

**BEFORE THE BOARD OF TAX APPEALS
STATE OF KANSAS**

IN THE MATTER OF THE EQUALIZATION
APPEALS OF CONESTOGA ENERGY
PARTNERS, L.L.C. FOR THE YEARS 2009
AND 2010 IN FINNEY COUNTY, KANSAS

Docket Nos. 2009-3143-EQ
and 2010-3925-EQ

ORDER

Now the above-captioned matters come on for consideration and decision by the Board of Tax Appeals of the State of Kansas. The Board conducted a hearing in these matters intermittently from January 6, 2014 through January 14, 2014. The Taxpayer, Conestoga Energy Partners, L.L.C. ("Conestoga") appeared by its counsel of record, Marc E. Kliewer of Kliewer, Chartered, Finney County, Kansas (the "County") appeared by its counsel of record, Linda Terrill of Property Tax Law Group, LLC.

The record on these matters was held open for submission of the parties' post-hearing *Memoranda* and *Findings of Fact and Conclusions of Law*. On October 10, 2014, the Board issued an *Order* granting the parties' *Joint Request to Stay* the Board's *Summary Decision* on these matters as the parties notified the Board they were pursuing settlement. On January 21, 2015, the Board issued an *Order* granting the parties' *Joint Motion to Lift Stay*. On January 22, 2015, the Board issued its *Summary Decision* on these matters. Subsequent thereto, the County (February 2, 2015) and the Taxpayer (February 6, 2015) requested a full and complete opinion be issued.

After considering all of the evidence and arguments presented, the Board finds and concludes as follows:

Jurisdiction

The Board has jurisdiction of the subject matter and the parties, as equalization appeals have been filed pursuant to K.S.A. 2014 Supp. 79-1609. The tax years in issue are 2009 and 2010.

Subject Property/Issues Presented

The subject matter is an ethanol manufacturing facility located at 3002 E. Hwy 50 in Garden City, Kansas. Utilizing corn and milo as its primary raw materials, the facility produces fuel grade ethanol as its main product and the by-product wet distillers grain. The plant was constructed in the summer of 2006 through 2007, with start-up in August 2007. It has a nameplate production capacity of 55 million gallons of ethanol per year as of the tax years in issue. The manufacturing plant is comprised of industrial storage tanks, pumps, piping and valves, fermentation process vessels, a carbon dioxide scrubber, distillation units, molecular sieves, condensers, centrifuges, evaporators, package boilers, a methanator, and other ancillary assets.

For both the 2009 and 2010 tax years, the County has classified the assets that collectively comprise the facility as real property and identified the property as Parcel ID# 028-275-21-0-00-00-004.01-0. For these same tax years, the County has determined the facility has an appraised valuation of \$45,000,000. (The facility's original 2009 appraised value of \$80,000,000 was subsequently reduced to \$45,000,000, as this was the final mediated value for the 2008 tax year that the County "rolled over" to 2009.) The Taxpayer challenges the County's classification of certain of the plant's assets (the "assets in dispute") asserting that these items are personalty (and, therefore, exempt from ad valorem taxation pursuant to K.S.A. 79-223) and not real property. In addition, the Taxpayer challenges the valuation of the property properly classified as real property.

Pretrial Motions

Prior to the commencement of the case-in chief, the Board heard oral arguments on the Taxpayer's *Motion in Limine* and *Motion for Judgment*. At hearing, the Board denied both motions and indicated it would memorialize its holdings herein.

Motion in Limine

The Taxpayer requests that a personal property rendition it filed with the County for tax year 2011 be excluded from evidence as the County did not disclose this document as an exhibit in the *Joint Pretrial Order* nor was this document exchanged through discovery. In addition, the Taxpayer questions both the probative value and relevance of this document as the tax years in issue are 2009 and 2010.

In response, the County asserts that it did list the 2011 rendition as an exhibit on its witness and exhibit list exchanged with the Taxpayer more than 30 days prior to trial. The County notes that 2011 is the only year that the Taxpayer filed a personal property rendition, and the Taxpayer, not the County, prepared and filed the rendition. Consequently, the County contends the Taxpayer cannot be prejudiced or surprised by its own document.

Taxpayer has requested the Board prohibit the admission of certain evidence prior to the evidentiary hearing – an *in limine* request. A motion *in limine* is a creature of neither the Federal Rules of Civil Procedure nor the Federal Rules of Evidence. *Deghand v. Wal-Mart Stores, Inc.*, 980 F.Supp. 1176, 1179 (1997). Its purpose is “to aid the trial process by enabling the Court to rule in advance of trial on the relevance of certain forecasted evidence, as to issues that are definitely set for trial, without lengthy argument at, or interruption of, the trial.” *Palmieri v. Defaria*, 88 F.3d 136, 141 (1996) (quoting *Banque Hypothecaire Du Canton De Geneve v. Union Mines, Inc.*, 652 F.Supp. 1400, 1401 (1987)). Motions *in limine* further assure all parties a fair and impartial trial by prohibiting inadmissible evidence, prejudicial statements, and improper questions by counsel. *State v. Shadden*, 290 Kan. 803, 815, 235 P.3d 436 (2010).

Duly weighing the evidence and arguments presented by both parties in regard to this *Motion* and in view of the factual controversies herein, the Board finds the Taxpayer has not presented any evidence or persuasive argument to satisfy its burden of demonstrating that the 2011 rendition is either prejudicial or clearly inadmissible on all potential grounds. As such, Taxpayer’s *Motion in Limine* is denied.

Motion for Judgment

The Taxpayer requests judgment on the classification dispute presented herein asserting this issue has been previously adjudicated in an economic development tax exemption matter. *In re Economic Development Tax Exemption Application of Bonanza Bioenergy, L.L.C.*, Docket No. 2008-3156-TX, Order issued November 7, 2008. The Taxpayer contends the tax exemption application listed the items at issue therein and specifically indicated the assets’ property classifications. The Taxpayer asserts the County acquiesced to these asset classifications in this prior matter and, as such, the County should not now be allowed to present contradictory evidence.

Although the Taxpayer, in its filed motion, did not provide a legal basis for its request, the Board finds the Taxpayer is raising the arguments of issue preclusion.

Under Kansas law, issue preclusion or collateral estoppel prevents a party from attacking a prior adjudication if three elements are present: "(1) a prior judgment on the merits which determined the rights and liabilities of the parties on the issue based upon ultimate facts as disclosed by the pleadings and judgment; (2) the parties must be the same or in privity; and (3) the issue litigated must have been determined and necessary to support the judgment." *Venters v. Sellers*, 293 Kan. 87, 98, 261 P.3d 538 (2011).

This tribunal is well-versed in the procedural machinations and issues germane to the prosecution of economic development tax exemptions in Kansas; among our many duties, the Board has been tasked by the Kansas Legislature with the sole responsibility of adjudicating economic development tax exemption matters in this state. K.S.A. 2014 Supp. 79-213(m). Examination of the arguments presented by the Taxpayer in support of its motion and the Board's decision granting said tax exemption does not indicate that issues of valuation or classification of the subject assets were material to the Board's decision on this economic development tax exemption matter. *Estate of Belden v. Brown County*, 46 Kan.App.2d 247, 266, 261 P.3d 943 (2011). As the elements of collateral estoppel have not been satisfied, the Taxpayer's *Motion for Judgment* is denied.

Hearing Evidence

Dusty Turner, Chief Operations Officer for Conestoga Energy Partners, L.L.C., appeared as a witness for the Taxpayer and provided testimony regarding the subject facility and the assets in dispute. Turner was involved in the building of the plant from the initial planning stages to completion of construction. Bonanza BioEnergy, L.L.C., formerly known as Conestoga Energy Partners, L.L.C., owned the subject facility on the respective valuation dates. Turner currently oversees the plant's daily operation as well as supervising the daily operation of two other plants owned by Bonanza BioEnergy, L.L.C.

Construction of the subject plant commenced in June of 2006 and the 55 million gallon per year ethanol plant began production in August of 2007. The subject facility had a total (rounded) construction cost of \$89,000,000. Of this amount, the Taxpayer spent approximately \$35,000,000 on items it now contends are personalty. The plant assets were designed by IMC, Inc. ("IMC"), which is located in Colwich, Kansas. IMC contracts for construction of the necessary components for an ethanol plant which are required to meet IMC's specifications. IMC has standard specifications for its plants which have been constructed all over the United States. The most common IMC plants produce either 55 million or 110 million gallons of ethanol per year.

The plant also produces a marketable by-product known as "wet distillers grain." Wet distillers grain has a high nutritional value and can serve as a feed supplement for cattle. The wet distillers grain by-product is shipped to local feedlots for consumption by cattle. If it is not utilized within a few days of production, it can spoil.

The subject plant is equipped with dryers to remove the moisture from the wet distiller's grain creating "dry distillers grain." Dry distillers grain also serves as a feed supplement and has a longer shelf life than wet distillers grain. Although equipped to do so, the subject plant does not utilize the drying process due to the additional cost to dry the wet grain and due to the abundant local market for its wet distillers grain.

During two full and one partial day of testimony, Turner provided responses to the following questions in regard to each of the assets in dispute:

1. Can you describe the use and function of this particular asset?
2. According to accounting records, what was the cost of this particular asset?
3. Is the particular asset used in the production process?
4. Did this particular asset require any out of the ordinary site preparation for installation?
5. How is this particular asset attached to the lands?
6. Would removing this particular asset cause damage to the land?
7. Would removing this particular asset cause damage to the asset itself?
8. Would this particular asset need to be disassembled to be removed?
9. Would removing this asset require a significant amount of time and cost to restore the land to its original condition?
10. Was this particular asset constructed on site?
11. Was this particular asset assembled on site?
12. Was this particular asset designed, constructed and installed with the intent that it could be removed and transported to another site for installation if business conditions warrant?
13. If this particular asset were to break down and could not be repaired, could it be replaced?
14. Is this particular asset unique to the Bonanza plant?

15. Is this particular asset similar to those found in numerous other ethanol plants throughout the country?

Summarily, Turner testified that each asset in dispute was designed, constructed and installed with the intention that it could be removed and transported to other sites, without damage to either the asset, other assets, the underlying foundation, or the land, for installation as business conditions warranted. Turner stated that each asset in dispute was not unique to the subject plant as each asset was similar to those in service in numerous other ethanol production plants found throughout the country.

The primary use of fuel grade ethanol in the U.S. is as an additive to gasoline. As such, fuel grade ethanol is a commodity sold to gasoline refiners and marketers to blend with the gasoline produced in refineries. U.S. fuel grade ethanol consumption grew significantly in the years leading up to the tax years in issue in large part due to federal legislative initiatives. *The Energy Policy Act of 2005* (herein "EPACT"), which resulted in the renewable fuels standards, kick-started the biofuels industry in the U.S. as it required certain amounts of ethanol to be blended with the nation's fuel supply. EPACT, other federal actions (for example, the *Energy Independence and Security Act of 2007* and federal subsidies such as the blenders credit), and state and local incentives designed to encourage the construction of ethanol production facilities and/or the use of renewable fuels, (grants, tax incentives, loans or leases, rebates, exemptions, or other funding options) resulted in a proliferation of new ethanol plants across the country and, correspondingly, the production of ethanol. The production of fuel ethanol associated with this new plant capacity increased dramatically from 2005 to 2009. However, by 2008, this increased supply availability, coupled with less consumer demand for gasoline due to the U.S. economic recession brought about dramatic changes in the economics of ethanol production.

The price of corn typically represents approximately 70% of the cost of ethanol production. In early 2008, the price of corn skyrocketed from \$2.50 per bushel to an all-time high of over \$7.50 per bushel. During the period of June 15, 2008 to August 1, 2008, however, the corn price returned to \$2.50 per bushel. This spike in corn prices in 2008 severely impacted the profitability of ethanol plants nationwide as producers were unable to pass the high cost of feedstock through to ethanol consumers.

In 2008, VeraSun, the largest ethanol producer in the country with approximately 13 ethanol plants, went bankrupt. One 54 million gallon per year ethanol plant in Ohio shut down in November 2008, after opening in July 2008. Further, a 55 million gallon per year ethanol plant in Pratt, Kansas closed in

October 2008 never having reached full capacity. Other previously producing ethanol plants were being sold at auction at fractions of their respective installed costs. Ethanol companies that went bankrupt during this period included ASA Albion in Nebraska; Pratt Energy in Pratt, Kansas; and White Energy that has a plant in Russell, Kansas and two plants in Texas. As a result of these economic conditions, when the subject facility went on-line in August 2007 it was losing between \$50,000 to \$100,000 per day. The subject facility lost so much money in 2007 and 2008, that its bank reduced its working capital line of credit from \$10,000,000 to \$4,000,000.

Robert Lehn, Appraiser, appeared as an expert witness for the County and testified regarding his summary appraisal report for the subject property. Lehn has a Masters Degree in Chemical Engineering and is a licensed professional engineer and a registered professional appraiser in Texas. Lehn has been employed as a staff plant engineer for Amoco Oil and as a consultant with Muse Stancil & Company. For the past 21 years, Lehn has been employed as an appraiser with Thomas Y. Pickett & Associates of Dallas, Texas. Lehn has appraised ski resorts, refineries, petro-chemical plants, railroads, pipelines, gas gathering systems, and processing facilities in numerous states.

Lehn discussed the outlook for the ethanol industry in the U.S. and concluded that, for January 1, 2009, the overall outlook for the ethanol industry remained uncertain. In his summary appraisal report, Lehn considered all three approaches to value and concluded the cost approach was the best valuation methodology as the assets being valued were relatively new. Lehn further contended that the cost approach provided the best indicator of value as it did not include any goodwill or going concern value. Lehn did not find his comparable sales approach reliable as he found many of the comparable sales of ethanol plants to be distressed. Lehn indicated he only considered the real property and did not include value for personal property or business in his appraisal. Lehn's cost approach was premised on a comprehensive physical asset list provided by the Taxpayer that detailed the assets' installed costs. Lehn relied on Thomas Y. Pickett & Associates' internal calculations methods for service life assignment, trending, and depreciation.

Lehn focused on the long useful life of the assets in determining many should be classified as fixtures. Lehn applied the three-prong fixture test set forth in the *In re Equalization Appeals of Total Petroleum, Inc.*, 28 Kan. App.2d 295, 300 P.3d 981 (2000) to each asset "as parts of a unit and part of an integral process." Tr. Vol, 4, p. 806. Further, Lehn did not utilize the *Personal Property Valuation Guide* promulgated by the State of Kansas, Division of Property Valuation ("PVD") for his analysis. He did consider whether removing an asset from the process would cause damage to the real estate as well as noting that many of the assets had very long

useful lives. He equated damage to the real estate as meaning damage to the value of the property. Therefore, Lehn contended the removal of any asset that was necessary for the production process that causes a shutdown of the production process, results in a loss of value or damage to the real property value. Ultimately, Lehn determined a value of \$71,400,000 for the real property for 2009.

For his 2010 appraisal, Lehn indicated that it became clear that the U.S. was in the midst of an economic recession and consumer purchasing of gasoline was rapidly declining. As in his 2009 appraisal, Lehn again relied primarily on his cost approach and determined an opinion of value of \$66,100,000 for 2010.

Kathy Spletter, Appraiser, appeared as an expert witness for the Taxpayer and testified regarding her summary appraisal report for the subject property. Spletter is Vice President of Stancil & Co., an independent consulting firm specializing in the economic and technical analysis of downstream energy and related processing industries. Spletter has a Bachelors Degree in Chemical Engineering, is a licensed professional engineer, and a Senior Appraiser with the American Society of Appraisers.

In her appraisal, Spletter considered all three approaches to valuation, yet relied on the income approach as she determined that this methodology was most relied upon in the marketplace by buyers and sellers to determine a value for complex processing facilities. Spletter submitted that the comparable sales approach is also useful, and relied upon by buyers and sellers as it provides information directly from the market. Spletter gave little weight to the cost approach due to the high level of economic obsolescence due to the substantial changes in the ethanol market.

Spletter discussed the ethanol industry in general, ethanol supply and demand elements, national and local ethanol feedstock prices and supply, and ethanol plants profitability and risk factors. Spletter concluded that, as of the instant valuation dates, new construction of ethanol plants was slowing, existing ethanol plants were struggling financially, various ethanol plants were being shut down and numerous ethanol plant owners were facing bankruptcy.

Spletter's examination of the U.S. ethanol industry determined that, as of the valuation dates, the U. S. ethanol productive capacity had overshot the amount of ethanol that could be absorbed into U.S. gasoline sales. Spletter determined that U.S. ethanol plants lost money in 2008 as a result of this oversupply of ethanol, the U.S. economic recession that began in late 2007, and the dramatic increase in corn prices.

Spletter concluded these economics created an expectation for a competitive and challenging financial future for ethanol plants. Spletter submitted that the futures market projected a continuation of this challenging climate for at least the next calendar year. While the ethanol industry was hoping for some longer-term recovery, ethanol industry participant Archer Daniels Midland Company (ADM) stated in November 2008 that it was hoping that ethanol supply and demand would come into balance in the next two years as no new plants were being constructed.

For her 2010 appraisal, Spletter concluded that total capacity for ethanol production had increased over the prior year, the price of corn fell through calendar year 2009, yet the price of ethanol also decreased. As a result, during the first half of 2009 the margin of the price of ethanol produced relative to the price of feedstock was lower in 2010 than in 2009. Overall, Spletter concluded that the ethanol industry recognized that the market was over-supplied and the market risks present in 2009 remained in effect for 2010.

For her income approach, Spletter reviewed the subject plant's historical actual and projected production volumes to determine the projected cash flows. Spletter's projected volumes were based on the actual volumes processed by the plant. For Spletter's January 1, 2009 appraisal, the projected volumes were based on the actual production volume for 2008. For January 1, 2010, Spletter's projected volume determination was based on the average volumes for 2008 and 2009. Spletter's review of the actual production volume for the period prior to the valuation date and the market outlook as of the valuation date confirmed that these projections were reasonable.

Spletter submitted that the ability of an ethanol plant to generate future income is based on the value of the products the plant generates less the cost of feedstock. Spletter reviewed the historical prices, futures market prices, and industry data as of the valuation dates in concert with her ethanol market outlook for 2009 and 2010 to project the product and feedstock market prices. Spletter adjustments were made to account for the difference in realized prices for the subject plant versus the market price benchmarks. Spletter also reviewed the actual production of the subject plant and the actual plant operating costs (both fixed and variable) to project plant production and operating costs. Spletter noted that although a buyer would typically use the long-term historical average production as a projection basis, this was not possible given the subject plant began operations in late 2007.

Based on her findings and assumptions for plant volumes, prices for feedstock and products, and operating costs, Spletter calculated a historical net margin for 2007 through 2009 and projected a net margin for each valuation date. Utilizing a

15% discount rate, Spletter's discounted cash flow income analysis indicated a business enterprise value of \$37,000,000 for 2009 and \$40,000,000 for 2010.

Spletter also compiled comparable sales and cost approaches. Spletter's comparable sales researched ethanol sales from 2007 through 2009 denoting this as the relevant valuation period. Responding to the Taxpayer's contentions that these were distressed sales, Spletter submitted that although certain plant owners were in bankruptcy, many of the plants sold via an open bidding process. Examining her comparable sales on a price per capacity basis, Spletter determined opinions of value of \$44,000,000 for 2009 and \$39,000,000 for 2010.

The salient differences between Spletter's and Lehn's cost approach lied in their respective economic obsolescence determinations. Through calculation of the plant's income shortfall (the difference between the plant's actual income and the income required to support a conclusion of value at the level of the plant's replacement cost less physical depreciation), Spletter determined the subject plant had total obsolescence of \$41,200,000 for 2009 and \$37,300,000 million for 2010 for a cost approach value indication of \$40,000,000 for 2009 and \$37,000,000 for 2010. Reconciling these value indications and, as indicated above, giving primary emphasis to the income approach, Spletter determined a value for the entire business enterprise of \$36,000,000 for 2009 and \$38,000,000 for 2010.

As her appraisal relied on an analysis of the income-producing capabilities of the property and sales data from operating businesses, Spletter acknowledged that the value determined reflected the facility's business enterprise value, which includes both tangible and intangible assets. As a result, the conclusion of value overstates the value of the property subject to tax in Kansas to the extent the intangible asset value has not be defined and quantified. When questioned regarding a methodology for determining the real property value, Spletter noted that most of the plant assets were acquired and installed at the same time and, therefore, had comparable economic lives. Spletter testified that a typical methodology for determining the real property value would be to subtract the intangible value from the business enterprise value and then allocate the percentage of machinery and equipment in the remaining value proportionate to its original cost.

Applicable Law and Court Conclusions

Classification

The Taxpayer challenges the classification of portions of the subject property. K.S.A. 2014 Supp. 79-1609 provides, in regard to the determination of value of the subject residential property or commercial use property under certain circumstances, that the County has the duty to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity and correctness of such determination. Further, no presumption shall exist in favor of the county appraiser with respect to the validity and correctness of such determination. This evidentiary burden, however, extends only to issues relating to valuation. Therefore, in regard to the instant classification dispute, the Taxpayer has the burden to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity and correctness of its determination.

While these matters were in the discovery stage at the Board, the Kansas Court of Appeals rendered its remand decision on *In re 2008 Equalization Appeal of Coffeyville Res. Nitro. Fertilizers, L.L.C.*¹, Case No. 107,705, 2013 WL 4046403 (Kan. App. 2013)(unpublished opinion, *rev. denied* 299 Kan. ___ (2014)). In this matter, the parties to the appeal presented a similar classification dispute wherein the Taxpayer therein argued that approximately 700 equipment items that, with other assets, comprised its nitrogen fertilizer manufacturing plant in Coffeyville, Kansas had been improperly classified by the Montgomery County, Kansas appraiser as real property. The Court of Appeals found that these parties, at least initially, presented their dispute as an all or nothing proposition, which, in turn, required the lower tribunal render its classification decision regarding the Coffeyville plant assets “as a ‘single, huge machine’ instead of individual assets.” *In re Tax Appeal of Coffeyville Res. Nitro. Fertilizers, L.L.C.*, No. 107,705 at 9. The Court of Appeals found that certain of the Coffeyville assets were “small and/or easily removable while other assets are very large and/or difficult to remove.” *Id.* at 8. While the Court of Appeals did not rule on the classification issue, it clearly suggested that “if the assets are considered individually or in groups of similar assets, it is likely that some of the disputed assets are fixtures – or real property – while others are personal property.” *Id.* at 8 - 9. As such, the Court of Appeals

¹ *In re 2008 Equalization Appeal of Coffeyville Res. Nitro. Fertilizers, L.L.C.* is an unpublished decision of the Kansas Court of Appeals. Pursuant to Kansas Supreme Court Rule 7.04(g)(2)(B), the decision “is not binding precedent ... but has persuasive value with respect to a material issue not addressed in a published opinion of a Kansas appellate court and would assist the court in disposition of the issue.”

issued a remand decision with instructions that the fact-finding tribunal below “make specific findings and conclusions, based on the three-prong fixture test found in *In re Equalization Appeal of Total Petroleum, Inc.*, 28 Kan. App. 2d 295, 16 P.3d 981 (2000), as to whether each asset – or group of assets – should be classified as real property or personal property.” *Id.* at 9.

Total Petroleum held that “the test for determining whether personal property becomes a fixture is: (1) annexation to the realty; (2) adaptation to the use of that part of the realty with which it is attached; and (3) the intention of the party making the annexation.” *Id.* at 299 (quoting *Stalcup v. Detrich*, 27 Kan.App.2d 880, 10 P.3d 3 (2000)). Application of the three-part fixture test prescribed in *Total Petroleum* has culminated in the Board’s findings and conclusions regarding those assets the substantial credible record evidence indicates retained their personal property characteristics (the “personal property assets”), and those assets the substantial credible record evidence indicates lost their identity or character as separate items of personal property and became a part of the realty (the “fixtures”). The assets in dispute are listed in Attachment “A” below and are designated, pursuant to the Board’s findings and conclusions set forth herein, as either real or personal property.

In regard to all of the Board’s findings and conclusions, the Board finds the Taxpayer’s witness Dusty Turner, Conestoga Chief Operations Officer, during more than two full days of testimony, presented detailed and specific evidence regarding each property item in dispute. Turner’s testimony was both persuasive and clearly the best evidence in the record regarding each assets respective annexation to the realty, adaptation to the use of that part of the realty with which it is attached, and the intention of the party making the annexation. Turner demonstrated detailed knowledge of the use and function, site preparation and mode of annexation/ attachment for each asset. Turner, further, testified as to whether the removal of each asset would cause damage to either the asset or the underlying land and evidence regarding whether the asset was designed, constructed and installed with the intent that it could be removed and transported to another site for installation if business conditions warrant. Turner, further, presented testimony regarding whether the asset, if it were to break down, could be repaired or replaced, whether the asset was unique to the subject facility and whether the asset was similar to those found in numerous other ethanol plants throughout the country. Further, as the County’s expert witness Lehn’s testimony and evidence regarding the plant assets was not presented as to each individual item, but instead as parts of a unit or integral process, the Board finds Turner’s “individual item testimony” mostly uncontroverted.

In regard to each asset herein determined to be personal property, the Board finds and concludes that the substantial credible evidence indicates that none of these assets are attached to the land in a permanent manner. Movement of assets can be performed without damaging or removing the foundations, or damaging the land and other equipment. In regard to adaptation, the substantial credible evidence indicates that the personal property assets, when examined individually, are used to serve and support the Taxpayer's manufacturing operation and are, in no way, adapted to the land. There is evidence in the record indicating that the personal property assets were not designed to fit the subject land and testimony from the Taxpayer's witness that the personal property assets could be re-tasked in another location. For the personal property assets, the Board further finds substantial credible evidence that none of these assets were placed in service to become a permanent fixture to the land.

In addition to the objective analysis of the annexation and adaptation tests, there were documents created at the time of the plant's construction establishing that the assets in dispute were intended to be personal property. Documents created for Economic Development tax exemption purposes indicate that the asset owners characterized the assets in dispute as personal property.

All three parts of the fixtures test — annexation, adaptation, and intention — must be considered when determining whether an item has become a fixture of the real estate to which it is attached. *See PVD Guide* at p. ii. 35A Am. Jur. 2d Fixtures § 4 instructs that “[g]enerally all three criteria in the three-part test must exist for an item to be deemed a fixture.” The Board finds the personal property assets do not satisfy this three-part analysis. For the items herein found to be personal property, the Board finds the assets were annexed to the land in a permanent fashion; the assets were not adapted to the land; and there is substantial credible evidence that there was intention from the asset owners that the assets be treated as personal property at the time of installation.

For the foregoing reasons, and after a thorough application of the three-part fixture test prescribed in *Total Petroleum* to the assets in dispute, the Board finds and concludes that those assets herein designated as personal property in Attachment “A” have retained their identity as personal property and, therefore, shall be classified as personal property for the tax years in issue.

The Board finds 25 of the assets in dispute have lost their original personal property characteristics and have become real property fixtures. These items are listed in Attachment “A” and are designated as real property. The Board finds the size, character, nature, and design/construction of these assets all have indicia of real property fixtures. Noting the Taxpayer has the burden of proof on issues of

classification, the Board finds and concludes the present real property classification of these 25 items is hereby sustained.

Valuation

Each parcel of non-agricultural real property in Kansas is appraised at its fair market value. See K.S.A. 79-501. The term "fair market value" is defined as that "amount in terms of money that a well-informed buyer is justified in paying and a well-informed seller is justified in accepting for property in an open and competitive market, assuming that the parties are acting without undue compulsion." See K.S.A. 2014 Supp. 79-503a.

K.S.A. 79-102 defines "real property" and "real estate" to "include not only the land itself, but all buildings, fixtures, improvements, mines, minerals, quarries, mineral springs and wells, rights and privileges appertaining thereto." Because real property is defined to include all rights and privileges appertaining thereto, it is the "fee simple interest" that is valued for ad valorem taxation purposes in the State of Kansas. The "fee simple interest" denotes "absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by governmental powers of taxation, eminent domain, police power, and escheat." *The Appraisal of Real Estate*, Appraisal Institute 111 (13th ed. 2008).

The County bears the evidentiary burden herein with regard to issues of valuation. K.S.A. 2014 Supp. 79-1609. It is undisputed that the subject property is a special use, income-producing property. In the income approach, the appraiser estimates the income stream that would be produced by the property in the highest and best use under typical management. The property, not current management, is being valued; therefore, it is proper to assume that the potential investors would use the property for its most profitable legal use; and the buyer would employ typical rather than extraordinary management. *Property Appraisal and Assessment Administration* 84 (J.K. Eckert, Ph.D. ed. 1990). It is axiomatic that any potential ethanol plant purchaser would thoroughly investigate what income to expect the plant to generate before determining an offer to purchase the property. The tax years in issue represented an extremely competitive and challenging financial landscape for ethanol plants. The primary product manufactured at the subject facility is a gasoline additive sold to gasoline refiners and marketers to blend with the gasoline produced in their refineries. The market price for the plant's ethanol product is affected by factors including overall consumer demand for gasoline, federal legislative initiatives, and nationwide ethanol plant capacity/production.

The lion's share of the cost of ethanol production is directly linked to the price of corn. In the year immediately preceding the first tax year in issue herein, the price of corn whipsawed in a range of \$2.50 per bushel to \$7.57 per bushel. This corn price spike, an overcapacity of ethanol plants and ethanol product, and other macroeconomic factors drove numerous large U.S. ethanol producers into bankruptcy. The subject facility lost money from plant start-up, and in 2007 and 2008 saw its working capital line of credit dramatically reduced.

Given this clearly tumultuous economic landscape for the subject property, the Board finds little, if any, probative value in the County's appraisal, as it was based primarily on the subject facility's installed costs and, most importantly, did not include appropriate adjustments to account for economic obsolescence. In contrast, Taxpayer Appraiser Spletter embarked on an exhaustive examination of all of the myriad factors affecting the ethanol industry, in general, as well as the market factors specifically impacting the profitability of ethanol production at the subject facility.

The Board finds that the interest initially valued by the Spletter appraisal was that of the going concern or the business enterprise value, which is the market value of the real property, personal property, and the intangible assets of the business. *The Appraisal of Real Estate* at 29. "For certain types of properties, (e.g., hotels and motels, restaurants, bowling alleys, manufacturing enterprises, athletic clubs, landfills), the physical real estate assets are integral parts of an ongoing business." The Board finds the subject property is such a property where the real property and business operating therein are integrally related. "It may be difficult to separate the market value of the land and the building from the total value of the business, but such a division of the realty and non-realty components of value may be required by the intended user of the appraisal." *Id.* at 30. Such a division of realty and non-realty components is required for a determination of the real property market value pursuant to Kansas law. See K.S.A. 79-102 and K.S.A. 2014 Supp. 79-503a.

The total original cost of all of the tangible assets was \$89,000,000 and the original cost of the assets found herein to be personal property was \$18,010,909. *Taxpayer's Amended and Restated Proposed Findings of Fact and Conclusions of Law*, pp. 4-14. Therefore, the percentage of personal property cost to total tangible asset cost was 20.2370% for the tax years in issue. Further, Spletter testified that the intangible assets generally represent approximately 25% of the total business value. Using Spletter's methodology of first removing the value of the intangible assets and then allocating the percentage of machinery and equipment in the remaining value proportionate to its original cost, yields a real property value of \$21,536,016 for 2009 and \$22,732,462 for 2010.

The Board readily acknowledges that the Spletter appraisal was designed to determine a business enterprise value and not a real property value as is required for a final decision on these matters, K.S.A. 79-102 and 79-501, given the exemption for commercial and industrial machinery and equipment provided in K.S.A. 79-223. The Board is further cognizant that Spletter's methodology for distilling a real property value from her business enterprise value was not a part of her original appraisal assignment. The County's expert valuation determination, however, relied on a valuation methodology not utilized in the market by buyers and sellers of complex processing facilities and, most importantly, completely ignored the severe economic conditions impacting the subject facility. Given these substantial flaws, the Board finds Spletter's appraisal, with her stated adjustments to remove value for intangible and personal property, to be the best indicator of the real property value in the record. The Board, lastly, recognizes that each appraiser was hamstrung as they were tasked with the valuation of a moving target, as they had to compile their appraisals while there still remained disputes amongst the parties as to what assets constituted the real property under appraisal. For these reasons, the Board notes that, if properly requested, the parties may be afforded the opportunity to compile and present additional appraisal evidence for an accurate determination of the value of the subject real property.

IT IS THEREFORE ORDERED BY THE BOARD OF TAX APPEALS OF THE STATE OF KANSAS that the assets in dispute shall be classified and valued as personal property or real property as they are designated in Attachment "A."

IT IS FURTHER ORDERED that the subject real property shall have an appraised value of \$21,536,016 for 2009 and \$22,732,462 for 2010.

This order is a full and complete opinion pursuant to K.S.A. 74-2426(a), and amendments thereto.

Any party who is aggrieved by this order may file a written petition for reconsideration with this Board as provided in K.S.A. 77-529, and amendments thereto. See K.S.A. 74-2426(b), and amendments thereto. The written petition for reconsideration shall set forth specifically and in adequate detail the particular and specific respects in which it is alleged that the Board's order is unlawful, unreasonable, capricious, improper or unfair. Any petition for reconsideration shall be mailed to the Secretary of the Board of Tax Appeals. The written petition must be received by the Board within 15 days of the certification date of this order (allowing an additional three days for mailing pursuant to statute).

Rather than filing a petition for reconsideration, any aggrieved person has the right to appeal this order of the Board by filing a petition with the court of

appeals or the district court pursuant to K.S.A. 74-2426(c)(4)(A), and amendments thereto. Any person choosing to petition for judicial review of this order must file the petition with the appropriate court within 30 days from the date of certification of this order. See K.S.A. 77-613(b) and (c) and K.S.A. 74-2426(c), and amendments thereto. Pursuant to K.S.A. 77-529(d), and amendments thereto, any party choosing to petition for judicial review of this order is hereby notified that the Secretary of the Board of Tax Appeals is to receive service of a copy of the petition for judicial review. Please note, however, that the Board would not be a party to any judicial review because the Board does not have the capacity or power to sue or be sued. See K.S.A. 74-2433(f), and amendments thereto.

Unless an aggrieved party files a timely petition for reconsideration as set forth herein, this order will be appealable by that party only by timely appeal to the district court or the court of appeals as set forth above.

The address for the Secretary of the Board of Tax Appeals is Board of Tax Appeals, Eisenhower State Office Building, 700 SW Harrison St., Suite 1022, Topeka, KS 66603. A party filing any written request or petition shall also serve a complete copy of any written request or petition on all other parties. Please be advised that the administrative appeal process is governed by statutes enacted by the legislature and no further appeal will be available beyond the statutory time frames.

IT IS SO ORDERED

THE KANSAS BOARD OF TAX APPEALS



Ronald C Mason
RONALD C. MASON, BOARD MEMBER

James D Cooper
JAMES D. COOPER, BOARD MEMBER

Arlen Siegfried
ARLEN SIEGFREID, MEMBER PRO TEM

Joelene R. Allen
JOELENE R. ALLEN, SECRETARY

CERTIFICATION

I, Joelene R. Allen, Secretary of the Board of Tax Appeals of the State of Kansas, do hereby certify that a true and correct copy of this order in Docket Nos. 2009-3143-EQ and 2010-3925-EQ, and any attachments thereto, was placed in the United States Mail, on this 1st day of May, 2015, addressed to:

Tom Willis
Conestoga Energy Partners LLC
n/k/a Bonanza BioEnergy LLC
1701 N Kansas Ave Ste 1
Liberal, KS 67901-2006

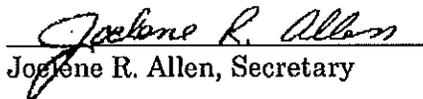
Marc Kliewer, Attorney
Kliewer Chartered
PO Box 411
Garden City, KS 67846

Maria S Castillo, County Appraiser
Finney County Admin Center
311 N 9th St
Garden City, KS 67846-5312

Linda Terrill, Attorney
Finney County
Property Tax Law Group LLC
11350 Tomahawk Creek Pkwy Ste 100
Leawood, KS 66211

Raylene Dick, County Treasurer
Finney County Courthouse
PO Box M
Garden City, KS 67846-0450

IN TESTIMONY WHEREOF, I have hereunto subscribed my name at Topeka, Kansas.


Joeline R. Allen, Secretary

	Asset Description In Taxpayer's Amended Proposed Findings	Cost
i.	Beer bottoms pump	16,485.46
ii.	Beer column	200,180.61
iii.	Beer column internals package	58,876.65
iv.	Beer well	794,834.79
v.	Beer well agitator	58,876.65
vi.	Beer well discharge pump	11,775.33
vii.	Centrifuge #1	765,396.46
viii.	Centrifuge #2	765,396.46
ix.	Centrifuge #3	765,396.46
x.	Centrifuge #4	765,396.46
xi.	Centrifuge feed pump	353,259.91
xii.	C.I.P. S. pump	16,485.46
xiii.	C.I.P. S. pump	16,485.46
xiv.	CIP heater	41,213.66
xv.	CIP screen	64,764.32
xvi.	CIP tank	88,314.98
xvii.	Cooling tower pump #1	52,988.99
xviii.	Cooling tower pump #2	52,988.99
xix.	Cooling tower pump #3	52,988.99
xx.	Cooling tower pump #4	52,988.99
xxi.	Evap #1	235,506.60
xxii.	Evap #1 pump	21,195.59
xxiii.	Evap #2	235,506.60
xxiv.	Evap #2 pump	21,195.59
xxv.	Evap #3	235,506.60
xxvi.	Evap #3 pump	21,195.59
xxvii.	Evap #4	235,506.60
xxviii.	Evap #4 pump	21,195.59
xxix.	Evap #5	235,506.60
xxx.	Evap #5 pump	21,195.59
xxxi.	Evap #6	235,506.60
xxxii.	Evap #6 pump	21,195.59
xxxiii.	Evap #7	235,506.60
xxxiv.	Evap #7 pump	21,195.59
xxxv.	Evap #8	235,506.60
xxxvi.	Evap #8 pump	21,195.59
xxxvii.	Evaporator and beer acid pump	8,242.73
xxxviii.	H2SO4 evaporator and beer acid	3,592.60
xxxix.	Process condenser receiver pump	8,242.73

Asset Description In Exhibit A	Cost	Deemed by BOTA to be Real Property	Deemed by BOTA to be Personal Prop
BEER BOTTOMS PUMP	16,485.46		16,485.46
BEER COLUMN	200,180.61		200,180.61
BEER COLUMN INTERNALS PACKAGE	58,876.65		58,876.65
BEER WELL	794,834.79	794,834.79	
BEER WELL AGITATOR	58,876.65		58,876.65
BEER WELL DISCHARGE PUMP	11,775.33		11,775.33
CENTRIFUGE #1	765,396.46		765,396.46
CENTRIFUGE #2	765,396.46		765,396.46
CENTRIFUGE #3	765,396.46		765,396.46
CENTRIFUGE #4	765,396.46		765,396.46
CENTRIFUGE FEED PUMP	353,259.91		353,259.91
C.I.P. S. PUMP	16,485.46		16,485.46
C.I.P. S. PUMP	16,485.46		16,485.46
CIP HEATER	41,213.66		41,213.66
CIP SCREEN	64,764.32		64,764.32
CIP TANK	88,314.98	88,314.98	
COOLING TOWER PUMP #1	52,988.99		52,988.99
COOLING TOWER PUMP #2	52,988.99		52,988.99
COOLING TOWER PUMP #3	52,988.99		52,988.99
COOLING TOWER PUMP #4	52,988.99		52,988.99
EVAP #1	235,506.60		235,506.60
EVAP #1 PUMP	21,195.59		21,195.59
EVAP #2	235,506.60		235,506.60
EVAP #2 PUMP	21,195.59		21,195.59
EVAP #3	235,506.60		235,506.60
EVAP #3 PUMP	21,195.59		21,195.59
EVAP #4	235,506.60		235,506.60
EVAP #4 PUMP	21,195.59		21,195.59
EVAP #5	235,506.60		235,506.60
EVAP #5 PUMP	21,195.59		21,195.59
EVAP #6	235,506.60		235,506.60
EVAP #6 PUMP	21,195.59		21,195.59
EVAP #7	235,506.60		235,506.60
EVAP #7 PUMP	21,195.59		21,195.59
EVAP #8	235,506.60		235,506.60
EVAP #8 PUMP	21,195.59		21,195.59
EVAP AND BEER ACID PUMP	8,242.73		8,242.73
H2SO4 EVAP AND BEER ACID	3,592.60		3,592.60
PROCESS COND RECEIVER PUMP	8,242.73		8,242.73

xi.	Steam condensor receiver pump	14,130.40
xii.	Blend pump	4,121.37
xiii.	Fermenter #1	647,643.16
xiii.	Fermenter #1 agitator	47,101.32
xiii.	Fermenter #1 cooler	52,988.99
xiv.	Fermenter #1 pump	23,550.66
xiv.	Fermenter #2	647,643.16
xiv.	Fermenter #2 agitator	47,101.32
xiv.	Fermenter #2 cooler	52,988.99
xiv.	Fermenter #2 pump	23,550.66
xv.	Fermenter #3	647,643.16
xv.	Fermenter #3 agitator	47,101.32
xv.	Fermenter #3 cooler	52,988.99
xv.	Fermenter #3 pump	23,550.66
xv.	Fermenter #4	647,643.16
xv.	Fermenter #4 agitator	47,101.32
xv.	Fermenter #4 cooler	52,988.99
xv.	Fermenter #4 pump	23,550.66
xvi.	Fermenter drain pump #1	8,242.73
xvi.	Fermenter drain pump #2	8,242.73
xvii.	Glucose amylase mix pump	7,065.20
xviii.	Glucose enzyme pump #1 ferm.	8,242.73
xviii.	Glucose enzyme pump #2 ferm.	8,242.73
xix.	Hammer mill #1	111,865.64
xix.	Hammer mill #2	111,865.64
xx.	Hammer mill #3	111,865.64
xx.	Mill #1 rotary feeder	23,550.66
xx.	Mill #2 rotary feeder	23,550.66
xx.	Mill #3 rotary feeder	23,550.66
xxi.	Liquefaction pump #1	12,952.86
xxi.	Liquefaction tank #1	100,090.31
xxi.	Liquefaction tank #2	44,746.25
xxi.	Liquefaction tank #1 agitator	100,090.31
xxi.	Liquefaction tank #2 agitator	44,746.25
xxii.	Bio-methanator	1,059,779.72
xxii.	Methanator cooler	5,887.67
xxii.	Methanator feed pump	7,065.20
xxii.	Methanator tank	176,629.95
xxii.	190 proof day tank	123,640.97
xxii.	190 proof vacuum cond	176,629.95
xxii.	200 proof cooler	8,242.73
xxii.	200 proof flash receiver	10,597.80
xxii.	200 proof flash vessel	21,195.59
xxii.	200 proof product pump	8,242.73
xxii.	200 proof tank	123,640.97
xxii.	50% NaOH pump	7,065.20

xi.	STEAM COND RECEIVER PUMP	14,130.40		14,130.40
xii.	BLEND PUMP	4,121.37		4,121.37
xiii.	FERMENTER #1	647,643.16	647,643.16	
xiii.	FERMENTER #1 AGITATOR	47,101.32		47,101.32
xiii.	FERMENTER #1 COOLER	52,988.99		52,988.99
xiv.	FERMENTER #1 PUMP	23,550.66		23,550.66
xiv.	FERMENTER #2	647,643.16	647,643.16	
xiv.	FERMENTER #2 AGITATOR	47,101.32		47,101.32
xiv.	FERMENTER #2 COOLER	52,988.99		52,988.99
xiv.	FERMENTER #2 PUMP	23,550.66		23,550.66
xv.	FERMENTER #3	647,643.16	647,643.16	
xv.	FERMENTER #3 AGITATOR	47,101.32		47,101.32
xv.	FERMENTER #3 COOLER	52,988.99		52,988.99
xv.	FERMENTER #3 PUMP	23,550.66		23,550.66
xv.	FERMENTER #4	647,643.16	647,643.16	
xv.	FERMENTER #4 AGITATOR	47,101.32		47,101.32
xv.	FERMENTER #4 COOLER	52,988.99		52,988.99
xv.	FERMENTER #4 PUMP	23,550.66		23,550.66
xvi.	FERMENTER DRAIN PUMP #1	8,242.73		8,242.73
xvi.	FERMENTER DRAIN PUMP #2	8,242.73		8,242.73
xvii.	GLUCO AMYLASE MIX PUMP	7,065.20		7,065.20
xviii.	GLUCO ENZYME PUMP #1 FERM.	8,242.73		8,242.73
xviii.	GLUCO ENZYME PUMP #2 FERM.	8,242.73		8,242.73
xix.	HAMMER MILL #1	111,865.64		111,865.64
xix.	HAMMER MILL #2	111,865.64		111,865.64
xx.	HAMMER MILL #3	111,865.64		111,865.64
xx.	MILL #1 ROTARY FEEDER	23,550.66		23,550.66
xx.	MILL #2 ROTARY FEEDER	23,550.66		23,550.66
xx.	MILL #3 ROTARY FEEDER	23,550.66		23,550.66
xxi.	LIQUIFACTON PUMP #1	12,952.86		12,952.86
xxi.	LIQUIFACTON TANK #1	100,090.31	100,090.31	
xxi.	LIQUIFACTON TANK #2	44,746.25		44,746.25
xxi.	LIQUIFACTON TANK #2 AGITATOR	100,090.31	100,090.31	
xxii.	BIO-METHANATOR	1,059,779.72		1,059,779.72
xxii.	METHANATOR COOLER	5,887.67		5,887.67
xxii.	METHANATOR FEED PUMP	7,065.20		7,065.20
xxii.	METHANATOR TANK	176,629.95		176,629.95
xxii.	190 PROOF DAY TANK	123,640.97	123,640.97	
xxii.	190 PROOF VACUUM COND	176,629.95		176,629.95
xxii.	200 PROOF COOLER	8,242.73		8,242.73
xxii.	200 PROOF FLASH RECEIVER	10,597.80		10,597.80
xxii.	200 PROOF FLASH VESSEL	21,195.59		21,195.59
xxii.	200 PROOF PRODUCT PUMP	8,242.73		8,242.73
xxii.	200 PROOF TANK	123,640.97	123,640.97	
xxii.	50% NaOH PUMP	7,065.20		7,065.20

bowl	50% NaOH tank	27,083.26
bowl	Anti-foam pump	1,766.30
bowl	Acid dike sump pump	3,532.60
box	Acid wash pump	10,597.80
xc	Acid wash tank	35,325.99
xcl	Air stations package	14,130.40
xcll	Alpha amylase mix pump	6,476.43
xclll	Alpha amylase tank #1	29,438.33
xclv	Alpha amylase tank #2	29,438.33
xcv	Ammonia package	88,314.98
xcvl	Ammonia tank	88,314.98
xcvll	Beer/mash exchanger A	52,988.99
xcvlll	Beer/mash exchanger B	52,988.99
xcdx	Blender & feed screw package	94,202.64
c	Centrate blower	7,065.20
cl	Centrate pump	25,905.73
cll	Centrate tank	8,242.73
clll	Chiller	17,663.00
clv	CO2 scrubber	88,314.98
cv	CO2 scrubber bottoms pump	7,065.20
cvl	CO2 scrubber internals package	35,325.99
cvll	Conventional boiler package	52,988.99
cvlll	Cook tube #1	3,532.60
clx	Cook tube #1 agitator	76,539.65
cx	Cook water pre-heater	29,438.33
cxl	Cook water pump	23,550.66
cxll	Cook water tank	7,065.20
cxlll	Cooling tower package	176,629.95
cxlv	Deaerator package	235,506.60
cxv	Denatrant pump	7,065.20
cxvl	Denatrant tank	123,640.97
cxvll	Denatrant unloading pump	14,130.40
cxvlll	Denatured ethanol tank #1	294,383.25
cxv	Denatured ethanol tank #2	294,383.25
cxv	(3) Distillation sump pumps	4,710.13
cxvl	Dryer a syrup pump	17,663.00
cxvll	Dryer a system	3,079,248.84
cxvlll	Enzyme blend tank	14,130.40
cxv	Ethanol loadout package	211,955.94
cxv	Ethanol loadout pump	12,952.86
cxvll	Ethanol transfer pump	8,242.73
cxvlll	E-vap feed pump	5,887.67
cxv	Flash vessel	29,438.33
cxv	Flash vessel pump	14,130.40
cxv	Floor conveyor for wetcake pad	137,687.76
cxv	Fuel additive pump	3,532.60

50% NaOH TANK	27,083.26	27,083.26
A-T-FOAM PUMP	1,766.30	1,766.30
ACID DIKE SUMP PUMP	3,532.60	3,532.60
ACID WASH PUMP	10,597.80	10,597.80
ACID WASH TANK	35,325.99	35,325.99
AIR STATIONS PACKAGE	14,130.40	14,130.40
ALPHA AMYLAASE MIX PUMP	6,476.43	6,476.43
ALPHA AMYLAASE TANK #1	29,438.33	29,438.33
ALPHA AMYLAASE TANK #2	29,438.33	29,438.33
AMMONIA PACKAGE	88,314.98	88,314.98
AMMONIA TANK	88,314.98	88,314.98
BEER/MASH EXCHANGER A	52,988.99	52,988.99
BEER/MASH EXCHANGER B	52,988.99	52,988.99
BLENDER & FEED SCREW PACKAGE	94,202.64	94,202.64
CENTRATE BLOWER	7,065.20	7,065.20
CENTRATE PUMP	25,905.73	25,905.73
CENTRATE TANK	8,242.73	8,242.73
CHILLER	17,663.00	17,663.00
CO2 SCRUBBER	88,314.98	88,314.98
CO2 SCRUBBER BOTTOMS PUMP	7,065.20	7,065.20
CO2 SCRUBBER INTERNALS PACKAGE	35,325.99	35,325.99
CONVENTIONAL BOILER PACKAGE	52,988.99	52,988.99
COOK TUBE #1	3,532.60	3,532.60
COOK TUBE #1 AGITATOR	76,539.65	76,539.65
COOK WATER PRE-HEATER	29,438.33	29,438.33
COOK WATER PUMP	23,550.66	23,550.66
COOK WATER TANK	7,065.20	7,065.20
COOLING TOWER PACKAGE	176,629.95	176,629.95
DEAERATOR PACKAGE	235,506.60	235,506.60
DENATRANT PUMP	7,065.20	7,065.20
DENATRANT TANK	123,640.97	123,640.97
DENATURANT UNLOADING PUMP	14,130.40	14,130.40
DENATURED ETHANOL TANK #1	294,383.25	294,383.25
DENATURED ETHANOL TANK #2	294,383.25	294,383.25
DISTILLATION SUMP PUMP	4,710.13	4,710.13
DRYER A SYRUP PUMP	17,663.00	17,663.00
DRYER A SYSTEM	3,079,248.84	3,079,248.84
ENZYME BLEND TANK	14,130.40	14,130.40
ETHANOL LOADOUT PACKAGE	211,955.94	211,955.94
ETHANOL LOADOUT PUMP	12,952.86	12,952.86
ETHANOL TRANSFER PUMP	8,242.73	8,242.73
E-VAP FEED PUMP	5,887.67	5,887.67
FLASH VESSEL	29,438.33	29,438.33
FLASH VESSEL PUMP	14,130.40	14,130.40
FLOOR CONVEYOR FOR WETCAKE PAD	137,687.76	137,687.76
FUEL ADDITIVE PUMP	3,532.60	3,532.60

ccooli.	Fuel additive tank	11,775.33			
ccooli.	Fusel draw pump	588.77			
ccoolv.	Gluco amyase tank #1	29,438.33			
ccoolv.	Gluco amyase tank #2	29,438.33			
ccoolv.	Hydroheater	52,988.99			
ccoolv.	Loadout flare package	94,202.64			
ccoolv.	Low pressure turbine & generator	1,413,039.62			
ccoolx.	Mash cooler A	58,876.65			
ccoolx.	Mash cooler B	58,876.65			
ccool.	Minor equipment	824,273.11			
ccool.	NaOH dike sump pump	4,121.37			
ccool.	Process condition receiver	11,775.33			
ccooli.	Process sump pump #1	7,065.20			
ccooli.	Process sump pump #2	7,065.20			
ccolv.	Process water pump	11,775.33			
ccolv.	Process water tank	259,057.26			
ccolv.	R.O. product pump	7,065.20			
ccovl.	R.O. product tank	38,858.59			
ccovl.	R.O. product tank	38,858.59			
ccovll.	Rectifier bottoms pump	8,242.73			
ccok.	Rectifier column	188,405.28			
ccok.	Rectifier internals package	158,966.96			
d.	Reflux pump	8,242.73			
dli.	Reflux tank	17,663.00			
dli.	Regen condenser	41,213.66			
dly.	Regen cooler	8,242.73			
dly.	Regen pump	9,420.26			
dvi.	Regen tank	17,663.00			
dvl.	RTO package	2,943,832.54			
dvl.	Safety shower and eyewash package	58,876.65			
dix.	Sieve steam cond. Flash tank	11,775.33			
dx.	Side stripper	117,753.30			
dx.	Side stripper Internals package	21,195.59			
dxl.	Side stripper pump	8,242.73			
dxll.	Sieve bottle #1	76,539.65			
dxll.	Sieve bottle #2	76,539.65			
dxll.	Sieve bottle #3	76,539.65			
dxv.	Sieve bottle #3	76,539.65			
dxv.	Sieve feed econ	10,597.80			
dxv.	Sieve feed pump	10,597.80			
dxvll.	Sieve vaporizer	70,651.98			
dxk.	Steam cond receiver	11,775.33			
dxv.	Sulfuric acid tank	47,101.32			
dxool.	Swing enzyme pump #3	8,242.73			
dxool.	Syrup draw pump	23,550.66			
dxool.	Syrup tank	94,202.64			
dxoolv.	Syrup tank agitator	18,840.53			
dxov.	Tank farm sump pump	4,710.13			

FUEL ADDITIVE TANK	11,775.33			11,775.33
FUSEL DRAW PUMP	588.77			588.77
GLUCO AMYASE TANK #1	29,438.33			29,438.33
GLUCO AMYASE TANK #2	29,438.33			29,438.33
HYDROHEATER	52,988.99			52,988.99
LOADOUT FLARE PACKAGE	94,202.64			94,202.64
LOW PRESSURE TURBINE & GENERATOR	1,413,039.62			1,413,039.62
MASH COOLER A	58,876.65			58,876.65
MASH COOLER B	58,876.65			58,876.65
MINOR EQUIPMENT	824,273.11			824,273.11
NAOH DIKE SUMP PUMP	4,121.37			4,121.37
PROCESS CONDITION RECEIVER	11,775.33			11,775.33
PROCESS SUMP PUMP #1	7,065.20			7,065.20
PROCESS SUMP PUMP #2	7,065.20			7,065.20
PROCESS WATER PUMP	11,775.33			11,775.33
PROCESS WATER TANK	259,057.26			259,057.26
R.O. PRODUCT PUMP	7,065.20			7,065.20
R.O. PRODUCT TANK	38,858.59			38,858.59
R.O. PRODUCT TANK	38,858.59			38,858.59
RECTIFIER BOTTOMS PUMP	8,242.73			8,242.73
RECTIFIER COLUMN	188,405.28			188,405.28
RECTIFIER INTERNALS PACKAGE	158,966.96			158,966.96
REFLUX PUMP	8,242.73			8,242.73
REFLUX TANK	17,663.00			17,663.00
REGEN CONDENSER	41,213.66			41,213.66
REGEN COOLER	8,242.73			8,242.73
REGEN PUMP	9,420.26			9,420.26
REGEN TANK	17,663.00			17,663.00
RTO PACKAGE	2,943,832.54			2,943,832.54
SAFETY SHOWER AND EYEWASH PACKAGE	58,876.65			58,876.65
SEIVE STEAM COND. FLASH TANK	11,775.33			11,775.33
SIDE STRIPPER	117,753.30			117,753.30
SIDE STRIPPER INTERNALS PACKAGE	21,195.59			21,195.59
SIDE STRIPPER PUMP	8,242.73			8,242.73
SIEVE BOTTLE #1	76,539.65			76,539.65
SIEVE BOTTLE #2	76,539.65			76,539.65
SIEVE BOTTLE #3	76,539.65			76,539.65
SIEVE FEED ECON	10,597.80			10,597.80
SIEVE FEED PUMP	10,597.80			10,597.80
SIEVE VAPORIZER	70,651.98			70,651.98
STEAM COND RECEIVER	11,775.33			11,775.33
SULFURIC ACID TANK	47,101.32			47,101.32
SWING ENZYME PUMP #3	8,242.73			8,242.73
SYRUP DRAW PUMP	23,550.66			23,550.66
SYRUP TANK	94,202.64			94,202.64
SYRUP TANK AGITATOR	18,840.53			18,840.53
TANK FARM SUMP PUMP	4,710.13			4,710.13

dxovl.	Thin stillage tank	147,191.63
dxovll.	Vacuum pump	35,325.99
dxovlll.	Vent condenser	41,213.66
dxok.	Waste NaOH pump	4,121.37
dxok.	Waste NaOH tank	27,083.26
dxokl.	Water treatment equipment	117,753.30
dxokll.	Water treatment equipment	362,127.91
dxoklll.	Whole stillage agitator	35,325.99
dxoklv.	Whole stillage tank	147,191.63
dxooe.	Slurry #1 agitator	29,438.33
dxooel.	Slurry #1 pump	16,485.46
dxooell.	Slurry #2 agitator	29,438.33
dxooelk.	Slurry #2 pump	16,485.46
dxooelk.	Slurry enzyme pump #1,	8,242.73
dxoc.	Slurry enzyme pump #2	8,242.73
dxcl.	Slurry strainer A	4,121.37
dxcll.	Slurry strainer B	4,121.37
dxclll.	Slurry tank #1	94,202.64
dxcllv.	Slurry tank #2	94,202.64
dxcv.	H2SO4 yeast acid #2	3,532.60
dxcvl.	H2SO4 yeast acid #1	3,532.60
dxcvll.	Yeast acid pump #1	8,242.73
dxcvlll.	Yeast acid pump #2	8,242.73
dxcdx.	Yeast enzyme pump	8,242.73
cc.	Yeast feed pump	14,130.40
cci.	Yeast pump #1	9,420.26
ccll.	Yeast pump #2	9,420.26
cclll.	Yeast tank #1	70,651.98
ccllv.	Yeast tank #1 cooler	14,130.40
ccv.	Yeast tank #2	70,651.98
ccvl.	Yeast tank #2 cooler	14,130.40
Totals		26,778,820.12

THIN STILLAGE TANK	147,191.63	147,191.63		
VACUUM PUMP	35,325.99			35,325.99
VENT CONDENSER	41,213.66			41,213.66
WASTE NaOH PUMP	4,121.37			4,121.37
WASTE NaOH TANK	27,083.26		27,083.26	
WATER TREATMENT EQUIPMENT	117,753.30			117,753.30
WATER TREATMENT EQUIPMENT	362,127.91			362,127.91
WHOLE STILLAGE AGITATOR	35,325.99			35,325.99
WHOLE STILLAGE TANK	147,191.63		147,191.63	
SLURRY #1 AGITATOR	29,438.33			29,438.33
SLURRY #1 PUMP	16,485.46			16,485.46
SLURRY #2 AGITATOR	29,438.33			29,438.33
SLURRY #2 PUMP	16,485.46			16,485.46
SLURRY ENZYME PUMP #1,	8,242.73			8,242.73
SLURRY ENZYME PUMP #2	8,242.73			8,242.73
SLURRY STRAINER A	4,121.37			4,121.37
SLURRY STRAINER B	4,121.37			4,121.37
SLURRY TANK #1	94,202.64		94,202.64	
SLURRY TANK #2	94,202.64		94,202.64	
H2SO4 YEAST ACID #2	3,532.60			3,532.60
H2SO4 YEAST ACID #1	3,532.60			3,532.60
YEAST ACID PUMP #1	8,242.73			8,242.73
YEAST ACID PUMP #2	8,242.73			8,242.73
YEAST ENZYME PUMP	8,242.73			8,242.73
YEAST FEED PUMP	14,130.40			14,130.40
YEAST PUMP #1	9,420.26			9,420.26
YEAST PUMP #2	9,420.26			9,420.26
YEAST TANK #1	70,651.98		70,651.98	
YEAST TANK #1 COOLER	14,130.40			14,130.40
YEAST TANK #2	70,651.98		70,651.98	
YEAST TANK #2 COOLER	14,130.40			14,130.40
Totals		26,778,820.12	8,767,910.86	18,010,909.26