BOARD ORDER: MGB 134/03

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 filed by Mr. Randy Affolder on behalf of the County of Two Hills, Lac Ste. Anne County, Municipal District of Bonnyville No. 87, and Municipal District of Greenview No. 16 for the 2002 tax year.

BETWEEN:

County of Two Hills, Lac Ste. Anne County, Municipal District of Bonnyville No. 87 and Municipal District of Greenview No. 16 - represented by Reynolds Mirth Richards and Farmer - Complainants

- a n d -

Designated Linear Assessor for the Province of Alberta - represented by Bishop McKenzie - Respondent

- a n d -

Alta Gas Services Inc., et al – represented by Wilson Laycraft - Intervenors

BEFORE:

Members:

N. Dennis, Presiding Officer
L. Atkey, Member
C. Bethune, Member

Secretariat:

Don Marchand
Sean Sexton

Upon notice being given to the affected parties, a hearing was held in the City of Edmonton, in the Province of Alberta on May 20 to 23 and May 27, 2003.

This is a complaint to the Municipal Government Board (MGB) by the above-mentioned Municipalities pursuant to Section 492(1) and Section 492(1.1) of the Municipal Government Act.

DECISION FORMAT

The MGB has decided it is clearer and more efficient to issue separate Board Orders on the separate issues for this complaint. The file history has been comprehensively canvassed as an appendix to this and all other Board Orders pertaining to this hearing.

OVERVIEW

This complaint relates to the assessment of certain linear properties residing in four different municipalities. A linear property can be identified by Permanent Property Inventory Identifier (PPI-ID). Each property or PPI-ID, is assessed by the Designated Linear Assessor (DLA). It is an agreed fact that none of the PPI-IDs under complaint are exempt from assessment under Section 298(1) of the Act.

The primary issue that this Board Order addresses is whether the Act gives the MGB jurisdiction to hear and decide a complaint when the complaint relates to linear property which was not assessed but should have been. Section 492 (1) requires that only certain identified matters as shown on the assessment notice may be complained about before the MGB. The argument that is raised by the Respondent (DLA) and Intervenors (Owners) is that this section specifies that an assessment notice must be prepared for a particular property before a complaint about that property can come before the MGB.

A derivative issue affecting the jurisdiction of the MGB to hear this complaint concerns the effect of Section 305(2) of the Act. This section requires the DLA to prepare an assessment notice for a particular property when it has been discovered that no such notice was originally prepared. A previous Board Order, MGB 136/01, left open the possibility that a "demonstrated refusal" by the DLA to exercise its duties under Section 305(2) may be complained about before the MGB, even when no assessment notice has been prepared for a linear property.

The MGB must therefore address the possibility of whether there was a demonstrated refusal by the DLA, and whether this refusal to prepare assessment notices for these PPI-IDs can confer jurisdiction on the MGB to hear such a complaint, notwithstanding the fact that this matter is not shown on the assessment notice, as required by Section 492(1) of the Act. To make a decision on the matters above requires the MGB to address the following relevant issues.

- What type of action or request does Section 305(2) contemplate in order to allow the DLA to "discover" that no assessment notices have been issued for particular PPI-ID's?
- What conduct is required to constitute a demonstrated refusal by the DLA to respond to a request to add missed property which has properly been put before it?

- Can a demonstrated refusal to prepare an assessment notice be a valid matter on which to base a complaint?

The Complainants (Municipalities) argue that the MGB has a broad jurisdiction to hear complaints for linear property, and therefore the MGB is the proper authority to hear and decide these complaints. The Respondent and Intervenors posit that the only way a complaint about linear property can come before the MGB is if it is a matter that is listed under Section 492(1) as shown on the assessment notice itself. They suggest that since no assessment notices have been prepared for these linear properties, a complaint cannot be brought before the MGB.

Beyond the question of jurisdiction, there are issues of merit that the MGB must decide if making an affirmative finding on its own jurisdiction. The two issues of merit, broadly stated, pertain to the proper procedure for assessing pipeline under 50 metres, and the proper procedure for assessing pipeline and wells that have been given a "Permitted" ("P") status.

BACKGROUND

The current complaints were filed with the MGB on April 15, 2002. The complaints related to the 2001 assessment of 2,277 separate linear properties. The DLA raised several objections to the filing of these complaints. It claimed that they were incomplete, and that several of the properties under complaint had not been assessed, and therefore there was no jurisdiction to bring these complaints before the MGB. After several preliminary hearings and postponements, the complaints were consolidated into a colour-coded compilation of 293 linear properties under complaint on April 30, 2003. The MGB ruled that the complaints for these properties were complete, and informed the parties that the jurisdictional issue raised by the DLA would be dealt with at the hearing, which went forward on May 20, 2003.

A description of all the 293 linear properties under complaint, identified by their license or PPI-ID, and the respective owners/operators of these properties who have status as Intervenors at these proceedings, can be found in Appendix C of this Order. A detailed description of the background and history of this complaint is outlined in Appendix D.

PRELIMINARY MATTERS

Prior to hearing the complaint on its merits, the MGB made rulings on three matters preliminary to the proceedings relating to the admissibility of evidence. Once these issues were dealt with, the MGB went on to consider the final preliminary matter, which is the primary jurisdictional question in this complaint.

First Preliminary Matter

The MGB was asked to decide whether or not the Intervenors could introduce witnesses when none of the parties to the proceedings were informed that these witnesses would be attending, and no "will say" statements had been submitted for these witnesses. The MGB found that it would be an unfair procedure to allow any such witnesses to give evidence at these proceedings when no notice of their attendance, or what issue they would address, had been provided to any of the interested parties. As such, the witnesses for the Intervenors were not permitted to give evidence at the hearing.

Second Preliminary Matter

This matter pertained to the submissions of the Complainants setting out revised issue codes for the assessed property and the relevant locations of the linear properties in question. This had been tendered to the MGB on April 30, 2003, 36 days after the date of the originally scheduled hearing, and 20 days before the date of the present hearing.

The MGB found that certain sections within the materials pertaining to issue codes of the linear property were consolidations of previously exchanged material that facilitated the efficiency and understanding of the issues at hand. The MGB ruled that this was not new evidence and was permissible. There was nothing added to the material in these sections, and being a consolidation of the large volume of materials previously submitted, it was deemed to be of assistance in contributing to the expediency of the present proceedings. The sections of the April 30, 2003 submissions that related to the map locations of certain linear property, which were also included with the issue coding materials, were deemed by the MGB to be new evidence not previously exchanged between the parties within the specified time frame, and were subsequently disallowed for the purposes of the present proceedings.

Third Preliminary Matter

This issue pertained to the requested use of a laptop computer by the Complainants to show the locations of wells within a particular subdivision. Even if properly disclosed to the parties, such a system may or may not have aided in the ultimate expediency of the hearing. The MGB was not prepared to entertain such a request because disclosure of the actual information that was to be presented did not occur. One difficulty with live evidence is that its very nature makes prior disclosure between the parties somewhat difficult. Disclosure may have been possible through the use of diskette or other electronic form, but this had not been done prior to the proceedings. The MGB was not convinced that the admission of such evidence in this case would be fair to the parties, or that it was an appropriate procedure that would meaningfully contribute to the present process. Alternative measures, such as the use of standardized maps, could be employed for the same purposes, which would accomplish similar results, and were not objected to by the other parties.

Question of Jurisdiction

The jurisdictional question is whether the MGB has express or implied authority under the Act to decide a complaint that relates to property for which no assessment notice has been issued. If the MGB has no jurisdiction, then the matter is at an end. If it does, there are two issues of merit that the MGB must decide. In order to make a finding on its jurisdiction, the MGB gave much weight to the factual matrix leading up to this complaint, and to the findings in Board Order 136/01, which dealt with the legislated duties of the DLA.

ISSUES – Jurisdiction

1. What type of request would allow the DLA to "discover" that no assessments were prepared for a given linear property, as contemplated in Section 305 of the Act?

2. Did the Complainants bring such a request to the DLA to have the missed property corrected under Section 305 of the Act?

3. Was this request reasonable?

4. Was the DLA able to discover that no assessments were prepared for the linear property under complaint while the request under Section 305 was before it?

5. If it was discovered that no assessments had been prepared for the linear property under complaint, was there a "demonstrated refusal" by the DLA to act according to its mandated legislative duties?

6. Can a "demonstrated refusal" by the DLA to include a property in the assessment properly be complained about before the MGB, notwithstanding the fact that an assessment notice was not issued for that property?

ISSUES - Merit

Pipeline Under 50 Metres

1. Is there a legislative basis for not assessing pipelines under 50 metres in length that are recorded in the data of the AEUB?

2. Is it fair and equitable to assess these pipelines recorded at the AEUB when other pipelines that are under 50 metres in length are not recorded in the AEUB data and not assessed?

3. Is the value of assessing these pipelines so minimal as to justify their non-assessment?

Other Assessable Properties

1. Was the well with license number 229369 operational in the relevant timeframe for assessment purposes, as set out in the legislation?

2. Were either of the two pipelines, license numbers 20817 and 31313, constructed and operational at the relevant time, notwithstanding the fact that according to the records of the AEUB they were licensed only after this time?

LEGISLATION

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

Municipal Government Act

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

Duties of assessors
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.

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 s.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.

Section 308 requires the assessor to prepare assessment notices for all assessed properties.

308(2) The assessor designated by the Minister must annually
(a) prepare assessment notices for all assessed linear property,
(b) send the assessment notices to the assessed persons, and
(c) send the municipality copies of the assessment notices.
(2.1) The municipality must record on the assessment roll the information in the assessment notices sent to it under subsection (2)(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
(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.

SUMMARY OF COMPLAINANTS' POSITION

Jurisdiction

The Complainants submitted that pursuant to Section 492 of the Act, the MGB has broad jurisdiction to determine if property is exempt or assessable. The MGB always has jurisdiction to make a decision on a matter where the complaining party and the DLA have taken opposite positions on this issue, when the complaint is properly made. If this jurisdiction did not rest with the MGB, the ultimate arbiter of whether or not a property is assessable would be the DLA itself. If this were the case, it would deprive municipalities of their statutory right of appeal under the Act. Further, the Complainants' right to have properties added to the assessment roll under Section 305 of the Act has been denied because no

investigation pursuant to their complaints had been made until February of 2003, a point in time well outside the one year time limit for adding any missed properties to the roll. The fact that the DLA is now acknowledging that many of the complaints should be granted indicates that their original decision not to assess these properties was in error. When the DLA fails to assess a property or correct that error under Section 305 of the Act, the MGB is the proper body to make a ruling on this issue.

The Complainants argued that MGB 136/01 is not determinative in this case on whether the linear properties in question can or cannot be appealed where no assessment has been issued. The facts giving rise to MGB 136/01 are distinguishable from the present complaints owing to the fact that there was no complaint by those municipalities within the statutory time period for the 1998 assessment that was under complaint in MGB 136/01. In addition, in that case an amended assessment had been prepared in December, and a complaint was filed for all properties for which the municipalities alleged no assessment had been prepared. Pursuant to this, the MGB in that case found that where there was an amended assessment of a few properties, the linear assessment roll could not be opened up to complaint. Presently, there have been no amendments made to the assessment roll by the DLA, and the complaints that are before the MGB were filed within the permitted timeframe.

Conceded Properties

These complaints relate to property for which no assessment was prepared. The DLA conducted an audit for these and has agreed with the Complainants that these properties ought to have been assessed and should be added to the assessment roll. In particular, these 36 properties relate to pipeline that was connected to a producing well during the assessment period and either the well or the pipeline was not assessed. The audit for this property was carried out by the DLA in February 2003, this being outside the statutory timeline for adding this property to the roll under Section 305(2) of the Act. The Complainants submitted that the MGB has the authority to direct that assessments be issued for these properties. They requested that directions be given to issue assessments for these properties and that the DLA has recommended this as well.

Pipeline Under 50 Metres and not Assessed

This issue relates to pipeline that is under 50 metres in length but that has not been assessed by the DLA because the current policy flowing from the Pipeline Transition Committee (PTC) recommendations is not to assess this pipeline. The Complainants submitted that according to legislation all linear property that does not fall under a Section 298 exemption is assessable. Nowhere in the Act does it say that pipeline that is less than 50 metres in length must not be assessed. During evidence, Mr. Randy Affolder argued that the recommendations of the PTC could not override legislation.

The Complainants pointed to 13 examples within the four municipalities where the pipeline was licensed but not assessed. The Complainants agreed with the Intervenors and DLA that only sour gas pipelines under 50 metres require registration at the AEUB, and that all other pipe under 50 metres does not. They maintain however that all pipeline, licensed or not, is still assessable. Although each individual assessment of pipeline under 50 metres may be small, on a province wide basis the cumulative assessment of this pipeline would be significant.

It was also brought to the attention of the MGB that in some cases, the DLA has assessed pipeline that was less than 50 metres. The Complainants referred to Tab 6 of their rebuttal submissions, a January 21, 2003 report from Alberta Municipal Affairs, which showed that pipeline in several different municipalities had indeed been assessed. The Complainants request a declaration that pipeline under 50 metres is assessable and a direction that assessments be issued for these properties.

Other Assessable Properties

i) 'Non-producing' Well

The Complainants argued that the well in Lac Ste. Anne County under license 229639 does not fit the definition of a "non-producing well" because it showed production in the year prior to October 31, 2001, and therefore does not receive any additional depreciation. The Complainants referred to Tab 3 of the their rebuttal submission, which referenced a production record for the well in question under the operator name of "Rubicon Carvel". This record showed that there was production for this well from January to May 2001.

ii) "P" Code Pipelines

These are pipelines with a "P" status code that the Complainants argued should have been assessed by the DLA, but were not. Originally this argument pertained to three pipelines within the Municipal District of Greenview, but at the hearing the Complainants withdrew license number 36821, leaving only two pipelines bearing license numbers 20817 & 31313 remaining under complaint for this issue code. The production records for these properties show that the pipelines were producing as at October 31, 2001.

The Complainants cross-referenced the license number 20817 with a production record for a Paramount Resources well at the "from" location of this pipeline to demonstrate production by this well. From this record it was shown that oil and gas production had occurred from August of 2000 up to and beyond October 31, 2001. License number 31313 showed production at the "from" location well from October of 2000 up to and beyond October 31, 2001. It is the position of the Complainants that

pipeline that carries product or that is capable of doing so, is assessable notwithstanding the fact that the permit application date was in December of 2001.

SUMMARY OF RESPONDENT'S POSITION

"Conceded" Properties & Jurisdiction

For these 36 linear properties the DLA has agreed that it failed to assess property that should have been assessed. In its written submissions the DLA identifies four reasons that enabled it to go back to the AEUB records and determine that the subject property was actually being used.

1. The subject pipeline had a "from" location that was a gas well, and there was only one gas well in the "from" location.
2. The DLA could determine if the one gas well was producing by looking at the AEUB records.
3. The DLA could conclude that if there was production from that gas well and there was no other well in the location, the pipeline must be serving that one gas well in the "from" location.
4. With respect to the wells, the AEUB records contain their status and production records.

The Respondent stressed that at the time of the assessment it had properly relied on the AEUB records as of October 31, 2001. It has agreed in this case to now offer these concessions to the Complainants in the interests of fairness. The DLA does not specifically request any action or direction be taken by the MGB pursuant to their recommendation, but suggested to the MGB by email on March 23, 2003 that "these appeals should be granted". The DLA has indicated that it will accept the position of the Intervenors as it relates to the jurisdiction of the MGB to hear and decide this issue.

Pipeline Under 50 Metres and not Assessed

The DLA submitted that the current practice is not to assess any single piece of pipeline in the province that is less than 50 metres in length. This is based on the fact that the AEUB does not require owners/operators to register pipeline less than 50 metres unless the line relates to sour gas. This practice is rooted in the recommendations of the PTC that were established to deal with the move away from the former "self-reporting" system of linear property assessment and into the new system of reliance upon the AEUB records as the basis for linear assessment. This practice, originating in the PTC recommendations, was the result of unanimous agreement from all the stakeholders involved in the PTC, which included representatives from the municipalities. These agreements and recommendations were made in recognition of the fact that only marginal revenue would be realized by assessing pipeline under 50 metres and that it would be unfair under this system to tax some operators (i.e. licensed sour gas operators) and not others (i.e. non-sour gas lines that need not be reported). In light of this policy, any pipeline less than 50 metres should not be assessed.

Other Assessable Properties

The DLA has assessed these properties correctly according to current practice and policy. Mr. Kevin Halsted from the office of the DLA (Respondent), gave evidence that if a pipeline shows a registered "P" status, the procedure is to request information from the operator of the line, and if no response is given, the DLA can either rely on AEUB data or it can conduct an audit to see if the pipeline was built and is capable of operation prior to October 31 of the assessment year. It is only under clear circumstances that the DLA will assume that the pipeline is serving a particular gas well. However, in most cases it will be unclear to the DLA exactly which well will be serving which pipeline. Under these circumstances, it is common practice to rely on the records of the AEUB, which in this case indicated a "P" status for these pipelines. The Complainants have not established actual use of these pipelines prior to October 31, 2001. There was no evidence that the DLA did not follow the above procedure, which was the proper course of action in these circumstances. Therefore, these complaints should be dismissed

SUMMARY OF INTERVENORS' POSITION

Jurisdiction

The question of whether or not a blanket complaint covering missed assessments can be used to bring a complaint before the MGB has already been rejected in Board Order MGB 136/01. Board Order MGB 136/01 stands for the proposition that only Section 305 can be used to remedy a situation where no assessment has been issued for a particular property. This must take place in the current year, and if it is missed at that time, it can only be noted by the DLA, and corrected for the following year.

One conclusion in Board Order MGB 136/01 was that the plain meaning of the legislation suggests that the legislators did not intend the complaint process to be used as an avenue to add missed property. Therefore, absent agreement from the DLA to add property under Section 305, the Complainants do not have jurisdiction to use this type of blanket complaint to audit the roll for the purposes of adding missed property.

Pipeline Under 50 Metres and not Assessed

The Intervenors submitted that the requirements of equity and reliance on AEUB data as set out in the Act under Sections 293 and 292(2) respectively, interact so that it would be inequitable to add pipeline under 50 metres for this complaint, as all other pipeline that is under 50 metres in the province is not contained in the AEUB records, and is not assessed.

In the cross-examination of Mr. Affolder, it was suggested that adding this insignificant amount of pipeline would be the equivalent of adding on structures such as sheds or doghouses in the assessment of real property. The rationale for this argument stems from the idea that the value of assessing such property is so minimal that no reasonable assessor should include these in the assessment. They cited the principle *de minimus non curate lex*; "the law does not take notice of small or trifling matters".

Other Assessable Properties

i) Non-producing Well

The Intervenors suggested that there is no valid argument raised by the Complainants concerning this particular piece of property. The property was abandoned as of October 30, 2001 and that is the status in the AEUB records as of the relevant time when the characteristics of the property are to be considered by the DLA. The 12 months production prior to October 30, 2001 would have already been accounted for in the assessment of the year prior. There is no logic to the argument that this property ought to have been fully assessed and this position is strictly contradicted by the relevant legislation.

ii) "P" Code Pipelines

The Intervenors submitted that the there is no reason to assess these pipelines because they were not given permitted status until after October 30, 2001. This demonstrates that the pipelines could not have been constructed prior to this date, and therefore could not be operational. It is probable that any production from these wells could have been transmitted through other pipeline, and that the AEUB data demonstrates that these lines exist and run from these wells. Logic dictates that the wells produced into these alternative pipelines and that the new pipeline was only constructed after the relevant timeframe.

FINDINGS - Jurisdiction

Upon hearing and considering the representations and the evidence of the parties shown on Appendix A, and upon having read and considered the documents shown on Appendix B attached, the MGB finds as follows on the question of Jurisdiction.

1. A request was before the DLA under Section 305 to have assessment notices issued for certain missed property.

2. The request brought before the DLA to issue assessment notices by December 31, 2001, was reasonable.

3. The DLA discovered that no assessments had been issued for some of the properties under complaint while a valid Section 305 request was before it.

4. The lack of action on the part of the DLA in response to this discovery constitutes a demonstrated refusal to comply with its legislated duties under the Act.

5. The MGB is the appropriate arbiter for complaints about linear property where the only available statutory remedy has been denied to a complainant as the result of a demonstrated refusal by the party charged with the mandatory duty to afford such remedy.

FINDINGS - Merit

Upon hearing and considering the representations and the evidence of the parties shown on Appendix A, and upon having read and considered the documents shown on Appendix B attached, the MGB finds as follows on the questions of Merit.

A) Pipeline Under 50 Metres

1. There is no legislative basis for not assessing pipeline that is less than 50 metres in length.

2. On a province-wide basis, the value from tax revenues that would be derived from assessing these pipelines is significant.

B) Other Assessable Properties

1. The well in question bearing license number 229639 was abandoned as of October 30, 2001 and, therefore, was not operational as of October 31, 2001, which is the relevant time to determine the specifications and characteristics of this property.

2. The production records of the wells with licenses 20817 and 31313 show production in the relevant time period.

3. The pipeline under complaint under license number 31313, has a producing well at its "from" location, and carried the production from this well on October 31, 2001, which is the relevant time to determine the specifications and characteristics of this property.

In consideration of the above, and having regard to the provisions of the Act, the MGB makes the following decision for the reasons set out below.

DECISION

The MGB accepts the recommendation of the Respondent who has agreed with the Complainants that the 36 properties listed below are to be added to the identified municipality's assessment roll.

Linear Property under Recommendation of the Parties

MUNICIPALITY	LICENSE (L) / PPI-ID
County of Two Hills	823334
County of Two Hills	812472
Lac Ste. Anne County	0221520 (L)
Lac Ste. Anne County	810790
Lac Ste. Anne County	821161
MD of Bonnyville	0237004 (L)
MD of Bonnyville	0263090 (L)
MD of Bonnyville	0263091 (L)
MD of Bonnyville	0263092 (L)
MD of Bonnyville	0263093 (L)
MD of Bonnyville	0048610A (L)
MD of Bonnyville	0048609C (L)
MD of Bonnyville	821534
MD of Greenview	023805 (L)
MD of Greenview	020742 (L)
MD of Greenview	898819
MD of Greenview	812685
MD of Greenview	811160
MD of Greenview	811161
MD of Greenview	811163
MD of Greenview	809473
MD of Greenview	815324
MD of Greenview	814496

Linear Property under Recommendation of the Parties

MUNICIPALITY	LICENSE (L) / PPI-ID
MD of Greenview	820510

MD of Greenview	812233
MD of Greenview	819774
MD of Greenview	809866
MD of Greenview	813247
MD of Greenview	813251
MD of Greenview	820790
MD of Greenview	820802
MD of Greenview	811062
MD of Greenview	813253
MD of Greenview	815145
MD of Greenview	819683
MD of Greenview	814633

The complaint in respect to the assessment is allowed in part, and the MGB directs that the following properties in each municipality are to be added to their assessment roll.

Pipeline Less Than 50 Metres

MUNICIPALITY	LICENSE	LINE
County of Two Hills	10402	1
County of Two Hills	19541	19
Lac Ste. Anne County	25208	3
MD of Bonnyville	18415	1
MD of Bonnyville	22855	7
MD of Bonnyville	22855	12
MD of Bonnyville	22855	17
MD of Bonnyville	23538	1
MD of Bonnyville	20434	17
MD of Bonnyville	19928	5
MD of Bonnyville	29284	2
MD of Greenview	7120	78
MD of Greenview	35669	4

Other Assessable Properties

MUNICIPALITY	LICENSE	LINE
MD of Greenview	31313	17

The complaint in respect to the assessment of the well located in Lac Ste. Anne County bearing the license number 229639 is denied.

The complaint in respect to the assessment of the pipeline located in the Municipal District of Greenview bearing the license number 20817 is denied.

The MGB directs that an opportunity be given to any of the owners/operators of the above-noted properties to request a re-hearing should they determine that the facts put forward by the Complainants and the Respondent which have resulted in the recommended changes are not correct. The impacted linear property owners/operators must file a request for re-hearing and include the supporting facts on this issue only, within 30 days from the date of this Board Order.

It is so ordered.

REASONS – Jurisdiction

Board Order MGB 136/01

It has been argued at these proceedings that Board Order MGB 136/01 stands for the proposition that the legislators did not intend that the complaint process could be used to add missed property where no assessment has been prepared. In that case the MGB did in fact find that the right to file a complaint is limited to those PPI-IDs or license numbers that appear on an assessment notice prepared for that particular property, and that Section 305 is clearly set out as the process to follow when these properties are not included on the notice. However, the reach of this finding was qualified.

> "The MGB leaves undecided the question of whether a demonstrated refusal by the DLA to include a particular property in the assessment can found a complaint."

In that case, the question was hypothetical because the DLA did amend the original assessment notices in December of 1999. Further, there was no evidence that the two parties in that case (the Respondent and the Complainants) met with a view to resolving the "outstanding issues" with regard to the 1998 assessment for the 1999 tax year until April of 2000. Any requests or subsequent refusals pertaining to Section 305 at that point would have been irrelevant considerations for the MGB at that complaint hearing, because the request would have been outside the current year when a Section 305 amendment could have taken place. There is nothing in that MGB 136/01 which suggests any requests in that current tax year had been made under Section 305(2) to add the missed properties. Even had such requests been made, there was no suggestion that there had been any demonstrated refusal by the DLA pursuant to that request.

Discovering Missed Assessments

The question of a demonstrated refusal by the DLA to include missed property within the relevant timeframe has been left open. The current complaint presents the appropriate factual scenario to deal with this question. The logical starting point in assessing if the DLA showed a demonstrated refusal after discovering missed assessments is to determine the manner in which a missed property can be "discovered" by the DLA, as contemplated in Section 305(2) of the Act. The MGB believes that any time a proper and reasonable request to issue assessment notices for missed property is brought before the DLA under Section 305(2), the DLA has then been given the opportunity to discover that no assessment notices have been issued if it makes diligent efforts to investigate the request. A proper and reasonable request under Section 305 triggers a duty for the DLA to make a reasonable effort to discover if indeed the property under request has been missed.

There is no formalized process outlined in Section 305(1) or (2) that is to be followed in order to bring missed property to the attention of the DLA. There is nothing that specifies what form a request is to take, nor are there limits on who can make such a request. It is not expressed that a request must even be brought to the DLA. What is required is the element of "discovery", implicitly by the DLA, that no assessment has been prepared for a property. One way that this can be discovered is by way of a third party's request. A request to the DLA in order to bring missed property to its attention is an acceptable method to allow for the discovery and correction of the missed property under Section 305(2).

The first requirement that must be met by the Complainants if they are to make such an error discoverable is to make the DLA (Respondent) aware that a request has been put before him. The DLA should then be made aware that this request specifically relates to Section 305, either because property has allegedly been missed and no assessment notices were issued, or because the notice itself contains a defect of some sort and ought to be corrected.

If the DLA is to discover an error or missed assessment, the party making the request must make the alleged defect reasonably clear upon a preliminary evaluation of the request. The request should demonstrate on the surface, the reason why the request is being made. The level of clarity and coherence required is tempered by the fact that the DLA is the expert in the field of linear assessment, and has an excellent background knowledge of the subject matter in this area. It should be clear enough to allow the DLA to understand the basic reasons behind it.

In determining if such a request was brought to the attention of the DLA, the MGB considered the factual history, communications, and meetings between the two parties in the relevant time period to determine if a proper request had been placed before the DLA under Section 305.

Was a Section 305 Request Before the DLA?

The MGB now turns to the specific facts of the case to determine if the DLA had in fact been made aware that the Complainants were seeking a remedy under Section 305. The complaint itself was filed with the MGB on April 15, 2002. There is nothing from that point up to May 7, 2002, that suggests that the complaint to the MGB itself could be construed as a proper request to the DLA to investigate the identified properties under Section 305.

There was no actual request to the DLA pursuant to these complaints, and owing to the vagueness and number of the complaints, it could not be reasonably known at that time that the Complainants were expecting the DLA to investigate these properties, in order to determine if in fact assessments had been missed. All that was before the DLA was material from the Complainants showing that a complaint that had been filed with the MGB about "Missing Wells, Missing Pipeline, Oil Flowing and Pipeline to Check" in each of the four municipalities. For these reasons, the MGB finds that as of May 7, 2002, no request had been put before the DLA under Section 305.

On May 8, 2002 two e-mails were received by the MGB, one from Mr. Randy Affolder on behalf of the Complainants, and one in response to the first e-mail, from Mr. Greg Johnson, on behalf of the DLA. The contents of the first e-mail were of great significance to the MGB in deciding whether or not a request to the DLA had been made.

The e-mail from Mr. Affolder stated that he had spoken with Mr. Johnson of the DLA's office to ask if the two parties could get together to analyze the complaint submissions in order to come to a resolution, as had been done the year prior. More importantly, it stated that the meetings conducted in the previous year which resulted in an agreement were conducted pursuant to Section 305. The e-mail from Mr. Johnson in response to the above stated that "if he [Mr. Affolder] could prove that any *assessment was incorrect* and he *brought it to our attention*, we would certainly look at it." [Italics added]. Implicit in the first e-mail is the fact that the DLA has used the Section 305 procedure in the past for such complaints. From the second e-mail, it is apparent that 1) the usual route to trigger the DLA's Section 305 duties is via a request and 2) that the DLA was aware that the current request of the Complainants was also being brought under Section 305. This evidence is sufficient to draw the conclusion that as of May 8, 2002 a request under Section 305 had been properly brought to the attention of the DLA.

Was the Request Reasonable?

The original information that formed the subject matter of this complaint consisted of four spreadsheets for each of the four municipalities, identifying a total of 2,277 properties by PPI-IDs or license numbers. The PPI-IDs and license numbers were classified by categories identifying the reason why these properties were under dispute. On April 23, 2002 the Complainants were asked to clarify the specific

reasons for each of the properties under complaint before the preliminary hearing date of May 9, 2002. At that hearing it was recognized that the Complainants had not clarified these complaints to a degree that was acceptable under Section 492(1) of the Act or Section 6.5 and Section 6.6.4 of the Procedure Guide. Board Order MGB 072/02 was issued on June 5, 2002 giving a further 14 days to the Complainants to clarify the complaints for the 2002 year only, and the year 2000 complaints were declared invalid. Throughout this hearing Mr. Affolder indicated that he was still wishing to meet with the DLA to go over the properties and come to a resolution and have assessment notices issued for those properties that were missed.

The MGB was provided with further clarification of the complaints on June 19, 2002. The Respondent was furnished with the same information, which consisted of 567 properties under complaint, submitted on 15 spreadsheets. The complaints were listed under three categories: 1) Missing Wells, 2) Missing Pipeline and 3) Pipeline Wrongly Assessed. The reasons for the complaints in each of these categories were explained in a three-page submission that also identified the category to which each spreadsheet for each municipality related. Several maps were also submitted along with detailed information on the description, to and from locations, and other characteristics of the property. The Respondent raised an objection to this information, arguing that it still did not know the case to be met for the purposes of the complaint.

The MGB finds that the clarified information of the Complainants of June 19th was sufficient to impose on the Respondent a duty to take reasonable steps to investigate the complaints. There was a reasonable level of coherence and clarity in the new information, sufficient to give the Respondent a basic understanding of why the request had been made, and to what subject matter the request relates. The Respondent (DLA) knew through its correspondence with Mr. Affolder, that the Complainants did not wish to go through the complaint process, but rather wanted to use the Section 305 route to amend any missed assessment notices, or errors in the assessment, by meeting with the DLA to come to a resolution. If the Respondent desired, a reasonable step in this investigation might have been to sit down and discuss the properties under request and under complaint with the Complainants. Beyond personal feelings between the parties, there was no reason why a meeting to discuss these properties could not have taken place. It was also well within the current year for which an assessment could have been issued for the property using a Section 305(2) correction.

Even if the MGB is wrong in the belief that the Respondent ought to have acted on the new information of June 19th, which was sufficiently clear to conduct a further investigation under Section 305, there are other subsequent events that also suggest that the Respondent knew or ought to have known that many of the complaints that were also under request were clear enough to resolve via Section 305 prior to the end of that current year. Foremost, in the preliminary hearing of July 30, 2002 that addressed the Respondent's objection to the new information, it appears that the Respondent had more than a basic

understanding of the issues that were in the new information package. This is noted on the record of these events in Board Order MGB 178/02.

The Respondent understood the "Missing Wells/Missing Pipelines" categories in enough detail to argue at those proceedings that no assessment had been issued for properties under these categories and therefore they could not be brought as complaints before the MGB. This is incontrovertible proof that the Respondent had discovered as of July 30th that the there were linear properties, either wells or pipelines, that existed in the boundaries of the Complainant municipalities which lacked assessment notices. This should have triggered action by the Respondent, pursuant to Section 305 making it mandatory upon this discovery to prepare assessment notices for these properties, unless some legislative reason existed for not doing so. Contrary to its legislative mandate, the Respondent (DLA) did not act to prepare new notices, despite the fact that it had discovered that assessment notices had not been issued for certain properties.

The decision of the July 30th hearing was issued on November 26, 2002 in Board Order 178/02. It found that "sufficient information had been submitted … for completing the complaint applications". Even without the finding that the Respondent had discovered the missed properties as of July 30th, there is no question that by November 26th at the very latest, as a result of the linear property complaint being deemed complete by the MGB, that the concurrent Section 305 request was also sufficiently clear and complete to justify the Respondent making further efforts to "discover" if in fact linear property notices had been incorrectly excluded.

From the evidence of the Respondent's witness Mr. Halsted, some investigation did take place in November of 2002, but owing once again to the perceived vagueness of the complaints, the DLA was unable to issue amended assessment notices in time to meet the December 31, 2002 deadline. However, the evidence shows that the DLA did in fact discover that some properties under complaint did not have assessment notices prepared for them. There was no evidence that any further investigation was done in collaboration with the Complainants to clarify any confusion with the properties under complaint. The MGB is not convinced that the November investigation took reasonable steps to allow the DLA to be able to issue the new assessment notices.

Based on the relevant history outlined above, the MGB concludes that a request was put before the DLA to have new assessment notices issued for missed properties, that this request did not lapse at any time during the concurrent complaint proceedings, and that the DLA was aware of this request throughout. Once the Section 305 request was put before the DLA in May of 2002, it remained before it throughout that year, and did not lapse merely because this complaint process was taking place concurrently. The reasons for the Section 305 request were readily available in the form of the June 19th disclosure, and the reasons outlined therein were sufficiently clear and cogent to allow for the discovery of missed assessment notices upon a reasonable inquiry. At any rate, the evidence shows that the DLA

had discovered the missed assessments as of the July 30, 2002 hearing. The Section 305 request made to the DLA was reasonable, and as a result of the request, the DLA discovered that no assessments had been prepared for some of the properties.

"Demonstrated Refusals"

Board Order MGB 136/01 put forward the possibility that a "demonstrated refusal" by the DLA to act on a valid Section 305 request can be the basis for a complaint that would otherwise fall outside the MGB's jurisdiction, because the complaint would involve linear property for which no assessments have been prepared. The MGB must determine the content of a demonstrated refusal, and whether or not the DLA has exhibited a demonstrated refusal according to the facts in this case.

A demonstrated refusal to act on a valid request (i.e. when the requisite information has been discovered) under Section 305 is defined differently depending on the subsection that the request is brought under. Subsection (1) applies to errors, omissions and misdescriptions, and when these are discovered, the DLA has discretion to amend the assessment notice. Therefore, the MGB believes that short of a finding of bad faith, a demonstrated refusal is not exhibited by the DLA merely by deciding not to follow up on a Section 305 (1) request, and the usual rules for the fair execution of legislative discretion will apply.

Section 305(2) leaves no discretion to the DLA to carry out the action specified therein, once it is discovered that no assessment notice has been issued for a property: an assessment for the property must be prepared. Therefore, the MGB reasons that if it is discovered by the DLA that assessments were missed and no assessment notices were prepared, then not acting pursuant to this information clearly constitutes a demonstrated refusal. In the same light, not acting diligently in attempting to discover if assessment notices were not issued for assessable properties, after it has been brought to the DLA's attention that there is a reasonable probability of this, could also be construed as a refusal under Section 305(2).

Further, the mandatory language in the Act requires that all non-exempt linear property be assessed. This overriding rationale, combined in particular with the mandatory language in Section 305(2) requiring the DLA to issue assessment notices when this property is missed, suggests to the MGB that even if the DLA is able to give reasons as to why no assessment notices were issued for a particular property, unless those reasons are correct and backed by legislative force (i.e. if the property were exempt under Section 298 and therefore not assessable), a failure to act accordingly under Section 305(2) will still constitute a demonstrated refusal.

The legislative intention to assess all linear property suggests that the appropriate procedure when the DLA is uncertain if a property should be assessed or not, is to issue the assessment notices pursuant to

305(2) despite unwritten policy or other practical considerations that may exist for not doing so. An affected party who disputes the new assessment can subsequently file a complaint to the MGB under Section 492(1)(f), and the issue of whether that property is assessable can be properly determined as a complaint before the MGB.

The alternative is for the DLA not to issue a new assessment notice, and if the DLA's reasons for so doing are indeed without legislative foundation, then the party making the valid request suffers unfairness and detriment by having its legislative remedy wrongly denied. More to the point, the party is left without any express avenue of appeal to dispute the DLA's reasons for not assessing the property because no notice has been issued. It stands to reason that even where the DLA has policy or other reasons to not issue assessment notices after a proper Section 305(2) request has been brought, unless those reasons are consonant with the Act or its derivative legislation, a failure to issue an assessment notice once it is discovered that none was issued for the property, constitutes a demonstrated refusal by the DLA.

The MGB believes that any reasons the DLA might have had for not issuing assessment notices for the property, were not sufficiently justified by the legislation. Owing to the lack of a legislatively valid reason for the DLA's non-compliance with its mandatory duties that had properly been triggered under Section 305(2), the MGB finds that the conduct of the DLA in the light of its discovery that no assessment notices had been prepared for the property, represents a demonstrated refusal.

Jurisdiction

There has been a demonstrated refusal by the DLA (Respondent) to act in accordance with its legislative mandate under Section 305(2), and the result is that properties that should have been assessed were not. The primary question is: Does the Act give the MGB jurisdiction to hear a complaint where property is not assessed when it should have been?

In addressing this question, the MGB relied on the Act, which is the starting point for all of the MGB's power, duties, and authority. There is no section in the Act, or Regulations that expressly gives the MGB the power to override the provision in Section 492(1) that a complaint about an assessment for linear property may be about any of the listed matters, as shown on the assessment notice. Therefore, the MGB's jurisdiction to hear this complaint exists only if it is consistent with the overall intent of those parts of the Act that relate to the assessment of linear property.

In assessing whether or not the legislators intended the MGB to be the proper body to hear this matter, reference was given to Division 1 of Part 9 of the Act, which concerns the "Preparation of Assessments". Section 285 of the Act specifies that the responsibility for assessing linear property does not fall to the municipality. This is an exception to the general rule set out in that same section that the assessment of all property that resides in the boundaries of the municipality is to be prepared by that

municipality. The Act establishes linear properties as an exceptional type of property, and the municipality is forced to defer the responsibility of its assessment to a third party.

Section 292 states that assessments for linear property must be prepared by the assessor who has been designated by the Minister. Section 293 specifies that the preparation of assessments must be carried out using the standards and procedures in the regulations, and that these must be applied in a fair and equitable manner. Reading these two sections together suggests that if the regulations specify that certain linear properties should be assessed, there is no discretion for the DLA but to prepare assessments for these properties. Only if the property falls under an exempt category in Section 298(q) or (r), should no assessment be prepared. The MGB draws the conclusion that one of the main intentions of the legislators that is found in Part 9 of the Act, is that all non-exempt linear property must be assessed by the DLA (Respondent).

Section 305 can be read as an extension of the legislative intent found in Section 292, in that it once again brings home the importance that is conferred on preparing assessments for all (non-exempt) linear property. Section 305(1) focuses on the importance of the technical correctness of the assessment, and when a technical defect is discovered on the assessment notice itself, then the DLA can exercise a discretion to determine if the defect is substantial enough to merit a correction. The language used in this subsection is permissive.

The mandatory language used in Section 305(2) reinforces the fact that the most important mandate in the linear property assessment process is to ensure that an assessment notice is in fact prepared and issued for assessable linear property. It offers a mandatory fail-safe procedure that supplements the correct assessment of all linear property. This procedure must be followed to further ensure that all assessable property is being assessed, when it is discovered that the DLA's original Section 292 mandate to assess all linear property has not been met.

The MGB also reads this section to have been put in place to ensure fairness to the municipality who must rely on the DLA to correctly carry out the assessment of linear property, because this responsibility has been taken away from the municipality by the Act. Section 305 is intended to ensure that the municipality suffers as little detriment as possible owing to this fact. It provides an avenue to follow if the DLA in fact misses a linear property in the assessment process. When this type of error is pointed out to the DLA within the appropriate timeframe, the remedy set out in this section is guaranteed, or else the permissive language as found in Section 305(1) would have been used. Section 305 is a way to challenge whether or not a property is assessable, by bringing the missed property to the attention of the DLA, without actually having to file a complaint to challenge the assessability of the property.

The Act does not give direction about the consequences of the DLA refusing to act according to his legislative duties under Section 305(2). The Act is mute on this possibility, and creates a grey area as to what the appropriate procedure should be in this event. One outcome that arises when the DLA refuses to issue new assessment notices under Section 305(1), is that the remedy or avenue of complaint that usually would lie with a complainant for this type of matter under Section 492(1)(f), is effectively cut off, because there is no assessment notice on which to base the complaint. That subsection specifies that whether or not a linear property is assessable is a legitimate matter that can found a complaint. Owing only to failures on the part of the DLA, the municipality is prevented from bringing a complaint on an otherwise valid matter.

In the present case, the DLA has failed to assess all linear property pursuant Section 292, and subsequently, has also failed to issue an assessment notice for each of these properties under Section 308(2)(a). This is punctuated by a third and final failure by the DLA to prepare a new assessment notice for the linear property when it was brought to its attention that the respective linear property has been missed. The end result is that the DLA has essentially insulated its assessment practices from review by the virtue of its own non-compliance with the Act, and more specifically, by virtue of not supplying the municipality with the Section 305 remedy that is its legislated duty to afford.

There can be two different interpretations of the Act under these circumstances. One interpretation is that in the face of such a refusal, the municipality's only recourse is to the courts to compel the DLA to comply with its statutory duty. The other interpretation is that since the law will deem to be done that which ought to be done, a demonstrated refusal can, once proven, be equated with the DLA issuing an assessment notice for that newly discovered property saying it is non-assessable. The second interpretation is consistent with maintaining the municipality's right to appeal the DLA's decision as to the assessability of property within its boundaries. It is also consistent with the intention found in the Act, that all linear property must be assessed.

Alternatively, the first interpretation would result in an incongruous outcome that cannot be read as being the intention of the legislators. It creates mischief in the face of the primary intention expressed in Part 9 of the legislation to assess all non-exempt linear property, and effectively takes away the recognized right of a municipality to appeal an assessment. For these reasons, the MGB believes that the wrongful deprivation by the DLA (Respondent) of all of the Complainants' remedies owing to its own demonstrated refusal to act, is an outcome that the legislators could not have intended.

Section 488(1)(a) of the Act confers a broad jurisdiction for the MGB to hear all complaints relating to linear property. Section 492(1) has a permissive component where it specifies which matters the complaint may be about, as shown on the assessment notice. The MGB believes that these two sections, when read in conjunction, and under the light of the legislative paradigm in Part 9 of the Act for linear property assessment, can reasonably be interpreted so as to confer jurisdiction on the MGB to

hear the current complaint, despite there being no assessment notice. Specifically, the present matter under complaint relates to an assessment that the DLA has refused to prepare according to its mandatory duties, resulting in no assessment notice being issued. Were it not for the refusal of the DLA, the matter would already be resolved pursuant to Section 305(2). If the property had been assessed despite uncertainty or disagreement as to whether it were assessable, it could at least have been properly brought before the MGB as a matter under Section 492(1)(c) or (f), to determine if the property were assessable and if the assessment should be changed. As a result of the DLA's actions, all avenues of remedy expressly granted in the Act have been cut off to the Complainants. The legislation was not intended to allow a party to benefit from its own wrongdoing, such as has happened in the present case.

The MGB notes that there may exist common law remedies for a municipality in situations such as at this one. However, it is not necessary to force the higher courts into the position of arbiters in the first instance, when, under a reasonable interpretation of the Act, the Complainant has remedies at the quasi-judicial level.

The MGB concludes that it is the proper arbiter for these complaints, and can therefore make a determination on the issues of merit for the properties under complaint.

REASONS – Merit

Pipeline Under 50 Metres

As implied earlier in the Reasons of this Board Order, and tied into the Findings on Jurisdiction, if a policy or other reason has caused the DLA not to assess linear property, then that policy must at least have some air of legislative foundation if it is to be relied upon as a justification for not assessing linear property that has otherwise been prescribed by the legislation as being assessable. Without some legislative basis, that reason or policy by default contradicts the Section 292 mandate for the DLA (Respondent) to assess all linear property.

The MGB finds that the policy itself is unwritten and is not supported by the Act. Section 292 states that linear property assessments must be prepared by the DLA and that the assessment must be based on the specifications and characteristics of the property as contained in the AEUB records. The pipeline is sour gas pipeline under 50 metres, and it is recorded in the AEUB data. Section 293(1) states that procedures and valuation standards to be applied are to be found in the Regulations. There are no standards or procedures outlined in the Regulations, Manual, or Guidelines that specify that pipeline less than 50 metres is not to be assessed. Unwritten policy notwithstanding, this pipeline is linear property contained in the AEUB records and must be assessed.

The Respondent and Intervenors have argued that it is neither fair nor equitable to assess this linear property because the current unwritten policy is to not record pipeline under 50 metres in the records of the AEUB. The reason for this policy is that the resulting assessment for this type of pipeline is so insignificant that it does not merit the effort that would be expended by its assessment. The only reason why pipeline less than 50 metres is found in the AEUB records is because it is sour gas pipeline, and is recorded here for reasons other than assessment purposes. As such, it would be inequitable to assess this pipe, when all other similar but non-sour gas pipeline under 50 metres is not assessed, because it does not appear in the AEUB records.

The difficulty that the MGB has with this equity argument is that its basis rests in an unwritten policy and not in the Act itself. There is no legislative basis not to assess gas pipeline property less than 50 metres in the first place, so in essence, the equity argument as it relates to the sour gas pipelines contained in the AEUB records, is itself based on comparables resulting from an assessment practice unrecognized in the legislation. Fairness and equity should only be gauged within a legislatively correct assessment practice. The non-assessment of these gas pipelines may be a reasonable policy, but it results in an assessment that is strictly incorrect in view of the Act requiring that all non-exempt linear property be assessed. This argument relies on incorrectly assessed property as an equity comparable, and is flawed at the outset.

Other Assessable Properties

The MGB reviewed the data and arguments presented for each of these properties in order to make a proper decision on whether they are assessable, and if the DLA failed to do so. The first property that the MGB looked at was the well in Lac Ste. Anne County with license number 229639. The MGB finds that there is nothing in the legislation that justifies the Complainants' position that this well ought to be assessed. The well was operational prior to October 30, 2001, but was abandoned after this date. The only relevant date for the DLA to consider according to Section 292(2) (b) when determining the characteristics of the well, is October 31st of the year prior to the year in which a tax is imposed. At that time, the well was not operational and showed an "Abandoned" status at the records of the AEUB. This being the case, the property was subject to 100 percent depreciation, and the DLA was correct in not issuing an assessment notice for this particular linear property.

In relation to the two pipelines, the Complainants have argued that these properties should have been assessed notwithstanding the fact that they were granted a "permitted" status only after October 31, 2001 because both these pipelines were connected to wells that showed production prior to and at October 31st.

The evidence of the Respondent showed that there are six lines that originate at the one well with license number 20817, and many of these have different "from" locations. Through the course of the hearing it was submitted by Mr. Affolder that one of the listed "from" locations for the 20817 pipeline under complaint was incorrectly listed. This point was not overly contested by the parties as the data indicated that there was no well listed at the original "from" location to which the pipeline could have been connected. In the absence of any evidence raised to the contrary, the MGB accepts that the "from" location of this pipeline under complaint is at LSD 08, Section 09, Township 069, and not at the originally listed location.

What was also of interest to the MGB is that according to the Complainants' GIS data, there is not one but two pipelines that connect to this well. As such, although the records do show that there was production from this well, it was not firmly established by the Complainants that the pipeline under complaint was the one that carried product from the well as of October 31, 2001. Moreover, the fact that the line under complaint was only given "P" or permitted status some time in December 2001, suggests that the more reasonable conclusion is that the other pipeline bore the production from this well until the time when the second pipe was given its permitted status. Thus, for this pipeline property under complaint, the Complainants have not met the onus of proof required to demonstrate that this line was operational at the relevant timeframe.

The second pipeline under complaint has a gas well at its "from" location, which is LSD 03, Section 25, Township 063, and bears license number 31313. From the evidence of the Complainants, this well

shows gas production as of October 31, 2001. The pipeline in question is the only pipeline associated with this well at the location identified above. The MGB accepts that the production from this well was carried by the pipeline under complaint during the relevant time frame, and should have been assessed by the DLA.

Recommendation of the Parties

In the absence of any evidence to the contrary, the MGB accepts the recommendation of the Respondent (DLA) who has agreed with the Complainants that the 36 properties in question, should be assessed. There was no suggestion put forth by any of the parties, including the Intervenors, that the facts giving rise to the agreement were in error. Assessment notices were not issued for these properties, the DLA showed a demonstrated refusal to issue new assessments for these properties under Section 305(2), and as a result of this failure to perform its duty, the MGB has found that it has jurisdiction to hear and decide this complaint, and to give effect to any resulting resolutions recommended by the parties.

Notice to the Assessed Persons

Section 517 of the Act requires municipalities to make the necessary changes to the tax and assessment rolls to reflect the MGB's decision. The MGB is confident that this statutory direction will be followed. The rights of taxpayers flowing from such corrections can be dealt with by revised assessment notices and, if necessary, through the ordinary law. The Act vests the MGB with no specific authority to give directions on the tax payment and tax refund consequences, only on the underlying assessment rolls.

It should be noted that, although the impacted linear property owners/operators were notified of this hearing, the MGB wishes to ensure that all these property owners/operators are fully aware of the detailed nature of this complaint that was before the MGB. The MGB is, therefore, giving these linear property owners/operators the opportunity to request a re-hearing should they determine that the facts put forward by the Complainant municipalities and the DLA on the recommended changes are not correct. The impacted linear property owners/operators must file a request for re-hearing and include the supporting facts on this issue only, within 30 days of the date of this Board Order.

No costs to either party.

Dated at the City of Edmonton, in the Province of Alberta, this 18th day of September 2003.

MUNICIPAL GOVERNMENT BOARD

(SGD.) Norm Dennis, Presiding Officer

APPENDIX "A"

APPEARANCES

NAME	**CAPACITY**
R. Affolder	Assessment Consultant for the Complainants
S. McNaughtan	Solicitor for the Complainants
C. Plante	Solicitor for the Respondent
G. Ludwig	Solicitor for the Intervenors
K. Halsted	Assessor for the Respondent
G. Johnson	Assessor for the Respondent
D. Bielecki	Representative for Talisman Energy Co.

APPENDIX "B"

DOCUMENTS RECEIVED AT THE HEARING AND CONSIDERED BY THE MGB

NO.	ITEM
A1.	Complainants' Brief
A2.	Complainants' Binder as Attachment to Brief
R1.	Respondent's Brief
R2.	Respondent's Binders as Attachment to Brief
A3.	Complainants' Rebuttal
R3.	Letter from Bishop McKenzie Conceding Properties
A4.	Complainants' Colour Code Submissions
R4.	Letter from Bishop McKenzie – New Counsel
A5.	Letter From RMRF – No Further Clarifications
R5.	Consolidation of A4 Submissions
R6.	Missing Wells/Pipelines, Pipeline to Review
I1.	Letter from Wilson Laycraft – No "Add-ons"
I2.	Letter from Wilson Laycraft – Costs & PPI-IDs

DOCUMENTS RECEIVED AFTER THE HEARING AND CONSIDERED BY THE MGB

NO.	ITEM
1.	Final Submissions of the Complainants
2.	Final Submissions of the Respondent
3.	Final Submissions of the Intervenors
4.	Rebuttal Submissions of the Complainants
5.	Rebuttal Submissions of the Respondent
6.	Rebuttal Submissions of the Intervenors
7.	Letter from Bishop McKenzie Resolving Boundary Issue
8.	Letter of Objection - Randy Affolder
9.	Response to Objection – Bishop McKenzie
10.	Response to Objection – Wilson Laycraft
11.	Binder of Summarized File History - MGB

APPENDIX "C"

LISTING OF ALL 293 PROPERTIES UNDER COMPLAINT & OWNERS / OPERATORS OF THOSE PROPERTIES HAVING STATUS AS INTERVENORS

- For those properties that are in **BOLD** type, the DLA has conceded that the assessment was missed, and has put forward a recommendation.

- For those properties with an **ASTERISK (*),** the respective complaints associated with these properties have been withdrawn during the course of this hearing.

COUNTY OF TWO HILLS		
ASSESSED PERSONS / OWNERS	**PPI-ID**	**LICENSE**
ANADARKO CANADA CORPORATION	585212	10737
ANADARKO CANADA CORPORATION	643888	24088
ANADARKO CANADA CORPORATION	585218	10737
ANADARKO CANADA CORPORATION	643891	24088
ANADARKO CANADA CORPORATION	618975	19032
ANADARKO CANADA CORPORATION	621392	19482
ANADARKO CANADA CORPORATION	643884	24088
ANADARKO CANADA CORPORATION	618967	19032
ANADARKO CANADA CORPORATION	621701	19541
CANADIAN NATURAL RESOURCES LIMITED	603836	15791
CANADIAN NATURAL RESOURCES LIMITED	597111	14132
CANADIAN NATURAL RESOURCES LIMITED	603832	15791
CANADIAN NATURAL RESOURCES LIMITED	599778	14765
CANADIAN NATURAL RESOURCES LIMITED	597096	14132
DOMINION EXPLORATION CANADA LTD.	695246	26890
DOMINION EXPLORATION CANADA LTD.	**812472**	**26890**
HUSKY OIL OPERATIONS LIMITED	580993	9943
SIGNALTA RESOURCES LIMITED	612392	17449
SIGNALTA RESOURCES LIMITED	746731	17449
SOUTHWARD ENERGY LTD.	629913	20961
SOUTHWARD ENERGY LTD.	**823334**	**7975**
ANADARKO CANADA CORPORATION		10402
ANADARKO CANADA CORPORATION		19541
CANADIAN NATURAL RESOURCES LIMITED		192405
HAWK OIL INC.		222762

MD OF GREENVIEW NO. 16		
ASSESSED PERSONS / OWNERS	**PPI-ID**	**LICENSE**
AEC OIL & GAS CO. LTD.*	821577*	37161*
AEC OIL & GAS CO. LTD.	817032	35681
ALTAGAS SERVICES INC.	663169	28438
ALTAGAS SERVICES INC.	662800	28312
ANADARKO CANADA CORPORATION	**820510**	**36820**
ARKOMA ENERGY, INC.	698815	32601
BP CANADA ENERGY COMPANY	566072	6983
BP CANADA ENERGY COMPANY	816850	35596
BP CANADA ENERGY COMPANY	697466	31883
BP CANADA ENERGY COMPANY	622171	19601
BP CANADA ENERGY COMPANY*	823106*	6983*
BP CANADA ENERGY COMPANY	814458	32134
BP CANADA ENERGY COMPANY	810439	19660
BP CANADA ENERGY COMPANY	**814496**	**32220**
BP CANADA ENERGY COMPANY	673245	31544
BURLINGTON RESOURCES CANADA LTD.	616312	18459
BURLINGTON RESOURCES CANADA LTD.	815971	35052
BURLINGTON RESOURCES CANADA LTD.	616302	18459
BURLINGTON RESOURCES CANADA LTD.	**819774**	**36634**
BURLINGTON RESOURCES CANADA LTD.	614122	17939
BURLINGTON RESOURCES CANADA LTD.	614128	17939
BURLINGTON RESOURCES CANADA LTD.	614143	17939
BURLINGTON RESOURCES CANADA LTD.	616303	18459
CANADIAN HUNTER EXPLORATION LTD.	811283	23596
CANADIAN HUNTER EXPLORATION LTD.	**811161**	**23018**
CANADIAN HUNTER EXPLORATION LTD.	**811163**	**23018**
CANADIAN HUNTER EXPLORATION LTD.	**811160**	**23018**
CANADIAN HUNTER EXPLORATION LTD.	**812233**	**26192**
CANADIAN NATURAL RESOURCES LIMITED	697063	31499
CHEVRON CANADA LIMITED	600074	14872
CHEVRON CANADA LIMITED	809244	14182
CHEVRON CANADA LIMITED	597313	14186
CONOCO CANADA RESOURCES LIMITED	633189	21725
DEFIANT ENERGY CORPORATION	815867	34935
DEVON AOG CORPORATION	724294	15631
DEVON AOG CORPORATION	819441	36526
DEVON AOG CORPORATION	819442	36527
DEVON AOG CORPORATION	**898819**	**36527**

MD OF GREENVIEW NO. 16		
ASSESSED PERSONS / OWNERS	**PPI-ID**	**LICENSE**
DEVON AOG CORPORATION*	819736*	36622*
DEVON AOG CORPORATION	**809473**	**15631**
DEVON AOG CORPORATION	692470	15631
DEVON CANADA CORPORATION	697630	31951
DEVON CANADA CORPORATION	814407	31951
DEVON CANADA CORPORATION	**815324**	**34046**
EDGE ENERGY INC.	754982	35026
ENERMARK INC.	659160	27482
ENERMARK INC.	667740	29572
GULF CANADA LIMITED	692864	16997
HUSKY OIL OPERATIONS LIMITED	812057	25850
KAISER ENERGY LTD.	660747	27856
KAISER ENERGY LTD.	699930	32896
MARATHON CANADA LIMITED	**815145**	**33637**
MARATHON CANADA LIMITED	748628	33709
MARATHON CANADA LIMITED	**819683**	**36605**
NORTHROCK RESOURCES LTD.	**812685**	**27463**
NORTHROCK RESOURCES LTD.*	812686*	27464*
NUMAC ENERGY INC.	614189	17953
NUMAC ENERGY INC.	616887	18587
PARAMOUNT RESOURCES LTD*	809454*	15617*
PARAMOUNT RESOURCES LTD	642865	23851
PARAMOUNT RESOURCES LTD	658031	27193
PARAMOUNT RESOURCES LTD	811215	23307
PARAMOUNT RESOURCES LTD	635510	22211
PARAMOUNT RESOURCES LTD	634597	22007
PARAMOUNT RESOURCES LTD	695349	27142
PARAMOUNT RESOURCES LTD	657870	27142
PARAMOUNT RESOURCES LTD	657861	27142
PARAMOUNT RESOURCES LTD	613845	17871
PARAMOUNT RESOURCES LTD	**809866**	**17871**
PARAMOUNT RESOURCES LTD	**813247**	**28758**
PARAMOUNT RESOURCES LTD	**813251**	**28758**
PARAMOUNT RESOURCES LTD	**820790**	**36932**
PARAMOUNT RESOURCES LTD	661436	27998
PARAMOUNT RESOURCES LTD	698815	32601
PARAMOUNT RESOURCES LTD	**820802**	**36935**
PARAMOUNT RESOURCES LTD	**811062**	**22211**
PARAMOUNT RESOURCES LTD	664432	28756

MD OF GREENVIEW NO. 16		
ASSESSED PERSONS / OWNERS	**PPI-ID**	**LICENSE**
PARAMOUNT RESOURCES LTD	664435	28758
PARAMOUNT RESOURCES LTD	664436	28758
PARAMOUNT RESOURCES LTD	813246	28758
PARAMOUNT RESOURCES LTD	**813253**	**28758**
PARAMOUNT RESOURCES LTD	748030	31313
PARAMOUNT RESOURCES LTD	698257	32299
PENGROWTH CORPORATION	554907	3257
PENGROWTH CORPORATION	554908	3257
PENGROWTH CORPORATION	822902	6011
PENGROWTH CORPORATION	562624	6056
PETRO-CANADA	603302	15700
PETRO-CANADA	639923	23307
PETRO-CANADA	639928	23307
PETRO-CANADA	562524	6011
PETRO-CANADA	573956	8658
PETRO-CANADA	562615	6056
PETROMET RESOURCES LIMITED	658073	27194
PETROMET RESOURCES LIMITED	658115	27194
PETROMET RESOURCES LIMITED	724855	27194
PETROMET RESOURCES LIMITED	695359	27194
PETROMET RESOURCES LIMITED	753363	29951
PETROMET RESOURCES LIMITED	658059	27194
PETROMET RESOURCES LIMITED	658052	27194
PRIMEWEST ENERGY INC.	581280	10008
PRIMEWEST OIL AND GAS CORP.	823912	9374
PROGRESS ENERGY LTD.	815068	33551
PROGRESS ENERGY LTD.	745316	33551
RIFE RESOURCES LTD.	652906	26063
RIO ALTO EXPLORATIONS LTD.	634099	21916
RIO ALTO EXPLORATIONS LTD.	696377	29960
RIO ALTO EXPLORATIONS LTD.	616355	18464
RIO ALTO EXPLORATIONS LTD.	634094	21916
RIO ALTO EXPLORATIONS LTD.	646125	24568
RIO ALTO EXPLORATIONS LTD.	669272	29960
RIO ALTO EXPLORATIONS LTD.	816783	35557
RIO ALTO EXPLORATIONS LTD.*	752937*	25283*
RIO ALTO EXPLORATIONS LTD.	618541	18932
RIO ALTO EXPLORATIONS LTD.	618542	18932
RIO ALTO EXPLORATIONS LTD.	813866	30392

MD OF GREENVIEW NO. 16		
ASSESSED PERSONS / OWNERS	**PPI-ID**	**LICENSE**
RIO ALTO EXPLORATIONS LTD.	768334	23582
RIO ALTO EXPLORATIONS LTD.	820508	36819
RIO ALTO EXPLORATIONS LTD.	568862	7581
RIO ALTO EXPLORATIONS LTD.	694311	23582
RIO ALTO EXPLORATIONS LTD.	812377	26617
SUMMIT RESOURCES LIMITED	658230	27228
SUNCOR ENERGY INC.	618949	19031
SUNCOR ENERGY INC.	615255	18190
SUNCOR ENERGY INC.	897388	10062
TALISMAN ENERGY INC.	667656	29539
TALISMAN ENERGY INC.	747643	28679
TALISMAN ENERGY INC.	578037	9330
TALISMAN ENERGY INC.	814548	32376
TALISMAN ENERGY INC.	660631	27826
TOM BROWN RESOURCES LTD	635509	22211
TUSK ENERGY INC.	578244	9376
VINTAGE PETROLEUM CANADA, INC.	588450	11622
VINTAGE PETROLEUM CANADA, INC.	813396	29061
VINTAGE PETROLEUM CANADA, INC.	**814633**	**32541**
VINTAGE PETROLEUM CANADA, INC.	589264	11864
VINTAGE PETROLEUM CANADA, INC.	813394	29061
VINTAGE PETROLEUM CANADA, INC.	813395	29061
VINTAGE PETROLEUM CANADA, INC.	592995	13010
VINTAGE PETROLEUM CANADA, INC.	754366	34697
VINTAGE PETROLEUM CANADA, INC.	754614	34836
VINTAGE PETROLEUM CANADA, INC.*	814634*	32541*
VINTAGE PETROLEUM CANADA, INC.	593937	13347
VINTAGE PETROLEUM CANADA, INC.	672659	31244
VINTAGE PETROLEUM CANADA, INC. *	815427*	3421*
VINTAGE PETROLEUM CANADA, INC.	588446	11622
VINTAGE PETROLEUM CANADA, INC.	817644	35953
VINTAGE PETROLEUM CANADA, INC.	817645	35953
VINTAGE PETROLEUM CANADA, INC.	817912	36067
VINTAGE PETROLEUM CANADA, INC.	817913	36067
VINTAGE PETROLEUM CANADA, INC.	817914	36067
VINTAGE PETROLEUM CANADA, INC.	602881	15596
VINTAGE PETROLEUM CANADA, INC.	**814633**	**32541**
VINTAGE PETROLEUM CANADA, INC.	593929	13347
VINTAGE PETROLEUM CANADA, INC.	822583	37402

MD OF GREENVIEW NO. 16		
ASSESSED PERSONS / OWNERS	**PPI-ID**	**LICENSE**
VISTA MIDSTREAM SOLUTIONS LTD.	820491	36808
AMOCO CANADA PETROLEUM COMPANY LTD.		223852
AMOCO CANADA PETROLEUM COMPANY LTD.		216593
AMOCO CANADA PETROLEUM COMPANY LTD.		79363
CANADIAN FOREST OIL LTD.		**238305**
CANADIAN FOREST OIL LTD.		226702
BP CANADA ENERGY COMPANY		7120
BP CANADA ENERGY COMPANY		35669
BP CANADA ENERGY COMPANY*		36821*
BURLINGTON RESOURCES CANADA LTD.		20817
PARAMOUNT RESOURCES LTD.		31313

LAC STE. ANNE COUNTY		
ASSESSED PERSONS / OWNERS	**PPI-ID**	**LICENSE**
925011 ALBERTA LTD.	724363	18108
BAYTEX ENERGY LTD.	607766	16610
BAYTEX ENERGY LTD.	607759	16610
BAYTEX ENERGY LTD.	607767	16610
BONAVISTA PETROLEUM LTD.	673411	31675
BONAVISTA PETROLEUM LTD.	**810790**	**20705**
BONAVISTA PETROLEUM LTD.	600407	14987
BONAVISTA PETROLEUM LTD.	600406	14987
BONAVISTA PETROLEUM LTD.	809344	14987
CALCRUDE OILS LIMITED	627489	20535
CALPINE CANADA RESOURCES LTD.	659921	27669
CAPTURE RESOURCES CORPORATION	748282	32663
CAPTURE RESOURCES CORPORATION	698917	32663
COASTAL RESOURCES LIMITED	640845	23468
CONOCO CANADA RESOURCES LIMITED	669891	30163
ELK POINT RESOURCES INC.	748690	33789
ENERMARK INC.	753070	27009
SHININGBANK ENERGY LTD.	648640	25208
SOUTHWARD ENERGY LTD.	**821161**	**37048**
STARTECH ENERGY INC	627480	20532
SHININGBANK ENERGY LTD.		25208
BONAVISTA PETROLEUM LTD.		260419
NORTHROCK RESOURCES LTD.		**221520**
RUBICON ENERGY CORPORATION		229639

MD OF BONNYVILLE NO. 87		
ASSESSED PERSONS / OWNERS	**PPI-ID**	**LICENSE**
ALTAGAS SERVICES INC.	670502	30375
ALTAGAS SERVICES INC.	549417	860
ALTAGAS SERVICES INC.	550399	1532
ALTAGAS SERVICES INC.	671730	30777
ALTAGAS SERVICES INC.	550407	1532
ALTAGAS SERVICES INC.	549412	860
ALTAGAS SERVICES INC.	550434	1532
ALTAGAS SERVICES INC.	534284	1532
ALTAGAS SERVICES INC.	550421	1532
ALTAGAS SERVICES INC.	550422	1532
ALTAGAS SERVICES INC.	534302	1532
ALTAGAS SERVICES INC.	736152	1532
ALTAGAS SERVICES INC.	671230	30586
ALTAGAS SERVICES INC.	638414	22968
ALTAGAS SERVICES INC.	558866	4876
ANADARKO CANADA CORPORATION	669468	30011
BONAVISTA PETROLEUM LTD.	658900	27424
BP CANADA ENERGY COMPANY	594278	13441
BP CANADA ENERGY COMPANY	594276	13441
BP CANADA ENERGY COMPANY	746462	13441
CANADIAN NATURAL RESOURCES LIMITED	625386	20147
CANADIAN NATURAL RESOURCES LIMITED	671200	30579
CANADIAN NATURAL RESOURCES LIMITED	671276	30611
CANADIAN NATURAL RESOURCES LIMITED	698133	32218
CANADIAN NATURAL RESOURCES LIMITED	725382	33008
CANADIAN NATURAL RESOURCES LIMITED	650051	25527
CANADIAN NATURAL RESOURCES LIMITED	662519	28218
DIAZ RESOURCES LTD.	603436	15737
EXXONMOBIL CANADA LTD.	628266	20659
HUSKY OIL OPERATIONS LIMITED	695182	26720
HUSKY OIL OPERATIONS LIMITED	638628	23020
HUSKY OIL OPERATIONS LIMITED	638632	23020
HUSKY OIL OPERATIONS LIMITED	649627	25444
IMPERIAL OIL RESOURCES LIMITED	654990	26487
IMPERIAL OIL RESOURCES LIMITED	633057	21691
IMPERIAL OIL RESOURCES LIMITED	633058	21691
KOCH EXPLORATION CANADA LTD.*	600273*	14921*
NORTHSTAR ENERGY CORPORATION	624185	19931
NORTHSTAR ENERGY CORPORATION	624186	19931

MD OF BONNYVILLE NO. 87		
ASSESSED PERSONS / OWNERS	**PPI-ID**	**LICENSE**
NUMAC ENERGY INC.	635013	22078
NUMAC ENERGY INC.	635012	22078
NUMAC ENERGY INC.	635005	22078
PARAMOUNT RESOURCES LTD	661746	28056
PARAMOUNT RESOURCES LTD	660473	27774
PARAMOUNT RESOURCES LTD	**821534**	**37153**
TOUCHWOOD PETROLEUM LTD.	672419	31111
TOUCHWOOD PETROLEUM LTD.	697919	32130
VINTAGE PETROLEUM CANADA, INC.	647186	24850
VINTAGE PETROLEUM CANADA, INC.	660506	27784
VINTAGE PETROLEUM CANADA, INC.	647403	24912
ALTAGAS SERVICES INC.		18415
CANADIAN NATURAL RESOURCES LIMITED		22855
CANADIAN NATURAL RESOURCES LIMITED		22855
CANADIAN NATURAL RESOURCES LIMITED		22855
CANADIAN NATURAL RESOURCES LIMITED		23538
IMPERIAL OIL RESOURCES LIMITED		20434
KOCH EXPLORATION CANADA, LTD.		19928
NUMAC ENERGY INC.		29284
AMOCO CANADA PETROLEUM COMPANY LTD.		181354
ANDERSON RESOURCES LTD.		192384
CANADIAN NATURAL RESOURCES LIMITED		180283
CANADIAN NATURAL RESOURCES LIMITED		153136
CANADIAN NATURAL RESOURCES LIMITED		168716
CANADIAN NATURAL RESOURCES LIMITED		190384
CANNAT RESOURCES INC.		205833
CANNAT RESOURCES INC.		205835
CANNAT RESOURCES INC.		205834
HUSKY OIL OPERATIONS LIMITED		216480
HUSKY OIL OPERATIONS LIMITED		216480
HUSKY OIL OPERATIONS LIMITED		214644
HUSKY OIL OPERATIONS LTD.		215645
IMPERIAL OIL RESOURCES LIMITED		**237004**
IMPERIAL OIL RESOURCES LIMITED		**263090**
IMPERIAL OIL RESOURCES LIMITED		**263091**
IMPERIAL OIL RESOURCES LIMITED		**263092**
IMPERIAL OIL RESOURCES LIMITED		**263093**
IMPERIAL OIL RESOURCES LIMITED		**0048610A**
IMPERIAL OIL RESOURCES LIMITED		**0048609C**

APPENDIX "D"

COMPREHENSIVE FILE HISTORY

On April 15, 2002 the Complainants upon receiving the 2001 linear property assessments, filed 2,277 individual linear property complaints under four different complaint headings: a) Missing Wells, b) Missing Pipeline, c) Oil Flowing, and d) Pipeline to Check. The properties were listed either by their license number or by their Permanent Property Inventory Identifier number (PPI-ID). Due to uncertainty as to the specific bases for the complaints, these complaints together with the 1999 assessment complaints were subject to a preliminary hearing on May 9, 2002 to deal with the validity of the complaints filed.

On May 08, 2002, just prior to the preliminary hearing, the MGB was informed by e-mail that the Complainants were in contact with the Respondent seeking clarification as to whether or not the Respondent was prepared to review each individual linear property complaint and, if necessary, make any changes pursuant to Section 305 of the Act, as was done for the previous year's complaints.

Board Order MGB 072/02 was issued on June 5, 2002, relative to the May 9, 2002 preliminary hearing. The MGB declared that the 1999 complaints were invalid on the basis that they did not comply with the information requirements under Section 491 (2) of Act and Section 6.5 of the MGB's Procedure Guide. The MGB also found that the information required under Section 491 (2) of the Act and under Section 6.4 (b) and Section 6.5 (a) of the MGB Procedure Guide in respect of the complaints for the 2000 tax year were not provided by the Complainants within the time limits prescribed, and were subsequently dismissed. The 2001 complaints were considered incomplete for the same reasons, however the MGB gave the Complainants 14 days to make complete and file these applications with the MGB.

On June 19, 2002, the MGB received revised complaints. The revised complaints filed were reduced in number to 567 PPI-IDs in total and were re-categorized under three different complaint headings: a) Missing Wells, b) Missing Pipeline, and c) Pipeline to Check. Along with these revised categories came a three-page explanation of what each entailed, and several Excel spreadsheets identifying each property from each municipality for each complaint category.

The Respondent objected to these revised complaints, maintaining that they were still incomplete, and did not meet the requirements set out in MGB 072/02. The Respondent further contested the fact that many of the properties under complaint had not had assessment notices prepared for them, and could therefore not be complained on. A notice of preliminary hearing went out to all parties, setting a hearing date of July 30, 2002 to deal with this objection. Board Order MGB 178/02 was issued on November 26, 2002 relative to the preliminary hearing of July 30, 2002. This Board Order stated that the

complaints filed by the Complainants were deemed to be complete applications and the question of whether a complaint can be filed on missing wells or pipelines, or pipeline of less than 50 metres, when no assessments were prepared for these properties, was still outstanding and would be dealt with as an issue at the scheduled hearing.

On November 29, 2002, the MGB issued directions to the parties outlining the schedule that was to be followed for providing disclosure. These instructions were subsequently amended on December 17, 2002, and a hearing date was set for March 24, 2003.

On March 24, the MGB convened to hear the complaints submitted by the municipalities. At this time, it was the intent of the MGB to hear the complaints in their entirety, including any matters preliminary to the complaint. The non-appearance of the Complainants key witness due to physical injury suffered while skiing precluded the MGB from hearing the complaint on its merits. The MGB did however make two preliminary rulings, the first regarding the appropriateness of an adjournment and the second regarding the admissibility of new documents submitted by the Respondent the evening prior. These rulings and the setting of the current hearing are contained in DL 024/03. The MGB decided that the new information would be permitted with the understanding that the parties would convene in the interim to review the documents with a view to resolving the new properties or PPI-IDs under complaint, and to consolidate the information for the purposes of this hearing.

On April 4th, a Notice of Hearing was sent out to the two parties as well as to the third party owners/operators as Intervenors, amending the proposed hearing schedule. The letter also indicated that pursuant to DL 024/03 certain PPI-IDs in dispute had been resolved between the Respondent and the Complainants, such PPI-IDs being annexed to that notice as "Attachment B". The MGB acknowledged that a jurisdictional question was to be heard at this hearing, and that the owner operators affected by the resolution between the Respondent and Complainants as identified in the attachment, could request copies of the submissions of the parties concerning this jurisdictional question. The jurisdictional question pertained to the MGB's authority to deal with a complaint for which no assessment had been prepared by the Respondent.

On April 30, 2003, the Complainants submitted to the MGB a colour-coded condensed compilation of the properties, which grouped certain properties together by issue category and PPI-IDs or license numbers. Among the items put into separate colour categories were those properties for which the complaint had been subsequently agreed to or "conceded" by the Respondent, and those properties that had subsequently been withdrawn by the Complainants. As a result the categories and properties in dispute were re-identified under four different complaint headings: a) Missing Wells, b) Missing Pipeline, c) Pipeline to Check and d) Conceded. The number of PPI-IDs or license numbers filed was reduced to 293 in total.

Included in this package was a series of maps and production information that was intended to assist the MGB to consider the complaints at the hearing. The MGB was also informed that the Complainants intended to bring to the hearing for the purposes of presenting their complaint, electronic AEUB data for referral purpose should such data become necessary.

On May 9, 2003 counsel for the Respondent contended that it was inappropriate to provide these new productions at such a late stage and that, absent an adjournment, counsel was unprepared to analyze this further information. The letter also objected to the possibility of live electronic data being used at the hearing.

The hearing went forward on May 20, 2003, to address all of the relevant issues. The hearing was scheduled for 5 days. Near the end of the scheduled hearing time, the parties agreed that final submissions to the MGB would be made in writing. The MGB informed the parties that it would issue its decision in this matter after considering these final submissions, and any rebuttal submissions. Directions setting out the timeline for final submissions were given to the parties.