

BEFORE THE STATE BOARD OF EQUALIZATION

FOR THE STATE OF WYOMING

IN THE MATTER OF THE APPEALS OF)
ENCANA OIL & GAS (USA) INC.) Docket Nos. 2012-73
ENCANA OIL & GAS (USA) INC.) 2012-74

HEARING ORDER (WOGCC)

THESE MATTERS having come before the Board upon its own motion, and the Board having reviewed the files herein pursuant to its authority as set out in *Rules, Chapter 2, § 6(a)(i), Wyoming State Board of Equalization*, having concluded essential facts must be determined in order to permit adequate presentation and disposition of these cases, and being otherwise advised in the premises;

IT IS THEREFORE HEREBY ORDERED these cases shall come for hearing before the Board in the order as listed in the caption, the first hearing to commence at **9:00 a.m., February 14, 2013**, in Room 1722, State Board Room, Herschler Building, Cheyenne, Wyoming. The second listed case hearing shall commence upon conclusion of the first case hearing. All subsequent case hearings will be conducted in the order as listed in the caption each new case hearing to commence at the conclusion of the case preceding it in the caption listing. The Board shall conduct the hearings back to back in this manner until all cases as listed in the caption have been heard by the Board. **If the parties to any case determine the discrepancy which is the basis of the appeal has been resolved they may request the Board dismiss the appeal without prejudice and vacate the hearing order as it applies to the specific appeal. A dismissal without prejudice does not constitute a full and final decision on the merits and so would not act as a bar to future amendments of volume or value.** In the event some but not all cases resolve and are dismissed without prejudice on or before the hearing date, the remaining cases shall be heard in the order in which they appear listed in the caption. The Board would emphasize the purpose of having full evidentiary hearings in these Mineral Assessment/OGCC discrepancy appeals is to obtain final resolution of **taxable value**. The legal principles of res judicata and collateral estoppel will apply to the Board's final decisions in these cases and no further amending of volume or value will be allowed, effectively tolling the statute of limitations for the properties involved.

IT IS FURTHER HEREBY ORDERED:

A. OFFICIAL RECORD OF HEARING: The record of this hearing shall be made

by tape recording, however, any party may at its option, make arrangements for appearance and payment of a court reporter;

B. PRELIMINARY STATEMENT OF THE CASE: The Board notes the parties have filed preliminary statements pursuant to the Order Setting Date for Preliminary Statements, issued **August 28, 2012**;

C. INITIAL EXCHANGE OF EXHIBITS AND WITNESS LISTS: The respective parties shall make an initial exchange of proposed exhibits marked as appropriate 100 through 199 by (Petitioner), 500 through 599 by the Department of Revenue, and identify the names and address with a brief description of expected testimony of each possible expert witness not later than **December 19, 2012**;

D. REQUIRED EVIDENCE TO SUPPORT BURDEN OF PROOF: The following evidentiary information which is not all inclusive, is anticipated to be submitted as is necessary for a party to establish the **taxable value** for oil and/or gas properties involved in the appeal:

(i) TO DETERMINE GROSS VALUE

1. Amended Form 2 - Operator's Monthly report of Wells
2. Amended Gross products return
3. Oil or gas purchaser statements
4. Sales contracts
5. Crude oil, gas postings
6. Gravity deductions
7. Run statements
8. Operating Agreements
9. Gas Balancing Agreements
10. Division Orders
11. Buy/Sell Agreements
12. Exchange Agreements
13. Gas Plant statements
14. Residue Purchase Statements
15. NGL Purchase Statements
16. Sulphur Purchase Statements
17. Residue Purchase Contracts
18. NGL Purchase Contracts
19. Sulphur Purchase Contracts
20. Any and all other contracts/statements that may be relevant.

(ii) ROYALTY DEDUCTION

1. Federal, State and Tribal royalty reports

(iii) **TRANSPORTATION DEDUCTION**

1. Oil/gas pipeline statements
2. Oil/gas pipeline invoices
3. Oil/gas transportation contracts
4. Field schematic

(iv) **PROCESSING DEDUCTION**

1. Production: Leasehold cost work papers Vouchers to support leasehold cost
2. Processing: Processing cost work papers Vouchers to support processing cost

E. DISCOVERY DEADLINE: All discovery shall be completed on or before **January 2, 2013;**

F. FINAL EXCHANGE OF EXHIBITS AND WITNESS LISTS: The respective parties shall make a final exchange of proposed exhibits, identify the names and addresses with a brief description of expected testimony of all possible witnesses (even if previously designated) and designate in writing with the Board all confidential exhibits and potential confidential testimony on or before **January 16, 2013;**

G. PREHEARING CONFERENCE AND REQUIRED PREHEARING SUBMISSIONS: The State Board, through Gayle R. Stewart, Staff Attorney, shall hold prehearing conferences in these cases in the order as listed in the caption, the first prehearing conference to commence at **10:00 a.m., January 30, 2013**, in Room 1722, State Board Room, Herschler Building, Cheyenne, Wyoming. The second listed case prehearing conference shall commence upon conclusion of the first case prehearing conference. All subsequent case prehearing conferences will be conducted in the order as listed in the caption with each new case hearing to commence at the conclusion of the case preceding it in the caption listing. The prehearing conferences shall be conducted back to back in this manner until all prehearing conference have been held. At the prehearing conferences, for each separate case, all parties shall file with the Board (original and four copies) of the following described documents: *The parties shall segregate the requested information in separate documents.*

1. All proposed exhibits, numbered as provided in Paragraph C, secured in a notebook or by two hole fastener, with each page of each exhibit consecutively numbered, preferably by Bates stamp. Each exhibit shall be tabbed and the tab shall be marked with the exhibit number for ready

Board reference.

2. An updated summary of the contentions of the party *entitled “(Petitioners or Respondents or Department’s) Updated Summary of Contentions;*
3. An updated summary of the uncontroverted and stipulated facts *entitled “(Petitioners or Respondents or Department’s) Updated Summary of Uncontroverted [and Stipulated, when appropriate] Facts.* The parties may and are encouraged to jointly prepare and submit this information, particularly in the circumstance of stipulated facts, to be made part of the hearing record.
4. Remaining issues of fact and law for determination by the Board *with an index of exhibits referenced by number and brief description denoting the specific issue or fact the exhibit is anticipated to be offered to prove entitled “(Petitioner’s or Respondent’s or Department’s) Issues of Fact and Law and Exhibit Index.*
5. A list of proposed witnesses with a brief summary of proposed testimony *entitled “(Petitioners or Respondents or Department’s) Witness List and Summary of Proposed Testimony” specifically denoting the related issue(s) each witnesses’ testimony will address.*

H. Pursuant to *Rules, Chapter 2, § 9, Wyoming State Board of Equalization*, and *Wyo. Stat. § 16-3-112(b)*, Gayle R. Stewart, shall act and is hereby appointed as hearing officer in this matter.

I. Pursuant to *Rules, Chapter 2, § 31, Wyoming State Board of Equalization*, if parties to an appeal “reach an agreed settlement, the Board shall be presented with the terms thereof.” The Rule further provides the Board may only disapprove the settlement “if it clearly violates provisions of law or public policy.” A copy of any written settlement agreement between the parties shall be presented to the Board before an order of dismissal will be entered. If the agreement so requires, the Board will maintain the confidentiality thereof.

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Dated this 19th day of October, 2012.

STATE BOARD OF EQUALIZATION


Steven D. Olmstead, Chairman

ATTEST:



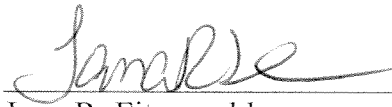
Jana R. Fitzgerald, Executive Assistant

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of October, 2012, I served the foregoing **HEARING ORDER (WOGCC)** by placing a true and correct copy thereof in the United States Mail, postage prepaid, and properly addressed to the following:

Encana Oil & Gas (USA) Inc.
Trudy Overhultz
370 17th Street, Ste 1700
Denver CO 80202

John G. Knepper
Senior Assistant Attorney General
2424 Pioneer Street, 3rd Floor
Cheyenne WY 82002



Jana R. Fitzgerald
Executive Assistant
State Board of Equalization
P.O. Box 448
Cheyenne, WY 82003
Phone: (307) 777-6989
Fax: (307) 777-6363

cc: State Board of Equalization;
Craig Grenvik, Mineral Tax Division, Department of Revenue;
Commissioners/Treasurer/Attorney - Fremont, Natrona, Sublette & Sweetwater
(Posted -<http://taxappeals.state.wy.us>);
ABA State and Local Tax Reporter