

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DCP MIDSTREAM LP,</p> <p>v.</p> <p>Respondent:</p> <p>ADAMS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 64902, 64903, 64904, 64905</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 6 and 7, 2015, Gregg Near and Diane M. DeVries presiding. Petitioner was represented by Arthur A. Hundhausen, Esq. and Jonathan Bender, Esq. Respondent was represented by Kerri Booth, Esq. Petitioner is protesting the 2013 and 2014 actual value of the subject property.

The parties agreed to stipulate to all exhibits. The parties also agreed to the expert witnesses with the exception of Jerry L. Wisdom who was not accepted as an expert appraisal witness.

Subject property is described as follows:

**Various pipeline appurtenances located in Adams County, Colorado
Adams County Schedule No. P0004908 (Docket No. 64902); P0001370
(Docket No. 64903); P0001679 (Docket No. 64904) and P0001914 (Docket
No. 64905)**

The subject consists of tangible personal property including pipelines and relevant appurtenances, specifically meters used in the oil and gas industry. The parties focused upon the 2014 actual values in testimony.

Petitioner presented the following indicators of value:

Tax Year	Cost Approach	Income Approach
2013	\$4,596,367	\$2,028,785
2014	\$4,205,693	\$1,740,930

DCP Midstream, LLP owns tangible assets in Adams County consisting of approximately 105 miles of pipeline of varying diameter and appurtenances such as meters, valves and “pig launchers”. The assets represent the gathering system owned and operated by DCP. Petitioner cited three issues as the basis for the appeal.

1. Were the meters disclosed in Petitioner’s reporting to Adams County?
2. Even if the meters were not separately disclosed in the reporting, what is the best approach for the taxpayer?
3. Did DCP omit assets in its reporting to Adams County?

Petitioner’s witness, Gregg West, Director of Property Tax for DCP Midstream, discussed his history with DCP and his knowledge regarding the company’s reporting to Adams County. Mr. West was hired by DCP in 2007 and prior reporting was provided by in-house property management of Spectra Energy. Personal property reports for 2007 and 2008 were provided to Adams County based upon previously reported assets and additions. In 2009, at the direction of Mr. West, it was determined that DCP could not substantiate or reconcile the data previously relied upon. DCP had adopted a more modern system of tracking and reporting that relied upon Geographic Information System (GIS) data to identify the physical assets. The system was described as “dynamic”. The amount of pipeline and appurtenances varies depending upon the time when the analysis is applied. It is only when DCP runs the GIS system that an accounting can be made because there are new wells being developed or old wells are taken out of service constantly throughout the year.

The original costs reported in 2007 and 2008 were, respectively, \$871,695 and \$756,738. As a result of the decision to adopt a GIS reporting system, Mr. West indicated that DCP adopted a “reset” of all the pipeline values to cost new. The 2009 original cost, based upon the GIS system, was reported to be \$10,720,243. No separate cost was applied to meters as the system did not specifically identify them. Mr. West stated he did not know which cost schedule was used for these figures but relied upon the agents in the field.

Petitioner’s next witness, Deana Pratt, the Principal Tax Analyst for the North Region, testified that the Louisiana Cost Schedule was relied upon for the 2013 and 2014 declarations. She indicated this schedule included all appurtenances. The GIS data for the Adams County gather system identified approximately 110 meters. Ms. Pratt noted there are other schedules available and that she had confirmed her application of the schedule with Louisiana.

Petitioner’s next witness, Paul Beacom, a Property Tax Advisor for K. E. Andrews, discussed his prior employment as the oil and gas supervisor for Adams County until 2007 and his engagement as a consultant with the County in 2007 through 2009. Mr. Beacom indicated he had reviewed DCP’s tax returns in his tenure as an employee for Adams County and stated that the 2007 and 2008 returns separately identified the meters. The 2009 filing was the first declaration that did not separate the meters and Mr. Beacom testified that he worked with Jonathan Jones, DCP’s Agent, regarding the jump from \$750,000 to \$10 million and ultimately accepted the 2009 figures. Mr. Beacom also stated he did not consider the figures reported in 2007 and 2008 to have been willfully misrepresented and he also indicated that no other oil and gas operator had provided the level of detail received from DCP.

Petitioner's final witness, Mark Andrews, an ASA designated appraiser and President of K. E. Andrews, testified his firm was the largest energy tax firm in the United States providing property tax preparations for all 50 states and Canada. Mr. Andrews characterized the subject property as a small diameter gathering pipeline located in the Wattenberg Field in North Adams County. The Wattenberg Field was developed in the 1970's and was described in Mr. Andrews' report as significantly depleted. He noted the gather system was designed for 20,000 MCF/D (million cubic feet per day) and was currently producing only 1,200 MCF/D. Mr. Andrews employed both an income approach and a cost approach and further supported the cost approach by analysis of the Basic Equipment List.

Mr. Andrews presented a cost approach to derive a market-adjusted cost value for the subject property of \$4,596,367 for 2013 and a value of \$4,205,693 for 2014. For 2014, Petitioner's witness relied upon equipment lists stating the year the pipeline was placed in service, the size of the line, the type of line (steel or poly) and the length of the line in feet. Cost figures per linear foot of pipeline were provided by DCP and were trended upward based upon the Colorado schedule to determine Replacement Cost New (RCN). Depreciation was applied based on the appropriate schedule with a more conservative "floor" of 15%. The concluded Replacement Cost New Less Depreciation (RCNLD) for 2014 was \$4,205,693. Although not presented in depth, "Part 3" of Petitioner's exhibits indicated a concluded RCNLD for 2013 of \$4,596,367.

Based upon the previous testimony of Mr. White and Ms. Pratt, the pipeline cost, as established by the Louisiana Schedule, includes pipeline and appurtenances.

Petitioner's witness presented an income approach to derive a value of \$2,028,785 for 2013 and \$1,740,930 for 2014. Income was derived by multiplication of the "Daily Gas Sales Rate" by 365 days and then subtracting a "gathering fee" of \$0.50 per MCF of gas to obtain Projected Annual Revenue. Expenses for labor, insurance, vehicle/fuel, taxes (severance) and miscellaneous were estimated and subtracted to produce a net income figure. The net income was capitalized at 10.18%, described as the weighted average cost of capital nationwide. The capitalization rate was then "loaded" by 2.5% for property taxes. Application of the loaded capitalization rate to the net income for 2014 produced a fair market value of \$1,740,930 for 2014. A similar process was followed for the 2013 income producing a fair market value of \$2,028,785. Mr. Andrews pointed to the declining volumes of the wells as the cause for the lower value opinion in 2014.

Mr. Andrews, citing the similarity between Petitioner's declaration and the Basic Equipment List (BEL), gave greatest weight to the indications derived by the cost approach. The witness did not separate the system values based upon the individual taxing entities. The following estimates were provided by Petitioner for tax years 2014 and 2013:

Docket No.	2014 Actual Value	2013 Actual Value
64902	\$75	\$76
64903	\$3,722,200	\$3,733,369
64904	\$591,164	\$589,354
64905	\$628,394	\$628,394

TOTAL:	\$4,941,833	\$4,951,193
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Respondent presented the following indicators of value for 2014 and 2013 tax years:

Tax Year	Cost Approach	Income Approach
2013	\$5,324,812	Not Provided
2014	\$5,112,245	Not Provided

Respondent's witness, Jerry L. Wisdom, Oil & Gas Appraisal Manager for Total Assessment Solutions Corporation, presented a cost approach to derive a cost value for the subject property of \$5,112,245 for 2014 and \$5,324,812 for 2013.

Mr. Wisdom presented a list of the 2014 DCP Midstream Omitted Meter Values with a total of 131 meters. He testified to physically visiting every one of DCP's well heads to acquire this information. Each meter was identified by year; code (electronic meter "E", electronic meter/Bldg., "EB", or electronic meter/Shed "ES"); asset number and diameter. 25 of the meters were identified by asset number "N/A". The age of each meter was provided by the Colorado Oil & Gas Commission. Mr. Wisdom then determined the total price for each code by analysis of the pricing for each portion of a meter. For the 2014 cost approach, each type of meter was cost trended from 2013 to the appropriate cost new in 2014.

Mr. Wisdom applied a 20-year life to the meters with a "floor" of 20%. Each of the meters was then depreciated based upon their year of installation to determine the actual value as of 2014. The actual value of DCP's meters as of 2014 was calculated to be \$785,906.

To determine the value of the pipelines, Mr. Wisdom considered the information provided by the Marshall Valuation Service. For the gather lines of 6", 8" and 10", he referenced Pipeline Costs from Section 62, Page 6 of the Marshall Valuation Service and for the smaller lines he referenced Utility Piping from Section 62, Page 3 of the Marshall Valuation Service. The costs from the Marshall Valuation Service were provided as of 2012 and it was therefore necessary to trend them upward for cost new as of 2014.

Rather than rely upon the costs established by Section 62, Page 6 of the Marshall Valuation Service, Mr. Wisdom chose to rely only upon the costs for utility piping. A 10" line, for example, is referenced in utility piping at an average cost of \$88.50 per foot. The witness then applied a trend factor of 1.005690396 resulting in a cost new, as of 2014, of \$89.00. Because they were not provided by the Marshall Valuation Service, the costs for 2" and 3" pipes were extrapolated based upon their size relationship to 4" pipe.

After determination of replacement cost new (RCN), physical depreciation was calculated by use of the percent good tables for both gather lines and trunk/transmission lines. Again, as an example, for a 10" pipe constructed in 1990, Mr. Wisdom applied the "percent good" from the trunk/transmission lines column and determined a 26% good factor. Pipelines from 2" to 4" were considered to have a 14-year life and pipelines of 6" and above were adjusted based on a 29-year life. A "floor" value of 15% of RCN was applied.

Mr. Wisdom applied a similar procedure to determine the values of those portions of the pipeline inventory described as “Poly”. No percent good table was provided and all costs were adjusted to the “floor” value.

After developing the RCN less depreciation for the pipeline system, Mr. Wisdom concluded to an actual value of \$4,326,340. Addition of the actual value of DCP’s meters of \$785,906 resulted in a total value for pipelines and meters of \$5,112,246. Using a similar procedure for the 2013 valuation resulted in a total value for pipelines and meters of \$5,324,812. By the individual docket numbers, the conclusions are as follows:

2014	
Docket No.	Actual Value
64902	\$33,425
64903	\$3,594,256
64904	\$934,738
64905	\$549,826
TOTAL:	\$5,112,245

2013	
Docket No.	Actual Value
64902	\$33,236
64903	\$3,720,309
64904	\$1,104,434
64905	\$556,834
TOTAL:	\$5,324,813

Petitioner contends that Mr. Wisdom applied pipeline cost calculations that are specifically designed to inflate his determination of 2013-2014 actual value for DCP’s pipeline. Respondent’s witness, having been supplied the pipeline information found in DCP’s 2013 and 2014 declaration schedules, indicated he applied the “Best Information Available” approach that is recommended by the ARL.

Petitioner asserts that Mr. Wisdom did not follow the recommended procedure in the ARL which references Section 62, page 6 of the Marshall Valuation Service but instead applied the costs from Section 62, page 3 that provides the costs for utility piping. Petitioner further asserts that reliance upon the utility piping schedule required adjustments for 2” and 3” pipe that is not provided by the cost manual. Additionally, Mr. Wisdom’s own company publishes the “TASC Pipeline Cost Schedules” that include costs for all the sizes of pipelines under consideration. Use of the utility pipeline costs resulted in higher estimates than reliance upon the TASC schedules.

Petitioner also questions Mr. Wisdom’s claim that DCP undervalued its pipeline and meters. Petitioner maintains Mr. Wisdom’s methodology and calculations are fundamentally flawed and lead to unreasonable conclusions.

Finally, Petitioner points to Adams County's Valuation Notices for 2013 and 2014 that indicate values of \$1,269,946 and \$1,396,197, respectively, exceeding the actual values Mr. Wisdom determined.

Respondent contends Petitioner did not provide Adams County with the historical cost data for the pipeline segments. As a result, the County was forced to use the best information available (BIA) to determine actual value. The County's witness, Mr. Wisdom, chose to veer slightly from the directions provided by the ARL in order to determine the appropriate costs for a gathering system as opposed to a transmission system.

Respondent further asserts that Mr. Wisdom provided several layers of comparison and tests of his conclusions by use of the BIA. His results confirmed the conclusions of the BIA analysis. Mr. Wisdom further supported his conclusions by referencing documents from Petitioner regarding Authority for Expenditures (AFE's) confirming that DCP had undervalued the pipeline and appurtenances.

Respondent maintains that Petitioner has not met its burden of proof. Because DCP was unable or unwilling to provide historical or even allocated costs to the assets within the County, it required Respondent to consider the BIA approach. The use of the BIA and the results of the county-wide audit performed by Mr. Wisdom provide the best indication of the actual values of the pipeline and meters in question.

The Board was primarily swayed by the inconsistent testimony of Respondent's witness. There were a number of choices made in Mr. Wisdom's analysis that tended toward a value, or a direction in value, that favored the cause of his client. To begin, the Board was struck by Respondent's acceptance of Petitioner's decision to "reset" Petitioner's personal property declaration and increase cost new of all their pipelines and meters, from \$756,738 in 2008 to \$10,720,243 for 2009. Citing conversion to a GIS system that did not, at that time, identify individual meters, Petitioner was simply unable to provide specific information requested by Adams County. The assessment employee at the time of this decision accepted the new procedure and welcomed the depth of information provided. No charge of deception or intentional omission of any property was leveled at that time. Petitioner produced a declaration that relied upon an industry schedule; a publication relied upon by other parties in the pipeline industry, to estimate the pipeline and appurtenances. For valuation purposes, the ARL provides clear direction to the Assessor in ARL, Vol. 5 at page 7.23. The relevant portions are related below:

If a *taxpayer is unable* or unwilling to supply basic historical cost and/or income information for the valuation of the pipeline system, the assessor may determine a BIA valuation for the property. Two possible sources for BIA values can be used:

1. *Comparable pipeline values per mile based on other pipeline assessments within the county or in other neighboring counties.* Age of the system, pipeline throughput, and pipe size are important units of comparison when establishing BIA values. Assessors within the same oil and gas production basin are encouraged to discuss pipeline assessment practices and provide comparative

assessment information to be reviewed by all assessors.

2. *Section 62, page 6, of the Marshall Valuation Service manual should also be considered as a source of BIA assessments. Make sure you read the explanatory paragraph under “**Pipeline Costs**” associated with the typical costs per mile so the appropriate rate can be assigned. (As with most sections of the Marshall Valuation Service manual, local multipliers may be applicable to the section. Final figures may need to be adjusted to the appropriate level of value using Marshall’s own indices for such data.) You will also have to add costs for compressor/pumping equipment.*

It is important that the BIA value be based on comparable pipeline cost information, assessment information, or *other source of information related to the pipeline industry*. (Emphasis added).

From the testimony and exhibits presented, the Board finds that Petitioner certainly appeared willing, if unable, to cooperate with the Assessor. No evidence or testimony was presented to suggest Adams County consulted with other counties regarding their experience. Indeed, no evidence was presented that supports Adams County’s insistence that meters must be valued separately from the pipeline to which they are attached.

Respondent’s witness completely ignored the above direction and instead chose to move to another section of the manual to determine the value of a different kind of piping that was not only designed for per foot costs but gave no cost estimates for the smaller lines of pipe. This resulted in the need to estimate the appropriate unit costs. After determining RCN by this method, the witness referenced the Percent Good tables and correctly determined depreciation for the 2” to 4” gathering lines but for the larger lines he inexplicably applied Trunk/Transmission calculations and a 29 year life - more than twice what is required for the subject as a gather system.

Finally, despite clear direction that reliance can be placed upon information used by others in the pipeline industry, Mr. Wisdom chose to ignore his own publication of the TASC Pipeline Cost Schedules. The schedules, utilized in Oklahoma and Arkansas, provide per foot costs for 2” through 10” diameter pipelines. Petitioner’s witness, Mr. Andrews, suggested this schedule would be reasonable to apply to the terrain in question. DCP’s own use of the Louisiana Schedule was chosen because the publication is closest to the lein date and the costs include appurtenances.

ORDER:

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax years 2013 and 2014.

Respondent is ordered to reduce the 2013 actual value of the subject property to \$4,596,367 and the 2014 actual value of the subject property to \$4,205,693.

The Adams County Assessor is directed to change his/her records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 15th day of May, 2015.



BOARD OF ASSESSMENT APPEALS

Gregg Near

Diane M. DeVries

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Milla Lishchuk