KNEEHILL COUNTY
COMPOSITE ASSESSMENT REVIEW BOARD
DECISION WITH REASONS

In the matter of the complaint against the Property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

between:

Encana Corporation and Penn West Petroleum Ltd. (represented by Wilson Laycraft), COMPLAINANT

and

Kneehill County, (represented by Reynolds Mirth Richards and Farmer), RESPONDENT

before:

Paul Petry, PRESIDING OFFICER
Ron Wilson, Member
Murray Woods, Member

This is in reference to a complaint to Kneehill County Assessment Review Board (ARB) in respect of Property assessment prepared by the Assessor of Kneehill County and entered in the 2012 Assessment Roll as shown in Appendix B to this decision.

This matter was heard between March 4th to 8th , 2013 at the Kneehill County office located at 232 Main Street, Three Hills, Alberta.

Appearing on behalf of the Complainant:
Mr. B Dell, Wilson Laycraft LLP

Appeared on behalf of the Respondent:
Ms C. Zukiwski, Reynolds Mirth Richards and Farmer LLP

Attending for the ARB: ARB Clerk, Mr. Mike Morton and assisting, Ms. L. Watt
Counsel for the ARB: Ms. G. Stewart-Palmer, Shores Jardine LLP

[1] This matter concerns approximately 360 assessments, of which Encana owns approximately 350 and Penn West approximately 10.

[2] The CARB derives its authority to make decisions under Part 11 of the Municipal Government Act, R.S.A. 2000, c.M-26 (the MGA).

Summary of the Parties' Positions

[3] The Complainants argued that due to the definition of linear property, in particular section 284(1)(k)(iii)(E.1) and the genesis of the standardized value of $5,000 for the "legal interest in land" and how it was derived, that value captures all of the fee simple interest of the land and there is nothing else to be assessed. If they are not successful in this argument, they argued that the value of the land is not as set out by the Assessor or its experts, but the market value of the surrounding land ("across the fence") should be the basis for the valuation.

[4] The Respondent argued that the Assessor should ignore any value that arises under linear property (section 284(1)(k)(iii)(E.1)) and the Assessor should operate under (section 284(1)(k)(iii)(G)) and he is obligated to assess land, buildings, and he also has authority to assess machinery and equipment. The land should be viewed as vacant, so there are no features that relate to the existence of machinery and equipment, or linear property that should be taken into account in determining market value of land. The Assessor argued that the best comparables available are country residential parcels. Once it is determined that the land is assessable, it is assessable as vacant, and without reductions or recognition of any restrictions that may be related to current improvements to the land. The assessment is market value for the land and the Assessor must add to it the value for machinery and equipment and the buildings.

Summary of Witness Testimony

[5] The following witnesses gave evidence on behalf of the Complainant:

a. Mr. Robert Thompson
b. Mr. John d'Easum
c. Mr. Mark Fawcett
d. Mr. Robert Berrien

Mr. Robert Thompson

[6] Mr. Robert Thompson is an environmental consultant with Encana and has worked there for 15 years. He is currently the group lead responsible for reclamation. He stated that when a company acquires a facility or rights from another company, there are three components to the petroleum or natural gas rights:

a. petroleum rights;
b. tangible;
c. miscellaneous interests.

[7] The tangibles are things which can be touched and have depreciating value, for example pipeline facilities, etc. The petroleum and gas access is the right to access the natural gas or the petroleum and can be either a share of the interest or the working interest. The miscellaneous interests is a catch-all term referring to every else including a surface lease associated with the mineral rights. The miscellaneous interests are treated as a liability and are always given a nominal charge in a deal of $10 or less. This is not unique to Encana. Ten dollars is generally set as a nominal value for the miscellaneous interests is for all miscellaneous interests on any

deal. It does not matter the size of the deal or the number of sites. These interests are usually given a nominal value due to the reclamation cost liability.

[8] The Orphan Well Association deals with sites deemed to be orphans. They use a levy paid by industry partners and take ownership of orphan facilities and finally get reclamation certificates for them.

[9] In cross examination, Mr. Thompson clarified that the funds come from industry for reclamation. They do not come from the individual owning the land itself. He confirmed that all of the sites at issue before the Board are leased sites. He confirmed that none of the 350 Encana sites were orphan sites. Mr. Thompson confirmed that the surface lease is between Encana as one party and the owner of the land as the other party. Part of the compensation for the lease includes the size of the area parcel. The lease rates are associated with loss of use. They are based off the acreage, but he was not sure of the actual equation. He confirmed that sometimes the entire leased area is not disturbed, but only a portion is. He stated that 100 m x 100 m is the typical size of the well site area, but the area leased will vary depending on the need to access the well head area. He stated that the 100 m x 100 m is the actual leased area surveyed, that is the surface lease size. It is the standard lease size.

[10] Mr. Thompson indicated that disturbing land outside of the leased area is extraordinary rather than ordinary. Mr. Thompson confirmed that the leased area was surveyed and therefore a defined area.

Mr. Mark Fawcett

[11] Mark Fawcett was qualified as an expert by the Board in the area of soils and agronomy. He has worked in the industry for over 25 years and his experience is based upon collection analysis and land data. He has worked with EBA Engineering for 10 years doing site assessments and cost estimating.

[12] He reviewed the file to determine what activities were on the land, then he visited each of the 3 sites selected by Encana to see the condition of the site, how big the area is, what areas are disturbed, how long the access road is, and what it would need to have the cost calculated to have a reclamation certificate. He indicated that the objective for Encana is to return the land to equivalent land capability for reclamation. The criteria were set by Alberta Environment, now called Environment and Sustainable Resources Development.

[13] Mr. Fawcett was asked to provide a summary of the legislative requirements and a description of the steps to obtain a reclamation certificate and to select and visit 20 oil and gas sites within the county which formed a list provided by Wilson Laycraft. He was to measure the turn-around area, document any stock piles, and estimate reclamation costs for three typical sites. He determined there were the following types:

a. Low disturbance;
b. A small turn-around area with a developed road; and
c. A larger area with a developed road.

[14] He then extrapolated the costs to all 350 of the sites.

[15] The *Environmental Protection & Enhancement Act* requires operators to conserve and reclaim land and obtain a reclamation certificate. The objective is to achieve an equivalent land capability after reclamation. The land uses themselves may not be identical. The obligation for reclamation lies with every operator. These reclamation costs apply in the future when the well is not operating.

[16] The steps of reclamation include filing a review in site assessment. Then, the operator removes fill and gravel brought to this site. Any underground utilities must be dealt with. The operator must deal with compaction of this soil and re-contouring, or digging out materials if required. Once the operator has removed the fill and gravel, managed the underground facilities and returned the land to its original contour, it must ensure that the land is stable and the drainage patterns are re-established. Then the operator will replace subsoil and topsoil. Once the bed has been cultivated, then there is re-vegetation and weed control. If the site is ready for assessment, then the operator can apply for a reclamation certificate for the site.

[17] Mr. Fawcett started with the 8 sites selected by the parties and located them within the County. He added an additional 12 sites on the basis of geographic location, on site infrastructure and land value. Once he had the 20 sites, he completed site visits on them. He visited the original 8 sites and a colleague visited the other 12. They did the first 3 sites together to ensure they were both using the similar evaluation criteria to ensure a consistent data set. They looked at the adjacent use, drainage patterns, depth of gravel and fill, back ground soil depth, color structure, and rooting restrictions as compared to the on-site soil to determine the level of work to reclaim this site. They used the information to develop detailed reclamation costs. During their site visits, they determined there were 3 main site types:

a. Type A had no top soil stripping, no gravel, and a turn-around. This was a minimal disturbance site.

b. Type B had a small tear drop, gravel surface or fill on the tear drop. There was a deeper layer of gravel and crop stubble to the turn-around, but not on the gravel.

c. Type C had a larger disturbed site. There was top soil and sub soil stored around boundary, and gravel on the road. The infrastructure well center had 3 or 4 areas. Generally, there was deeper gravel and no vegetation on the leased area. There was crop stubble around the lease.

[18] The fourth type (Type D) was similar to Type A but with a much smaller turn-around area at the well site. After identifying these site types, and the different access types, he started evaluating the types and determined that Type A had an average developed area of 576 m^2. Type B had an average developed turn-around area of 2,304 m^2. Type C had an average area of 10,609 m^2. Type D had a developed area of less than 425 m^2.

[19] The average length of an undeveloped road access was 356 m with a width of 4.5 m. For the developed roads, the average length was 429 m and a width of 7 m. They determined road length using Abidata, which is maintained by Abicus Data Graphics.

[20] He determined the costs on a square meter basis, then applied it to get a cost per well. This cost was extrapolated to all 350 wells based upon the site type, the access road, and the type of disturbance. In the eight well sites examined, all four types were represented.

[21] Mr. Fawcett outlined a set of assumptions he used to determine costings to ensure a consistent set of assumptions. These assumptions dealt with length of work day, crop land being the final use, travel time to site, demobilization sites, and equipment rates.

[22] Mr. Fawcett led the Board through the tables found in his report in Tables 1-8, which set out his determinations for reclamation costs. The Board heard this evidence, but it is not reproducing it in this summary of the evidence.

[23] The eight well sites which were examined during the hearing were Encana well sites. Mr. Fawcett confirmed that it is the operator that has the obligation to reclaim, not the land owner, unless the land owner obtained a surface lease. He confirmed that there are no land owners in this hearing who will be obliged to obtain a reclamation certificate. He also confirmed that Encana is the operator for the 350 sites which are the subject of his report to the Board and that it is Encana's obligation to reclaim these 350 sites. Encana continues to have the obligation to reclaim as long as it is the lease holder and operator.

[24] Mr. Fawcett confirmed that the developed area on the sites he examined was only a portion of the entire leased area. The operator must demonstrate that the entire leased area has been reclaimed. If a portion of the leased area was undisturbed, that area would not require surface reclamation. Mr. Fawcett confirmed that area in use is the same as the disturbed area. He stated that the figures on his report were based upon disturbed area and not leased area.

[25] Mr. Fawcett confirmed that he did not know how many of the 350 sites were Type A or Type B, etc. He did not compile the information. Of the eight he looked at, 2 were Type B, 3 were Type A, 1 was Type C, and 2 were Type D. From that he extrapolated to the 350. He stated that he was comfortable that it is a representative data set that accurately reflects the percentage of larger grouping.

Mr. Bill Jesse

[26] Bill Jesse was qualified as an expert in the area of municipal assessment, linear assessment, and standardization. He explained standardization of oil site assessments.

[27] Mr. Jesse indicated that before 1983, when he applied for the position of industrial assessment manager, he felt there were inefficiencies in industrial assessment. The inspections consumed a considerable amount of time. He initiated an automation process to obtain data from the ERCB and developed a computer program using this information. In about 1986, this was developed into models and assigned a measured component for each part of the well site. A formula was created was constant invariables for the depth of wells, etc. The efforts of

standardization were strongly supported. However, one of the first issues which arose was where process equipment existed on the site where the well site was. The Act in place at the time dictated that the Assessor was to assess them separately. Between 1984 and 1986 there was variance in the interpretation about what was processing and what was not and where the line was to be drawn. In 1986, the parties were looking to clarify that line. The Commissioner's Bulletin referenced at Tab 2 of his materials was to draw some clarity. The basic principle was that if there was linear property on the site, it was standardized. Production equipment or buildings were left to the municipal assessor. The Commissioner's bulletin clarified the roles of the municipal Assessor and the linear assessor.

[28] Mr. Jesse described processing equipment as anything that changes the product, for example removing water, cooling it, heating it, etc. Metering pends upon what it measures. If it measures production, then it is production equipment. If it is process, then it is part of the process equipment. When the *Municipal Taxation Act* and the *Electric Power and Pipelines Act* were merged into the MGA, linear property went to the linear assessor and all non-linear was to be assessed by the municipal Assessor. Although the intention was to amalgamate the two acts into the MGA, the intention was not to affect how assessments were to be done. The Commissioner's Bulletin was issued from the Assistant Deputy Minister of Assessments office. It was a means of keeping assessment coordinated and a way to get information to assessors in the field. The original bulletin was seen as the best way to do it. It did not have the sanction of regulations; however, it was often issued based upon future regulations that were in the process of being drafted.

[29] Mr. Jesse referred to the *Talisman* case at paragraph 56. He highlighted the fact that in the opinion of the Municipal Government Board, had there been an intended change, it would not be effected without some notice or consultation, if for no other reason than to provide some uniformity in practice across the province.

[30] Mr. Jesse than traced the historical treatment of land at well sites. Before 1983, land was not defined in the *Electric Power and Pipeline Act*. His understanding was that it was valued by the local assessor and turned over to the Power and Pipeline Section and added to that assessment. After standardization, initially the "legal interest" in the land was that the regulated farmland rate.

[31] 2007 was the first year that the encompassed land rate was taken into the constant (Schedule A). This is Schedule A of the Minister's Guideline for linear property.

[32] Mr. Jesse indicated that in 1996, the assessment department contacted Mr. Cliff Zeiner to do an appraisal report for define market areas. The function of the appraisal was to serve as a basis for determining market value of well sites for assessment purposes. The report was not acted on until another report was ordered in 1999 to update the 1996 report. The Province referred back to the 1999 report and selected the net value of $5,000 that was to be used for all well sites. Mr. Jesse indicated that Mr. Cliff Zeiner's mandate was to value the legal interest in land. Although he looked at all types of value, he discounted the farm land value which was already in place.

[33] The value of $5,000 is a net value. To deal with the standard linear assessment method the value is $7,463 and then multiply by 0.67 depreciation, to yield the $5,000 value.

[34] Mr. Jesse stated that the 2008 amendments to Section 304(1)(f) of the MGA did not change assessment practices. In his view, if changes were to occur in Section 304 that would change assessment practice, it would have been presented and the implications discussed. When processing equipment is added to a site, and he is not aware of changes to the lease, there is nothing additional to be paid so the value of $5,000 covers all of the value at the site. Whether there is value left over to the land as set out in Section 284(1)(K)(iii)(G) goes into the appraisal and Mr. Berrien will speak to that point.

[35] Mr. Jesse confirmed that under the *Electric Power and Pipelines Act*, the words "legal interest in land" did not exist. He stated that the land component of the well was assessed, but not as part of the *Electric Power and Pipelines Act*. The farmland was added to the end value.

[36] Mr. Jesse indicated that there is no value beyond the legal interest in land set out in Section 284(1)(K)(iii)(E) and (E.1). If there is additional income which is not the legal interest in land, it would fall to 284(1)(K)(iii)(G), but there is nothing left over. Mr. Jesse indicated that his understanding of the legislative changes to Section 304(1)(f) arose from reading the Hansard. From so doing, it is his understanding that the intention was to accommodate something already in place and not to make a change to the legislation.

Mr. John d'Easum

[37] Mr. d'Easum was qualified as an expert giving opinion and evidence on municipal and linear assessment. He is an accredited municipal assessor and a member of the Alberta Assessors' Association. He is the director of operations for DuCharme MacMillan in Calgary. Mr. d'Easum indicated that the Assessor's method for measurement of area to be assessed was the area in use determined through aerial photography.

[38] Mr. d'Easum took the Board through Tabs 6, 7 and 9 of his report outlining various requests for data and the data received from the municipal Assessor. Mr. d'Easum outlined how the areas in use are calculated in reference to his report. Looking at the examples, he set out the various land values. Mr. d'Easum took the Board through the tables at Tabs 14, 15 and 16 of his report, setting out various values, market median, and average for the properties contained on those tables. Mr. d'Easum indicated that if an area under lease did not have a road, it should be assessed as farm land. Mr. d'Easum disagreed with the position taken in Mr. Grill's report that since crops were damaged the land could not be assessed as farm land. Mr. d'Easum's response was that farmland must be taken as a whole and there are always pieces which do not have production to sell. It is not a practical application to look at each part of the land to determine that which is producing crops and that which is not. He has not seen it treated this way in any other area.

[39] Mr. d'Easum was of the opinion that residential land sales are not comparable to the subject properties. Mr. d'Easum concluded that because the subject sites are located within farmland, the value of farmland is the starting point to determine market value. In market

locations with more than one sale Mr. d'Easum's summary shows these farmland values to range between $1,949 to $2,909 per acre.

[40] Mr. d'Easum, however, concluded that in light of the reclamation costs that would have to occur before the subject lands could fully be used or sold as farmland, there is no remaining assessable value at this time.

Mr. Robert Berrien

[41] Mr. Robert Berrien was qualified as an expert in the area of appraisal. Mr. Berrien's assignment was to appraise these "parcels within a parcel". Mr. Berrien took the Board through the eight sites and indicated that leased areas consisted of two parts, the long road and a yard.

[42] He turned to an analysis of how to turn this disturbed area of yard and road into a country residential parcel. He stated that there were a couple of things which seriously affected the way that he could approach this task. The first is that the value base says that it is residential and therefore he is appraising this parcel as residential. As a result, he used residential land rates as a starting point to assess an oil and gas site. For the appraisal approach, he did not have the data so he used residential data to examine and set a value for industrial property. This is an industrial site being appraised as if it is country residential. It can be done only if one assumes away the existence of conditions and restrictions; for example, the requirement of a 100 m setback from the well head. There is a minimum of one acre required for a septic field. There is no room to turn around; these are some of the limitations which had to be assumed away in order to appraise the parcels as country residential.

[43] He first blocked out the things that he could not take into account because they did not work, and then he assumed that the area was a fee simple and that it had its title and could be transferred. Then the final issue was to assume that there was a buyer who wanted to buy the parcel. He stated that it is not possible to build a house within 100 meters of a well head. In order to establish a residential value, he had to assume that this was not an issue. Also, he examined the characteristics which would be found in a country residential parcel. He expected to find that they would be beside a road way, and if not, that they created a cul-de-sac. Finally, in order to be compatible with agriculture, the parcel must be provided with water and sewer. Most of these parcels have access to piped water; however, sewage disposal could be a problem.

[44] These are the characteristics to recognize in a market of country residential properties that are going to be comparable when appraising industrial properties with different characteristics.

[45] The appraiser must assume the highest and best use is residential. However, the concern he has as an appraiser is not to mislead the reader. In these circumstances, he had to make extraordinary assumptions. He was directed to proceed as if the parcels were residential, even though they were not. He outlined some of the limitations of the parcels including the fact that one had an access across a coulee, another had an alkali slough, and another was located in a depression. In a market value appraisal, one would have to consider all of those factors and not ignore them by looking at adjustments. Mr. Berrien inspected all of the properties and averaged the well area and the disturbed area. He stated that the sites as they existed must be compared to

all residential sites near the road. The comparison required a 0.1 acre site with a driveway of approximately 1000 feet long and 11 feet wide. In his view, the Assessor and Mr. Zeiner used market value for country residential parcels and made the adjustments, but forgot they were appraising industrial properties and never got back to the fact that they are industrial parcels.

[46] Mr. Berrien stated that one well on a quarter section would not change the value of that quarter section of land. Two wells might, but three wells will affect the value of land.

[47] For all of the sites, the driveway takes up the majority of the area. The issue that arises for Mr. Berrien is that the comparables suggested as having the highest and best use are not similar to the existing conditions on the well sites. He does not agree that country residential is a suitable base, but conducted his analysis in that manner because that was what the Assessor did. He concluded that this was an artificial exercise. None of the parcels could pass as a residential parcel. There is also an assumed vacant condition that the well site is not there and that the parcel can be farmed. Mr. Berrien outlined for the Board his methodology to find comparables for the properties in question. He discounted mobile home lots as not being comparable. If possible, the best comparison is bare land so that one does not need to address the value of the house. The non-arm's length transactions were also discounted. Mr. Berrien outlined his sorting and valuation process for comparables at the bottom of page 31 of his report for typical country residential parcels. He concluded that $25,000 per acre is the starting point to appraise a small country residential parcel. Mr. Berrien indicated the restrictions had been assumed away for example the building setbacks, etc. The overall effect of factors were that the use of the parcel was restricted. One of the sites was near a wind turbine so it was less desirable. There was also the cost for services. These factors affect the use of the site and how one translates the $25,000 per acre into a sale price. In his view, the parcels could be used for cabins or for seasonal uses and they would be weather restricted. Recognizing the major differences between typical market conditions, and assuming that there is a market and the property will sell, he assumed a 75% reduction to the baseline value. Therefore, for a 0.4 acre parcel valued at $25,000 per acre, the result in value is $10,000. Using a 75% reduction, it would sell for $2,500. On a per acre basis this is $6,250 per acre.

[48] For site #2 which had very poor access, it was adjusted to $2,000 for the site or $5,000 per acre. For site #3, the property was essentially useless due to the slough. This adjustment resulted in a price of $2,500 which is $1,250 per acre.

[49] Mr. Berrien then outlined the real world approach to appraisal for these parcels. The typical market conditions for the sites are that the only people who would want this remnant parcel, for instance comparable to closed roads or power line rights of ways, would be the across the fence value. Based upon the value of the adjoining parcel, the use of the strip of land with the majority of it being used for farming would be the person having a potential use for it would be the adjacent land owner.

[50] Mr. Berrien confirmed that the actual leased area for the yard is 100 m x 100 m. Mr. Berrien conceded that if the Board looks at the area to be assessed as the area under lease, the concerns he had about the shape of the parcel were not as great. The concerns about set back

would go away because the well site is 2.47 acres which fits a country residential site size. Mr. Berrien's paced areas are slightly larger than the photos, showing the tramped down areas.

[51] Mr. Berrien agreed that there are almost no sales of industrial parcels within the data held by the Assessor. One category of data is the "small parcels improved". Another group of sales is larger parcels. Mr. Berrien confirmed that he did not do a time adjustment for the sales that he used. He did evaluate them as a vacant fee simple parcel. Mr. Berrien conceded that Mr. Zeiner did do time adjustments on his sales. Both Mr. Zeiner and Mr. Berrien approached it as a stand-alone fee simple parcel. Mr. Berrien chose $25,000 as a base rate, whereas Mr. Zeiner had arranged between $18,000-$25,000.

[52] Mr. Berrien then outlined the real world approach to appraisal for these parcels. The typical market conditions for the sites are that the only people who would want this remnant parcel would be the adjacent land owner.

[53] At page 36 of his report, he described the actual properties of the site. He found that the parent parcel of #1 was 87% arable with a land value of $3,000. He would appraise that in a farmland way. The parent parcel for parcel #2 was land classification 1, with 54% cultivated. There was a coulee and many acres were un-farmable. Parent parcel #3 was 94% cultivated with a land class of 2D. It was sold in 2012 for $3,000 per acre. Based upon this "across the fence" value, he estimated for parcel #1 the value was $2,250/acre. For Parcel #2 the value was $1,800/acre, and for Parcel #3 $2,500/acre. This evidence is summarized at page 45 of his report.

[54] Mr. Berrien did not accept Mr. Zeiner's approach that the parcels would sell for between $7,500 -$15,000/acre. He did not believe that is credible. Mr. Berrien stated that Mr. Zeiner did not properly examine some of the limitations including the non-compliance with zoning issues and land use classification. Mr. Berrien claimed he considered the characteristics that in reality affect the parcels of land. Size is one of the issues that may affect the parcels, but it is not always the overriding factor. In this case where the area cannot reasonably be used for an alternate purpose, Mr. Berrien suggested size is not important.

[55] The following witnesses gave evidence on behalf of the Complainant:

a. Mr. Dan Driscoll
b. Mr. Frank Grills

Mr. Dan Driscoll

[56] Mr. Driscoll was qualified as an expert in assessment in the area of linear property. Mr. Driscoll indicated that he and Mr. Jesse agreed that in s. 284(1)(k)(iii)(E) and (E.1), both are talking about the legal interest in land. This is the $5,000 value identified in the July 1999 Cliff Zeiner report which Mr. Zeiner called the contributory value.

[57] Mr. Driscoll indicated that the second thing he and Mr. Jesse agree upon is that section 284(1)(K)(iii)(G) of the MGA is talking about land and buildings not included in the pipeline.

[58] The third thing they agreed upon is that the well site standardization which was a large part of Mr. Jesse's report is what is assessed in section 284(1)(K)(iii)(C) and (D).

[59] Most importantly, where he and Mr. Jesse disagreed is that the value contained in section 284(1)(K)(iii)(G). Mr. Jesse felt that this is a minimal or zero value. Mr. Driscoll felt that it should be market value calculated with MRAT, section 4(3)(e) and 4(4). Mr. Driscoll confirmed that neither he nor Mr. Jesse have calculated a market value assessment in relation to that. Mr. Driscoll indicated that Mr. d'Easum, Mr. Berrien, Mr. Grills, and Mr. Zeiner have done that in this hearing.

[60] Mr. Driscoll stated that section 304(1)(f) was changed in 2008 to include the words "parcel or part of a parcel". Mr. d'Easum was taken through that and he agreed that the assessment could be for a part of a parcel and should go to the lease or licence holder. This fits with MRAT section 4(3) where it tells the assessor to assess a part of a parcel.

[61] Mr. Driscoll stated that his interpretation and that of Mr. Grills appears to be the same as that of Mr. d'Easum's. Mr. Jesse believed that the value should be zero, but didn't do a market value assessment. The Board must decide what the market value is in section 284(1)(K)(iii)(G) in the definition of "pipeline". When it comes to that, neither Mr. Jesse nor Mr. Driscoll prepared a market value assessment and so cannot add to the question. Mr. Driscoll indicated that section 284(1)(K)(iii)(G) is the exclusion from pipelines of land and buildings. This means that the assessor must prepare an assessment for it. The municipal assessor looks at the MGA when doing it. The notice for that is contained in Section 304(1)(f).

[62] Mr. Driscoll agreed that the land is excluded in section 284(1)(K)(iii)(G) from the definition of pipelines and must be assessed by the local assessor based on market value. The notice must go to the leaseholder. If there is only linear, for example just a well site and nothing else, then the assessor must still prepare an assessment for the land excluded under section 284(1)(K)(iii)(G). Mr. Driscoll did not know the circumstances of the six sites where Mr. Grills removed the value. He stated that if one has part of a parcel with a well on it, a land assessment should be prepared. Mr. Driscoll stated that in his view the entire leased area should be assessed. He understands from a discussion with Mr. Grills that he assessed only the disturbed area out of an abundance of caution.

[63] Mr. Driscoll indicated that in his view there is still market value to capture even if the subject sites and well sites are less than $5,000. The parcel or part of it as referenced in section 304(1)(f) is independent of the linear property sitting on it. The land value attributable to linear property is not a market value, it is the legal interest in the land. Mr. Driscoll indicated that the $5,000 represents the legal interest in the land, but not the land. In his view, it should not have been subtracted from the value of the assessment.

Mr. Frank Grills

[64] Mr. Grills gave evidence as the municipal Assessor. He holds accreditation from the Alberta Assessor's Association. He achieved his AMAA in 1986. Mr. Grills indicated that there are approximately 6,000 sites of this nature in the county. It was determined that the County would put a land value if there was a building or structure assessment or machinery or equipment

assessment, and a land assessment would be prepared. After the tax notices were mailed, six properties were discovered to not have a building and structure or an M&E assessment on them. These sites previously had buildings or machinery & equipment, but they were removed. A check had not been done at the time the assessments were prepared. Using the rationale, it is deemed that the assessment should go to zero. Mailing went out before they received a complaint, and the municipality was therefore able to make a change based upon section 305.

[65] Mr. Grills took the Board through the eight examples indicating what was on the site and the size of the disturbed area based upon aerial photographs from 2007.

[66] Mr. Grills was faced with a valuation date of July 1, 2011. He used data from the previous 36 months of sales. Section 304(1)(f) applied and therefore the assessment notice related to the "part of a parcel" went to the holder of the lease license or permit.

[67] Mr. Grills outlined the valuation for lands at section 4 of MRAT. Section 4(3)(e) applied because the lands could not be serviced through sewer distribution lines. Although the County has a water distribution system, these parcels do not have sewer.

[68] Section 4(4) of MRAT states that the parcel must be assessed as if it is a parcel of land. This presumes that it has a title even though it does not. Section 2 of MRAT indicates that one needs to use mass appraisal. Mr. Grills indicated that he looked for comparable small vacant parcels and sales data for them.

[69] Mr. Grills utilized aerial photographs taken in 2007 to determine the disturbed areas. He then calculated the areas identified from those aerial photographs. Mr. Grills then explained the narrowing of the initial data set.

[70] Mr. Grills indicated that the County does not have any industrial sales. Mr. Grills used country residential as a starting point because he had no industrial comparables. He had no evidence as to what an industrial parcel would sell for. He stated that due to the lack of comparables for industrial, he went to residential. He took off 1% of the market value to reflect the farm land assessment already in place. He took his value and decreased it by 50% to show as non-residential because it is an industrial site. In addition, from that value, he subtracted $5,000 which reflected the legal interest in land under the definition of linear property section 284(1)(k)(iii)(G). Where there were multiple wells, the $5,000 was taken off to reflect the number of wells. Finally, the value was adjusted by 50% to account for, but not limited to, topography, restrictions, access and shape of the sites.

[71] There are 360 sites of the 1,568 sites assessed for the first time in 2011 for taxation in 2012. The 1,568 sites represent 85 taxpayers. In the province, there were 5 municipalities which took on this exercise. Mr. Grills went from 1,400 sales down to 164 which he considered to be worthy of further comparison and examination. Mr. Grills stated that under the statutes he is required to follow, reclamation is not a consideration. It is a requirement of the operator at the time they go for a license on the wells. Further, he is not assessing minerals or mineral leases. His assessment relates only to the land.

[72] Mr. Grills stated that the legislation requires an assessment of the lease sites under section 304(1)(f) and MRAT section 4(3) and 4(4) as a separate parcel even though it is not a separate parcel.

[73] MRAT section 2(c) says to value the land with similar characteristics so he used residential areas. They did not use the full leased area because he didn't have the information on the file. However, section 304(1)(f) directs the assessment of the entire leased area.

[74] Under cross examination, Mr. Grills, acknowledged that he had applied an assessed value of $1,300 to some other non-residential properties. These properties have unique shape and use issues, such as a railway line and required a number of negative adjustments. A table had been developed to accommodate these adjustments and was used for a certain group of properties. Mr. Grills could not recall all of the details respecting the table or its application.

[75] Mr. Grills indicated that there are approximately 5,500 well sites in the county. Based upon his review of section 304(1)(f), his interpretation is that that section directs him to assess the entire lease and not a part of it. He explained that treating and separating would result in machinery and equipment and usually there is a structure or building housing that machinery and equipment. He understood the section to mean that only one of those items needs to be in place to assess the leased area. Drilling implies a well, and once there is a well the entire leased area is subject to assessment.

STATEMENT OF ISSUES

[76] Section 467(1) provides that the CARB may make a change to the assessment roll.

> **467(1)** An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

[77] In this case, the decision to change the assessment roll depends upon the answer to the following 2 issues:

a. Does the legislative framework provide jurisdiction and authority for the Assessor to assess the subject properties or lands? If so, does the legal framework include the assessment of both land and improvements on the land?

b. If the conclusion to the above question is yes, what guidance is found in the legislative framework and the principles of assessment that bear on the assessed values under complaint?

LEGISLATION CENTRAL TO THE ISSUES

[78] In coming to its decision in relation to the above question, the CARB examined a number of sections of the MGA. Those sections are set out below for ease of reference. The starting point of the analysis is section 284(1)(c). Assessment is defined as follows:

> *(c)* *"assessment" means a value of* property *determined in accordance with this Part and the regulations;* (emphasis added).

[79] The definition of property is found at section 284(1)(r):

(r)"property" means

(i) a parcel of land,

(ii) an improvement, or

(iii) a parcel of land and the improvements to it;

[80] Section 1(1)(v) defines "parcel of land" as follows:

(v)"parcel of land" means

(i) where there has been a subdivision, any lot or block shown on a plan of subdivision that has been registered in a land titles office;

(ii) where a building affixed to the land that would without special mention be transferred by a transfer of land has been erected on 2 or more lots or blocks shown on a plan of subdivision that has been registered in a land titles office, all those lots or blocks;

(iii) a quarter section of land according to the system of surveys under the Surveys Act or any other area of land described on a certificate of title;

[81] "Improvement" is defined in section 284(1)(j):

(j) "improvement" means

(i) a structure,

(ii) anything attached or secured to a structure, that would be transferred without special mention by a transfer or sale of the structure,

(iii) a designated manufactured home, and

(iv) machinery and equipment;

[82] "Structure" is defined in section 284(1)(u):

(u) "structure" means a building or other thing erected or placed in, on, over or under land, whether or not it is so affixed to the land as to become transferred without special mention by a transfer or sale of the land;

[83] Section 285 sets out the requirement for a municipality to assess all property annually.

285 *Each municipality must prepare annually an assessment for each property in the municipality, except linear property and the property listed in section 298.*

[84] Section 289(1) requires that it is it the municipal assessor who assesses the property in the municipality, aside from linear property.

289(1) *Assessments for all property in a municipality, other than linear property, must be prepared by the assessor appointed by the municipality.*

[85] "Linear property" is defined in section 284(1)(k):

(k)"linear property" means

(i) electric power systems, including structures, installations, materials, devices, fittings, apparatus, appliances and machinery and equipment, owned or operated by a person whose rates are controlled or set by the Alberta Utilities Commission or by a municipality or under the Small Power Research and Development Act, but not including land or buildings,

(i.1) street lighting systems, including structures, installations, fittings and equipment used to supply light, but not including land or buildings,

(ii) telecommunications systems, including

(A) cables, amplifiers, antennas and drop lines, and

(B) structures, installations, materials, devices, fittings, apparatus, appliances and machinery and equipment,

intended for or used in the communication systems of cable distribution undertakings and telecommunication carriers that are subject to the regulatory authority of the Canadian Radio-television and Telecommunications Commission or any successor of the Commission, but not including

(C) cables, structures, amplifiers, antennas or drop lines installed in and owned by the owner of a building to which telecommunications services are being supplied, or

(D) land or buildings,

and

(iii) pipelines, including

(A) any continuous string of pipe, including loops, by-passes, cleanouts, distribution meters, distribution regulators, remote telemetry units, valves, fittings and improvements used for the protection of pipelines intended for or used in gathering, distributing or transporting gas, oil, coal, salt, brine, wood or any combination, product or by-product of any of them, whether the string of pipe is used or not,

(B) any pipe for the conveyance or disposal of water, steam, salt water, glycol, gas or any other substance intended for or used in the production of gas or oil, or both,

(C) any pipe in a well intended for or used in

(I) obtaining gas or oil, or both, or any other mineral,

(II) injecting or disposing of water, steam, salt water, glycol, gas or any other substance to an underground formation,

(III) supplying water for injection to an underground formation, or

(IV) monitoring or observing performance of a pool, aquifer or an oil sands deposit,

(D) well head installations or other improvements located at a well site intended for or used for any of the purposes described in paragraph (C) or for the protection of the well head installations,

(E) the legal interest in the land that forms the site of wells used for any of the purposes described in paragraph (C) if it is by way of a lease, licence or permit from the Crown, and

(E.1) the legal interest in any land other than that referred to in paragraph (E) that forms the site of wells used for any of the purposes described in paragraph (C), if the municipality in which the land is located has prepared assessments in accordance with this Part that are to be used for the purpose of taxation in 1996 or a subsequent year,

but not including

(F) the inlet valve or outlet valve or any installations, materials, devices, fittings, apparatus, appliances, machinery or equipment between those valves in

(I) any processing, refining, manufacturing, marketing, transmission line pumping, heating, treating, separating or storage facilities, or

(II) a regulating or metering station,

or

(G) land or buildings;

[86] Pursuant to section 297, the assessor must assign an assessment class to the property.

297(1) *When preparing an assessment of property, the assessor must assign one or more of the following assessment classes to the property:*

(a) class 1 - residential;

(b) class 2 - non-residential;

(c) class 3 - farm land;

(d) class 4 - machinery and equipment.

(2) *A council may by bylaw*

(a) divide class I into sub-classes on any basis it considers appropriate, and

(b) divide class 2 into the following sub-classes:

(i) vacant non-residential;

(ii) improved non-residential,

and if the council does so, the assessor may assign one or more sub-classes to a property.

(3) *If more than one assessment class or sub-class is assigned to a property, the assessor must provide a breakdown of the assessment, showing each assessment class or sub-class assigned and the portion of the assessment attributable to each assessment class or sub-class.*

(4) *In this section,*

(a) "farm land" means land used for farming operations as defined in the regulations;

(a.1) "machinery and equipment" does not include

(i) any thing that falls within the definition of linear property as set out in section 284(1)(k), or

(ii) any component of a manufacturing or processing facility that is used for the cogeneration of power;

(b) "non-residential", in respect of property, means linear property, components of manufacturing or processing facilities that are used for the cogeneration of power or other property on which industry, commerce or another use takes place or is permitted to take place under a land use bylaw passed by a council, but does not include farm land or land that is used or intended to be used for permanent living accommodation;

(c) "residential", in respect of property, means property that is not classed by the assessor as farm land, machinery and equipment or non-residential.

[87] Section 291(1) requires that an assessment must be prepared for an improvement, unless the exemption in Section 291(2) applies.

[88] Section 4(4) of the *Matters Relating to Assessment and Taxation Regulation,* AR 220/2004 (MRAT) provides as follows:

***(4)** An area referred to in subsection (3)(c), (d), (e) or (f) must be assessed as if it is a parcel of land.*

[89] Section 5(1) of MRAT provides the valuation standards for improvements:

***5(1)** The valuation standard for improvements is*

(a)the valuation standard set out in section 7, 8 or 9, for the improvements referred to in those sections, or

(b)for other improvements, market value.

[90] Section 6(1) of MRAT provides the valuation standards for a parcel and improvements:

***6(1)** When an assessor is preparing an assessment for a parcel of land and the improvements to it, the valuation standard for the land and improvements is market value unless subsection (2) or (3) applies.*

[91] Section 9(1) of MRAT provides the valuation standards for machinery & equipment:

***9(1)** The valuation standard for machinery and equipment is that calculated in accordance with the procedures referred to in subsection (2).*

DECISION AND REASONS

Issue 1 Does the legislative framework provide jurisdiction and authority for the Assessor to assess the subject properties or lands? If so, does the legal framework include the assessment of both land and improvements on the land?

[92] Based upon its review of the legislation, the CARB concludes that the municipality must assess all property annually. This assessment must be done by the assessor who is appointed by the municipality. However, the MGA expressly excludes the assessment of linear property from scope of the duties of the municipal Assessor.

[93] Upon examination of the MGA, it becomes apparent that property includes both land and improvements to it. As set out in section 297(4)(b) of the MGA, linear property falls under the "non-residential" class of property. One particular kind of improvement can be linear property as set out in MRAT section 5(1)(a), and section 8. The definition of "improvement" is a general definition – it provides that anything attached or secured to a structure, that would be transferred without special mention by a transfer or sale of the structure, is an improvement. The definition of "structure and "superstructure" are helpful in understanding the nature of linear property. When one examines the provisions of MRAT, section 4 sets out the valuation standards for a parcel of land. Section 5 is a general section dealing with the valuation standards for improvements, referencing sections 7, 8 and 9. Section 8 provides the valuation standard for linear property, a particular kind of improvement. Section 9 provides the valuation standard for machinery and equipment, another kind of improvement.

[94] Section 4 of MRAT provides for the valuation standard of a parcel of land. Section 4(3) (a) – (f) speak to forms of land: (1) a parcel of land (see section 4(3)(a) – (b)) and (2) an area of land within a parcel of land (see section 4(3)(e) – (f)).

[95] Section 4(4) clarifies that while section 4(3)(c), (d), (e) and (f) are discussed as areas, these areas must be assessed "as if they are parcels of land". Therefore, in this case there is an express statutory recognition that the assessor must assume that there is a parcel of land, when, in reality, there is no titled area.

[96] These sections of the MGA and MRAT expressly identify the obligation of the assessor to assess portions of parcels of land. However, these sections do not state that the assessor must ignore the improvements on the land and assess only the land itself. There is nothing in the legislation which allows the assessor to assume that the land is vacant.

[97] Rather, such an assumption (that the land is vacant) would be contrary to the directions in the MGA and regulations to the assessor to assess both land and improvements (as both are contained within the definition of "property"). In fact, the Board finds that the Assessor does follow the vacant land concept for the subject properties or for the other "areas" described in section 4(3)(c)-(f) where improvements are assed: for example, farm residences, industrial and commercial use area, the subject properties improvements (non-linear) for example, processing equipment and buildings on the site. The error made by the Assessor was to ignore the requirements of section 289(2)(a) to ensure that the assessment also reflects the physical condition and characteristics as of December 31.

[98] The Complainants argued that the standardization of the valuation of the "legal interest in land" which is set out in section 284(1)(k)(iii)(E.1) of the MGA meant that there was no value beyond it.

> *(E.1) the legal interest in any land other than that referred to in paragraph (E) that forms the site of wells used for any of the purposes described in paragraph (C), if the municipality in which the land is located has prepared assessments in accordance with this Part that are to be used for the purpose of taxation.*

[99] However, this argument ignores section 284(1)(k)(iii)(G) of the MGA which expressly excludes land and buildings from being linear property.

[100] Based upon a review of the legislative scheme, the CARB has determined that the Assessor has the jurisdiction and authority to assess the subject lands and the non-linear improvements on them. Both "areas" within "a parcel of land" as set out in sections 4(3)(c) – (f) of MRAT and their improvements must be assessed.

[101] Having concluded that the Assessor must assess these areas of land and improvements, the CARB will examine what is to be assessed and how it is to be assessed under the second issue, below.

Issue 2 If the conclusion to the above question is yes, what guidance is found in the legislative framework and the principles of assessment that bear on the assessed values under complaint?

[102] As set out above, the CARB has concluded that the legislative framework requires the Assessor to assess both the areas of land and the (non-linear) improvements on the areas of land. The Assessor did assess the land. The analysis then turns to the Complainant's second argument – that the Assessor overvalued the property. Therefore, the CARB must determine whether to exercise its discretion to change the assessment under section 467(1) of the MGA.

[103] In making a decision about whether to make a change to the assessment, the CARB notes the following from the provisions of the MGA and MRAT.

[104] Section 1(1)(n) of the MGA defines "market value":

> *(n)"market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;*

[105] When preparing an assessment, the Assessor must act in a fair and equitable manner in applying the standards and following the procedures in the regulation.

> ***293(1)*** *In preparing an assessment, the assessor must, in a fair and equitable manner,*
>
> *(a)apply the valuation and other standards set out in the regulations, and*
>
> *(b)follow the procedures set out in the regulations.*

(2) If there are no procedures set out in the regulations for preparing assessments, the assessor must take into consideration assessments of similar property in the same municipality in which the property that is being assessed is located.

[106] This is also reflected in MRAT, section 2(c) which requires the assessment to reflect typical market conditions.

2 *An assessment of property based on market value*

(a) must be prepared using mass appraisal,

(b) must be an estimate of the value of the fee simple estate in the property, and

(c) must reflect typical market conditions for properties similar to that property.

[107] The Assessor must in accordance with section 289 (2)(a) of the MGA ensure that the assessment also reflects the physical condition and characteristics as of December 31:

(2) Each assessment must reflect

(a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and

(b) the valuation and other standards set out in the regulations for that property.

[108] The Assessor must assign one or more assessment class to the property:

297(1) *When preparing an assessment of property, the assessor must assign one or more of the following assessment classes to the property:*

(a) class 1 - residential;

(b) class 2 - non-residential;

(c) class 3 - farm land;

(d) class 4 - machinery and equipment.

[109] The provisions of MRAT set out the standard of assessment and the method which the Assessor must use. Section 2 provides that the valuation for property is market value. Section 3 provides the valuation date is July 1, and section 4 sets out the valuation standards for a parcel of land.

Mass appraisal

2 *An assessment of property based on market value*

(a) must be prepared using mass appraisal,

(b) must be an estimate of the value of the fee simple estate in the property, and

(c) must reflect typical market conditions for properties similar to that property.

Valuation date

3 *Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.*

Valuation standard for a parcel of land

4(1) *The valuation standard for a parcel of land is*

(a)market value, or

(b)if the parcel is used for farming operations, agricultural use value.

(2) *In preparing an assessment for a parcel of land based on agricultural use value, the assessor must follow the procedures set out in the Alberta Farm Land Assessment Minister's Guidelines.*

(3) *Despite subsection (1)(b), the valuation standard for the following property is market value:*

(a) a parcel of land containing less than one acre;

(b) a parcel of land containing at least one acre but not more than 3 acres that is used but not necessarily occupied for residential purposes or can be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel;

(c) an area of 3 acres located within a larger parcel of land where any part of the larger parcel is used but not necessarily occupied for residential purposes;

(d) an area of 3 acres that

(i) is located within a parcel of land, and

(ii) can be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel;

(e) any area that

(i) is located within a parcel of land,

(ii) is used for commercial or industrial purposes, and

(iii) cannot be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel;

(f) an area of 3 acres or more that

(i) is located within a parcel of land,

(ii) is used for commercial or industrial purposes, and

(iii) can be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel.

(4) *An area referred to in subsection (3)(c), (d), (e) or (f) must be assessed as if it is a parcel of land.*

(5) *The valuation standard for strata space, as defined in section 86 of the Land Titles Act, is market value.*

[110] As stated under Issue 1, the impact of sections 4(3)(c) – (f) of MRAT is that an "area of land" used for the purposes set out must be assessed in accordance with section (4) as if the area of land is a parcel of land.

[111] Section 304 does not provide the Assessor with the authority or the obligation to assess property, nor does it specify the manner in which the assessment must be done. Rather, it deals with the recording and notification of assessed persons. Once the Assessor has completed the

assessment in accordance with the legislative scheme, the Assessor must record the name set out in Column 2 of section 304 on the assessment roll for the property set out in Column 1 of section 304. Thus for section 304(1)(f), the assessed property is a parcel of land, or a *part of a parcel of land*, and the improvements to it held under a lease, licence or permit from the owner of the land where the land and the improvements are used for the listed items. The addition of the words "part of a parcel of land" accords with sections 4(3)(c) – (f) in MRAT, which permits the Assessor to assess an "area of land" which is not a titled parcel.

> ***304(1)*** The name of the person described in column 2 must be recorded on the assessment roll as the assessed person in respect of the assessed property described in column 1.
>
> | | ***Column 1***
Assessed property | | ***Column 2***
Assessed person |
> |---|---|---|---|
> | *(f)* | *a parcel of land, or a part of a parcel of land, and the improvements to it held under a lease, licence or permit from the owner of the land where the land and the improvements are used for*
(i) drilling, treating, separating, refining or processing of natural gas, oil, coal, salt, brine or any combination, product or by-product of any of them,
(ii) pipeline pumping or compressing, or
(iii) working, excavating, transporting or storing any minerals in or under the land referred to in the lease, licence or permit or under land in the vicinity of that land. | *(f)* | *the holder of the lease, licence or permit;* |

[112] The change in 2008 to section 304(1)(f) was not a change in legislative intent, but a clarification of the language regarding the notification. The ability of the Assessor to assess "part of a parcel of land" existed prior to the 2008 changes to MGA s.304.

[113] The property in question here is land within a parcel of land, used for a commercial or industrial purpose, and that cannot be serviced with sewer. This falls within section 4(3)(e) or (f) of MRAT, depending upon the size of the parcel.

[114] The above sets out the legislative framework for the Assessor. The CARB must examine the specifics of the properties to determine whether to change the assessment roll. The following paragraphs describe the attributes of the land and are generally applicable to the properties under appeal, but may not necessarily apply to each and every property which is the subject of this hearing.

[115] The "areas of land" are located on farmland where the surrounding land is used for farming operations, as defined in section 1(i) of MRAT.

> (i)"farming operations" means the raising, production and sale of agricultural products and includes

(i) horticulture, aviculture, apiculture and aquaculture,

(ii) the production of horses, cattle, bison, sheep, swine, goats, fur-bearing animals raised in captivity, domestic cervids within the meaning of the *Livestock Industry Diversification Act*, and domestic camelids, and

(iii) the planting, growing and sale of sod;

[116] The zoning is Agricultural.

[117] The land is not titled (and is not a "parcel of land"), but is an "area of land" located within a "parcel of land" (section 4(3) MRAT) which must be assessed as if it is a "parcel of land".

[118] The area or size of the subjects can range from .1 of an acre to 10 or more acres. There are two determinations of size which might be used by the Assessor:

a. The leased area; or

b. The area in use by the leasee or operator.

[119] The land used for well sites can be divided into two groups:

a. Areas of land improved with only linear property;

b. Areas of land improved with buildings or machinery and equipment, assessable at market value.

[120] The subjects all fall into the category described in paragraph 120(b), and may be impacted by both the positive and the negative physical and locational attributes and these may affect value. Some evidence was led to suggest that there may be two or three land areas which have been assessed which do not have an improvement assessable at market value; however, the CARB concluded that it did not have sufficient evidence to make a confident determination in these cases.

[121] The subjects generally have a well site area and an access road or trail. These roads or trails are typically narrow and may be relatively long. Some may be along the property lines or across the fields and some of them are trails while others are built up with a gravel top.

[122] Once the well site has been developed, "farming operations" typically occur, within the area held under lease, immediately adjacent to the access roads or trails and within a few meters of the well site. The well site areas and the access trail areas which are not used for farming have together been referred to as the "in use area". This area "in use" is considerably smaller than the leased area.

[123] The CARB has found that there is an obligation on the Assessor to assess these "in use" areas of land, which he has done.

[124] The Assessor stated that he had assessed the area in use, but upon reflection thought that the leased area was more appropriate. The CARB is of the view that the Assessor's use of the "area in use" is appropriate. It parallels the words set out in section 4(3)(e) of MRAT – "area of land ...that is used for commercial or industrial purposes...". While the CARB recognizes that the entire leased area might be considered to be "used for commercial or industrial purposes", the CARB takes a purposive interpretation of the words of the legislation. The assessment is to reflect physical characteristics, one of which is the actual use of the land. Only the "area in use" is used for the industrial purpose, as the evidence before the CARB was that the balance of the leased area was used for farming operations. Therefore, the CARB believes that the Assessor correctly interpreted the legislation in using the "area in use" to calculate the assessment. If the balance of the leased area was not used for "farming operations", it would and should be assessed as industrial; however, where farming operations are being conducted, regulated farmland rates apply.

[125] Although the disturbed area could increase, the Assessor must determine the characteristics under section 289 of the MGA. If there is a long term change to the area in use, it would have to be identified on a parcel by parcel basis. Although the CARB heard argument that this may occur, it has no evidence about how frequently it occurs and how much additional area is disturbed, so the CARB has no evidence on which to base any variance.

[126] The methodology of the Assessor to establish current assessment on the subjects was to take the market value for the land using country residential parcels as his comparables, then to reduce that value by an amount approximating the regulated farmland assessment already assessed to the land owner and to make an adjustment for the linear "legal interest in land" assessment as well. (MRAT section 4(1)(b).

[127] The Assessor used country residential parcels as his comparables due to the lack of comparable sales for industrial parcels. He had, however, applied a value of $1,300 per acre to some non-residential properties such as abandoned rail lines used for recreation purposes as well, a dump site. Although there was some similarity in shape to the land used as access for the subject properties, full details about these comparisons were not available to the CARB. The CARB concluded that these parcels were not shown to be sufficiently similar and are too few, even if there were greater similarity, to be reliable indicators of value or be a credible basis to show inequity for the assessments of the properties under complaint.

[128] The CARB agrees with the Assessor's determination that too few industrial sales would not produce a valid indicator of value for the subjects. In addition the land use bylaws would not appear to support typical industrial sites long distances from roadways in the middle of farmland. There must be appropriate access, sewage disposal and zoning. Further, the Assessor must take into consideration the required setbacks from the existing well heads and size of the subject areas.

[129] The physical condition and characteristics of the areas of land on December 31 include the existence of the well site. These sites are improved as defined in the MGA, and they have physical conditions and characteristics that must be recognized by the Assessor.

[130] The CARB understands that because there were too few, if any, sales of industrial property in the County, the Assessor used "country residential" to derive his land values for the subjects. By not taking into account the existence of the well head, the Assessor was able to use the sales of country residential parcels as comparables, and then to make adjustments to the value to account for some of the other characteristics of the subjects. Due to the existence of the well head, the comparability to country residential becomes impossible. The existence of the well head must be recognized, and its existence requires there to be setbacks beyond the typical leased area, not just beyond the area in use.

[131] Also the land use bylaws including the over-arching objective of both the provincial and county planning and subdivision statues is to preserve agricultural land.

[132] Once the existence of the well head is considered, then there are no small parcel comparisons in front of the CARB which would work as comparables to establish value. The CARB considered residential parcels, but discounted them as not appropriate given the set back requirements. Further, the evidence before the CARB (limited as it was) indicated that the assessed areas of land examined (those 8/350) would not be suitable for residential. The evidence was that any residence would need to be more than 100 m from the well head. The evidence was that the County's Land Use Bylaw contained setbacks in the yard requirements and it would not be possible to meet those for the area in use or for the typical leased well site of 100 m by 100 m.

[133] The Respondent did not demonstrate that it is common or even that on occasion in the past, reclaimed well sites have been approved for residential development. For all of the foregoing reasons the CARB does not accept that typical industrial or country residential properties are similar to subject properties and therefore are not valid indicators of their market value.

[134] The CARB has concluded that the subject lands are not creatures of proper planning and subdivision but instead arise through the exercise of legal provisions which allow the owner of gas, oil or mineral rights to have access to those resources. These areas of land, therefore, are located where it is feasible to mine the resource and not to conform to land use bylaws which would normally govern. The use of the land by the operator or lessee is temporary even though the lease may extend to 25 years or more. Eventually the land must be reclaimed to its original condition and use as farmland.

[135] The subject lands have been severed from farmland and it appears that the majority of those before the CARB are located with farmland surrounding on all four sides. When the leases expire and the land is reclaimed, it will in all likelihood be returned to farmland use. This special use industrial property has been established due to the creation of the lease. The appraiser's first function is to examine the highest and best use. Mr. Berrien set out this quote in his report:

> *Alternatively, that use, from among reasonably probable and legal alternative uses, found to be physically possible, appropriately supported, financially feasible, and which results in highest land value.*

[136] The CARB did not have evidence which would allow it to conclude that the subject lands would meet the highest and best use criteria for uses other than their current mandated use or farmland which will be their eventual default use. Farmland market value and the basis for leases between the land owner and the gas and oil operators are derived from essentially the same market data (current sales of farmland). Further, as there appears to be no other valid market indicators before the CARB, the CARB concludes that the best indicator of market value for the subject lands is the market value of the surrounding farmland.

[137] The only evidence of value, other than residential, is the "across the fence" or surrounding farmland value. Therefore the CARB examined the values put forward by Mr. d'Easum at Exhibit C11, page 6:

Sale Type	Valid Sales	Median Sale Price / Per Acre
Non-residential	1	$3,749
Residential Sales	15	$30,949
Farmland – Market Location 215	25	$3,118
Farmland – Market Location 227	7	$1,949
Farmland – Market Location 230	6	$2,283
Farmland – Market Location 234	11	$2,057
Farmland – Market Location 242	1	$27,349

and by Mr. Berrien at Exhibit C5, page 49:

Subject No.	Legal Description	Roll Number	Size	Berrien Small Parcel Valuation		Berrien Parent Parcel Valuation	
				$/ac	Value of Assessed	$/ac	Value of Assessed Parcel
1	1-SE¼ 14-34-25 W4M	34251410100	0.4 ac	$6,250	$2,500	$2,250	$900
2	16-NE¼ 11-29-23 W4M	29231141600	0.4 ac	$5,000	$2,000	$1,800	$720
3	6-SW¼ 3-29-25 W4M	29250320600	1.9 ac	$1,250	$2,375	$2,500	$4,750

[138] In Mr. d'Easum's table referenced in paragraph 137 above, there are two examples which are above $27,000/acre. The Board has discounted those as not providing a sufficient comparable. The balance of the values contained in that table fall within approximately $2,000/acre to $3,000/acre, which is similar to the values contained in Mr. Berrien's table.

[139] The CARB concludes that the value of $2,250 per acre which is the approximate median for both Mr. d'Easum and Mr. Berrien's numbers is the appropriate base market value per acre. This value represents the value of the fee simple estate when applied to the acreage of each area "in use".

[140] Section 2(b) of MRAT requires that the assessment be an estimate of the value of the fee simple estate in the property. The CARB has accepted the fact that part of that fee simple interest has already been captured in the linear assessment and another part has been captured through the unadjusted farmland assessment for the larger parcel. The CARB has found that the Assessor had correctly applied adjustments for these values which are captured in other assessment attached to these lands.

[141] The CARB has adopted the $372 value per acre rather than the 1% factor used by the Assessor to account for the regulated farmland assessment. The 1% factor will not produce a reasonable approximation of the farmland assessments as the CARB value per acre is reduced from the previous values used by the Assessor and the $372 per acre value was not refuted by the Respondent. It is therefore necessary to remove $372 per acre from each of the subject's base market value derived through the application of the $2,250 per acre calculation.

[142] Likewise it is also necessary to reduce the base assessment value by a further $5,000 to recognize the legal interest in the land which has already been captured by the linear assessment (MGA section 284(1)(k)(iii)(E.1). To do otherwise would permit a double assessment in the amount of $5,000 for each of the properties under complaint. While the Respondent argued that MGA s284(1)(k)(iii) (G) excludes land from the linear assessment the facts are that in this case part of the fee simple interests have already been assessed.

[143] The Complainant on the other hand argued that the legal interests in the subject lands as been fully captured within the linear assessment. There may have been a better argument for that proposition in 1999 when the value of $5,000 was first determined. The CARB understands that Cliff Zeiner was mandated to determine the market value of well site lands and that a capitalized net income approach was used to determine values based on leases studied at that time. While this approach has the potential of producing market value, the CARB did not have sufficient evidence to decide this question. The value determined in 1999 would in any case not be acceptable on its face as representative of market value for July 1, 2011. Further, the CARB concludes that given the provisions of section 284(1)(k)(iii)(G) of the MGA, the municipal Assessor, under current legislation, has the right if not the obligation to ensure that the subject lands and improvement are assessed at their market value each year not withstanding what value may be captured within the linear assessment.

[144] As stated earlier, the CARB can find nothing in the legislative scheme which permits the Assessor to assume the land as vacant. Also section 304 (1)(f) does not authorize the Assessor to assess the land, nor specify the manner in which it is to be done. Rather, it is a notification section.

[145] The CARB examined whether the assessment should be reduced for reclamation costs. The CARB has concluded that these sites do not come into existence through intentional land use planning, but through decisions of third party tribunals or through negotiation within the legal framework set out in legislation. Likewise, the obligation respecting reclamation is also required by law and is a known cost and obligation of the operator from the very outset. The obligation to reclaim lies with the operator, not with the owner of the land. So long as the well is operating, the operator holds the obligation to reclaim. Even if the well is abandoned and the operator is no longer viable or identifiable, the obligation to reclaim does not transfer to the owner of the land, but rather the reclamation obligations are assumed by the Orphan Well Association. In examining who the potential purchaser of this "area of land" is, it is likely to be the existing landowner. That party would not be concerned about the site being cleaned up because there is an obligation on the operator to reclaim the lands.

[146] The CARB concludes that reclamation concerns the present land owner or any prospective purchaser, except that of another oil or gas operator, would simply go to the question of when or how soon will the reclamation take place and not to the question of reclamation costs. If the purchaser is another oil or gas operator, that purchaser would weigh the obligation and cost of reclamation against the ability to recapture these costs through the profit margins expected over the remaining life of the well. The reclamation matter in the CARB's view is a known operating cost and as such these cost should not be attached to the value of the land.

Summary of the CARB Decision

[147] The CARB has found that the Assessor has the right and obligation to assess the subject properties. The CARB has found that the method applied by the Assessor with respect to assessing only the area in use and then reducing that value by the value of other partial assessments (legal interests and the farmland regulated rate) is correct. The country residential basis for value, however, was found not to be supportable and the CARB accepted that the market value of farmland is to be the best indicator of value based on the market evidence available to the Board. The CARB did not have sufficient evidence to distinguish values between various soil qualities, locational, topographical and other characteristics that perhaps could be applied.

[148] In this case, based on the evidence available the CARB has decided to apply one representative base market value rate of $2,250 per acre to each "in use area" as calculated by the Assessor in the first instance and reduce that value by first $372 per acre of the "in use area" representing the average value of the regulated farmland assessment, and secondly by a further $5,000 for each well on site to account for the legal interest in land already assessed by the linear assessor. The resulting value will be the net market value of the area in use for each of the subject properties. On the "Taxation Notice and Property Assessment" form for each property under complaint, this new value will replace the value shown opposite the "Non-Residential @ Market" amount. The assessed values of the improvements, as they were assessed in the first instance, will not change and must then be added to the net market value of the land (Non-Residential @ Market) number in order to calculate the correct total assessment for each roll number under complaint.

[149] The following examples taken from the 8 examples discussed by the parties (and which are highlighted in grey in Appendix B) will provide the parties with a clear understanding of how this decision is to be implemented:

Roll Number	Legal description	Size Assessed (acres)	Value at $2,250/acre	Linear adjustment Per well	Farmland Adjustment -$372/acre	Total adjusted value
34260310700	7-SE-3	4.7	$10,575	$10,000	$1,748	0
33262731400	14-NW-27	4.3	$9,675	$5,000	$1,600	$3,075
34261010800	8-SE-10	1.5	$3,375	$5,000	$558	0

[150] The CARB is hereby directing the Assessor to calculate a new assessment for each of the subject properties using the "in use" areas as determined for their original assessment. These areas should then be multiplied by the base value of $2,250 from which two reductions will be

applied. First $372/acre (the average farmland assessment) and second $5,000/well on the site (the linear legal interest in land value). The resulting value is the CARB's decision respecting the land values under complaint. In order to correct the full assessment for each roll number under complaint, the Assessor will then add the value of improvements as shown on the original assessment notice. The Assessor is to complete his calculations of the new net market value of the land (Non-Residential @ Market) number for each roll number under complaint by Monday, June 3 2013 and submit these values to the CARB and the Complainant on or before that date. The Complainant will then have seven days to advise the CARB of any errors or omissions in the Assessor's calculations and order the implementation of its decision. The CARB suggest that the Assessor copy the attached Schedule B and use this order of roll numbers to report his newly calculated values.

[151] It is so ordered.

Dated at the City of Lethbridge, in the Province of Alberta, this 24th day of May, 2013.

P. Petry, Presiding Officer

An appeal may be made to the Court of Queen's Bench in accordance with the MGA as follows:

> **470(1)** An appeal lies to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.
>
> **(2)** Any of the following may appeal the decision of an assessment review board:
>
> (a) the complainant;
>
> (b) an assessed person, other than the complainant, who is affected by the decision;
>
> (c) a municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;
>
> (d) the assessor for a municipality referred to in clause (c).
>
> **(3)** An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision under section 469, and notice of the application for leave to appeal must be given to
>
> (a) the assessment review board, and
>
> (b) any other persons as the judge directs.

APPENDIX "A"
DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:

B-1	B-1 Court of Queen's Bench Application for Leave, Altus Group Ltd. V. City of Calgary	December 4, 2013
C1	Complainant's Legal Submissions December 3-14, 2012	October 29, 2012
C2	Complainant's Legal Submissions December 10, 2012	December 3, 2012
C3	Court of Appeal Decision, Alliance Pipeline v. Province of Alberta	December 10, 2012
C4	Report of John D'Easum	October 29, 2012
C5	Report of Robert Berrien	October 29, 2012
C5A	Appendices to Report of Robert Berrien	October 29, 2012
C6	Report of EBA Engineering Consultants	October 29, 2012
C7	Report of Bill Jesse	October 29, 2012
C8	Robert Thompson Willsay	October 29, 2012
C9	Berrien Associates: Reply to Kevin C. Zeiner, Review of Berrien Associates Ltd. Appraisal, (Nov 21, 2012) and Commentary on the Shaske & Zeiner Appraisal, Nov 12, 2012. Our File No. 2595	December 3, 2012
C10	Glory J. Consulting: Response to Dan Driscoll Witness Report	December 3, 2012
C11	Rebuttal Submission of Jon D'Easum, AMAA	December 3, 2013
C12	Berrien Associates: Review of the Comments by Frank Grills, Assessor for Kneehill County November 26, 2012.	November 30, 2013
C13	CV Robert Thompson	March 4, 2013
C14	CV Mark Fawcett	March 4, 2013
R1	Respondent's Institutional Independence Argument	December 4, 2012
R2	Respondent's Volume of Authorities	December 4, 2012
R3	Kneehill County Council Minutes	December 4, 2012
R4	Kneehill County Website Materials	December 4, 2012
R5	Alberta Court of Appeal Decision, Boardwalk Reit LLP v. City of Edmonton	December 4, 2012
R6	Report of Dan Driscoll	November 26, 2012
R7	Report of Frank Grills	November 26, 2012
R8	Report of Kevin Zeiner	November 26, 2012

R9	Legal Argument – Reynolds Mirth Richards & Farmer LLP	November 26, 2012
R10	Legal Authorities	November 26, 2012
R11	RMRF - Volume of Legislation	November 26, 2012
R12	Review of Berrien Associates Ltd. Appraisal	November 26, 2012

APPENDIX "B"

PART 1 – ENCANA ROLLS SUBJECT TO COMPLAINT

Roll Number	LSD	SEC	TWP	RGE	MER	Land Value
28200610100	01	06	028	20	4	$38,360
28200620600	06	06	028	20	4	$29,330
28200631400	14	06	028	20	4	$26,110
28200641600	16	06	028	20	4	$23,960
28200731100	11	07	028	20	4	$7,460
28207312000	12	07	028	20	4	$70,010
28200740900	09	07	028	20	4	$20,740
28200741500	15	07	028	20	4	$11,960
28201210100	01	12	028	20	4	$43,770
28201220400	04	12	028	20	4	$25,040
28201231200	12	12	028	20	4	$16,450
28201231300	13	12	028	20	4	$14,960
28201241000	10	12	028	20	4	$28,250
28201331300	13	13	028	20	4	$29,130
28201920300	03	19	028	20	4	$35,360
28201931400	14	19	028	20	4	$12,270
28201941600	16	19	028	20	4	$20,100
28202020400	04	20	028	20	4	$31,140
28202410700	07	24	028	20	4	$26,120
28202431200	12	24	028	20	4	$15,080
28202431400	14	24	028	20	4	$20,100
28202920400	04	29	028	20	4	$12,270
28202931100	11	29	028	20	4	$19,100
28202931300	13	29	028	20	4	$8,070
28202941500	15	29	028	20	4	$26,120
28203010700	07	30	028	20	4	$36,550
28203031400	14	30	028	20	4	$15,080
28203041500	15	30	028	20	4	$17,090
28203110100	01	31	028	20	4	$12,270
28203120600	06	31	028	20	4	$39,150
28203141000	10	31	028	20	4	$37,350
28203141600	16	31	028	20	4	$25,120
28210131300	13	01	028	21	4	$79,190
28210141600	16	01	028	21	4	$70,340
28210220300	03	02	028	21	4	$17,530
28210310800	08	03	028	21	4	$27,180

28211110800 08	11	028	21	4	$84,160
28211141600 16	11	028	21	4	$62,540
28211210100 01	12	028	21	4	$60,400
28211320500 05	13	028	21	4	$29,330
28211320600 06	13	028	21	4	$26,110
28211331400 14	13	028	21	4	$38,550
28211420300 03	14	028	21	4	$17,530
28211431400 14	14	028	21	4	$45,740
28211440900 09	14	028	21	4	$30,140
28211520500 05	15	028	21	4	$7,460
28211631400 14	16	028	21	4	$26,020
28211720600 06	17	028	21	4	$28,320
28211731200 12	17	028	21	4	$13,160
28211731400 14	17	028	21	4	$34,060
28211741000 10	17	028	21	4	$26,020
28211810800 08	18	028	21	4	$34,060
28211820500 05	18	028	21	4	$17,980
28211831100 11	18	028	21	4	$24,870
28211831200 12	18	028	21	4	$8,350
28211910200 02	19	028	21	4	$21,420
28211920600 06	19	028	21	4	$9,950
28211931300 13	19	028	21	4	$36,360
28211940900 09	19	028	21	4	$38,650
28212010200 02	20	028	21	4	$42,680
28212010700 07	20	028	21	4	$16,370
28212031100 11	20	028	21	4	$16,080
28212041000 10	20	028	21	4	$8,070
28212110700 07	21	028	1	4	$34,150
28212131400 14	21	028	21	4	$15,080
28212140900 09	21	028	21	4	$15,080
28212210100 01	22	028	21	4	$39,750
28212220400 04	22	028	21	4	$15,080
28212220600 06	22	028	21	4	$30,140
28212231400 14	22	028	21	4	$20,100
28212240900 09	22	028	21	4	$23,110
28212310100 01	23	028	21	4	$31,140
28212310700 07	23	028	21	4	$28,130
28212410200 02	24	028	21	4	$35,560
28212431200 12	24	028	21	4	$15,080
28212441000 10	24	028	21	4	$26,120
28212441600 16	24	028	21	4	$13,680
28212541000 10	25	028	21	4	$32,150
28212610800 08	26	028	21	4	$15,080
28212620500 05	26	028	21	4	$10,870
28212631300 13	26	028	21	4	$13,680
28212731300 13	27	028	21	4	$17,090
28212741500 15	27	028	21	4	$35,360
28212820600 06	28	028	21	4	$27,130
28212831300 13	28	028	21	4	$20,100
28212910200 02	29	028	21	4	$12,270

28212930600 06	29	028	21	4	$22,110
28212931100 11	29	028	21	4	$46,940
28212931300 13	29	028	21	4	$19,100
28213141500 15	31	028	21	4	$26,020
28213210800 08	32	028	21	4	$24,110
28213220400 04	32	028	21	4	$15,080
28213310700 07	33	028	21	4	$12,270
28213320600 06	33	028	21	4	$37,750
28213441600 16	34	028	21	4	$25,120
28213540900 09	35	028	21	4	$9,470
28221310810 08	13	028	22	4	$11,560
28221341000 10	13	028	22	4	$43,540
28221430500 05	14	028	22	4	$9,950
28221431100 11	14	028	22	4	$23,720
28221510200 02	15	028	22	4	$9,950
28221520500 05	15	028	22	4	$9,950
28221610700 07	16	028	22	4	$21,420
28221631400 14	16	028	22	4	$19,130
28221741600 16	17	028	22	4	$11,560
28221931400 14	19	028	22	4	$8,350
28221940900 09	19	028	22	4	$9,950
28222031400 14	20	028	22	4	$19,130
28222040900 09	20	028	22	4	$9,950
28222110700 07	21	028	22	4	$26,020
28222231300 13	22	028	22	4	$9,950
28222310700 07	23	028	22	4	$26,020
28222331100 11	23	028	22	4	$21,420
28222431400 14	24	028	22	4	$16,370
28222441000 10	24	028	22	4	$27,170
28222541000 10	25	028	22	4	$30,610
28222620300 03	26	028	22	4	$9,950
28222620400 04	26	028	22	4	$11,560
28223010200 02	30	028	22	4	$14,770
28223110800 08	31	028	22	4	$24,870
28223141600 16	31	028	22	4	$20,270
28223241000 10	32	028	22	4	$45,270
28223320300 03	33	028	22	4	$13,160
28223341000 10	33	028	22	4	$42,900
28223440900 09	34	028	22	4	$20,270
28223520500 05	35	028	22	4	$8,350
28223520600 06	35	028	22	4	$22,570
28231420600 06	14	028	23	4	$11,560
28231441600 16	14	028	23	4	$27,170
28232131100 11	21	028	23	4	$19,130
28232210200 02	22	028	23	4	$28,320
28232241500 15	22	028	23	4	$9,950
28232310700 07	23	028	23	4	$23,720
28232431400 14	24	028	23	4	$9,950
28232531400 14	25	028	23	4	$19,130
28232541000 10	25	028	23	4	$20,270

28232610100 01	26	028	23	4	$8,350
28232610700 07	26	028	23	4	$39,800
28232720600 06	27	028	23	4	$23,720
28233141600 16	31	028	23	4	$11,560
28233310100 01	33	028	23	4	$11,560
28233420600 06	34	028	23	4	$38,650
28233520600 06	35	028	23	4	$27,170
28233531300 13	35	028	23	4	$14,770
28233610200 02	36	028	23	4	$21,420
28233620400 04	36	028	23	4	$11,560
28241310700 07	13	028	24	4	$24,870
28241910700 07	19	028	24	4	$24,870
28242520600 06	25	028	24	4	$11,560
28242910200 02	29	028	24	4	$17,980
28242910700 07	29	028	24	4	$17,980
28242920300 03	29	028	24	4	$9,770
28242920500 05	29	028	24	4	$12,170
28242920600 06	29	028	24	4	$21,020
28242931100 11	29	028	24	4	$24,870
28243010700 07	30	028	24	4	$19,130
28243010800 08	30	028	24	4	$9,950
29210910700 07	09	029	21	4	$22,700
29210920400 04	09	029	21	4	$39,120
29210920600 06	09	029	21	4	$38,440
29211620600 06	16	029	21	4	$12,030
29211631400 14	16	029	21	4	$38,670
29211710800 08	17	029	21	4	$13,530
29211731300 13	17	029	21	4	$10,520
29211741600 16	17	029	21	4	$10,520
29212031400 14	20	029	21	4	$24,080
29212041000 10	20	029	21	4	$13,530
29212110700 07	21	029	21	4	$16,540
29212141600 16	21	029	21	4	$16,540
29221410200 02	14	029	22	4	$23,390
29222331100 11	23	029	22	4	$7,520
29222331400 14	23	029	22	4	$25,160
29222341600 16	23	029	22	4	$19,770
29222710800 08	27	029	22	4	$20,850
29230120600 06	01	029	23	4	$14,130
29230220600 06	02	029	23	4	$29,060
29230341600 16	03	029	23	4	$21,420
29230831100 11	08	029	23	4	$24,460
29230920600 06	09	029	23	4	$36,380
29231010700 07	10	029	23	4	$8,350
29231031400 14	10	029	23	4	$21,420
29231041000 10	10	029	23	4	$21,420
29231110800 08	11	029	23	4	$17,980
29231120600 06	11	029	23	4	$8,350
29231131100 11	11	029	23	4	$8,350
29231141600 16	11	029	23	4	$8,350

29231220600 06	12	029	23	4	$34,060
29231610700 07	16	029	23	4	$34,060
29231720600 06	17	029	23	4	$22,570
29231810100 01	18	029	23	4	$36,360
29231820300 03	18	029	23	4	$11,560
29232010200 02	20	029	23	4	$30,610
29232120400 04	21	029	23	4	$16,370
29232241600 16	22	029	23	4	$30,610
29233020600 06	30	029	23	4	$18,720
29233220600 06	32	029	23	4	$32,590
29233231400 14	32	029	23	4	$18,490
29240541600 16	05	029	24	4	$11,560
29240641600 16	06	029	24	4	$12,980
29240741600 16	07	029	24	4	$17,020
29241110800 08	11	029	24	4	$13,160
29241510800 08	15	029	24	4	$27,890
29241620600 06	16	029	24	4	$29,060
29241641000 10	16	029	24	4	$13,570
29241641600 16	16	029	24	4	$13,570
29241920600 06	19	029	24	4	$18,490
29242320600 06	23	029	24	4	$16,370
29242410800 08	24	029	24	4	$39,800
29242631100 11	26	029	24	4	$20,840
29242720600 06	27	029	24	4	$27,590
29242831100 11	28	029	24	4	$11,930
29242841600 16	28	029	24	4	$27,890
29242910800 08	29	029	24	4	$29,060
29243220600 06	32	029	24	4	$18,490
29243231400 14	32	029	24	4	$20,840
29243241600 16	32	029	24	4	$10,290
29243520600 06	35	029	24	4	$30,240
29250231400 14	02	029	25	4	$21,790
29250310100 01	03	029	25	4	$12,530
29250320600 06	03	029	25	4	$30,430
29251110800 08	11	029	25	4	$13,570
29251220620 06	12	029	25	4	$30,240
29251310200 02	13	029	25	4	$10,290
29252341000 10	23	029	25	4	$19,670
29252420600 06	24	029	25	4	$39,630
29261341000 10	13	029	26	4	$23,030
29263610200 02	36	029	26	4	$19,330
30220441000 10	04	030	22	4	$31,620
30220910700 07	09	030	22	4	$27,310
30230520600 06	05	030	23	4	$15,210
30230831100 11	08	030	23	4	$22,020
30231820600 06	18	030	23	4	$13,490
30233020600 06	30	030	23	4	$16,850
30233320600 06	33	030	23	4	$17,620
30240131100 11	01	030	24	4	$22,020
30240231400 14	02	030	24	4	$16,850

30240241000 10	02	030	24	4	$13,570
30240420600 07	04	030	24	4	$10,290
30240431400 14	04	030	24	4	$18,490
30240510800 08	05	030	24	4	$13,570
30241131400 14	11	030	24	4	$22,020
30241220600 06	12	030	24	4	$23,190
30241320600 06	13	030	24	4	$16,850
30241331400 14	13	030	24	4	$36,110
30241510700 07	15	030	24	4	$22,020
30241620600 06	16	030	24	4	$32,280
30242120600 06	21	030	24	4	$22,020
30242320600 06	23	030	24	4	$13,570
30242631400 14	26	030	24	4	$11,930
30242710700 07	27	030	24	4	$19,670
30250110700 07	01	030	25	4	$16,850
30250710700 07	07	030	25	4	$15,930
30251320600 06	13	030	25	4	$25,540
30251431100 11	14	030	25	4	$7,440
30251941600 16	19	030	25	4	$7,440
30252131100 11	21	030	25	4	$14,230
30252320600 06	23	030	25	4	$15,930
30252720600 06	27	030	25	4	$24,260
30252831100 11	28	030	25	4	$26,730
30252931400 14	29	030	25	4	$12,530
30253020600 06	30	030	25	4	$15,930
30253110700 07	31	030	25	4	$14,230
30253220600 06	32	030	25	4	$19,330
30253420400 04	34	030	25	4	$12,530
30253420600 06	34	030	25	4	$19,330
30261310700 07	13	030	26	4	$10,830
30261520400 04	15	030	26	4	$14,230
30262220600 06	22	030	26	4	$51,490
30262341000 10	23	030	26	4	$20,560
30262810800 08	28	030	26	4	$32,900
30262941600 16	29	030	26	4	$19,330
30263231300 13	32	030	26	4	$12,530
30263610700 07	36	030	26	4	$23,030
31230641610 16	06	031	23	4	$26,710
31230810200 02	08	031	23	4	$26,710
31231120600 06	11	031	23	4	$30,160
31231520400 04	15	031	23	4	$9,780
31231710800 08	17	031	23	4	$8,650
31231731100 11	17	031	23	4	$23,190
31232010800 08	20	031	23	4	$25,530
31232910100 01	29	031	23	4	$22,390
31240410700 07	04	031	24	4	$44,000
31241131400 14	11	031	24	4	$19,360
31241920600 06	19	031	24	4	$27,960
31241941600 16	19	031	24	4	$20,560
31242331300 13	23	031	24	4	$13,000

31242820500 05	28	031	24	4	$8,000
31250431400 14	04	031	25	4	$44,000
31250520600 06	05	031	25	4	$32,900
31250641600 16	06	031	25	4	$20,560
31250731400 14	07	031	25	4	$19,330
31251310700 07	13	031	25	4	$14,230
31251631100 11	16	031	25	4	$26,730
31253510800 08	35	031	25	4	$19,330
31261010100 01	10	031	26	4	$14,230
31261031300 13	10	031	26	4	$15,930
31261120600 06	11	031	26	4	$31,660
31261231300 13	12	031	26	4	$14,230
31261641000 10	16	031	26	4	$21,790
31262220600 06	22	031	26	4	$25,500
31262810200 02	28	031	26	4	$15,930
31263410700 07	34	031	26	4	$25,560
32221810800 08	18	032	22	4	$20,240
32221820600 06	18	032	22	4	$13,340
32221910800 08	19	032	22	4	$29,420
32230231400 14	02	032	23	4	$34,440
32232931100 11	29	032	23	4	$18,570
32240331300 13	03	032	24	4	$11,560
32243210800 08	32	032	24	4	$10,410
32252031300 13	20	032	25	4	$9,130
32252320500 05	23	032	25	4	$17,130
32252820500 05	28	032	25	4	$10,640
32252931310 13	29	032	25	4	$16,710
32253220500 05	32	032	25	4	$12,160
32260220300 03	02	032	26	4	$21,870
32260241000 10	02	032	26	4	$18,850
32261020600 06	10	032	26	4	$58,350
32261041500 15	10	032	26	4	$11,680
32261641600 16	16	032	26	4	$9,890
32262441600 16	24	032	26	4	$13,670
32263610100 01	36	032	26	4	$10,640

33230220500 05	02	033	23	4	$16,480
33231040900 09	10	033	23	4	$16,480
33231041600 16	10	033	23	4	$10,480
33231131400 14	11	033	23	4	$16,480
33231210800 08	12	033	23	4	$8,330
33243020500 05	30	033	24	4	$19,280
33243131400 14	31	033	24	4	$9,370
33250420400 04	04	033	25	4	$24,300
33250420500 05	04	033	25	4	$7,610
33250620300 03	06	033	25	4	$27,560
33251510100 01	15	033	25	4	$19,960
33251731200 12	17	033	25	4	$9,130
33252031100 11	20	033	25	4	$21,050
33252220300 03	22	033	25	4	$16,710
33252531100 11	25	033	25	4	$12,160

34213131300 13	31	034	21	4	$17,750
34240641600 16	06	034	24	4	$18,180
34240741510 15	07	034	24	4	$20,390
34250220600 06	02	034	25	4	$37,330
34251031400 14	10	034	25	4	$7,610
34251041600 16	10	034	25	4	$7,610
34251120600 06	11	034	25	4	$38,730
34251410100 01	14	034	25	4	$7,610
34251620600 06	16	034	25	4	$18,880
34251641600 16	16	034	25	4	$12,160
34252020600 06	20	034	25	4	$53,920
34252810100 01	28	034	25	4	$13,800
34253441500 15	34	034	25	4	$16,850
35240131410 14	01	035	24	4	$47,550

PART 2 – PENN WEST ROLLS SUBJECT TO COMPLAINT

Roll Number LSD	SEC	TWP	RGE	MER	Land Value
34261010800 08	10	034	26	4	$22,910
33262741000 10	27	033	26	4	$30,480
33262731400 14	27	033	26	4	$53,110
34261431100 11	14	034	26	4	$22,910
33260320600 06	03	033	26	4	$47,200
34261041500 15	10	034	26	4	$19,270
33263541600 16	35	033	26	4	$21,870
33263541000 10	35	033	26	4	$31,710
34260310700 07	03	034	26	4	$51,390
33261410800 08	14	033	26	4	$15,270

For MGB Administrative Use: Appeal Type	Property Type	Property Sub-Type	Issue	Issue
CARB	Well Site Properties	Land and Access	Jurisdiction to Assess	Value/Fee Simple