



Composite Assessment Review Board

REGIONAL MUNICIPALITY OF WOOD BUFFALO BOARD ORDER CARB 013-2013-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
D. Thomas, Member
P. Klug, Member

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

Roll Number:	8992004911
Legal Description:	NE – 08- 096-11-W4M
Assessment Value	\$3,410,553,820
Assessment Year	2011
Tax Year:	2012

A preliminary hearing was held June 20, 2013 in Edmonton in relation to a complaint filed in April 2012 relating to the 2012 amended assessment notice (2011 assessment for 2012 tax year) of the following property tax roll number:

8992004911 Revised Assessment: \$3,410,553,820

File 12-032

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 2011 machinery and equipment assessment for the 2012 tax year.

PART B: PROCEDURAL OR JURISDICTIONAL MATTERS

[2] The CARB derives its authority to make decisions under Part 11 of the *Municipal Government Act*, R.S.A. 2000, c.M-26 (the MGA).

Position of the Parties

Complainant

[3] The Complainant indicated that it respected the decision of the Board (CARB Order 010-2013-P) regarding its previous application for issue estoppel.

[4] The Complainant indicated that it would be bringing another application for issue estoppel in light of that decision. The timing of that application is after the Respondent files its evidence on August 22, 2013.

[5] The Complainant anticipated timing its materials for the application within one week to 10 days after the Respondent's evidence filing on August 22, 2013. The Respondent would have one week to respond, and the application would follow thereafter. The timing was tight due to the timing of the upcoming merit hearing scheduled to start October 15, 2013.

[6] In response to the Respondent's request for documents referred to by Mr. Otsu, the Complainant indicated that it would collect those without an order from the CARB. If there is an issue, then the Complainant would come back to the CARB, recognizing that August 22, 2013 is the Respondent's filing date.

Respondent

[7] The Respondent agreed with the timing suggested by the Complainant for its issue estoppel application.

[8] The Respondent indicated that documents were referred to in the report prepared by Mr. Fumio Otsu, but that the documents themselves were not produced.

[9] The Respondent also asked the Complainant to identify which documents within the 2011 production its witnesses were going to be relying upon so that the Respondent's witnesses could prepare.

DECISION

[10] The CARB scheduled the next preliminary hearing scheduled for August 12, 2013. At this time, the hearing will be by teleconference unless one of the parties identifies a need for an in-person hearing. If the parties do not advise the CARB Clerk by August 1, 2013, this hearing may be cancelled and any items for this hearing would be moved to the September 16-17, 2013 hearing.

[11] The Complainant's application relating to issue estoppel is scheduled for September 16 and 17, 2013. The hearing will commence at 9:00 am in the Edmonton offices of the Municipal Government Board. The parties will arrange to have a court reporter present and share the cost of that court reporter.

a. The Complainant must file its materials no later than August 29, 2013.

b. The Respondent must file its materials no later than September 6, 2013.

[12] On September 16, 2013, following the issue estoppel application, the CARB directs the Complainant to advise the CARB about the portions of the 2011 evidence to which its witnesses will be referring.

[13] For the parties' filings on August 29 and September 6, 2013, the parties are directed to send full copies of their submissions electronically to the CARB clerk and CARB counsel (i.e., the argument and all supporting authorities).

[14] For the Respondent's merit filing, as well as the Complainant's rebuttal filing, the parties are directed to send electronically copies of the reports (without attachments) to CARB counsel and the CARB clerk. The parties must send full electronic copies of all submission on a USB drive along with the paper copies to CARB Counsel. The parties must include five USB drives (5 sets of material electronically).

[15] For all future filings (merit or preliminary), 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.

REASONS

[16] The CARB's previous Order held that the Complainant's April 2013 application for issue estoppel was premature as the Respondent's evidence had not been filed at the time of that application. The Respondent's evidence is to be filed August 22, 2013. As the hearing starts on October 15, 2013, an application for issue estoppel needs to be scheduled as soon as possible after the Respondent's filing so that the CARB may consider the application being made by the Complainant for issue estoppel in light of the evidence filed by the Respondent.

[17] The parties have agreed to the dates set out above and recognize the constraints of time which are imposed upon all parties in this matter. The CARB thanks the parties for their cooperation in scheduling a hearing of this nature.

[18] The Complainant indicated it would examine the document request and would provide them without the need for an order from the CARB.

[19] 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 revised procedures.

[20] The Complainant acknowledged that it would identify those portions of the 2011 evidence upon which it was relying in order to assist the Complainant in the preparation of its case, and also to assist CARB staff to ensure that the Board has the appropriate copies of the materials from the 2011 hearing.

[21] It is so ordered.

Dated at the City of Calgary in the Province of Alberta, this 27th day of June, 2013.

A handwritten signature in blue ink, appearing to be 'W. Kipp', is written above a horizontal line.

For: W. Kipp, Presiding Officer

APPENDIX “B”
REPRESENTATIONS

PERSON APPEARING CAPACITY

- | | | |
|----|----------------|--|
| 1. | G. Ludwig | Counsel for the Complainant |
| 2. | B. Dell | Counsel for the Complainant |
| 3. | B. Balog | Manager, Legal Corporate Operations, Legal Counsel, CNRL |
| 4. | M. Celis | Business Analyst, CNRL |
| 5. | C. M. Zukiwski | Counsel for the Respondent |
| 6. | R. Baron | Assistant Chief Regional Assessor, Regional Municipality of Wood Buffalo |

For MGB Use Only

Subject	Type	Sub-type	Issue	Sub-issue
CARB	Jurisdictional /Procedural	Machinery & Equipment		