

ILLINOIS POLLUTION CONTROL BOARD

January 9, 2014

WRB REFINING, LLC (Mobile Source Air)	
Toxics Phase II, Benzene Reduction Unit))	
(Parcel No. 19-1-08-35-00-000-001),)	
)	
Petitioner,)	
)	
v.)	PCB 14-66
)	(Tax Certification - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (D. Glosser):

On December 6, 2013, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify certain facilities of WRB Refining, LLC (WRB) as a “pollution control facilities” for preferential tax treatment under the Property Tax Code. See 35 ILCS 200/11-5 et seq. (2012); 35 Ill. Adm. Code 125. The facilities are associated with WRB’s Wood River petroleum refinery located at 900 South Central Avenue in Roxana, Madison County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that WRB’s Benzene Reduction Unit and associated process equipment 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 (2012); 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 (2012); see also 35 Ill. Adm. Code 125.200(a). Under the statute, the Board determines if the facilities are pollution control facilities; however, the Board is not authorized to assess a value of those facilities.

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 (2012); see also 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from WRB on or about October 14, 2010.¹ Rec. at ¶ 1. The Agency further states that it received an amended application from WRB on or about February 8, 2013. *Id.* On December 6, 2013, the Agency filed a recommendation on the applications with the Board, attaching WRB's initial application (Rec. Exh. A) and amended application (Rec. Exh. B).² The Agency's recommendation identifies the facilities at issue:

The subject matter of this request involves a Mobile Source Air Toxics Phase II project, which resulted in the construction and installation of a new Benzene Reduction Unit by WRB at the Wood River refinery. According to the application, the Benzene Reduction Unit and associated process equipment was installed to comply with federal Mobile Source Air Toxics requirements promulgated at 40 CFR Part 80 (Regulations of Fuels and Fuel Additives) that became effective February 26, 2007. The application states that these requirements imposed a compliance deadline of January 1, 2011, for the refinery to meet an annual average gasoline benzene concentration of 0.62 volume percent. Benzene is a hazardous air pollutant that is produced in gasoline feedstock in refinery operations. Rec. at ¶ 4 (citations to Rec. Exh. B omitted).

The Agency further describes the facilities:

In order to comply with the recent air toxic requirements for mobile sources, the refinery opted to construct the Benzene Reduction Unit, which is designed "to remove benzene from the heavy reformat stream" produced by the refinery's Catalytic Reformer Unit. The project employs a separation approach to benzene removal, which fractionates and separates the benzene from the stream produced by the reformer unit, in contrast to tailoring the gasoline feed leading to the unit earlier in the process. The Benzene Reduction Unit and associated process equipment, which includes a fractionating column (also referred to as a "Reformat Splitter") and other appurtenances (*i.e.*, pumps, heat exchangers, piping and instrumentation) process the reformat stream to produce the same high octane component that is blended into gasoline, albeit with benzene concentrations below applicable requirements. These systems and/or devices achieve the necessary reduction in the benzene content of gasoline, as required by recent federal regulations governing motor fuels and fuel additives. In doing so, the Mobile Source Air Toxics Phase II project acts to remove benzene compounds from the gasoline pool that would otherwise be emitted as contaminants at the point of product use, and therefore prevents or reduces air pollution. Rec. at ¶ 5 (quoting Rec. Exh. B; citations omitted).

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

² The Board notes that at its December 19, 2013 Board meeting, a comment was offered to the Board. That comment has been transcribed and included in the record.

The Agency recommends that the Board certify that the Benzene Reduction Unit and associated process equipment are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2012)) with the primary purpose “to prevent or reduce air pollution.” Rec. at ¶¶ 8, 9; *see also* Rec. Exh. C (Agency technical memorandum).

TAX CERTIFICATE

Based upon the Agency’s recommendation and WRB’s applications, the Board finds and certifies that WRB’s Benzene Reduction Unit and associated process equipment identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2012)). The Board makes no finding regarding the assessed value of those facilities. 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 (2012); *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 (2012)). The Clerk therefore will provide WRB and the Agency with a copy of this order.

IT IS SO ORDERED.

Section 11-60 of the Property Tax Code provides that any applicant or holder aggrieved by the issuance, refusal to issue, denial, revocation, modification or restriction of a pollution control certificate or a low sulfur dioxide emission coal fueled device certificate may appeal the Board’s finding and order to the Circuit Court under the Administrative Review Law (735 ILCS 5/3-101 *et seq.* (2012)). *See* 35 ILCS 200/11-60 (2012).

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 9, 2014, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board