

BOARD ORDER: MGB 001/04

IN THE MATTER OF THE *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

AND IN THE MATTER OF COMPLAINTS respecting Linear Property Assessments for the 2003 tax year filed on behalf of Kneehill County, Mountain View County, Municipal District of Northern Lights, Municipal District of Provost, and Wheatland County.

BETWEEN:

Kneehill County, Mountain View County, Municipal District of Northern Lights, Municipal District of Provost, and Wheatland County - represented by LandLink Geographics Inc. - Complainants

- a n d -

Designated Linear Assessor for the Province of Alberta - represented by Alberta Justice – Respondent

- a n d -

ConocoPhillips Canada, Canadian 88 Energy Corp., and Gibson Energy Ltd. – represented by KPMG
- Intervenors
Trans Canada Pipelines – Intervenor

BEFORE:

Members:

J. Acker, Presiding Officer
L. Atkey, Member
T. Robert, Member

Secretariat:

D. Woolsey
A. Sjouwerman
S. Miller

Upon notice being given to the affected parties, a hearing was held in the City of Edmonton, in the Province of Alberta on November 12 and 13, 2003. At an earlier hearing on the same matter, held on May 28, 2003, the Municipal Government Board (MGB) set out instructions to the parties for the full

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exchange of evidence and argument. Further, the MGB asked the parties to provide it with information on how the Alberta Energy and Utilities Board (AEUB) acquires and views the data contained in its tabular and graphical records.

The matters before the MGB are 2003 (tax year) linear property assessment complaints as detailed in Appendix “D” and “E” of this Board Order. These are complaints to the MGB by the above-mentioned municipalities pursuant to Section 292 and Section 293 of the *Municipal Government Act* (Act).

PRELIMINARY MATTER

The Presiding Officer disclosed that the two side-panel members had participated in the Pipeline Transition Committee (PTC), which took place during the late 1990s. The challenge put to the PTC was to eliminate self-reporting to two different government agencies of corrections to specifications and characteristics data relating to pipes. At the time, owner/operator licensees reported to both the Alberta Energy and Utilities Board (AEUB) and the Designated Linear Assessor for the Province of Alberta (DLA). The PTC devised that since the AEUB had developed the most accurate source of information relating to pipe data, owner/operator licensees should report any changes or corrections to only the AEUB. The DLA would then use the information contained in AEUB records in preparing assessments of linear properties. This was the recommendation that the PTC made to the Government of Alberta.

Parties and Intervenors were asked if they had any objections to these two panel members hearing this complaint.

None of the parties or Intervenors objected to the members hearing and deciding the complaints.

OVERVIEW

The Complainants argue that the assessments prepared by the DLA for each of the subject properties is incorrect. They allege that the assessment valuation was calculated using incorrect lengths of pipes recorded in the files of the AEUB. The error allegedly arises as a result of noted discrepancies between the tabular and graphical records of the AEUB which show different lengths of pipe. For example, in one case the tabular record reported a pipe length of 0.2 km while the graphical record showed the line was located in three different municipalities indicating a line much longer in length.

In the analysis that follows the term “attribute” will be used interchangeably with that of “tabular”.

BACKGROUND

General

These complaints relate to the assessment of certain linear properties residing in five different municipalities. The current complaints were filed with the MGB on 12th of March 2003. The complaints related to the assessment of 82 separate linear properties for the 2003 tax year. A linear property is identified by a Permanent Property Inventory Identifier (PPI-ID). In the present complaints, each PPI-ID relates to a particular segment of a specified pipe.

Every municipality is the taxing authority within its geographical jurisdiction. Under the authority of Section 292 (1) of the Act, an assessment must be prepared by the assessor (DLA) designated by the Government of Alberta's Minister of Municipal Affairs.

Originally these complaints involved 82 subject properties. All of the pipes comprising the linear property are operating pipes. None are new; the oldest of these pipes was built in the 1960s.

The AEUB maintains two types of records which capture the pipe information that is central to the question before the MGB. The tabular record is information taken from the licence. The licence is the official document containing the pipe detail information that is stored on microfilm by the AEUB. The graphical information is generated from the tabular information and is represented in the form of a map. A detailed explanation of the creation and use of these two record types is contained in the position of the Respondent.

At the hearing conducted on May 28, 2003, the MGB heard each party's position regarding the issue of pipe length. The DLA objected that the Complainants had not provided information that would allow the assessor to determine whether or not the pipe length was incorrectly applied in the assessment for the 2003 tax year. In response, the MGB directed the Complainants to provide the Respondent and affected owners/operators (assessed persons) with the necessary information concerning the data held by the AEUB in its records. It also directed the Respondent to provide information on how they viewed the AEUB's tabular and graphical information, particularly when such information differed in its measurements of same sections of pipe. It further requested both the Complainants and Respondent to state their positions on the following questions.

1. What does the AEUB record constitute under the Act and how is the AEUB record to be recognised in its application to the assessment of pipe?
2. What is the AEUB process for placing information in its tabular and graphical databases and how is this information to be interpreted for use in calculating pipe assessment?

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The parties responded by having an AEUB representative present at the hearing to explain the collection and use of AEUB data and also by exchanging evidence and argument to support their respective positions.

On August 27, 2003 the MGB sent a Notice of Withdrawal confirming the withdrawal of an incorrect PPI-ID number. According to the Notice of Withdrawal PPI-ID 661346 in Kneehill County was withdrawn. The correct PPI-ID number to be confirmed as withdrawn should have read 661334 in Kneehill County. Also, PPI-ID number 561239 in the M.D. of Northern Lights is withdrawn by LandLink Geographics Inc. (LandLink).

ISSUES

In order to decide these matters, the MGB must decide the following specific issues.

1. Is the attribute record the only record of the AEUB to be used by the DLA in preparing an assessment of linear property or should the DLA also use the graphical record?
2. Is the DLA required to make changes to a linear property assessment if that assessment is based upon incorrect attribute data?
3. Does a municipality or the DLA have authority to request a change to the attribute record?
4. Pursuant to Sections 292 and 293 of the Act, is the DLA required to use AEUB records exclusively in preparing an assessment? If there is a conflict in the AEUB records, what is the duty of the DLA?
5. Is the DLA acting in a consistent manner within its legislated mandate in using graphical records for the apportionment of linear property between municipalities and attribute records only to determine the specific length of pipe within municipalities?
6. If Issue 5 is answered in the affirmative, should or should not the DLA use both graphical and attribute records to determine length of pipe that is the subject of a linear property assessment?
7. Did the DLA use the correct length of pipe in preparing the assessments?
8. Is it the duty of the DLA to ensure that an assessment is correct?
9. If the overall assessment of a pipe is accurate, is it equitable to make adjustments to the assessment of pipe segments that would lead to a correction in the assessment of the entire pipe?

10. Are errors acceptable in a regulated assessment environment?

LEGISLATION

In order to decide these matters, the MGB examined the following key legislative directions.

Section 292 of the Act gives a broad outline of the standards, procedure and practice for the assessment of linear property. This section establishes the starting point in the assessment process for linear property and mandates that the DLA must prepare assessments for all linear property.

292(1) Assessments for linear property must be prepared by the assessor designated by the Minister.

(2) Each assessment must reflect

- (a) the valuation standard set out in the regulations for linear property, and*
- (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).**

(3) If the assessor considers it necessary, the assessor may request the operator of linear property to provide a report relating to that property setting out the information requested by the assessor.

(4) On receiving a request under subsection (3), the operator must provide the report not later than December 31.

(5) If the operator does not provide the report in accordance with subsection (4), the assessor must prepare the assessment using whatever information is available about the linear property.

Section 293 directs the DLA to follow the direction given in the regulations.

293(1) In preparing an assessment, the assessor must, in a fair and equitable manner,

- (a) apply the valuation 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

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the property that is being assessed is located.

(3) An assessor appointed by a municipality must, in accordance with the regulations, provide the Minister with information that the Minister requires about property in that municipality.

Section 305(1) addresses the remedy available to a party where an assessment notice was issued for a linear property, but the notice contains a specified defect. Section 305(2) addresses the remedy available to a party where certain linear property is assessable, but no assessment has been issued by the DLA for that property. The crucial difference between the two sections is that upon discovery of the defect under Section 305(1) the remedy is discretionary, whereas once it is discovered that no assessment notice has been issued for an assessable property, it becomes mandatory for the assessor to exercise the remedy under Section 305(2) and prepare the assessment notice. Both remedies must be exercised by the DLA within the current year only.

305(1) If it is discovered that there is an error, omission or misdescription in any of the information shown on the assessment roll,

- (a) the assessor may correct the assessment roll for the current year only, and*
- (b) on correcting the roll, an amended assessment notice must be prepared and sent to the assessed person.*

(2) If it is discovered that no assessment has been prepared for a property and the property is not listed in section 298, an assessment for the current year only must be prepared and an assessment notice must be prepared and sent to the assessed person.

(3) If exempt property becomes taxable or taxable property becomes exempt under section 368, the assessment roll must be corrected and an amended assessment notice must be prepared and sent to the assessed person.

(4) The date of every entry made on the assessment roll under this section must be shown on the roll.

Section 312 allows for correction of an assessment notice that is incorrect.

312 If it is discovered that there is an error, omission or misdescription in any of the information shown on an assessment notice, an amended assessment notice may be prepared and sent to the assessed person.

Section 488 speaks to the jurisdiction of the MGB and the requirement of the MGB to conduct a hearing on matters under dispute.

488(1) The Board has jurisdiction

- (a) to hear complaints about assessments for linear property,*

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(2) The Board must hold a hearing under Division 2 of this Part in respect of the matters set out in subsection (1)(a), (b) and (c).

Section 492 defines the type of complaints that the MGB can hear. The complaint itself must relate to a matter as it appears on the assessment notice. Section 492(1.1) of this section identifies those parties that have standing to bring a complaint before the MGB. The Complainants have status to bring the complaint by virtue of Section 492(1.1)(b).

492(1) A complaint about an assessment for linear property may be about any of the following matters, as shown on the assessment notice:

- (a) the description of any linear property;*
- (b) the name and mailing address of an assessed person;*
- (c) an assessment;*
- (d) the type of improvement;*
- (e) school support;*
- (f) whether the linear property is assessable;*
- (g) whether the linear property is exempt from taxation under Part 10.*

(1.1) Any of the following may make a complaint about an assessment for linear property:

- (a) an assessed person;*
- (b) a municipality, if the complaint relates to property that is within the boundaries of that municipality.*

ISSUE 1. IS THE ATTRIBUTE RECORD THE ONLY RECORD OF THE AEUB TO BE USED BY THE DLA IN PREPARING AN ASSESSMENT OF LINEAR PROPERTY OR SHOULD THE DLA ALSO USE THE GRAPHICAL RECORD?

SUMMARY OF COMPLAINANTS' POSITION

The Complainants have no quarrel with overall assessment practices. For the most part, both the AEUB attribute and graphical records for individual pipe licences agree with each other. However, in a very small proportion of cases, specifically 1.7% of all linear assessments over the five counties involved in this complaint, discrepancies between the two exist. Where they do, the graphical records ought to be investigated further to resolve discrepancies.

Originally, the complaints included 82 linear properties. The representative for the Complainants, LandLink, undertook a study to compare the lengths of pipe used to prepare assessments for each property. This was achieved using computer software program developed by Telus Geomatics (Telus). The Telus software contains data found in AEUB attribute and graphical records which, on a monthly

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basis, is downloaded by the AEUB onto a compact disc (CD) and sold to selected service providers. One distinguishing feature of the Telus program is that it allows for measurements of pipe lengths from graphical records. Using the Telus software, the Complainants took measurements from the graphical record and compared them with the attribute record. The Complainants found discrepancies between the attribute and graphical records.

In all of the original 82 subject properties, the graphical record indicated that the length of pipe is greater than that noted in the attribute file. LandLink then initiated a consultation process with industry stakeholders in an effort to determine which record was correct. It did this by sending letters to the affected owner/operators requesting information detailing their understanding of what is the correct pipe length.

Responses were received in respect of 34 subject properties. It was found that in 20 cases of these 34 that the assessed parties considered the attribute record to be the correct pipe length. As a result, these 20 cases were withdrawn from this complaint. In 13 cases, the assessed parties confirmed that, in their view, the graphical record was correct and thus the value of the length of pipe used in calculating the assessment value ought to be greater than that used by the DLA. In one additional case, the assessed party indicated that the correct length of pipe was actually 0.1 km longer than the graphical record stated.

Since no response was received from the assessed property owners in respect of the 48 other subject properties the Complainants do not have any other evidence to support their claim. The only information produced by the Complainants to indicate that each assessment was incorrect are the discrepancies between the attribute and graphical records.

SUMMARY OF RESPONDENT'S POSITION

The correct inventory to be used in preparation of a linear assessment is found in the attribute file of the AEUB, as it existed on the 31st of October of the year prior to the year in which tax is imposed. In the present complaints the critical date is the 31st of October 2002.

In order to understand this position, it is important to consider the history of the AEUB records and what use the DLA makes of them. The AEUB witness outlined as follows the methodology and processes used in the collection and use of pipe information for the purpose of creating and maintaining the AEUB record.

AEUB RECORDS

Creation of Records

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Licensing of pipes occurs in a highly regulated regime governed by the AEUB under the authority of the *Alberta Energy and Utilities Board Act, R.S.A. 2000, Ch. A-17*.

At all material times relevant to the preparation of the assessments under complaint, applications for pipe licences were made by submitting paper forms to the AEUB, together with an attached map of the proposed pipe.

Applications are reviewed and classified as either routine or non-routine. The vast majority of applications are routine and the approval process is fairly short and is completed quickly. Non-routine applications, which comprise about 5% of the total number of applications, undergo greater scrutiny prior to approval. As a result, there is a significant time delay between the (non-routine) application and its approval.

The AEUB creates and maintains a number of records about pipes that it approves for licensure. As the keeper of the records, the AEUB is the finder of fact as to what data should be contained in them. It is also mandated to audit legislative compliance and to perform an enforcement function where there is non-compliance.

The AEUB records are comprised of the licence, attribute and graphical files relating to a specific segment of pipe. A licence is a paper copy of an electronic record containing pipe specifications and characteristics that bears the approval signature of an authorised AEUB representative. A signed licence is the official record of the AEUB. The information contained in the licence is then recorded in an attribute file. In other words, an attribute file is an electronic copy of the licence.

Data contained in approved applications are then plotted on a base map, which is scaled 1:20,000. The use of base maps is a regulated requirement. All pipes fall within easements that are eventually registered at the Land Titles Office.

Although great pains are taken to match the information contained in the attribute record with the base map, the base map is representational. The AEUB may require that field inspections take place on approved applications for licences. Changes to the proposed location of the pipe must be reported by owner/operator licensees to the AEUB as a condition of their licence. They may include such matters as route or length of pipe. Changes to the length of a pipe may be reported to the AEUB by anyone. Any corrections to the record are then made by the AEUB. The important point to note here is that any correction of the record falls entirely within the mandate of the AEUB; it is not within the scope of the DLA's legislated authority.

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The AEUB first began keeping attribute records of pipe licences in 1954. Since then, there have been significant upgrades to its records system. For example, graphical records were introduced in 1976. The most recent occurred in 1993. Every record in the AEUB inventory has been captured and converted to each system upgrade. It is possible that discrepancies in the records of some pipes may have occurred due to data corruption resulting from system upgrades and conversion of source records.

During meetings held by the Pipeline Transition Committee in 1999, to determine the best method to develop linear assessments, stakeholders voiced concerns regarding how the accuracy of the records might be preserved once the DLA began to use AEUB records for assessment purposes. It is the responsibility of the owner/operator licensee to contact the AEUB to seek a correction of its records if the licensee becomes aware that they are inaccurate.

On the last Friday of every month, the AEUB downloads onto compact discs (CDs) information contained in its records for sale to various service providers only. The DLA makes use of the specification and characteristic data found on these CDs which contain the tabular and graphical records.

Compliance, Audit, and Correction of Records

The critical date used for preparing an assessment of linear pipe property is based on the completion of the project that is deemed to have taken place 6 months after a permit is issued. Therefore, an assessed party, or the company being the owner/operator licensee of a pipe, had 6 months from the time the licence was granted to build the pipe. Since then, this limitation period was extended to 12 months. In light of the time lag between licence approval and pipe construction, maps stored in the AEUB graphical record are not shown “as built”. The AEUB does not require that the base map match the “as built” survey.

Any discrepancies between the proposed placement and “as built” maps that arise afterwards, may be identified through a survey. Until the autumn of 2003 the base map did not have GIS or survey capabilities. Thus, discrepancies between the two maps could not be easily identified at the critical date for the assessments under complaint.

The AEUB may audit licences to ensure regulatory compliance. If an owner/operator licensee is found not to be in compliance, the AEUB has the power to impose penalties upon it under its enforcement authority. Routine applications are subject to audit. Non-routine applications do not need to be audited as they undergo a greater degree of scrutiny prior to approval.

If an owner/operator licensee discovers errors in the records, it may report them to the AEUB with a view to correcting the records. It may do so by filing a corrected base map with the AEUB. This

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process is known as voluntary disclosure. No penalties are imposed for voluntary disclosure, as it is the aim of the AEUB to encourage compliance. In this respect, compliance helps to ensure that current and correct records are maintained. If an owner/operator licensee knows that the records are incorrect and fails to come forward with this information to the AEUB, it runs the risk that it may be audited. If it is then found to be in non-compliance, the owner/operator licensee may be penalised through the AEUB's enforcement mechanisms. Thus, the AEUB system provides for a self-reporting system.

If a pipe owner/operator acquires a pipe by way of purchase from a previous owner, the new owner/operator inherits, as it were, the record. The acquiring company becomes the licensee, receives a licence in its name, and has 90 days in which to verify the record.

Non-assessed third parties who take issue with the correctness of the AEUB records of a particular pipe licence may make their concerns known to the AEUB. These will be dealt with, but the priority is low.

The authority to make any changes considered necessary to ensure the correctness of the attribute or graphical record rests solely with the AEUB. The AEUB is the finder of facts charged with the responsibility of determining what specifications and characteristics data are contained in its records.

DATA USED BY THE DLA

An assessment of linear property is prepared in accordance with Sections 291 and 292, and in conjunction with the *Matters Relating to Assessment and Taxation Regulation A.R. 289/99* (Regulation).

Section 292 (2) (b) (i) mandates that assessments reflect the specifications and characteristics found in the records of the AEUB or the report requested by the assessor. The Regulation outlines in detail how an assessed value is calculated.

AEUB Records

The DLA submits that the correct inventory is taken from the attribute record of the AEUB. Its current policy is to ensure correctness through consistently following practices set forth in the legislation.

Pipe length is a fundamental component used in calculating the assessment value. Data on pipe length is taken from the attribute record of the AEUB, obtained from the purchase of the updated monthly CD. Other specifications and characteristics found in the attribute record used in preparation include line number, AEUB code, licensee name, material and product. Of all of these, pipe length is the most important in these complaints.

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The DLA uses graphical records to determine where in Alberta the pipe is located by assessing its “to” and “from” inventory. Once this has been mapped out, it is overlaid by another map showing municipal boundaries. When a pipe crosses a municipal boundary, the DLA uses the graphical record to determine the apportionment (percentage) of the pipe located within each municipality. The measurement is taken using the licensed length recorded in the attribute file. It should be noted that a different result might occur if the length is used from information contained in the graphical file.

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Request for Report

Under Section 291(2) the DLA can ask an operator of linear property for a report. The DLA may do so in three circumstances.

First, there may be a question about whether the pipe has been constructed. The status of the pipe is important because Section 291(1) states that the DLA must prepare an assessment on pipes that have been constructed. The data shown on new licences may not be updated, given the time lag between the issue of licence and the construction and actual operational capability of the pipe. Since none of the subject pipes are new, their status is not an issue in these complaints.

The second instance is when the pipe is not licensed by the AEUB. An example of this would be inter-provincial pipes, which are regulated by the National Energy Board (NEB).

Third, legislation may require the DLA to request a report, by virtue of Section 292(3). There are not many instances where this would occur because Section 292(2) captures the essence of assessment procedures in respect of property, wells, and pipes.

FINDINGS

The attribute record is not the only record of the AEUB to be used by the DLA in preparing an assessment of linear property. In principle, the attribute record neither exists nor works in isolation. The AEUB keeps and maintains records other than attribute files which are used for obtaining data, including graphical files. Graphical files are viewed as being representative of the data in the attribute files.

REASONS

Firstly, the MGB looks to the direction contained in the Act to determine how linear property assessments are to be prepared. The legislative requirements of the AEUB and its associated legislation do not create the legislative authority and requirements for the preparation of linear assessments. Therefore, the MGB focuses on the Section 292 of the Act. Section 292 (2)(b)(i) refers to the specifications and characteristics contained within the *records* of the AEUB. The Act does not refer to a specific record of the AEUB and more specifically it does not refer just to the attribute record, but rather refers to records in a plural context. The MGB applies a plain meaning to the reading of Section 292 and, as a result, it cannot accept the DLA's argument that the Act directs the DLA to look only at one of the records available at the AEUB.

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Secondly, the MGB cannot accept the DLA's argument that the attribute record is the only record of the AEUB to be used in the preparation of the linear property assessment of the subject property. The licence, attribute, and graphical records are all created at the AEUB using the same data. That is, data derived from information contained in the licence which is placed on microfilm at the AEUB. The MGB accepts the testimony of the AEUB's representative that these items are all AEUB records. Although they are created at different starting points, they all eventually merge into one record. The graphical record is representative and a useful tool for comparative purposes.

The MGB is satisfied that in the large majority of cases, the licence, the graphical record and the attribute record coincide with each other and produce a consistent similar result in terms of the length of pipe. However, testimony by all the parties indicated that errors do occur and the licence, the graphical record and the attribute record may reveal different lengths for a pipe. Testimony showed that depending on the work priorities of the AEUB, which is driven by the requirements of their legislation, it is not an AEUB priority to update its records to ensure that the annual assessment cycle can be achieved. The AEUB operates under different legislation and for different purposes than the production of linear property assessments.

ISSUE 2. IS THE DLA REQUIRED TO MAKE CHANGES TO A LINEAR PROPERTY ASSESSMENT IF THAT ASSESSMENT IS BASED UPON INCORRECT ATTRIBUTE DATA?

SUMMARY OF COMPLAINANTS' POSITION

It is commonly accepted that there are margins of error in linear assessments. In previous years the DLA would investigate complaints that an assessment was based upon incorrect attribute data and make necessary changes to correct the assessed value. This practice was part of the DLA's function to assess property. This practice has since been discontinued.

The DLA cannot justify its present refusal to investigate and make necessary changes to the assessment value by bootstrapping it onto an alleged statutory prohibition. The legislation in force at the time it undertook complaint investigation as a matter of course is the same legislation that is in force today; the legislation has not changed.

SUMMARY OF RESPONDENT'S POSITION

The current policy of the DLA dictates that it is limited by the relevant legislation, Section 292 (2) (b), to address only the AEUB record if it is sufficient. This has not always been the practice.

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Up until 2001, the DLA would investigate discrepancies between the attribute and graphical record, and make changes to the assessed value on record as it considered necessary. In fact, in prior years when it undertook its own comparative analysis, the DLA determined that in 1400 cases sufficient discrepancies existed between the attribute and graphical records to cause the DLA to raise concerns to the AEUB concerning the correctness of their records.

The DLA's explanation for the difference in practice is that in past years the DLA may have contravened the legislation. Realising its mistake, the DLA resolved to correct the situation by going back to basics and following the legislation. In practice, this means that the DLA must refrain from investigating and making changes to the assessment. This is the current policy of the DLA and it must be adhered to. The DLA acknowledges that curtailing the practice might put some individual assessed parties at a disadvantage. Nevertheless, it must operate within its mandate and abide by the rules.

From an administrative viewpoint, the DLA's past practice of making changes to the assessed value on record was found to be undesirable since it discouraged accurate self-reporting. The term "third party reporting system" refers to a party, other than an assessed party, having the ability to raise concerns to the DLA about the correctness of data used in the preparation of a linear property assessment so that the DLA might conduct further investigation into the matter and, where necessary, correct an assessment. Ultimately, this cast the DLA into a role of fact finder. Clearly, this is not within its mandate. Rather, the AEUB is the fact finder and has sole authority to correct its records.

The AEUB now has an upgraded records system and is addressing the issue of incorrect attribute data, albeit not as quickly as some people would like. However, as the AEUB system improves, the occurrence of discrepancies in its attribute record diminishes. Any hiccoughs which may occur in the AEUB system do not negate the fact that the DLA relies upon the AEUB records.

Moreover, past practices generated a volume of paperwork to the DLA far beyond originally anticipated. The DLA has insufficient manpower to deal with the paperwork in a timely and efficient manner. In such circumstances the administrative burden far outweighs the benefits, especially when one considers that the percentage of errors is less than 2%.

For the reasons stated above, the Respondent submit that the DLA is not required to make changes to the assessed value on the record if a property assessment is based upon incorrect attribute data.

FINDINGS

Within the context of the records of the AEUB, the DLA is the fact finder for determining the correct data to be used for the assessment of linear property. The DLA has responsibility pursuant to the Act to examine all the records of the AEUB to determine the correct length of pipe and other attribute data

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of the subject linear properties. Where there is an inconsistency between the records of the AEUB, the DLA must act as the fact finder especially when given evidence that the attribute record is wrong.

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REASONS

Pursuant to Section 292 the DLA is required to review and apply records of the AEUB in order to reflect specification and characteristic data of linear property in an assessment it prepares. As mentioned previously, particular note is made of the use of the plural form of the noun, *record*, rather than that of the singular. AEUB records include graphical as well as attribute files, not to mention licences. Nowhere in the statutory provision does it state that the attribute record is the definitive record to be used by the DLA. In any event, the DLA routinely makes changes to the assessment roll in respect of pipe status if an assessed party produces a signed paper copy of the licence which denotes a discrepancy to reflect the documentary evidence produced. Thus, provided that sufficient evidence is produced to demonstrate that an assessment is based upon incorrect attribute data, the DLA is required to make the appropriate changes.

The AEUB acts only within the context of its legislative authority and this purpose relates to regulating the oil and gas industry. The MGB rejects the argument of the DLA that for assessment preparation purposes the AEUB is the fact finder. The purpose of the AEUB is not to prepare linear property assessments. Section 292 of the Act specifically authorizes the DLA to prepare the linear property assessment, not the AEUB. Within the context of the AEUB records it is the DLA who, for assessment preparation purposes, is the fact finder of the subject properties.

It is contrary to the purpose of Section 292 of the Act for the DLA to refuse to use anything but the attribute records of the AEUB to prepare an assessment. The MGB interprets the ability to achieve fairness and equity in the distribution of the tax burden for linear property to lie fundamentally in obtaining correct data. In the view of the MGB this principle is implanted directly in the Act and not in any regulation, as is the case with depreciation schedules. Accuracy and correctness form the fundamental foundation of the preparation of the linear property assessment.

Furthermore, it is also an inconsistent if not arbitrary practice for the DLA regularly to make selective use of certain records of the AEUB and not others in collecting data needed for assessment preparation purposes. Specifically, the MGB finds it inconsistent to use the graphical record for determining the assignment of pipe from one municipality to another but yet rejecting this information when determining the length of pipe.

In the view of the MGB, when faced with corroborating evidence to illustrate that the graphical record is more accurate than the attribute record, the DLA has a responsibility under the Act to accept the corroborating evidence as being the best AEUB record source or, alternatively, to review the licence to determine which record is correct.

ISSUE 3. DOES A MUNICIPALITY OR THE DLA HAVE THE AUTHORITY TO REQUEST A CHANGE TO THE ATTRIBUTE RECORD?

SUMMARY OF COMPLAINANTS' POSITION

The municipality does not have the authority to change the attribute records of the AEUB; it neither creates nor maintains the records of the AEUB.

SUMMARY OF RESPONDENT'S POSITION

In order to be consistent in practice, the attribute file is the only file to be used notwithstanding any error it may contain. Responsibility for determining what information is contained on a pipe licence rests upon the AEUB, which is the regulatory authority. The DLA has no legislative authority to change the attribute file.

FINDINGS

A municipality is an affected party to a linear property assessment. It has no right to make a change to an attribute record. However, if it believes that an attribute record contains particular data specifications or characteristics that are incorrect, it has recourse by raising its concern with the AEUB, who is then charged with the authority to investigate and make any necessary changes to the attribute record.

The DLA does not have the authority to change the attribute record. It can, however, change the property assessment based on the best record at the AEUB or through any other evidence that the DLA receives or discovers through any other process.

REASONS

The AEUB is the exclusive keeper and maintainer of the attribute record for the purposes of regulating the oil and gas industry under its legislation. Where a dispute concerning the correctness of the record arises, the AEUB, being the authoritative finder of fact for purposes of regulating the oil and gas industry, will determine its resolution. The outcome will then be reflected in the record. Only the AEUB has authority to change the attribute record.

As stated in testimony, the AEUB prioritizes changes to the attribute records within the context of its function and role as a regulator of the oil and gas industry and not as the authority assigned to prepare linear property assessments. The priority to make changes to records of the AEUB may not coincide with the cycle for annual linear property assessments thus the MGB must then address how the DLA

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must use these records and any other corroborating evidence. The only remedy available to a municipality to get a correction within the annual linear assessment cycle is to provide relevant evidence to the DLA to clarify or resolve a conflict in the AEUB records.

ISSUE 4. PURSUANT TO SECTIONS 292 AND 293 OF THE ACT, IS THE DLA REQUIRED TO USE AEUB RECORDS EXCLUSIVELY IN PREPARING AN ASSESSMENT? IF THERE IS A CONFLICT IN THE AEUB RECORDS, WHAT IS THE DUTY OF THE DLA?

SUMMARY OF COMPLAINANTS' POSITION

The DLA is not required to use AEUB records exclusively in preparing an assessment. It may also use a consultative processes in order that stakeholders may provide useful information which may assist in determining whether data used to prepare an assessment is correct.

SUMMARY OF RESPONDENT'S POSITION

The AEUB records contain virtually all of the information required by the DLA to prepare an assessment. All that is lacking is the municipal allocation and this is easily determined by overlaying the graphical map detailing municipal boundaries.

Where a pipe crosses a municipal boundary, the DLA takes the licensed length contained in the attribute file. It then measures the graphical file to determine what percentage resides in each municipality. The length in the graphical file is never used to calculate municipal allocation.

Only in two very limited instances may the DLA look to information outside of the AEUB records for assessment purposes. These occur either where there is a need for confirmation of pipe status or where pipe is licensed by another regulatory authority such as the NEB.

FINDINGS

The focus of determining the specifications and characteristics of linear property is the AEUB records. In the case of conflicting records of the AEUB affected parties to an assessment may introduce evidence other than data contained in AEUB records to clarify the records of the AEUB or, more importantly, to choose between conflicting records at the AEUB for the purpose of determining the fundamental basis of the linear property assessment: the length of the pipe. It is through this submitted relevant evidence that any conflict in the AEUB record or lack of clarity of the record can be resolved for the purpose of achieving a correct, fair and equitable assessment.

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REASONS

The MGB, based on the testimony of the parties, is satisfied that corroborating evidence provided by a party, in this case the affected municipality, may be valuable, if not critical, to clarify the records of the AEUB or resolve a conflict between various records of the AEUB. It is the duty of the DLA to prepare a correct, fair, and equitable assessment. In the course of doing so, while the DLA is permitted to make use of an attribute record, he or she is not bound to make slavish use of it, especially in light of conflicting AEUB records. Statutory provisions do not restrict the DLA to look only to the AEUB records, but rather permit the DLA to consider relevant evidence where it is provided by the property owner and where it is considered to be necessary to clarify an AEUB record or resolve a conflict between the records.

An allegation in the form of relevant evidence that incorrect data contained in the AEUB records has been used in preparing an assessment ought to trigger the DLA's duty to conduct a thorough investigation into the matter. In this specific case the DLA and MGB were faced with specific evidence facilitated through the Complainants from the actual linear property owners/operators that resolved the conflicting records between the graphical file and the attribute record.

By correcting the record, the DLA (and the MGB on complaint) ensures that the legislative obligation is met for preparing an assessment in a fair and equitable manner. Correctness is one manifestation of a fair and equitable assessment. Therefore, an assessment prepared by the DLA ought to be correct. Necessity then is duty driven. Not to conduct further investigation or request a report in circumstances where there are conflicting records and corroborating relevant evidence such as a clear statement of the length of the pipe from the property owner, is an abdication of the DLA's legislated responsibilities. If evidence is introduced that clarifies the records of the AEUB or resolves a conflict of the records of the AEUB, the DLA must use that available and relevant information to produce a correct, fair and equitable assessment.

ISSUE 5. IS THE DLA ACTING IN A CONSISTENT MANNER WITHIN ITS LEGISLATED MANDATE IN USING GRAPHICAL RECORDS FOR THE APPORTIONMENT OF LINEAR PROPERTY BETWEEN MUNICIPALITIES AND ATTRIBUTE RECORDS ONLY TO DETERMINE THE SPECIFIC LENGTH OF PIPE WITHIN MUNICIPALITIES?

SUMMARY OF COMPLAINANTS' POSITION

Since the graphical record is used for comparative purposes, it is a helpful tool for determining the apportionment of pipe. Consistency in approach hinges upon comparing like data with like data. As the data shown on the base map is representational, it is only fitting that the length of pipe indicated in

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the graphical record be used to measure apportionment. In practice then, consistency will be achieved only by using all of the relevant data contained in the graphical record to calculate the value of municipal apportionment.

The DLA's current practice of applying one set of values from the attribute records in order to manipulate a different set of values found in the graphical record is an inconsistent practice. Furthermore, by measuring apportionment in the graphical record using data from the attribute record, the DLA prepares a calculation that is incorrect.

SUMMARY OF RESPONDENT'S POSITION

The DLA acts in a consistent manner when it uses the graphical file to determine the apportionment between or among municipalities of pipe length data found in the attribute record.

Data contained in the attribute record relating to pipe length is the correct data to use in calculating apportionment. The length specifications found in the graphical file are not taken to be correct because the graphical record is representational only and not an electronic copy of the pipe licence.

Calculation of apportionment is then made by starting with the attribute data then applying it as the length of the pipe in the graphic. Measurements are then taken to determine the apportionment. The figure used as the pipe length is crucial in determining the graphical apportionment. Understanding this methodology goes a long way in explaining why the apportionment value used by the DLA may differ from that offered by the Complainants who use the reported pipe length contained in the graphical record. The use of different starting figures will result in a different apportionment value.

FINDINGS

The DLA is acting in a consistent manner within its legislated mandate in using graphical and attribute records to determine apportionment for assessment purposes. Both are records of the AEUB.

REASONS

Section 292 (2) (b) (i) specifically states that each assessment for linear property must reflect specifications and characteristics of the linear property as contained in "*the records of the Alberta Energy and Utilities Board*," [emphasis added]. The legislative intent appears to give the DLA the flexibility to use more than one record, whether this is done separately or in combination. Otherwise, it may be argued the word "*records*" would have been written in singular rather than plural form.

ISSUE 6. IF ISSUE 5 IS ANSWERED IN THE AFFIRMATIVE, SHOULD THE DLA USE BOTH GRAPHICAL AND ATTRIBUTE RECORDS TO DETERMINE THE LENGTH OF A PIPE THAT IS THE SUBJECT OF A LINEAR PROPERTY ASSESSMENT?

SUMMARY OF COMPLAINANTS' POSITION

A review was conducted comparing the attribute data to the assessment value. Attention was not paid to the length of pipe unless it was obviously out of proportion. Whenever disproportional discrepancies occurred in the comparative exercise, LandLink reported the matters to the affected municipalities. Through the consultative process, LandLink also brought the discrepancies in the pipe length to the attention of the owner/operator licensees.

In 13 cases, the owner/operators of the subject pipes confirmed the correctness of the graphical record. In one additional case the owner/operator indicated that the actual length was slightly longer than that contained in the graphical record. So in this one instance, the graphical record was marginally more accurate than the attribute record.

Use should be made by the DLA of both the graphical and attribute records in conjunction with the consultative process in order to determine the correct length of pipe if a complaint is received alleging that an inaccurate value was used in preparing an assessment.

SUMMARY OF RESPONDENT'S POSITION

The DLA should not use graphical and attribute records to determine the length of a pipe. The correct length of a pipe is that which corresponds to the data contained in the attribute record since the attribute record is an electronic copy of the licence. The graphical record, being representational only, is used for comparative purposes.

SUMMARY OF INTERVENORS' POSITION

KPMG expressed concerns over the use of both attribute and graphical records. It stated that there is no proof that graphical files are more accurate in assessing pipe length than attribute records. It was submitted that in most cases the data contained in the licence is more accurate.

Objection was taken to what the Intervenor perceived to be the Complainants' manipulative and selective use of graphical records solely to suit their purposes. To illustrate, the properties under complaint are only those for which they allege the graphical records indicate a longer pipe than the data contained in the attribute file. If an assessment value was changed to reflect the graphical length, the municipality would ultimately benefit from increased tax revenue generated by the assessment. It is thus

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in the Complainants' interests that the subject assessment values are calculated using longer pipe lengths. They also noted that no complaint has been made on any assessment where the graphical indicate the pipe length is shorter than the attribute file, and hence, the municipality would receive less tax revenue from an adjusted assessment value.

Trans Canada Pipelines stated that the use of the attribute record provides a high level of confidence that the data contained within it is accurate. For linear assessment purposes the methodology of choice is to use the attribute data. Trans Canada Pipelines also agreed that this complaint is based solely upon the upward revision of pipe length.

FINDINGS

The DLA should use graphical and attribute records to determine the length of a pipe that is the subject of a linear assessment. Both attribute and graphical records are AEUB records. Both are required for assessment purposes, as the DLA routinely makes use of graphical records for their own purposes, such as for determination of "to" and "from" inventory, or apportionment of linear property between or among municipalities.

REASONS

In the interest of preparing an assessment that is correct, fair, and equitable, the DLA cannot be highly selective in its use of attribute or graphical records as a basis for determining certain specifications and characteristics, and not others, and claim to be fair and equitable. As discussed earlier, use of graphical records, although not in themselves a reliable tool for determining pipe length, may be a valuable tool for comparative purposes, and so may help to highlight discrepancies in the attribute record, where they may exist. In such cases, consideration of a graphical record may provide further information upon which the DLA might determine whether or not the correct length of pipe is being used in preparing an assessment.

ISSUE 7. DID THE DLA USE THE CORRECT LENGTH OF PIPE IN PREPARING THE ASSESSMENTS?

SUMMARY OF COMPLAINANTS' POSITION

The DLA did not use the correct length of pipe in preparing the assessments under complaint.

After discrepancies in the pipe lengths were identified by comparing attribute and graphical records, LandLink requested information of the affected industry stakeholders in order to determine whether the latter might agree on which record was correct. Letters on 82 properties were sent to the

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owner/operators of each pipe. In 20 cases, the affected companies confirmed that the attribute record was correct. These 20 were withdrawn from this complaint.

In 13 cases, letters from industry representatives were returned in which the owner/operator licensees agreed that the pipe length in the graphical record was the correct length, and not the attribute record. In an additional case, the owner/operator indicated that the correct length of pipe was actually 0.1 km longer than the length shown in the graphical record. No response was received in respect of the other 48 identified linear properties, with the exception that LandLink did receive a letter from Deloitte & Touche, tax consultant for Marathon Canada Ltd., who responded on two of the properties under complaint. For each of these assessments, the Complainants submit that the DLA used the incorrect pipe length.

SUMMARY OF RESPONDENT'S POSITION

The official record of the AEUB is the licence, and the data contained in it is translated onto the attribute record. For the purposes of assessing the pipe length, the graphical record is representational only. Therefore, even if it is alleged that there is a discrepancy in the pipe length between the attribute and graphical record, the DLA will use the attribute record since it is the most accurate AEUB record to which it has access. For assessment purposes, the DLA submits that the correct pipe length was used in all of the assessments under complaint.

FINDINGS

The DLA did not use the correct length of pipe in preparing assessments for the 14 subject properties where evidence supported the claims.

Evidence provided by the Complainants in respect of the remaining 48 subject properties was insufficient to substantiate their claim of incorrect pipe length.

REASONS

A discrepancy between the graphical and attribute records in respect of pipe length does not in itself indicate that the data contained in the attribute record, which was used in preparing an assessment, is incorrect. Once a discrepancy is identified, the DLA must consider relevant evidence brought to its attention that would assist in determining what the correct length of pipe is for each of the 62 subject assessments.

In the present complaints, the Complainants brought forward very compelling evidence regarding the length of the pipe from owners/operators. This evidence resolved the conflict between the graphical and

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attribute record of the AEUB in favour of the graphical record. This evidence was not contested by the Respondent.

Further, in one subject property, the owner/operator licensee indicated that the pipe was 0.1 km longer than the length shown in the graphical record. Weight ought to be given to voluntary self-disclosure made by assessed parties, such as owner/operators, that incorrect data was used. It is relevant evidence as it tends to prove, through corroboration, the accuracy of the data contained in the graphical record.

However, the Complainants have not presented sufficient evidence to corroborate their claims that the DLA used incorrect pipe lengths in preparing an assessment on each of the remaining 48 properties under complaint. All they have offered is evidence that discrepancies exist between the data contained in the attribute and the graphical records. This alone is insufficient to oblige the DLA to investigate further and it is insufficient to cause the MGB to direct a change in the assessment.

ISSUE 8. IS IT THE DUTY OF THE DLA TO ENSURE THAT AN ASSESSMENT IS CORRECT?

SUMMARY OF COMPLAINANTS' POSITION

Use of the most accurate record will create the most fair and equitable assessment. If the incorrect data is shown to have been used, the DLA has a duty to correct it. However, this in no way suggests that the process of assessment preparation is invalid.

SUMMARY OF RESPONDENT'S POSITION

A correct assessment is one which is prepared in accordance with the legislation. This means that use is made of data contained in the AEUB attribute record. The attribute record is assumed to be correct because the AEUB is the authoritative determiner of fact relating to pipe specification and characteristic data and hence, it determines the correctness of the record. Any corrections of the record are made by the AEUB and not the DLA.

Alternatively, even if there are errors contained in the attribute record, the DLA must follow its own policy and interpretation of the rules set forth in Section 292. In this way, consistency of approach in preparation of an assessment further helps to ensure its correctness.

FINDINGS

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It is the duty of the DLA to ensure that individual assessments of linear property are correct. Correctness is one manifestation of fairness and equity. When the DLA chose not to make corrections to the assessments of the 14 subject properties where sufficient corroborating evidence was produced to clarify and resolve the conflicting records at the AEUB, it failed to discharge its statutory duty as required.

REASONS

How an assessment is prepared is of paramount importance to this complaint, especially in light of conflicting AEUB records. The DLA has a duty to ensure that a correct assessment is made. But what is the definitive feature that makes preparation of an assessment correct anyway: rigid adherence in following administrative policy, or, consideration of the totality of the circumstances and, where necessary, consideration of relevant evidence in order to ensure an assessment has been prepared using the most accurate data to resolve conflicting indicators? The former approach speaks to a strict utilitarian streamlining of duty. In contrast, the latter approach endeavours to take a broader view in order to achieve fairness and equity. It is this latter view, that the MGB believes best meets the purposes of the Act, the correct, fair and equitable distribution of the eventual tax base.

It should also be noted here that there is no dispute that an assessment must be prepared for each of the subject properties. In this regard, it may be distinguished from Board Order MGB 134/03, concerning a complaint by the County of Two Hills, County of Lac Ste. Anne, Municipal District of Bonnyville No. 87, and Municipal District of Greenview No. 16 for the 2002 tax year. In that case, “missing” properties were sought to be added to the assessment roll. It was found that under the provisions of the Act, the DLA is duty bound to prepare an assessment for existing linear property. From this an inference might improperly be drawn that fulfillment of statutory duty extends to imposing a requirement upon the DLA to make corrections to an assessment simply on the basis of alleged errors being brought to its attention. It is up to the parties who file a complaint on an assessment to put sufficient energy into proving that their allegations are well founded. In other words, the onus is upon the complaining parties to provide sufficient evidence in order to prove their case. In this specific case, the evidence of the property owners on the length of the pipe as provided by the Complainants was compelling evidence to resolve a conflict between various records of the AEUB. The DLA’s duty to resolve an ambiguity arises only when the DLA is given specific and sufficient evidence to justify further inquire. It is not triggered simply by a party just complaining of error without providing evidence to support that complaint.

ISSUE 9. IF THE OVERALL ASSESSMENT OF A PIPE IS ACCURATE, IS IT EQUITABLE TO MAKE ADJUSTMENTS TO THE ASSESSMENT OF PIPE SEGMENTS THAT WOULD LEAD TO A CORRECTION IN THE ASSESSMENT OF THE ENTIRE PIPE?

SUMMARY OF COMPLAINANTS' POSITION

The Complainants did not offer evidence on this issue.

SUMMARY OF RESPONDENT'S POSITION

Such a proposition cannot be entertained by the DLA, who obtains data on pipes through looking only at what is contained in the attribute record. In the DLA's view, the record is considered to be correct. Furthermore, the DLA has no authority to make adjustments to the record of the entire pipe.

SUMMARY OF INTERVENORS' POSITION

KPMG took the view that there are so many errors existing in the AEUB records system that, in the end, they balance out and the overall entire record of the pipe is correct. If any adjustment to the record of the overall pipe is made, there is a danger that it might result in a compounding of errors. In turn, this would likely produce an over-assessment for other assessed parties and so be inequitable.

The representative for Trans Canada Pipelines acknowledged that segmentation of pipes is a difficult task to determine, errors may occur in the data. Rather than looking at individual assessment issues, regard should be given to looking at the record of the pipe as a whole.

FINDINGS

Whether or not it is equitable to make adjustments to the record of the entire pipe is not properly before the MGB on these complaints.

REASONS

The MGB cannot consider matters outside the purview of the assessments under complaint. It is conceded that if such adjustments were made, they might compound errors. In any event, other parties affected by an assessment who are aggrieved may raise their concerns to the AEUB or proceed with a complaint to the MGB.

ISSUE 10. ARE ERRORS ACCEPTABLE IN A REGULATED ASSESSMENT ENVIRONMENT?

SUMMARY OF COMPLAINANTS' POSITION

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The Complainants recognize that while errors do exist in very small percentages of assessments, the system eventually balances in the overall scheme of things. In view of this, a small amount of errors are acceptable.

SUMMARY OF RESPONDENT'S POSITION

Errors do occur from time to time as the data used pertaining to pipe specifications and characteristics found in the AEUB attribute record used to prepare an assessment is not always perfect. This can be caused for a variety of reasons, from a lack of self-disclosure on the part of the licensee to clerical input error. However, for the most part, the record is accurate, with the percentage of errors found being less than 2%.

At the same time, the AEUB record system has undergone significant overhaul in recent years and is continuously improving in its efforts to correct errors wherever they may be found. Implementation of the newest and most sophisticated system to date is in progress with expectation of it being completed by 2005.

In the circumstances, the occurrence of errors in a regulated assessment environment is acceptable.

SUMMARY OF INTERVENORS' POSITION

Even in a regulated assessment environment, there will always be some degree, however infinitesimal, of errors found in records that are kept and maintained. However in the overall scheme of things, they are acceptable in the whole scheme because their numbers are so few and at the end of the day, the errors tend to cancel and negate each other.

FINDINGS

Although errors may even out statistically, when errors arise in individual assessments they are unacceptable and can be the subject of a complaint.

REASONS

Assessed parties and municipalities have a right to expect a correct, fair, and equitable assessment. An incorrect assessment is an unfair and inequitable assessment. An incorrect assessment can be rectified through a complaint to the MGB. This complaint does not deal with the application of the regulation but rather focuses on the fundamental rights within Section 292 of the Act. In order for a linear assessment to be correct, fair and equitable the length of the pipe must be correct. In the face of uncontested evidence, the written submission of the owners/operators of 14 linear properties that the conflict

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between the graphical record and the attribute record falls to the graphical record, the MGB must side with the graphical record.

DECISION

The MGB corrects the length of the pipe on the following 14 properties as follows:

MCode	Municipality	ACode	Assessee/Owner/Operator	PPI-ID	Assessed length in KMs	MGB Decision on length in KMs
0191	Kneehill County	0KT5	Canadian 88 Energy Corp.	643381	4.100	6.020
0191	Kneehill County	0026	Encana Corporation	557902	1.260	2.370
0191	Kneehill County	0026	Encana Corporation	674550	2.900	4.350
0191	Kneehill County	0R46	Husky Oil Operations Limited	661337	2.400	4.280
0191	Kneehill County	0R46	Husky Oil Operations Limited	661346	2.600	6.880
0191	Kneehill County	0R46	Husky Oil Operations Limited	596712	5.258	7.300
0226	Mountain View County	0JT1	ExxonMobil Resources Ltd.	658951	4.330	6.5066
0349	Wheatland County	0TJ3	APF Energy Inc.	570504	1.590	8.570
0349	Wheatland County	0HE9	Canadian Natural Resources	616032	1.180	2.400
0349	Wheatland County	0HE9	Canadian Natural Resources	609314	0.060	2.350
0349	Wheatland County	0TM2	Cannat Resources Inc.	610462	0.120	5.210
0349	Wheatland County	0R46	Husky Oil Operations Limited	633813	1.600	4.170
0511	M.D. of Northern Lights	0R46	Husky Oil Operations Limited	817228	10.300	12.330
0511	M.D. of Northern Lights	0R46	Husky Oil Operations Limited	747129	13.400	19.190

The DLA is instructed to recalculate the linear property assessments based on the adjusted length as shown above and report back to the MGB with the new assessments within 30 days from date of this Board Order. The MGB will then issue an additional Board Order with the corrected assessments within five (5) business days of receiving the information from the DLA.

The assessments on the remaining 48 subject properties as per Attachment E are hereby confirmed.

It is so ordered.

REASONS

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Individual assessments of linear property must be correct and fair. When the owner/operators for 14 subject properties wrote letters acknowledging the data was incorrect, this effectively was tantamount to a voluntary disclosure of errors in the AEUB records used to prepare assessments. The MGB acknowledges that the DLA cannot change the attribute record, and that there may indeed be a lengthy delay before any such correction is made by the AEUB. However, the DLA can reconcile conflicting records at the AEUB based on the untested evidence of the linear property owner/operator as to the correct length of the pipe and make a correction to the length of the pipe in question in the preparation of the assessment. The preparation of the linear assessment is fully within the authority of the DLA.

Pursuant to Section 305(1) the Assessor may correct any errors, omissions, or misdescription of information on the assessment roll if it is discovered that it contains an error. In the present complaint sufficient and compelling evidence (the written evidence of the linear property owner/operator confirming that the length of the pipe is represented accurately by the graphical record and not the attribute record) was produced to resolve the conflict between two sets of records at the AEUB. This evidence applied to 14 of the linear properties under complaint.

In respect of the remaining 48 subject properties, insufficient evidence was produced to indicate what is the correct length of pipe. The DLA is charged with the responsibility of preparing an assessment for each linear property. The MGB accepts that the focus of the DLA is the preparation of the linear assessment for the subject pipe using the records of the AEUB. However, the MGB cannot accept that it is just one record of the AEUB to be used, the attribute record. Section 292 refers to records in a plural context and, therefore, all the records must be referenced and when there is a conflict coupled with untested evidence from the owner of the property that the graphical record is correct, the DLA has a duty to change the assessment in order to achieve the purpose of the Act: a correct, fair and equitable assessment.

As stated earlier, the onus of providing sufficient evidence that the DLA has not prepared a correct assessment rests upon the party making such an allegation. Providing that test has been met, the MGB may provide directions to the DLA to correct its assessment where the DLA has failed to do so and where a complaint comes before it. Section 488 and 492 give the MGB authority to make corrections to a linear assessment. In this complaint, the Complainants met the required test for 14 properties. For the other 48 subject properties the Complainants demonstrated only that inconsistencies exist between the attribute and graphical record, but added nothing to favour the one over the other.

The MGB gave careful consideration to recent MGB decisions submitted by the parties. The MGB concluded that this decision can be distinguished from these other decisions. The previous decisions deal with the application of additional depreciation described in regulations, guidelines and manuals developed pursuant to the authority of the Act. These previous decisions require interpretation of established Ministerial policies in numerous clauses within the regulations as to when additional

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depreciation is applicable. This case does not deal with additional depreciation and does not deal with the necessity to interpret various clauses of regulations, guidelines and manuals. This case involves specific interpretation of Section 292 and disputed facts as to the length of pipe.

Dated at the City of Edmonton, in the Province of Alberta, this 19th day of January 2004.

MUNICIPAL GOVERNMENT BOARD

(SGD) L. Atkey, Member

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APPENDIX "A"

APPEARANCES

NAME	CAPACITY
R. Kozack	LandLink Geographics Inc. for the Complainants
B. Giffen	LandLink Geographics Inc. for the Complainants
M. Arnold	LandLink Geographics Inc. for the Complainants
B. Mason	Alberta Justice, Solicitor for the Respondent
M. Vandenbeld	Leader, Applications Branch, AEUB, for the Respondent
C. Uttley	Operations Manager, Linear Property Assessment Unit, Assessment Services Branch for the Respondent
H. Williams	Director, Linear Property Assessment Unit, Assessment Services Branch, as an Observer
B. Nelson	KPMG for the Intervenors
K. Marsh	Trans Canada Pipelines, Intervenor

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APPENDIX "B"

DOCUMENTS RECEIVED AT THE HEARING AND CONSIDERED BY THE MGB

NO.	ITEM
1C	CD/Hardcopy slideshow of discrepancies found in pipe length of linear properties under complaint
2C	Fax sent by Encana dated May 26, 2003
3R	2003 Linear Assessment Data for complaint subjects
4R	Evidentiary Documents of 2003 Tax Year Linear Assessment Complaints
5C	Amended copy of Exhibit 1C plus letters in respect of certain PPI-IDs in Kneehill County
6C	Fax sent by LandLink Geographics to K. Marsh dated September 9, 2003.
7C	Amended copy of Exhibit 1C plus letters in respect of certain PPI-IDs in the Municipal District of Provost
8C	Amended copy of Exhibit 1C plus letters in respect of certain PPI-IDs in Mountain View County
9C	Amended copy of Exhibit 1C plus letters in respect of certain PPI-IDs in Wheatland County
10C	Amended copy of Exhibit 1C plus letters in respect of certain PPI-IDs in the Municipal District of Northern Lights
11R	Brief of Respondent plus MGB Orders 151/03, 154/03, 159/03, and 161/03
12R	Sample copy of AEUB licence for pipeline
13I	Statement of Intervenors

APPENDIX "C"

DOCUMENTS RECEIVED AFTER THE HEARING AND CONSIDERED BY THE MGB

NO.	ITEM
1.	Fax sent by Complainants detailing the outstanding properties by category/issue, dated November 14, 2003

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APPENDIX "D"

LISTING OF OUTSTANDING PROPERTIES UNDER COMPLAINT WHERE INFORMATION WAS RECEIVED FROM THE OWNER/OPERATOR

MCode	Municipality	ACode	Assessee/Owner/Operator	PPI-ID	Category/Issue
0191	Kneehill County	0026	Encana Corporation	557902	Length
0191	Kneehill County	0026	Encana Corporation	674550	Length
0191	Kneehill County	0KT5	Canadian 88 Energy Corp.	643381	Length
0191	Kneehill County	0R46	Husky Oil Operations Limited	661337	Length
0191	Kneehill County	0R46	Husky Oil Operations Limited	661346	Length
0191	Kneehill County	0R46	Husky Oil Operations Limited	596712	Length, Other
0226	Mountain View County	0JT1	ExxonMobil Resources Ltd.	658951	Length
0349	Wheatland County	0HE9	Canadian Natural Resources Limited	609314	Length
0349	Wheatland County	0HE9	Canadian Natural Resources Limited	616032	Length
0349	Wheatland County	0R46	Husky Oil Operations Limited	633813	Length
0349	Wheatland County	0TJ3	APF Energy Inc.	570504	Length
0349	Wheatland County	0TM2	Cannat Resources Inc.	610462	Length
0511	M.D. of Northern Lights	0R46	Husky Oil Operations Limited	817228	Length
0511	M.D. of Northern Lights	0R46	Husky Oil Operations Limited	747129	Length

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APPENDIX "E"

LISTING OF OUTSTANDING PROPERTIES UNDER COMPLAINT WHERE NO INFORMATION WAS RECEIVED FROM OWNER/OPERATOR

MCode	Municipality	ACode	Assessee/Owner/Operator	PPI-ID	Category/Issue
0191	Kneehill County	0060	BP Canada Energy Company	555389	Length
0191	Kneehill County	0060	BP Canada Energy Company	555392	Length
0191	Kneehill County	0AL2	Marathon Canada Limited	640138	Length
0191	Kneehill County	0AL2	Marathon Canada Limited	594773	Length
0191	Kneehill County	0AL2	Marathon Canada Limited	576361	Length
0191	Kneehill County	0AL2	Marathon Canada Limited	576365	Length
0191	Kneehill County	0FW6	ConocoPhillips Canada Resources Corp.	572300	Length
0191	Kneehill County	0FW6	ConocoPhillips Canada Resources Corp.	564315	Length
0191	Kneehill County	0MY7	Murphy Canada Exploration Company	575647	Length
0191	Kneehill County	0MY7	Murphy Canada Exploration Company	564532	Length, Other
0191	Kneehill County	0TB3	Nova Gas Transmission Ltd.	563548	Apportionment
0191	Kneehill County	0TB3	Nova Gas Transmission Ltd.	563553	Length, Apportionment, Other
0191	Kneehill County	0TB3	Nova Gas Transmission Ltd.	551495	Length
0258	M.D. of Provost	0JL8	Apache Canada Ltd.	557630	Length, Apportionment, Other
0258	M.D. of Provost	0039	Talisman Energy Inc.	566235	Length
0258	M.D. of Provost	0195	Gibson Energy Ltd.	765701	Length
0258	M.D. of Provost	0195	Gibson Energy Ltd.	765703	Length
0258	M.D. of Provost	0195	Gibson Energy Ltd.	681249	Length
0258	M.D. of Provost	0TB3	Nova Gas Transmission Ltd.	566772	Length
0226	Mountain View County	0060	BP Canada Energy Company	565612	Length
0226	Mountain View County	0060	BP Canada Energy Company	562096	Length
0226	Mountain View County	0060	BP Canada Energy Company	568752	Length
0226	Mountain View County	0144	ATCO Gas and Pipelines Ltd.	551751	Length

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MCode	Municipality	ACode	Assessee/Owner/Operator	PPI-ID	Category/Issue
0226	Mountain View County	0AG3	Alberta Ethane Development Company Ltd.	809057	Length
0226	Mountain View County	0T03	Shell Canada Limited	648782	Length
0226	Mountain View County	0TB3	Nova Gas Transmission Ltd.	553247	Length
0226	Mountain View County	0TB3	Nova Gas Transmission Ltd.	565682	Length
0226	Mountain View County	0TB3	Nova Gas Transmission Ltd.	559514	Length
0226	Mountain View County	0TB3	Nova Gas Transmission Ltd.	559512	Length
0226	Mountain View County	0TB3	Nova Gas Transmission Ltd.	570021	Length
0226	Mountain View County	0TB3	Nova Gas Transmission Ltd.	570016	Length
0226	Mountain View County	0TB3	Nova Gas Transmission Ltd.	553242	Length
0226	Mountain View County	0TB3	Nova Gas Transmission Ltd.	570030	Length
0226	Mountain View County	0TB3	Nova Gas Transmission Ltd.	559515	Length
0349	Wheatland County	0026	Encana Corporation	583804	Length
0349	Wheatland County	0026	Encana Corporation	660312	Length
0349	Wheatland County	0026	Encana Corporation	570205	Length
0349	Wheatland County	0144	ATCO Gas & Pipelines Ltd.	549038	Length
0349	Wheatland County	0TB3	Nova Gas Transmission Ltd.	549158	Length
0511	M.D. of Northern Lights	0TB3	Nova Gas Transmission Ltd.	591349	Length
0511	M.D. of Northern Lights	0TB3	Nova Gas Transmission Ltd.	597139	Length
0511	M.D. of Northern Lights	0TT5	Encana Oil & Gas Co. Ltd.	661585	Length
0511	M.D. of Northern Lights	0TT5	Encana Oil & Gas Co. Ltd.	587919	Length
0511	M.D. of Northern Lights	0TT5	Encana Oil & Gas Co. Ltd.	583244	Length
0511	M.D. of Northern Lights	0TT5	Encana Oil & Gas Co. Ltd.	587922	Length
0511	M.D. of Northern Lights	0TT5	Encana Oil & Gas Co. Ltd.	587930	Length
0511	M.D. of Northern Lights	0TT5	Encana Oil & Gas Co. Ltd.	944868	Length
0511	M.D. of Northern Lights	0TT5	Encana Oil & Gas Co. Ltd.	587929	Length