

ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

SEP 13 2011

STATE OF ILLINOIS
Pollution Control Board

WRB REFINING, LLC)
Ultralow Sulfur Diesel Hydrotreater)
)
)
)
PROPERTY IDENTIFICATION NUMBER)
19-1-08-35-00-000-001 or portion thereof)

PCB 12-040
(Tax Certification – Air)

To: IEPA
Robb H. Layman-Assistant Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

Illinois Department of Revenue
Steve Santarelli
101 West Jefferson
P.O. Box 19033
Springfield, IL 62794

WRB Refining, LLC
Michael Kemp
404 Phillips Building
Bartlesville, OK 74004

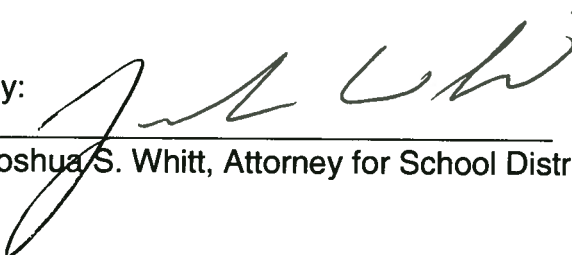
ORIGINAL

NOTICE OF FILING

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the Appearance of Roxanna Community Unit School District No. 1, a copy of which is herewith served upon you.

DATED this 8th day of September, 2011.

ROXANA COMMUNITY UNIT SCHOOL
DISTRICT NO. 1

By: 
Joshua S. Whitt, Attorney for School District

WHITT LAW LLC
Stuart L. Whitt
Joshua S. Whitt
Brittany F. Theis
70 S. Constitution Drive
Aurora, Illinois 60506
(630) 897-8875

CERTIFICATE OF SERVICE

I, Joshua S. Whitt, the undersigned attorney, hereby certify that I have served the attached Appearance on all parties of record, by certified mail at the following addresses:

IEPA
Robb H. Layman-Assistant Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

Illinois Department of Revenue
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PCB 12-040
(Tax Certification – Air)

APPEARANCE

I hereby file my appearance in this proceeding, on behalf of Roxana Community Unit School District No. 1.

ORIGINAL

DATED this 8th day of September, 2011.

ROXANA COMMUNITY UNIT SCHOOL
DISTRICT NO. 1

By:



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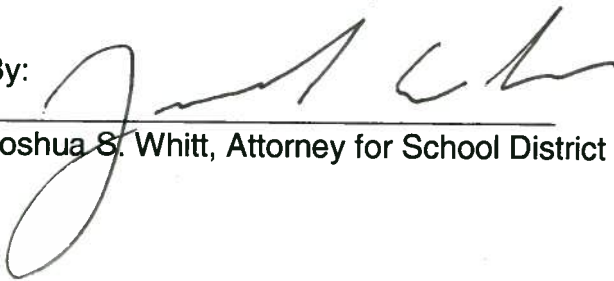
NOTICE OF FILING

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the Petition for Leave to Intervene of Roxanna Community Unit School District No. 1, a copy of which is herewith served upon you.

DATED this 8th day of September, 2011.

ROXANA COMMUNITY UNIT SCHOOL
DISTRICT NO. 1

By:


Joshua S. Whitt, Attorney for School District

WHITT LAW LLC
Stuart L. Whitt
Joshua S. Whitt
Brittany F. Theis
70 S. Constitution Drive
Aurora, Illinois 60506
(630) 897-8875

CERTIFICATE OF SERVICE

I, Joshua S. Whitt, the undersigned attorney, hereby certify that I have served the attached Petition for Leave to Intervene on all parties of record, by certified mail at the following addresses:

IEPA
Robb H. Layman-Assistant Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

Illinois Department of Revenue
Steve Santarelli
101 West Jefferson
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Michael Kemp
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By:



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**STATE OF ILLINOIS
Pollution Control Board**

PCB 12-040

(Tax Certification – Air)

WRB REFINING, LLC)
Ultralow Sulfur Diesel Hydrotreater)
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PROPERTY IDENTIFICATION NUMBER)
19-1-08-35-00-000-001 or portion thereof)

PETITION FOR LEAVE TO INTERVENE

ORIGINAL

NOW COMES the Board of Education of Roxana Community Unit School District No. 1 (hereinafter "School District"), by its attorneys, WHITT LAW LLC, and, for its Petition for Leave to Intervene in proceedings before the State of Illinois Pollution Control Board, states as follows:

1. On or about April 4, 2006, WRB Refining, LLC (hereinafter "WRB Refining") completed construction of its Ultralow Sulfur Diesel Hydrotreater Project (hereinafter "the Project") at its Wood River petroleum refinery in Madison County, Illinois. WRB Refining has represented that the total installed cost of the Project was approximately \$200 million.

2. On or about October 14, 2010, WRB Refining filed with the Illinois Environmental Protection Agency (hereinafter "Illinois EPA") an application seeking tax certification of the Project as a pollution control facility for property tax purposes.

3. On or about August 25, 2011, the Illinois EPA filed its appearance and recommendation with the State of Illinois Pollution Control Board (hereinafter "Illinois PCB") recommending that the Illinois PCB issue the requested tax certification for the Project based upon its "underlying purpose" to prevent, eliminate or reduce air pollution.

4. If certified as a pollution control facility, the Project will be entitled to preferential property tax treatment as set forth in 35 ILCS 200/11-5 (2002).

5. The Project is within the corporate boundaries of the School District and the School District derives property tax revenues therefrom.

6. The Rules of the Illinois PCB provide for intervention when the party seeking intervention “may be materially prejudiced absent intervention” or “may be adversely affected by a final Board order”. 35 Ill. Admin. Code § 101.402.

7. Following intervention, the School District intends to demonstrate that the Project is not entitled to preferential tax treatment as a pollution control facility because: (1) the Project’s “primary purpose” is the production of a final product for sale and not the elimination, prevention, or reduction of air pollution or water pollution; (2) the Project does not eliminate, prevent or reduce air or water pollution at the Wood River petroleum refinery; and (3) the Project increases the amount of air and/or water pollution at the Wood River petroleum refinery.

8. If the Illinois PCB orders the requested tax certification as presented, the entire \$200 million Project may be entitled to preferential property tax treatment and the School District will be adversely affected by the resulting reduction of its property tax revenues and/or an increase in its property tax rates levied against all property tax payers in the School District.

9. If the Illinois PCB grants the requested tax certification, the School District will further be “materially prejudiced” and/or “adversely affected” because, pursuant to Illinois case law, the Illinois PCB only has authority to later revoke or modify a pollution control certification upon a showing of fraud or misrepresentation on the part of the

applicant. *Reed-Custer Community Unit School District No. 255 v. Pollution Control Board*, 232 Ill. App. 3d 571, 577 (1st Dist. 1992).

10. The School District's intervention request is timely and will not unduly delay or materially prejudice the proceeding or otherwise interfere with an orderly or efficient proceeding because: (1) the proceeding was initially filed with the Illinois PCB on or about August 25, 2011; and (2) to date, no hearing has been scheduled, no dispositive motions are pending, and no discovery orders have issued.

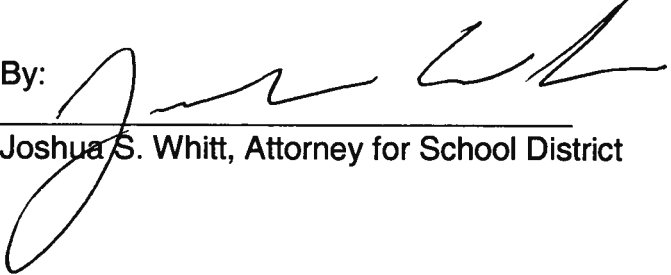
For these reasons, the Roxana Community Unit School District No. 1, respectfully requests that the State of Illinois Pollution Control Board:

- (1) grant the School District leave to intervene in the above captioned proceedings;
- (2) set a discovery schedule in the above captioned proceedings;
- (3) schedule a hearing on WRB Refining, LLC's application;
- (4) upon conclusion of the hearing, enter its order denying certification of the Project as a pollution control facility; and
- (5) grant the Board of Education such other and further relief as the Pollution Control Board deems just and equitable.

DATED this 8th day of September, 2011.

ROXANA COMMUNITY UNIT SCHOOL
DISTRICT NO. 1

By:



Joshua S. Whitt, Attorney for School District

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STATE OF ILLINOIS
Pollution Control Board

STUART L. WHITT
RICHARD T. PETESCH
JOSHUA S. WHITT
SARAH S. MILLER
BRIAN R. BARE
BRITTANY F. THEIS

September 8, 2011

VIA CERTIFIED MAIL

Pollution Control Board, Attn: Clerk
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, Illinois 60601-3218

ORIGINAL

Re: **WRB Refining, LLC**
Tax Certification Application PCB 12-040
Property ID No. 19-1-08-35-00-000-001

Dear Clerk:

Enclosed please find one (1) signed original and nine (9) copies of the appearance and Petition for Leave to Intervene being filed in the above captioned matter on behalf of Roxana Community Unit School District No. 1. One additional copy of the appearance and Petition for Leave to Intervene are enclosed. We ask that you please file stamp these copies and return them to the undersigned in the self-addressed, stamped envelope provided for that purpose.

Very truly yours,

WHITT LAW LLC



Joshua S. Whitt

Enclosures