

ILLINOIS POLLUTION CONTROL BOARD
June 18, 2020

WRB REFINING, LP (Property Identification))	
Number 191083500000001),)	
)	
Petitioner,)	
)	
v.)	PCB 20-86
)	(Tax Certification – Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by B.K. Carter):

On May 29, 2020, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify a specified facility of WRB Refining, LP (WRB Refining), as a “pollution control facility” for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2018); 35 Ill. Adm. Code 125. WRB Refining’s Refinery Sector Rule (RSR) Flare Project is 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 Refining’s identified RSR Flare Project is a pollution control facility.

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 (2018); *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 (2018); *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 (2018); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from WRB Refining on December 18, 2019.¹ Rec. at 1. On May 29, 2020, the Agency filed a recommendation with the Board, attaching WRB Refining's application (Rec. Exh. A). The Agency's recommendation identifies the facility at issue:

The subject matter of this request consists of a Refinery Sector Rule ("RSR") Flare Project, which was implemented by WRB Refining to install upgrades to nine existing flares operating at the Wood River refinery. The project involved modifications to various components of the selected flares, which monitor for hydrocarbons, required by USEPA's RSR promulgated in December 2015. The project included the purchase and installation of a mass spectrometer on all of the flares, which monitors the vent gas composition from a flare device, as well as new or resized control valves and additional piping meeting the specifications of USEPA's RSR on all but the wastewater treatment plant's two flares. The project also entailed an optional use of a flare video camera at the flare for the West Distilling operation. *Id.* at 2.

The Agency further describes the facility as fulfilling "the refinery's obligation to comply with the USEPA's RSR." *Id.* WRB Refining's implementation of the project "reduces or prevents hydrocarbon emissions that might otherwise be emitted to the atmosphere." *Id.*

The Agency recommends that the Board certify that the RSR Flare Project is a pollution control facility as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2018)) with the "primary purpose of eliminating, preventing, or reducing air pollution." *Id.*; see also Rec. Exh. B (Agency technical memorandum).

TAX CERTIFICATE

Based upon the Agency's recommendation, WRB Refining's application, and the Board's technical review, the Board finds and certifies that WRB Refining's RSR Flare Project identified in this order is a pollution control facility under the Property Tax Code (35 ILCS 200/11-10 (2018)). The Board makes no finding regarding the assessed value of that facility. 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) (quoting in italics 35 ILCS 200/11-30 (2018)). The Clerk therefore will provide WRB Refining and the Agency with a copy of this order.

IT IS SO ORDERED.

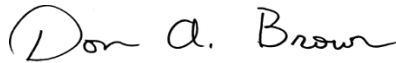
Section 11-60 of the Property Tax Code provides that any applicant or holder aggrieved by the issuance, refusal to issue, denial, revocation, modification or restriction of a pollution

¹ The Agency's recommendation is cited as "Rec. at 3."

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.* (2018)). *See* 35 ILCS 200/11-60 (2018). Filing a motion asking that the Board 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 Appeal Filed with the Circuit Court	
Parties	Board
WRB Refining, LP Attn: Bob Adair 2331 CitiWest Boulevard Houston, TX 70042 bob.adair@p66.com	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: Robb H. Layman 1021 North Grand Avenue East Springfield, IL 62794-9276 robb.layman@illinois.gov	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 18, 2020, by a vote of 4-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board