as of the lien date, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, or other factors causing a decline in value. While the assessor may consider an annual review for this value comparison unnecessary, a periodic review is a responsible procedure. Additionally, section 51(e) provides that once the base year value of real property is lowered to reflect a decline in value, it must be annually reappraised until its market value once again exceeds the factored base year value.

The assessor's practice has resulted in inconsistent treatment of taxpayers; some taxpayers benefited from annual reviews where their assessed values were reduced, while others did not have the benefit of an annual review and their assessments remained flat or increased. Additionally, if the assessor does not use appropriate review procedures, namely annual reviews, for properties that have experienced declines in value, incorrect assessments may result.

## **Aircraft**

### **General Aircraft**

General aircraft are privately owned aircraft that are used for pleasure or business but that are not authorized to carry passengers, mail, or freight on a commercial basis. Section 5363 requires the assessor to determine the market value of all aircraft according to standards and guidelines prescribed by the BOE. Section 5364 requires the BOE to establish such standards. On January 10, 1997, the BOE approved the *Aircraft Bluebook-Price Digest (Bluebook)* as the primary guide for valuing aircraft with the *Vref Aircraft Value Reference (Vref)* as an alternative guide for aircraft not listed in the *Bluebook*.

In Mono County, there were 21 general aircraft with a total assessed value of \$3,105,161 for the 2010-11 roll year.

Sources of aircraft discovery used by the assessor include information from the individual aircraft owners, airport operator reports, Federal Aviation Administration reports, and referrals by assessors of other counties.

An aircraft property statement is mailed annually to the known owner of each aircraft in the county requesting aircraft information to be filed. The form requests the owner to report the year, make, model, and tail number of the aircraft, as well as installed avionics, engine air hours since last major overhaul, date of last overhaul, overall condition, air worthiness status, cost information, and transfer information if the aircraft has been sold since the last lien date. The aircraft statement is date stamped when received and forwarded to the auditor-appraiser.

The auditor-appraiser uses *Aircraft Bluebook* to calculate a market value indicator. Adjustments for sales tax, overall condition of the aircraft, additional or special equipment, airframe hours, and engine hours since last major overhaul are properly incorporated into the calculation to determine a market value estimate.

The values of newer aircraft are most affected by the presence or lack of optional equipment, while the values of older aircraft are influenced more by the condition of the aircraft. We reviewed aircraft records for valuation methodology, legal signatures, and the application of late or failure to file penalties pursuant to section 5367. We found the assessor's procedures conform to statutory provisions and guidelines set forth in the Assessors' Handbook Section 577, *Assessment of General Aircraft (AH 577)*.

### **Certificated Aircraft**

Certificated aircraft are aircraft operated by air carriers (including air taxis that are operated in scheduled air taxi operation). Unlike general aircraft, which are normally assessed at the place where they are "habitually located" on the lien date, the assessments of certificated aircraft are allocated among taxing jurisdictions based upon ground and flight time and the number of arrivals and departures during a representative period (designated by the BOE). Certificated aircraft are assessed in accordance with the methods described in section 401.17.

One commercial air carrier flies in and out of the Mammoth Yosemite Airport. For the 2010-11 roll year, the assessor enrolled a total assessed value of \$4,295,030 for this air carrier. The auditor-appraiser determines the valuation for the certificated aircraft using BPS reported costs and BOE-570-2, *Supplementary Schedule to the Business Property Statement, Air Carrier's Operation Report (Flight Equipment Value Computation)*.

### Fractionally Owned Aircraft

Fractionally owned aircraft are fleets of aircraft managed and maintained by an operating company where ownership is distributed on a fractional basis similar to a timeshare in real property. The management company handles all operating requirements of the aircraft, including availability, maintenance, billings, shareowner usage, training, and flight crews.

Pursuant to section 1161, fractionally owned aircraft are assessed on a fleet-wide basis to the manager in control of the fleet. Like certificated aircraft, fractionally owned aircraft are assessed on an allocated basis using an "allocation factor." This allocation factor is a fraction, the numerator of which is the total number of landings and departures made by the fleet type in the county during the previous calendar year, and the denominator of which is the total number of landings and departures made by the fleet type worldwide during the previous calendar year.

Section 1162 contains a provision for the appointment of a lead county assessor's office to facilitate property reporting, allocation calculations, the transmittal of allocated values to other jurisdictions where situs has been established, and provide for coordinated multi-county audits.

Mono County had six fractionally owned aircraft in the county, with an allocated value of \$1,958,668. We found the assessor is using the Board-prescribed forms BOE-571-L, *Business Property Statement*, and BOE-570-FO-2, *Supplementary Schedule to the Business Property Statement – Aircraft Value Computation*. We found the assessor accepts the allocated taxable value determined by the lead county.

### Vessels

The primary sources used for the discovery of assessable vessels include reports from the State Department of Motor Vehicles (DMV), referrals from other counties, information provided by the vessel owners themselves, certificates of documentation issued by the United States Coast Guard, harbormasters' reports, and field canvassing.

For the 2010-11 roll year, the Mono County Assessor enrolled 402 vessels, with a total assessed value of \$ 2,836,457.

The following table shows the assessor's vessel data for recent years:

ROLL YEAR	VESSELS	ASSESSED VALUE
2010-11	402	\$2,836,457
2009-10	384	\$3,046,491
2008-09	394	\$3,218,139
2007-08	310	\$2,706,345
2006-07	226	\$2,270,919

The assessor does not request marina reports because marinas and docks are removed from the water prior to January 1 of each year for the winter. Additionally, vessels are not dry docked in Mono County due to weather, but are shipped to Inyo County for storage. Consequently, Inyo County assesses these vessels as of January 1.

The assessor annually sends BOE-576-D, *Vessel Property Statement*, to all owners of assessable vessels. If an assessee does not return BOE-576-D in a timely manner or fails to file, a 10 percent penalty is added as required by section 463.

The assessor exempts vessels that have a value less than \$1,000 per the county's low-value property exemption resolution. There are no vessels with a cost greater than \$100,000. The assessor has approximately 150 vessels that are considered inventory and are not assessed per section 129.

Vessels are appraised primarily using the current year's *ABOS Marine Blue Book* (ABOS) online valuation service. The assessor uses other sources, such as National Automobile Dealers Association *Marine Appraisal Guide* (NADA) and boat manufacturers, for valuation data when values are not available through ABOS.

The review of Mono County vessel records indicates the assessor complies with all applicable rules and laws related to the assessment of vessels.

## **APPENDIXES**

### **A. County-Assessed Properties Division Survey Group**

#### ***Mono County***

##### ***Chief***

Dean Kinnee

##### ***Survey Program Director:***

Benjamin Tang

Principal Property Appraiser

##### ***Survey Team Supervisor:***

Sally Boeck

Supervising Property Appraiser

##### ***Survey Team Leader:***

Sally Boeck

Supervising Property Appraiser

##### ***Survey Team:***

James McCarthy

Senior Petroleum Mining and Appraisal Engineer

Ron Louie

Senior Specialist Property Appraiser

Andrew Austin

Associate Property Appraiser

Bryan Bagood

Associate Property Appraiser

Bob Marr

Associate Property Appraiser

Jay Price

Associate Property Appraiser

Brian Salmon

Associate Property Appraiser

Paula Montez

Associate Property Auditor-Appraiser

***B. Relevant Statutes and Regulations***

***Government Code***

**15640. Survey by board of county assessment procedures.**

- (a) The State Board of Equalization shall make surveys in each county and city and county to determine the adequacy of the procedures and practices employed by the county assessor in the valuation of property for the purposes of taxation and in the performance generally of the duties enjoined upon him or her.
- (b) The surveys shall include a review of the practices of the assessor with respect to uniformity of treatment of all classes of property to ensure that all classes are treated equitably, and that no class receives a systematic overvaluation or undervaluation as compared to other classes of property in the county or city and county.
- (c) The surveys may include a sampling of assessments from the local assessment rolls. Any sampling conducted pursuant to subdivision (b) of Section 15643 shall be sufficient in size and dispersion to insure an adequate representation therein of the several classes of property throughout the county.
- (d) In addition, the board may periodically conduct statewide surveys limited in scope to specific topics, issues, or problems requiring immediate attention.
- (e) The board's duly authorized representatives shall, for purposes of these surveys, have access to, and may make copies of, all records, public or otherwise, maintained in the office of any county assessor.
- (f) The board shall develop procedures to carry out its duties under this section after consultation with the California Assessors' Association. The board shall also provide a right to each county assessor to appeal to the board appraisals made within his or her county where differences have not been resolved before completion of a field review and shall adopt procedures to implement the appeal process.

**15641. Audit of records; appraisal data not public.**

In order to verify the information furnished to the assessor of the county, the board may audit the original books of account, wherever located, of any person owning, claiming, possessing or controlling property included in a survey conducted pursuant to this chapter when the property is of a type for which accounting records are useful sources of appraisal data.

No appraisal data relating to individual properties obtained for the purposes of any survey under this chapter shall be made public, and no state or local officer or employee thereof gaining knowledge thereof in any action taken under this chapter shall make any disclosure with respect thereto except as that may be required for the purposes of this chapter. Except as specifically provided herein, any appraisal data may be disclosed by the board to any assessor, or by the board or the assessor to the assessee of the property to which the data relate.

The board shall permit an assessee of property to inspect, at the appropriate office of the board, any information and records relating to an appraisal of his or her property, including "market data" as defined in Section 408. However, no information or records, other than "market data," which relate to the property or business affairs of a person other than the assessee shall be disclosed.

Nothing in this section shall be construed as preventing examination of that data by law enforcement agencies, grand juries, boards of supervisors, or their duly authorized agents, employees, or representatives conducting an investigation of an assessor's office pursuant to Section 25303, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine that data.

**15642. Research by board employees.**

The board shall send members of its staff to the several counties and cities and counties of the state for the purpose of conducting that research it deems essential for the completion of a survey report pursuant to Section 15640 with respect to each county and city and county. The survey report shall show the volume of assessing work to be done as measured by the various types of property to be assessed and the number of individual assessments to be made, the responsibilities devolving upon the county assessor, and the extent to which assessment practices are consistent with or differ from state law and regulations. The report may show the county assessor's requirements for maps, records, and other equipment and supplies essential to the adequate performance of his or her duties, the number and classification of personnel needed by him or her for the adequate conduct of his or her office, and the fiscal outlay required to secure for that office sufficient funds to ensure the proper performance of its duties.

**15643. When surveys to be made.**

- (a) The board shall proceed with the surveys of the assessment procedures and practices in the several counties and cities and counties as rapidly as feasible, and shall repeat or supplement each survey at least once in five years.
- (b) The surveys of the ten largest counties and cities and counties shall include a sampling of assessments on the local assessment rolls as described in Section 15640. In addition, the board shall each year, in accordance with procedures established by the board by regulation, select at random at least three of the remaining counties or cities and counties, and conduct a sample of assessments on the local assessment roll in those counties. If the board finds that a county or city and county has "significant assessment problems," as provided in Section 75.60 of the Revenue and Taxation Code, a sample of assessments will be conducted in that county or city and county in lieu of a county or city and county selected at random. The ten largest counties and cities and counties shall be determined based upon the total value of locally assessed property located in the counties and cities and counties on the lien date that falls within the calendar year of 1995 and every fifth calendar year thereafter.
- (c) The statewide surveys which are limited in scope to specific topics, issues, or problems may be conducted whenever the board determines that a need exists to conduct a survey.

(d) When requested by the legislative body or the assessor of any county or city and county to perform a survey not otherwise scheduled, the board may enter into a contract with the requesting local agency to conduct that survey. The contract may provide for a board sampling of assessments on the local roll. The amount of the contracts shall not be less than the cost to the board, and shall be subject to regulations approved by the Director of General Services.

**15644. Recommendations by board.**

The surveys shall incorporate reviews of existing assessment procedures and practices as well as recommendations for their improvement in conformity with the information developed in the surveys as to what is required to afford the most efficient assessment of property for tax purposes in the counties or cities and counties concerned.

**15645. Survey report; final survey report; assessor's report.**

(a) Upon completion of a survey of the procedures and practices of a county assessor, the board shall prepare a written survey report setting forth its findings and recommendations and transmit a copy to the assessor. In addition the board may file with the assessor a confidential report containing matters relating to personnel. Before preparing its written survey report, the board shall meet with the assessor to discuss and confer on those matters which may be included in the written survey report.

(b) Within 30 days after receiving a copy of the survey report, the assessor may file with the board a written response to the findings and recommendations in the survey report.

The board may, for good cause, extend the period for filing the response.

(c) The survey report, together with the assessor's response, if any, and the board's comments, if any, shall constitute the final survey report. The final survey report shall be issued by the board within two years after the date the board began the survey. Within a year after receiving a copy of the final survey report, and annually thereafter, no later than the date on which the initial report was issued by the board and until all issues are resolved, the assessor shall file with the board of supervisors a report, indicating the manner in which the assessor has implemented, intends to implement or the reasons for not implementing, the recommendations of the survey report, with copies of that response being sent to the Governor, the Attorney General, the State Board of Equalization, the Senate and Assembly and to the grand juries and assessment appeals boards of the counties to which they relate.

**15646. Copies of final survey reports to be filed with local officials.**

Copies of final survey reports shall be filed with the Governor, Attorney General, and with the assessors, the boards of supervisors, the grand juries and assessment appeals boards of the counties to which they relate, and to other assessors of the counties unless one of these assessors notifies the State Board of Equalization to the contrary and, on the opening day of each regular session, with the Senate and Assembly.

**Revenue and Taxation Code**

**75.60. Allocation for administration.**

(a) Notwithstanding any other provision of law, the board of supervisors of an eligible county or city and county, upon the adoption of a method identifying the actual administrative costs associated with the supplemental assessment roll, may direct the county auditor to allocate to the county or city and county, prior to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) and prior to the allocation made pursuant to Section 75.70, an amount equal to the actual administrative costs, but not to exceed 5 percent of the revenues that have been collected on or after January 1, 1987, due to the assessments under this chapter. Those revenues shall be used solely for the purpose of administration of this chapter, regardless of the date those costs are incurred.

(b) For purposes of this section:

- (1) "Actual administrative costs" includes only those direct costs for administration, data processing, collection, and appeal that are incurred by county auditors, assessors, and tax collectors. "Actual administrative costs" also includes those indirect costs for administration, data processing, collections, and appeal that are incurred by county auditors, assessors, and tax collectors and are allowed by state and federal audit standards pursuant to the A-87 Cost Allocation Program.
- (2) "Eligible county or city and county" means a county or city and county that has been certified by the State Board of Equalization as an eligible county or city and county. The State Board of Equalization shall certify a county or city and county as an eligible county or city and county only if both of the following are determined to exist:
  - (A) The average assessment level in the county or city and county is at least 95 percent of the assessment level required by statute, as determined by the board's most recent survey of that county or city and county performed pursuant to Section 15640 of the Government Code.
  - (B) For any survey of a county assessment roll for the 1996-97 fiscal year and each fiscal year thereafter, the sum of the absolute values of the differences from the statutorily required assessment level described in subparagraph (A) does not exceed 7.5 percent of the total amount of the county's or city and county's statutorily required assessed value, as determined pursuant to the board's survey described in subparagraph (A).

- (3) Each certification of a county or city and county shall be valid only until the next survey made by the board. If a county or city and county has been certified following a survey that includes a sampling of assessments, the board may continue to certify that county or city and county following a survey that does not include sampling if the board finds in the survey conducted without sampling that there are no significant assessment problems in the county or city and county. The board shall, by regulation, define "significant assessment problems" for purposes of this section, and that definition shall include objective standards to measure performance. If the board finds in the survey conducted without sampling that significant assessment problems exist, the board shall conduct a sampling of assessments in that county or city and county to determine if it is an eligible county or city and county. If a county or city and county is not certified by the board, it may request a new survey in advance of the regularly scheduled survey, provided that it agrees to pay for the cost of the survey.

### ***Title 18, California Code of Regulations***

#### **Rule 370. Random selection of counties for representative sampling.**

- (a) SURVEY CYCLE. The board shall select at random at least three counties from among all except the ten largest counties and cities and counties for a representative sampling of assessments in accordance with the procedures contained herein. Counties eligible for random selection will be distributed as equally as possible in a five-year rotation commencing with the local assessment roll for the 1997–98 fiscal year.
- (b) RANDOM SELECTION FOR ASSESSMENT SAMPLING. The three counties selected at random will be drawn from the group of counties scheduled in that year for surveys of assessment practices. The scheduled counties will be ranked according to the size of their local assessment rolls for the year prior to the sampling.
  - (1) If no county has been selected for an assessment sampling on the basis of significant assessment problems as provided in subdivision (c), the counties eligible in that year for random selection will be divided into three groups (small, medium, and large), such that each county has an equal chance of being selected. One county will be selected at random by the board from each of these groups. The board may randomly select an additional county or counties to be included in any survey cycle year. The selection will be done by lot, with a representative of the California Assessors' Association witnessing the selection process.
  - (2) If one or more counties are scheduled for an assessment sampling in that year because they were found to have significant assessment problems, the counties eligible for random selection will be divided into the same number of groups as there are counties to be randomly selected, such that each county has an equal chance of being selected. For example, if one county is to be sampled because it was found to have significant assessment problems, only two counties will then be randomly selected and the pool of eligible counties will be divided into two groups. If two counties are to be sampled because they were found to have significant assessment problems, only one county will be randomly selected and all counties eligible in that year for random selection will be pooled into one group.

- (3) Once random selection has been made, neither the counties selected for an assessment sampling nor the remaining counties in the group for that fiscal year shall again become eligible for random selection until the next fiscal year in which such counties are scheduled for an assessment practices survey, as determined by the five-year rotation. At that time, both the counties selected and the remaining counties in that group shall again be eligible for random selection.

(c) **ASSESSMENT SAMPLING OF COUNTIES WITH SIGNIFICANT ASSESSMENT PROBLEMS.** If the board finds during the course of an assessment practices survey that a county has significant assessment problems as defined in Rule 371, the board shall conduct a sampling of assessments in that county in lieu of conducting a sampling in a county selected at random.

(d) **ADDITIONAL SURVEYS.** This regulation shall not be construed to prohibit the Board from conducting additional surveys, samples, or other investigations of any county assessor's office.

**Rule 371. Significant assessment problems.**

(a) For purposes of Revenue and Taxation Code section 75.60 and Government Code section 15643, "significant assessment problems" means procedure(s) in one or more areas of an assessor's assessment operation, which alone or in combination, have been found by the Board to indicate a reasonable probability that either:

- (1) the average assessment level in the county is less than 95 percent of the assessment level required by statute; or
- (2) the sum of all the differences between the Board's appraisals and the assessor's values (without regard to whether the differences are underassessments or overassessments), expanded statistically over the assessor's entire roll, exceeds 7.5 percent of the assessment level required by statute.

(b) For purposes of this regulation, "areas of an assessor's assessment operation" means, but is not limited to, an assessor's programs for:

- (1) Uniformity of treatment for all classes of property.
- (2) Discovering and assessing newly constructed property.
- (3) Discovering and assessing real property that has undergone a change in ownership.
- (4) Conducting audits in accordance with Revenue and Taxation Code section 469.
- (5) Assessing open-space land subject to enforceable restriction, in accordance with Revenue and Taxation Code sections 421 et. seq.
- (6) Discovering and assessing taxable possessory interests in accordance with Revenue and Taxation Code sections 107 et. seq.

- (7) Discovering and assessing mineral-producing properties in accordance with Property Tax Rule 469.
  - (8) Discovering and assessing property that has suffered a decline in value.
  - (9) Reviewing, adjusting, and, if appropriate, defending assessments for which taxpayers have filed applications for reduction with the local assessment appeals board.
- (c) A finding of "significant assessment problems," as defined in this regulation, would be limited to the purposes of Revenue and Taxation Code section 75.60 and Government Code section 15643, and shall not be construed as a generalized conclusion about an assessor's practices.

## **ASSESSOR'S RESPONSE TO BOE'S FINDINGS**

Section 15645 of the Government Code provides that the assessor may file with the Board a response to the findings and recommendations in the survey report. The survey report, the assessor's response, and the BOE's comments on the assessor's response, if any, constitute the final survey report.

The Mono County Assessor's response begins on the next page. The BOE has no comments on the response.



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*JODY HENNING*  
ASSESSOR

**RECEIVED**

April 5, 2012

**APR 10 2012**

Mr. Dean Kinnee  
Chief, County-Assessed Properties Division  
California State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0064

County-Assessed Properties Division  
State Board of Equalization

Dear Mr. Kinnee:

Pursuant to section 15645(b) of the Government Code, I have prepared and included a response to the findings and recommendations contained in the March 2012 Mono County Assessment Practices Survey.

I wish to thank Sally Boeck and her team for the courteous and professional manner in which they performed their duties. I appreciate the opportunity to have them review our assessment policies and procedures bringing to light, areas needing improvement through constructive recommendations.

We have made significant improvements in the office over the past four years implementing process improvements and improving our public service to the taxpayers of Mono County. Without hard work and persistence from staff, I can't help but think the list of recommendations would have been considerably longer. Thank you all.

Sincerely,

Jody Henning  
Mono County Assessor



# OFFICE OF THE ASSESSOR COUNTY OF MONO

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**Recommendation 1:** Improve the assessment of staff-owned property by: 1) developing written procedures for the assessment of staff-owned property, and 2) ensuring that staff annually disclose their financial interest as required by section 672.

We concur and have since corrected these issues by:

- 1) Developing written procedures for staff titled "Assessment of Employee Owned Properties". Employees are asked to report their taxable real and personal property on an annual form and any activity that takes place on real or personal property within 30 days of the event. This includes change in ownership, exemptions, request for Informal Assessment Review and new construction. Most importantly, procedures now state that the Assistant Assessor is responsible for coordinating, evaluating, reviewing and certifying that assessment decisions pertaining to staff employees meet the office standards. All changes to employee-owned properties will be electronically tracked, reported and monitored. These policies will ensure that staff employees do not receive beneficial treatment by valuing each other's properties.
- 2) Having the Clerk Recorder's office request certified staff to complete and return the annual Statements of Financial Interest to her. Upon notification from the Clerk Recorders office that all statements have been completed and received the Assessor certifies to the BOE that we are in compliance with Section 672.

**Recommendation 2:** Request applicants send appeal withdrawal forms directly to the clerk of the assessment appeals board (AAB).

We concur and have amended the withdrawal form with a return address of the Clerk of the Assessment Appeals Board, Clerk Recorder's Office and have advised all staff of this policy change.

**Recommendation 3:** Apply late-filing penalties in accordance with section 270.

We concur and now have certified staff trained in processing exemption claims (except HOX) who will also apply the appropriate late-filing penalties.

**Recommendation 4:** Applying penalties for failure to file a COS in accordance with sections 482(a) and 483(b).

We concur and believe that no penalties have been necessary during this administration. But, we will provide staff with additional training. Recommendation 3 and 4 are greatly appreciated as they reflect the importance of an assessor's office having the necessary supervisor in place, including the administrative side of the office. We have made vast improvements on the operational side due to an experienced manager with 25+ years, while attempting to hire an experienced and knowledgeable Administrative Supervisor for the past 18 months to no avail at this time.

**Recommendation 5:** Use the correct version of Assessors' Handbook Section 531, *Residential Building Costs* (AH 531), for valuation of new construction.

We concur and staff now use the current electronic version of the Residential Building Costs (AH 531) rather than the paper version.

**Recommendation 6:** Improve CLCA properties by: 1) considering current market value, 2) complying with section 423 and Mono County Resolution R00-79, and 3) deducting operating expenses from gross income used to value restricted CLCA.

- 1) We concur and feel that staff enrolls the appropriate assessment each year. Staff are specialists within their areas and become familiar with the market and trends. They depend on their expertise even though there may not be hard evidence (recent sales, market data, etc.) to support the value. The Assistant Assessor is working closely with staff appraisers by offering direction, increased training and in depth conversations discussing the how's and why's of valuing CLCA properties.
- 2) We concur and are working with County Counsel to set a date to appear before the Board of Supervisors to determine whether we will amend the current resolution, R01-55a that directs CLCA assessments to be performed under section 423.3 or change the appraisal method to comply with Mono County Resolution R00-79.
- 3) We concur and will be more consistent in deducting applicable operating expenses whether it is a percentage discount to the yield rate or percentage reduction of operating expenses.

**Recommendation 7:** Improve the assessment of taxable government-owned property by: 1) exempting only government-owned property, 2) inventorying and documenting all taxable government-owned property, and 3) using only certified staff to value these properties.

- 1) We concur and have advised staff and corrected error's implemented and accepted during prior administrations.
- 2) We now have certified staff appraisers reviewing and inventorying taxable government owned properties with oversight from the Assistant Assessor.
- 3) Included in 2).

Overall, inventorying and documenting property files with characteristic and supporting documentation has been lacking in this office. Staff have been trained on "how to complete a property record" and are now required to update, document and maintain *all* property files as they cross their desks. As noted in the survey, an appraisal record should possess all of the documentation necessary to support, validate and explain an appraiser's estimate of value. Without this, value conclusions may difficult to support, explain to the property owners and staff who may also review the file.

**Recommendation 8:** Improve taxable possessory interest program by: 1) implementing a discovery program, 2) properly calculating supplemental assessments, 3) excluding month to month taxable possessory interest from supplemental assessments, 4) deducting allowed expenses when using the direct income approach, 5) periodically reviewing possessory interest with a stated term for a decline in value, 6) ensuring the value does not exceed the value limits as provided for in Rule 29, 7) reappraising in compliance with section 61, 8) using the direct income method to calculate the value on rights of way public lands, 9) using market rents, and 10) using proper methods to develop the appropriate capitalization rate.

- 1) We concur and are utilizing the BOE Usage Report with limited success. In such cases where local agencies are not cooperating (Town of Mammoth Lakes and Airport) we follow up with a letter. The current administration has made progress prior to the survey by enrolling Possessory Interests that escaped assessment and not on the tax roll such as those at the public airport (various concessions) and Town of Mammoth Lakes (employee housing and private business ventures).
- 2) We agree and appreciate the support of the BOE. We brought this incorrect process to the attention of the Auditor's office, after much discussion and receiving clarification from the BOE, they are now properly calculating supplementals.
- 3) We respectfully disagree. The month to month taxable possessory interests in Mono County primarily consist of forest service employees and usage history supports an anticipated term of 5 years. We do not concur that these properties leased on a month to month basis, yet with an anticipated term of 5 years, are exempt from supplemental assessment under section 75.5(b).
- 4) We concur. This has been an issue historically due to the poor record keeping practices (including inventory) in the office. As noted in Recommendation 7(2) staff are more diligent with record keeping allowing the ability to review on an annual basis or cyclical basis.
- 5) We concur and will do so as time allows.
- 6) We concur. This recommendation is a result of the debate between CUFFA (Cabin User Fee Fairness Act), the forest service cabin owners and what the terms of the new permit should be for the renewed contract. The USFS for Inyo and Mono counties has only now "tentatively" finalized the terms of the permit allowing us to reassess all cabins involved.

- 7) We concur. This was an unintentional error on our part and we are now using “intracounty” rather than “intercounty” rates.
- 8) We concur and staff has received additional training and assistance in assessing taxable possessory interest and using a more consistent economic rent throughout the county.
- 9) We concur and staff has received additional training and assistance in assessing taxable possessory interest.
- 10) We concur and will make every effort to use an appropriate capitalization rate given the market data available to us.

**Recommendation 9:** Enroll unpatented mining claims as taxable possessory interest.

We concur. As staff time allows, and activities that reap higher levels of revenue for the county are completed we will work towards enrolling the unpatented mining claims.

**Recommendation 10:** Use the correct commercial equipment index factor table.

We concur and this procedure has been corrected.

**Recommendation 11:** Consistently review manufactured homes on an annual basis when the enrolled value is less than the factored base year value.

We concur. All manufactured homes have been entered into the Megabyte factoring program allowing us to track the base year value as well as the current fair market value.