

ILLINOIS POLLUTION CONTROL BOARD
December 21, 2017

MARATHON PETROLEUM COMPANY LP)	
(Property Identification Number 05-1-34-000-)
021-000),)
)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

PCB 18-48
(Tax Certification - Water)

ORDER OF THE BOARD (by C.M. Santos):

On December 12, 2017, the Illinois Environmental Protection Agency (IEPA or Agency) filed a recommendation that the Board certify certain facilities of Marathon Petroleum Company LP (Marathon) as “pollution control facilities” for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2016); 35 Ill. Adm. Code 125. Marathon’s petroleum refinery is located at 400 South Marathon Avenue in Robinson, Crawford County. In this order, the Board describes the legal framework for tax certifications, discusses IEPA’s recommendation, and certifies that Marathon’s identified wastewater management 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 (2016); *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 (2016); *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 IEPA. *See* 35 Ill. Adm. Code 125.202. If IEPA receives a tax certification application, IEPA 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, IEPA’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 (2016); *see also* 35 Ill. Adm. Code 125.216(a).

IEPA RECOMMENDATION

IEPA states that it received a tax certification application from Marathon on April 3, 2017.¹ Rec. at 1. On December 12, 2017, IEPA filed a recommendation with the Board, attaching Marathon’s application (Rec. Exh. A). IEPA’s recommendation identifies the facilities at issue:

[t]wo new sand filters (each with a design capacity of 800 gpm), and two accompanying new filter feed pumps. *Id.* at 1.

IEPA further describes the facilities as being “used to treat wastewater prior to discharge by expanding tertiary filter hydraulic capacity in order to aid in lowering total suspended solids in the effluent, allow the treatment plant to handle much higher flow rates during rain events, increase storm water treatment capacity and limit the need for partial bypassing, and meet applicable water quality standards in the site’s NPDES [National Pollutant Discharge Elimination System] permit.” *Id.* at 1-2.

IEPA recommends that the Board certify that the wastewater management facilities are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2016)) with the “primary purpose of eliminating, preventing, or reducing water pollution.” Rec. at 2; *see also* Rec. Exh. A at 1 (IEPA memorandum), 2 (IEPA review).

TAX CERTIFICATE

Based upon IEPA’s recommendation, Marathon’s application, and the Board’s technical review, the Board finds and certifies that Marathon’s wastewater management facilities identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2016)). 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 (2016); *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) (citing 35 ILCS 200/11-30 (2016)). The Clerk therefore will provide Marathon and IEPA with a copy of this order.

IT IS SO ORDERED.

Member Carter abstained.

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.* (2016)). *See* 35 ILCS 200/11-60 (2016). Filing a motion asking that the Board

¹ IEPA’s recommendation is cited as “Rec. at _.”

reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
Marathon Petroleum Company LP Attn.: Kevin D. Bogard 400 South Marathon Avenue Robinson, Illinois 62454	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Illinois Environmental Protection Agency Attn.: Michael S. Roubitsek 1021 North Grand Avenue East P.O. Box 19276 Springfield, Illinois 62794-9276	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 21, 2017, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board