

Tax appeals heard, denied and settled 05/28/10

By Helen Barrett

Alva Review-Courier

A special meeting of the Woods County Board of Equalization convened at 8:45 a.m. Thursday to hear formal appeals of the Woods County Assessor's assessed evaluation of omitted properties.

In addition to the board, District Attorney Hollis Thorp, Attorney Mart Tisdal, Visual Lease Services Representative Jerry Wisdom, Assessor Monica Schmidt and County Clerk Pam Inman attended the hearings.

The first hearing involved the 2010 assessment for DCP Midstream. The company was represented by its tax attorney Dwayne Nicklin.

Assessor Monica Schmidt explained the reasons behind her evaluation of pipelines, valves and compressors owned by DCP Midstream. She stated that the company used the "unit approach" as a basis of its protest which is not the common measurement used to value a company's worth.

Nicklin agreed that the unit approach is not normally used in assessed values but was chosen by the company this year because their co

orporate income was down by 67 percent.

"Our contention is that the income approach needs to be looked at this year because there was a significant decrease," Nicklin said.

Nicklin said most of its natural gas is provided to markets for the manufacture of plastics in automobiles. He said that since the car industry had a slump, their company didn't sell as much gas as usual.

"We would ask that you look at the obsolescence factor," Nicklin said.

Schmidt said, "The only thing I want to say is, they're really pushing the increment approach. I think what's good for one is good for the other."

Jerry Wisdom, Visual Lease Services representative, said, "On this unit approach, number one if you look at his 2010 unit value, and you look down under Oklahoma Operations, their net value is \$1,074,052,217.

That's the book value of appreciated assets. The total investment is \$3.8 billion."

Wisdom said Nicklin did not give any value to metering, but the \$1 billion is the "net book." Wisdom pointed out that Nicklin only reported \$474 million in assets to all the counties in Oklahoma.

"That's already a 53% reduction off of his net book. I'm almost 1 million percent sure that DCP would not take that value (in a sale)," Wisdom said.

Nicklin wanted the assessment reduced because of one year's income. Wisdom said a three-year average is necessary to establish an accurate indicator of income. He pointed several apparent discrepancies in Nicklin's methods at arriving at his valuation.

"Through the magic and theatrics of all of that, you can't use that information," Wisdom continued. "He should be turning in to the assessor what the total investment in the county is. We don't know how much he spent on those compressors. He's using our schedule, but trying to take some numbers off that schedule."

Wisdom said DCP Midstream would never consider selling the portion of the company in Woods County for the amount they were claiming it was worth.

"If you use our schedule, they are only giving us 47 percent of their value," Wisdom said. "We're starting out at a lower number and he wants to take it down more."

Board Chairman Chris Olson asked Nicklin, "Do you not charge so much on metering, transportation, compressing. Is that the way you arrive at your income? Those do not change." "I do not know," Nicklin replied.

Olson, who works in the natural gas area, said to Nicklin, "You charge a set amount for each. In my business, that has not come down any."

Wisdom said, "If you have a low value well, they charge you an additional amount."

Olson said, "Your income is based on the fact there's not any gas moving, not the margin between what I get and what goes out of state."

"You're saying, basically, because of the volume, you want a reduction in price. Next year we increase the volumes three fold, do you think you're going to boost it up three times what it is?" Olson asked.

Nicklin said if Schmidt were willing to look at unit evaluation, they would have no objection to continuing toward a settlement.

"We have looked at the unit approach," Schmidt said. "The key is the unit approach is a state tool for public service companies. DCP Midstream is not a public utility. I feel looking at the offer, I'm always willing to talk and look at settlements. I think our number is solid. I don't think their number is good."

Attorney Mart Tisdal said, "If Mr. Nichols were in here talking to a willing buyer, he would not be using that number he's using. That would be the first number that would be struck. I think Jerry made all the good points that can be made on this. I think Monica has indicated what her number is and I think it ought to be sustained."

"I'm in the business here of acquiring pipeline, I would be a buyer at your numbers," Olson said. "I'd be a partner," Wisdom said quickly.

Wes Nixon moved that the numbers be left as assigned by the assessor. Rob Nida seconded the motion and it passed unanimously.

No Show

DCP Midstream also appealed their assessments for the years 2007, 2008 and 2009. Before Mr. Nicklin left the 2010 protest hearing, District Attorney Thorp asked if he were representing the company on the other three protests.

Nicklin said he had none of the information with him for those hearings.

Gregg West was supposed to attend those hearings, however Nicklin said West was out of the country.

"Yesterday in Cleveland County he told Cleveland County he needed his hearing date there changed so he could be up here," Schmidt said. "They changed it because they thought he was going to be here. This guy (Nicklin) could have represented them. That's their choice."

County Clerk Inman said she received a fax from West on May 24 asking for a change of hearing date. She sent a fax back that day stating that the May 27 hearing date had been set for quite some time.

She reminded West that he had been informed of the date of the meeting at the time of his informal hearing on May 3 and the meeting date would not be changed.

Inman also called West's secretary the day before who said West would not be at the meeting.

"On May 3, we had the informal for DCP with Dwayne Nicklin, and Gregg West on the phone conference call," Schmidt said. "Nicklin was here in Alva today.

I asked if he would do it. He refused. Based on that, because Duane signed the 2008-2009 tax, we feel they've relinquished their appeal."

District Attorney Hollis Thorp said, "Effectively they've waived their right to appeal."

Because none of the DCP representatives appeared for the three final appeals, the board moved to dismiss them.

Missouri Gas Energy

Just prior to the 10:30 a.m. start of the appeal hearing for Missouri Gas Energy, that company's attorney Bill Elias requested a conference with the assessor, her attorney and representatives and the District Attorney in private.

The board moved to recess and reconvene at 11 a.m. to allow for the conference.

After almost a decade of battling the company through the court system all the way to the United States Supreme Court which refused to hear Missouri Gas Company's appeal, it appeared the battle might start anew with the 2010 assessment.

The Woods County Assessor's Office issued a subpoena to which until Thursday the company did not respond.

During the conference meeting between the Assessor's representatives, Elias and Panhandle Eastern Official Joe Lopez, provided the information and an agreement was reached to settle the dispute.

When the meeting reconvened at 11 a.m., Attorney Mart Tisdal said, "We are essentially in agreement now. We're going to withdraw the subpoena." Elias said, "We're dropping the appeal."

Other Business

Two items of routine business were handled by the board during the morning session.

Temporary appropriations for the City of Alva were approved as follows:

- General Fund – \$4,791,310
- Street and Alley Fund – \$129,655
- Cemetery Fund – \$173,060
- Airport Fund – \$276,577.

The board also approve a transfer of appropriations for the Assessor's Office of \$1,000 from capital outlay to travel.