



Composite Assessment Review Board

**REGIONAL MUNICIPALITY OF WOOD BUFFALO BOARD ORDER CARB 003-2013-P**

**IN THE MATTER OF A COMPLAINT** filed with the Regional Municipality of Wood Buffalo 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:**

Canadian Natural Resources Limited (CNRL) represented by Wilson Laycraft - Complainant

- and -

Regional Municipality of Wood Buffalo (RMWB) represented by Reynolds Mirth Richards & Farmer LLP - Respondent

**BEFORE:**

Members: W. Kipp, Presiding Officer

Board Counsel: G. Stewart-Palmer, Barrister & Solicitor

A preliminary hearing was held February 26, 2013 in Edmonton in relation to a complaint filed in April 2010 relating to the 2010 amended assessment notice (2009 assessment for 2010 tax year) of the following property tax roll number:

8992004911

Amended Assessment: \$3,222,500,860

RMWB file 10-004

**PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT**

[1] This preliminary hearing is in regard to the Phase 1 of the Canadian Natural Resources Ltd. (CNRL) Horizon oil sands project. This preliminary hearing related specifically to the 2009 assessment for the 2010 tax year.

[2] The merit hearing for the 2010 tax year had been under a Court Ordered stay which was lifted following the decision of Mr. Justice Verville issued February 7, 2013 in 2013 ABQB 91. The merit hearing dates had been set for May, 2011. The CARB notes that the Court decision directs that the Complainant be permitted to advance its disclosure application pursuant to section 465 of the *Municipal Government Act*, R.S.A. 2000, c.M-26 (the "MGA").

[3] The roll number is an amended machinery and equipment (M&E) assessment. The original assessment notice with an assessment of \$2,413,340,490 was mailed to the property owner on March 1, 2010. The amended assessment notice with the revised assessment amount of \$3,222,500,860 was sent to the property owner on March 5, 2010. The Complainant questioned not only the quantum, but the legality of the amended assessment.

**PART B: PROCEDURAL OR JURISDICTIONAL MATTERS**

[4] The CARB derives its authority to make decisions under Part 11 of the MGA.

**Position of the Parties**

**Complainant**

[5] The Complainant does not currently have an application to make in relation to production because it is waiting to hear from the Municipality about what issues remained in play for the 2010 tax year complaint, arising from the decision from the 2011 tax year.

[6] The Complainant cannot advise if it will request the right to make supplemental argument until it knows the position of the Municipality. Although it would not object to a hearing in January or February 2014, it recognized the obligations of the Municipality's assessors during that time.

**Respondent**

[7] The Municipality indicated that it has not had an opportunity to speak with Mr. Schmidt, its assessment witness, because he has been busy preparing assessments. The Municipality is currently analyzing the 2011 decision, but due to the workload of the assessors during January and February, it has not been able to complete that analysis, so all issues remain live. The Municipality may not be in a position to deal with the 2010 matter at the March 21, 2013 preliminary hearing ordered for the 2012 complaint, so suggested an April date.

[8] The Municipality suggested that the most likely dates for a merit hearing are March or April 2014 due to the commitments of the Municipality's assessors in January and February

**Decision and Reasons**

[9] This Order should be read in conjunction with CARB Board Order 002-2013-P. The CARB makes the following rulings in relation to the above preliminary matters.

[10] The CARB will convene preliminary hearings approximately once per month as an opportunity for the parties to advise the CARB on progress made, and as an opportunity for the parties to obtain further rulings from the CARB, should it be necessary. The next scheduled hearing is set for March 21, 2013 starting at 9:00 AM in the MGB offices in Edmonton. The next scheduled hearing is set for April 29, 2013. The location of that hearing is to be determined. Further hearing dates will be scheduled at the preliminary hearings.

[11] The April 29<sup>th</sup> and subsequent hearings may occur via teleconference, depending upon the nature of the hearing and the agenda. The CARB clerk will send out notices for the hearings and the parties can request that items be placed on the agendas, as needed.

[12] The agenda for the March 21 hearing is to be:



- a) If possible, a report from the Municipality about its review of the 2011 decision and what issues remain in dispute for the 2010 complaint hearing. However, the CARB recognizes that the Municipality may not have sufficient time to make its analysis.

[13] At this time, the CARB does not foresee the need to have a court reporter for the March 21<sup>st</sup> hearing. However, the CARB may require the parties to provide a court reporter for future preliminary hearings, depending upon the agenda.

[14] The CARB notes that the Municipality may not have sufficient time to review the 2011 decision prior to the March 2013 preliminary hearing. If it is able to do so, the Municipality can report to the CARB. If not, it can advise the CARB as to the status of its review.

[15] The CARB will hold the preliminary hearings for the 2010 appeal concurrently with the preliminary hearings for the 2012 appeal, so that if there are overlapping issues, or issues which might arise which may impact the other hearings, the parties have sufficient opportunity to bring issues to the CARB for direction, well in advance of the merit hearings. The CARB believes that such monthly preliminary hearings provide the venue in which to do so. Further, these hearings will provide the CARB with an opportunity to give direction in relation to matters that the CARB might feel should be addressed to make the merit hearings proceed efficiently and effectively.

[16] It is so ordered.

Dated at the City of Calgary in the Province of Alberta, this 4<sup>th</sup> day of March, 2013.

W. Kipp  
W. Kipp, Presiding Officer

#### APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:

**NO.                      ITEM**

Exhibit #	Document	Filed
PC1	Letter from Wilson Laycraft LLP with attachment	February 19, 2013
PR2	Letter from Reynolds Mirth Richards and Farmer LLP	February 21, 2013
PC3	Letter from Wilson Laycraft LLP	February 26, 2013

#### APPENDIX "B"

REPRESENTATIONS

**PERSON APPEARING      CAPACITY**

- |    |             |  |
|----|-------------|--|
| 1. | G. Ludwig   | Counsel for the Complainant                              |
| 2. | J. Laycraft | Counsel for the Complainant                              |
| 3. | K. Minter   | Supervisor of Operations Accounting, CNRL                |
| 4. | B. Balog    | Manager, Legal Corporate Operations, Legal Counsel, CNRL |

5. C. M. Zukiwski Counsel for the Respondent
6. C. Killick-Dzenick Counsel for the Respondent
7. B. Moore Regional Assessor, Regional Municipality of Wood Buffalo