

ILLINOIS POLLUTION CONTROL BOARD

July 21, 2011

MARATHON PETROLEUM COMPANY,)
LLC (Property Identification Number 51-34-)
021-001) (Ultra-Low Sulfur Diesel Project),)
)
Petitioner,)
)
v.) PCB 12-5
) (Tax Certification - Air)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by G.T. Girard):

On July 6, 2011, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify certain facilities of Marathon Petroleum Company (Marathon) as “pollution control facilities” for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2010); 35 Ill. Adm. Code 125. Marathon’s refinery is located at 539 South Main Street, Robinson, Crawford County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Marathon’s Ultra-Low Sulfur Diesel project facilities are pollution control facilities.

LEGAL FRAMEWORK

Under the Property Tax Code, “[i]t is the policy of this State that pollution control facilities should be valued, at 33 1/3% of the fair cash value of their economic productivity to their owners.” 35 ILCS 200/11-5 (2010); *see also* 35 Ill. Adm. Code 125.200(a)(2). “For tax purposes, pollution control facilities shall be certified as such by the Pollution Control Board and shall be assessed by the Department [of Revenue].” 35 ILCS 200/11-20 (2010); *see also* 35 Ill. Adm. Code 125.200(a).

Under Section 125.202 of the Board’s procedural rules, a person may submit an application for tax certification to the Agency. *See* 35 Ill. Adm. Code 125.202. If the Agency receives a tax certification application, the Agency must file with the Board a recommendation on the application, unless the applicant withdraws the application. *See* 35 Ill. Adm. Code 125.204(a). Among other things, the Agency’s filing must recommend that the Board issue or deny tax certification. *See* 35 Ill. Adm. Code 125.204(a)(4). If the Board finds “that the claimed facility or relevant portion thereof is a pollution control facility . . . , the Pollution Control Board . . . shall enter a finding and issue a certificate to that effect.” 35 ILCS 200/11-25 (2010); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from Marathon on May 18, 2011.¹ Rec. at 1. On July 6, 2011, the Agency filed a recommendation on the application with the Board, attaching the application. The Agency's recommendation identifies the facilities at issue:

the Ultra-Low Sulfur Diesel project . . . was developed by Marathon to implement modifications to the Distillate Hydrotreater Unit at the Robinson refinery in order to achieve facility compliance with federal Clean Air Act requirements for reducing the sulfur content in hydrocarbon fuels, including diesel fuel. The project entailed the installation of additional reactors, including various components to prevent fugitive emissions, and modifications to the Amine Treating Unit to ensure capacity for handling additional sulfur loading. Various stormwater and process wastewater drains were also installed or modified and the project required modifications to other process emissions sources, including the Pipe Rack, Ultrafiner, Unicracker and Ultraformer, to ensure an ample supply of hydrogen for use in the Distillate Hydrotreater Unit. *Id.* at 2.

The Agency's recommendation further describes the facilities: “[t]he project is projected to reduce the sulfur content of [sic] from roughly 500 parts per million to 15 parts per million in the feedstock, thus achieving the Clear Air Act's fuel content requirements ...” *Id.*

The Agency recommends that the Board certify that the identified facilities are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2010)) with the primary purpose “to prevent, eliminate, or reduce air pollution . . . in accordance with the statutory definition and consistent with the Board's regulations at 35 Ill. Adm. Code 125.200.” *Id.* at 3.

TAX CERTIFICATE

Based on the Agency's recommendation and Marathon's application, the Board finds and certifies that Marathon's facilities identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2010)). Under Section 11-25 of the Property Tax Code, the effective date of this certificate is “the date of application for the certificate or the date of the construction of the facility, which ever is later.” 35 ILCS 200/11-25 (2010); *see also* 35 Ill. Adm. Code 125.216(a). Section 125.216(d) of the Board's procedural rules states that the Clerk “will provide the applicant and the Agency with a copy of the Board's order setting forth *the Board's findings and certificate, if any.*” 35 Ill. Adm. Code 125.216(d) (quoting in italics 35 ILCS 200/11-30 (2010)). The Clerk therefore will provide Marathon and the Agency with a copy of this order.

IT IS SO ORDERED.

¹ The Agency's recommendation is cited as “Rec. at _.”

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2010); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 21, 2011, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board