

**NOTICE OF DECISION**

**NO. DL 028/08**

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This is the decision of the Municipal Government Board (MGB) from a post-decision hearing for directions held in the City of Calgary from Monday December 3, 2007 to Wednesday December 5, 2007, respecting the decision in Board Order MGB 020/07, DL 112/07 and DL 113/07 which dealt with the 2006 (tax year) Linear Property Assessment Complaints submitted for Apache Canada Ltd., Burlington Resources Canada (Hunter) Limited, Burlington Resources Canada Ltd., Canadian Natural Resources Ltd., Daylight Energy, Flowing Energy Corporation, Midnight Oil Exploration Ltd., Tempest Energy Corp., Encana Corporation, Encana Oil and Gas Co. Ltd., BP Canada Energy Company, and Talisman Energy Inc.

Between:

**Designated Linear Assessor for the Province of Alberta as represented by Reynolds Mirth Richards and Farmer LLP – Respondent**

**-and-**

**Apache Canada Ltd. et al as represented by Wilson Laycraft LLP – Complainants**

**In Attendance:**

MGB: D. Thomas, Presiding Officer  
A. Savage, Member

Respondent: C. Zukiwski, Reynolds Mirth Richards and Farmer LLP  
K. Durkin, Reynolds Mirth Richards and Farmer LLP  
C. Uttley, Assessment Services Branch, Alberta Municipal Affairs and Housing  
T. Pellerin, Assessment Services Branch, Alberta Municipal Affairs and Housing  
S. Young, Assessment Services Branch, Alberta Municipal Affairs and Housing

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B. Ney, Consultant, Assessment Services Branch, Alberta Municipal  
Affairs and Housing  
B. Brunsch, Perceptive Resource Management  
Dr. E. Thompson

Complainants: G. Ludwig, Wilson Laycraft LLP  
J. Thibault, JT Consulting  
D. Johnson, JT Consulting  
B. Cormier, Canadian Natural Resources Ltd.  
K. Nelson, ConocoPhillips  
D. Wheeler-Felstad, Encana Corporation  
S. Reeder, Encana Corporation  
P. Virdee, Encana Corporation

MGB Staff: S. Sexton, Case Manager

### OVERVIEW

This matter involves linear property assessment complaints involving some 11,000 wells, of which a sample of 500 were selected by the Complainants as being representative of the issues in the rest of the population. A week long merit hearing was held in October of 2006 to decide several issues with respect to the 500 wells. The main issue at the hearing was the proper determination of well-depth, a variable used in calculating the tax assessment for a given well.

The MGB's decision from that hearing is found in Board Order MGB 020/07. A further hearing for advice and direction relative to MGB 020/07 was held on May 18<sup>th</sup> 2007, resulting in Decision Letter 112/07. As a result of MGB 020/07 and DL 112/07 (the Decisions), the Respondent in this matter, the Designated Linear Property Assessor in the Province of Alberta (DLA), was ordered to recalculate assessments for 356 of the 500 wells, in accordance with the terms and conditions in the Decisions.

The DLA recalculated the assessments for all of the 356 wells in accordance with the Decisions; however, there is disagreement between the parties about the proper application of the terms and conditions in the Decisions relative to the assessment of LPAU-IDs 3480996 and 2039318. In that regard, the present hearing was scheduled to deal with the following issues:

1. To determine the appropriate assessments for LPAU-IDs 3480996 and 2039318, based on the direction in the Decisions; and
2. To decide whether the findings and direction in the Decisions pertaining to the issues affecting the 356 remaining wells in the sample can be applied to the issues affecting the rest of the wells under complaint.

**A. Decision Format**

There were several preliminary and procedural issues raised by the Respondent prior to and at the hearing, most of which appear to be closely tied to issue two only. Furthermore, the MGB believes that issue one above must be dealt with before it can proceed with issue two. With this in mind, the MGB felt it would be prudent to produce separate written decisions on the two main issues at the present hearing. The MGB accordingly will address issue two and related preliminary and procedural matters in a companion to this decision letter; only matters related to issue one are dealt with herein.

**B. Specifics of Issue 1**

Section 292 of the Municipal Government Act (the Act) specifies that linear property assessments must reflect the characteristics and specifications of wells as of October 31<sup>st</sup> of the year prior to the year in which a tax is imposed (the Assessment Year), as contained in the records of the EUB. Accordingly, in calculating an assessment, the EUB records are the primary reference point for relevant factors that determine well-depth. An issue related to well-depth is the relevant date in time when records of the EUB should be taken into account in determining the assessment. The contents of the records of the EUB can change over time as characteristics and specifications of the wells themselves change. Changes to things in the records such as well depth can change the resulting assessment.

The Assessment Classification Code (ACC) for a well, another variable affecting the computation of the assessment, can also change over time as a result of changes in the records of the EUB, based on changing well characteristics. Generally, the characteristics and specifications of a well are used to determine its ACC in accordance with the direction in sections 4.003 to 4.008 of the 2005 Minister's Guidelines. The ACC associated with a well has a significant bearing on its assessment value.

There are 14 categories of ACC in the 2005 Minister's Guidelines, each of which is associated with its own assessment formula to calculate an assessment prior to depreciation. There is a special category of ACC for gas wells that are associated with an EUB pool code designation of 158. Otherwise, the pool code for a well has no bearing on the ACC assigned to it.

The Decisions directed that under certain circumstances the DLA was to give regard to the EUB's November General Well File (GWF) in its assessment to capture pre-October 31<sup>st</sup> characteristics related to well depth not yet recorded on the October version of the GWF. In general the current decision involves a consideration of the proper point in time and the relevant factors to take into account in the records of the EUB to determine the appropriate ACC for these last two remaining wells from the sample.

**BACKGROUND**

Further background of the events leading up to the present hearing can be found in the companion to this Decision Letter. The Background in MGB 020/07, DL 112/07 and DL 113/07 can also be referenced for a more comprehensive review of the events that have unfolded since the merit hearing in October of 2006.

Quorum

At the outset of the hearing, the MGB informed the parties that one of the panel members vested with hearing these matters was unavailable due to personal reasons. The MGB indicated that it would be proceeding to hear the matter with a quorum consisting of the two remaining members. Though there were objections raised in this regard by the Respondent, the MGB understood those objections pertained to the hearing of issue two by way of quorum. Accordingly, those objections are dealt with as a preliminary issue in the companion to this Decision Letter.

History of LPAU-IDs Currently Before the MGB

The Complainants initially brought linear property complaints regarding 14,000 wells for the 2006 tax year. By the time of the October 2006 merit hearing, there were approximately 11,000 complaints remaining to be heard. Through the course of several MGB preliminary hearings, and in an effort to streamline the hearing process, the Complainants identified 500 wells that in their view represented the issues with respect to the rest of the 11,000. These 500 properties proceeded to the merit hearing in October, 2006. Prior to making a decision on these properties, the MGB received withdrawals for 116 of the 500 LPAU-IDs, and received and confirmed recommendations for an additional ten LPAU-IDs, leaving 384 LPAU-IDs before the MGB at the October 2006 hearing. These 384 LPAU-IDs became the subject matter of MGB 020/07, which directed the DLA to change the assessments for those wells that were affected by issues pertaining to well depth. Not all of the 384 LPAU-IDs dealt with the issue of well depth; 28 dealt with an issue related to the proper application of pool code 158 under the Minister's Guidelines. The MGB confirmed the DLA's assessments for these 28 LPAU-IDs. In the result, MGB 020/07 required the DLA to change the assessment for 356 LPAU-IDs based on the principles and directions therein.

The DLA did not re-calculate the assessments but instead requested a hearing for further advice and direction pertaining to MGB 020/07. DL 112/07 was issued on August 2, 2007 as a result of that hearing. DL 112/07 re-affirmed the findings, principles and directions in MGB 020/07, and directed the DLA to change the assessments for the 356 wells with complaints pertaining to well depth. On September 20, 2007, the DLA submitted the recalculated assessments for the 356 LPAU-IDs, together with an explanation and technical breakdown of the methods adopted by it to change the assessments in accordance with its understanding of the direction in the Decisions.

On September 25, 2007, the Complainants responded to the recalculated assessments indicating that they disagreed with 21 out of 356 of the DLA's recalculations. The present hearing was scheduled on November 7, 2007, in part to address and determine the issues pertaining to the outstanding 21 LPAU-IDs, and to confirm the recalculated assessments made in accordance with the change ordered by the MGB.

At the outset of the hearing, the parties indicated that they had subsequently reached agreement on 19 of the 21 LPAU-IDs outstanding; the Complainants had agreed with the application of the Decisions to the recalculated assessments for all of the wells other than LPAU-IDs 3480996 and 2039318. The disagreement over the proper interpretation of the Decisions in implementing a change to the assessments for these two wells is the subject matter of the present decision.

**ISSUES**

1. What is the proper application of the findings and direction in the Decisions relative to determining the proper assessments for LPAU-IDs 2039318 and 3480996?
  - a. What is the appropriate ACC for LPAU-ID 2039318?
    - i) Should the ACC for this well be determined having reference to the October or November General Well File?
    - ii) Was LPAU-ID 2039318 a multi-zone or single zone well as of October 31, 2005?
  - b. What is the appropriate ACC for LPAU-ID 3480996?
    - i) What was the pool code for LPAU-ID 3480669 as of October 31, 2005?
    - ii) When did this well become a Pool Code 158 well?
    - iii) Should the pool code for this well, and its resulting ACC, be determined having reference to information in the October or November General Well File?

**ISSUE 1 (a) – Assessment Classification Code for LPAU-ID 2039318****Complainants' Position**

The Complainants' main contention with the re-calculated assessment for this well is that the DLA is incorrectly interpreting the Decisions so as to include post hoc status changes occurring after October 31<sup>st</sup> to assess this well as a multi-zone well.

In support of this view, the Complainants' witness, Joe Thibault, stated that this well was originally assessed as a single zone Gas Well with an ACC of WL 30. The original assessment was based on the October GWF. Subsequent to the direction in the Decisions, the DLA has now assessed this as a multi-zone gas well with an ACC of WL 100 using the November GWF. In Mr. Thibault's view, the DLA has done so on the basis that the November GWF indicates that

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the well has more than one status which was not reported until November 15, 2005. The Complainants disagree with the new assessment and argue that the actual physical status of this well was not multi-zone until at or near November 15, 2005. The Complainants conclude that the assessment does not follow the direction in MGB 020/07 as it fails to assess the actual characteristics and specifications of the well on October 31, 2005.

The Complainants agree that the depth used by the DLA in determining the assessment is correct and consistent with the direction in the Decisions. However, in their view, the well should remain as a single status gas well, as it was originally assessed.

Under cross examination Mr. Thibault indicated that he relied on EUB derived Geo Vista data from a December disk that is reflective of EUB data from November in his analysis of the recalculated assessment for this well. He indicated that he does not have direct access to the EUB's GWF.

### **Respondent's position**

The Respondent takes the position that as of October 31, 2005, this well had two event sequences associated with two different well statuses and was accordingly assessed as multi-zone well with an ACC of WL 100.

In support of this position, the Respondent's witness, Bruce Ney, gave evidence of the process followed by the DLA to achieve this result. It was indicated that in the October GWF there was only one event sequence (event sequence "0"). That event sequence was associated with a well status of 02100000, representing a gas flowing well under the Minister's Guidelines. This status was in effect prior to October 31, 2005. However, Mr. Ney indicated that when he reviewed the November GWF he observed a second event sequence (event sequence "2") which was associated with a drilled and cased well status, which was in effect on November 29, 2000. Since both event sequences are associated with statuses effective prior to October 31, 2005, the well had status descriptions of both Drilled and Cased and Gas. As such, the well was assessed as a multi-zone well, and the ACC of WL 100 was assigned in accordance with s. 4.008 of the Minister's Guidelines.

Mr. Ney also pointed out that there was an additional well status contained in the November GWF; however, this event was associated with a November 15, 2005 date, and it was not taken into account in the DLA's assessment process. This well was assessed as a multi-zone well on the basis of the two event sequences associated with effective dates prior to October 31, 2005.

### **FINDINGS**

1. The November GWF is an appropriate EUB record to consider in the determination of the ACC for LPAU-ID 2039318.

2. LPAU-ID 2039318 was a multi-zone well as of October 31, 2005.
3. WL 100 is the appropriate ACC for LPAU-ID 2039318.

**REASONS**

The MGB understands the Complainants' argument that the change in ACC for this well was driven by a status change from November 15, 2005 that was subsequently recorded on the November 2005 GWF. If the evidence before the MGB supported that argument, then the MGB would agree that the resultant ACC and assessment was derived in a manner that was inconsistent with the Decisions. However, the evidence before the MGB suggests that the November 15, 2005 status change was not determinative of the change in ACC in the re-calculated assessment for this well.

In direct evidence and under cross examination, Mr. Ney maintained that there were two events on the November GWF that related to statuses in effect prior to October 31, 2005. His evidence was that event sequence 2 was not present on the October GWF but appeared on the November GWF, and that the event was associated with a drilled and cased status from November of 2000. His evidence is that this status change is what drove the change in ACC and the resulting change in the assessment. No persuasive evidence to the contrary was offered by the Complainants to show that it was a November 15, 2005 event that prompted the DLA to change the ACC. The MGB therefore accepts the evidence from the DLA's witness that it was not the change in status that occurred on November 15, 2005 as contained in the November GWF that prompted the change to the ACC. The evidence suggests that it was a second pre-October 31, 2005 event recorded in the November GWF that drove the change to the ACC.

The MGB notes that the November and October GWF were not physically produced by the DLA to document the effective dates of the changes for this well in support of Mr. Ney's testimony. However, the GeoVista data of the Complainants originally produced at the October 2006 merit hearing (Exhibit C-16 in MGB 020/07) identifies a drilled and cased status for this well as of November 30, 2000. Although this information was pulled from a date after the November "run" of EUB data, it corroborates Mr. Ney's testimony that the event that prompted the DLA to change the ACC occurred prior to October 31, 2005.

Having accepted the Respondent's evidence that there were two pre-October 31, 2005 statuses on the November GWF, the MGB analyzed the process used by the Respondent in coming to a determination of an ACC of WL 100 under the 2005 Minister's Guidelines. As this well has more than one status, section 4.008 directs the DLA to identify and select the well status description that occurs first in Table 4.8. Table 4.8 contains 9 different well status descriptions, including Gas and Drilled and Cased, the relevant descriptions for this well's two statuses as of October 31, 2005. Of these two, the Gas status description occurs first, which, under Table 4.8, is associated with an ACC of WL100. Accordingly, the DLA has identified the correct ACC in determining the assessment for LPAU-ID 2039318.

As a result the MGB finds that the change to the 2005 assessment of this LPAU-ID as ordered in the Decisions has properly taken into account an ACC of WL 100.

**ISSUE 1 (b) – Pool Code & Assessment Classification Code for LPAU-ID 3480996****Complainants' Position**

The Complainants' main contention for this well is that the DLA is incorrectly applying the Decisions in the re-calculation of the assessment. They believe it is incorrect to include a change in the pool code that occurred in the records of the EUB after October 31<sup>st</sup> 2005 that results in a change in the Status Description and ACC from Drilled and Cased (WL 120) to Pool Code 158 Drilled and Cased (WL 250). This incorrect application of the Decisions has resulted in an inflated re-calculated assessment value.

In direct examination, Mr. Thibault explained that this well was originally assessed as a drilled and cased well using the October GWF. The DLA has now recalculated the assessment based on their interpretation of the Decisions using the November GWF, resulting in a change in pool code from 0000 to 0158. The well is now seen by the DLA as "associated" with pool code 158 which in turn results in an incorrect ACC of WL 240, once the Minister's Guidelines are applied. Mr. Thibault argues that this does not follow the intent of the Decisions, because the change in Pool Code only arises as a result of a status change to the well that occurred on November 16, 2005. The pool code change is therefore not reflective of the October 31, 2005 characteristics and specifications of the well. The DLA must use the ACC and well status description for the well as of October 31, 2005, which was WL 120, a drilled and cased well.

The Complainants agree that the depth that the DLA used in determining the assessment is correct and consistent with the direction in the Decisions. However, in their view, the ACC should remain WL 120.

Under cross examination Mr. Thibault indicated that in his analysis he relied on EUB derived Geo Vista data from a December disk that is reflective of the well's status in November. He indicated that he does not have direct access to the EUB GWF.

In argument, the Complainants referenced the fact that MGB 020/07 made certain findings with respect to Pool Code 158 that support the argument that an assessment should only reflect a change in pool code when the change takes place in the records of the EUB on or before October 31, 2005.



**Respondent's position**

The Respondent takes the position that as of October 31, 2005, this was a drilled and cased well associated with Pool Code 158. Table 4.6 in the Minister's Guidelines directs that drilled and cased gas wells associated with pool code 158 are to be assessed using an ACC of WL 250.

In support of this position, the Respondent's witness, Bruce Ney, gave evidence of the process followed by the DLA to achieve this result. He indicated that on the October GWF the pool code for this well is identified as being "0000". On the November GWF, the Pool Code had changed to "0158". This results in a change to the ACC to recognize the well's association with Pool Code 0158. As only one event sequence was present on both the October and November GWF, Mr. Ney concluded that there was no change to the configuration of the linear property from October through to November.

Mr. Ney indicated that there were two well statuses in the October GWF. Of interest to him was the drilled and cased status associated with an August 2005 date. On the November GWF, there was an additional well status of gas-flowing associated with a date of November 15, 2005. This gas-flowing well status was not used in the recalculation of the assessment, as it was associated with a post October 31, 2005 effective date.

Mr. Ney explained that the difference in the original assessment and the re-calculated assessment resulted from the new Pool Code 158 designation on the November GWF, which was used to arrive at an assessment based on a well status description of Pool Code 0158 - Drilled and Cased and an ACC of WL250. The November GWF was used based on the direction of the MGB arising out of the Decisions.

During cross-examination, Mr. Ney maintained that the process that was used to re-calculate the assessments did not consider status changes that occurred after October 31, 2005, nor did such status changes drive the change in the ACC. He re-iterated that the only factor that drove the change to the status code with respect to this well was the designation of a new pool code in the November GWF. Mr. Ney disagreed with any suggestion that there is a definite link between a change in pool code and a change in well status. In his view, there are instances where a pool code can change with no corresponding change in well status.

Mr. Ney further clarified that a change to the pool code for a well does not have a date associated with it in the GWF. In that sense, there is no way of knowing from looking at the GWF when the change in pool code took place. All that is known with respect to this well is that a new pool code of 0158 was present on the November CD, and that is the pool code that was used by the DLA to generate the recalculated assessment in accordance with the direction in the Decisions.

When questioned by the MGB as to what triggers a change to a well's pool code, Mr. Ney stated that the pool code changes as a result of the decision of the EUB, based on the operator's disclosure as to what the pool is known to be.

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### FINDINGS

1. The evidence before the MGB suggests that a well's designation in the EUB's records as pool code 158 results from the EUB's decision that such designation is appropriate based on information about the well that it receives from the well owner.
2. In the absence of evidence that would indicate otherwise, the appropriate pool code for LPAU-ID 3480996 as of October 31, 2005 is the pool code designated in the October GWF.
3. The evidence before the MGB suggests that as of October 31, 2005, LPAU-ID 3480996 had not been designated by the EUB as a pool code 158 well.
4. WL 120 is the appropriate ACC for LPAU-ID 3480996.

### REASONS

#### 1. Synopsis

In the Decisions, the Respondent was ordered to recalculate the assessments to reflect *changes to wells* made on or before October 31, 2005, where subsequent EUB records (i.e. the November GWF) show that these were reported to the EUB in compliance with the EUB's reporting deadline. The MGB did not give specific direction that the November GWF was to be used with regard to the pool codes for wells; however the DLA has chosen to use the November GWF in coming to a determination on pool code for LPAU-ID 3480996 on the basis that that approach is consistent with the direction in the Decisions.

The key question, as the MGB sees it, is whether the change to pool code 158 in the November GWF reflects a *change made to the well* on or before October 31, 2005. If it is determined that this is the case, the direction in the Decisions is applicable and the pool code of 158 in November GWF is the proper pool code, resulting in an ACC of WL 250. If the change in pool code in the EUB record does not arise out of a *change made to the well* on or before October 31, 2005, or alternatively, if this fact cannot be determined based on the evidence available, then it would not be appropriate to use the November GWF to determine pool code for this well. If such is the case, the applicable ACC for this well is WL 120.

#### 2. Analysis

##### a. *Rationale for directing the use of the November GWF*

Section 292(2)(b) of the Act reads as follows:

(2) *Each assessment must reflect*

...

- (b) *the specifications and characteristics of the linear property on October 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the linear property, as contained in*
- (i) *the records of the Alberta Energy and Utilities Board, or*
- (ii) *the report requested by the assessor under subsection (3).*

With regard to the interpretation of s. 292 relative to the timing of EUB records, MGB 020/07 found:

“.....section 292(2)(b) to require linear property assessments to reflect the assessed properties’ specifications and characteristics that existed on October 31, as recorded – possibly later - in the EUB records.”

The MGB went on to reason that the ordinary grammatical sense of s. 292 suggests that the October 31 date relates to the characteristics and specifications of the property itself – not to the date the EUB records are consulted.

The evidence that was accepted at the October 2006 merit hearing was that it is the well owner’s responsibility to “self-report” changes or events that occur to wells. In some cases, the EUB records on October 31<sup>st</sup> had not been updated by the owner so as to be representative of all of the characteristics and specifications of the linear property itself on October 31<sup>st</sup>. In other words there were circumstances where the records on October 31<sup>st</sup> did not reflect the well’s physical status on October 31<sup>st</sup>. Based on these findings the MGB made the following order:

“With respect to all of the subject wells, the Respondent is directed to recalculate the assessments to reflect changes made to wells made on or before October 31, 2005, where subsequent EUB records show that these were reported to the EUB in compliance with the EUB’s reporting deadline.”

DL 112/07 clarified what was meant by “in compliance with the EUB’s reporting deadline”:

1. With respect to all of the subject wells, the Respondent is directed to recalculate the assessments to reflect changes made to wells made on or before October 31, 2005, where subsequent EUB records show that these were reported to the EUB in compliance with the EUB’s deadline of 30 days, which is to be applied in all cases from October 31, 2005.

In those instances where the October 31<sup>st</sup> EUB records had not been updated so as to be representative of the characteristics and specifications of the linear property itself on October 31<sup>st</sup>, the MGB reasoned that a grace period should be given to ensure that EUB records were up to date and consistent with the actual characteristics of the property. A grace period similar to the EUB’s own 30 day reporting deadline for well status changes was seen by the MGB as a fair compromise having regard to the need for the DLA to issue assessments in a timely manner, yet

still capture reported changes not appearing in the EUB records until the November edition of the GWF. Thus the MGB ordered that the re-calculated assessments consider changes to wells that occur prior to October 31<sup>st</sup> that are picked up for the first time in the November GWF.

In summary, the Decisions give direction to the DLA to use the November GWF as a reference point for actual events or changes occurring to wells prior to October 31, 2005, which have not been recorded at the EUB until after October 31<sup>st</sup>. It was possible to give this direction because the type of event giving rise to a change in well status, and the date that the event occurred are both recorded in the EUB records. As owners were found to be responsible to for self-reporting well events and changes within a set period of time, a 30 day deadline to report changes was imposed by the MGB to balance the need for an assessment that reflects the actual characteristics and specifications of a well on October 31<sup>st</sup> with the need to calculate and issue an assessment in a timely manner.

*b. MGB 020/07 and Pool Code 0158*

At page 20 of MGB 020/07 there were two “anomalous” situations that had been raised by the Complainants at the merit hearing in which wells had been assessed by the DLA having reference to a pool code other than pool code 158, because the pool code itself had not yet changed to 158 in the records of the EUB as of the October 31<sup>st</sup> assessment date. The Complainants at that time argued that pool code 158 should apply to such anomalous situations, for example:

“...where a pool code of 0000 was assigned for administrative purposes, but the well itself was associated with a shallow pool generally associated with code 158.” [MGB 020/07 – page 20]

This circumstance is strikingly similar to the issue presently affecting LPAU-ID 3480996. In the former case, the assignment of a pool code of 158 would have resulted in a lesser assessment for the well than if it had been assessed as a gas well, so the parties’ positions relative to the application of pool code 158 were reversed; the Complainants were asking the MGB to change the assessment to recognize that this well was associated with a shallow gas pool, but the well had not yet received 158 pool code designation by the EUB as of the October 31, 2005 assessment date.

Though the well in question in MGB 020/07 was technically an oil well (thus negating the application of pool code 0158 as only gas wells can receive this code), the MGB provided some further rationale as to why pool codes other than pool code 0158 appearing in the records of the EUB at the time of the assessment should not be considered by the DLA in the assessment:

“The Complainants brought the MGB’s attention to three well properties that it termed “anomalies” within the pool code 158 category of complaints. The Complainants argued that two of these properties had received EUB pool codes

other than 0158 for various administrative purposes, although production appeared to be from a pool that would ordinarily have been termed pool 0158. The [Complainants] suggested that the words “associated with pool code 158” are broad enough to capture such cases. The MGB views this interpretation as stretching the meaning of “associated with” beyond its intended limits. If the Minister’s Guidelines had intended assessments to be tied to EUB pool codes other than 0158, they could easily have said so. As it is, the EUB records do not associate these two “anomalous” well properties with pool code 158, but rather with different pool codes. In the MGB’s view, then, the Respondent assessed them properly in accordance with the Minister’s Guidelines and the EUB records.”

[MGB 020/07; page 22]

It would be inconsistent for the MGB to overturn this reasoning relative to LPAU-ID 3480996, particularly in light of the fact that this hearing is part of the same proceedings as MGB 020/07. The evidence on balance indicates that LPAU-ID 3480996 had not been classified by the EUB as a pool code 158 well on October 31, 2005. According to the reasoning in MGB 020/07 a well is not to be given the tax benefit (or burden) of a pool code 158 classification if that is not what is indicated in the records of the EUB at October 31, 2005. In that light, unless there is further or different evidence related to the characteristics of this well on October 31, 2005 relative to its pool code 158 designation, the MGB maintains the view above that the EUB records did not associate this well with pool code 158 on October 31, 2005, but rather with a different pool code, and as such, it cannot be said to be associated with pool code 158 for assessment purposes.

c. *Evidence about Designation of Pool Code 158*

The evidence at both hearings is consistent; the assignment of pool code 158 is controlled by a decision of the EUB. Mr. Ney stated at page 880 of the transcript for the present hearing:

MR NEY: There are some factors which have no date associated with it; pool code is one of them. The well status always has a date effective associated with it.

THE CHAIRMAN: What changes the pool code?

MR. NEY: Simply the decision by the EUB contributed by the operator as to what the pool now is known to be.

That is consistent with the statements from the DLA’s witness, Dan Driscoll, at the October, 2006 hearing at page 614, line 22 of that transcript:

THE WITNESS: There is a -- an assessment classification code for a pool code 0158 well. And the assessment classification code gives you a lower assessment than if you assessed it as a gas, just a plain gas. So you get the 0158 classification only if your pool code is 0158 as the prefix. So because zero --

because 0000 isn't 0158, that break isn't given to that well. So that's the difference, is we interpret --

MR. GILMOUR: But you get that from EUB?

THE WITNESS: We get the pool code from the EUB.

MR. GILMOUR: And you don't get 0000 from the EUB?

THE WITNESS: Yes, we do.

MR. GILMOUR: And what do you do when you get 000 from the EUB? What does that indicate?

THE WITNESS: Nothing. It's just what they are -- what I think they are -- the complainant's concern is that there is an association between 0000 and 0158. But I think the legislation says that the reduced constant and rate per metre squared is any well that says associated with 0158. So we know that 158 certainly is associated with 158. But they haven't provided us any analysis to show that 000 is associated with 158.

There was some opinion evidence from Mr. Thibault at the October 2006 hearing that a pool code 158 well is a well that is "associated" in a physical sense to a shallow gas pool. The existence of a shallow gas pool may well be a factor that the EUB takes into account when assigning pool code 158. However, on balance the evidence before the MGB suggests that a pool code 158 classification is a characteristic bestowed on a well by a decision of the EUB, which is the ultimate arbiter of pool code 158 status. Thus, it would not be appropriate for the MGB to deem a well to have pool code 158 status for assessment purposes before the EUB has granted it. In the present case there is no evidence that this well had received pool code 158 status from the EUB on or before October 31, 2005.

In summary, the evidence is clear that the EUB is the decision maker as to when pool code 158 is or is not assigned to a well. In this sense, the changing of a pool code in the record of the EUB is different in both process and result than self-reported changes to wells such as plugs and perforations occurring prior to October 31<sup>st</sup> in the Assessment Year, which, once reported, are automatically recorded in the EUB record.

### 3. Conclusion

Based on the evidence before it, the MGB believes that using the November GWF to reflect a change in the pool code for this well is not consistent with the direction or reasoning in the Decisions. The direction in the Decisions to use the November GWF to re-calculate the assessments was made based on findings about well depth related characteristics of wells present

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on or before October 31, 2005, but not recorded in the records of the EUB by October 31<sup>st</sup>. The date of the event or status change effecting the change to the EUB record is recorded in the record itself; it can be easily determined if a *change made to the well* occurred on or before October 31, 2005, notwithstanding that it may not have been captured until after October 31<sup>st</sup> in the November edition of the GWF. In contrast, the change in pool code for this well did not arise out of a discernible characteristic of a well that was present on or before October 31<sup>st</sup>, 2005, so much as it arose out of a decision of the EUB, which was then recorded in the EUB records after October 31<sup>st</sup>. Thus, the change in the records of the EUB arises out of an intervening EUB decision. The exact considerations or criteria that the EUB makes in this decision were never put into evidence. Similarly, the date of the decision itself is not known. The only evidence was that the change to the pool code was recorded in the EUB records on an unknown date *after* October 31, 2005.

To cast this distinction in a different light, it can be said that evidence was established at the October 2006 hearing to rebut the notion that the EUB records on October 31, 2005 were reflective of the actual characteristics and specifications of the wells at issue on October 31, 2005. Thus the use of a later EUB record (the November GWF) was seen as an appropriate tool to capture the actual characteristics and specifications of the wells on October 31<sup>st</sup>. No such evidence was established at the present hearing to rebut the accuracy of the October 31, 2005 EUB record as it relates to the pool code for LPAU-ID 3480996. In the absence of such evidence, and for the reasons cited above, the MGB finds that the October GWF should be used in determining the pool code for this well.

## SUMMARY

By this decision, the MGB has directed the use of the November GWF to determine the proper ACC for LPAU-ID 2039318, and the use of the October GWF to determine the proper pool code (and resulting ACC) for LPAU-ID 3480996. This result remains consistent with the Decisions, and is consistent with the findings made herein. In particular, the decision with respect to LPAU-ID 3480996 is consistent with the reasoning and outcome in MGB 020/07, dealing with a nearly identical pool code 158 issue.

The determining factor that justified a change in ACC for LPAU-ID 2039318 was a *change made to the well* on or before October 31, 2005 (a well status change to “Drilled and Cased” associated with an occurrence date of November 29, 2000) which was not reported until after October 31, 2005, and thus not present in the October GWF. Conversely, the change in pool code for LPAU-ID 3480996 is associated with a decision of the EUB captured in the EUB records after October 31, 2005. Accordingly, the MGB sees the direction in the Decisions as being applicable to the determination of ACC for LPAU-ID 2039318, but not applicable to the determination of pool code and the resulting ACC for LPAU-ID 3480996, as the pool code did not change until after October 31, 2005.

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The MGB is sensitive to the fact that in preparing future assessments, the use of two different monthly editions of the GWF may create additional administrative challenges. However, this does not constitute a relevant consideration for the MGB in determining what month's record accurately represents the pool code for LPAU-ID 3480996. The MGB's primary concern is that the assessment is reflective of the specifications and characteristics of wells on October 31, 2005, as contained in the record of the EUB that most accurately reflects the same. That being said, it may be that the DLA chooses to continue to use the November GWF to determine pool code *generally* in the preparation of its assessments, but that it remains receptive to amending the assessment for a well in situations where it can be shown that a pool code 158 designation was not present in the October GWF.

For the above reasons, the appropriate pool code for LPAU-ID 3480996 as of October 31, 2005 is pool code 0000, as indicated in the October GWF, which results in an ACC of WL 120. The appropriate ACC for LPAU-ID 2039318 based on the characteristics and specifications of the well as of October 31, 2005 is WL 100.

**DECISION**

1. With respect to LPAU-ID 2039318, the DLA has correctly recalculated the assessment using an ACC of WL 100. The MGB confirms the resulting assessment in the table below;
2. With respect to LPAU-ID 3480996, the correct assessment calculation in Table 4.9 of the Minister's Guidelines is to be based on an ACC of WL 120. The MGB changes the original assessment to the new assessment indicated in the table below;
3. The MGB confirms the assessments for the 28 of the 384 wells below that were subject to the original Pool Code 158 complaints (identified with "\*" in the table below); no change to these assessments is required.
4. The 2005 linear property assessments for the 384 LPAU-IDs before the MGB in MGB 020/07 are:

<b>Company</b>	<b>Muni-ID</b>	<b>LPAU-ID</b>	<b>New Assessment</b>
<b>Encana Corporation</b>	235	<b>2039318</b>	<b>118,800</b>
<b>Canadian Natural Resources Ltd.</b>	376	<b>3480996</b>	<b>3,510</b>
Apache Canada Ltd.	49	2761651	<b>42,470</b>
Apache Canada Ltd.	49	2792715	<b>43,340</b>
Apache Canada Ltd.	49	2794496	<b>39,690</b>
Apache Canada Ltd.	49	2794833	<b>44,420</b>
Apache Canada Ltd.	49	3125966	<b>31,470</b>
Apache Canada Ltd.	110	1894873	<b>96,670</b>
Apache Canada Ltd.	142	3480790	<b>104,160</b>



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Apache Canada Ltd.	142	3480793	<b>104,010</b>
Apache Canada Ltd.	142	3480836	<b>30,650</b>
Apache Canada Ltd.	142	3480886	<b>44,900</b>
Apache Canada Ltd.	142	3481665	<b>104,700</b>
Apache Canada Ltd.	142	3481666	<b>45,190</b>
Apache Canada Ltd.	195	2104350	<b>54,180</b>
Apache Canada Ltd.	195	2796282	<b>53,390</b>
Apache Canada Ltd.	195	2796605	<b>89,360</b>
Apache Canada Ltd.	195	3125675	<b>59,230</b>
Apache Canada Ltd.	243	2015012	<b>12,740</b>
Apache Canada Ltd.	243	2029062	<b>67,210</b>
Apache Canada Ltd.	243	2797287	<b>107,270</b>
Apache Canada Ltd.	243	3482231	<b>13,900</b>
Apache Canada Ltd.	255	1902502	<b>7,070</b>
Apache Canada Ltd.	255	1985655	<b>67,470</b>
Apache Canada Ltd.	255	3127880	<b>86,880</b>
Apache Canada Ltd.	299	1832758	<b>134,580</b>
Apache Canada Ltd.	377	2757827	<b>239,040</b>
Apache Canada Ltd.	505	1922659	<b>185,530</b>
Apache Canada Ltd.	505	2762728	<b>63,700</b>
Apache Canada Ltd.	506	2040541*	<b>32,340</b>
Apache Canada Ltd.	506	3484014	<b>181,370</b>
BP Canada Energy Company	133	1876603	<b>8,660</b>
BP Canada Energy Company	133	1916761	<b>249,620</b>
BP Canada Energy Company	226	1958328	<b>299,230</b>
BP Canada Energy Company	377	1842199	<b>234,400</b>
BP Canada Energy Company	377	1852275	<b>206,660</b>
BP Canada Energy Company	377	1885251	<b>309,160</b>
BP Canada Energy Company	377	1977225	<b>252,420</b>
BP Canada Energy Company	377	1982354	<b>273,390</b>
BP Canada Energy Company	377	1989172	<b>294,250</b>
BP Canada Energy Company	377	1998467	<b>284,570</b>
BP Canada Energy Company	377	2004905	<b>478,750</b>
BP Canada Energy Company	481	1839216	<b>315,160</b>
BP Canada Energy Company	481	1863602	<b>258,560</b>
BP Canada Energy Company	481	1887573	<b>244,860</b>
BP Canada Energy Company	481	1951100	<b>279,230</b>
BP Canada Energy Company	481	1977101	<b>230,810</b>
BP Canada Energy Company	481	2014327	<b>251,080</b>
BP Canada Energy Company	481	2019999	<b>29,000</b>
BP Canada Energy Company	482	1819693	<b>353,570</b>
BP Canada Energy Company	482	1824628	<b>306,310</b>
BP Canada Energy Company	482	1825551	<b>307,510</b>
BP Canada Energy Company	482	1863195	<b>350,570</b>
BP Canada Energy Company	482	1875292	<b>20,160</b>

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BP Canada Energy Company	482	1891932	<b>49,670</b>
BP Canada Energy Company	504	1919610	<b>247,820</b>
BP Canada Energy Company	506	1833837	<b>294,540</b>
Burlington Resources Canada (Hunter) Ltd.	204	2040462	<b>34,640</b>
Burlington Resources Canada (Hunter) Ltd.	353	2108611	<b>257,650</b>
Burlington Resources Canada (Hunter) Ltd.	353	2795351	<b>292,470</b>
Burlington Resources Canada (Hunter) Ltd.	353	3127891	<b>327,670</b>
Burlington Resources Canada (Hunter) Ltd.	481	2097084	<b>273,310</b>
Burlington Resources Canada (Hunter) Ltd.	481	2097686	<b>276,170</b>
Burlington Resources Canada (Hunter) Ltd.	481	2101561	<b>23,210</b>
Burlington Resources Canada (Hunter) Ltd.	481	2750303	<b>311,630</b>
Burlington Resources Canada (Hunter) Ltd.	481	2751861	<b>274,690</b>
Burlington Resources Canada (Hunter) Ltd.	481	2751862	<b>274,940</b>
Burlington Resources Canada Ltd.	20	1817734	<b>71,870</b>
Burlington Resources Canada Ltd.	20	1817739	<b>75,690</b>
Burlington Resources Canada Ltd.	20	1817750	<b>74,940</b>
Burlington Resources Canada Ltd.	20	1870107	<b>73,170</b>
Burlington Resources Canada Ltd.	20	2068386	<b>74,250</b>
Burlington Resources Canada Ltd.	20	2093500	<b>25,800</b>
Burlington Resources Canada Ltd.	20	3475988	<b>8,790</b>
Burlington Resources Canada Ltd.	20	3479391	<b>8,690</b>
Burlington Resources Canada Ltd.	20	3487226	<b>9,050</b>
Burlington Resources Canada Ltd.	110	1892767	<b>46,900</b>
Burlington Resources Canada Ltd.	255	2096160	<b>61,840</b>
Burlington Resources Canada Ltd.	348	2065033	<b>75,270</b>
Burlington Resources Canada Ltd.	348	2754476	<b>65,750</b>
Burlington Resources Canada Ltd.	377	2754101	<b>65,390</b>
Burlington Resources Canada Ltd.	383	1998341	<b>235,730</b>
Burlington Resources Canada Ltd.	480	2754839	<b>127,080</b>
Burlington Resources Canada Ltd.	481	2101465	<b>290,890</b>
Burlington Resources Canada Ltd.	481	2795996	<b>323,190</b>
Burlington Resources Canada Ltd.	481	2796955	<b>314,040</b>
Burlington Resources Canada Ltd.	482	1991773	<b>188,600</b>
Burlington Resources Canada Ltd.	482	2013942	<b>25,560</b>
Burlington Resources Canada Ltd.	482	2064884	<b>248,400</b>
Burlington Resources Canada Ltd.	482	3128782	<b>335,040</b>
Canadian Natural Resources Limited	36	3486946	<b>10,140</b>
Canadian Natural Resources Limited	36	3489771	<b>12,630</b>
Canadian Natural Resources Limited	142	3482744	<b>4,440</b>
Canadian Natural Resources Limited	142	3482760	<b>4,240</b>
Canadian Natural Resources Limited	142	3482786	<b>4,330</b>
Canadian Natural Resources Limited	142	3482801	<b>4,270</b>
Canadian Natural Resources Limited	142	3486691	<b>6,080</b>
Canadian Natural Resources Limited	142	3487080	<b>4,270</b>
Canadian Natural Resources Limited	142	3487081	<b>2,200</b>

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Canadian Natural Resources Limited	142	3487082	<b>4,170</b>
Canadian Natural Resources Limited	142	3487083	<b>4,250</b>
Canadian Natural Resources Limited	142	3487092	<b>2,230</b>
Canadian Natural Resources Limited	142	3487093	<b>2,090</b>
Canadian Natural Resources Limited	142	3487097	<b>2,170</b>
Canadian Natural Resources Limited	142	3487133	<b>4,430</b>
Canadian Natural Resources Limited	142	3487143	<b>4,310</b>
Canadian Natural Resources Limited	195	3482407	<b>1,060</b>
Canadian Natural Resources Limited	235	3476301	<b>3,720</b>
Canadian Natural Resources Limited	235	3476309	<b>3,830</b>
Canadian Natural Resources Limited	235	3476439	<b>3,750</b>
Canadian Natural Resources Limited	235	3476463	<b>3,670</b>
Canadian Natural Resources Limited	235	3476470	<b>3,700</b>
Canadian Natural Resources Limited	235	3476473	<b>3,670</b>
Canadian Natural Resources Limited	235	3476476	<b>3,620</b>
Canadian Natural Resources Limited	235	3477567	<b>3,870</b>
Canadian Natural Resources Limited	294	1902407	<b>14,180</b>
Canadian Natural Resources Limited	294	1921568	<b>14,720</b>
Canadian Natural Resources Limited	294	1921569	<b>14,610</b>
Canadian Natural Resources Limited	294	1921570	<b>14,610</b>
Canadian Natural Resources Limited	294	1921571	<b>14,740</b>
Canadian Natural Resources Limited	294	1921572	<b>14,690</b>
Canadian Natural Resources Limited	294	1921573	<b>14,860</b>
Canadian Natural Resources Limited	294	1921575	<b>14,720</b>
Canadian Natural Resources Limited	294	1927233	<b>14,710</b>
Canadian Natural Resources Limited	294	1927242	<b>14,770</b>
Daylight Energy Ltd.	504	2100857	<b>45,090</b>
Encana Corporation	235	1844812	<b>10,770</b>
Encana Corporation	235	1851832*	<b>112,170</b>
Encana Corporation	235	1852247	<b>7,120</b>
Encana Corporation	235	1855652	<b>55,790</b>
Encana Corporation	235	1857292	<b>52,240</b>
Encana Corporation	235	1857337	<b>38,680</b>
Encana Corporation	235	1859276	<b>32,730</b>
Encana Corporation	235	1859370	<b>21,700</b>
Encana Corporation	235	1872280*	<b>26,600</b>
Encana Corporation	235	1876790	<b>31,400</b>
Encana Corporation	235	1879882	<b>11,730</b>
Encana Corporation	235	1880621*	<b>35,330</b>
Encana Corporation	235	1885508	<b>8,090</b>
Encana Corporation	235	1886530	<b>16,140</b>
Encana Corporation	235	1887054	<b>28,250</b>
Encana Corporation	235	1887888	<b>36,420</b>
Encana Corporation	235	1888434*	<b>5,590</b>
Encana Corporation	235	1889137	<b>37,650</b>

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Encana Corporation	235	1890118*	<b>28,570</b>
Encana Corporation	235	1890331	<b>5,300</b>
Encana Corporation	235	1890563	<b>43,640</b>
Encana Corporation	235	1891687	<b>34,030</b>
Encana Corporation	235	1892108	<b>28,820</b>
Encana Corporation	235	1892379	<b>28,680</b>
Encana Corporation	235	1899807	<b>8,830</b>
Encana Corporation	235	1905275	<b>27,390</b>
Encana Corporation	235	1906795	<b>27,460</b>
Encana Corporation	235	1910115*	<b>47,070</b>
Encana Corporation	235	1917685	<b>33,130</b>
Encana Corporation	235	1923681	<b>13,870</b>
Encana Corporation	235	1937140	<b>35,970</b>
Encana Corporation	235	1937142	<b>41,060</b>
Encana Corporation	235	1938935	<b>39,160</b>
Encana Corporation	235	1948418	<b>42,170</b>
Encana Corporation	235	1948585	<b>38,620</b>
Encana Corporation	235	1953109	<b>41,380</b>
Encana Corporation	235	1953197	<b>40,270</b>
Encana Corporation	235	1953213	<b>39,810</b>
Encana Corporation	235	1953224	<b>38,330</b>
Encana Corporation	235	1956439	<b>57,600</b>
Encana Corporation	235	1956450	<b>42,710</b>
Encana Corporation	235	1956452	<b>37,150</b>
Encana Corporation	235	1958078	<b>11,250</b>
Encana Corporation	235	1960484	<b>67,360</b>
Encana Corporation	235	1965840	<b>4,550</b>
Encana Corporation	235	1966517	<b>19,030</b>
Encana Corporation	235	1966746	<b>57,310</b>
Encana Corporation	235	1969531	<b>50,030</b>
Encana Corporation	235	1969820*	<b>25,750</b>
Encana Corporation	235	1969851*	<b>130,190</b>
Encana Corporation	235	1971155	<b>17,890</b>
Encana Corporation	235	1973080	<b>56,820</b>
Encana Corporation	235	1979148	<b>12,030</b>
Encana Corporation	235	1980006	<b>100,560</b>
Encana Corporation	235	1980009	<b>23,500</b>
Encana Corporation	235	2001396	<b>42,880</b>
Encana Corporation	235	2002164	<b>54,430</b>
Encana Corporation	235	2004512	<b>11,720</b>
Encana Corporation	235	2007290	<b>27,460</b>
Encana Corporation	235	2019336	<b>54,790</b>
Encana Corporation	235	2019962	<b>23,300</b>
Encana Corporation	235	2020627	<b>9,340</b>
Encana Corporation	235	2021366	<b>124,060</b>

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Encana Corporation	235	2021951	37,140
Encana Corporation	235	2021957	51,280
Encana Corporation	235	2021958	36,860
Encana Corporation	235	2021964	59,830
Encana Corporation	235	2021974	36,160
Encana Corporation	235	2021976	50,700
Encana Corporation	235	2021977	58,590
Encana Corporation	235	2021978	50,520
Encana Corporation	235	2021994	36,730
Encana Corporation	235	2025393*	16,360
Encana Corporation	235	2027096	39,300
Encana Corporation	235	2027159	58,070
Encana Corporation	235	2030190	123,470
Encana Corporation	235	2033191*	113,480
Encana Corporation	235	2033257	3,780
Encana Corporation	235	2033336*	16,060
Encana Corporation	235	2033338	13,830
Encana Corporation	235	2037269*	46,300
Encana Corporation	235	2037855*	41,870
Encana Corporation	235	2038929	39,090
Encana Corporation	235	2041167	51,930
Encana Corporation	235	2041174	52,790
Encana Corporation	235	2044349	8,540
Encana Corporation	235	2047419	90,300
Encana Corporation	235	2051876	88,150
Encana Corporation	235	2056048	61,990
Encana Corporation	235	2063557*	34,530
Encana Corporation	235	2064386*	14,330
Encana Corporation	235	2096627	30,760
Encana Corporation	235	2102194	50,280
Encana Corporation	235	2105672	78,980
Encana Corporation	235	2108965	68,490
Encana Corporation	235	2109589	44,510
Encana Corporation	235	2752813	8,050
Encana Corporation	235	2754604	51,970
Encana Corporation	235	2758556*	104,200
Encana Corporation	235	2795381*	37,040
Encana Corporation	349	1843654	11,920
Encana Corporation	349	1874653	65,710
Encana Corporation	349	1876568	52,110
Encana Corporation	349	1876659	3,200
Encana Corporation	349	1876691*	96,640
Encana Corporation	349	1879228	5,100
Encana Corporation	349	1880031	52,870
Encana Corporation	349	1890274	49,990

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Encana Corporation	349	1890287	<b>51,290</b>
Encana Corporation	349	1896135	<b>48,490</b>
Encana Corporation	349	1897693	<b>3,700</b>
Encana Corporation	349	1903327	<b>10,860</b>
Encana Corporation	349	1903328	<b>6,370</b>
Encana Corporation	349	1903501	<b>28,820</b>
Encana Corporation	349	1905483	<b>41,270</b>
Encana Corporation	349	1905628	<b>5,520</b>
Encana Corporation	349	1907073	<b>18,830</b>
Encana Corporation	349	1907075	<b>53,580</b>
Encana Corporation	349	1908092	<b>43,970</b>
Encana Corporation	349	1908224	<b>62,550</b>
Encana Corporation	349	1908321	<b>51,140</b>
Encana Corporation	349	1908342	<b>47,300</b>
Encana Corporation	349	1908346	<b>43,670</b>
Encana Corporation	349	1908405	<b>42,600</b>
Encana Corporation	349	1908750	<b>48,990</b>
Encana Corporation	349	1908751	<b>51,610</b>
Encana Corporation	349	1909061	<b>38,440</b>
Encana Corporation	349	1910385	<b>48,560</b>
Encana Corporation	349	1912138	<b>49,350</b>
Encana Corporation	349	1932571	<b>11,870</b>
Encana Corporation	349	1945183	<b>7,220</b>
Encana Corporation	349	1957664	<b>44,940</b>
Encana Corporation	349	1968579*	<b>185,130</b>
Encana Corporation	349	1968580	<b>60,000</b>
Encana Corporation	349	1969073	<b>66,180</b>
Encana Corporation	349	1973619	<b>49,920</b>
Encana Corporation	349	1975657*	<b>144,160</b>
Encana Corporation	349	1980586	<b>57,920</b>
Encana Corporation	349	1986147	<b>26,010</b>
Encana Corporation	349	1991260	<b>145,000</b>
Encana Corporation	349	1993557	<b>10,810</b>
Encana Corporation	349	1994389	<b>5,020</b>
Encana Corporation	349	1998229	<b>5,450</b>
Encana Corporation	349	2000435	<b>148,410</b>
Encana Corporation	349	2003254	<b>8,110</b>
Encana Corporation	349	2004060	<b>73,340</b>
Encana Corporation	349	2005299	<b>14,310</b>
Encana Corporation	349	2005958	<b>10,100</b>
Encana Corporation	349	2006272	<b>11,630</b>
Encana Corporation	349	2006350	<b>99,270</b>
Encana Corporation	349	2007577*	<b>189,040</b>
Encana Corporation	349	2009305	<b>8,440</b>
Encana Corporation	349	2009310	<b>6,510</b>

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Encana Corporation	349	2009333	<b>7,800</b>
Encana Corporation	349	2010446	<b>85,940</b>
Encana Corporation	349	2012206	<b>9,080</b>
Encana Corporation	349	2012500	<b>15,870</b>
Encana Corporation	349	2015207	<b>101,950</b>
Encana Corporation	349	2018572	<b>15,860</b>
Encana Corporation	349	2023899	<b>82,970</b>
Encana Corporation	349	2025128	<b>85,120</b>
Encana Corporation	349	2025145	<b>25,100</b>
Encana Corporation	349	2025161	<b>98,090</b>
Encana Corporation	349	2025170	<b>87,500</b>
Encana Corporation	349	2025174	<b>82,430</b>
Encana Corporation	349	2025739	<b>84,850</b>
Encana Corporation	349	2026681	<b>12,410</b>
Encana Corporation	349	2028487*	<b>33,680</b>
Encana Corporation	349	2031878	<b>5,890</b>
Encana Corporation	349	2032071	<b>9,760</b>
Encana Corporation	349	2032079	<b>98,230</b>
Encana Corporation	349	2032188	<b>78,150</b>
Encana Corporation	349	2032362*	<b>136,610</b>
Encana Corporation	349	2032960	<b>38,060</b>
Encana Corporation	349	2034463	<b>28,390</b>
Encana Corporation	349	2035452	<b>76,630</b>
Encana Corporation	349	2037861	<b>67,420</b>
Encana Corporation	349	2037862	<b>99,620</b>
Encana Corporation	349	2044449	<b>21,120</b>
Encana Corporation	349	2044505	<b>9,040</b>
Encana Corporation	349	2044521	<b>8,510</b>
Encana Corporation	349	2045076*	<b>187,060</b>
Encana Corporation	349	2045517*	<b>150,540</b>
Encana Corporation	349	2051185	<b>54,950</b>
Encana Corporation	349	2052017	<b>9,470</b>
Encana Corporation	349	2052154	<b>72,550</b>
Encana Corporation	349	2053582	<b>12,120</b>
Encana Corporation	349	2054198	<b>89,000</b>
Encana Corporation	349	2065052	<b>57,740</b>
Encana Corporation	349	2067924	<b>13,970</b>
Encana Corporation	349	2103347	<b>6,770</b>
Encana Corporation	349	2103386*	<b>88,390</b>
Encana Corporation	349	2747796	<b>11,020</b>
Encana Corporation	349	2756711	<b>90,480</b>
Encana Corporation	349	2758599*	<b>95,220</b>
Encana Corporation	349	2760549	<b>9,680</b>
Encana Corporation	349	2761702*	<b>14,640</b>
Encana Corporation	349	2761703	<b>50,280</b>

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Encana Corporation	349	2761903	<b>89,490</b>
Encana Corporation	349	3128337	<b>23,080</b>
Encana Corporation	349	3131934	<b>143,650</b>
Flowing Energy Corporation	329	2797518	<b>64,950</b>
Flowing Energy Corporation	329	3125536	<b>67,170</b>
Flowing Energy Corporation	329	3125539	<b>64,210</b>
Flowing Energy Corporation	329	3125756	<b>69,240</b>
Flowing Energy Corporation	329	3126101	<b>10,080</b>
Flowing Energy Corporation	329	3126427	<b>67,670</b>

**NOTES:**

\* indicates those LPAU-IDs that were subject to pool code 158 issues at the merit hearing. These assessments have been confirmed by the MGB, and thus are not “new” assessments.

It is so ordered.

Dated at the City of Edmonton, in the Province of Alberta, this 31<sup>st</sup> day in March, 2008

**MUNICIPAL GOVERNMENT BOARD**

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(SGD) D. Thomas, Presiding Officer

cc: - S. White and C. Uttley, Assessment Services Branch  
- J. Thibault, JT Consulting  
- M. Pryor, Encana Corporation & Encana Oil and Gas Co. Ltd.  
- D. Bielecki, Talisman Energy  
- D. Zimmer, BP Canada Energy Company  
- A. Johnson, Canadian Natural Resources Ltd.  
- K. Nelson, Resources Canada (Hunter) Limited, Burlington Resources Canada Ltd., C/O ConocoPhillips Canada Resources



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**APPENDIX "A"**

DOCUMENTS RECEIVED AND CONSIDERED BY THE MGB AT THE DECEMBER 3, 2007 HEARING:

<u>NO.</u>	<u>ITEM</u>
<u>Respondent</u>	<u>Complainants</u>
R1(a) R1(b)	C2
	Letter from RMRF dated September 20, 2007 Spreadsheet of Recalculated Assessments Disagreements on Implementation Recalculations (Joe Thibault)
R3(a) R3(b) R4	
	Letter from RMRF dated September 7, 2007 Technical Process for DL 112/07 Compliance Letter from RMRF dated November 27, 2007

**APPENDIX "B"**

DOCUMENTS RECEIVED AND CONSIDERED BY THE MGB AT THE MAY 18, 2007 HEARING:

<u>NO.</u>	<u>ITEM</u>
<u>Respondent</u>	<u>Complainants</u>
R1(a) R1(b) R1(c)	
	Letter to MGB from Brownlee LLP dated March 23, 2007 Email to Brownlee LLP from MGB dated April 5, 2007 Letter to MGB from Wilson Laycraft LLP dated April 9, 2007
R1(d) R1(e) R1(f) R1(g)	
	Letter to MGB from RMRF LLP dated April 23, 2007 Letter to RMRF LLP from MGB dated April 23, 2007 Letter to MGB from RMRF LLP dated April 24, 2007 Letter to MGB from Wilson Laycraft LLP dated April 25, 2007
R1(h)	
	Letter to RMRF LLP and Wilson Laycraft LLP from MGB dated April 23, 2007 (sent April 30, 2007)

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DOCUMENTS RECEIVED AND CONSIDERED BY THE MGB (cont'd)

<b>NO.</b>	<b>ITEM</b>
<u>Complainants</u>	<u>Respondent</u>
R1(i)	Letter to MGB from Wilson Laycraft LLP dated May 1, 2007
R1(j)	Letter to RMRF LLP and Wilson Laycraft LLP from MGB dated May 3, 2007
R1(k)	Letter to MGB from RMRF LLP dated May 14, 2007
R1(l)	Email to RMRF LLP from MGB dated May 15, 2007
R1(m)	Email to MGB from RMRF LLP dated May 16, 2007

**APPENDIX "C"**

DOCUMENTS RECEIVED BY THE MGB AT THE OCTOBER 2, 2006 MERIT HEARING:

<b>NO.</b>	<b>ITEM</b>
<u>Complainants</u>	<u>Respondent</u>
C1	Brief of the Appellants
C2(a)	Well Depth Issue – Category 1 – Drilled and Cased Wells
C2(b)	Well Depth Issue – Category 2 – Incorrect Assessed Depth
C2(e)	Well Classification Issue – Category 5 – Pool Code 0158
C2(f)	Wells with Producing Formations
C2(g)	Examples of Recognizing Bridge Plugs without cement
C3	Willsay Statements
C4	Rebuttal Submission of the Appellants (Complainants)
C5	Letter from Wilson Laycraft to MGB and Brownlee dated September 26, 2006
	R6 Respondent's Argument
	R7 Volume of Authorities
	R8 Volume of Documents
	R9 Volume of Legislation and EUB Directives
	R10 Report of Bruce Ney
	R11 Report of Dan Driscoll
	R12 Volume of Documents – Tabs 17.1 to 17.5
	R13 Volume of Documents – Tab 18 – Scenarios 1, 3, 4, and 5
	R14 Volume of Documents – Tab 18 – Scenario 2
	R15 Volume of Documents – Tab 19

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## DOCUMENTS RECEIVED AND CONSIDERED BY THE MGB (cont'd)

<b>NO.</b>	<b>ITEM</b>
<u>Complainants</u>	<u>Respondent</u>
C16	CD prepared by JT Consulting
	R17 Spreadsheet showing LPAU-IDs withdrawn or remaining under complaint
	R17(b) Revised spreadsheet showing LPAU-IDs withdrawn or remaining under complaint
C18	Withdrawal form dated October 2, 2006
	R19 Bundle of S-4 History printouts with Hand-written LPAUID numbers
C20	Document extracting definitions from EUB Directives
C21	Document entitled "Linear Appeals by Category"
	R22 Evidence summary of Chris Uttley Jointly Agreed to by the Complainants and the Respondent
	R23 Recommendations to the MGB
	R24(a-b) Flip Charts - Mr. Driscoll
	R25 Flip Chart – Mr. Ney
C26(a-k)	Flip Charts – Mr. Thibault
C27	Alberta Energy and Utilities Board Data Dissemination – General Query and cover letter Wilson Laycraft to the MGB dated November 27, 2006
	R28 Letter from Brownlee to MGB dated November 6, 2006