

**Wheatland County Composite Assessment Review Board  
CARB Board Order 0349 002/2013**

IN THE MATTER OF A COMPLAINT filed with the Wheatland County Composite Assessment Review Board (CARB) pursuant to Part 11 of the *Municipal Government Act*, being Chapter M-26 of the Revised Statutes of Alberta 2000

**BETWEEN:**

**Federated Co-operatives Limited as represented by Altus Group – Complainant**

**-and-**

**Wheatland County represented by Reynolds Mirth Richards & Farmer LLP – Respondent**

Roll #	869500
Assessment Value	\$118,617,850
Assessment Year	2012
Tax Year	2013

**BEFORE:**

W. Kipp, Presiding Officer

Board Counsel:

G. Stewart-Palmer, Barrister & Solicitor

Staff:

J. Laslo, Composite Assessment Review Board Clerk

A preliminary hearing was held by teleconference on September 4, 2103 relating to a complaint about the assessment of the following property tax roll number:

Roll #8695000	Assessment	\$ 118,617,850
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**PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT**

[1] This appeal relates to an assessment of a fuel tank farm which is under construction in Wheatland County. This fuel tank farm is located on land legally described as:

SW 9-22-26-W4M

Lot 1

Block 2, Plan 1012248

[2] Fuel and additives will be railed and trucked to this site, and then trucked to other sites. It will be a significant operation when it is completed. It is estimated that the total capacity of the storage will be approximately 1 million barrels.

**PART B: PROCEDURAL OR JURISDICTIONAL MATTERS**

[3] The CARB derives its authority to make decisions under Part 11 of the *Municipal Government Act*, R.S.A. 2000, c.M-26 (“MGA”). This matter was heard by a single CARB member pursuant to the provisions of section 36 of the *Matters Relating to Assessment Complaints Regulation*, AR 310/2009.

[4] The purpose of the hearing was to deal with the following items:

- a) scheduling of the hearing including the number of days required for the hearing
- b) location of hearing;
- c) disclosure dates;
- d) issues to be advanced by the Complainant;
- e) the nature of the witnesses to be called by the Complainant.

**Position of the Parties**

[5] The parties agreed that the hearing date should commence December 9, 2013. The Complainant suggested that the hearing could complete in 5 business days, while the Respondent suggested that the 6<sup>th</sup> day be reserved for the hearing, and that if not needed, it could be cancelled at a later date.

[6] The parties had previously been advised that the Wheatland County Council chambers were booked for December 10, 2013. The CARB Clerk advised that the Days Inn And Suites, 400 Ranch Market, T1P 0B2 Strathmore, Wheatland Rooms A, B and C had been booked for December 9-13 and December 16, 2013 for the hearing.

[7] The parties tentatively agreed to disclosure dates as follows:

- a) Complainant merit filing      October 24, 2013
- b) Respondent merit filing      November 25, 2013
- c) Complainant rebuttal filing      December 2, 2013.

[8] The Respondent indicated some concern about the filing dates in light of its two concerns: first, the Complainant had indicated it might call a chemist. Due to the time required to locate an expert (chemist), including determining the availability of the expert for the hearing, the Respondent was concerned that if the Complainant did not identify early whether it would call a chemist, the Respondent would not have sufficient time to locate and have ready the witness and might be required to request an adjournment. For this reason, the Respondent requested that the Complainant identify by September 20, 2013 whether it would call a chemist. Second, the Respondent asked the Complainant to confirm which issues (arising from the 2012 Tax Year hearing) would be in dispute:

- a) Equity
- b) Application of the CCRG

- c) Whether the rail trackage on the site should be assessed using the Railway Minister's Guidelines; and
- d) Costs have been reported for improvements that have not been installed by December 31, 2012.

[9] The Complainant undertook to provide the Respondent with notice about whether it was calling a chemist by September 20, 2013. The Complainant confirmed that the assessment of the rail trackage would not be an issue in the hearing. On the other issues, the Complainant suggested that they would be raised, but may not require much hearing time.

### **DECISION AND REASONS ON PRELIMINARY MATTERS**

[10] The disclosure and hearing dates are as follows:

Complainant's Disclosure	October 24, 2013
Respondent's Disclosure	November 25, 2013
Complainant's Rebuttal	December 2, 2013
Hearing	December 9-13 and December 16, 2013

[11] The merit hearing will take place in the Days Inn And Suites, 400 Ranch Market, T1P 0B2 Strathmore, Wheatland Rooms A, B and C. The hearing will commence on December 9, 2013 at 9 am.

[12] Each party must provide its submissions electronically to the other parties and to the CARB by no later than 4:30 pm of the required date. The parties must send a full electronic copy of all submission on a USB drive along with 4 paper copies to the CARB Clerk. The parties must send a full electronic copy on a USB drive and one paper copy to CARB Counsel in Edmonton. The USB drives can be sent to arrive the day after the filing date.

[13] The parties must send hard copies to each other which may follow on the following day. The parties may arrange for USB drives to be sent to each other. The CARB will not make this direction, but will permit the parties to come to whatever arrangement suits them.

[14] The CARB directs that the parties page number each page of the submission, including any materials contained as exhibits or tabs. Any authorities referred to by the parties in their arguments (legal or otherwise) should be highlighted as to the specific passages upon which the parties are placing reliance.

[15] The parties are to arrange for a court reporter to be present during the hearing with the cost to be shared between the parties, and a copy of the transcript provided to the CARB at no cost. Pursuant to section 468.1, the parties will share equally the cost of the hearing rooms.

[16] The CARB notes the Complainant's undertaking to advise the Respondent by September 20, 2013 of the types of witnesses it is calling including the calling of specialty experts such as a chemist, or possibly chemical engineer. The CARB urges the Complainant to provide this notification as soon as possible, to avoid the possibility that the hearing may need to be delayed

**Wheatland County Composite Assessment Review Board  
CARB Board Order 0349 002/2013**

if the Respondent cannot find an expert in time for the December 9, 2013 start date. In addition, the CARB notes the Complainant's advice that rail trackage is not in issue. The CARB urges the Complainant to provide to the Respondent by September 20, 2013 an indication if the other three items will be at issue in the hearing. While the CARB cannot direct that this occur, the CARB is encouraged that the parties recognize the importance of knowing the issues so that the hearing can proceed expeditiously.

**REASONS**

[17] The procedural directions given above are to assist the CARB in handling the large volume of materials, both electronic and paper. The parties were in agreement with the procedures outlined in the preliminary hearing conference call.

[18] The CARB is pleased to note that the parties have been in discussions about the matter and is encouraged by what appears to be a willingness to explore the issues between the parties. The CARB hopes that the spirit of cooperation which is evidenced by the discussions will continue and that the Complainant will provide the information outlined in paragraph 16 of this Order in the time requested by the Respondent to avoid a possible delay in the hearing.

[19] The CARB directs the sharing of the costs of the hearing location and the transcript for the hearing pursuant to the authority in section 468.1 of the Act. Due to the timing of the hearing, the Administration offices are not available for one day of that week, and an alternate location available for all 6 hearing days was viewed as more appropriate than trying to change the location for one day, or not having a hearing on the one day. The sharing of these disbursements was viewed as most equitable.

[20] It is so ordered.

Dated at the City of Calgary, in the Province of Alberta, this \_\_\_ day of September, 2013.

  
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W. Kipp, Presiding Officer

**APPENDIX 'A' ORAL REPRESENTATIONS**

<b>PERSON APPEARING</b>	<b>CAPACITY</b>
1. Robert Brazzell,	Representative of the Complainant, Altus Group
2. Steven Eady	Representative of the Complainant, Altus Group
3. David Porteous	Representative of the Complainant, Altus Group
4. Carol M. Zukiwski	Counsel for the Respondent
5. Dennis Klem	Assessor for the Respondent

**Wheatland County Composite Assessment Review Board  
CARB Board Order 0349 002/2013**

**APPENDIX ‘B’        MATERIALS PRESENTED TO THE CARB**

Exhibit	Description	Date
PR1	Letter from Reynolds Mirth Richards & Farmer LLP	August 28, 2013

For MGB Use Only

Subject	Type	Sub-type	Issue	Sub-issue
CARB			Prelim. Scheduling	468 (1) (b)