BEFORE THE STATE ASSESSMENT REVIEW BOARD

STATE OF ALASKA

IN THE MATTER OF THE TRANS-ALASKA PIPELINE SYSTEM	))))	Appeal of Revenue Decision No. 06-56-17 OAH No. 06-SARB-TAX
OIL & GAS PROPERTY TAX (AS 43.56) 2006 ASSESSMENT YEAR	))	

CERTIFICATE OF DETERMINATION

The State Assessment Review Board (Board) convened from May 15, 2006 through May 18, 2006 to hear and deliberate on the AS 43.56 appeals of the 2006 assessment of the Trans-Alaska Pipeline System (TAPS). Chair Steven L. Van Sant and members Richard Stovarsky, Allen S. Black, Mickey Keller, and Mike Salazar were present, constituting a quorum as required by AS 43.56.130(b).

The Board Chair, Steven L. Van Sant, conducted the hearing. Mark T. Handley, Administrative Law Judge from the Office of Administrative Hearings, assisted the Chair.[1]

Attorneys F. Steven Mahoney, C. Stephen Davis and Chris K. O'Neall represented the TAPS Owners (Owners). Bonnie Harris, Jonathan E. Iversen and Kenneth J. Diemer, assistant attorneys general, and Randy Hoffbeck represented the Taxation Division of the Alaska Department of Revenue (Division). The municipalities appealing the Division's 2006 TAPS assessment (Municipalities) were represented by attorneys William M. Walker and Craig Richards (for the City of Valdez), Joseph W. Miller (for the Fairbanks North Star Borough), and Mauri Long and Linda M. O'Bannon (for the North Slope Borough).

A court reporter was present to swear in witnesses and create a transcript of the hearing.

[1] Under Alaska Statute 44.64.030(b), the Office of Administrative Hearings provided an administrative law judge to advise the Board at the request of the Department of Revenue.

I. Introduction

The subject of this appeal is the Division's $3.641 billion assessed valuation of the TAPS. The Division considered several approaches to valuing the TAPS. The Division explained that it had relied primarily on its Replacement Cost New Less Depreciation (RCNLD) methodology to arrive at its assessed valuation.

The Owners argued that the 2006 TAPS value was approximately $1.5 billion. The Municipalities argued the TAPS assessed valuation should be set at no less than $6 billion.

Under AS 43.56.130(f), the Board cannot adjust the Division's assessed valuation unless the evidence in the record shows that this valuation is unequal, excessive, improper or otherwise contrary to the standards set out in AS 43.56.

After reviewing the record, the Board concluded that the Division's assumption that it was legally required to divert from standard appraisal methodology to deduct capitalized interest and ad valorem tax costs from its calculation of the TAPS 2006 RCNLD was incorrect. The Board concluded that these deductions were not jurisdictional exceptions to standard appraisal methodology for valuation of the TAPS as pipeline property in operation. The Board concluded that the Division's deduction of these costs was improper. The Board also concluded that the Division should have included program manager profit costs in its TAPS Replacement Cost New (RCN) estimate. The Board concluded the Municipalities and the Owners did not meet their burdens of proof to show that the Division's assessed valuation was otherwise unequal, excessive, improper or otherwise contrary to the standards set out in AS 43.56.

The Board concluded that these capitalized interest and ad valorem tax cost deductions, and a reasonable program manager profit amount, should be added back into the Division's RCN estimate. The Board recalculated the Division's RCNLD of the TAPS value to add the two deductions back into the RCN costs and added program manager profit costs. The Board

concluded that the resulting value of $4.3062718 billion should be the 2006 assessed value of the TAPS.

A. Description of the Property

The TAPS is an 800-mile long, 48-inch diameter, crude-oil transportation pipeline stretching from the oil fields of the North Slope of Alaska to the port terminal in Valdez, Alaska. The TAPS includes its oil-associated pump stations, buildings, materials, supplies, machinery, tanks, terminal facilities and other related property.

Portions of the TAPS are located in the municipalities of the City of Valdez, the Fairbanks North Star Borough, and the North Slope Borough. The remainder of the TAPS is located in the Unorganized Borough of Alaska.

B. Names and Addresses of Each Owner of the TAPS

1. BP Pipelines (Alaska) Inc., PO Box 190848, Anchorage, AK 99519-0848
2. ConocoPhillips Transportation Alaska, Inc., PO Box 110360 Anchorage, AK 99510-0360
3. Exxon/Mobil Pipeline Company, PO Box 2220, Houston, TX 77252-2220
4. Koch Alaska Pipeline Company, LLC, PO Box 2913,Wichita, KS 67201-2913
5. Unocal Pipeline Company, 14141 Southwest Freeway Sugar Land, TX 77478

C. Parties Appealing

The Owners of the TAPS appealed Alaska Department of Revenue Decision No. 06-56-17. This decision denied some of the Owners' claims against the Division's March 1, 2006 Notice of Assessment of the TAPS.

The Municipalities appealed Alaska Department of Revenue Decision No. 06-56-17. This decision also denied some, but not all, of the Municipalities' claims against the Division's March 1, 2006 Notice of Assessment of the TAPS.

D. Consolidation and Coordination of Appeals

For the appeal before the Board of the Division's 2006 assessment of the TAPS, the appeals of Revenue Decision No. 06-56-17 were consolidated and the different owners and the different municipalities coordinated the presentation of their cases.[2]

II. Historical Context of the Board's Review of the 2006 TAPS Assessed Valuation Under AS 43.56.

A. Before 2001

Prior to 2001, no appeals the TAPS valuation were heard by the Board because the TAPS assessed valuation was set in negotiated settlements between the Division and owners of the TAPS with little, if any, participation by the Municipalities.

B. 2001 TAPS Assessment

In 2001, both the Owners and the Municipalities appealed the Division's $2.75 billion assessed valuation of the TAPS. Each party commissioned appraisals of the property. Neither of these appraisals included an updated replacement cost study of the TAPS. Both relied most heavily on projected TAPS tariff income data in setting their valuation estimates. The Owners argued that the Division's assessed valuation was too high, while the Municipalities argued that the valuation was too low.

In its 2001 assessment, the Division had considered its own income approach, which it called its TAPS Tariff Settlement Agreement Income Model (TSM). An income approach projects the future income of an income producing property and then discounts that income stream to its present worth. The TSM estimate resulted in a valuation of the TAPS at $3.017 billion. The Division also considered the appraisal prepared for the Municipalities by Tegarden

[2] *See* Pre-Hearing Order issued May 3, 2006.

& Associates, Inc. (Tegarden) and the appraisal prepared for the Owners by Shank & Kinnard (Shank). The Division explained that it had reconciled these three appraisals to arrive at its $2.75 assessed valuation of the TAPS.

In 2001, the Owners asserted that the "full and true value" of the TAPS under AS 43.56.060(e) was no more than $2.1 billion, the valuation advocated by the Owners' expert, Shank. The Owners appeal focused on lack of weight given to Shank's cost approach and comparable sales approach valuations. A cost approach estimates what it would cost to build or replace a property new and then adjusts for factors such as depreciation, obsolescence, and inflation. A comparable sales approach uses recent sales of similar properties or partial sales of the same property to estimate value. The Owners also challenged the future TAPS throughput projections in the Division's TSM valuation.

In 2001, the Municipalities argued that the state improperly lowered its valuation of the TAPS from $3.017 billion to $2.75 billion, and that an alternate assessment of $5.9 billion was appropriate under the second part of AS 43.56.060(e)(2) based on a cost approach using straight-line depreciation of the TAPS.

In 2001, the Board concluded that an income approach was the most reliable methodology for calculating the 2001 TAPS assessed value based on the evidence that had been presented to the Board. Problems in both the cost and comparable sales value estimates of the parties' 2001 experts made those value estimates so much less reliable than the Division's TSM valuation using the tariff income approach that the Board concluded that the TSM valuation was proper for setting the 2001 assessed value of the TAPS. The 2001 comparable sales value estimates were not reliable because they were based on sales that were not arms-length transactions. Furthermore, the relatively small percentage of total ownership those minority interest sales represented, combined with the inability to assign an accurate control premium, made the attempts to gross-up these partial sales prices a very unreliable measure of full value. The 2001 cost value estimates had to be calculated based on the original cost of the TAPS.

The Board overturned the Division's reduction of the 2001 TSM valuation to $2.75 billion through its reconciliation process because the Board concluded that the Division's reconciliation improperly reduced its reliable TSM valuation to bring it closer to a graphed line of historical negotiated TAPS assessments and closer to valuations that were based on data and methodologies that both the Division and the Board considered much less reliable. The Board ordered that the 2001 TAPS assessed value be adjusted to $3.017 billion.

C. 2002, 2003 and 2004 TAPS Assessments

From 2001 through 2004, the assessed valuation of the TAPS remained at $3.017 billion as the result of negotiated agreements between the Division, the Owners, and the Municipalities.

D. 2005 TAPS Assessment

The Division's estimated value of the future tariff income stream of the TAPS in 2005 was significantly less than its estimate in 2001. This was primarily because a recent decision by the Regulatory Commission of Alaska (RCA) lowered the amount of tariff that the Owners could charge to intrastate shippers of Alaska North Slope oil. This amount is far below the amount previously charged under the TAPS Tariff Settlement Agreement, which still controls the tariffs for interstate Alaska North Slope oil shipped through the pipeline.

Although most Alaska North Slope oil is shipped out of state and is thus still subject to the TAPS Tariff Settlement Agreement tariff rate, the RCA decision was generally accepted as an indication that Tariff Settlement Agreement tariff rate might be subject to a significant reduction when it is reviewed by the Federal Energy Regulatory Commission (FERC) in 2008 or 2011. This uncertainty about future tariff rates led the Division to question whether the income approach using a capitalized estimated future tariff income stream still provided the most complete and reliable estimate of the value of the TAPS. Left with no useful comparable sales data, and no longer willing to rely on an income approach valuation, the Division decided to look at a RCNLD (replacement cost new less depreciation) cost approach.

As part of the 2005 TAPS assessment process, in response to a request from the Division, the Owners contracted with Mustang Engineering, L.P. (Mustang) to conduct a replacement cost study of the TAPS. The Owners also had an appraisal of the TAPS done by Stancil & Co. (Stancil). Kathy G. Spletter, ASA, was Stancil's Appraiser. The Stancil appraisal was based on Mustang's replacement cost study and a TAPS tariff income stream valuation.

The Municipalities contracted with R.W. Beck, Inc. (Beck) to review the Mustang replacement cost study. Beck reviewed Mustang's draft report and consulted with Mustang and the Owners' attorneys regarding some questions Beck had about the Mustang report. Beck produced its own replacement cost report based on the Mustang report and on some of its own investigations. Beck also produced a TAPS valuation estimate based on its review of the information in its own replacement cost study and other information.

The Division's 2005 Assessment set a $3 billion assessed valuation for the TAPS. The Division's valuation was based on its RCNLD approach to value. The Division relied on both the Mustang and Beck reports to assist in determining the TAPS 2005 value. The Division explained that it had considered other approaches to valuation, including income, sales comparison, stock & debt, and integrated economic value.

The Board concluded in 2005, as it had in 2001, that it would be improper for the Division to give significant weight to approaches of valuation or other indicators of value that were not reliable. The Board agreed with the Division that the 2005 value of the TAPS could no longer be accurately measured by the tariff income approach. The regulated income stream did not reflect the total economic value of the TAPS, but only a portion of it. The Board concluded that it would have been improper for the Division to reduce its 2005 assessed valuation of the TAPS to bring it closer to tariff income approach valuations because the uncertainty of future tariff rates and other factors caused the value of future tariff income streams to understate the full and true value of the TAPS.

Based on the evidence presented, the Board concluded that the Division's 2005 assessed

valuation of the TAPS at $3 billion was at the low end of an acceptable value range, but it was not unequal, excessive, improper or otherwise contrary to the standards set out in AS 43.56. The Board found that neither the Owners nor the Municipalities carried their burden of proof. The Board determined that the Division's valuation should not be adjusted.

III. 2006 TAPS Assessment Process

For the TAPS assessment process for 2006, the Division decided that it should assume that the data and methodology used to calculate the TAPS $3.0 billion assessed value for 2005 had been correct and make the proper adjustments to that data and methodology to account for value changes that had occurred over the following twelve months.

The Division's adjustments and recalculation resulted in a 2006 assessed valuation of the TAPS at $3.344 billion. The Owners and the Municipalities requested an informal conference to review this valuation.

After reviewing the Municipalities' and the Owners' concerns about its 2006 assessment, the Division issued an informal conference decision which adjusted its 2006 assessed valuation of the TAPS to $3.641 billion. The Division accepted and rejected some arguments and evidence submitted by the parties in making this adjustment. Both the Owners and the Municipalities appealed.

IV. Board's Findings of Improper Valuation

The Owners and the Municipalities both presented evidence that resulted in different values than the Division. After reviewing evidence in the record and the arguments of the parties, the Board found that the Municipalities had met their burden of proof only in showing that the Division's RCN estimate should have included the cost of capitalized interest and ad valorem taxes during construction and reasonable profit for the TAPS construction project manager. The Board found that the Owners had not met their burden of proof on any of the points they raised to challenge the Division's 2006 assessed valuation of the TAPS.

A. Capitalized Interest during Construction

The Board reviewed the briefs of the parties, and the statutes and regulations governing the valuation of oil and gas pipeline property in production, and concluded that the capitalized interest should not be deducted when calculating RCNLD of a pipeline in production for the purpose of estimating its true and full value. The Board used its extensive experience interpreting and applying property tax, assessment and valuation laws as well as the members' expertise in standard appraisal methodology in reaching this conclusion.

1. Deducting Capitalized Interest Inconsistent with Standard Appraisal Methodology

The Board concluded that the law requires that oil pipeline property in operation such as the TAPS, which has an estimated physical life that is not shorter than its economic life, should be valued using standard appraisal methodology, without a jurisdictional limitation on the treatment of capitalized interest during construction. Standard appraisal methodology requires consideration of at least the three standard approaches to valuation, that is the income, cost, and comparable sales approaches to estimate the value of the property.

A jurisdictional limitation is a provision of applicable local law which requires the appraiser to deviate from standard appraisal methodology when valuing a property. For this reason, when a property is appraised or valued under a jurisdictional limitation, the goal of an appraiser is no longer to estimate the full and true value of the property. Rather, it is to estimate a value using the methodology required by the jurisdictional limitation. This value may be more or less than the property's actual value.

For example, in Alaska, there is a jurisdictional limitation for estimating the assessed value of oil pipeline property while that property is under construction, before the pipeline begins to be used to transport oil. This jurisdictional limitation sets the value at the pipeline

owners' actual cost so far incurred or accrued in the pipeline at the assessment date.[3] This value could be higher or lower than the estimate of value of the pipeline that would be arrived at using standard appraisal methodology. Many factors, such as the changes in the cost of steel and other materials between the date of purchase and the assessment date, new information about the oil fields that the pipeline is intended to serve, and shifts in the market for similar properties, could effect the value of the pipeline in ways that would not be reflected in the owner's cost or an assessed valuation that was limited to those costs by law.

This special cost-only assessed value includes additional tax advantages for the owner by requiring the deduction of costs that would not be deducted in a cost approach using standard appraisal methodology. The special cost-only assessed value probably would be less than the full and true value determined using standard appraisal methodology, with consideration of the income, cost, and comparable sales approaches.

The advantage of using this jurisdictional limitation valuing pipeline property during the construction period for property tax purposes is that it provides more certainty to both the taxpayer and the taxing authority in estimating future tax liability during this critical period when the pipeline is requiring the owner to make large expenditures, but the pipeline is not transporting oil or producing income. It also creates a mechanism to provide the tax incentives. This additional certainty and the tax breaks would tend to encourage resource development, help the owner obtain financing, and reduce short-term tax costs during this critical period.

In effect, these jurisdictional limitations simplify the assessment process and provide tax breaks during the construction period. One such tax break is the additional jurisdictional limitation that the property owner's cost will not include capitalized interest, the cost of the interest accrued during the construction period.

2. Limitations Could Not Only Apply to Cost Approach for TAPS

[3] AS 43.56.060(d)(1).

Since the statutory scheme for valuing oil and gas property for tax purposes in Alaska requires that oil pipelines in operation such as the TAPS in 2006 be valued with proper consideration of at least the three standard approaches to valuation, that is the income, cost, and comparable sales approaches to estimate the economic value, it would be nonsensical to apply a jurisdictional limitation to only one of three standard approaches to valuation.

The result of applying a jurisdictional limitation to only one approach would make the estimate using that approach less reflective of the economic value. This would make that value less reliable, which would mean it would either have to be given less weight in reconciling the values indicated by the three approaches, or even more absurdly, a correction would need to be made to account for the inaccuracy caused by the jurisdictional limitation. This would be an exercise that would require first applying the limitation and later backing the limitation out again in order to correct for the distortion of the value estimate caused by the limitation.

For example, there is no dispute that application of standard appraisal methodology requires that the cost of capitalized interest during construction be included in an RCN estimate of the TAPS. All the parties originally included this cost in their RCN estimates. The Division and the Owners later deducted this cost from their RCN estimates solely due to the perceived jurisdictional limitation. The Division and the Owners did not make any corresponding adjustment to account for this perceived jurisdictional limitation in either their income, or comparable sales valuations. This perceived jurisdictional limitation results in a deduction of over $0.7 billion from RCN. The Division's RCNLD cost approach estimate is therefore significantly reduced by a perceived jurisdictional limitation, which the Division and the Owners do not apply to other approaches to valuation or correct for in their final estimates of value.

3. Statute Does Not Require Capitalized Interest Deduction in All Valuations

This inconsistency in the Division's valuation methodology is caused by a misreading of the applicable statutes and regulations. The correct reading is that the additional jurisdictional

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limit of not including capitalized interest during construction applies only when the statute imposes the jurisdictional limit that for tax purposes the property will be valued at its **"actual cost"** or **"replacement cost,"** rather than valued at the economic value using standard appraisal methodology with proper consideration of at least the three standard approaches to valuation, that is the income, cost, and comparable sales approaches.

This reading is plainly born out by the language of the statute itself. While it would be inaccurate to characterize the meaning of the relevant statute to be clear in the sense that it is easily and readily understandable to one unfamiliar with appraisal terms and methodology, or unfamiliar with the even more obscure specialty of the valuation of oil and gas exploration production property, it must be born in mind that this statute was written to be interpreted and applied by an assessor with expertise in both these areas in the first instance, and by a Board composed of members with this expertise at the first level of review.

The scheme laying out when these jurisdictional limitations are to be applied, and what property the jurisdictional limitations apply to, can be more easily ascertained by highlighting terms **“actual cost”** and **“replacement cost”** in statute itself as follows:

> AS 43.56.060. Assessment.
>
> (a) The department shall assess property for the tax levied under AS 43.56.010(b) and AS 29.45.080 on property used or committed by contract or other agreement for use for the pipeline transportation of gas or unrefined oil or for the production of gas or unrefined oil at its full and true value as of January 1 of the assessment year.
>
> (b) The department shall assess property for the taxes levied under AS 43.56.010(a) at its full and true value as of January 1 of the assessment year except that in the case of taxable property used or committed by contract or other agreement for the pipeline transportation of gas or unrefined oil or for the production of gas or unrefined oil to be transported by that pipeline, the first assessment date shall be the construction commencement date. If the construction commencement date is used as the assessment date, the tax payable shall be prorated on the basis of the assessment year remaining.
>
> (c) The full and true value of taxable property used or committed by contract or other agreement for use in the exploration for gas or unrefined oil, or in the operation or maintenance of facilities for the exploration for gas or unrefined oil, is the estimated price that the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels.

(d) The full and true value of taxable property used or committed by contract or other agreement for the production of gas or unrefined oil or in the operation or maintenance of facilities for the production of gas or unrefined oil is:

(1) on the construction commencement date the **actual cost** incurred or accrued with respect to the property as of the date of assessment;

(2) determined on each January 1 thereafter on the basis of **replacement cost** less depreciation based on the economic life of proven reserves.

(e) The full and true value of taxable property used or committed by contract or other agreement for pipeline transportation of gas or unrefined oil or in the operation or maintenance of facilities for the pipeline transportation of gas or unrefined oil is:

(1) on the construction commencement date and until January 1 following the date the pipeline begins to transport gas or unrefined oil, the **actual cost** incurred or accrued with respect to the property as of the date of assessment;

(2) determined on each January 1 thereafter with due regard to the economic value of the property based on the estimated life of the proven reserves of gas or unrefined oil then technically, economically, and legally deliverable into the transportation facility; however, if the proven reserves of gas or unrefined oil then technically, economically, and legally deliverable indicate an economic life materially shorter than the estimated physical life of the transportation facility, the full and true value is the **actual cost** reduced by an annual allowance for depreciation on a straight line basis over an economic life based on the actual elapsed life from the commencement of full operation to the date of assessment plus the estimated remaining life of the proven reserves of gas and unrefined oil then technically, economically, and legally deliverable into the transportation facility as of the date of the assessment;

(3) on the assessment date next following inability to use or construct all or a substantial part of the facility for a period of 90 or more consecutive days because of natural disaster or legal prohibition, or other events beyond the control of a person having ownership or control of the property, adjusted to take into account any diminution in value.

(f) For purposes of this section, **"actual cost"** and **"replacement cost"** do not include interest capitalized before or during the period of construction nor the value of intangible drilling expenses. In the case of taxable property under construction, **"actual cost"** for purposes of this section means the costs incurred or accrued with respect to the property as of the date of assessment.

(g) The department may enter into agreements with a municipality for the cooperative or joint administration of the assessing authority conferred on the department by this section.

To best understand when the jurisdictional limitation on the deduction of “capitalized interest” applies one should first refer to subsection (f); the only place in the statute that term is used. The clear purpose of this subsection is to provide a special definition for the terms "actual cost" and "replacement cost" when those terms are used anywhere in the section. This definition gives the terms "actual cost" and "replacement cost" a special meaning when they are used in the section. When those exact terms are used in the section, they do not have the normal meaning they would have in standard appraisal terminology, which would include capitalized interest as a normal construction cost. As can be seen when those terms are set out in bold, the terms "actual cost" and "replacement cost" are carefully used only when the statute requires that the property be valued exclusively based on those terms, as defined in subsection (f), without reference to other estimates of value ascertained through the application of standard appraisal methodology. In the places where the statute uses these terms, the statute requires that the property be given a special value, estimated using a special limited cost-only valuation methodology. Those terms are used in the section only when the statute requires that property be given this limited cost-only value for tax purposes. This limited cost-only value is not a value that is the best estimate of the economic value as required under subsection (e)(2).

The portion of the statute that sets out how to value properties like the TAPS at the current stage of its economic life is found in the first part of AS 43.56.060(e)(2), which provides that the assessed value is to be

> determined on each January 1 thereafter with due regard to the economic value of the property based on the estimated life of the proven reserves of gas or unrefined oil then technically, economically, and legally deliverable into the transportation facility

The terms "actual cost" and "replacement cost" do not appear in this portion of the statute, although the term "actual cost" makes it appearance later in the same subsection when the statute sets out a special valuation methodology for arriving at a special straight-line depreciation cost-only tax value for pipelines in production that have a physical life that will significantly exceed the reserves it serves.

The absence of the specially defined terms "actual cost" and "replacement cost" in the

portion of the statute that sets out how the assessed, or “full and true,” value of properties like the TAPS is to be determined prevents the special definition of those terms from applying to that portion of the statute, and prevents those special definitions from changing the assessed valuation of the TAPS in 2006.

The scope of the application of the special definitions of "actual cost" and "replacement cost" in subsection (f) is limited to those terms when they are used in section 060 of the statute. That subsection does not extend the scope of these special definitions outside their explicit use within the four corners of that section. Subsection (f) does not extend the application of these special definitions to give those terms or similar terms special meaning when they are used within an independent valuation methodology. When a methodology other than the special "actual cost" and "replacement cost" methodology is required, these terms lose their special meaning and they are given their accepted meaning in standard appraisal terminology.

Since the statute requires that full and true value of pipeline transportation property such as the TAPS be determined with due regard to the “economic value” based on the projected economic life of the oil reserves it serves, the special definitions of the terms "actual cost" and "replacement cost" should not be applied to the determination of its assessed value.

4. Statute Requires Cost of Capitalized Interest be Included in RCNLD of TAPS

The first part of AS 43.56.060(e)(2), provides that the 2006 assessed value of the TAPS is to be “determined with due regard to the economic value of the property based on the estimated life of the proven reserves of gas or unrefined oil then technically, economically, and legally deliverable into the transportation facility.” This language requires that the assessed value be the best estimate of actual value using standard appraisal methodology, giving due consideration to the estimated economic life of the TAPS using throughput projections based on remaining reserves in the Alaska North Slope oil fields it serves. As noted earlier, it is undisputed that the cost of capitalized interest during construction is a cost that should be included in a standard appraisal RCNLD valuation of TAPS. This is because the cost of the interest that would be paid on the money used to finance the construction is a cost that would necessarily be incurred to replace the TAPS.

Even if the Owners financed the construction themselves, they would lose the use of that equity for other investments.

The cost of equity financing is generally higher than the cost of debt financing because interest paid on debt financing is tax deductible.
The first part of AS 43.56.060(e)(2), providing for standard valuation methodology, stands in stark contrast to the second part of AS 43.56.060(e)(2), which deals with a different type of pipeline property. The second part of AS 43.56.060(e)(2) explicitly requires that a special limited cost-only straight-line depreciation valuation methodology be used in setting the assessed value of oil and gas pipeline property in operation when the pipeline serves proven reserves of gas or unrefined oil then technically, economically, and legally deliverable with an economic life materially shorter than the estimated physical life of the pipeline. Under these circumstances, the law states that the assessed value is the actual cost reduced by an annual allowance for depreciation on a straight line basis over an economic life based on the actual elapsed life from the commencement of full operation to the date of assessment plus the estimated remaining life of the proven reserves of gas and unrefined oil then technically, economically, and legally deliverable into the transportation facility as of the date of the assessment. Here the statute once again uses explicit language when it directs a deviation from standard appraisal methodology to value a certain type of property under special circumstances. The first part of AS 43.56.060(e)(2), with only a simple caution to consider economic value and the life of the reserves the pipeline serves, does not direct any deviation from standard appraisal methodology for properties like the TAPS in 2006.

5. Regulation Requires Capitalized Interest Deduction from TAPS RCN

The regulations controlling the assessed valuation of pipeline property explicitly require that pipeline property in operation, such as the 2006 TAPS, will be its "economic value." The regulations go on to define economic value as the pipeline's value "as determined by the use of standard appraisal methods such as replacement cost less depreciation, capitalization of estimated future net income, analysis of sales, or other acceptable methods." After this definition the regulation directs that "valuation may include any item contributing to value including capitalized

interest."[4]

The portion of the regulation that contains these provisions, 15 AAC 56.110(c), is the only one that focuses directly on valuations of property, like the TAPS in 2006, which are valued under the provisions of the first part of AS 43.56.060(e)(2). Valuations of property, under the special provisions of the second part of AS 43.56.060(e)(2), are covered under 15 AAC 56.110(d). The remaining portions of the regulation focus on valuation of property covered under other portions of AS 43.56.060, or provide more general directions regarding all or only some of the valuations under AS 43.56.060.

Caution must be used in applying these more general provisions because AS 43.56.060 includes the special limited cost-only valuations with special tax breaks, as well as valuations like the one required under the first part of AS 43.56.060(e)(2), which require the application of standard appraisal methodology. Reading the regulations without keeping this distinction in mind could lead one to erroneously conclude that some of this more general language giving direction only for the special limited cost-only valuations should apply to the standard appraisal methodology valuations as well.

Capitalized interest must be deducted in the special limited cost-only valuations. It is not to be deducted in the standard appraisal methodology valuations. Capitalized interest is explicitly required to be included in the standard appraisal methodology valuations required for properties like the TAPS under 15 AAC 56.110(c). There is no provision in the regulations that indicates that capitalized interest should be deducted in a valuation under first part of AS 43.56.060(e)(2). However, the potential for confusion is much higher when reviewing the regulation's direction on the treatment of ad valorem taxes during construction.

B. Ad Valorem Taxes

Highlighting the term "ad valorem taxes" where it is found in the regulation 15 AAC

[4] 15 AAC 56.110(c).

56.100 and highlighting the type of property that part of the regulation is describing demonstrates the potential for this confusion.

15 AAC 56.110. Pipeline property

(a) Property used or committed by agreement for use in the pipeline transportation of gas or unrefined oil or in the operation or maintenance of facilities used for pipeline transportation of gas or unrefined oil shall be valued at its full and true value as of January 1 of each year.

(b) **The full and true value of pipeline property under construction** will be all the actual costs incurred or accrued with respect to the pipeline property, regardless of the nature of the items of costs, as of the assessment date. Pipelines under construction will be valued in the context of the entire pipeline being constructed. The costs will be included in the valuation of the pipeline as they are incurred except as otherwise specifically provided in (1), (2), and (3) of this subsection. Examples of those costs which are included as they are incurred, include but are not limited to permanent camps and related facilities, pump stations, permanent storage facilities, roads, permanent airstrips, terminal facilities, tank farms, docks, labor, materials, supplies, machinery, equipment, pipe, easements, rights-of-way, improvements, structures, and all other related costs.

(1) Those costs which are more properly attributable to the period of construction of the pipeline project will be included as they are accrued with respect to the property. These costs, which may be included as they accrue, are construction machinery and equipment, construction camps and related facilities. These accrued costs also include unallocated costs which relate to the overall project and are incurred both within and without the state and include such items as overhead and administrative costs, engineering costs, design costs, and research and development costs. The method for the allocation of these accrued costs will be based on a formula which prorates the costs accrued in a given year over the estimated months remaining to complete the pipeline project from the date the cost is incurred. It will be presumed that the cost is incurred at the midpoint of the calendar year in which it has been incurred.

For the purpose of illustration of this method of allocation the following example is offered:

EXAMPLE

A pipeline transportation company anticipates that the construction phase of its project will commence during January, 1975, and will terminate in December, 1976. (A 24-month construction period.) During 1974 the company acquires construction equipment, construction camps, and related facilities for a cost of $20,000; during 1975, $200,000; and during 1976, $100,000. For the purpose of accrual of these costs it is assumed that they were

expended at midyear. This accounts for a six-month depreciation factor on the first year's investment and a 30-month depreciation period for the costs incurred in the first year. Subsequent investment periods are treated in the same manner with annual adjustments made for the months remaining during the construction period.

The costs accrued with respect to the pipeline project for each assessment date during the construction period will be calculated as follows:

Date Factor Cost Value
1-1-75 6/30 x 20,000 = 4,000
1-1-76 18/30 x 20,000 = 12,000
6/18 x 200,000 = 66,667
78,667
1-1-76 30/30 x 20,000 = 20,000
18/18 x 200,000 = 200,000
6/6 x 100,000 = 100,000
320,000

(2) Salvage value will be recognized as a reduction of the actual costs incurred or accrued with respect to the pipeline project under the following circumstances:

(A) In the case of equipment, machinery, or facilities sold, there will be deducted the actual realized sales price from the cost of the pipeline project for subsequent assessment purposes.

(B) In the case of roads or airstrips that are used during the construction period or a portion thereof, and are subsequently dedicated to and accepted by the state; as of January 1 following the date that the pipeline begins to transport gas or unrefined oil, there will be deducted the salvage value of these roads or airstrips. The deductible salvage value of the road or airstrip as of that date will be assumed to be the undepreciated cost based on a useful life of 10 years.

(3) **Ad valorem taxes** assessed and paid during construction will be excluded from the costs incurred or accrued with respect to the pipeline project.

(c) Except as provided in (d) of this section, the full and true value of pipeline property in operation is its economic value based upon the estimated life of proven reserves of the gas or oil then technically, economically and legally deliverable into the transportation facility. Economic value is determined by the use of standard appraisal methods such as replacement cost less depreciation, capitalization of estimated future net income, analysis of sales, or other acceptable methods. The valuation may include any item contributing to value including capitalized interest.

> (d) **If the taxpayer can show that the economic life of proven reserves is materially shorter than the estimated physical life of the pipeline**, then the pipeline property will be valued at actual cost less depreciation on a straight-line basis over the economic life of proven reserves of gas or oil then technically, economically and legally deliverable into the transportation facility. Where a portion of the economic life of proven reserves exists before the date of assessment, that portion will be included for purposes of determining depreciation at the date of assessment. The burden is on the taxpayer to come forward with convincing evidence to show that the economic life of the proven reserves is materially shorter than the estimated physical life of the pipeline. It is not sufficient for the taxpayer merely to show that the economic life of the proven reserves is actually shorter than the estimated life of the pipeline. Instead, the taxpayer must show that the economic life of the proven reserves is materially shorter than the physical life of the pipeline. If incurred and accrued costs are used as a criterion for the valuation of the pipeline property in operation, **ad valorem taxes** assessed and paid during construction and deductible salvage value as described in (b)(2) of this section may not be included.

The first time the deduction for the cost of ad valorem taxes assessed and paid during construction is mentioned is in 15 AAC 110(b)(3). 15 AAC 110(b) directs how pipeline property under construction is to be valued, a consideration that can easily be lost track of by the time that a reader gets to 15 AAC 110(b)(3). Pipeline property under construction is required to be valued under the special limited cost-only valuation provisions of AS 43.56.060(d) & (f).

The second place that a deduction for the cost of ad valorem taxes is found is in 15 AAC 110(d). As mentioned above, this is the portion of the regulation that describes how pipeline property meeting the special circumstances set out in the second part of AS 43.56.060(e)(2) are to be valued. These properties are required to be valued under the special cost-only straight-line depreciation valuation provisions of second part of AS 43.56.060(e)(2) & (f).

The Board concluded that neither of these references direct any special treatment for ad valorem taxes in a valuation conducted under the first part of AS 43.56.060(e)(2). The Division's deduction of ad valorem taxes in its RCNLD valuation of the TAPS was inconsistent with the standard appraisal methodology required for that valuation under 15 AAC 56.110(c) and therefore was improper.

C. TAPS Construction Program Manager Profit

All the parties generally conceded that an RCN estimate of the TAPS should include the cost of a reasonable amount of profit for the program manager, that is, the company that would fill the role of the general contractor for the reconstruction of the pipeline.

The Board concluded that it was improper for the Division to fail to account for this cost in its RCNLD valuation of the TAPS.

V. Recalculation of 2006 TAPS Value

Once the Board concluded that the Division's failure to include the costs of capitalized interest and ad valorem tax cost deductions, and a reasonable program manager profit amount was improper, the Board again reviewed the Division's valuation. The Board concluded that the valuation should be adjusted to include these costs. The Board further concluded that the value should be adjusted for capitalized interest and ad valorem tax costs by adding back the Division's deductions for these costs from its 2005 RCN for the TAPS. For the program manager profit amount, the Board concluded that the best estimate would be 3% of the Division's TAPS RCN estimate.[5] This amount was also added to the Division's 2005 RCN. After these adjustments were made to the Division's 2005 TAPS RCN, this new RCN was plugged into the Division's calculations to estimate the adjusted 2006 RCNLD.[6] This adjustment resulted in a value of $4.3062718 billion.

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[5] The Board found that 3% on RCN was the best estimate of program manager profit based on the evidence in the record, which included estimates provided by the Municipalities' appraiser.

[6] *See below* SARB Recap of 2006 Valuation.

SARB Recap of TAPS 2006 Valuation

	Amount	Factor	Result	Description
$	8,329,183,058	0.03	$ 249,875,492	Program Fees
			1.059	
			264,618,145.75	Program Fees Profit @ 3% escalated by 1.059

DOR -TAPS-2005

Item		Amount	
RCN	$	8,329,183,058	
Roads & Bridges	$	(209,393,000)	deducted
Valdez Terminal Office	$	(3,500,000)	deducted
Salvage of Camps	$	(54,230,000)	deducted
Supplemental Legal & PR	$	(20,000,000)	deducted
Program Fees	$	249,875,492	**added**
	$	8,291,935,550	

DOR's Original Asset Adj. NOT Deducted

	Amount	Description
$	702,500,000.00	Capitalized Interest
$	235,000,000	Property Tax

RECAP

Factor		Amount	Description
1.059	$	8,781,159,747	**2006 TAPS RCN**
-0.4419	$	(3,880,394,492)	Physical Depr.
	$	(367,384,329)	Strategic Reconfig.
	$	**4,533,380,926**	**RCNLD**
0.0512	$	232,109,103	Thruput Adj
	$	**4,301,271,823**	**RCNLD(w/Thrput Adj)**
	$	5,000,000	Land
	$	**4,306,271,823**	**2006 SARB Value**
	$	**4,306,271,800**	**Rounded**

Escalator= 1.0590

Through-Put Adj. = .0512

VI. Parties' Failure to Show Valuation Should be Further Adjusted

The Board concluded that this adjustment to the Division's 2006 assessed value of the TAPS should be made, but that neither the Municipalities nor the Owners had met their burdens of proof to show that any additional adjustments should be made.

A. Owners' Case

The Owners' 2006 appeal, like their appeal in 2005, focused primarily on the Division's decision to base its valuation on its RCNLD valuation without giving more weight to the Owners' expert's appraisal. The Owners' appraiser gave a great deal of weight to a tariff income approach to value. The Board reviewed the evidence and analyzed the arguments presented by the Owners. In addition to finding that the Owners failed to show that the Division's 2006 valuation of the TAPS was unequal, excessive, improper or otherwise contrary to the standards set out in AS 43.56, the Board chose to address the main points in the Owners' appeal in its determination.

1. Market Value

The Owners argued that the Division ignored the market value of the TAPS in its valuation. The Board found that the Division properly considered market value, both in its estimate of value using the income approach to estimate a range of values for the capitalized future tariff income stream, and in its determination not to give significant weight to the values reflected in those estimates.

The Board concluded that for the reasons stated in its 2005 decision, the Division's treatment of the income approach to valuation was reasonable and proper. The Board similarly concluded that while the tariff income stream approach would produce a value, it would not be the right one. The market in the theoretical sale of TAPS that would include just the buyers who were interested in TAPS only for the future tariff income stream, would be a market that did not include the owners of most of the Alaska North Slope oil reserves. The Board believes that the owners of the Alaska North Slope oil reserves would replace the TAPS if necessary to transport their oil to market. The alignment of interests between ownership of Alaska North Slope oil reserves and the ownership of the TAPS further decreases the alignment between the value the TAPS tariff income and the TAPS's economic value. A tariff income stream valuation envisions a third party buyer purchasing all of the TAPS and none of the Alaska North Slope oil reserves. The evidence does not indicate that the Owners would be willing to sell their interests in the TAPS to a third party with no interest in Alaska North Slope oil for the value of the tariff income stream. The current tariff is set through the negotiated settlement agreement and future tariffs are likely to be set based primarily on its original costs, which are almost fully depreciated for rate-making purposes. A tariff income stream valuation fails to capture the full and true economic value that the TAPS has as an integral part of the economic unit that delivers Alaska North Slope gas and oil to Valdez.

The term "economic value" in AS 43.56.060(e)(2) is broader than merely the income approach to valuation, and encompasses value that is not accounted for in the TAPS tariff income. The Board respectfully disagreed with the Owners' experts who stated that the TAPS was built for its tariff income.

2. Non-Standard Appraisal Methodology

The Owners argued that the Division did not conform to standard appraisal methodology because the Division did not give proper consideration to the income approach and comparable sales approach to valuation of the TAPS. The Board found that the Division gave careful consideration to other approaches to valuation of the TAPS. The Division made its own income and comparable sales approach valuations and carefully reviewed the income approach valuations provided by the Owners and the Municipalities. The Division is not required to give any of the three approaches to valuation a minimum weight in determining value. The Board found that the Division's decision not to give more weight to other approaches to valuation of the TAPS was proper and was consistent with standard appraisal methodology. The economic reality is that the longer an Alaska oil transportation pipeline has been in operation, transporting limited reserves from a remote field, the more the value of the pipeline is likely to become dependent on its value as part of an economic unit that includes the reserves it serves and the other production facilities, and the less likely it is that the pipeline's value can be accurately ascertained by attempting to value it through a theoretical independent sale of the pipeline or its income stream as stand alone investments. Under these circumstances, a valuation using a replacement cost new less depreciation approach may produce the only accurate estimate of value. In these cases, it would be improper to make an RCNLD estimate less accurate by reducing the value to reflect any unreliable adjustment obtained by application of the income and comparable sales approaches to valuation.

3. Obsolescence

The Owners argued that the Division's valuation failed to properly account for obsolescence. The Owners were especially concerned about the Division's failure to include a deduction for economic obsolescence, and the Division's adjustment to its original assessment based on its determination that the TAPS would continue to operate beyond 2034. The Owners also disputed the scaling factor used by the Division and the Division's failure to account for the need for reconfiguration of the Valdez terminal.

The Board found that the Division properly accounted for obsolescence in it 2006 RCNLD valuation of the TAPS. The Division's calculations included appropriate deductions for physical and functional obsolescence. The Board concluded that the Division correctly declined to include the additional deduction for economic obsolescence used by the Owners' appraiser. The Board found that the logic in the analysis that led the Owners' appraiser to include this deduction was flawed. The Board found that it would not have been proper to use an economic obsolescence deduction to effectively lower the Division's RCNLD valuation in order to bring the value closer to tariff income stream projections.

The Board found that the Division's conclusion that the TAPS would be able to maintain a minimum throughput of 200,000 barrels per day by the time production declines to that level was adequately supported by the evidence in the record. The Board concluded that the Division properly adjusted its valuation to reflect its current best estimate of the TAPS economic life as running to 2042 in its informal conference decision.

The Board found that the Owners' arguments that a shorter economic life should be used were not persuasive. The Board found that the Division properly took industry statements regarding minimum mechanical through-put limitations and the expected economic life of the TAPS into account.

The Board found that the scaling factor used by the Division was conservative. The Division adjusted its scaling factor in its informal conference decision. As a result, the scaling factor was between that used by the Owners' and the Municipalities' appraisers. The Board found that the scaling factor used by the Division was supported by the evidence in the record.

The Board found that the Owners did not provide sufficient evidence of the asserted obsolescence in the Valdez terminal. The Board noted that while the Owners asserted that the Valdez terminal was in need of reconfiguration, reconfiguration had been removed from the long-range plan for the TAPS, which projects out to 2015.

4. Municipal Assessment Authority

The Owners challenged the Municipalities' authority to assess tax on the TAPS based on its full and true value because municipalities are required to assess property based on market value. The Board found no merit in this argument and agreed with the Municipalities that the Division is charged with the valuation of oil and gas property and those valuation procedures are controlled by AS 43.56, not by the statutes on municipal property tax valuations under AS 29.45 or local ordinances.

5. Unfair and Unequal Assessment

The Owners' arguments on the Municipalities' authority to assess tax relate to what the Owners characterize as the unfair and unequal tax that results from the Division's attempt to include a nonownership interest in its valuation. The Owners assert that the Division's valuation includes the value of a "fractional interest" that the shippers of Alaska North Slope oil may hold as the result of regulated, and therefore below market-rate, tariffs. The Owners argue that this is like taxing the fractional interest in a property which may be held by the beneficiaries of other types of regulation that limit the value of property, such as taxation, zoning, permitting, and environmental regulations. Since these other fractional interests are not being assessed or taxed, the Owners argue that the Division's inclusion of the value that represents the shippers' fractional interests in the TAPS subjects the Owners to unfair taxation and unequal taxation.

The language of Alaska Statute 43.56.060(e)(2) encourages the Division to look beyond a pipeline's limited value in a market that is restricted to purchasers of its regulated income stream. That statute encourages the Division to determine the pipeline's full economic value in the context of the particular oil and gas fields the pipeline serves. Although the Owners once again characterized the Division's analysis of the limitations of a tariff income approach to valuation of the TAPS as an attempt to place a tax on an intangible fractional value that is not taxed for other pipelines, this is not what the Division did. The Division was explaining its reasoning for putting very little weight on the estimates of value calculated using the tariff income approach. This is the same reasoning the Division applies to its choice not to give weight

to an income approach valuation when valuing properties that do not produce an independent income and other pipelines that have an income that does not have a clear relationship to the pipeline's economic value.

Giving more or less weight to different approaches to valuation does not create unequal or unfair valuation. The goal of all three approaches to valuation is to determine the economic value of the property. The assessor must determine what weight to give the values indicated by each approach based on their relative reliability which in a large measure will depend on the quality and the quantity of the data available to use for each approach. The Board concluded that the valuation was not unequal. The Division presented evidence that it commonly used a RCNLD cost approach, giving no weight to an income approach, in setting the assessed valuation of other Alaska pipeline properties. The Board also noted that any potential inaccuracies in the Division's estimate of value that could be the result of problems with the data used in the valuation were not
due to any failure by the Division to make diligent attempts to obtain more complete and reliable data from the Owners.

The Board also concluded that for similar reasons, there was no merit to the Owners' complaints that the Division inappropriately relied on the authority of cases that dealt with valuation of the fractional interests in regulated industries, or the Owners' constitutional challenge to the Division's assessment of those interests. Once again, the Owners' argument mischaracterizes the Division's RCNLD assessed valuation. The Division did not attempt to accurately quantify and tax a theoretical fractional shippers' ownership interest in the TAPS income stream through adjustments to a capitalized tariff income valuation.

Under a normal regulated tariff rate-setting process, the allowable tariff is set to produce sufficient revenues to recover only the original and incremental construction costs, which establish the rate base, plus a return on that rate base. The tariff is limited to provide only a reasonable, not the maximum possible, return on the rate base. Regulated pipelines are not allowed to step up their rate base above their depreciated capital costs for the pipeline in setting the tariff. The regulated tariff does not produce an income that would recapture the total

economic value of the pipeline.

The assumption in the tariff regulatory process is that once shippers have paid for the capital costs through their tariffs, increasing the rate base to reflect the pipeline's current value would effectively force the shippers to pay for the capital costs of the pipeline more than once. Thus, the tariff regulatory process limits a new investor's interest in the property, allowing an investor to earn only a return of the un-depreciated portion of the original and incremental construction cost of the pipeline plus a return on those remaining costs. The "residual value," as coined in the Division's explanation, of the already depreciated property would not be captured by a capitalized tariff income valuation.

In the case of the TAPS, a valuation based on future tariff income would not reflect its full value if future tariffs are set using the normal regulatory process, as they were for intrastate tariffs by the Regulatory Commission of Alaska, because most of the capital costs of the TAPS have already been effectively depreciated through the tariffs that have already been paid. Furthermore, uncertainty about future tariff rates makes any valuation based on the capitalization of tariffs to be paid over the next thirty years very unreliable. The Division simply ran a rough model to demonstrate the wedge of value (coined "residual value" by the Division) that would not be accounted for in the tariff income stream.

The Division explained at the hearing that it had reviewed other cases where courts had attempted to deal with the issue of the difficulties of valuing properties that were impacted by economic regulation. The Division referred to those cases to illustrate that the Division was not the only taxing authority that had wrestled with these issues. The Division did not set its 2006 TAPS valuation on a fractional interest adjusted capitalized tariff income stream estimate. The Division, therefore, did not need to rely on out-of-state case law as authority for its valuation. The Division simply used a RCNLD cost approach to estimate the 2006 TAPS value, giving no weight to an income approach, as it does in determining the assessed valuation of other Alaska pipeline properties where an income approach does not produce an accurate estimate of value.

B. Municipalities' Case

For their 2006 appeal, the Municipalities focused more briefing and argument on the Division's deductions for capitalized interest and ad valorem tax costs than they did in 2005. The Municipalities were also able to obtain a full independent appraisal of the TAPS, which included estimates of value from Professor Charles J. Cicchetti, Ph.D., who had further refined his allocation the value of the TAPS and other components of the economic value of all of the Owners' North Slope property. The Board agreed with the Municipalities that it was improper for the Division to deduct capitalized interest and ad valorem tax costs, and not to include a profit for the program manager of the TAPS construction project. The Board concluded the Municipalities did not meet their burden of proof to show that the Division's assessed valuation should be further adjusted. The Division, as the assessing authority, was required to exercise its independent judgment in its valuation of the TAPS. The Division was charged in the first instance with weighing the evidence and choosing between conflicting data, indicators, and methodologies to arrive at its best estimate of value. The Board findings of improper valuation were limited to the exceptions that led to its adjustment of value.

The Board concluded that the escalator used by the Division was very reasonable based on the evidence presented by the parties. The Board noted that there was conflicting testimony on obsolescence in the Valdez storage tanks and Valdez terminal, but there was insufficient evidence to require an adjustment to the Division's estimates.

Similarly, while the Municipality argued that the Division's RCNLD valuation should have included additional amounts for roads and bridges, and construction camps, it was not shown that the amounts that the Division used were the result of an improper application of a jurisdictional limitation. The Board found that the Municipalities did not meet their burden to show that the way in which the Division accounted for these costs was inconsistent with standard appraisal methodology.

The Board agreed that the amount that the Division used for the value of the TAPS right-of-way appeared to be low, but because it was based on an un-submitted appraisal, the Board concluded more evidence would be required to find that the Division should have used a different value.

While the Board was impressed again with Dr. Cicchetti's methodology, the Board found that the limitations imposed by the lack of data available to Dr. Cicchetti created problems with the reliability of his estimates in regard to his allocation of value between the TAPS and the Owners' other properties and property interests. The Board found that Dr. Cicchetti's calculations included too many variables, assumptions and proxies for the Board to conclude that it was improper for the Division to fail to adjust its RCNLD valuation based on Dr. Cicchetti's estimate of value.

The Board concluded that it is likely that someone with Dr. Cicchetti's expertise, could, with sufficient data, produce an accurate estimate of the TAPS value using his methodology. However, the private data that would be needed to produce that estimate is in the control of the owners of the TAPS. The Board found that Dr. Cicchetti's estimate did indicate that the Board's 2006 adjusted assessed valuation of the TAPS was not too high.

VI. Conclusion

Based on the evidence presented, the Board concluded that Division's failure to include capitalized interest, ad valorem tax cost and the cost of program manager profit during construction in its RCNLD valuation was improper. The Division's 2006 assessed valuation of the TAPS at $3.641 billion should be adjusted include these costs. The resulting value, $4.3062718 billion, is now set as the 2006 assessed value of the TAPS.

Pursuant to AS 43.56.130(g), the undersigned, on behalf of, and as Chair of, the State Assessment Review Board, certifies to the Department of Revenue, State of Alaska, that the Board has made its determination as stated in this Certificate of Determination.

DATED: May30, 2006

Signed
Steven L. Van Sant, Chair
State Assessment Review Board

[This document has been modified to conform to technical standards for publication.]