

ILLINOIS POLLUTION CONTROL BOARD

January 9, 2014

WRB REFINING, LLC (Dual Pump Seals,)
Pump Fugitive Emissions Program) (Parcel No.)
19-1-08-35-00-000-001),)
)
Petitioner,)
)
v.) PCB 14-83
) (Tax Certification - Air)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (D. Glosser):

On December 12, 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 Dual Pump Seals of the Fugitive Emissions Program 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 “[a]dditional information concerning the project was conveyed in an email” to the Agency on December 10, 2013. *Id.* On December 12, 2013, the Agency filed a recommendation with the Board, attaching WRB’s application (Rec. Exh. A) and the emailed additional information (Rec. Exh. B).² The emailed additional information was sent by Gregory M. Witte of Phillips 66 Company, Wood River Refinery, to Robb. H. Layman, Assistant Counsel with the Agency, in response to Mr. Layman’s emailed request of November 27, 2013, to Mr. Witte. *See* Rec. Exh. B.³

The Agency’s recommendation identifies the facilities at issue:

The subject matter of this request consisted of the Pump Fugitive Emissions Program, which introduced additional leakage protection to mechanical pumps handling volatile hydrocarbons associated with the refinery’s non-CORE related units of operation.⁴ As described in the application, dual pump seals are seals that feature a secondary, outer seal that serves as an additional, protective backup to the primary seal found on a conventional mechanical pump. Between the two seals, a fluid fills a chamber that acts as a barrier to any leaking hydrocarbons. Any resulting leakage is forced out of the chamber into a seal pot, which is vented to flare devices and monitored by pressure recording devices. If a primary seal fails, the pump’s instrumentation signals an alarm to prompt corrective action while the secondary seal and barrier fluid prevent leakage of fugitive hydrocarbons to the atmosphere. According to the application, the project was undertaken to comply with the Leak Detection and Repair Program (“LDAR”) requirements of the New Source Performance Standards promulgated by the United States Environmental Protection Agency. Rec. at ¶ 4 (citations to Rec. Exh. A omitted).

The Agency further describes the facilities:

The Pump Fugitive Emissions Program involved the installation of dual pump seals on approximately forty-two (42) pump devices at those process units of the refining that both existed before the CORE project and continued to operate

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.

³ Phillips 66 Company is the operator of the Wood River petroleum refinery. *See Phillips 66 Company v. IEPA*, PCB 12-101, slip op. at 3 (Mar. 21, 2013); *see also* 35 Ill. Adm. Code 101.630 (“Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge and experience of the Board.”).

⁴ “CORE” refers to “the Coker Refinery Expansion project.” *See Phillips 66*, PCB 12-101, slip op. at 3; *see also* 35 Ill. Adm. Code 101.630 (official notice).

thereafter. The specific areas of the refinery affected by the program include the Catalytic Reformer No. 1, the Catalytic Reformer No.3, the Saturates Gas Plant, the Cracked Gas Plant, the Crude Distilling Unit Nos. 1 and 2, the Hydrocracker and the Catalytic Cracker No.2. The dual pump seals act to prevent or reduce fugitive VOM [volatile organic material] emissions from the pumps and associated equipment that would otherwise have been emitted to the atmosphere following a failure of conventional pump seals. Rec. at ¶ 5 (citations to Rec. Exhs. A & B omitted).

The Agency recommends that the Board certify that the Dual Pump Seals of the Fugitive Emissions Program 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 the attachments thereto, the Board finds and certifies that WRB’s Dual Pump Seals 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