

ILLINOIS POLLUTION CONTROL BOARD

January 9, 2014

WRB REFINING, LLC (MACT II Compliance))	
Project for Fluid Catalytic Cracking Unit No. 1))	
(Parcel No. 19-1-08-35-00-000-001),)	
)	
Petitioner,)	
)	
v.)	PCB 14-87
)	(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 “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 Maximum Achievable Control Technology (MACT) II valve and related appurtenances for the Fluid Catalytic Cracking Unit (FCCU) No. 1 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 12, 2013, the Agency filed a recommendation 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 a valve modification to the [FCCU] No. 1, which was constructed and installed to enable the refinery to assure compliance with federal environmental regulations and enhance environmental safety. The main component of the MACT II Compliance Project for the FCCU No. 1 is a MACT II valve, a reference to standards promulgated by [the United States Environmental Protection Agency] in its National Emission[] Standards for Hazardous Air Pollutants [NESHAPS]. Based on the application, the valve acts as a tighter shutoff to piping to ensure that carbon monoxide [CO] from the regenerator flue gas does not leak continuously to the atmosphere. In addition to the improved shut-off capabilities, the new valve also incorporated controls to comply with MACT's requirements for continuously monitoring whether flow is present in the by-pass line, which confirms that the valve position is closed. Lastly, the valve potentially alleviates particulate matter emissions that would occur during an unplanned shutdown of the [CO] heater (*i.e.*, furnace used to complete combustion process in the cracking operations). The absence of the valve would necessitate a shutdown of the FCCU No. 1 operations during any brief CO heater malfunction, thus resulting in catalyst emissions to the atmosphere in excess of normal operation. Rec. at ¶ 4 (citations to Rec. Exh. A omitted).

The Agency further describes the facilities:

The tighter shut-off capabilities and enhanced monitoring of the new MACT II valves, together with the potential avoidance of flue gas emissions during shutdown of the CO heater, enable the refinery to reduce or prevent emissions of carbon monoxide and particulate matter that would otherwise be emitted to the atmosphere, and therefore prevents or reduces air pollution. Rec. at ¶ 5.

The Agency recommends that the Board certify that the MACT II valve and related appurtenances for the FCCU No. 1 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. B (Agency technical memorandum).

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.

TAX CERTIFICATE

Based upon the Agency's recommendation and WRB's application, the Board finds and certifies that WRB's MACT II valve and related appurtenances 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