

**BEFORE THE STATE ASSESSMENT REVIEW BOARD  
STATE OF ALASKA**

In the Matter of:	)	
	)	Appeal of Revenue Decision
FURIE OPERATING ALASKA, LLC	)	No. 21-56-02
	)	
Oil & Gas Property Tax (AS 43.56)	)	OAH No. 21-0591-TAX
<u>2021 Assessment Year</u>	)	

**CERTIFICATE OF DETERMINATION**

**I. Introduction**

The State Assessment Review Board (Board) convened on May 17, 2021 and May 18, 2021 to hear and deliberate on the appeal of the 2021 assessment of Furie Operating Alaska, LLC. (Furie).<sup>1</sup> Furie appealed Revenue Decision (ICD) number 21-56-02, which assessed property at \$81,053,000, as of January 1, 2021. The affected municipality, the Kenai Peninsula Borough (KPB) intervened. Furie argued that the value of the assessed property in 2021 was \$17,896,696.<sup>2</sup> KPB supported the assessed value determined by the assessor in the ICD.<sup>3</sup>

During the 2021 hearing, Furie provided evidence of the circumstances surrounding its recent purchase of the property in a bankruptcy proceeding, as well as testimony regarding the limits of the gas reserves that are economical to produce without additional capital investment. Furie also provided testimony about the risks and uncertainty involved in the potential production from additional reserves.

After reviewing the evidence and arguments of the parties, the Board concluded that the assessed value of the Furie property at \$81,053,000 in the ICD was not unequal, excessive, improper or otherwise contrary to the standards set out in AS 43.56.<sup>4</sup>

**II. Background**

The Furie property is the taxable property associated with its natural gas production

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<sup>1</sup> The Board Chairman, James I. Mosley, conducted the hearing. Board members Bradley Pickett, William Roberts, Bernard Washington, and William Westover were also present, constituting a quorum. Mark T. Handley and Rebecca Kruse, Administrative Law Judges from the Office of Administrative Hearings, assisted the Chair. Attorney F. Steven Mahoney represented Furie. Assistant Attorney General Patrick Sherry represented the Division. KBP was represented by attorney Sean Kelley.

<sup>2</sup> See Furie exhibit 1, page 28. In its Prehearing Brief at page 1, Furie argued the full and true value of the taxable property was \$19,324,232.

<sup>3</sup> KPB Hearing Brief at 1.

<sup>4</sup> The standard of review for appeals before the Board is found at AS 43.56.130(f) and 15AAC 56.040(g).

operation in Cook Inlet and includes its Julius R Platform and an approximately sixteen-mile pipeline that transports gas from the platform to its shore facilities. The Furie property is located in the Kenai Peninsula Borough. Name and address of the owner:

**Furie Operating Alaska, LLC  
188 W Northern Lights Blvd., Suite 620  
Anchorage, AK 99503-8934  
ATTN: Kevin Hemenway**

The parties to the appeal are Furie, and the Tax Division of the Alaska Department of Revenue (Division) and the Kenai Peninsula Borough, which filed as an intervenor.

The KPB and the Division coordinated the presentation of their cases.<sup>5</sup>

### **III. Discussion**

At the hearing, Furie argued that the assessed value must be too high because \$81,053,000 is significantly more than the price paid by Furie for the entire enterprise, including the nontaxable gas production property and the gas reserves, when purchased by Furie in a Chapter 11 bankruptcy proceeding in 2019.

Furie presented evidence of competition in the bidding process that resulted in this sale. The Board, however, found that the Division had correctly declined to adjust the assessed value based on Furie's purchase price. The Board understood that Furie was surprised that the assessed value far exceeds its own costs. The Board recognized, however, that the Division's use of the Replacement Cost New, rather than the current owner's cost in this sale, as the starting point to calculate the assessed value before subtracting depreciation through the application of its Scaled Production Methodology, was proper and consistent with the requirements of Alaska law.<sup>6</sup> The Board also noted that the methodology that the Division used to calculate the assessed value is consistently applied to Alaska gas production property, and that the ramifications of this would have been discoverable to parties to the sale in 2019.

Furie also argued at the hearing that the Division's assessed valuation was excessive because the four wells on the platform currently only produce gas from limited reserves from Beluga, which Furie estimates will run out and cause the property to shut down by 2026. Furie explained that Beluga sits below Sterling. Furie provided testimony that the previous owner of

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<sup>5</sup> See Pre-Hearing Order issued April 28, 2021.

<sup>6</sup> AS 43.56.060(d) & (e), 15 AAC 56.100

the platform had attempted to recover gas from Sterling, but the high-water content of that gas had caused the pipeline to freeze, shutting down the whole system and contributing to the bankruptcy. While Furie acknowledged that it was in the process of obtaining permits for a water processing facility that will hopefully allow the production of gas from Sterling, Furie argued that the additional capital needed to try to bring this into production and the substantial risk that these efforts will not be successful, were further evidence that the assessed value was excessive.

The Board was not persuaded that Furie's arguments or the evidence on the current limitations of its ability to access its proven reserves showed that the Division's assessed value was excessive.

Furie failed to provide all its reserves information for the hearing. The Board recommends the full disclosure of a taxpayer's most recent actual reserve information to the Division as early as possible in the assessment process to add credibility to arguments regarding field-life limitations.

The Board recognized that efforts to bring gas fields in Cook Inlet into economic production carry a great deal of risk. The Board concluded, however, that it would have been improper for the Division to deviate from accepted appraisal practice to adjust the Replacement Cost New based on the price Furie paid for the property or the risk and expense required to produce from additional proven reserves. The Board also concluded the assessed value was arrived at by correctly applying the statutory and legal requirements consistently applied for valuing taxable oil and gas production property throughout Alaska. The Board found that if the Division had further decreased the assessed value in consideration of the issues raised by Furie, that value would have been both improper and unequal.

As demonstrated by the quote below, the Board has dealt with the issue of using a recent sale price to establish the assessed value of taxable oil and gas production property before in the *Caelus* appeal. The Division's disregard of the sale price in this case was consistent with the Board's decision in *Caelus*.

"In 2014, Caelus purchased Pioneer's interest in the Oooguruk project. The sales price was substantially lower than the actual cost or the replacement cost. Caelus argues that the sales price should be the starting point of the replacement cost new valuation. In Caelus's view, given that it could obtain the property at this price, this price represents a reasonable proxy for what it would cost to replace the

property. Caelus's argument has no merit. The statute specifically requires that the division assess the production property on the basis of replacement cost new less depreciation. Replacement cost new is not equivalent to fair market value. When the legislature intends for property to be assessed at the price that the property would bring in an open market between knowledgeable buyers and sellers, it will require the division to use that technique to value the property."<sup>7</sup>

Having used the correct Replacement Cost, the Division used the standard methodology in calculating the Replacement Cost New by using the Marshall & Swift Index.<sup>8</sup> The Board found that the Division had adequately depreciated the Furie property, noting that although the property had only come into production in 2015, depreciation of close to seventy percent was applied,<sup>9</sup> which is only ten percent less than the maximum depreciation of eighty percent allowed for a property that is still in production. Even after a property has ceased production it may only be depreciated ninety percent.<sup>10</sup>

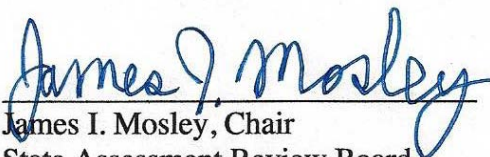
The Board found that the Division did good work on the assessment in this case. Furie did not meet its burden to show that the Division's assessed valuation of the Furie property was unequal, excessive, improper or otherwise contrary to the standards set out in AS 43.56.

#### **IV. Conclusion**

Pursuant to AS 43.56.130(g), I, on behalf of, and as Chair of, the State Assessment Review Board, certify to the Department of Revenue, State of Alaska, that the Board has determined that Revenue Decision (ICD) number 21-56-02 should be affirmed. The assessed value of the Furie property on January 1, 2021 was correctly determined to be \$81,053,000.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 24th day of May, 2021.

  
James I. Mosley, Chair  
State Assessment Review Board

<sup>7</sup> *Caelus Natural Resources Alaska, LLC*, OAH Number 14-0689-TAX, 15-0450-TAX & 16-0362-TAX at pages 13 & 14.

<sup>8</sup> DOR exhibit y at 3-5.

<sup>9</sup> DOR exhibit b.5.

<sup>10</sup> 15 AAC 56.100(a)(4)

## Certificate of Service

I hereby certify that on the 24th day of May, 2021 a true and correct copy of the Furie 2021 Certificate of Determination order was served on the following by e-mail and mail to the following listed below:

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