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BEFORE THE
INDIANA BOARD OF TAX REVIEW

TUBE CITY IMS, LLC,)	
)	Petition Nos. 45-001-10-1-7-00001
Petitioner,)	45-001-10-1-7-00002
)	
vs.)	Parcel Nos. 25-328669
)	25-704980
)	
LAKE COUNTY ASSESSOR,)	Lake County
)	
Respondent.)	Calumet Township
)	2010 Assessment

Appeal from the Final Determination of the
Lake County Property Tax Assessment Board of Appeals

June 28, 2012

FINAL DETERMINATION, FINDINGS AND CONCLUSIONS

The Indiana Board of Tax Review (the Board) issues this determination in the above matter. It finds and concludes as follows:

THE ISSUE

1. The assessed value of business personal property is determined, in part, by the depreciation pool into which it is placed. Does Tube City IMS, LLC's ("TCIMS") equipment located at the U.S. Steel ("USS" "or U.S. Steel") facility commonly known as the "Gary Works" qualify for the favorable depreciation in "Pool 5" under Ind. Code § 6-1.1-3-23?

THE STATUTE

2. The most relevant statutory provisions are as follows:

Ind. Code § 6-1.1-3-23

(a) In enacting this section, the general assembly finds the following:

(1) The economy of northern Indiana has historically been heavily dependent upon:

(A) the domestic steel industry, particularly the integrated steel mill business, which produces steel from basic raw materials through blast furnace and related operations; and

(B) the oil refining and petrochemical industry.

(2) Northern Indiana is the only area of Indiana with integrated steelmaking facilities.

(3) During the last thirty (30) years, the domestic steel industry has experienced significant financial difficulties. More than one-half (1/2) of the integrated steel mills in the United States were shut down or deintegrated, with the remainder requiring significant investment and the addition of new processes to make the facilities economically competitive with newer foreign and domestic steelmaking facilities and processes.

(5) Given the economic conditions affecting older integrated steelmaking facilities, integrated steel mills claimed abnormal obsolescence in reporting the assessed value of equipment located at the integrated steelmaking facilities that began operations before 1970, thereby reporting the equipment's assessed value at far below thirty percent (30%) of the equipment's total cost (far below the "thirty percent (30%) floor" value generally applicable to equipment exhibiting only normal obsolescence under the current department of local government finance rules).

(6) Current law existing before January 1, 2003, obligates the taxpayers making abnormal obsolescence claims to pay personal property taxes based only on, and permits communities to determine property tax budgets and rates based only on, the reported personal property assessed values until the personal property appeals are resolved. Consequently, as a result of abnormal obsolescence claims, the property tax base of communities in northern Indiana is severely reduced for an indeterminate period (if not permanently). The prospect of

future appeals and their attendant problems on an ongoing basis must be addressed.

(7) A new, optional method for valuing the equipment of integrated steel mills ... in northern Indiana is needed. That optional method:

(A) recognizes the loss of value and difficulty in valuing equipment at integrated steelmaking facilities ... that commenced operations decades ago ...;

(B) recognizes that depreciable personal property used in integrated steelmaking ... is affected by different economic and market forces than depreciable personal property used in other industries and certain other segments of the steel industry and therefore experiences different amounts of obsolescence and depreciation; and

(C) can be used to simply and efficiently arrive at a value commensurate with that property's age, use, obsolescence, and market circumstances instead of the current method and its potentially contentious and lengthy appeals. Such an optional method would benefit the communities where these older facilities are located.

(8) Such an optional method would be to authorize a fifth pool in the depreciation schedule for valuing the equipment of integrated steel mills, related entities, and the oil refining and petrochemical industry that reflects all adjustments to the value of that equipment for depreciation and obsolescence, including abnormal obsolescence, which precludes any taxpayer electing such a method from taking any other obsolescence adjustment for the equipment, and which applies only at the election of the taxpayer.

(9) The purpose for authorizing the Pool 5 method is to provide a more simplified and efficient method for valuing the equipment of integrated steel mills and the oil refining and petrochemical industry that recognizes the loss of value and unusual problems associated with the valuation of the equipment or facilities that began operations before 1970 in those industries in northern Indiana, as well as for valuing the equipment of related entities, to stabilize local property tax revenue by eliminating the need for abnormal obsolescence claims, and to encourage those industries to continue to invest in northern Indiana, thereby contributing to the economic life and well-being of communities in northern Indiana, the residents of northern Indiana, and Indiana generally.

(10) The specific circumstances described in this section do not exist throughout the rest of Indiana.

(b) For purposes of this section:

(3) "integrated steel mill" means a person, including a subsidiary of a corporation, that produces steel by processing iron ore and other raw materials in a blast furnace in Indiana;

(6) "pool" refers to a pool established in 50 IAC 4.2-4-5(a) (as in effect on January 1, 2003);

(7) "special integrated steel mill or oil refinery/petrochemical equipment" means depreciable personal property, other than special tools and permanently retired depreciable personal property:

(A) that:

(i) is owned, leased, or used by an integrated steel mill or an entity that is at least fifty percent (50%) owned by an affiliate of an integrated steel mill; and

(ii) falls within Asset Class 33.4 as set forth in IRS Rev. Proc. 87-56, 1987-2, C.B. 647; or

(B) that:

(i) is owned, leased, or used as an integrated part of an oil refinery/petrochemical company or its affiliate; and

(ii) falls within Asset Class 13.3 or 28.0 as set forth in IRS Rev. Proc. 87-56, 1987-2, C.B. 647;

(c) Notwithstanding 50 IAC 4.2-4-4, 50 IAC 4.2-4-6, and 50 IAC 4.2-4-7, a taxpayer may elect to calculate the true tax value of the taxpayer's special integrated steel mill or oil refinery/petrochemical equipment by multiplying the adjusted cost of that equipment by the percentage set forth in the following table: [table omitted].

(d) The department of local government finance shall designate the table under subsection (c) as "Pool No. 5" on the business personal property tax return.

(e) The percentage factors in the table under subsection (c) automatically reflect all adjustments for depreciation and obsolescence, including abnormal obsolescence, for special integrated steel mill or oil refinery/petrochemical equipment.

PROCEDURAL HISTORY

3. For the 2010 assessment, TCIMS timely filed two personal property returns and elected to report certain of its property in the Pool 5 depreciation schedule. *Transcript of Board Hearing held January 11-13, 2012 (“Tr.”) 39:4–10; 50:12–25; Exhibits TCIMS–1 and TCIMS–2.*
4. One return is for “Location 544,” which is a location number that TCIMS assigned to the property engaged in mill services. *Tr. 38:11–17; Exhibit TCIMS–1.* The Location 544 return reported a total adjusted cost for all depreciation pools of [REDACTED NUMBER]. This figure included Pool 5 assets having a total adjusted cost of [REDACTED NUMBER]. *Tr. 46:18–48:14; Exhibit TCIMS–1 (Line 56 of Form 103, Schedule A) (Line 10 of Form 103–P5).*¹ TCIMS reported a true tax value for Location 544 of \$8,546,669. *Exhibit TCIMS–1, page 1.* The Calumet Township Assessor and the PTABOA rejected the use of Pool 5 and thereby increased the Location 544 assessment to \$11,130,240. *See Exhibits TCIMS–8 and 9.* TCIMS appealed.²
5. The other return is for “Location 240,” which is a location number that TCIMS assigned to the property at the scrap yard. *Tr. 37:16–38:22; Exhibit TCIMS–2.* The Location 240 return reported a total adjusted cost for all depreciation pools of [REDACTED NUMBER]. This figure included Pool 5 assets having a total adjusted cost of [REDACTED NUMBER]. *Tr. 50:13–53:9; Exhibit TCIMS–2 (Line 56 of Form 103, Schedule A) (Line 10 of Form 103–P5).*³ TCIMS reported a true tax value for Location 240 of \$3,398,778. *Exhibit TCIMS–2, page 1.* The Calumet Township Assessor and the PTABOA rejected the use of the Pool 5 and thereby increased the Location 240 assessment to \$4,493,340. *See Exhibit TCIMS–10* (containing a typographical error on the first page because the PTABOA intended the personal property assessed value to be \$4,493,340); *Tr. 74:10–76:1; Exhibit TCIMS–7.* TCIMS appealed.⁴

¹ Exhibit TCIMS–5 is a detailed listing of all the assets that were reported on Exhibit TCIMS–1. *Tr. 46:18–47:5.* The detailed asset listing includes both those assets that TCIMS reported in Pool 5 and those assets that TCIMS reported in other depreciation pools. *Tr. 48:7–49:7.* As shown by Exhibit TCIMS–5, the cost of Pool 5 assets totals [REDACTED NUMBER], which matches the amount reported in the return. *Tr. 47:18–48:14.*

² The personal property at Location 544 was reported under parcel number 25-328669. *See Exhibit TCIMS–9.*

³ Exhibit TCIMS–2 contains a detailed listing of all the assets that were reported on the return for Location 240, which listing consists of 8 pages immediately following the Form 103–P5. *Tr. 50:13–53:9.* The detailed asset listing includes both those assets that TCIMS reported in Pool 5 and those assets that TCIMS reported in other depreciation pools. *Tr. 51:20–54:2.*

⁴ The personal property at Location 240 was reported under parcel number 25-704980. *See Exhibit TCIMS–10* (containing a typographical error on the first page because the PTABOA intended the personal property assessed value to be \$4,493,340); *Tr. 74:10–76:1; Exhibit TCIMS–7.*

6. TCIMS did not report all of its equipment as falling in Pool 5. It reported furniture, fixtures and computers in Pool 1. Some maintenance items and other equipment were reported in Pool 2 or Pool 3. *Tr. 49:4–14; 53:21–54:2; Exhibits TCIMS–1, 2 and 5.* The equipment TCIMS reported as subject to the Pool 5 depreciation schedule will be referred to herein as the “Equipment.”
7. The parties stipulated that USS, as it operates in Calumet Township in Lake County, Indiana at the Gary Works Facility, “is an ‘integrated steel mill’ as that term is defined in Indiana Code § 6-1.1-3-23(b)(3).” *Stipulation of Facts, submitted January 11, 2012.* In other words, USS produces steel at Gary Works by processing iron ore and other raw materials in a blast furnace. All of the Equipment is located at Gary Works. *Exhibit TCIMS–4, paragraph 3; Tr. 296:1–297:6; 298:6–299:3; 56:10–59:11.* The parties also stipulated that “Respondent will not contest whether the Equipment falls within Asset Class 33.4 as set forth in IRS Rev. Proc. 87-56, 1987-2, C.B. 647.” *Stipulation of Facts, submitted January 11, 2012.*⁵
8. The Board conducted a hearing on these petitions on January 11 through January 13, 2012. Senior Administrative Law Judge Ted Holaday presided at the hearing.
9. At the hearing Ms. Judith Hamric and Mr. Perry VanRosendale were sworn as witnesses and presented testimony for TCIMS. Mr. Thomas Katsahnias was sworn and presented testimony for the Assessor.
10. In addition, the parties each identified and submitted exhibits at the hearing. Lists of those exhibits are included as appendices to these findings and conclusions. *See TCIMS Exhibits (Appendix A) and Lake County Assessor Exhibits (Appendix B).* Exhibits highlighted in bold were admitted into evidence. The remaining exhibits were identified, but were not admitted into evidence.
11. TCIMS contends that parcel 25-328669 should be assessed at \$8,546,669 and parcel 25-704980 should be assessed at \$3,398,778 (by using Pool 5 for the Equipment).
12. The Assessor contends that parcel 25-328669 should be assessed at \$11,130,240 and parcel 25-704980 should be assessed at \$4,493,340 (not using Pool 5).

⁵ Asset Class 33.4 is “Manufacture of Primary Steel Mill Products.” It includes assets used in the smelting, reduction, and refining of iron and steel from ore, pig, or scrap; the rolling, drawing and alloying of steel; the manufacture of nails, spikes, structural shapes, tubing, wire, and cable. It includes assets used by steel service centers, ferrous metal forges, and assets used in coke production, regardless of ownership. It also includes related land improvements and all special tools used in the above activities.

FACTS

13. TCIMS's involvement in USS's steel production process begins with the procurement of scrap metal—a necessary raw material for steel production. *Tr. 124:5–17; 293:3–9*. Scrap is a necessary component of the integrated steel production process because when liquid iron and oxygen are combined, the reaction is extremely exothermic, and without scrap the resulting heat would melt the vessel in which the steel is being made. *Tr. 126:12–127:10*. See also *Tr. 384:2–14 (Katsahnias testimony)*. Scrap is used to achieve the proper thermal balance; to cool down the reaction so that the vessel does not melt. *Tr. 126:12–127:10*.
14. TCIMS identifies sources of scrap and arranges scrap shipments to Gary Works, and organizes the transaction. *Tr. 124:5–125:16*. For the vast majority of scrap purchased, TCIMS acts as an agent for USS on USS's behalf and in USS's best interests, and payment for the scrap is made directly from USS to the third-party supplier of scrap upon delivery to Gary Works. *Tr. 125:7–16; 134:3–10; Exhibit TCIMS–17, page TCIMS000704 (section 4(A))* (providing that TCIMS “shall perform scrap purchasing... for USS for... Gary Works in Gary, Indiana”); *page TCIMS000780–81 (section I(a)(7))* (“TCIMS, on an exclusive basis, shall represent USS in the buying of ferrous scrap [...] TCIMS shall at all times conduct itself in an ethical manner and shall make all recommendations and decisions in the best interest of USS.”).⁶
15. TCIMS brings expertise to the steel procurement process through its scrap optimizer system, which identifies the lowest-cost mix of various types of scrap that are needed in order for USS to produce a heat (also called a batch) of steel that achieves the specific chemistry necessary for USS's specific customer (the end user of the steel). *Tr. 126:1–128:14*. Each month, personnel from TCIMS and USS meet to discuss a “buy plan,” in which USS tells TCIMS what USS intends to produce in the following month. *Tr. 128:3–129:2*. From there, TCIMS uses proprietary software—its scrap optimizer system—to assemble offers from scrap suppliers and calculate the optimal price for the right type and volume of scrap to purchase in order to meet USS's needs. *Id.* USS reviews and approves the scrap purchases proposed by TCIMS. *Id.*
16. TCIMS occupies and leases approximately 45 acres inside of Gary Works where TCIMS's Equipment is used to process all of USS's scrap at Gary Works. *Tr. 129:13–130:10; 154:17–156:9; Exhibit TCIMS–11 (at 22 seconds); Tr. 189:1–13; Exhibit TCIMS–12A (sticker A); Tr. 190:10–17; Exhibit TCIMS–13*. USS owns all of the scrap at Gary Works. *Tr. 156:4–9*. TCIMS's Equipment at Gary

⁶ With respect to approximately 5% of the annual volume of scrap delivered to Gary Works, TCIMS acts as a broker in purchasing scrap from third party suppliers, which TCIMS then sells to USS. *Exhibit LC–15, page 5*.

- Works is dedicated entirely to servicing the Gary Works facility. *Tr. 155:4–156:9.*
17. TCIMS's Equipment processes approximately 150,000 tons of scrap per month. *Tr. 130:17–131:2.* When scrap is shipped to Gary Works, either by truck or by railroad car, TCIMS weighs all incoming scrap on its scales. *Tr. 225:12–18.* TCIMS also uses a captive locomotive to receive railroad cars of scrap from outside Gary Works and transport that scrap within the scrapyards. *Tr. 230:2–10.*
 18. The majority of scrap is produced internally by USS. *Tr. 130:17–131:2.* USS has many finishing mills that make products such as galvanized steel and car fenders, and these processes result in some items that are not shipped or further used, so those items are returned to the scrap yard to be recycled into the steel-making process. *Tr. 129:22–130:10; 203:24–204:22; Exhibit TCIMS–12A (purple circle).* TCIMS has approximately 70 large boxes in approximately 50 locations throughout Gary Works to collect these scrap pieces. TCIMS owns scrap hauling vehicles (Kress haulers) used to move the scrap back to the scrap yard where it is processed and sorted for use in USS's production process. *Tr. 131:3–132:8; 134:17–21; 204:19–205:12; 269:14–270:9; Exhibit TCIMS–12A (purple circle and sticker A).* The volume of scrap generated at the finishing mills requires TCIMS's equipment to operate daily on a 24-hour basis to collect and move scrap back to the scrap yard. *Tr. 131:3–132:8.* TCIMS is the only entity that moves scrap at Gary Works. *Tr. 205:13–15.*
 19. TCIMS's Equipment inspects, tests, sorts and segregates the scrap material by grade and by chemistry of the metal. The chemistry can be determined with a spectrometer. *Tr. 156:15–157:6; 191:9–17; 193:4–23; Exhibit TCIMS–14.* TCIMS's spectrometers allow TCIMS to comply with USS's specifications for a heat of steel. Those specifications require a particular chemistry that is affected by the elemental makeup of the scrap being added to the heat. *Tr. 231:14–232:19.* Also, TCIMS's radiation detectors are used to prevent any radioactive scrap material from entering Gary Works or from being used in the steel production process. *Tr. 240:23–242:17.*
 20. TCIMS's Equipment includes “charge boxes,” which are large rectangular bins used to hold scrap that has been prepared to dump into a furnace. *Tr. 134:22–135:16; 172:3–173:7; Exhibit TCIMS–11 (at 3 min. 32 seconds); Tr. 273:16–19; 273:25–274:3.* The charge boxes were custom-built to support USS's steel production operations at Gary Works. *Tr. 172:3–173:7.* While a charge box is being loaded, it sits on one of six scales owned by TCIMS in the scrap yard. *Tr. 134:22–135:16; 172:3–25; 190:10–191:5; Exhibit TCIMS–13.* The scales were also designed specifically to accommodate USS's steel production operations at Gary Works. *Tr. 235:2–21.* TCIMS loads the charge box with the mix of scrap required by USS specifications that is needed to produce the desired batch of

steel. *Tr. 134:22–135:16; 172:3–25; 190:10–191:5; 193:4–194:6; Exhibit TCIMS–14.*

21. TCIMS's cranes, front-end loaders and dump trucks are used to load scrap into the charge boxes, load it into the balers, move and separate scrap into piles, or lay it out on the “burning beds” where it is cut by hand torches. *Tr. 157:10–158:19; Exhibit TCIMS–11 (at 29–30 seconds); Tr. 236:6–17; 237:13–23; 238:7–16.* TCIMS has hand torches (and accompanying oxygen lines and regulators) that cut scrap into right size pieces, using oxygen and gas supplied by USS. *Tr. 158:11–19; 159:19–20; 225:23–226:8; 227:20–228:2; 154:19–155:9; Exhibit TCIMS–11 (at 22 seconds).* TCIMS also has two balers that are used for taking loose scrap and making it more dense or compacting that scrap into a form that can be recycled back into a charge box. *Tr. 190:10–191:17; 224:3–8; Exhibit TCIMS–13.* TCIMS is “efficient, effective and produce[s] the steel bundles that [are] excellent for the steelmaking process.” *Tr. 396:11–21 (Katsahnias testimony).*
22. When USS is ready for the scrap, TCIMS's Kress haulers are used to transport charge boxes from the scrap yard to one of two steelmaking shops (also called BOF⁷ shops), where USS takes the charge boxes and dumps the scrap into a furnace, along with liquid iron from the blast furnace,⁸ and injects oxygen to produce a batch of steel. *Tr. 134:22–135:16; 172:3–173:7; Exhibit TCIMS–11 (at 3 min. 32 seconds); Tr. 191:18–193:1; Exhibit TCIMS–12A (stickers B1 and B2); 193:4–194:6; Exhibit TCIMS–14; Tr. 273:16–19; Exhibit LC–14, page 8.* The Kress haulers are customized to fit the dimensions of the charge box, the box’s supporting pallet, and to support the approximately 300,000 pound load being transported. *Tr. 172:3–173:23.* The pallets that the charge boxes sit on were custom designed to support USS's steel production operations at Gary Works. *Tr. 172:3–173:23; 271:6–11.*
23. TCIMS also provides necessary metal recovery services to USS. *Tr. 135:16–17.* Both the liquid iron and the resulting liquid steel (after the liquid iron is combined with scrap and lime in the furnace) have impurities that float to the top of the liquid. *Tr. 135:16–137:10.* These impurities, known as slag, are skimmed off the top of the liquid and dumped into slag pots owned by USS. *Id.; Tr. 159:23–25; Exhibit TCIMS–11 (at 35 seconds).* The slag contains some iron. *Tr. 135:16–137:10.* Specialized equipment called pot haulers owned by TCIMS is used to transport the slag pots away from the steelmaking furnace and to a separate building where the slag is dumped on the ground. *Tr. 135:16–137:10; 162:25–164:17; Exhibit TCIMS–11 (at 42 seconds); Tr. 197:17–198:12; Exhibit TCIMS–12A (sticker D); Tr. 473:9–16.* USS's two steelmaking shops at Gary Works have

⁷ BOF stands for basic oxygen furnace. *Tr. 192:5.* Also, BOP stands for basic oxygen process. *Tr. 246:20–247:6.* The terms BOF and BOP refer to the same thing and are interchangeable. *Id.*

⁸ A blast furnace is separate and distinct from a BOF. *Tr. 191:20–25; 195:13–196:19; Exhibit TCIMS–12A (stickers B1, B2, C).*

different size slag pots, thus necessitating customized dimensions for TCIMS's slag pot haulers. *Tr. 160:11–16; 140:9–11.*

24. After it is dumped by the slag pot haulers, the molten slag is partially cooled with water sprays. Then it is picked up and moved by TCIMS's large front-end loaders that are customized with chains to protect the wheels from the hot slag, fire-resistant hydraulic hoses and fluid, and fire suppression systems, bulletproof safety glass and necessary air-conditioning in order to handle the hot slag. *Tr. 137:25–138:22; 174:3–175:22; 178:1-10; Exhibit TCIMS–11 (at 3 min. 37 seconds).*
25. After the slag has cooled further, it is run through TCIMS's screening plant where it is screened according to size and iron content. The screening allows some scrap to be separated out of the slag and returned to the scrap yard where it is eventually loaded back into a charge box. *Tr. 138:11–139:8; 165:18–166:2; Exhibit TCIMS–11 (at 1 min., 40 seconds); Tr. 473:9–16; Exhibit LC–14, page 8.* For scrap with a certain iron content and a certain size range, TCIMS transports that scrap to be used in USS's blast furnace. *Tr. 138:11–139:8; 165:18–166:2; 195:13–197:12; Exhibit TCIMS–12A (sticker C).* For smaller sized scrap of a certain iron content, USS transports and recycles that scrap as feed back into its sinter plant (which mixes ingredients that are used as feed into the blast furnace). *Tr. 139:2–140:7; 195:18–196:10; 473:9–16; 481:17–25; 483:16–20; Exhibit LC–14, page 8.* TCIMS tests the slag iron content and size to make sure it is within the specifications required by USS. *Tr. 262:3–18; Exhibit TCIMS–17, page TCIMS000744.*
26. USS desulfurizes the liquid iron that comes out of the blast furnace, and then skims the slag and impurities into a slag pot (separate from the slag pots that are used after a batch of steel is made). *Tr. 208:10–210:17.* TCIMS's Equipment picks up those slag pots, transports them to a different building and dumps them to allow the slag to cool, after which TCIMS picks up that slag and takes it to TCIMS's iron-crushing facility. *Tr. 208:6–209:3; 209:16–210:17; Exhibit TCIMS–12A (stickers D, L).* TCIMS's iron crusher cracks and crushes the iron into smaller pieces. *Tr. 139:22–140:7.*
27. After USS has dumped the slag off of a heat of steel in the BOF, USS pours the liquid steel into a ladle that is taken to the continuous caster, which casts the steel into solid slabs. *Tr. 136:4–11; 386:21–24.* Occasionally, a USS caster may terminate or have a problem, which will result in the shutoff of the holding tank for the liquid steel that is being poured into the caster. *Tr. 210:25–212:9.* This holding tank is called a tundish. *Tr. 211:1–2.* The liquid steel in the tundish then solidifies, and USS removes the old tundish, dumps its contents on the ground, and replaces the old tundish with a new one. *Tr. 212:3–9.* TCIMS's front end loader take the big chunk of steel to a building where TCIMS's oxygen pipe lancers break it into right-size pieces. *Tr. 212:1–213:15; Exhibit TCIMS–12A*

- (*handwritten M*). If the steel chunks are too large, TCIMS takes them to its drop ball area to be broken into smaller pieces. *Tr. 212:10–15; Exhibit TCIMS–12A (sticker E)*.
28. After USS empties a ladle of steel into the continuous caster, 4-5 tons of liquid steel remains in the ladle. *Tr. 141:3–25*. This is dumped on the ground, and TCIMS's pay loaders pick it up, cool it off, and place it in a large fenced-in area where TCIMS's cable cranes use large drop balls to break the steel pieces down to right sizes. *Id.; Tr. 199:1–17; Exhibit TCIMS–12A (sticker E); Tr. 473:9–16; 164:19–165:7; Exhibit TCIMS–11 (at 58 seconds)*. Those pieces are then taken to the scrap yard and eventually loaded into a charge box to make another batch of steel. *Tr. 141:3–25*.
29. At USS's hot strip mill, a byproduct of the process is mill scale, which is oxidized iron that forms on steel. *Tr. 205:16–206:7*. Mill scale is deposited in TCIMS's scrap boxes and hauled approximately 5 miles to the sinter plant by TCIMS's scrap haulers. *Tr. 205:16–206:7; 199:22–200:2; 207:4–208:5; Exhibit TCIMS–12A (stickers G, H and red circle at far eastern edge of map)*.
30. TCIMS also owns equipment such as front end loaders and small tractors that are used on a daily, 24-hour basis to clean up, haul, and process spilled slag, scrap and debris from USS's steelmaking shops, such as by keeping the track clean on the transfer railcar that moves slag pots in the furnace in order to allow USS to continue to produce steel. *Tr. 140:9–141:2; 159:23–160:9; Exhibit TCIMS–11 (at 35 seconds); Tr. 473:9–16; Exhibit TCIMS–17, page TCIMS000752 (paragraph 12)*. TCIMS equipment also picks up, processes and returns to USS tundish blocks, molds, miscellaneous castings, ingots and emergency iron dumps. *Exhibit TCIMS–17, page TCIMS000751 (paragraph 9)*. TCIMS is required to have equipment and personnel on 24-hour standby to handle emergency hot metal dumps. *Exhibit TCIMS–17, page TCIMS000752 (paragraph 13)*. Any time TCIMS personnel or equipment are in the BOF shop, they are fully under the direct supervision of USS personnel, who maintain the safety of all individuals amongst the large heavy equipment and extreme temperatures. *Tr. 146:5–21*.
31. Historically, USS used railroad cars of a subsidiary wholly owned by USS to move slabs from the continuous caster to the hot strip mill, approximately a 3 1/2 mile distance. *Tr. 142:1–8*. Presently (and as of March 1, 2010), TCIMS's rubber tire slab haulers are used to straddle up to 8 slabs of steel (160 to 180 tons) and pick them up using tongs to transport them. *Tr. 142:9–143:12; 180:21–182:9; 279:7–10; 280:3–5; 293:3–9; Exhibit TCIMS–11 (at 3 min. 44 seconds)*. TCIMS's slab haulers were specifically made and designed for Gary Works. *Tr. 180:21–181:11*. USS's production planning personnel directs all of the moves that need to be made by TCIMS's slab haulers. *Tr. 182:13–184:22*. USS provides the instructions for slab movement by use of its "LXE" computers,

- which are installed in each of the slab haulers. *Id.* The slab hauler operators can read USS's instructions for their movements from the LXE computers. *Id.*
32. TCIMS moves USS's slabs from the casters to the hot strip mill, a slab inventory yard, or the scarfing area. *Tr.* 200:3–202:14; 275:3–276:12; *Exhibit TCIMS–12 A (stickers B1, B2, H, I, J)*. A primary route of travel for the slab haulers is on the road on the north side of Gary Works that runs along the lakefront. *Tr.* 202:15–25; 275:3–276:12; *Exhibit TCIMS–12A*. USS is responsible for maintaining the paved roads on which TCIMS's slab hauling equipment operates, while TCIMS is responsible for maintaining the unpaved roads traveled by TCIMS's slab haulers. *Exhibit TCIMS–17, TCIMS000760 (section 1.1.18), TCIMS000761 (section 1.1.21)*.
 33. TCIMS moves 100% of USS's slabs at Gary Works. *Tr.* 144:16–19; 182:10–12; 214:3–6.
 34. TCIMS owns a robotic scarfing machine that is used to scarf entire slabs of steel. *Tr.* 143:17–144:15; 169:14–170:25; *Exhibit TCIMS–11 (at 2 min. 40 seconds)*; *Tr.* 282:10–23; *Exhibit TCIMS–12A (sticker J)*.⁹ Scarfing is a process of essentially smoothing out small imperfections such as oxidized holes and cracks on the exterior of a slab of steel to meet the specifications of the customer purchasing the steel. *Tr.* 143:17–144:15; 167:12–168:25. In the building that houses the robotic scarfing machine, USS's crane picks up and sets down steel slabs that are ready for scarfing. Then TCIMS's crane picks up those slabs and sets them onto a table that is rolled into the scarfing machine. *Tr.* 171:15–172:2; 286:5–11; *Exhibit TCIMS–11 (at 2 min. 44 seconds)*.
 35. Because TCIMS needs to maintain its Equipment and spare parts to ensure daily, 24-hour operation of the Equipment to sustain USS's production of steel at Gary Works, TCIMS built its own machine shop for Equipment maintenance and for making parts that may be required to repair Equipment. *Tr.* 155:11–156:4; 258:12–22; 261:3–17. For instance, TCIMS owns a cable crane that is used for constructing and dismantling the baler when there is a need to fix the lining plates inside where the compaction takes place. *Tr.* 224:16–23. TCIMS needs scaffolding to access and repair parts of Kress haulers that are high off the ground. *Tr.* 276:18–23; 277:6–9. TCIMS has a mobile starting unit that serves as a generator to start Equipment if there has been a problem. *Tr.* 287:19–23. In addition, TCIMS keeps some redundant items of Equipment on hand so that USS's steel production process can continue in the event those items of its Equipment fail or need repair. *Tr.* 335:6–19; *Exhibit LC–14, page 8*. TCIMS's Equipment is also used to maintain the roads within the scrap yard, as well as

⁹ The robotic scarfing machine replaced much of the hand scarfing that used to be performed by USS personnel. *Tr.* 143:17–144:15; 167:12–24. USS still engages in hand scarfing. If USS lacks capacity, then TCIMS will assist in hand scarfing. *Tr.* 167:12–24.

some other roads in Gary Works. *Tr.* 236:6–237:3; 289:22–290:9; *Exhibit TCIMS–17, page TCIMS000760.*

36. USS and TCIMS have written agreements to ensure that the Equipment performs tasks necessary to USS’s steel production operations, as described above. *Tr.* 313:5–314:7; *Exhibit TCIMS–17.*¹⁰ Those tasks are performed by TCIMS at the request of USS. *Tr.* 316:22–317:3; *Exhibit TCIMS–17, page TCIMS000710 (section 1.2).* USS directs what is to be accomplished by the use of TCIMS’s Equipment. *Tr.* 317:4–6.
37. USS directs—and maintains ultimate control over—the work being done with TCIMS’s Equipment. TCIMS receives its tasks by written directives or change orders issued by USS or by verbal requests issued by USS’s agents, servants or employees. *Exhibit TCIMS–17, page TCIMS000710 (section 1.2).* All work is subject to inspection and approval by USS at all times. *Exhibit TCIMS–17, page TCIMS000714 (section 6.1).* USS has the right to direct TCIMS to remove any defective work or materials from USS’s facility upon 24 hours notice. *Exhibit TCIMS–17, page TCIMS000714 (section 7.1).*
38. At USS’s option and direction, TCIMS must repair or remove and replace any of its Equipment or machinery that, in USS’s sole discretion, fails to adequately perform its required functions. *Tr.* 318:10–319:10; *Exhibit TCIMS–17, page TCIMS000715 (section 8.3).*
39. TCIMS provides machinery and equipment to USS in connection with the work, and TCIMS has assigned to USS any manufacturer warranties with regard to the Equipment (or has agreed to enforce such warranties for USS’s benefit, if the warranties are not assignable). *Tr.* 320:12–322:5; *Exhibit TCIMS–17, page TCIMS000715 (section 8.2).*
40. The Agreement provides that TCIMS’s Equipment will be “placed into regular production operation and use by USS.” *Exhibit TCIMS–17, page TCIMS000715 (section 8.4).*
41. If TCIMS fails to supply sufficient equipment or personnel to properly perform the work, and fails to remedy the problem seven business days after receiving notice from USS, USS has the right to take possession of all of TCIMS’s Equipment and finish the work with USS personnel—using TCIMS’s Equipment—or hire other persons to finish the work. *Tr.* 322:6–324:4; *Exhibit TCIMS–17, page TCIMS000715-16 (sections 9.1 & 9.2).* This contractual remedy is

¹⁰ Exhibit TCIMS–17 contains various references to Tube City, LLC and International Mill Service, Inc. Those entities subsequently merged into TCIMS. *See, e.g., Exhibit TCIMS–17, page TCIMS000709; Tr.* 317:10–318:8; 121:19–122:15; 33:24–34:13; 35:4–6. The obligations of Tube City, LLC and International Mill Service, Inc. under the written agreements merged to become the obligations of TCIMS. *Tr.* 317:10–318:8.

necessary from USS's perspective because TCIMS's failure to perform the services required under the contract could cause catastrophic damage to USS's equipment and USS's ability to produce steel. *Tr. 333:14–334:19.*

42. In the event that USS needs TCIMS to perform services outside of the scope of the existing contract between the parties, USS is able to request and direct TCIMS personnel and Equipment to accomplish these tasks on an hourly “rental” basis. *Tr. 145:6–146:3; 314:8–315:18.* For instance, USS may request that one of TCIMS's cranes and operators assist when an iron ladle gets filled up with metallics at the bottom, or when cleanup is needed in the BOF that requires equipment different from what is normally used for BOF cleanup. *Tr. 314:19–315:1; Exhibit TCIMS–17, page TCIMS000752 (paragraph 12).*

QUALIFICATIONS OF WITNESSES

43. Judith Hamric is a CPA and is TCIMS’s Tax Director, a position she has held for five years. *Tr. 31:8–32:17.* Ms. Hamric has over 20 years of experience in public accounting. *Id.* Ms. Hamric explained the process by which TCIMS prepared the personal property returns at issue in this case.
44. Perry VanRosendale has been employed with TCIMS (or its predecessor in interest) for 20 years. *Tr. 118:21–121:4.* Prior to his employment with TCIMS, he was employed for 21 years with USS. *Tr. 118:21–121:4.* Mr. VanRosendale provided a comprehensive explanation of the use and function (as of March 1, 2010) of the Equipment reported under Pool 5 in TCIMS’s two personal property returns. *Tr. 222:10–256:7; Exhibit TCIMS–2 (at attachment showing Tax Return Detail for Location #240, pages 1–8 immediately following Form 103–P5); Tr. 256:14–293:9; 300:8–301:13; 311:22–312:8; Exhibit TCIMS–5.*
45. Thomas Katsahnias held 13 jobs with Inland Steel, over a period of 35 years. His last position with Inland was vice president of Inland Steel Industries where he had the responsibility for the operation of approximately 85% of the entire Inland Steel enterprise. *Tr. at 368.* After retirement from Inland Steel, he built and ran Beta Steel. *Tr. at 370–71.* Mr. Katsahnias organized and was chairman of Pennsylvania Steel Acquisition formed in order to purchase Wheeling-Pittsburg Steel, an integrated steel mill located in West Virginia. He testified before a Congressional Committee regarding how, in the 1970s, imported steel had adversely impacted the domestic steel companies. *Tr. at 377 & 378.* He was also selected by the Greek government in the 1970s to be a member of a panel aimed at aiding in the industrialization of Greece. *Tr. at 376.*

DISCUSSION

46. The outcome of this case is governed by Ind. Code § 6-1.1-3-23. The parties, however, have substantially different views about what this statute means. In

determining that question, the following principles and cases provide substantial guidance:

When this Court is confronted with a question of statutory construction, its function is to determine and implement the intent of the legislature in enacting that statutory provision. *See Johnson County Farm Bureau Coop. Ass'n v. Indiana Dep't of State Revenue*, 568 N.E.2d 578, 580 (Ind. Tax Ct. 1991), *aff'd* by 585 N.E.2d 1336 (Ind. 1992). In general, the best evidence of the legislature's intent is found in the actual language used within the statute itself. *See id.* at 581. Additionally, the statute must be read as a whole, and not as individual sections or unrelated parts. *See State v. Adams*, 583 N.E.2d 799, 800 (Ind. Ct. App. 1992) (stating that "[e]ach part [of a statute] must be considered with reference to all other parts" of the statute) (citation omitted), *trans. denied*. Finally, the statute must be read in such a way that prevents an illogical or absurd result. *See Uniden Am. Corp. v. Indiana Dep't of State Revenue*, 718 N.E.2d 821, 828 (Ind. Tax Ct. 1999).

DeKalb Cnty. E. Community School Dist. v. Dep't of Local Gov't Fin., 930 N.E.2d 1257, 1260 (Ind. Tax Ct. 2010).

47. It is undisputed that USS is an "integrated steel mill" and TCIMS is not. According to the Respondent, that reason alone precludes TCIMS from the benefit of Pool 5 depreciation: "TCIMS is not an integrated steel mill; therefore, the equipment for which TCIMS is claiming Pool 5 treatment does not qualify because TCIMS's equipment is not the equipment of an integrated steel mill." *Assessor's Reply Brief at 2*. Citing Ind. Code § 6-1.1-3-23(a)(7)-(9), the Respondent also argues "the General Assembly unequivocally limits Pool 5 treatment to the equipment of integrated steel mills. *** [I]n the case at hand the General Assembly unequivocally provided special tax treatment for integrated steel mills. No other persons are eligible for Pool 5 valuation." *Assessor's Post-Hearing Brief at 15-17*. The Respondent argues that any allowance of Pool 5 treatment for TCIMS's equipment would unreasonably and incorrectly broaden the scope of the statute beyond what was intended by the General Assembly. If the Respondent were correct the analysis for this case would need to go no further.

48. In conjunction with the principle that applying a statute requires reading the language in it as a whole and not as isolated parts, the Respondent points to the substantial and somewhat unusual preamble set forth in Ind. Code § 6-1.1-3-23(a) as evidence that the position taken by TCIMS would unreasonably and incorrectly broaden the scope of the statute. Among other things, the Respondent relies on

several references to the “equipment of integrated steel mills” as an indication that *only* an integrated steel mill can claim Pool 5 depreciation. The precise words used in the statute, however, lack that specific limitation. And after considering all the provisions in Section 23 as a whole, the Board does not conclude that such a limitation was intended when the statute was enacted.

49. Several things indicate the Respondent’s proposed interpretation—where Pool 5 depreciation would be available to only integrated steel mills—is overly restrictive and would violate the basic principle of reading the language in a statute as a whole.
50. The Board acknowledges the preamble language in Ind. Code § 6-1.1-3-23(a), but does not agree that the references to valuing the equipment of integrated steel mills lead to the conclusion that only an integrated steel mill can claim Pool 5 depreciation. Section 23(a) starts by recognizing the economy of northern Indiana has historically been heavily dependent upon the domestic steel industry, particularly the integrated steel mill business (*which produces steel from basic raw materials through blast furnace and related operations*), and by recognizing 30 years of significant financial difficulties in the domestic steel industry. “More than one-half (½) of the integrated steel mills in the United States were shut down or deintegrated, with the remainder requiring significant investment and the addition of new processes to make the facilities economically competitive with newer foreign and domestic steelmaking facilities and processes.” Specifically recognizing these points indicates a broader concern with the domestic steel industry, particularly the integrated steel mill business. Furthermore, the later parts of this preamble explain that the option of Pool 5 “recognizes the loss of value and difficulty in valuing equipment at integrated steelmaking facilities” as a way to avoid contentious and lengthy appeals about abnormal obsolescence. This reasoning applies as much to TCIMS Equipment at the Gary Works as it does to USS equipment at the same facility. Accordingly, Ind. Code § 6-1.1-3-23(a) does not dictate the limited application of Pool 5 as proposed by the Respondent.
51. This conclusion becomes even clearer when the provisions in the balance of Ind. Code § 6-1.1-3-23 are examined. Indiana Code § 6-1.1-3-23(c) provides that *a taxpayer* can elect Pool 5 for *the taxpayer’s* special integrated steel mill equipment. And Indiana Code § 6-1.1-3-23(b) defines “special integrated steel mill equipment” as “depreciable personal property ... that is owned, leased, *or used* by an integrated steel mill ... and falls within Asset Class 33.4 as set forth in IRS Rev. Proc. 87-56, 1987-2, C.B. 647.”
52. The General Assembly defined certain terms in the statute with great precision. Obviously, with such a careful definition of “integrated steel mill” it would have been easy to expressly provide that only an integrated steel mill is permitted to claim Pool 5 depreciation for its equipment. As previously noted, however, there

- is no such express limitation. Rather, the statute provides in quite general fashion that a “taxpayer” may elect to claim Pool 5 depreciation on its return.
53. The Respondent has given no substantial argument or reason about why language such as “equipment of an integrated steel mill” would exclude equipment “used by” an integrated steel mill when it is owned by someone else. Perhaps most importantly, no part of this statute should be regarded as meaningless or surplus. Including the words “or used” must mean something other than “owned” or “leased” by an integrated steel mill. Ind. Code § 6-1.1-3-23(b)(7)(A)(i).
 54. For all these reasons, TCIMS is not precluded from using Pool 5 for the Equipment at the Gary Works simply because it is not an integrated steel mill. Nevertheless, that conclusion is only the first part of our analysis. The Equipment can qualify for Pool 5, but does it?
 55. Again, to qualify for Pool 5 depreciation, equipment must meet the statutory definition of “special integrated steel mill...equipment.” The term means “depreciable personal property ... that is owned, leased or used by an integrated steel mill ... and falls within asset class 33.4 as set forth in IRS Rev. Prc. 87-56, 1987-2, C.B. 647.” Ind. Code § 6-1.1-3-23(b)(7). It is undisputed that the Equipment falls within the required IRS asset class 33.4. Thus, the question is whether TCIMS’s Equipment is “owned, leased or used by an integrated steel mill.” More precisely, the remaining question is whether the Equipment owned by TCIMS is used by USS.
 56. The word “used” is not defined in the statute. Thus, this word is to be given its plain and ordinary meaning. *Methodist Hosps., Inc. v. Lake County Prop. Tax Assessment Bd. of Appeals*, 862 N.E.2d 335, 338 (Ind. Tax Ct. 2007). An ordinary definition of the word “use” includes “the act or practice of employing something...the legal enjoyment of property that consists of its employment, occupation, exercise, or practice...the benefit or profit of property established in one **other than the legal possessor...**” MERRIAM WEBSTER’S COLLEGIATE DICTIONARY (Tenth Ed.) 1301 (1999). (*emphasis added*). Another ordinary definition of the word is “to bring or put into service or action... to put to some purpose.” WEBSTER’S II NEW COLLEGE DICTIONARY 1215 (2001).
 57. The Board finds that USS “uses” the Equipment, because USS employs the Equipment and applies it for steel production purposes to USS’s benefit. *Tr. 301:15–24* (“All the equipment that’s on site there is used exclusively for U.S. Steel’s purposes to make steel.”); *Tr. 302:13–24* (“all the equipment that’s on site there is used in some form or other in the making of the steel.”); *Tr. 307:24–308:2*. USS has the right and privilege under written contracts to use the Equipment. *Tr. 301:25–302:11*; *Exhibit TCIMS–17*. USS puts the Equipment into service by integrating the Equipment into its steel production operations. *Tr.*

- 308:3–5. USS avails itself of the Equipment by directing the objectives to be attained by the Equipment. *Tr.* 303:3–6. USS carries out its steel production purposes by means of the Equipment; and USS puts the Equipment to its steel production purposes. *Tr.* 303:7–14; 308:8–12.
58. Simply stated, if the Equipment did not move or process scrap, USS would lack an essential ingredient for making steel. USS would need to find alternatives or it would have to shut down the operation. *Tr.* 303:15–304:9; 400:10–401:8; 401:20–402:3; 435:19–436:13; 437:1–8; 457:11–16. If the Equipment did not move and process the slag, steelmaking operations in the BOF shop would literally grind to a halt. *Tr.* 304:10–305:6; 438:2–11; 476:14–23. If the Equipment did not move slabs, USS would have to shut down its caster lines after the backlog of slabs left no room to continue casting more slabs. *Tr.* 305:7–19; 475:13–17; 404:5–20. If the Equipment did not scarf slabs, USS would not be able to perform a necessary part of the production process and would not be able to provide a finished steel product that met its customers’ specifications. *Tr.* 305:20–306:19; 440:25–441:21; *Exhibit TCIMS–19* (74:24–75:12). USS needs all of these functions to happen in order to produce steel. It chose to use TCIMS and TCIMS’s Equipment to perform these critical functions. Without them, USS would actually cease to be an “integrated steel mill” as defined by Indiana Code § 6-1.1-3-23(b)(3) because it would be unable to produce steel.
59. The criticality of these functions is further illustrated by the fact that, before TCIMS performed scrap procurement, sorting and management, those functions were performed either by USS employees or by a subsidiary company owned by USS. *Tr.* 325:20–327:6; 329:14–330:3. As far back as the 1970s, USS used its equipment in conjunction with the equipment of another contractor to process and clean up slag. *Tr.* 327:7–328:25. USS previously used a wholly-owned subsidiary railroad company to move slabs around Gary Works. *Tr.* 331:15–22; 142:1–8. Scarfing also was previously performed by USS employees using USS equipment. *Tr.* 331:23–332:6. The fact that USS has chosen to contract out the services performed by TCIMS does not make those services any less necessary for USS’s production of steel or any less a part of USS’s operations at Gary Works. *Tr.* 330:4–21. More importantly, as noted above, USS’s employment of such Equipment meets several common definitions of the word “use”.
60. Based on the fact that the Equipment is used by TCIMS to satisfy the obligations of the contract it has with USS, the Respondent claims USS does not use the Equipment. The underlying premise of the Respondent’s argument assumes that use by one somehow precludes use by the other. The Respondent cited no authority for such an assumption. More importantly, the evidence presented in this case does not support a conclusion that the use of the Equipment is exclusively with either TCIMS or USS—they both use it. Nothing in the statute, however, requires exclusive use by an integrated steel mill in order to qualify for the Pool 5 option.

61. Different words in a statute should be given different meanings. *Briggs v. Review Bd. of the Indiana Dep't of Workforce Dev.* 648 N.E.2d 1225, 1228 (Ind. Ct. App. 1995) (“All statutory language is deemed to have been used intentionally and not as mere surplusage.”). Consistent with this rule of statutory construction, the Board must presume that the General Assembly contemplated circumstances in which equipment is neither “owned” nor “leased” by an integrated steel mill but is nevertheless “used” by an integrated steel mill. Those circumstances present themselves here. Stated differently, there must be factual circumstances in which an integrated steel mill uses equipment, in a manner other than owning or leasing it, in which that equipment qualifies for Pool 5 treatment. Otherwise, the words “or used by” in the statute would be a nullity.
62. Regardless of who owns it and regardless of who operates it, the Equipment is necessary for USS to produce steel. The Equipment functions for USS’s ultimate purposes under USS’s direction. Therefore, USS uses the Equipment.
63. The Respondent’s own witness provided testimony that supports this conclusion. Mr. Katsahnias compared TCIMS’s Equipment with the equipment owned by USS at Gary Works:

The equipment is the same. Special integrated steel equipment. There is no difference between that equipment owned by U.S. Steel as an integrated steel mill and the equipment that's owned by Tube City. The equipment is almost identical, if not identical.

Tr. 428:16–23; Exhibit TCIMS–19 (38:3–14). “[A]ll equipment in an integrated steel mill is special integrated equipment. It is. Everything.” *Tr. 426:23–427:9; Exhibit TCIMS–19 (38:3–14).*

During his deposition on December 19, 2011, Mr. Katsahnias testified:

Q. Would it be fair to say that U.S. Steel uses Tube City's equipment in furtherance of its steel production processes in an integrated mill?

A. Yeah. I would say that.

Q. Would it be—

A. At times.

Q. And at what times?

A. When it's needed, when they haven't got their own equipment. Unless they are—unless they are contracted to do a certain thing in a—in the operation and they do it 100 percent of the time.

Q. Well, let me make sure I understand that. Unless they are—

A. Well, for example—and I don't think this has happened. Let's go with Inland and we decide that adding scrap to a basic oxygen furnace is something that is expensive and it would be much more economical if we can contract an outside company to come in and do this for us, then we would do it.

Q. And in that situation, Inland Steel's contracting with the outside company to come in and do that and fill that role, that would be an example where Inland was using the contractor's equipment?

A. Yes, yes.

Q. And as a corollary, then if U.S. Steel is contracting with Tube City to allow Tube City to fulfill certain functions necessary to U.S. Steel's steelmaking process, in that scenario, U.S. Steel is—as an integrated steel mill is using Tube City's equipment?

A. Yes.

Q. Would it be fair to say that in that scenario that we've just described, that U.S. Steel would be availing itself of Tube City's equipment in furtherance of its steelmaking operation?

A. By definition, yes.

Exhibit TCIMS-19 (38:15-39:25).

64. During the hearing Mr. Katsahnias testified differently. At that time he testified that TCIMS uses the Equipment, not USS. He tried to explain the difference based on a purported misunderstanding of some questions during the deposition. The Assessor's Reply Brief at page 3 claims TCIMS's "mishandling" of Mr. Katsahnias' testimony (reference to the deposition testimony) is "[m]ost

disappointing,” but that negative characterization is unfair and inappropriate. This situation simply involves impeachment and credibility. Ultimately, the deposition version is more credible than the attempt to correct the purported misunderstanding during the hearing. The Board is not persuaded that Mr. Katsahnias’ conclusion about USS not using the Equipment is correct.

65. The weight of the evidence establishes that the Equipment is used by USS in making steel and in related operations. The requirements for claiming Pool 5 have been met. Finally, the Respondent’s effort to establish that the functions performed by the Equipment were not part of the steel making process is not convincing and is nothing more than a red herring. The Respondent failed to establish how the purported lines of demarcation for the steel-making process are relevant to the statute, which speaks of steel making in a blast furnace *and related operations*. In short, the Respondent seeks to deny Pool 5 based on an overly restrictive interpretation and application of the statute. The Board will not do so.

CONCLUSION

66. TCIMS established that its use of Pool 5 was appropriate and the true tax value reported on its returns should not have been changed. For the reasons stated above, the TCIMS’s Petitions are granted.

IT IS THEREFORE ORDERED that the assessed value of parcel 25-328669 must be reduced to \$8,546,669 and the assessed value of parcel 25-704980 must be reduced to \$3,398,778.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Appendix A—TCIMS’s Exhibits

EXHIBIT NUMBER	DESCRIPTION	IDENTIFIED/ADMITTED TRANSCRIPT PAGE
TCIMS-1	Tube City IMS, LLC’s 2010 Business Tangible Personal Property Return for Location #544	37
TCIMS-2	Tube City IMS, LLC’s 2010 Business Tangible Personal Property Return for Location #240	37
TCIMS-3	Copy of Indiana Code § 6-1.1-3-23	54
TCIMS-4	Affidavit of Perry VanRosendale and Attachment	56
TCIMS-5	Location #544 – Personal Property Tax Report	41
TCIMS-6	IRS Rev. Proc. 87-56	62
TCIMS-7	Form 113 – Location #240	67
TCIMS-8	Form 113 – Location #544	67
TCIMS-9	Form 115 Notice – (Old 25-328669)	72
TCIMS-10	Form 115 Notice – (Old 25-704980)	72
TCIMS-11	Video Disc	149
TCIMS-12	Aerial Photo, USS Gary Works	185-187
TCIMS-13	Scrap Yard Diagram	189
TCIMS-14	Scrap Flow Chart	192
TCIMS-15	Attachment 10 – Slag RFQ	194
TCIMS-16	Attachment 13 – Slab Transportation RFQ	
TCIMS-17	Scrap Management and Service Agreements and Amendments, Exhibits and Attachments thereto	312
TCIMS-18	Basic Steel Operations Flow Chart	
TCIMS-19	Deposition of Katsahnias	409

Appendix B—Lake County Assessor’s Exhibits

EXHIBIT	DESCRIPTION	IDENTIFIED/ADMITTED TRANSCRIPT PAGE
LC-1	The Business Tangible Personal Property Return (Form 103L) with attachment for Key or Duplicate #45-104-24264-00	
LC-2	The Notice of Change in Assessment (Form 113PP) for Key or Duplicate #45-104-24264-00	
LC-3	The letter requesting a review of the assessor’s action for key or Duplicate #45-104-24264 (aka Location 544)	
LC-4	The Notice of Final Determination (Form 115) for Key or Duplicate #45-104-24264-00	
LC-5	The Petition for Review of Assessment (Form 131) (Petition #45-001-10-1-7-00001) for Key or Duplicate #45-104-24264-00	
LC-6	The Business Tangible Personal Property Return (Form 103L) with attachment for Key or Duplicate #45-104-24908-00	
LC-7	The Notice of Change in Assessment (Form 113PP) for Key or Duplicate #45-104-24908-00	
LC-8	The letter requesting a review of the assessor’s action for key or Duplicate #45-104-24908-00 (aka Location 240)	
LC-9	The Notice of Final Determination (Form 115) for Key or Duplicate #45-104-24908-00	
LC-10	The Petition for Review of assessment (Form 131)(Petition #45-001-10-1-7-00002) for Key or Duplicate #45-104-24908-000	
LC-11	Scrap Management and Services Agreement (“SMSA”) with all amendments, attachments and exhibits (identified as bates numbers TCIMS000703 through TCIMS000910)	337
LC-11A	Exhibit A to SMSA and Metal Recovery and Scarfing Services Agreement (“MRSSA”)(“Amended and Restated Blanket Agreement”)(bates TCIMS000709-TCIMS000738)	

LC-11B	Attachment 1 to Amended and Restated Blanket Agreement (Bates TCIMS000739-TCIMS000741)	
LC-11C	Exhibit B to SMSA and MRSSA/Scopes of Work/Attachment 1/Slag Processing Attachments (Bates TCIMS000742-TCIMS000753)	
LC-11D	Exhibit B to SMSA and MRSSA/Scopes of Work/Attachment 1/Slab Hauling Attachments (Bates TCIMS000742, TCIMS000754-TCIMS000764)	
LC-11E	Exhibit B to SMSA and MRSSA/Scopes of Work Attachment1/Scrap Transportation Attachments (Bates TCIMS000742, TCIMS000765-TCIMS000772)	
LC-11F	Exhibit B to SMSA and MRSSA/Scopes of Work/Attachment 1/Slab Scarfing Attachments (Bates TCIMS000742, TCIMS000773-TCIMS000779)	
LC-11G	SMSA Exhibit B/Scrap Purchasing and Optimizing Scope of Work with Attachments 1,2, and 3 (Bates TCIMS000780-TCIMS000793)	
LC-11H	First Amendment to Exhibit B/Scrap Purchasing and Optimizing Scope of Work to SMSA (Bastes TCIMS000794-TCIMS000801)	
LC-11I	First Amendment to Exhibit C (General Terms For Scrap Management Wrok and/or Services Applicable to all USS Locations in the United States) to SMSA (Bates TCIMS000802-TCIMS000803)	
LC-11J	Lease Agreement/Exhibit C to SMSA and MRSSA (bates TCIMS000804-TCIMS000812)	
LC-11K	SMSA Exhibit G (USS Gary Works Scrap Management Agreement) (“GWSMA”) to SMSA (Bastes TCIMS000821-TCIMS000823)	
LC-11L	First Amendment to Exhibit G/GWSMA to SMSA (Bates TCIMS000824)	
LC-11M	Second Amendment to Exhibit G/GWSMA to SMSA (Bates TCIMS000825-TCIMS000826)	

LC-11N	Third Amendment to Exhibit G/GWSMA to SMSA (Bates TCIMS000827-TCIMS000828)	
LC-11O	Fourth Amendment to Exhibit G/GWSMA to SMSA (Bates TCIMS000829-TCIMS000830)	
LC-11P	SMSA Exhibit J/Land Lease with Schedule 2, Attachments A and B (TCIMS000831, TCIMS000835-TCIMS000838)	
LC-11Q	First Amendment to SMSA (Bates TCIMS000843-TCIMS000845)	
LC-11R	Second Amendment to SMSA (Bates TCIMS000846-TCIMS000847)	
LC-11S	Third Amendment to SMSA (Bates TCIMS000848-TCIMS000849)	
LC-11T	Fourth Amendment to SMSA (Bates TCIMS000850-TCIMS000852)	
LC-11U	Metal Recovery and Scarfing Services Agreement (“MRSSA”) (Bates TCIMS000853-TCIMS000857)	
LC-11V	First Amendment to MRSSA and Attachment 3/Rental Rates (Bates TCIMS000858-TCIMS000863)	
LC-11W	Second Amendment to MRSSA with Attachment 2/Scrap Transportation (Bates TCIMS000864-TCIMS000870)	
LC-11X	Third Amendment to MRSSA (Bates TCIMS000871-TCIMS000873)	
LC-11Y	Fourth Amendment to MRSSA (Bates TCIMS000874-TCIMS000875)	
LC-11Z	Exhibit D (Bates TCIMS000876-TCIMS000881)	
LC-11AA	Sixth Amendment to MRSSA with Table B-2 (Bates TCIMS000886-TCIMS000888)	
LC-11BB	Exhibit D/Product Sampling and Testing (Bates TCIMS000889-TCIMS000892)	
LC-11CC	Ferrous/Steel Scrap Flow Chart dated 08-25-09 (Bates TCIMS000893)	
LC-11DD	Ferrous/Steel Scrap Flow Chart dated 09-04-09 (Bates TCIMS000894)	
LC-11EE	Basic Steel Operations Flow Chart (Bates TCIMS000895)	382
LC-11FF	Attachment 13/Slab Transportation RFQ and Slab Hauling Process Flow (Bates TCIMS000897-TCIMS000898)	

LC-11GG	Attachment 10/Gary Works Slag Processing RFQ and Flow Diagram (Bates TCIMS000899-TCIMS000900)	
LC-11HH	Gary Works Cell & Yard Locations (Bates TCIMS000901-TCIMS000908)	
LC-11II	TCIMS Production Flow Charts/Narrative Explanation of Services by Location (Bates TCIMS000909-TCIMS000910)	
LC-12	Resume of Thomas G. Katsahanias	
LC-13	Document not submitted	
LC-14	TCIMS's Responses to Assessor's First Set of Interrogatories and Request for Production without the documents produced	467
LC-15	TCIMS's Responses to Assessor's Second Set of Interrogatories and Request for Production without the documents produced	467
LC-16	TCIMS Organizational Charts (Bates number TCIMS000216)	
LC-17	The "About Us" page from TCIMS's website (http://www.tubecityims.com/about_us.cfm)	
LC-18	Not Submitted	
LC-19	The list of equipment identified as Exhibit #A of the Affidavit of Mr. Perry VanRosendale	
LC-20	Not Submitted	