

CONTRA COSTA COUNTY
ASSESSMENT APPEALS BOARD

In the Matter of)
)
CHEVRON USA, INC.)
)
Applicant.)
)
Applications for Changed Assessment.)
)
Nos. 2009-5746 and 2009-3692)
Challenging Assessor's Supplemental)
Assessments for Fixture Additions)
During Calendar Years 2007 and 2008)
)
_____)

FINDINGS AND DECISIONS ON
CHEVRON USA, INC.'S APPEALS
OF THE ASSESSOR'S 2007 AND
2008 SUPPLEMENTAL FIXTURE
ASSESSMENTS

By its order dated July 28, 2011, this Board determined that the Appraisal Unit for the 2007, 2008, and 2009 hearings on the applications of Chevron USA, Inc. (Chevron) on the assessed valuation of its Richmond refinery consists of the land, improvements, fixtures, and personal property of the Chevron USA, Inc., Richmond refinery. Accordingly, the Board heard Chevron's appeals from the Assessor's 2009 supplemental assessment valuations. Chevron argues that the appellate decision in *Western States Petroleum Association v. State Board of Equalization* (Cal. Ct. App. 2nd Dist., No. B225932) requires that the supplemental assessments be cancelled, on the ground that the refinery fixtures must be treated as a separate appraisal unit. The *Western States* decision has been appealed to the California Supreme Court, and requests for its depublication are pending. As that decision is not final and is subject to reversal, modification, or depublication, the decision is not binding on this Board, and we consider its application to be speculative.

The Assessor levied the supplemental assessments that are the subject of Chevron's applications, to capture the value of new construction that occurred in 2007 and 2008 between the lien dates.

Such construction is subject to assessment if it is an addition to property, including fixtures, or an alteration of property that constitutes a major rehabilitation or converts the property to a different use. Major rehabilitation is the substitution of a new fixture or any rehabilitation, renovation, or modernization that converts a fixture to the substantial equivalent of a new fixture. Substantial equivalency is determined by comparing the productive capacity of the rehabilitated fixture with its original productive capacity. (Property Tax Rule 463(b)(5).)

I

**CHEVRON REPORTED THE NEW CONSTRUCTION FOR WHICH
THE ASSESSOR ISSUED SUPPLEMENTAL ASSESSMENTS**

1. Revenue and Taxation Code section 75.15, subdivision (a), requires a property owner to report all fixtures added to and removed from real property. For purposes of the supplemental assessments, Revenue and Taxation Code section 75.15, subdivision (b), clarifies that the taxpayer must report only those fixtures subject to taxation on the supplemental roll.
2. Chevron reported all of the property additions and removals that formed the basis for the supplemental assessments. Chevron neither amended to remove, nor filed any claims of exemption for, the property it identified in its exchange of information. The Assessor relied on that information and forwarded it to refining industry consultants, Baker & O'Brien, for further analysis.
3. After receiving input from Baker & O'Brien, the Assessor supplementally assessed only a fraction of the 300 assets that Chevron reported. The Assessor concluded that Chevron added \$11,260,358 in taxable new construction in 2007 and \$41,010,310 in taxable new construction in 2008.
4. Regardless of the actual in-service dates, the Assessor assigned the assets an in-service date on the last month of the year for which they were reported. Under this assumption, the Assessor applied the lowest available proration factor of 50 percent. The 50 percent proration factor halved the value of Chevron's reported taxable new construction for the purposes of the supplemental assessments.
5. Based on these calculations, and pursuant to Revenue and Taxation Code section 75.11, the Assessor noticed and billed supplemental assessments in the amounts of

\$5,630,179 for post-lien date additions to the Richmond refinery in 2007 and \$20,505,155 for post-lien date additions in 2008.

II

A PREPONDERANCE OF THE EVIDENCE SHOWS THAT THE SUPPLEMENTAL ASSESSMENTS OF THE ASSETS CHEVRON REPORTED WERE CORRECT

1. Chevron filed appeals challenging the supplemental assessments. In its applications for changed assessment, Chevron stated an opinion of value of \$0, based on its argument that fixtures were not subject to supplemental assessment. The Board rejected that argument in its July 28, 2011, Order Determining Appraisal Units. That ruling left Chevron to argue at the hearing that the property supplementally assessed, or a portion thereof, either (1) did not qualify as "new construction," or (2) had no associated value.

2. Pursuant to Property Tax Rule 324(b), Chevron had the burden of proving by a preponderance of the evidence that the supplemental assessments were incorrect.

3. Chevron's proffered evidence in the form of exhibits and the testimony of Rob Clark failed to prove by a preponderance of the evidence that the supplemental assessments were incorrect.

4. In undertaking to prove that the various asset constructions that it challenged did not constitute major rehabilitation, Chevron failed to prove that the productive capacities of any such rehabilitated fixtures did not exceed the productive capacities of the original fixtures that they replaced.

5. In fact, the productive capacities of each of the rehabilitated fixtures significantly exceeded the productive capacities of the original fixtures, and in every case, the rehabilitated fixtures were substantially equivalent to new ones, or, in fact, constituted major rehabilitation. The Chevron Authorization for Expenditure documents (AFE's) that the Board received in evidence support this finding.

6. In support of its application, Chevron has addressed certain assessments, as follows:

A. Light Neutral Cracker Bottoms Unit

Chevron characterizes the construction as the replacement of defective parts and piping. The Board does not consider the replacement of defective parts and plumbing to be routine maintenance. In fact, Chevron's work

redesigned and replaced elements of the unit to increase its functionality. Chevron increased the unit's productive capacity by resizing undersized pumps.

B. Replacement of Hydrocracker Hydrogen Quench System

Chevron also characterized this construction as a replacement of defective parts. The evidence showed that the unit had been subject to failures due to its defective original design and construction. The replacements permitted operation at higher temperatures and materially increased the productive capacity of the unit, generating a \$1.36 million annual increase in revenue. This was a major rehabilitation.

C. New Dampers and Thermostats in the LNC Unit and the Heavy Neutral Cracker (HNC)

Chevron also identified these projects as replacing defective parts. But they improved the units well beyond routine maintenance by permitting better control, permitting lower fuel gas, and reducing explosion danger. They improved the productive capacity of the units and constituted major rehabilitations.

D. Gasoline Sulfur Reduction Project

Chevron argues that this construction was not assessable because it did not increase the refinery's productive capacity for gasoline, but merely facilitated compliance with mandatory sulfur standards for retail gasoline. In fact, the equipment in question was completely gutted and replaced; the project was regarded as discretionary; and the construction was equivalent to new and was calculated to generate \$251 million in profit on \$69 million in cost.

E. Naphtha Distillation Tower

Chevron contends that one-half of the value of the construction of a naphtha distillation tower should not be assessable. The basis for this differential was not adequately documented or determined. In fact, it is an arbitrary adjustment. The construction permitted heavy naphtha to be upgraded to gasoline, greatly enhancing the productive capacity of the unit.

F. New Electrical Substation

Chevron demolished an old electrical substation, relocated the unit, and rebuilt completely as new. Chevron claims that it is entitled to claim

nonassessable costs. As in the case of the naphtha distillation tower, Chevron has not documented its claims, and its adjustment is arbitrary. In this case, the replacement is assessable as a new electrical substation.

7. In every instance, the construction materially upgraded the fixtures in question and increased their productive capacity. The Board therefore dismisses Chevron's contentions as to the assessments in question as unproven.

**III
DECISION**

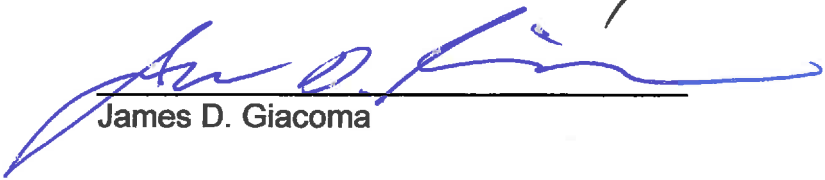
The Board determines that Chevron's applications for changed values on the supplemental assessments, and each of them, are denied.

Dated: April 2, 2012


CONTRA COSTA COUNTY
ASSESSMENT APPEALS BOARD



Arthur W. Walenta, Chair



James D. Giacom



Clark E. Wallace