

ILLINOIS POLLUTION CONTROL BOARD

January 9, 2014

WRB REFINING, LLC (Ultralow NO_x)
Burners for Heaters H-4 & H-5 of Catalytic)
Reformer No. 3) (Parcel No. 19-1-08-35-00-)
000-001),)
)
Petitioner,)
)
v.) PCB 14-67
) (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 Ultralow Nitrogen Oxides (NO_x) Burners for Heaters H-4 and H-5 of Catalytic Reformer No. 3 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. On December 6, 2013, the Agency filed a recommendation on the application with the Board, attaching WRB's application (Rec. Exh. A).² The Agency's recommendation identifies the facilities at issue:

The subject matter of this request involves the construction and installation of Ultralow [NO_x] Burners to Heaters H-4 and H-5 of the Catalytic Reformer No. 3, which was undertaken by the refinery to reduce NO_x emissions in accordance with a consent decree previously entered between Conoco Phillips and the United States Environmental Protection Agency. As described in the application, the existing burners, which possess smaller flow passages for fuel gas and are lower in cost, were replaced with newer burners that will reduce NO_x emissions. The new burners assure "[] lower NO_x formation by burning the fuel gas with a lower flame temperature," which is achieved "by staging the fuel into the burner and by inducing a flow of flue gas back into the burner." In addition, the project included the installation of additional filtering and conditioning of fuel gas to ensure that the solid materials do not interfere with the burner ports, as well as modifications to the convection parts of the heaters themselves. Rec. at ¶ 4 (quoting Rec. Exh. A; citations omitted).

The Agency further describes the facilities: "The application states that the NO_x reduction project will reduce NO_x emissions from the two heaters by an estimated three hundred twenty five (325) tons per year, and the project therefore prevents or reduces air pollution that would otherwise be emitted to the atmosphere." Rec. at ¶ 5.

The Agency recommends that the Board certify that the Ultralow NO_x Burners for Heaters H-4 and H-5 of Catalytic Reformer No. 3 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 ¶¶ 7, 8; *see also* Rec. Exh. B (Agency technical memorandum).

TAX CERTIFICATE

Based upon the Agency's recommendation and WRB's applications, the Board finds and certifies that WRB's Ultralow NO_x Burners 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

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.

“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.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

John T. Therriault, Clerk
Illinois Pollution Control Board