

BOARD ORDER: MGB 268/98

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

AND IN THE MATTER OF AN APPEAL from a decision of the 1997 Assessment Review Board of the County of Smoky Lake No. 13.

BETWEEN:

Royal LePage Tax Consulting on behalf of Norcen Energy Resources Ltd. - Appellant

- a n d -

County of Smoky Lake No. 13 - Respondent

BEFORE:

C. Hannah, Presiding Officer

J. Church, Member

J. Schmidt, Member

G.J. Dziwenka, Secretariat

Upon notice being given to the affected parties, a hearing was held in the City of Edmonton, in the Province of Alberta on May 25, 1998.

This is an appeal to the Municipal Government Board from a decision of the Assessment Review Board of the County of Smoky Lake No. 13 with respect to property assessments entered in the assessment roll of the Respondent municipality as follows:

Roll No.	Legal Description	Building & Structures	Machinery & Equipment
126004.21	LS 06 SW 4-60-12-4	2,870	13,650
135909.21	LSD 6 SW 9-59-13-4	5,930	35,040
135911.21	LS 06 SW 11-59-13-4	2,870	13,520
135917.21	LSD 6 SW 17-59-13-4	4,120	21,500
135934.41	10 NE 34-59-13-4	2,870	12,250
136030.11	LS 02 SE 30-60-13-4	3,330	15,370
136032.31	LSD 14 NW 32-60-3-4	5,170	25,720
136034.32	LSD 11 NW 34-60-13-4	3,780	28,760
136103.31	LS 12 NW 3-61-13-4	3,920	33,070
136105.11	LSD 7 SE 5-61-13-4	4,120	21,500
136108.11	LSD 1 SE 8-61-13-4	3,920	32,450

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Roll No.	Legal Description	Building & Structures	Machinery & Equipment
136116.31	LS 11 NW 16-61-13-4	3,410	19,710
136134.21	LSD 6 SW 34-61-13-4	3,410	20,330
136203.13	LS 07 SE 3-62-13-4	3,410	18,090
145825.41	LS 16 NE 25-58-14-4	3,330	15,190
145929.11	LSD 7 SE 29-59-14-4	4,120	21,500
145933.41	LS 15 NE 33-59-14-4	2,870	12,590
146013.31	Pt NW 13-60-14-4	2,620	11,900
146025.11	LS 07 SE 25-60-14-4	2,980	18,220

BACKGROUND

The properties under appeal are all gas wells with skid mounted separators at the surface. The lower assessed values of the two numbers for each roll number is for the building and structures. These are not at issue.

ISSUE

The Board must determine if the components assessed are within the definition of “*linear property*” or are the components excluded from the definition and assessable by the municipality as “*improvements*”(machinery and equipment).

LEGISLATION

Municipal Government Act Section 284(1)

- (j) “*improvement*” means
 - (i) a structure,
 - (iv) machinery and equipment;
- (k) “*linear property*” means
 - (iii) pipelines, including
 - (A) any continuous string of pipe, including loops, by-passes, cleanouts, distribution meters, distribution regulators, remote telemetry units, valves, fittings and improvements used for the protection of pipelines intended for or used in gathering, distributing or transporting gas, oil, coal, salt, brine, wood or any combination, product or by-product of any of them, whether the string of pipe is used or not
 - (C) any pipe in a well intended for or used in
 - (II) injecting or disposing of water, steam, salt water, glycol, gas or any other substance to an underground formation

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(D) well head installations or other improvements located at a well site intended for or used for any of the purposes described in paragraph (C) or for the protection of the well head installations, and

but not including

(F) the inlet valve or outlet valve or any installations, materials, devices, fittings, apparatus, appliances, machinery or equipment between those valves in

(I) any processing, refining, manufacturing, marketing, transmission line pumping, heating, treating, separating or storage facilities, or

(II) a regulating or metering station,

or

(G) land or buildings;

(l) "machinery and equipment" has the meaning given to it in the regulations;

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

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

(a) apply the valuation standards set out in the regulations, and

(b) follow the procedures set out in the regulations.

(2) If there are no procedures set out in the regulations for preparing assessments, the assessor must take into consideration assessments of similar property in the same municipality in which the property that is being assessed is located.

297(4)(a.1) "machinery and equipment" does not include

(i) any thing that fall within the definition of linear property as set out in section 284(1)(k), or....

298(1) No assessment is to be prepared for the following property.....

(z) machinery and equipment, except to the extent prescribed in the regulations;

Alberta Regulation 365/94 (Standard of Assessment Regulation)

1 In this Regulation,

(g) machinery and equipment means materials, devices, fittings, installations, appliances, apparatus and tanks other than tanks used exclusively for storage, including supporting foundations and footings and any other thing prescribed by the Minister that forms an integral part of an operational unit intended for or used in

(i) manufacturing,

(ii) processing,

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(iii) the production or transmission by pipeline of natural resources or products or byproducts of that production, but not including pipeline that fits within the definition of linear property in section 284(k)(iii) of the Act, whether or not the materials, devices, fittings, installations, appliances, apparatus, tanks, foundations, footings or other things are affixed to land in such a manner that they would be transferred without special mention by a transfer or sale of the land;

(h) mass appraisal means the process of preparing assessments for a group of properties using standard methods and common data and allowing for statistical testing.

SUMMARY OF APPELLANT'S POSITION

The properties under appeal are all gas wells with skid mounted separators at the surface. It is submitted, that pursuant to Board Order 143/97, the following items should be struck from the roll as already assessed as linear property: tanks, scrubber, chemical injector, orifice fittings/meter run, meter recordings, and pig traps. That Board Order held that while separators and the buildings housing them are assessable as machinery and equipment, other equipment such as chemical tanks, chemical injectors, meters, scrubbers, and the like are considered part of the transportation system and as such are captured in the regulated rates for linear property. Therefore, only the actual separator and the buildings housing the separators are to be assessed by the municipality. All other incidental equipment is not to be assessed by the municipality as it is already assessed under the standardized assessment, therefore should be struck from the roll as linear property. Otherwise, the result is double taxation.

SUMMARY OF RESPONDENT'S POSITION

What the Board must decide in this appeal is whether the items that are incidental to the separator packages such as tanks, scrubbers, chemical injectors, orifice fittings/meter runs, meter recordings and pig traps are to be included under Well Standardization or are to be assessed as Machinery and Equipment. All that is included under 284(k)(iii)(f)(g) of the Municipal Government Act “but not including” becomes the responsibility of the municipal assessor, and should be assessed by the said assessor under the statutes and regulations of the MGA. That is, it is not included in standardization.

Assessment Commissioner’s Bulletin #4/83 was issued to give guidance to what well site equipment could be in the standard rates of oil/gas well head valuations. This Bulletin was later clarified to indicate that certain equipment at a well site is regarded as processing, and thus, is excluded from standardization. Included in this category are separators, dehydrators, and underground tanks. Any building that houses processing or processing and production equipment is also excluded from standardization.

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Assessment Commissioner's Bulletin #2/86 was issued to give further illustrations as to what was to be assessed under standardized rates and what was to be assessed by the municipal assessor under the MGA. This Bulletin excludes separators from the list of items to be included in the standardized rates. Separators must therefore be assessed under the MGA as the responsibility of the municipal assessor. In addition, each of the subject assessments have underground tanks. The incidental equipment is supporting the processing equipment and should be assessed as found under the MGA, that is by the municipal assessor. The Bulletin specifically reads where incidental equipment is located at a well site, and production activity and processing is carried on, the incidental equipment is then included with the particular facility as found. This would therefore include all incidental equipment, which is found in conjunction with the processing facility.

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. The equipment under appeal is located between the inlet and outlet valves of separating facilities.

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

The appeals are denied and accordingly, the improvement assessments of each roll number enumerated herein, is confirmed.

Roll No.	Legal Description	Building & Structures	Machinery & Equipment
126004.21	LS 06 SW 4-60-12-4	2,870	13,650
135909.21	LSD 6 SW 9-59-13-4	5,930	35,040
135911.21	LS 06 SW 11-59-13-4	2,870	13,520
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146025.11	LS 07 SE 25-60-14-4	2,980	18,220

It is so ordered.

REASONS

Under questioning, the Appellant conceded that all the equipment in question is located between the inlet valve and outlet valve of the separator facility. It is the Board's opinion that items between the inlet and outlet valve are specifically excluded from the definition of pipeline, thus not to be included in the linear property assessment (standardized assessment) prepared by the provincial assessor. Rather, these items are improvements properly assessed by the municipal assessor under section 293 of the Act, and accordingly, properly in the rolls of the municipality.

All of the equipment that is between the inlet and outlet valve of the separating facility falls to the "not including" portion within the definition of linear property. The Board is satisfied that all the equipment identified is properly assessed as machinery and equipment. The buildings housing the equipment is assessable as improvements, but this is not at issue in this appeal.

No costs to either party.

Dated at the City of Edmonton, in the Province of Alberta, this 3rd day of November, 1998.

MUNICIPAL GOVERNMENT BOARD

J. Church, Member

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APPENDIX "A"

APPEARANCES

NAME	CAPACITY
Brenda MacFarland	For the Appellant
Alan McNaughton	For the Respondent
Reuban Ozubko	For the Respondent
Ray Fortin	For the Respondent

APPENDIX "B"

DOCUMENTS RECEIVED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
Exhibit No. 1A	Appellant's Submission
Exhibit No. 2R	Submission of Compass Assessment Consultants Inc.-for the Respondents
Exhibit No. 3R	Assessment Summary Reports for the subject roll numbers
Exhibit No. 4R	Industrial Improvement Assessment Calculation Report for the subject roll numbers