

**BOARD ORDER: MGB 247/98**

**IN THE MATTER OF THE** "Municipal Government Act" being Chapter M-26.1 of the Statutes of Alberta 1994.

**AND A PRELIMINARY MATTER RESULTING FROM AN APPEAL** of the 1997 Linear Assessments prepared by the Assessor designated by the Minister

**BETWEEN:**

Union Pacific Resources Inc.(formerly Norcen Energy Resources Ltd.) - Appellant

- a n d -

The Ministry of Municipal Affairs-Assessment Services Branch (The Department) - Respondent

**BEFORE:**

J. Church, Presiding Officer  
S. Cook, Member  
C. Hannah, Member  
D. H. Marchand, Secretariat

Upon notice being given to the affected parties, a hearing was held in the City of Calgary, in the Province of Alberta on September 21, 1998.

This hearing is relative to a preliminary matter raised by the Respondent to an appeal(s) to the Municipal Government Board of the 1997 Linear Assessment(s) prepared by the Assessor designated by the Minister with respect to linear assessments entered in the assessment rolls of the several municipalities.

**BACKGROUND**

In November 1997 a preliminary inventory report on approximately 3,900 accounts of linear property was provided to the Appellant with instruction that the inventory was to be reviewed and the confirmation of each accounts status was to be forwarded back to the Department.

The deadline given for response to this self-reporting inventory system was December 31, 1997. This date was extended to January 15, 1998, because of a mail strike in late 1997. During this period a workshop on *Well and Pipeline Reporting Procedures* was provided to the staff of Norcen Energy Resources Ltd. At the same time some major restructuring was taking place with Norcen Energy Resources Ltd. resulting in the formation of Union Pacific Resources Inc.

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The Department received no reply to the preliminary inventory report. The first notices of assessment were mailed in February 1998. The notices did differ from the preliminary inventory report issued.

In February 1998 the Appellant retained the services of Royal LePage Property Tax Consulting (the Consultant) to review the February 1998 assessment notices.

The Consultant observed errors within the February 1998 assessment notices and approached the Department in this regard. The Consultant was advised by the Department that an amended notice was being prepared and requested that the Consultant deliver by April 8, 1998 a list of suggested changes which would be appropriate to include in the amended notice. This was sent by courier to the Department on April 7, 1998, with an invitation to discuss the changes with the Department.

No appeals were filed to the February 1998 assessment notices

The Department mailed the amended assessment notices May 22, 1998. None of the suggested changes were reflected in the amended notices.

Within the 30-day appeal period the Consultant filed with the Municipal Government Board 3,320 individual linear appeal applications. They were received on June 22, 1998. These appeals are against the May 22, 1998, amended assessment notices sent to 49 Counties, Municipalities or settlements where the appellant Union Pacific Resources Inc. has either *well* or *line pipe* linear property located. Each line pipe appeal application indicated "*The pipeline is Non-operational*" as the reason for the matter being referred to the Board. Each well appeal application indicated "*Improper well status/not operated by Norcen*" as the reason for the matter being referred to the Board

A tentative Scheduling Notice was issued to both parties on August 11, 1998, suggesting the weeks of October 5, 1998, or October 12, 1998, as possible hearing dates.

The Board received from the Department a letter dated August 27, 1998, requesting a hearing to deal with a preliminary matter. The letter suggest that the Board find all the appeals submitted to be invalid as they amount to a blanket appeal. The author wrote that the Department's staff found it impossible to review all the appeals without specific complaints being clearly stated.

### **ISSUES**

1. Is the filing of the 3,320 individual appeal notices, where each line pipe appealed has the same reason for their appeal and where each well appealed has the same reason for their appeal, an abuse of the appeal process?

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2. Are the appeals valid and within the legislative requirements of filing a linear appeal?
3. Is the Board restricted to only the stated reasons for appeal as specifically set out in the Notice of Appeal Application.

### LEGISLATION

#### Municipal Government Act

Section 292	Assessments for linear property
Section 304(1)(i)	Recording assessed persons
Section 305	Correction of roll
Section 308(2)(a)	Assessment notices
Section 312	Correction of notice
Section 488(1)(a)	Jurisdiction of the Board
Section 491(1)(a)	Written statement
Section 492(1)	Complaints about linear property
Section 493(2)	Duty of administrator on receiving statement
Section 496	Proceedings before the Board
Section 499(1)(b)	Decisions of the Board
Section 501	Costs of proceedings
Section 523	Rules, re: procedures

### SUMMARY OF THE DEPARTMENT'S POSITION (acting as the Appellant in this preliminary matter)

The Department submits that it has complied with all the internal procedures and legislative requirements for issuing the 1998 Union Pacific Resources Inc. (formerly Norcen Energy Resources Ltd.) assessment notices.

Union Pacific, as successor to Norcen, and the Consultant are fully aware of the procedures in the issuing of linear assessment notices and the procedures for filing appeals. The other *well* and *line pipe* assessed persons; some 2,000 operators or assessed persons of linear property, were able to identify their specific errors appropriately and they have since been corrected.

The Department submitted that the reasons stated on the filed application of appeal are not specific and therefore the Department cannot determine the actual problem with the assessment.

The Department submits that they have been advised by the Consultant that there are reasons other than those stated on the filed application of appeal whereby the Department could correct individual items.

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The Department submits that they have conducted a random review of some of the 3,320 linear properties under appeal and has confirmed that many are without merit based on the specified grounds of appeal.

The Department submits that since the only reason which has been given for the appeal of all the notices relating to line pipe is “*the pipeline is non-operational*” and since all the notices relating to wells contain the only reason “*improper well status/not operated by Norcen*” the Appellant has not met the legislative requirements of 491(2) as the reason is a general one in each case and does not provide specific reason for each linear property under appeal. The Department claims the Appellant is attempting to circumvent the appeal requirements by using one general ground for all appeals and as such, amounts to a blanket appeal.

The Department also submits that the Board has a right to dismiss any additional grounds for appeal, as complaints provided now would be beyond the appeal notice filing date. As such, the Appellant is restricted only to the grounds of appeal specifically stated in the application of appeal.

### **SUMMARY OF THE APPELLANT’S POSITION (acting as the Respondent in this preliminary matter)**

The Appellant submits that they have fully complied with the legislative requirements. Through the services of the Consultant, numerous errors within the initial Linear Assessment Notice(s) were brought to the attention of the Department. They were advised by the Department to submit the roll numbers with errors along with the suggested changes or corrections prior to an April 8, 1998, deadline date as an amended notice was being prepared. Along with the submission sent on April 7, 1998, was an invitation to meet with the Department relative to the identified changes.

It was the Appellant’s understanding that these changes would be incorporated within the amended notice and the Appellant received no response to the invitation to meet. The Appellant acknowledged that no appeals were filed to the initial linear assessment notices.

The Appellant submits that upon receipt of the amended notice none of the suggested changes or corrections provide to the Department on April 7, 1998, were addressed and, in fact, the amended notice appeared to the Consultant to contain additional problems.

The Appellant submits that the Consultant’s review of the amended assessments revealed that a significant portion of the assessments were with respect to linear property which were not operational.

Given the 30-day time constraint for filing appeals and the significant size of the Appellant’s holdings, the Consultant filed 3,320 individual appeals out of some 3,900 accounts based on the most common error they observed, that being “*not operational*”.

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The Consultant has advised the Department of additional grounds other than those specifically mentioned in the June 22, 1998, applications of appeal notices. The Consultant submits that the review of the 3,320 accounts will be completed by the tentatively set October hearing dates and submits that the Appellant is prepared and willing to meet with the Department to resolve and reconcile most, if not all, of the appeals.

### FINDINGS OF FACT

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 hereto, the Board finds the facts in the matter to be as follows:

1. Each of the 3,320 individually filed appeals meet the legislative requirement of filing a linear appeal.
2. While the Board is not restricted on an individual appeal to only the stated reasons contained within the appeal, there may be an abuse of the appeal process to gain time beyond the legislated timelines for filing an appeal.
3. The filing of 3,320 appeals in this manner may be an abuse of the appeal process.

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

### DECISION

Consistent with the findings, the Board accepts each appeal and directs the parties to be prepared to present the merits of each appeal before a panel of the Board.

The Board sets **1:00 p.m. on October 16, 1998**, as the **final date** for a complete list of the specific reasons to each appeal to be filed with the Board and the Department.

The **Hearing Date** is set for **9:00 a.m., October 27, 1998**, 15<sup>th</sup> Floor, Commerce Place, 10155 - 102 Street, in **Edmonton**, Alberta.

At the conclusion of the merit appeal(s) hearing(s) the parties are directed to appear before **this** panel of the Board relative to a **Cost Hearing**. The scheduling of this hearing will be done within the normal process.

It is so ordered.

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### REASONS

The Board, in the past, has had to deal with “Blanket Appeals.” Hence the reason for the Resolution of the Government Board:

*“Effective September 6, 1997, all linear appeals filed with the Municipal Government Board must include: reasons and sufficient information to permit identification of the inventory used to generate the linear assessment under appeal and the location and within respect to pipeline the location and owner/operator.”*

“Blanket appeals” in this context mean that an assessed person files an appeal under one covering letter stating, in effect, that all the property owned or operated by Company X “*may be in error.*” This, in essence, becomes a blanket appeal providing additional time whereby each account can be reviewed and, if need be, withdrawn. This may not be the same scenario before this Board, but this cannot be determined until specific examination, resulting from a merit hearing, has been concluded. The Appellant, through their Consultant, may have properly filed 3,320 individuals appeals.

The Consultant stated the review of each appeal would be completed by early to mid October, therefore the Consultant is directed to provide the Board the particulars of each appeal no later than October 16, 1998.

The Board is not restricted to consider only the specified reasons stated at the time of filing an appeal. The Board, at the same time, is concerned that no abuses of the appeal process should be allowed without consequence(s) therefore this panel of the Board will reconvene at the conclusion of the appeal process to address the issue of costs raised by the parties.

No costs to either party.

Dated at the City of Edmonton, in the Province of Alberta, this 2<sup>nd</sup> day of October, 1998.

MUNICIPAL GOVERNMENT BOARD

S. Cook, Board Member

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**APPENDIX "A"**

**APPEARANCES**

<b>NAME</b>	<b>CAPACITY</b>
Allan J Guty	Legal Counsel for the Appellant
Brenda MacFarland	Senior Property Tax Consultant - Witness for the Appellant
Barbara A. Mason	Legal Counsel for the Respondent
Greg G. Johnson	Coordinator Linear Property - Witness for the Respondent

**APPENDIX "B"**

**DOCUMENTS RECEIVED AT THE HEARING AND CONSIDERED BY THE BOARD:**

<b>NO.</b>	<b>ITEM</b>
Exhibit 1.	Respondent's Brief
Exhibit 2.	Appellant's Brief
Exhibit 3.	Copy of Appellant's April 7, 1998, courier's receipt