

**BEFORE THE STATE BOARD OF EQUALIZATION**

**FOR THE STATE OF WYOMING**

IN THE MATTER OF THE APPEAL OF )  
**CARBON CREEK ENERGY, LLC AND** )  
**POWDER RIVER MIDSTREAM, LLC** ) Docket No. 2020-01  
FROM A DECISION BY THE JOHNSON )  
COUNTY BOARD OF EQUALIZATION )

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**DECISION AND ORDER**

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**APPEARANCES**

Walter F. Eggers, III, Holland & Hart, LLP, appeared on behalf of Carbon Creek Energy, LLC, and Powder River Midstream, LLC (Collectively Petitioners, or individually, Carbon Creek or Powder River).

Barry V. Crago, Deputy Johnson County and Prosecuting Attorney, appeared on behalf of the Johnson County Assessor, Debra Robinson, (Assessor).

**DIGEST**

[¶ 1] This appeal follows Petitioners’ similar 2017 challenge of Assessor’s assessment of Petitioners’ recently purchased natural gas wellsite and gathering system equipment. *See In the Matter of Carbon Creek Energy, LLC and Powder River Midstream, LLC*, Doc. No. 2017-50, 2018 WL 3978750 (Wyo. St. Bd. of Equalization, Aug. 8, 2018) (R. at Vol. III, Petr’rs’ Ex. T-13). As in their first appeals, Petitioners asserted below that Assessor was required to rely upon the costs Petitioners incurred in 2015 to acquire the equipment (as part of larger transactions), rather than the equipment’s original purchase and installation prices. Petitioners further asserted that Assessor did not follow Department of Revenue guidance concerning the oil and gas industry’s economic struggles. Assessor responded that she appropriately considered, but was not required to use, Petitioners’ recent costs to acquire the equipment. She further answered that she valued the equipment in accordance with Wyoming law and complied with this Board’s valuation guidance from Petitioners’ 2017 appeals. The Johnson County Board of Equalization (County Board) upheld Assessor’s 2019 assessed valuations of the well site equipment, and gathering system equipment, consisting of large field compressors.

[¶ 2] The Wyoming State Board of Equalization, Chairman David L. Delicath, Vice Chairman E. Jayne Mockler, and Board Member Martin L. Hardsocg, **affirm** the County Board’s decision upholding Assessor’s assessed valuation of the equipment.

## ISSUES

[¶ 3] Petitioners frame the following issues for review:

- (1) Did the Johnson County Board of Equalization improperly apply this State Board’s two orders of August 8, 2018, when it affirmed the Johnson County Assessor’s tax year 2019 assessments?
- (2) Did the Assessor disregard the economic condition of the oil and gas marketplace into account when valuing the Petitioner’s property?

(Pet’rs’ Opening Br. 4).

[¶ 4] Assessor frames the issues differently:

- A. Whether the Johnson County Board of Equalization’s decision was arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law.
- B. Whether the Johnson County Board of Equalization’s decision was in excess of statutory jurisdiction, authority or limitation or lacking statutory right.
- C. Whether the Johnson County Board of Equalization failed to observe procedure required by law.
- D. Whether the Johnson County Board of Equalization’s decision was supported by substantial evidence.

(Assessor’s Br. 4).

## JURISDICTION

[¶ 5] The State Board is authorized to “hear appeals from the county boards of equalization[.]” Wyo. Stat. Ann. § 39-11-102.1(c) (2019). Petitioners timely appealed from the County Board’s Findings of Fact, Conclusions of Law, and Order, dated December 3, 2019. (Pet’rs’ Notice of Appeal, Dated Jan. 2, 2020, R. 1-201). This Board has jurisdiction to hear Petitioners’ appeal. Rules, Wyo. St. Bd. of Equalization, ch 3 § 2 (2006); Wyo. Stat. Ann. § 39-11-102(c) (2019).

## EVIDENCE PRESENTED TO THE COUNTY BOARD

### *Historic valuation and litigation history*

[¶ 6] Related companies, Carbon Creek Energy, LLC, and Powder River Midstream, LLC, (hereafter Carbon Creek and Powder River) acquired in 2015 coal bed methane production facilities (lease production rights, wells and wellsite equipment), and separately, gathering system equipment consisting primarily of compressors. Carbon Creek acquired the coal bed methane (CBM) production equipment, which it operates, and Powder River separately acquired the gathering system equipment. (R. at Vol. II, Tr at 11-15).<sup>1</sup> Carbon Creek owns approximately 3,400 CBM wells in Johnson County. (R. at Vol. II, Tr. at 12-13; *see also* R. at Vol. III, Pet'rs' Exs. T9 – T10).

[¶ 7] Soon after acquiring the production and gathering facilities in late 2015, Petitioners appealed the 2017 tax valuations of this equipment, claiming Assessor was required to use Petitioners' 2015 acquisition costs to value the equipment, rather than the original owners' purchase prices and costs to install. *In re Appeal of Carbon Creek Energy, LLC, and Powder River Midstream, LLC*, Doc. No. 2017-50, 2018 WL 3978750 (Wyo. St. Bd. of Equalization, Aug. 8, 2018) (R. at Vol. III, Petr'rs' Ex. T-13). In advancing this argument Petitioners principally relied upon *Thunder Basin Coal Co. v. Campbell Cty.*, 2006 WY 44, 132 P.3d 801 (Wyo. 2006). Assessor cited a subsequent Wyoming case in response, *Gray v. Wyo. State Bd. of Equalization*, 896 P.2d 1347 (Wyo. 1995), arguing that she was not required to rely on the recent purchase prices. *In re Appeal of Carbon Creek Energy, LLC* at \*\* 19-25, ¶¶ 50, 52-67.

[¶ 8] This Board ruled that Assessor was not necessarily required to rely upon a recent purchase of property in valuing that property, but was required to consider such information as evidence of value and to use reliable purchase prices in evaluating cost trends if possible. *In re Appeal of Carbon Creek Energy, LLC* at \*\* 24-25, ¶ 67. We explained that Assessor had to reasonably justify her rejection of recent purchase prices. *Id.*

[¶ 9] This Board upheld Assessor's 2017 valuation of the wellhead equipment, finding that Assessor reasonably rejected Petitioners' claimed costs paid. However, we reversed her valuation of field compressors, finding that Assessor improperly rejected the 2015 purchase prices out of hand. *In re Appeal of Carbon Creek Energy, LLC* at \*\*30-33, ¶¶ 68-99. We remanded the appeal dealing with the compressors for further proceedings. The

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<sup>1</sup> We reviewed the extensive history and details of these acquisitions in response to Petitioners' first appeal, *In re Appeal of Carbon Creek Energy, LLC*, and in a contemporaneous appeal from the Campbell County Board of Equalization, *In re Appeal of Troy D. Clements, Campbell County Assessor*, Doc. Nos. 2017-48, 49, 2018 WL 3978749 (Wyo. St. Bd. of Equalization, Aug. 8, 2018). Except as needed for a clear understanding of this appeal, we limit our discussion to the record now before the Board.

parties each appealed parts of our ruling to the Johnson County District Court. The parties, however, settled those appeals before the District Court issued a decision. (R. at Vol. II, Tr. at 16; Petr’rs’ Open. Br. 12-13).

*Assessor’s valuations, Petitioners’ allegations of error,  
and evidence offered in support of each party’s position*

[¶ 10] Assessor again rejected the recent 2015 acquisition prices and relied upon the original purchase and installation costs of all equipment to apply the cost valuation method, *infra* ¶ 26, when she assessed the property in 2019. (R. at Vol. II, Tr. at 51-56, 61-62; Vol. III, Assessor’s Exs. 3-56). Deputy County Assessor, Steve Esponda, testified about the valuation process, explaining that he relied upon the previous owners’ original ATD 40<sup>2</sup> reported prices, which were depreciated in accordance with Department of Revenue guidance. *Id.* Mr. Esponda explained that much of the valuation occurs through application of valuation software, incorporating the Department of Revenue’s prescribed depreciation and valuation trending factors. *Id.*

[¶ 11] In addition to the depreciation allowed for the wellhead equipment, Assessor applied a 26% economic obsolescence<sup>3</sup> deduction when valuing Carbon Creek’s well site equipment. (R. at Vol. II, Tr. at 52-53, 61-62). This 26% deduction, Deputy Assessor Esponda testified, stemmed from the percentage drop in natural gas prices between 2015 and 2018. (R. at Vol. II, Tr. at 59, 61-62, 67, 73-75); *infra* at ¶ 16.

[¶ 12] Assessor also valued Powder River’s gathering system equipment, consisting primarily of compressors, using the original installed prices, depreciated to the present. *Supra* ¶ 10; (R. at Vol. II, Tr. at 62-69). Assessor rejected Powder River’s 2015 acquisition prices (and Petitioner’s asserted values) in large part because she became aware of recent 2016 sales of many Powder River compressors to a company called Pegasus. Those prices, her office learned, generally aligned with Assessor’s historic valuations. *See infra* ¶ 14; (R. at Vol. II, Tr. at 64-69, 71). For this reason as well, Assessor determined that economic obsolescence should not apply to Powder River’s field equipment. (R. at Vol. II, Tr. at 74-78).

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<sup>2</sup> The ATD 40 form is a Department of Revenue-prescribed form which oil and gas operators must complete and submit to assessing authorities. (R. at Vol. II, Tr. at 51-52).

<sup>3</sup> “Economic obsolescence” is a type of depreciation which reflects the “[i]mpairment of desirability or useful life arising from factors external to the property, such as economic forces or environmental changes which affect supply-demand relationships in the market.” Rules, Wyo. Dep’t of Revenue, ch. 9 § 4(xiii)(C) (2016). In this instance, Assessor applied it as a form of depreciation separate and in addition to the physical depreciation resulting from the equipment’s age and normal wear and tear.

[¶ 13] Petitioners, through witness Mike Coulter, an officer for both Petitioners, restated their position that Assessor erred when she did not value the equipment using Petitioners' 2015 purchase prices as the basis for determining the equipment's market value. (R. at Vol. II, Tr. at 10-11, 15, 19-24). Mr. Coulter referred generally to Petitioners' 2015 purchase agreements, and particularly to Powder River's purchase of the gathering system equipment which included estimated values for the compressors.<sup>4</sup> (R. at Vol. II, Confid. Tr. at 30-33; Vol. III, Pet'rs' Confid. Exs. T-7 and T8). Mr. Coulter confirmed that Carbon Creek's agreements to acquire the mineral rights and wellsite equipment did not break out prices for the wellsite equipment. By contrast, Powder River's acquisition of the gathering system attributed values to the equipment.<sup>5</sup> On cross examination, Mr. Coulter acknowledged that the confidential agreements in evidence were incomplete, contained redactions of confidential language, and were unsigned. *Id.* (R. at Vol. II, Tr. at 37-40; Vol. III, Pet'rs' Confid. Exs. T1-T8).

[¶ 14] Mr. Coulter confirmed that Powder River sold a majority of its compressors in 2016 to a company called Pegasus, but did not believe that Powder River submitted the price information to the Assessor's Office. (R. at Vol. II, Tr. at 41-42). These 2016 compressor sales played prominently in Assessor's valuation analysis, including her rejection of the earlier acquisition prices as a component of the cost valuation. *Supra* ¶ 12

[¶ 15] Answering Petitioners' allegations that Assessor did not comply with the State Board's 2018 ruling on Petitioners' 2017 appeals, *supra* ¶ 3, Deputy Assessor Esponda testified that the Assessor's Office duly considered the 2015 purchase transactions, but determined they were unreliable and/or invalid. He argued that because they were incomplete, contained redactions, and were unsigned, Assessor justifiably discounted them. (R. at Vol. II, Tr. at 56, 64-66, 68-69, 71-72, 80-81). He explained,

Well, oil and gas transactions or purchase agreements are generally not accepted because there's just too much – too many gray areas in there. You can't – I don't think anybody that's buying the equipment really knows what they're paying for that wellhead or that particular piece of equipment.

(R. at Vol. II, Tr. at 81; *see also* Tr. at 83-84).

[¶ 16] Deputy Assessor Esponda agreed with Petitioners that the oil and gas industry remained depressed. As a result, Assessor applied economic obsolescence to value Carbon

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<sup>4</sup> The complex Powder River contracts executed to acquire the gathering system included not only the equipment (pipelines, compressors, treating facilities, and technology), but also the attendant rights (leases and other contractual devices) and privileges necessary to operate the gathering system. (R. at Vol. III, Petr'rs' Confid. Exs. T-7 & T-8).

<sup>5</sup> As with our decisions adjudicating Petitioners' previous appeals, we need not identify the specific confidential purchase prices Petitioners paid to acquire the business assets at issue and may resolve this appeal without doing so.

Creek's wellsite equipment. (R. at Vol. II, Tr. at 73-74); *see supra* ¶ 11. However, the value of compressors in the field, he insisted, did not merit economic obsolescence or a like adjustment downward because the field equipment remains mobile and broadly sellable for other applications, and for use in other regions, as evidenced by Powder River's sales to Pegasus in 2016. (R. at Vol. II, Tr. at 75-79). Emphasizing this point, Deputy Assessor Esponda referred more generally to other compressor purchases and operations in the region, but did not specify parties or transactions. *Id.*

[¶ 17] Assessor did not offer documentary evidence of the 2016 compressor sales prices between Powder River and Pegasus, stating that confidentiality prevented disclosure. (R. at Vol. II, Tr. at 79, 81-82). Nor did Petitioners offer the compressor sales as evidence of value or to challenge Mr. Esponda's testimony, and the probity of this evidence went largely untested before the County Board. *Id.*

[¶ 18] The County Board affirmed Assessor's assessed value. (R. at Vol. I, 000109-121). In support of its decision, the County Board accepted the Deputy Assessor's testimony that the Assessor's Office appropriately considered the 2015 acquisitions of the wellhead equipment and gathering equipment when it valued that property. Assessor, the County Board concluded, justifiably exercised her discretion when she decided to not use the 2015 purchase transactions as a basis to value the property because the documents were incomplete or contained redactions. (R. at Vol. I, 000116-119). The County Board also found compelling Deputy Assessor Esponda's testimony that Powder River's sale of compressors aligned historically with the Assessor's values. (R. at Vol. I, 000117). The County Board concluded that Petitioners failed to overcome the presumption favoring Assessor's assessed values. (R. at Vol. I, 000119-120).

## CONCLUSIONS OF LAW

### A. Standard of Review

[¶ 19] When the State Board hears appeals from a county board, it sits as an intermediate level of appellate review. *Town of Thermopolis v. Deromedi*, 2002 WY 70, ¶ 11, 45 P.3d 1155, 1159 (Wyo. 2002). In its appellate capacity, the State Board treats a county board as the finder of fact. *Id.*

[¶ 20] The State Board's standard of review of a county board decision is, by rule, nearly identical to Wyoming Statutes section 16-3-114(c)(ii) (2019), the Wyoming Administrative Procedure Act standard that a district court must apply in reviewing such decisions. The State Board's review is limited to determining whether a county board's action is:



- (a) Arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law;
- (b) In excess of statutory jurisdiction, authority or limitations or lacking statutory right;
- (c) Without observance of procedure required by law; or
- (d) Unsupported by substantial evidence.

Rules, Wyo. State Bd. of Equalization, ch. 3 § 9(a)-(d) (2006).

[¶ 21] Because the State Board Rules are patterned on the judicial review provisions of Wyo. Stat. section § 16-3-114 (2017), judicial rulings interpreting that section offer guidance:

When an appellant challenges an agency's findings of fact and both parties submitted evidence at the contested case hearing, we examine the entire record to determine if the agency's findings are supported by substantial evidence. If the agency's findings of fact are supported by substantial evidence, we will not substitute our judgment for that of the agency and will uphold the factual findings on appeal. "Substantial evidence is more than a scintilla of evidence; it is evidence that a reasonable mind might accept in support of the conclusions of the agency."

*Chevron U.S.A., Inc. v. Dep't of Revenue*, 2001 WY 79, ¶ 9, 158 P.3d 131, 134 (Wyo. 2001) (internal citations omitted).

[¶ 22] "A strong presumption favors the Assessor's valuation. 'In the absence of evidence to the contrary, we presume that the officials charged with establishing value exercised honest judgment in accordance with the applicable rules, regulations, and other directives that have passed public scrutiny, either through legislative enactment or agency rule-making, or both.'" *Britt v. Fremont Cty. Assessor*, 2006 WY 10, ¶ 22, 126 P.3d 117, 125 (Wyo. 2006) (quoting *Amoco Prod. Co. v. Dep't of Revenue*, 2004 WY 89, ¶ 7, 94 P.3d 430, 435 (Wyo. 2004)). A mere difference of opinion as to value is not sufficient to overcome the presumption. *J. Ray McDermott & Co. v. Hudson*, 370 P.2d 364, 370 (Wyo. 1962).

## B. Applicable Law

[¶ 23] The Wyoming Constitution requires that all property be uniformly assessed for taxation, and that the Legislature prescribe regulations to secure a just valuation for the taxation of all property. Wyo. Const. art. 15, § 11.

[¶ 24] County assessors are required to "[f]aithfully and diligently follow and apply the orders, procedures and formulae of the department of revenue or orders of the state board

of equalization for the appraisal and assessment of all taxable property[.]” Wyo. Stat. Ann. § 18-3-204(a)(ix) (2019).

[¶ 25] All property must be valued annually at fair market value. Wyo. Stat. Ann. § 39-13-103(b)(vii) (2019). Fair market value is defined as:

[T]he amount in cash, or terms reasonably equivalent to cash, a well informed buyer is justified in paying for a property and a well informed seller is justified in accepting, assuming neither party to the transaction is acting under undue compulsion, and assuming the property has been offered in the open market for a reasonable time[.]

Wyo. Stat. Ann. § 39-11-101(a)(vi) (2019); *See also* Dep’t Personal Property Manual 2019 § 6.1.

[¶ 26] One of the acceptable methods is the cost approach. Rules, Wyo. Dep’t of Revenue, ch. 9 § 5(b)(ii) (2016). Per Department of Revenue regulation, the cost valuation method applies as follows:

#### **Section 5. Appraisal Methods.**

(a) The appraisal techniques which may be used by the County Assessor include the approaches described in this section. Each approach used shall be an appropriate method for the type of property being valued; that is, the property shall fit the assumptions inherent in the appraisal method in order to calculate or estimate the fair market value of the property. Each approach used shall also consider the nature of the property and the regulatory and economic environment within which the property operates.

#### **(b) General Appraisal Methods and Reconciliation**

...

(ii) The Cost Approach. The cost approach is a method of estimating value by summing the land value, where applicable, with the depreciated value of improvements. In the CAMA system, RCNLD is calculated using Marshall and Swift cost tables. The cost approach is an accepted approach and could serve as the primary approach when sales data is unavailable or inadequate (such as special purpose properties). Market adjusted RCNLD plus land value is an accepted method of the cost approach. Sales prices shall be adjusted for time. Other factors influencing price should be considered. The cost approach relies on the principle of substitution in which an informed buyer will not pay more for a property than its comparable replacement. The approach requires:

(A) Accurate, current land values in the case of real property;



(B) Accurate, pertinent physical data regarding the property to which cost data may be applied;

(C) Current cost data which considers appreciation in the case of real and personal property;

(I) Costs may be estimated on the basis of typical replacement or reproduction costs.

(II) Typical replacement or reproduction costs may be estimated by the quantity survey method, the unit-in-place method, the comparative unit method, or the trended original cost method.

Rules, Wyo. Dep't of Revenue, ch. 9 § 5(b)(ii) (2016).

[¶ 27] Under the Department's rules requiring "reconciliation," assessors have discretion but shall rely most heavily "on the value indicator which, in his professional judgment, best approximates the value of the subject property." Rules, Wyo. Dep't of Revenue, ch. 9 § 5(b)(iv) (2016).

### C. Review of County Board's decision

[¶ 28] Petitioners challenge the County Board's ruling on two grounds: 1) that it did not correctly apply this Board's decision from Petitioners' 2017 appeal, *supra* ¶ 7; and 2) that Assessor improperly ignored Department of Revenue guidance concerning the oil and gas industry's economic travails, and that their equipment's value was therefore overvalued. *Supra* ¶ 3. We address each claim in turn.

[¶ 29] In the 2017 appeal, we rejected, in part, Petitioners' proffered interpretation of *Thunder Basin Coal Co.*, noting the assessor in that case was not required to use recent sales information to value the personal property sold. *In re Appeal of Carbon Creek Energy, LLC*, at \*21, ¶ 54; *Supra* ¶ 8. We concluded, however, that *Thunder Basin Coal Co.* and the Department of Revenue's rules required that Assessor consider recent sales as valuation evidence and that she had to justify her exclusion of cost information from her cost valuation analysis. *Id.* at ¶ 67. Our ruling in *In re Appeal of Carbon Creek Energy, LLC* prevents assessors from cherry-picking sales data or blindly adhering to outdated cost information, to the exclusion of timely arm's length sales of the very properties valued.

[¶ 30] The parties in the present appeal focused almost entirely upon the valuation of Powder River's gathering system compressors and related equipment. This is understandable given that we upheld Assessor's valuation of the wellhead equipment in Petitioners' last appeal and partially agreed only with Powder River's claims concerning valuation of the compressors. *In re Appeal of Carbon Creek Energy, LLC*, at \*\*25-33, ¶¶ 71-99.

[¶ 31] Referring more particularly to Assessor's valuation of the gathering system assets, Assessor again relied on the original costs to purchase and install the compressors and disregarded Powder River's more recent 2015 price paid to acquire the equipment. Deputy Assessor Esponda testified that he and the Assessor's Office considered Powder River's costs to acquire the equipment, but determined that the contracts were unreliable and that the transactions presented too many unknowns. *Supra* ¶ 15.

[¶ 32] In addition to his discomfort with what he considered "gray areas" in the 2015 acquisition data, Deputy Assessor Esponda referred to Powder River's 2016 sales of many of its compressors to a company called Pegasus. *Supra* ¶¶ 12, 14, 16-17. The prices received for these numerous compressors, he testified, confirmed that Assessor's valuations derived from the original depreciated installation costs were correct. He explained that although he could not offer evidence of these specific costs into evidence due to confidentiality limitations, the prices paid by Pegasus aligned with the valuations given.<sup>6</sup> *Supra* ¶ 12. He also referred to other unnamed parties in the area that continuously purchased and used field compressors, the prices of which supported Assessor's valuations. *Id.* Neither did he offer these prices into evidence.

[¶ 33] Other than the 2015 purchase contracts, Petitioners offered no additional evidence to counter Deputy Assessor Esponda's testimony and merely questioned whether Assessor's consideration and explanation were sufficiently compliant with this Board's 2018 ruling. We are satisfied with Assessor's justifications and the evidence offered in support of her rejection of the 2015 acquisition prices. First, Assessor reasonably questioned whether she had a complete understanding of Powder River's 2015 purchase of the gathering system. *Supra* ¶ 15.

[¶ 34] Second, Deputy Assessor Esponda testified to knowledge of 2016 sales of many Powder River compressors that were initially at issue, explaining that Powder River received prices in line with the valuations assigned. *Supra* ¶ 12. While Assessor's failure to submit the price information into evidence is perplexing and lacked sufficient explanation, we note that Petitioners also could have offered this sales data to the County Board, but did not.

[¶ 35] But, more important, Petitioners did not seriously question whether the 2016 compressor sales between Powder River and Pegasus differed from Assessor's assigned

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<sup>6</sup> We question Assessor's claim that he could not divulge the sales to the County Board of Equalization due to confidentiality constraints. And yet, Petitioners seemed unbothered by Assessor's explanation, and neither did they offer the compressor sales information into evidence in support of their appeal. The County Board, as well, did not press the parties for access to the 2016 compressor sales prices, nor an explanation of why confidentiality (presumably rooted in contract) was required. Even if the prices were confidential, that did not foreclose the parties from ensuring that the County Board had this information, as courts often receive and consider confidential information pursuant to carefully crafted agreements, such as protective orders and agreements for the controlled examination of confidential information.

valuations. Those 2016 sales to Pegasus offered more recent valuation data than Petitioner Powder River's prices paid for the compressors as part of its overall acquisition a year earlier in 2015. In the end, Deputy Assessor Esponda's reference to the 2016 sales data buttressed the presumption that the assessment of the compressors and associated gathering system equipment is correct; Petitioners offered no direct evidence challenging Deputy Assessor Esponda's testimony. Powder River's conspicuous failure to reveal those sales as evidence before the County Board undercut its theory of the case that its less recent arm's-length sales data should govern. *Supra* ¶¶ 7, 29.

[¶ 36] Third, Assessor convincingly testified that compressors, more so than the wellhead equipment, enjoyed a diverse and variable market and applicability. *Supra* ¶¶ 12, 14, 16. For that reason, Assessor did not apply an economic obsolescence adjustment to the compressors because she found that the depressed oil and gas industry had not so negatively impacted the compressor market as it had the market for wellhead equipment. *Supra* ¶ 12. Petitioners offered no evidence to counter this evaluative factor either, other than restating their core argument that Assessor should begin with Powder River's 2015 acquisition costs to value the compressors. *Supra* ¶ 13.

[¶ 37] We hold that Assessor did not misapply this Board's 2018 decision: she adequately justified her decision to not use the 2015 purchase prices of the gathering system equipment. *Supra* ¶¶ 3, 33-36. The balance of probative evidence of fair market value weighed clearly in Assessor's favor, as she offered at least three reasons and/or sources of information in support of her initial cost-based assessment of the compressors. *Supra* ¶¶ 35-38. While Assessor's failure to specify corroborating price information upon which she relied is troubling from an appraisal and evidentiary standpoint, the record contains no evidence contradicting Deputy Assessor Esponda's conclusions regarding that evidence. Petitioners presumably had access to much of this information (its compressor sales to Pegasus), but offered no evidence to challenge Mr. Esponda's testimony or conclusions. Petitioners were content to merely repeat their original claim—that Assessor must rely on the 2015 acquisition costs in her valuation. A preponderance of substantial evidence supported the County Board's decision that Petitioners did not carry their initial burden of overcoming the presumption in favor of Assessor's assessment. *Supra* ¶¶ 21-22.

[¶ 38] Petitioners' second error claimed is Assessor's failure to apply the Department's guidance as to the economic condition of the oil and gas industry. *Supra* ¶ 3. This claim also ties back to Petitioners' first appeals in 2017, but the Department's guidance regarding the oil and gas industry's economic condition was different in 2019 than the advice given in 2016. In 2016, the Department of Revenue advised assessors that demand for oil and gas industry equipment had rapidly decreased such that values had dropped between 30%-35% from 2014 to 2015. Dep't Personal Property Valuation Manual 2016, Append. 1, § A-1.0, 48. The Department of Revenue's 2019 advice given under the same section of its

2019 Personal Property Valuation Manual states that “The overall drilling and well service outlook for late 2018 is experiencing stabilization. The future of the industry is contingent on fluctuating oil and gas prices. The energy industry continues to face many external pressures and obstacles.” Dep’t Personal Property Valuation Manual 2019, Append. 1, § A-1.0, 48.

[¶ 39] Notwithstanding the Department of Revenue’s less specific guidance, Assessor adjusted the wellhead equipment values down, after depreciation, an additional 26% through economic obsolescence. *Supra* ¶ 11. Petitioners offer little resistance to the valuation of the wellhead equipment, and their challenge focused more particularly on Assessor’s valuation of the field compressors.

[¶ 40] Contrary to Petitioners’ claim regarding compliance with departmental guidance, the record contains no evidence that Assessor deviated from the Department of Revenue’s 2019 directives concerning the oil and gas industry’s performance. The Department of Revenue signaled a stabilizing oil and gas industry, advising no external discount when calculating fair market value. *Supra* ¶ 38. Moreover, Assessor offered evidence that compressor sales and utility had not suffered like wellhead facilities due to the compressors’ diverse application, mobility, and demand. *Supra* ¶¶ 12, 36. Petitioners merely argued that Assessor should continue discounts prescribed several years before. (Pet’rs’ Br. 17-18). Assessor’s refusal to do so was not error. We must therefore affirm the County Board’s rejection of this claim.

## CONCLUSION

[¶ 41] Petitioners did not overcome the presumption favoring Assessor’s 2019 valuation of their wellhead equipment and field gathering equipment in Johnson County. Assessor reasonably explained her continued reliance on the equipment’s original installation costs, depreciated to the present. Assessor, through her Deputy Assessor, adequately explained why the Assessor’s office rejected the 2015 acquisition prices paid for Powder River’s compressors and related gathering system equipment, noting more recent sales prices that confirmed the valuation accuracy of the original installation costs. Finally, Petitioners offered no evidence that Assessor ignored Department of Revenue guidance as to the struggling oil and gas industry in 2019.

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**ORDER**

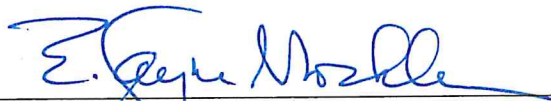
**IT IS HERBY ORDERED** the decision of the Johnson County Board of Equalization is **affirmed**.

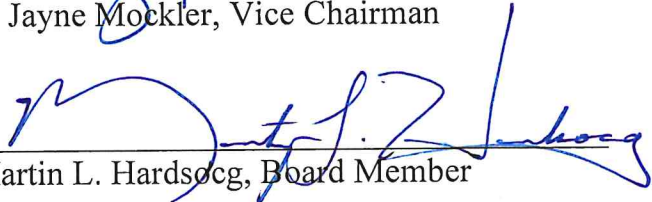
Pursuant to Wyo. Stat. Ann. § 16-3-114 and Rule 12, Wyoming Rules of Appellate Procedure, any person aggrieved or adversely affected in fact by this decision may seek judicial review in the appropriate district court by filing a petition for review within 30 days after the date of this decision.

DATED this 9 day of February, 2021.

**STATE BOARD OF EQUALIZATION**

  
\_\_\_\_\_  
David L. Delicath, Chairman

  
\_\_\_\_\_  
E. Jayne Mockler, Vice Chairman

  
\_\_\_\_\_  
Martin L. Hardsocg, Board Member

ATTEST:

  
\_\_\_\_\_  
Jennifer Fujinami, Executive Assistant



**CERTIFICATE OF SERVICE**

I certify that on the 9 day of February 2021, I served the foregoing **DECISION AND ORDER** by placing a true and correct copy thereof in the United States Mail, postage prepaid, and properly addressed to the following:

Walter F. Eggers, III P.C.  
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Jennifer Fujinami, Executive Assistant  
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Cc: State Board of Equalization  
Dan Noble, Director, Dept. of Revenue  
Brian Judkins, Administrator, Property Tax Div., Dept. of Revenue  
Commissioners/Treasurer/Clerk - Johnson County  
CCH  
ABA State and Local Tax Reporter  
State Library  
File