

1987

Kennecott Copper Corporation v. Salt Lake County : Unknown

Utah Supreme Court

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DOCKET NO.

BRIEF

870047

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May 22, 1990

FILED

MAY 24 1990

Geoffrey J. Butler, Clerk
Supreme Court of the State of Utah
State Capitol Building, Room 332
Salt Lake city, Utah 84114

Clerk, Supreme Court, Utah

Re: Salt Lake County v. Kennecott Corporation
Appeal No. 87-0047

Dear Mr. Butler:

This letter is written pursuant to the provisions of Rule 24(j) of the Rules of the Utah Supreme Court. Enclosed please find nine copies of this letter, as required by the Rule.

On March 19, 1990, the decision of the Utah Supreme Court was filed in the case of County Board of Equalization of Salt Lake County v. State Tax Commission, 103 U.A.R. 3 (1990). The case involves the issue of when property "escapes assessment", within the meaning of Utah law. On this issue, the court stated:

In this case, the initial assessment [tax notice] for 1984 had no description of the building. One having only a very general knowledge of the land would know from the fact of the assessment notice that the building had not been assessed. Therefore, the building escaped assessment, and the County is not barred from assessing and taxing the building.

Id. at 4.

At issue in this appeal is the question of whether certain developed and extracted minerals "escaped assessment". See Brief of Appellant, Point I (p. 7) and Point II (p. 11).

I have filed, in behalf of the appellant, a motion for authority to supplement the record in this matter, to include the tax notices for the year in question.

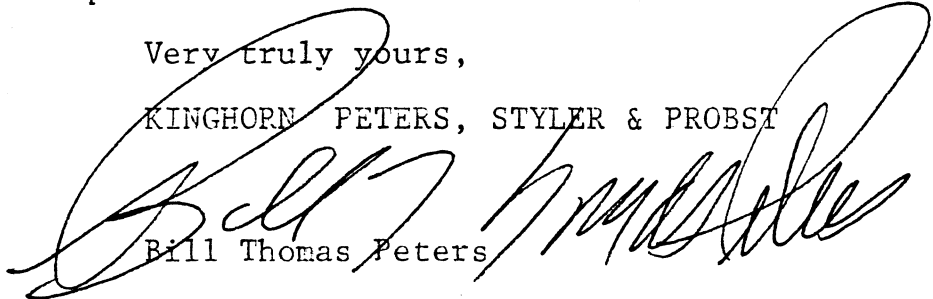
May 22, 1990
Geoffrey J. Butler
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Because the issue involved in the recently decided case bears directly on resolution of the issues in the present matter, it is appropriate for me to submit, and for the court to consider, the court's opinion in the County Board of Equalization case.

Thank you for your cooperation and assistance.

Very truly yours,

KINGHORN PETERS, STYLER & PROBST



Bill Thomas Peters

cc: James B. Lee, Esq.
Kent W. Winterholler, Esq.
Maxwell A. Miller, Esq.

ISSUE ALERT

Related issues have been raised in the following three cases, all of which are tentatively calendared for October of 1988 :

- | | | |
|------|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A160 | 870047 | Did 1981 assessment by Tax Commission pursuant to sec.59-5-57, valuing all minerals produced in place at zero, violate uniformity and equality requirements of Article XIII, secs.2 and 3 of the Utah Constitution? <u>Kennecott Copper v. Salt Lake City.</u> |
| A160 | 870047 | Do Utah Constitution and sec.59-5-17 allow retroactive assessment of produced minerals that "escaped" assessment? <u>Kennecott Copper v. Salt Lake City.</u> |
| A160 | 870047 | Did Kennecott wrongfully receive benefit of rollback under former sec.59-5-109 (held unconstitutional in <u>Rio Algam</u>) intended only for locally assessed properties? <u>Kennecott Copper v. Salt Lake City.</u> |
| A160 | 860219 | Where tax notice showed 6.607 acres, and taxpayer actually owned 9.607, were there 3 acres which had "escaped assessment" under Sec. 59-5-17 or were they merely undervalued, as found by the Tax Commission? <u>Board of Equalization v. Nupetco.</u> |
| A160 | 870261 | Is building omitted from consideration in original assessment "escaped" property within sec.59-5-17 favoring retroactive assessment or did oversight of building result in underassessment? <u>County Board v. Tax Commission.</u> |