

INTERNATIONAL INSTITUTE OF MINERALS APPRAISERS

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NEWSLETTER

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President's Update

Hello to all IIMA Members and a Happy New Year to YOU! It was a tough year for professional organizations, including the IIMA! Several of our members went down with COVID-19, including our IIMA Vice President, David Shetler. Fortunately, he is coming along, but the recovery takes time. Best wishes to David and those of you who were hit!

Some of us are already on lists for vaccination, myself included, and we just wish that we all could have that opportunity as soon as possible. Difficulties also hit us with professional meetings! No more PERSONAL, Face-to-Face meetings! I miss the monthly luncheons with a good meal and an interesting talk! And the chats with our peers, catching up on professional and business matters (as well as with gold and oil & gas price forecasts!!).

There was a time, when I did not know the meaning of the word "virtual." Now, I have a new mike, a cleaned-off wall behind me, my hair (what's left) trimmed, and a practiced smile. It is actually warming to see my peers, at least until my face grows stiff and I have to click off the video for a spell.

In that connection, it my duty to announce the virtual IIMA Annual General Meeting. It will be at NOON, Mountain Standard Time, on Tuesday, February 23. We trust that our Past President, Tim Knobloch, can provide his usual platform here, a year down the virtual road. Also, our Secretary, Darwin

Werthessen, will forward the Agenda for our Annual General Meeting to all parties.

Unfortunately, we will miss the Social Evening with all the goodies provided in earlier years by our generous Sponsors! Maybe next year?? We hope! There is current thinking going on, if we should try a Mentor-Mentee Session around that date. The Committee Chair (also Darwin) will let us know.

Finally, we are still working on getting the presentations, originally offered for the SME Annual Conference, aired. A few were selected for the much-reduced virtual SME Meeting, and a couple have been scheduled for an upcoming IMVAL (International Mineral Valuation Committee) virtual meeting later in the Spring. More later about that. In the meantime, and while waiting for the vaccine, I invite all of our IIMA members to think of new ways to keep our Institute alive and well. Have a healthy and prosperous New Year!

John Gustavson, President

Registration is OPEN for the SME/IIMA 2021 Meeting

Online registration is now **open** for the virtual SME/IIMA meeting taking place on Tuesday, March 2, 2021. The IIMA presentation times are being

finalized by SME meeting coordinators. **Details of how to connect digitally, and the day's schedule will go out to IIMA members immediately when more information is released.**

Registration: www.smeannualconference.com
(Early Bird rate expires on January 22, 2021)

2021 IIMA/SME CONFERENCE ABSTRACTS

Utilizing oil and gas appraisal methods in legal disputes; translating theory into practice

Josh Hickman; Hickman Geological Consulting
Canonsburg, PA

The utilization of oil and gas appraisals are both passive and active. In the passive use, an appraisal is used in tax, estate planning, or establishing pricing for the sale of a property. In the active sense, the appraisal is used in a legal dispute and the author is often called on to be an expert witness. In this function, the author must both present an argument for the appraisal method and value while providing counsel with a rebuttal report against the opposing appraisal. This presentation will discuss how to develop an appraisal that is defensible, highlight common traps to avoid, and how to unlock deficiencies in the opposing report. Some time will also be given to appropriate appraisal strategies for different situations, verbiage to avoid, and survival advice for the expert witness stand.

Evaluating the HBU "Financially Feasible" Component for the Undeveloped Mineral Interest

James M. Beck, PE
Denver, CO

The highest and best use (HBU) determination for undeveloped mineral-bearing properties is often made on the basis of a non-supportable and speculative "demonstration" of financial feasibility. The mere presence of a mineral deposit does not equate to a viable mining venture. Yet, to some appraisers, it is axiomatic that virtually all mineral deposits, irrespective of deposit definition, marketability, or pragmatic development potential, be "demonstrated" as financially feasible to develop,

leading to an inherently-biased determination of "mining" as the HBU. Numerous pitfalls are encountered along the road to defining, justifying, and developing a mineral property into a viable mining venture. While USPAP does not formally define "financially feasible", there is other industry-accepted guidance that should be relied upon. Non-recognition of industry-accepted guidance often leads to incorrect identification of the subject of the appraisal (i.e., project value instead of value of the mineral-in-place), which in turn may be indicative of a need for the appraiser to objectively revisit the "physically possible" component of HBU, in order to enhance the reliability of the report

Update to Trends in Gold Property Transaction Values 2012 – 2020

Grant Malensek, SLR
Lakewood, CO

RPA has updated its study on market transactions globally from 2012 to 2020 on gold properties containing mineral resources and mineral reserves. The property values derived from the transactions have been normalized in terms of \$/oz contained gold or gold equivalent where gold is the dominant component. Trends in \$/oz values are examined since 2012 for producing and non-producing properties and updated to include 2020, which continues to see a large spike in gold prices. This presentation will provide potential causes of variances in \$/oz values, such as political jurisdiction, location and infrastructure, size and grade of deposit, and classification of resource/reserve.

Contemplations of a Crazy Year!

Wow, 2020 is a year we will never forget. Do you have thoughts or a special mineral appraisal story from 2020? Send your tale to be included in the next newsletter.

My consulting business, "Forgedale," has been an ongoing business since 2005. Some years are great (like 2019), and some years are still good (like this year). Like the tag line in the TV show "Pawn Stars," you never know what is going to come through that door (or email.). Sometimes litigation support, sometimes an appraisal, sometimes a

reserve study. This year was the first time that a social worker called me because an elderly person outlived their income and had to sell their oil and gas interests in order to qualify for Medicaid.

One of the great things about IIMA is the people who are part of the organization and what you learn while working together. I collaborated on a project with Darwin Werthessen for the heirs who had NPRIs in Sweetwater County, Wyoming.

-Betsy Suppes, CMA
Johnstown, PA

Add inspection status to Scope of Work

by John Gustavson

Rationale explained by the Appraisal Standards Board:

The major change [to 2022-23 USPAP] being proposed is to expand the scope of work reporting in STANDARDS 2, 4, 6, and 8 so that appraisers are required to disclose whether or not an inspection was performed. Additional requirements would be to provide information about the date(s), type, and extent of inspection and the party or parties who performed it. This potential change includes a corresponding update to the language of the Certification requirements in the standards rules and a corresponding revision that simplifies the definition of Inspection.

The reason for these proposed changes is that the current binary wording of *I have* (or *I have not*) conducted a personal inspection has become complicated in ways that could not have been envisioned by the original authors of USPAP. Some of the complexity stems from new developments such as the use of third-party inspectors, unmanned aerial devices, and video inspections. Appraisers are increasingly uncertain about what qualifies as a Personal Inspection.

The proposed new wording of the Certification is intended to help resolve uncertainty and enhance

public trust in appraisal practice through disclosure of more information about inspections.

An example of the proposed language is shown here:
Standards Rule 2-2(a)(viii)

(viii) summarize the scope of work used to develop the appraisal, including but not limited to, indicating whether or not the property that is the subject of the appraisal was inspected;

- **and, if so, state the date(s), type, and extent of the inspection and state the party or parties who conducted the inspection;**

Comment: Summarizing the scope of work includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

IIMA comments: It is not difficult to add that item to our Scope of Work, because it is already required as part of the appraiser's Certificate. However, the new requirement doubles the risk for a *minerals* appraiser to get caught in the wringer. Reason: minerals are usually real estate (except after having been produced, when held in tanks, or in inventory stockpiles as personal property); but almost always impossible to inspect due to deep burial in the deposit!

It may suffice to mention this fact when disclosing "research and analyses **not** performed". In addition, an inspection of production facilities (shafts, hoists, wells, etc.) may or may not be included. You might use the same thinking used for your tax return deductions: If in doubt, *include* it!

In any case, starting in 2022 we must handle *inspection* also under Scope of Work.

Landmark Corner

In this newsletter section we attempt to dust-off and renew those case decisions that have markedly influenced minerals appraisal. We also share opinions of our own minerals appraisers, many from IIMA archived papers and presentations.

**“I ain’t no lawyer!
This ain’t Legal Advice!”**

-Michael Cartwright

Tips for researching case history:

- Individual case opinions are generally related to some more or less specific set of facts concerning the appraisal issue.
- It seems that there are almost always contradictory opinions about apparently similar valuation issues.
- Mineral property valuation is only a small subset of overall real property appraisal.
- Don’t just research “mineral-related” valuation case decisions.
- Mineral property valuation issues and methods are directly analogous to more typical commercial and industrial properties.
- Remember that real estate, the dirt, is not the same thing as real property, the bundle of rights. Dirt may have value but not without the rights to use it.

Case Summary

Foster v. United States, 2 Cl.Ct. 426 (1983)

April 7, 1983

Procedural Posture

On remand to determine damages and value of plaintiffs' leasehold interest, which was the entire mineral interest in the right to extract and remove dolomite from a specific site, and was taken by defendant United States, to determine liability for a permanent taking of plaintiffs' property.

Overview

Defendant United States was found liable for a permanent taking of plaintiff lessees' property, represented by the right to extract and remove dolomite rock from two deposits. The case was remanded to value the property interest that was taken from plaintiffs' leasehold interest, termed "operator's interest" or "working interest." The claims court held: what was to be valued was the amount plaintiffs were entitled to receive as just compensation for the operator's interest in a 10-year lease with the right to extract dolomite for use as riprap from the deposits; value of the deposits

primarily was for production of riprap, including derrick stone, and stone for various construction purposes, including use as aggregate in concrete, but deposits did not have any value for production of dolomite commercially for agricultural or pharmaceutical purposes, or for any of dolomite's secondary usages; and value of plaintiffs' leasehold interest was \$ 28,000

Outcome

Plaintiffs lessees were entitled to \$ 28,000 from defendant United States for just compensation for operator's interest in lease with the right to extract dolomite for riprap from deposits where plaintiffs' calculations employing capitalization of income approach were deficient and plaintiffs did not show any knowledgeable purchaser would have paid more.

Mineral Appraisal Connection

- Establishes that the value of a leased property must consider the value of both the landowner’s interest (lessor/royalty) and the operator’s interest (lessee). Useful... primarily in situations where some people insist that mining claims and/or minerals are not real property.
- “The value placed on an operator’s interest is not compensation for lost business profits; it is compensation for taking of an interest in real property.”
- as appraisers we need to be certain about what it is we are valuing: the entire property or just some portion of it or the entire business enterprise.

*-Valuation Case Opinions
SME/AIMA 2010 Phoenix
Michael Cartwright*

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Special thanks to the contributions made. The strength of the IIMA organization is through the commitment, education, and contributions of its members. We are always looking for

articles to enhance our profession and welcome any material that members may provide.

All articles are contributed on a volunteer basis. The views and opinions expressed in any and all articles are those of the authors and do not necessarily reflect those of IIMA or your Newsletter Editor. If any IIMA member would like to professionally add-on to, rebut, or clarify any articles, I will feature such articles in the following newsletter. Thank you!



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