

BOARD ORDER: MGB 020/07

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 submitted by or on behalf of various property owners and operators concerning their 2006 (tax year) linear property assessments.

BETWEEN:

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

- a n d -

Designated Linear Assessor for the Province of Alberta as represented by Brownlee LLP – Respondent

BEFORE:

Members:

- A. Savage, Presiding Officer
- J. Gilmour, Member
- D. Thomas, Member

Secretariat:

M. d’Alquen

This is the decision of the Municipal Government Board (MGB) from a hearing held in the City of Calgary from Monday, October 2, 2006 to Friday, October 6, 2006 and continued Monday, October 16, 2006 respecting 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.

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OVERVIEW

Complainants

The Complainants argue that certain oil and gas well assessments they received for the 2006 tax year are flawed for three main reasons:

- 1) Section 292(2)(b) of the *Municipal Government Act* (Act) indicates that the linear property assessments, including well assessments, must reflect the specifications and characteristics of property as of October 31, as reflected in the records of the Alberta Energy and Utilities Board (EUB). The Complainants interpret this provision to require assessments to reflect characteristics of the property as of October 31, as reflected – possibly later - in the EUB records. Since the Respondent bases its assessments only on records created up to and including October 31, the Complainants argue they improperly overlook physical changes made before October 31 and recorded thereafter.
- 2) Subsection 4.009(1) of the Minister’s Guidelines requires well assessments to reflect the lesser of various depths, including the “deepest producing interval”, or – where there is no such interval – the “latest deepest perforation”. The Complainants argue that the Respondent prepared some of its assessments using an EUB data element that it falsely assumed to represent the “deepest producing interval”. As a result, these assessments do not recognize the “deepest producing interval”, or – where there is no such interval – the “latest deepest perforation” as required under section 4.009(1) of the Minister’s Guidelines.
- 3) The Complainant’s third ground of complaint is that the Respondent failed to base certain assessments on the lower rate stipulated for properties “associated with” pool code 0158, as recognized by Table 4.6 of the Minister’s Guidelines.

Respondent

The Respondent argues that it assessed the subject properties correctly pursuant to procedures set out in the Minister’s Guidelines. Moreover, it says the MGB has no authority to depart from assessment policies and procedures set out in the legislation.

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In reply to the Complainants' three arguments, the Respondent takes the following positions:

- 1) Section 292(2)(b) of the Act requires assessments to reflect EUB data as of October 31– not physical well status as of that date. The Respondent's practice reflects this interpretation and is well known to property owners; therefore, property owners who wish to have physical changes to their property reflected in their assessments must request changes to the EUB records on or before October 31.
- 2) The Respondent agreed that section 4.009 of the Minister's Guidelines requires assessments to reflect the lesser of various specified depths, including the "deepest producing interval" or – where there is none – the "latest deepest perforation". However, it said that all of its well assessments recognize a certain EUB data element in record 075 as the "deepest producing interval". Furthermore, it chose this data element after extensive consultation with representatives of the EUB, who provided assurance that record 075 contains the appropriate information.
- 3) All wells entitled to a reduction due to their association with pool code 158 did in fact receive the appropriate reduction; therefore, neither the Respondent nor the MGB has authority to grant further reductions.

BACKGROUND AND PRELIMINARY MATTERS

Parties

The Respondent is the Designated Linear Assessor (DLA) for the Province of Alberta and is responsible for assessing all linear property in the Province, including oil and gas wells.

The Complainants operate oil and gas wells located in Alberta.

Procedure to deal with properties under complaint

The Complainants filed complaints concerning approximately 14,000 oil and gas well linear properties. In an effort to streamline the hearing process, the Complainants identified 500 wells that in their view represent the issues with respect to the rest of the 14,000. Only these 500 properties (listed in Appendix "C") are currently before the MGB. However, the MGB anticipates that a decision in relation to this sample will identify principles that can be applied to the entire population. Should difficulties be encountered in this process, the parties remain free to seek further direction from the MGB. Preliminary orders relating to these and other scheduling matters include decision letters DL 053/06, DL 088/06, DL 093/06, DL 103/06, DL 118/06, and DL 133/06.

Withdrawals and recommendations

Both before and during the hearing, the parties resolved some of the complaints through informal discussion. The accepted recommendations and withdrawals resulting from these discussions are presented in Appendix “D” and “E” respectively.

The Energy and Utilities Board (EUB) and EUB data

In order to obtain well licences and keep them in good standing, well owners/operators are required to file certain information with the Alberta Energy and Utilities Board (EUB). That information includes data relating to well depth and production statistics.

Pursuant to Alberta’s property tax legislation, the DLA is empowered to base assessments for wells either on their characteristics and specifications as contained in the records of the EUB or a report requested by the DLA directly from owners/operators. This arrangement simplifies the assessment process for both property owners and the DLA, because - in most cases - the DLA can rely on EUB data to create its assessments instead of collecting similar data independently.

The MGB understands that data filed with the EUB (at least those portions of it that are relevant to well assessments) is public, and is also available through third party service providers. Geo Vista, referred to later in this order, is such a third party service provider.

LEGISLATION

Municipal Government Act (Act)

Section 292 authorizes the DLA to assess linear property on the basis of property characteristics and specifications recorded in the records of the EUB.

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

(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).

In contrast to linear assessments, the MGB requires non-linear assessments to reflect the characteristics and physical condition of the property.

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

(2) Each assessment must reflect

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

...

Matters Relating to the Assessment and Taxation Regulation 220/2004 (MRAT)

The Act authorizes the Minister of Alberta Municipal Affairs (Minister) to make valuation standards for property by way of regulation. The Minister exercised this authority in MRAT, which identifies the assessment valuation standards for various kinds of property, including linear property. For the sake of brevity, only the section concerning linear property is included below:

8(1) The valuation standard for linear property is that calculated in accordance with the procedures referred to in sub-section (2).

(2) In preparing an assessment for linear property, the assessor must follow the procedures set out in the Alberta Linear Property Assessment Minister's Guidelines established and maintained by the Department of Municipal Affairs, as amended from time to time.

The 2005 Minister's Guidelines

As noted above, MRAT requires the DLA to follow procedures set out in the Minister's Guidelines. Section 4.009 of the Minister's Guidelines requires wells to be assessed based on the lesser of various depths.

4.009 PROCESS FOR DETERMINING N* IN TABLE 4.9

- (a) Identify the well status descriptions with the largest associated true vertical depth.
 - (b) n* for the linear property is the least of
 - (i) Total depth
 - (ii) True vertical depth
 - (iii) Deepest shoe set depth
 - (iv) Plug back depth
 - (v) Bottom of the deepest producing interval, or
 - (vi) Bottom of the latest deepest perforation interval depth (only if there is no deepest producing interval)
- as contained in the records of the EUB or the RFI for the well statuses identified in 4.009(1) where the depth does not equal zero (0).

Tables 4.5, 4.6, 4.7 and 4.8 of the Minister's Guidelines assign well statuses and assessment classifications (ACC) to wells based on an 8-digit code derived from the EUB data. Each ACC

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is then paired with an assessment formula in table 4.9. In each case, the formula includes the variable n , which represents the depth determined in accordance with section 4.009. For the sake of brevity, the tables are not reproduced here.

ISSUES

Having considered the evidence, argument, and relevant legislation, the MGB identified the following substantive issues.

1. How should section 292(2)(b) be interpreted? In particular, does it require assessments to reflect,
 - i) property specifications and characteristics showing in the EUB records on October 31, or
 - ii) property specifications and characteristics that existed on October 31, as they were recorded – possibly later - in the EUB records?
2. Were the assessments based on the well depth required by section 4.009 of the Minister's Guidelines? In particular, do they reflect the "deepest producing interval", where there is such an interval?
3. Did the assessments reflect the appropriate reduction for wells "associated with" pool code 0158, as required under the Minister's Guidelines?

ISSUE 1: How should section 292(2)(b) be interpreted? In particular, does it require assessments to reflect,

- i) the assessed property's specifications and characteristics that are shown in the EUB records on October 31, or**
- ii) the assessed property's specifications and characteristics that existed on October 31, as they were recorded – possibly later - in the EUB records?**

Complainants' position

In the Complainants' view, section 292(2)(b) requires 2006 tax year assessments to reflect the specifications and characteristics of property as it existed on October 31, 2005, even if these characteristics are not recorded in the EUB records until a later date. In support of this view, the Complainants noted that section 292(2) says linear assessments must reflect the "specifications and characteristics of the linear property on October 31 ... as contained in ... the records of the Alberta Energy and Utilities Board" (emphasis added). Thus, they argued that a plain reading of the provision suggests it is more important to look at the condition of the property as of the condition date (as reflected later in the EUB records) than it is to look at the live record of the EUB as of October 31.

The Complainants suggested that their interpretation of section 292(2) is fair and practical for the following reasons:

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- Obtaining the EUB data in November or December would leave a suitable window for companies to record changes occurring on or just prior to October 31.
- Using data obtained at the end of November or December would accommodate the EUB's own filing deadline later in November for changes occurring on or before October 31 and would not require the MGB to determine whether operators filed changes before their EUB deadline expired.
- The Respondent's expert witness, Mr. Ney, a professional engineer with experience concerning database systems and design, did not suggest that extracting the appropriate data at a later date would pose technical difficulties.
- Using data obtained after October 31 would be consistent with the Respondent's overall linear property assessment practice. Thus, Mr. Thibault - the Complainants' expert property tax consultant - indicated that the Respondent obtains production records (as opposed to well characteristics records) from a CD issued by the EUB on December 8 and waits until after October 31 to request information from owners regarding pipelines status. Mr. Driscoll - formerly Director, Regulated Standards and Utilities Assessment with Alberta Municipal Affairs - confirmed this evidence.
- Using data obtained after October 31 would avoid forcing property owners to obtain records from the EUB on October 31 in order to check their assessments. Instead, they could obtain the requisite information from cheaper third party service providers such as GeoVista after they receive their assessments in January or February.
- Previous MGB decisions - including Board Order MGB 001/04 - have established that fairness and equity lies fundamentally in obtaining correct data. Using records with an arbitrary cut-off of date October 31 does not promote correctness, since late changes to property characteristics may not be captured until after October 31.
- Data obtained in November or December would reflect the condition of property as it existed on October 31. In this way, all property owners would be assessed in the same fashion on property as it existed on October 31.

In view of the above considerations, the Complainants suggested that taxpayers be permitted to use data obtained after they receive their assessments (in January or February) to prove that changes occurred to their wells before October 31, thus warranting amended assessments. Alternatively, it submitted that December 31 would be an appropriate cut off date for the Respondent to obtain well data from the EUB for assessment purposes.

Respondent's position

In the Respondent's view, section 292(2)(b) does not require assessments to reflect the physical characteristics of property on October 31; rather, it requires assessments to reflect specifications and characteristics contained in the records of the EUB as of that date. In support, it contrasted the wording of section 292(2)(b) with that of section 289(2)(a). Section 292(2)(b) relates to linear property and requires assessments to reflect the "specifications and characteristics" of the linear property, as contained in the records of the EUB. In contrast, section 289(2)(a) relates to property valued at market and requires assessments to reflect the "characteristics and physical condition" of the property on the relevant condition date (emphasis added). The Respondent reasoned that this difference in wording implies that whereas the physical condition of property may be a primary consideration under the market value standard, the appropriate focus for regulated linear assessments shifts to "specifications" in the EUB records. As the MGB has recognized on previous occasions, market value concepts do not apply to regulated linear property assessments. Thus, for the purposes of section 292(2)(b), the assessor must consider only the characteristics and specifications in the records of the EUB as of October 31.

In further support of its interpretation, the Respondent pointed to the evidence of Mr. Driscoll. He testified that the Respondent's practice has always been to use the EUB records as of October 31 to prepare its linear assessments. Furthermore, this practice is both practical and fair, as shown by the following considerations:

- The evidence of Mr. Ney and Mr. Driscoll established that property owners can report changes in well characteristics electronically to the EUB. The Respondent accepts printouts of transmittal confirmations dated on or before October 31 as proof of the status of EUB records as of October 31. Thus, property owners have control of the EUB records and can report changes as soon they occur. Since the property owners are in control of the records, there is no scope for complaints based on the time lag between changes in well characteristics and changes in the EUB records.
- Property owners have a duty to keep EUB data current. This duty is recognized on page 2 of EUB directive 59, which encourages owners to exceed regulated requirements and standards, including the requirement to report operations on wells to the EUB within a maximum time limit.
- It is not onerous for property owners to obtain and analyze October 31 data from service providers such as GeoVista (received monthly) for the purpose of verifying assessments.
- Although the Respondent accepts responses to Requests For Information (RFI) from pipeline operators after October 31, the same date would not necessarily be suitable to obtain EUB data for wells. EUB data for pipelines does not fully determine taxable status; therefore, the December 31 deadline for pipeline RFIs allows the DLA time to determine whether

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assessments should be prepared plus a response period for property owners. The same considerations do not apply to wells.

Findings

- The MGB interprets 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.
- A fair and appropriate cut-off date for the Respondent to obtain live records for the purposes of well assessment would be a short time following the EUB's own reporting deadline for events occurring on October 31.

Reasons

Section 292(2)(b) 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).*

Both parties interpret the above provision as authorizing the DLA to rely on the records of the EUB to prepare linear assessments. The MGB concurs with this view, since it accords with one of the main purposes of the provision: namely, to simplify the assessment process by allowing the DLA to use records already in existence at the EUB instead of collecting duplicate information for assessment purposes.

The essential difference in interpretation between the Complainants and the Respondent centers on whether subsection 292(2)(b) requires or entitles the DLA to rely on EUB records as of October 31, without having regard for events occurring before October 31 that are not recorded until later. The MGB view is that 292(2)(b) should be interpreted to permit consideration of EUB records subsequent to October 31, provided they record changes in well characteristics occurring on or before October 31. In adopting this view, the MGB had regard for Driedger's modern principle of statutory interpretation as set out in *Construction of Statutes*, (2nd ed.) and repeated often in case law and other literature, namely: "the words of the Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament".

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To begin with, the MGB notes that if the legislature had intended assessments to reflect EUB records as of October 31, it could have drafted the provision to say so. For example, it could have said something like:

Each assessment must reflect the specifications and characteristics of the linear property, as contained in

- (i) the records of the Alberta Energy and Utilities Board 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

...

Instead, the wording of 292(2)(b) requires linear assessments to reflect “the specifications and characteristics of the linear property on October 31 ... as contained in ... (i) the records of the [EUB] ...” (emphasis added). Thus, the ordinary grammatical sense of this provision suggests the October 31 date relates to the characteristics and specifications of the property – not to the date the EUB records are consulted. To repeat, the words following the comma, “as contained in ...” do not specify that the EUB records upon which the assessor may rely must be of any particular date.

Having set October 31 as a condition date for the property, section 292(2)(b) recognizes that the assessor must have some method of discovering what the characteristics and specifications of the linear property were at that time. The phrase following the comma, “as contained in (i) the records of the EUB”, provides the answer to this problem. Thus, in order to determine what the well characteristics and specifications were on October 31, the Respondent may have recourse to the EUB records.

The question thus arises, as of what date does section 292(2)(b) intend the DLA to be able to access and rely on the EUB records to create its assessments? The Respondent suggests that October 31 is itself a fair and convenient cut-off date, since property owners have control over when they report changes up to and including October 31. On the other hand, the Complainants suggest that the cut-off date should be after December 31 to allow for the EUB’s own reporting deadline and a suitable period for data processing. Alternatively, it says that if the Respondent wishes to rely on data obtained on October 31, it should accept even later EUB records showing changes that occurred before that date as a basis for amended assessments.

To resolve the question of an appropriate cut-off date, the MGB considered the purpose of section 292(2)(b) and its place within the general scheme of the Act. The purpose of Part IX of the Act is to set the rules of property assessment (Alliance Pipeline v. Alberta (2006 ABCA 9)). Within that general framework, Division 1 describes the preparation of assessments. In particular, section 289(1) specifies that the assessments of all property other than linear property must reflect its characteristics and physical condition as of December 31. Section 292(2) then

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creates an exception for linear property assessments, which must reflect the specifications and characteristics of the linear property on October 31, as contained in the records of the EUB.

One evident purpose of section 292(2) is to simplify the general assessment and reporting process for linear property by taking advantage of data that is already required to be reported to the EUB. In other words, section 292(2)(b) increases efficiency for both property owners and the Respondent by eliminating, where possible, a duplicate reporting system. From the property owners' point of view, this section eliminates the need to report data separately to both the EUB and the Respondent. From the Respondent's point of view, it eliminates the need to enforce the collection of data, where this has already been accomplished by the EUB.

In keeping with the goal of reducing the necessity for double reporting, the MGB is satisfied that EUB records created up to and including the EUB's own reporting deadline are acceptable for assessment purposes under the scheme established by the Act. It is the property owner's responsibility to ensure that this deadline is met; however, the MGB finds that an appropriate application of section 292(2)(b) requires the Respondent to consider evidence of records created in compliance with the EUB reporting deadline where they reflect changes to wells occurring before October 31. The evidence before the MGB (including EUB Directive 059, page 2, and the evidence of Mr. Thibault) suggests the EUB deadline does not elapse until 30 days after October 31. Accepting records up to and including this deadline has the advantage of eliminating the need for double reporting to both the EUB and the Respondent. It also has the advantage of generating assessments more likely to reflect the status of property as of the legislated date.

With respect to administrative convenience, the MGB notes the evidence of Mr. Driscoll that the DLA uses production records that arrive from the EUB well over a month after the general well file data. This circumstance together with the availability of monthly EUB general well file disks makes it difficult to accept that waiting for a later general well file disk will create insurmountable administrative difficulties for the Respondent.

ISSUE 2. Were the assessments based on the well depth required by section 4.009 of the Minister's Guidelines? In particular, do they reflect the "deepest producing interval", where there is such an interval?

Complainants' position

The Complainants identified two categories of wells for which it said it had not received the benefit of the least of the depths identified in section 4.009 of the Minister's Guidelines (i.e., total depth, true vertical depth, deepest shoe set depth, plug back depth, and the bottom of the deepest producing interval or – where there is no deepest producing interval – the latest deepest perforation).

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Category I

The first category consists of wells that were drilled and cased, but not producing. For these wells, the Complainants argued that the Respondent's application of downloaded EUB data failed to pick up either the true vertical depth - as recorded on the EUB records - or the latest deepest perforation. In support, it pointed to the evidence of Mr. Thibault, who compared a sample of EUB derived GeoVista data to the data supporting the Respondent's assessments. Mr. Thibault's conclusion was that in some cases, the Minister used a depth that is deeper than either the true vertical depth or the latest deepest perforation of the well as of October 31, 2005. The Complainants submitted that in the majority of these cases, the depth that should have been used was registered in November or December. Therefore, they argued that the DLA missed the correct data, because it did not appear in the EUB records until after October 31, making the issue one of timing - as discussed above under Issue 1. In this connection, Complainants suggested there is no evidence that they failed to comply with the EUB filing deadline.

Category II

The second and larger category consists of wells for which the Respondent identified the "deepest producing interval" on the basis of data contained in EUB record 075. The Complainants' argument with respect to this category is that record 075 does not in fact represent the deepest producing interval.

In support of this position, the Complainants noted that the term "deepest producing interval" is not a defined term under the Act, regulations, or Minister's Guidelines. Neither is there any evidence that the EUB uses such a term in its documentation or the instructions it provides to well operators for the purposes of reporting data. In view of the above considerations, the Complainants submitted there is no "deepest producing interval" shown unambiguously in the EUB records. As a result, the assessment should default to the "latest deepest perforation", which is clearly indicated in EUB record 055.

Alternatively, if the MGB finds that the EUB records do contain an indication of deepest producing interval, any interpretation of that term must take in to account well treatments that physically block production such as plugs, cement squeezes, and other well treatments shown in EUB record 055. Only such an interpretation could result in fair and accurate assessments that allow the taxpayer the benefit of the least of the depths identified of section 4.009. Such an interpretation would also give effect to the principle expressed in Quebec (Communaute Urbaine) v. Corp Notre Dame de Bon-Secours [1994] 3 SCR 3 that ambiguity should be resolved in favour of the taxpayer.

The Complainants rejected the Respondent's assertion that the "S-4" reporting forms put into evidence along with record 075 contain the deepest producing interval. They noted that neither the S-4s nor record 075 make any reference to "deepest producing interval". Moreover, although "gross completion interval" information appears on record 075, there is no discernable link

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between that data element and production-blocking treatments such as plugs shown on record 055. In short, the Complainants suggested there is no way to tell from the evidence how the gross completion interval on record 075 is generated or updated.

Respondent's position

Category I

With respect to the first group of drilled and cased wells (Category 1) the Respondent repeated that in its view, the Minister's Guidelines require assessments to reflect well characteristics and specifications recorded in the EUB records on October 31. Furthermore, it prepared all of its assessments in accordance with this requirement.

In support of this position, the Respondent referred to the evidence of Mr. Driscoll, an experienced assessor who was directly responsible for preparing the Minister's Guidelines. Mr. Driscoll indicated that the DLA's practice has always been to use data from the October 31 disk received from the EUB. Furthermore, he said the DLA accepts owner supplied computer printouts showing real-time update requests made on or before October 31 as proof of the state of the EUB records on October 31. Since the EUB data is entirely within the Complainants' control, there is no unfairness owing to a lag in timing. Similarly, since data change requests are made in real time, the EUB filing deadline is not relevant.

Alternatively, even supposing the EUB filing deadline were relevant, the Respondent submitted that the evidence does not show that the Complainants complied with it. Mr. Thibault himself was uncertain when the data shown in his GeoVista data was submitted. Furthermore, a review of the EUB records as of November and December (summarized in Exhibit R15) do not show many of the events that are reflected in the Complainants' GeoVista data.

Category II

With respect to the second category of wells, the Respondent argued that the "deepest producing interval" is a single data field within EUB record 075 and requires no further calculation. In support of its position, the Respondent referred to the evidence of Mr. Driscoll and Mr. Ney. In describing the assessment process, Mr. Driscoll indicated that deepest producing interval is obtained from EUB record 075. Furthermore, this data element was selected after consultation with representatives of the EUB, who also explained that record 075 is derived from the Gross Completion Interval as updated by property owners on the EUB's S-4 form or later equivalents.

Mr. Driscoll's testimony is supported by that of Mr. Ney, who assisted the Respondent to prepare, develop and apply the linear assessment database ALPAS (Alberta Linear Property Assessment System). Mr. Ney drew the MGB's attention to Directive 007 (Exhibit R9, tab 6), where the EUB has published instructions for property owners wishing to update well status on-

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line. Page 48 of that document explains aspects of the Gross Completion Interval, and indicates that the reported interval must reflect “the current open completion for the well event”.

Findings

- The EUB data element used by the Respondent to represent “deepest producing interval” sometimes occurs below plugs or stopping devices that render production below them physically impossible.
- The EUB data element used by the Respondent to represent “deepest producing interval” is not a reliable indicator for that value. It is appropriate, then, to consider the flow preventing devices recorded in EUB record 055 to determine the deepest producing interval, and – if such an analysis reveals that no interval is capable of producing product as of October 31 – to consider the latest deepest perforation in EUB record 055.

Reasons

Category 1 - Drilled and cased wells

With one exception, the parties agree on the correct application of section 4.009 of the Minister’s Guidelines for this category of wells. The one area of disagreement is whether the data used by the Respondent picked up the vertical depth and latest deepest perforation of the wells on October 31. The Complainants suggest that EUB records (or their GeoVista derivatives) obtained after October 31 prove the existence of well status or events on October 31 that should have been reflected in the assessments. The concern is that by using EUB data generated on October 31, the Respondent missed events that occurred before October 31, but were not recorded until later.

As indicated in the previous section of this order, the MGB agrees that the interests of fairness and accuracy argue in favour of allowing a grace period of at least as long as the time permitted by the EUB for recording relevant changes to the well. There is no dispute that no such grace period was allowed. Accordingly, the MGB is of the view that the assessments of these wells should be recalculated by the Assessor by using data that allows for this consideration.

Category 2 - Wells assessed pursuant to EUB record 075 as deepest producing interval

There is no dispute that the Respondent assessed this category of wells based on the premise that EUB record 075 represents the “deepest producing interval” per section 4.009 of the Minister’s Guidelines. If this premise is well founded, then the assessments were calculated correctly (with the exception of the timing issue). On the other hand, if record 075 does not represent the deepest producing interval, then the question remains as to whether a deepest producing interval exists for any of these wells, or whether they should have been calculated in accordance with the latest deepest perforation as recorded in EUB record 055.

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The term “deepest producing interval” is not defined under the Act or its subordinate legislation. Neither does it appear – so far as the MGB is aware – in the EUB documentation. Accordingly, the plain meaning of the term would seem appropriate in the current context: namely, the deepest interval in the well that is capable of producing oil, gas, or other well product. Such an interpretation would appear in harmony with the scheme of the Act to set rules for assessment, and with the objective of assessing linear property in a fair and equitable manner.

In attributing meaning to the phrase “deepest producing interval”, the MGB considered the apparent purpose of section 4.009 of the Minister’s Guidelines to give the taxpayer the benefit of the least of the various depths enumerated and the objective of the Act to produce fair and equitable assessments. It was also mindful that the Minister’s Guidelines set up a system of well classification (“crude oil flowing”, “gas”, etc.) whereby production over the last twelve months must be considered. This circumstance admittedly introduces some degree of ambiguity to the word “producing” within the context of the Minister’s Guidelines. However, the MGB finds that the questions of well classification and well depth are conceptually distinct. Further, without clear wording in the Act or its subordinate legislation, the MGB is unwilling to overlook the principle embodied elsewhere in the Act (eg section 291(2)) that valuation is generally tied in some fashion to utility (although not necessarily to market value), thus reducing the value of wells with non-operative (or non-producing) sections. Finally, the MGB is cognisant of the principle that where ambiguity cannot be resolved by reference to the purpose of the legislative provision, the residual presumption remains with the tax payer.

Mr. Driscoll indicated in his evidence that EUB record 075 matches what was intended by the Minister’s Guidelines as the “deepest producing interval”. This belief stems from meetings he and others from Assessment Services Branch had with Mr. Chare, a representative of the EUB. Thus, at pages 414 to 416 of the transcript, he says:

So as part of that process, we went to the EUB, because that was one of my jobs, as in my CV, and we told them what we were doing and where we were going, and it was Mr. Chare at that time who said, well, we have exactly what it is that you're looking for, and it's called the producing interval. And Chris, I and Bruce were sitting right there when he said that's the piece of data you want.

A similar meeting between Mr. Driscoll and other EUB representatives appears to have taken place on October 31, 2006 where the Respondent was given to understand that record 075 is the Gross Completion Interval (GCI) and is a current and live data field that also shows on the S-4 printouts. Mr. Driscoll indicated that record 075 was added to the general well file in 2003, and that its values change for individual wells with each new CD, confirming that it is an active record, updated from time to time. He also confirmed that he believed that record 075 represents what is described in the EUB documentation as the Gross Completion Interval (GCI). Thus, he says at page 420:

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And as we indicated yesterday, if you go to page 2 of [C-4 Tab 1], it says under one of the bullets, enter the GCI information top and base. That's the same information that we received in the old S-4, and it was the basis for record 75.

Later, under cross examination, he clarified that to his understanding, 075 is “an analysis of information that includes the gross completion interval ...”

The EUB record description for 075 provided in evidence at R8 tab 7 pp 42/43 confirms that record 075 includes fields entitled INITIAL-COMPL-INTRVL-TOP and INITIAL-COMPL-INTRVL-BOT. Mr. Ney indicated that the value for deepest producing interval is taken from the second of these two fields in record 075. Thus, at page 7 of his report, he states:

15. A well can have multiple producing (gross completing) intervals over time
 - a) The bottom of each producing interval is record 075 INITIAL-COMPL-INTRVL-BOT.
 - b) The deepest producing interval is the largest value of INITIAL-COMPL-INTRVL-BOT

With respect to the nature of the GCI, both Mr. Driscoll and Mr. Ney referred the panel to the EUB directives, including EUB directive 007. As indicated by Mr. Ney, page 48 of that directive includes direction concerning GCI:

- GCI values entered indicate the completed interval (e.g., perforations, open hole completion, slotted casing/liner) of the pool or deposit.
- The measured depth must be in metres kelly bushing (mKB). Report depth to a maximum of five digits, including 2 decimal places. Do not record true vertical depths or use imperial units.
- The reported interval must reflect the current open completion for the well event.
- Report only the completed interval (not the pay, permeable, or porous interval).
- Do not change the gross completion interval for an event sequence using this process. This type of change should be reported on the Well Completion Data Form (WR-3) (see *EUB Guide 59: Well Drilling and Completion Data Filing Requirements*).

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- Perforation data were updated to the Petroleum Registry from the WRS data. You can see the perforation and packer data that exist for the well by selecting the perforation/packer button. This will display all perforations completed in the well. If you are unsure which perforations belong to which well event sequence, contact your operations group or refer to *Guide 59*.

The above evidence is certainly consistent with the view that record 075 is the deepest producing interval. The MGB notes in particular that the GCI, which appears to have some connection with record 075 – is required to reflect the “current open completion” for the well. On the other hand, the witnesses before the MGB – while credible and forthcoming – had for the most part derived their understanding of the significance of the EUB records including 075 from Mr. Chare or other EUB representatives who were not available to confirm or answer questions regarding the origin and nature of record 075. Thus, for example, the significance of the word “INITIAL” in the field “INITIAL COMPL INTERVL BOT” - from which Mr. Ney testified the Respondent derived its value for the deepest producing interval – remained unexplained. Similarly, there was no explanation as to the relation between items appearing in record 075 and record 055. In this connection, the appropriateness of record 075 as the data element representing the deepest producing interval was brought into question by evidence that in some cases, the depth recorded there occurs below a plug or other device rendering production from lower intervals impossible.

For example, in relation to License number 0096075 on pages 112 - 113 of the transcript, Mr. Thibault indicated as follows in his direct examination:

Total depth is 1392 meters. There is a plug back depth of 934 meters. True vertical depth of 1392 meters. Shoe set depth of 798 meters. There is no producing interval identified on this record. We therefore [are] going to the perforation treatment data. The assessor is assessing deepest possible perforation 745.50. We are going with 575 meters, because on this date there were two perforations set on November 9th, 1998. You have to always select deepest latest perforation.

Q On those like that, where they are showing a bridge plug, what is the effect of that in terms of perforation?

A A bridge plug will close off the interval below that, so it can not produce below that interval. So, [in] effect, when it's placed at 595, it cannot produce from these ones here.

Q That was the zone that the assessor selected?

A 745 is the depth that the assessor selected.

Q He indicates that that's the deepest producing?

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A Right. However, it's not physically possible to produce below that bridge plug.

Mr. Driscoll's view when questioned about this matter was that section 4.009 only authorizes the Respondent to consider the items recognized in 4.009. He felt that since (1) these do not include packing or flow preventing devices (other than those found in EUB record 010), and (2) in his view, the deepest producing interval is record 075, the flow preventing devices found in record 055 are not relevant to the assessment process. Thus, at page 421, he says:

And simply put, the events that Mr. Thibault wants us to recognize are not found in section 4.009. So legislation won't let us look at that.

This testimony is borne out by written comments throughout the Respondent's data in Exhibit R-12. For example, at Tab 5, page 100, the comments "not in MG process" appear adjacent to items recorded as "packing device" and "cement squeeze". The MGB notes that operation type "cement squeeze" is described in EUB Directive 59 page 23 as follows:

Cement is squeezed into a cemented interval to seal it off.

Similarly, operation type "packing device, no cement" is described as

A packing device (eg whipstock packer, bridge plug) is set with no cement to on (sic) top to abandon a zone. EUB approval may be required prior to performing this operation.

While the MGB would have benefited from expert evidence to further explain the use of such devices, it would appear that the existence of packing devices and cement squeezes are relevant to determining whether a given interval can be described as the "deepest producing interval", since they are designed to prevent production or flow.

The Minister's Guidelines indicate that the tax payer is entitled to an assessment based on the "deepest producing interval", if this depth is less than the others listed in section 4.009 (b) i-iv. The Complainants challenge the Respondent's interpretation of "deepest producing interval", suggesting that record 075 does not contain the appropriate data element, particularly when devices that physically block production occur above the recorded depth. They say such devices must at least be taken into account when interpreting "deepest producing interval". In the absence of further guidance as to the meaning of "deepest producing interval" within the Minister's Guidelines, the MGB agrees. The evidence currently before the MGB suggests on balance that flow-preventing devices such as packing devices recorded in record 055 should be taken into consideration when determining the "deepest producing interval". Record 055 is no less a record of the EUB than record 075. Therefore, given the evidence suggesting its relevance to determining the deepest producing interval, it cannot be ignored in the interests of

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administrative convenience. The Respondent's argument that record 075 is the deepest producing interval, and therefore cannot take into account devices that block production, is circular.

In view of the above, the MGB requests the Respondent to recalculate the assessments taking into consideration the effects of devices that physically block production of the relevant product flow as of October 31, 2005. Once recalculated, the MGB will review and confirm the assessments.

ISSUE 3. Did the assessments reflect the appropriate reduction for wells "associated with" pool code 0158, as required under the Minister's Guidelines?

Complainant's position

To understand the Complainants arguments regarding pool code 158, a brief description of the process established by sections 4.005, 4.008, 4.009 and Tables 4.5, 4.6, 4.7, 4.8 and 4.9 is required. The Minister's Guidelines compile an eight digit code based on EUB specifications regarding "fluid", "mode", "type" and "structure". The 8-digit codes appear in Column 1 of table 4.5 and are assigned well status descriptions under the columns 2 to 4. The well status descriptions include "crude oil flowing", "gas" and "drilled and cased". The particular column applied depends on production statistics for the prior 12 months. Where the sum of crude and condensate production is greater than zero, wells are classified most frequently as oil or crude flowing or pumping (Column 2). If there is no oil or condensate, but gas production is greater than zero, then the description changes to "gas" (Column 3). If there is neither oil, nor condensate, nor gas production, the description defaults to one of a number of statuses, including "drilled and cased" (Column 4). Finally, Table 4.6 stipulates that a special well status description of "pool code 158" applies if a well status of "gas" or "drilled and cased" is associated with pool code 158.

After determining the appropriate well status description, the next step mandated under the Minister's Guidelines is to assign an Assessment Classification Code (ACC) to determine the appropriate well assessment formula in Table 4.9. Wells with one well status description receive the ACC code appearing in table 4.7 adjacent to their description. Wells with more than one status description receive the ACC appearing in Table 4.8 adjacent to their status description that appears first.

The Complainants acknowledged that on a strict interpretation, the relevant provisions do not permit further relief. However, they claimed that a strict interpretation leads to two counterintuitive results. First, wells with "gas" status in the EUB records are reclassified with "crude oil flowing" status under Table 4.5 if they produce even small amounts of condensate; hence, they do not receive the benefit of pool code 0158 on a strict interpretation of table 4.6, even though the bulk of their production is gas from a pool associated with code 158. Second, if a well has two statuses including (1) pool code 158 and (2) a non-producing status derived from

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column 4 of Table 4.5 (but not pool code 158) the ACC assigned will not be pool code 158, even though aggregate production of the two events is from a pool associated with code 158. The reason is that the ACC adjacent to “pool code 158” occurs near the bottom of Table 4.8, so the code of the suspended event is likely to occur first.

In view of these circumstances, the Complainants suggested a more liberal approach to interpretation be adopted. To this end, they argued that the status descriptions “gas” and “drilled and cased” in table 4.6 should be interpreted as EUB status descriptions – not the descriptions assigned in Table 4.5. In that case, gas wells producing small amounts of condensate would still retain their EUB status of “gas” and the pool code status of 158 would still apply.

In addition, the Complainants argued that suspended or non-producing events need not be interpreted as linear property at all. Instead, they could be viewed as not “intended for or used in the obtaining gas or oil”, and therefore falling outside the Act’s definition of linear property in section 284(1). This interpretation would expand the approach the Respondent already takes toward wells that have been registered formally as abandoned at the EUB, and would eliminate the second counterintuitive result identified above by permitting use of the ACC adjacent to “pool code 158” farther down Table 4.8.

In further support of their suggested approach, the Complainants submitted that the intent of the relief connected with pool code 158 is to recognize the lower costs for shallow wells associated with pool 158. Furthermore, they said the wording of the relevant provisions is ambiguous, allowing scope for latitude. Thus, the title of Table 4.6 indicates that it applies where the well status is “associated with” pool code 158. Such terminology is broad enough to say that where the only production comes from pool code 158, the other non-producing wells are still “associated with” pool code 158.

Finally, the Complainants indicated that the evidence suggests a further three anomalous circumstances may have occurred where the pool code 0158 reduction should still apply: (1) where two form 53s were filed, but the EUB only appeared to abandon one well, and where remaining production was from pool code 158; (2) licence No. 0166455, where a temporary code was assigned to a drilled and cased well pending an application for commingling a pool code 158 well, and where all production would come from pool code 158, and (3) 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.

Respondent’s position

The Respondent indicated that neither it nor the MGB has discretion to depart from the assessment process laid out under the Act and its subordinate legislation. As indicated by the MGB on many previous occasions, fairness and equity requires consistent and correct application of the rules and procedures laid out in the Minister’s Guidelines. As explained by Mr. Driscoll, the Respondent simply followed those procedures, which are not ambiguous and

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lead logically to a given status description for each well. Accordingly, the Respondent has granted a status description of pool code 158 to the appropriate wells and no further wells are entitled to that description.

Finally, the Respondent argued that the three “anomalies” enumerated by the Complainants are not anomalies at all, but simply the result of applying the data recorded in the EUB records.

Findings

- The Respondent followed the procedures laid out in the Minister’s Guidelines to determine status description.
- The Respondent applied pool code 158 where it was appropriate to do so under the Minister’s Guidelines.

Reasons

Having reviewed the provisions of the Minister’s Guidelines in question, the MGB finds no ambiguity in their meaning or in the status descriptions they prescribe. Section 8(2) of the Matters Relating to Assessment and Taxation Regulation (MRAT) indicates that the Designated Linear Assessor “must follow the procedures set out in the Alberta Linear Property Assessment Minister’s Guidelines”. The evidence of Mr. Driscoll establishes that he did just that. While it is true that the duty to follow the procedures in the Minister’s Guidelines must be considered in light of the overriding duty under section 293(1)(a) of the Act to apply them in a fair and equitable manner, there is no evidence that the Designated Linear Assessor disregarded relevant information or otherwise failed to apply the procedures fairly or equitably. The Minister’s Guidelines simply show a policy decision to exclude wells from pool code 158 under certain circumstances due to:

- (1) small amounts of condensate production; and
- (2) the status description of suspended wells.

It is not the MGB’s place to disturb this result. The MGB adds that it does not accept the suggestion that suspended wells are not “intended for or used in obtaining gas or oil”, and hence disqualified as linear property pursuant to section 284(1)(k)(iii)(C). The decision not to abandon a well, but to leave it suspended, is an indication that it is still intended for use, even if under different conditions.

Anomalies

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

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purposes, although production appeared to be from a pool that would ordinarily have been termed pool 0158. The Respondent 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, Respondent assessed them properly in accordance with the Minister’s Guidelines and the EUB records.

The third “anomaly” is of a somewhat different character, since the Complainants’ position is that two form 53s were filed, but the EUB only appeared to abandon one well. Such a case might warrant a review of the documentation filed with the EUB. However, under the present circumstances, there is simply insufficient evidence before the MGB to warrant disturbing the DLA’s assessment.

SUMMARY OF PREVIOUS ORDERS

The MGB observes that the issues in this case raise questions concerning the ability and extent to which the DLA is entitled to rely on EUB records when preparing assessments. Such questions have been raised on several previous occasions, and a brief review of the resulting orders may be helpful to put the current circumstances into perspective. A useful way to group past challenges to EUB record based assessments is as follows:

- I. The EUB records do not match reality, in some sense; hence, it is argued, the assessments are incorrect, and must be corrected in the interests of fairness and equity.
- II. The EUB records do not match reality; moreover, the party making the complaint is a municipality and, therefore, has little or no ability to monitor the accuracy of the EUB records and request changes where necessary.
- III. The EUB records conflict, and evidence has been provided to show one set of records is more likely to match reality; hence, the assessments are incorrect, and must be corrected in the interests of fairness and equity.
- IV. The EUB records reflect a characteristic that relates to some concept of value, but is not recognized under the procedures set out in the Minister’s Guidelines; hence, the assessment should be recalculated in light of the additional characteristic.

Category I: The EUB records do not match reality; hence, it is argued, the assessments are incorrect, and must be corrected in the interests of fairness and equity.

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Historically, the MGB has rejected the notion that the DLA must revise assessments simply because the EUB records did not reflect the actual characteristics of linear property as of October 31. It has interpreted the legislation as establishing an efficient standardized assessment procedure whereby the DLA may rely on characteristics and specifications recorded in the EUB records without exercising its power to undertake further investigation to determine the actual characteristics of the property in question. This exercise of discretion is deemed to be appropriate and to result in a fair and equitable application of the regulated standards, because the property owner has a responsibility to report changes in property characteristics to the EUB so that the EUB records are accurate and up to date. If the property owner fails to do so, he or she cannot be heard to complain if the DLA refuses to exercise its discretion to amend the assessments to match “reality”.

Examples of cases in which the MGB has rejected arguments that assessments must be amended in light of the “real” characteristics of the property as opposed to characteristics recorded at the EUB include Progress Energy (133/03), Penn West Petroleum (151/03), Apache Canada (154/03), and ATCO Gas and Pipelines Ltd (159/03).

Progress Energy (133/03)

In Progress Energy, the MGB considered whether a pipeline with a “blind end” facility code without immediate physical utility should be granted the same depreciation that Minister’s Guidelines require for pipelines registered as “discontinued” at the AEUB. The MGB characterized the broad question before it as whether the actual physical status or utility of a pipeline is a relevant characteristic to consider when determining if additional depreciation is applicable.

In answer to this question, the MGB found that under the standardized assessment system set out in the Minister’s Guidelines, a pipeline is not eligible for additional depreciation unless it has “discontinued” status at the EUB. The actual physical condition is not relevant. EUB Guideline 56 presents the steps an owner must take if it wishes to record a change in property status, and the owner must take these steps if it wishes the DLA to recognize the change.

Penn West Petroleum (151/03)

In Penn West Petroleum, the MGB considered whether a recently acquired pipeline that the new owner had never used should be granted the same depreciation that Minister’s Guidelines require for pipelines registered as “discontinued” at the AEUB. As with the Progress Energy decision, the MGB found that the owner has an obligation to ensure the status of linear property is properly reflected in the EUB records. Further, the DLA is entitled to prepare assessments based on the characteristics reflected in those records.

Apache Canada (154/03)

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In Apache Canada, the MGB considered whether a pipe attached to an abandoned well should be granted the same depreciation that Minister's Guidelines require for pipelines registered as "discontinued" at the AEUB. The MGB found the DLA had applied the Minister's Guidelines criteria correctly and consistently using the information available at the EUB. The DLA was entitled to rely on the status of the pipe as recorded at the EUB. The MGB noted that the property owner was not without remedy, since it had the option to register its pipe with the EUB as "discontinued".

ATCO Gas and Pipelines Ltd (159/03)

In ATCO Gas and Pipelines Ltd., the MGB considered whether pipelines attached to "abandoned" wells should be granted the same depreciation that Minister's Guidelines require for pipelines attached to "non-producing" wells. The MGB found that the DLA had applied the Minister's Guidelines criteria correctly and consistently using the information available at the EUB. The DLA was entitled to rely on the status of the pipe as recorded at the EUB. The MGB again noted that the property owner was not without remedy, since it had the option to register its pipe with the EUB as "discontinued".

Category (II): the EUB records do not match reality; however, unlike Category (I) complaints, the party making the complaint does not have power to update the EUB records, or has done as much as can be expected to have them changed.

In cases where the party making the complaint is unable to influence the EUB records but can obtain proof of the correct or actual status of the property, the MGB has found that the DLA must consider proof of the correct or actual status of the property. By doing so, the DLA complies with its duty to ensure that the regulated procedures are applied fairly and equitably. Similar considerations apply where the EUB records are inaccurate even though the complainant has fulfilled its role in attempting to keep them up-to-date. In such cases, the MGB has found that the DLA must consider further evidence as to the status of the property.

Examples of cases in which the party making the complaint has insufficient control over EUB records, include Northern Sunrise (068/06), and – to some extent - ATCO GAS (057/04).

Northern Sunrise (068/06)

In Northern Sunrise (068/06), the MGB considered a municipality's complaint concerning assessments based on EUB records that were shown to be inaccurate. The MGB found that a fair and equitable application of the Regulations and Minister's Guidelines (per s. 293) requires consideration of the parties' ability to change the EUB records. Where a party has the ability to have the records changed, but does not avail themselves of that ability, that party cannot be heard to complain should the DLA refuse to exercise its discretion to amend the assessment under section 305. On the other hand, where a party – such as a municipality – cannot change the EUB records and presents clear evidence of error, the DLA's refusal to exercise its discretion to

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amend the assessment is not a fair and equitable application of the procedures and standards set out in the regulations.

ATCO GAS (057/04)

In ATCO gas, an audit showed the EUB records did not reflect the correct length or operational status of certain pipelines. It also showed that some pipelines were listed as “operational” even though they had never been constructed. As a result of the audit, the complainant applied to amend the EUB records. Some of the applications to amend the EUB records were received and processed by the EUB before October 31. Other applications were received before October 31, but not yet processed. Still other applications were received after October 31.

The MGB again rejected the argument that assessments must be based on actual conditions as opposed to the specifications in the EUB records, noting that the legislation places the onus on the owner to ensure the records of the AEUB are accurate. Owners can request the EUB to update records by following the steps laid out in EUB directives. Where owners had fulfilled this onus by requesting changes to the EUB records before October 31, the MGB found amendments were required, even if the requests had not been processed by the EUB for inclusion in the data provided to the DLA for assessment purposes. It does not appear that the MGB specifically considered requests made after October 31 but still within EUB’s reporting compliance deadline. What is clear is that processing delays at the EUB were not interpreted as attributable to the property owner or as relevant to determining whether he or she had fulfilled the duty to keep EUB records up to date.

Category (III): the EUB records conflict, and evidence has been provided to show one set of records is more likely to match reality.

In cases where there are conflicting or inconsistent EUB records, the MGB has found that the DLA has an obligation to at least consider evidence as to which EUB record is correct, and amend the assessment to reflect the characteristics and specifications of the property as recorded in the correct record. This obligation is seen following from the DLA’s duty to apply the regulated valuation standards and procedures in a fair and equitable manner.

Examples of cases in which the MGB required amendments in light of evidence of conflicting EUB records include the two Kneehill County decisions (001/04) and (MGB 091/05).

Kneehill County (001/04)

In Kneehill County, the MGB considered the request of various municipalities to amend certain assessments, because of discrepancy in the lengths reflected in different types of EUB record, namely: the “attribute” record and the “graphical” record. The MGB found that in the case of conflicting EUB records, affected parties – such as municipalities – may introduce evidence other than EUB records to choose between them. The MGB took the view that resolution of the conflict in favour of accuracy, or correctness, was in the best interests of fairness and equity.

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Kneehill County (MGB 091/05)

In another Kneehill County hearing, the MGB again considered conflict between the “attribute” record and the “graphical” record. Again, independent evidence was led to suggest that the graphical record was most likely correct. The MGB found that in such circumstances, fairness and equity required changing the assessments to reflect the (graphical) EUB records known to be correct.

Category (IV): the EUB records reflect characteristic that relates to some concept of value but is not recognized under the procedures set out in the Minister’s Guidelines.

In cases where the EUB records are accurate and the DLA has applied the characteristics recorded there using the procedures laid out in the legislation and Minister’s Guidelines, the MGB has typically upheld the DLA’s assessments. In doing so, it has rejected arguments that a fair and equitable application of the regulated standard requires the DLA to consider further characteristics that appear to have some rational link to assessment policy, but are not specified in the legislation or Minister’s Guidelines as relevant characteristics or calculation inputs. In such cases, the MGB has held that the inputs or characteristics relevant to assessment calculations are assessment policy choices beyond the authority of the DLA or the MGB.

Cases in which the MGB has refused to alter assessments, because the assessments reflect policy choices apparently contemplated by the legislation include BP Canada – (115/05) and Pengrowth (009/05).

BP Canada – (115/05)

In BP Canada, the MGB considered whether EUB shut-in orders are EUB records that must be considered when determining assessments for wells and pipelines. The MGB found that although EUB shut-in orders are EUB records, the Minister’s Guidelines do not contemplate additional depreciation due to shut in orders. Hence, the DLA applied the standards and procedures as set out in the Regulations and Minister’s Guidelines correctly and consistently, thus fulfilling its duty to apply the valuation standards and procedures fairly and equitably.

Pengrowth - (009/05)

In Pengrowth, the MGB considered certain “gas lift” oil wells that were assessed as “crude oil pumping” as required under the Minister’s Guidelines. It was argued that since gas lift wells have no pumping equipment at the well site, the MGB’s duty to ensure assessments are fair and equitable justifies lowering their assessments to be in line with those of other oil wells without pumps that the Minister’s Guidelines recognize as “crude oil flowing”. The MGB rejected this argument, since the Minister’s Guidelines express an unambiguous policy choice to assess “gas

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lift” wells as crude oil flowing, and there was no evidence of mistakes or inconsistencies in the either the EUB records or the application of the minister’s Guidelines.

Relation of current circumstances to previous orders

Issue 1: Timing of EUB records

In terms of previous orders, issue 1 for the wells currently under complaint would appear to fit most closely into Group II. As with the properties considered in those decisions, the EUB records used by the Respondent may well contain inaccuracies despite the Complainants’ compliance with their EUB reporting obligations. This circumstance is paralleled to a degree in ATCO (MGB 057/04), where the MGB found that as long as property owners had reported changes as of October 31, assessments based on inaccurate EUB records resulting from processing delays should be amended to reflect the EUB record-change applications. In ATCO, it does not appear that the MGB considered requests made after October 31 but still within EUB’s reporting compliance deadline. However, the current panel believes that requests made in compliance with the EUB’s deadline that show changes made before October 31 (where that deadline occurs within a reasonable time after October 31) are EUB records that support an amended assessment. In other words, a fair and equitable application of the procedures in the Regulations and Minister’s Guidelines requires the DLA to prepare or amend assessments to reflect changes reported in compliance with the current EUB deadlines.

Issue 2: Deepest Producing Interval

On the evidence before it, issue 2 appears to fit into a variant of Group III, since the parties have put forward two competing sets of EUB records as reporting a characteristic (“deepest producing interval”) recognized under the Minister’s Guidelines as relevant to calculating an assessment. On the evidence before it, the MGB is satisfied that the records of flow preventing devices such as plugs are relevant to determining the “deepest producing interval” and as such must be taken into account.

Issue 3: well code 158

Issue 3 - regarding well code 158 - fits most easily into Group IV, since (i) there is no dispute as to the accuracy of the EUB records, and (ii) the DLA applied the procedures outlined in the Minister’s Guidelines. The MGB finds these procedures are unambiguous and were followed correctly by the DLA. Accordingly, there is no reason to reduce the assessments because of misclassification relative to well code 158.

DECISION

- 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

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subsequent EUB records show that these were reported to the EUB in compliance with the EUB's reporting deadline.

- With respect to the wells affected by Issue 2, the Respondent is directed to recalculate the assessments taking into consideration that the term "deepest producing interval" must take into account relevant flow preventing devices recorded in EUB record 055.
- No recalculation is required in respect of Issue 3 relating to pool code 158.
- All revised assessment amounts and supporting calculations must be submitted to the MGB for approval within 30 days of the date of this order. Should the Respondent encounter difficulty meeting this deadline, it must notify the MGB as soon as possible to identify the difficulty.
- The MGB anticipates that the principles identified in this Order will also assist the parties to determine appropriate assessments for the wells not included in the sample of 500 that were directly considered in this order. However, if necessary, the parties remain free to seek further direction from the MGB in relation to these properties. If the parties have been unable to reach an agreement in relation to these properties within 30 days of the date of this order, a preliminary hearing will be held to identify the difficulties encountered by the parties and establish a process to resolve them.

It is so ordered.

No costs to either party.

Dated at the City of Edmonton, in the Province of Alberta, this 5th day of March 2007.

MUNICIPAL GOVERNMENT BOARD

(SGD.) A. Savage, Presiding Officer

APPENDIX "A"

APPEARANCES

NAME	CAPACITY
G Ludwig	Counsel for the Complainants
J. Thibault	Witness for the Complainants
C. Zukiwski	Counsel for the Complainants
D. Driscoll	Witness for the Respondent
B. Ney	Witness for the Respondent

APPENDIX "B"

DOCUMENTS RECEIVED AND CONSIDERED BY THE MGB:

NO.	ITEM
	<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

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

NO.	ITEM
<u>Complainants</u>	<u>Respondent</u>
C16	R15 Volume of Documents – Tab 19 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

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APPENDIX “C”

2006 Linear Property Assessment Complaints - Issue of various well depth

On the issue of 2006 (tax year) well depth, the Complainants filed complaint applications for approximately 14,000 properties. The parties agreed to a sample of 500 well depth properties under complaint and, therefore, the following properties are before the MGB in this hearing.

LIST OF 500 PROPERTIES BEFORE THE MGB IN THIS HEARING

LPAU-ID	Assessee MA-ID	TJ MA-ID
1936973	3557	36
1937336	3557	36
1937801	3557	36
1937804	3557	36
1938370	3557	36
1947436	3557	503
1972455	3557	503
2020945	3557	503
2044664	3557	193
2095445	3557	226
2100857	3557	504
2151157	3557	481
2750519	3557	133
2754770	3557	133
2755055	3557	133
2759355	3557	133
2792529	3557	133
2794667	3557	133
3130769	3720	481
1823211	20358	506
1831733	20358	506
1832758	20358	299
1834015	20358	506
1834737	20358	506
1840827	20358	505
1841963	20358	505
1845853	20358	506
1857598	20358	243
1889880	20358	506
1894873	20358	110
1902502	20358	255
1922659	20358	505
1928096	20358	506
1941106	20358	142
1969291	20358	49
1973686	20358	195
1978059	20358	505
1985655	20358	255
1993553	20358	226

LPAU-ID	Assessee MA-ID	TJ MA-ID
2015012	20358	243
2029062	20358	243
2040541	20358	506
2047955	20358	506
2104350	20358	195
2757827	20358	377
2761651	20358	49
2762728	20358	505
2792715	20358	49
2794496	20358	49
2794833	20358	49
2796282	20358	195
2796605	20358	195
2797287	20358	243
3125675	20358	195
3125966	20358	49
3127880	20358	255
3480790	20358	142
3480793	20358	142
3480836	20358	142
3480886	20358	142
3481665	20358	142
3481666	20358	142
3482231	20358	243
3484014	20358	506
*1805153	20668	305
1817570	20668	482
1819693	20668	482
1824595	20668	482
1824628	20668	482
1825551	20668	482
1833480	20668	506
1833837	20668	506
1834619	20668	506
1834833	20668	482
1839216	20668	481
1840895	20668	481
1841074	20668	481
1842199	20668	377

LPAU-ID	Assessee MA-ID	TJ MA-ID
1852275	20668	377
1863195	20668	482
1863602	20668	481
1869982	20668	482
1875292	20668	482
1876603	20668	133
1885251	20668	377
1887573	20668	481
1888930	20668	482
1891932	20668	482
1894290	20668	482
1916761	20668	133
1919610	20668	504
1923670	20668	377
1932173	20668	377
1932589	20668	133
1933543	20668	133
1933679	20668	133
1951048	20668	482
1951100	20668	481
1951276	20668	482
1951277	20668	482
1952667	20668	481
1953008	20668	481
1953814	20668	507
1958328	20668	226
1959193	20668	482
1972936	20668	482
1974395	20668	480
1976029	20668	504
1977101	20668	481
1977225	20668	377
1982354	20668	377
1989172	20668	377
1998467	20668	377
2004905	20668	377
2014327	20668	481
2019999	20668	481
1817734	20731	20

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LPAU-ID	Assessee MA-ID	TJ MA-ID
1817739	20731	20
1817750	20731	20
1870107	20731	20
1892767	20731	110
1991773	20731	482
1998341	20731	383
2013942	20731	482
2064884	20731	482
2065033	20731	348
2068386	20731	20
2093500	20731	20
2096160	20731	255
2101465	20731	481
2754101	20731	377
2754476	20731	348
2754839	20731	480
2795996	20731	481
2796955	20731	481
3128782	20731	482
3475988	20731	20
3479391	20731	20
3487226	20731	20
1985327	20841	511
2040462	20841	204
2097084	20841	481
2097686	20841	481
2101561	20841	481
2108611	20841	353
2750303	20841	481
2751861	20841	481
2751862	20841	481
2795351	20841	353
3127891	20841	353
1844353	20853	480
1867031	20853	482
1892679	20853	329
1899750	20853	329
1899968	20853	329
1901773	20853	329
1902407	20853	294
1910298	20853	329
1910895	20853	329
1911080	20853	329
1911118	20853	329
1911123	20853	329
1911157	20853	329
1911168	20853	329
1921568	20853	294
1921569	20853	294
1921570	20853	294
1921571	20853	294
1921572	20853	294

LPAU-ID	Assessee MA-ID	TJ MA-ID
1921573	20853	294
1921575	20853	294
1927233	20853	294
1927242	20853	294
1949501	20853	294
1987007	20853	329
1987069	20853	329
1987463	20853	481
1988845	20853	294
2007545	20853	482
2011286	20853	481
2028334	20853	538
2030436	20853	504
2056286	20853	294
2107342	20853	482
2746276	20853	329
2747368	20853	482
2751948	20853	507
2752567	20853	503
2754352	20853	512
2755411	20853	482
2797447	20853	329
3126362	20853	299
3126608	20853	538
3126609	20853	538
3127257	20853	504
3128519	20853	504
3129530	20853	299
3129772	20853	504
3129773	20853	504
3132498	20853	481
3476301	20853	235
3476309	20853	235
3476439	20853	235
3476463	20853	235
3476466	20853	235
3476470	20853	235
3476473	20853	235
3476476	20853	235
3477567	20853	235
3478780	20853	294
3480982	20853	376
3480986	20853	376
3480996	20853	376
3481041	20853	376
3481109	20853	376
3481204	20853	376
3481213	20853	376
3481521	20853	376
3481522	20853	376
3481543	20853	376
3481796	20853	376

LPAU-ID	Assessee MA-ID	TJ MA-ID
3482043	20853	376
3482407	20853	195
3482452	20853	376
3482744	20853	142
3482760	20853	142
3482786	20853	142
3482801	20853	142
3483918	20853	376
3486691	20853	142
3486946	20853	36
3487080	20853	142
3487081	20853	142
3487082	20853	142
3487083	20853	142
3487092	20853	142
3487093	20853	142
3487097	20853	142
3487097	20853	142
3487133	20853	142
3487143	20853	142
3487818	20853	376
3487934	20853	376
3487938	20853	376
3487948	20853	376
3487962	20853	376
3487966	20853	376
3487996	20853	376
3488162	20853	376
3488373	20853	376
3488520	20853	376
3488524	20853	376
3489266	20853	512
3489397	20853	294
3489398	20853	294
3489399	20853	294
3489621	20853	512
3489714	20853	376
3489771	20853	36
3489841	20853	376
3490888	20853	376
3490889	20853	376
3490890	20853	376
3491776	20853	329
3491790	20853	329
1843654	21573	349
1844812	21573	235
1851832	21573	235
1852247	21573	235
1855652	21573	235
1857292	21573	235
1857337	21573	235
1859276	21573	235
1859370	21573	235

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LPAU-ID	Assessee MA-ID	TJ MA-ID
1872280	21573	235
1874653	21573	349
1876568	21573	349
1876659	21573	349
1876691	21573	349
1876790	21573	235
1879228	21573	349
1879882	21573	235
1880031	21573	349
1880621	21573	235
1881718	21573	349
1885508	21573	235
1886530	21573	235
1887054	21573	235
1887888	21573	235
1888434	21573	235
1889137	21573	235
1890118	21573	235
1890274	21573	349
1890287	21573	349
1890331	21573	235
1890563	21573	235
1891687	21573	235
1892108	21573	235
1892379	21573	235
1896135	21573	349
1897693	21573	349
1898444	21573	349
1899807	21573	235
1900103	21573	349
1903327	21573	349
1903328	21573	349
1903501	21573	349
1905275	21573	235
1905483	21573	349
1905628	21573	349
1906795	21573	235
1906977	21573	349
1907073	21573	349
1907075	21573	349
1908092	21573	349
1908244	21573	349
1908321	21573	349
1908342	21573	349
1908346	21573	349
1908405	21573	349
1908750	21573	349
1908751	21573	349
1909061	21573	349
1909247	21573	349
1910115	21573	235
1910385	21573	349

LPAU-ID	Assessee MA-ID	TJ MA-ID
1912138	21573	349
1917685	21573	235
1918954	21573	235
1923681	21573	235
1932571	21573	349
1937140	21573	235
1937142	21573	235
1938398	21573	235
1938408	21573	235
1938418	21573	235
1938695	21573	235
1938935	21573	235
1938944	21573	235
1945183	21573	349
1948418	21573	235
1948447	21573	235
1948585	21573	235
1950800	21573	235
1951208	21573	235
1953109	21573	235
1953197	21573	235
1953212	21573	235
1953213	21573	235
1953224	21573	235
1953233	21573	235
1953234	21573	235
1954475	21573	235
1954536	21573	349
1956340	21573	235
1956439	21573	235
1956450	21573	235
1956452	21573	235
1956508	21573	235
1957664	21573	349
1958078	21573	235
1960484	21573	235
1961638	21573	235
1961671	21573	235
1961796	21573	235
1965840	21573	235
1966517	21573	235
1966746	21573	235
1968579	21573	349
1968580	21573	349
1969073	21573	349
1969177	21573	349
1969531	21573	235
1969820	21573	235
1969851	21573	235
1971155	21573	235
1973080	21573	235
1973619	21573	349

LPAU-ID	Assessee MA-ID	TJ MA-ID
1975657	21573	349
1976872	21573	349
1979148	21573	235
1980006	21573	235
1980007	21573	235
1980009	21573	235
1980586	21573	349
1986147	21573	349
1991260	21573	349
1993557	21573	349
1994389	21573	349
1998229	21573	349
2000435	21573	349
2001396	21573	235
2002164	21573	235
2003254	21573	349
2004060	21573	349
2004512	21573	235
2005299	21573	349
2005958	21573	349
2006272	21573	349
2006350	21573	349
2007290	21573	235
2007577	21573	349
2009305	21573	349
2009310	21573	349
2009333	21573	349
2010446	21573	349
2012206	21573	349
2012500	21573	349
2015207	21573	349
2018572	21573	349
2019366	21573	235
2019962	21573	235
2020627	21573	235
2021366	21573	235
2021951	21573	235
2021957	21573	235
2021958	21573	235
2021964	21573	235
2021974	21573	235
2021976	21573	235
2021977	21573	235
2021978	21573	235
2021994	21573	235
2023899	21573	349
2025128	21573	349
2025145	21573	349
2025161	21573	349
2025170	21573	349
2025174	21573	349
2025393	21573	235

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LPAU-ID	Assessee MA-ID	TJ MA-ID
2025739	21573	349
2026681	21573	349
2027096	21573	235
2027159	21573	235
2028487	21573	349
2030190	21573	235
2031878	21573	349
2032071	21573	349
2032079	21573	349
2032188	21573	349
2032362	21573	349
2032960	21573	349
2033191	21573	235
2033257	21573	235
2033336	21573	235
2033338	21573	235
2034463	21573	349
2035452	21573	349
2037269	21573	235
2037855	21573	235
2037861	21573	349
2037862	21573	349
2038929	21573	235
2039318	21573	235

LPAU-ID	Assessee MA-ID	TJ MA-ID
2041167	21573	235
2041174	21573	235
2044349	21573	235
2044449	21573	349
2044505	21573	349
2044521	21573	349
2045076	21573	349
2045517	21573	349
2047419	21573	235
2051185	21573	349
2051876	21573	235
2052017	21573	349
2052154	21573	349
2053582	21573	349
2054198	21573	349
2056048	21573	235
2063557	21573	235
2064386	21573	235
2065052	21573	349
2067924	21573	349
2096627	21573	235
2102194	21573	235
2103347	21573	349
2103386	21573	349

LPAU-ID	Assessee MA-ID	TJ MA-ID
2105672	21573	235
2108965	21573	235
2109589	21573	235
2747796	21573	349
2752813	21573	235
2754604	21573	235
2756711	21573	349
2758556	21573	235
2758599	21573	349
2760549	21573	349
2761702	21573	349
2761703	21573	349
2761903	21573	349
2795381	21573	235
3128337	21573	349
3131934	21573	349
2797518	21747/3557	329
3125536	21747/3557	329
3125539	21747/3557	329
3125756	21747/3557	329
3126101	21747/3557	329
3126427	21747/3557	329
3476113	24284	198

* *the MGB notes that the schedule provided by the parties (Exhibit R17(b)) indicates that this complaint is listed as withdrawn by the Complainant and has a recommendation from the DLA. Some clarification is required and, therefore, this will be addressed at the same time as the remaining complaints on the same issue.*

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APPENDIX “D”

2006 Linear Property Assessment Complaints - Issue of various well depth

List of recommendations with a final resolution

LPAU-ID	Assessee MA-ID	Assessee Name	TJ MA-ID	Tax Jurisdiction Name	Assessment January 2006	Recommendation and MGB Decision
1824595	20668	BP Canada Energy Corporation	482	Yellowhead County	333,390	309,930
1833480	20668	BP Canada Energy Corporation	506	M.D. of Big Lakes	291,260	291,560
1834619	20668	BP Canada Energy Corporation	506	M.D. of Big Lakes	301,880	302,490
2019366	20668	BP Canada Energy Corporation	235	County of Newell No. 4	75,110	50,640

List of recommendations without a final resolution

(still before the MGB in this hearing under a different assessee/owner)

LPAU-ID	Assessee MA-ID	Assessee Name	TJ MA-ID	Tax Jurisdiction Name	Assessment January 2006	Recommendation and MGB Decision
2797518	21747	Flowing Energy Corporation	329	County of Vermilion River No. 24	79,600	0 + assessment transferred to Daylight Energy Ltd. (3557)
3125536	21747	Flowing Energy Corporation	329	County of Vermilion River No. 24	80,410	0 + assessment transferred to Daylight Energy Ltd. (3557)
3125539	21747	Flowing Energy Corporation	329	County of Vermilion River No. 24	77,540	0 + assessment transferred to Daylight Energy Ltd. (3557)
3125756	21747	Flowing Energy Corporation	329	County of Vermilion River No. 24	79,260	0 + assessment transferred to Daylight Energy Ltd. (3557)
3126101	21747	Flowing Energy Corporation	329	County of Vermilion River No. 24	11,730	0 + assessment transferred to Daylight Energy Ltd. (3557)
3126427	21747	Flowing Energy Corporation	329	County of Vermilion River No. 24	78,280	0 + assessment transferred to Daylight Energy Ltd. (3557)

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APPENDIX “E”

**2006 Linear Property Assessment Complaints - Issue of various well depth
List of Withdrawals**

LPAUID	Assessee MA-ID	TJ MA-ID
1936973	3557	36
1937336	3557	36
1937801	3557	36
1937804	3557	36
1938370	3557	36
1947436	3557	503
1972455	3557	503
2020945	3557	503
2044664	3557	193
2095445	3557	226
2151157	3557	481
2750519	3557	133
2754770	3557	133
2755055	3557	133
2759355	3557	133
2792529	3557	133
2794667	3557	133
3130769	3720	481
1823211	20358	506
1831733	20358	506
1834015	20358	506
1834737	20358	506
1840827	20358	505
1841963	20358	505
1845853	20358	506
1857598	20358	243
1889880	20358	506
1928096	20358	506
1941106	20358	142
1969291	20358	49
1973686	20358	195
1978059	20358	505
1993553	20358	226
2047955	20358	506
**1805153	20668	305
1817570	20668	482
1834833	20668	482
1840895	20668	481
1841074	20668	481

LPAUID	Assessee MA-ID	TJ MA-ID
1869982	20668	482
1888930	20668	482
1894290	20668	482
1923670	20668	377
1932173	20668	377
1932589	20668	133
1933543	20668	133
1933679	20668	133
1951048	20668	482
1951276	20668	482
1951277	20668	482
1952667	20668	481
1953008	20668	481
1953814	20668	507
1959193	20668	482
1972936	20668	482
1974395	20668	480
1976029	20668	504
1985327	20841	511
1844353	20853	480
2746276	20853	329
2754352	20853	512
3126608	20853	538
3126609	20853	538
3132498	20853	481
3476466	20853	235
3480986	20853	376
3481041	20853	376
3481204	20853	376
3481213	20853	376
3481521	20853	376
3481522	20853	376
3481543	20853	376
3481796	20853	376
3482043	20853	376
3482452	20853	376
3483918	20853	376
3487934	20853	376
3487962	20853	376

LPAUID	Assessee MA-ID	TJ MA-ID
3487966	20853	376
3488373	20853	376
3488520	20853	376
3489621	20853	512
3489714	20853	376
3489841	20853	376
3490888	20853	376
1881718	21573	349
1898444	21573	349
1900103	21573	349
1906977	21573	349
1909247	21573	349
1918954	21573	235
1938398	21573	235
1938408	21573	235
1938418	21573	235
1938695	21573	235
1938944	21573	235
1948447	21573	235
1950800	21573	235
1951208	21573	235
1953212	21573	235
1953233	21573	235
1953234	21573	235
1954475	21573	235
1954536	21573	349
1956340	21573	235
1956508	21573	235
1961638	21573	235
1961671	21573	235
1961796	21573	235
1969177	21573	349
1976872	21573	349
1980007	21573	235
3476113	24284	198

*** the MGB notes that the schedule provided by the parties (Exhibits R17(b) and R23) indicates that this complaint is listed as withdrawn by the Complainant and has a recommendation from the DLA. Some clarification is required and, therefore, this will be addressed at the same time as the remaining complaints on the same issue.*