

Calumet Tax Appeal Decision

According to Article VIII Section 3, Property Tax Administration, (Revenue and Finance) of the Montana Constitution, “The state shall appraise, assess, and equalize the valuation of all property which is to be taxed in the manner provided by law”

Further According to 15-8-111(1) – “All taxable property must be appraised at 100% of its market value except as otherwise provided.”

(2)(a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.”

(b) If the department uses the cost approach as an approximation of market value, the department shall fully consider reduction in value caused by *depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence*” (emphasis added)

It is my opinion that the Montana Department of Revenue has failed to accomplish 3 critical factors in the assessment of Calumet Refinery in Great Falls, specifically, equalize value among similar properties, appraise the property at 100% of market value and consider all forms of depreciation.

EQUALIZATION

There are 4 refineries in Montana with varying levels of production.

- 1. Phillips 66 – Billings, MT – 59,000 barrels per day (BPD) – 2017 Assessed Value - \$681M or \$11,718 per barrel**
- 2. CHS – Laurel, MT – 59,600 BPD – 2017 Assessed Value - \$974M or \$16,335 per barrel**
- 3. Exxon – Billings, MT – 60,000 BPD – 2017 Assessed Value - \$308M or \$5,132 per barrel**
- 4. Calumet – Great Falls, MT - \$25,000 BPD – 2017 Assessed Value - \$538M or \$21,520**

Based on the examination of the 4 refineries in Montana and supported by the testimony of the taxpayer it appears the DOR has failed to equalize the value assigned to these refineries. The Calumet property is the smallest refinery based on production yet carries the highest assessed value per barrel (average assessed value of the 3 other refineries is \$11,061 per barrel). The benchmark for a refinery in the industry is the number of barrels it can produce per day. The 3 refineries in Billings and Laurel have more than twice the capacity as the Calumet property. The values among similar tax types do not seem to have been equalized and places a significantly unfair tax burden to the Calumet property.

MARKET VALUE

In the appraisal industry one of the key analytical tools is to determine units of comparison. Below is an example of common units of comparison in the appraisal industry:

1. Dollar per acre, per square foot, per front foot
2. Dollar per sf of gross living area, rentable area, leasable area
3. Dollar per bedroom, per room count, per units

In the refinery industry it is clear, based on the expert testimony, the industry benchmark for the valuation of refineries, among other items, is dollar per barrel.

The taxpayer provided significant and compelling expert testimony addressing all 3 valuation methods. Evidence was entered into the record demonstrating 6 recent sales transactions of refineries. Below is a list of the refinery sales admitted by the taxpayer and of no objection to by the DOR.

1. **Black Elk Refinery – New Castle, WY – SP \$185M, 18,000 BPD = \$10,300 per barrel**
2. **Dakota Prairie – Dickinson, ND – SP \$66M, \$19,500 BPD = \$3400 per barrel (compulsion)**
3. **Exxon Mobile – Torrance, CA – SP \$537M, 150,900 BPD = \$3,600 per barrel**
4. **Northern Tier Energy – St Paul, MN – SP \$625M, 98,515 BPD = \$6,300 per barrel**
5. **Chevron Corp – Honolulu, HI – SP \$560M – 54,000 BPD = \$10,400 per barrel**
6. **Calumet Specialty Products – Superior, WI – SP \$214M, 50,000 BPD - \$4,300 per barrel**

During the testimony a fellow board member asked if the Dakota Prairie sale was distressed. The experts for Calumet didn't go so far as to say it was distressed but said the sellers wanted out of the market. The sale was not part of a foreclosure, bankruptcy etc. just that the seller wanted out of this investment. If we exclude this sale from the analysis, the remaining 5 sales would indicate a sales price per barrel of approximately \$6,980. These sales would indicate a strong possibility that ALL of the refineries in Montana are over assessed by almost 2 times the per barrel selling price of similar refineries. The Calumet property is assessed at over 3 times the per barrel selling price of similar refineries.

FUNCTIONAL AND ECONOMIC OBSOLESENE

The Calumet refinery was built in 1922. There is no shortage of data that could have been accumulated by the DOR regarding the past transfer history of this refinery. This information would have been very beneficial for discussion purposes. Below is a list of the recent transfers of the Great Falls refinery:

1. 2012 – Calumet Specialty Products purchased the assets of Montana Refining Company.
2. 2006 – Connacher Oil and Gas Limited of Canada purchases the assets of Montana Refining Company

3. 1984 – Holly Oil Company acquires the refinery and changes name to Montana Refining Company.
4. 1982 – Simmons Oil purchases refinery.

The only transaction that was discussed at the hearing was the 2012 sale. The taxpayer testified they paid \$125M for the refinery. At the time of the acquisition and before the upgrades to the aging facility the refinery had the ability to produce 10,000 BPD or \$12,500 per barrel per day based on the purchase price. After the purchase Calumet spent in excess of \$474M in upgrades to the aging facility. Portions of the investment included buying additional real estate adjacent to the refinery, compliance cost for pollution control systems, and non-taxable expenditures estimated at \$143,350,500. Furthermore, the refinery was able to more than double its per barrel a day capacity to 25,000 barrels. The DOR fails to recognize that a significant portion of the upgrades were necessary for the aging facility to continue to operate. This facility is 96 years old and ALL of the items necessary for operation have outlived their useful life and either have been replaced over the years or as a part of the most recent investment upgrades. There is no dollar for dollar correlation between deferred maintenance upgrades and compliance costs upgrades to actual value on the market. I specifically asked the taxpayer if all 6 of the sales provided were in compliance with federal regulations or did they need significant upgrades. The indication was that all the sales were in compliance with state and federal regulations and none needed significant upgrades. The DOR has only allowed 16% overall depreciation for this facility, which seems by all accounts to be extremely low. No attempt was made by the DOR to extract an overall depreciation or obsolescence figure using the valid sales provided by the taxpayer. This does not advocate that the DOR could have or should have completed the sales comparison approach but could have and should have used these sales to extract an overall obsolescence figure. None of the sales provided have sold for anywhere near their cost to construct less 16% depreciation.

Final Conclusion

In summary, the DOR has failed to equalize the valuation and assessment of similar properties in Montana, failed to appraise the property at 100% of its market value and failed to analyze and apply the proper amount of overall depreciation/obsolescence. Key indicators of value are presented below:

1. **Average per barrel assessed value similar refineries in MT - \$11,061 * 25,000 barrels = \$276,525,0000**
2. **Average per barrel sales price of similar sold refineries - \$6,980 * 25,000 barrels = \$174,500,000**
3. **Value determined by taxpayer using cost approach - \$292,600,700**
4. **Value determined by taxpayer using income approach - \$34,132,400**
5. **Value determined by taxpayer using sales comparison approach - \$196,500,000**

6. Value determined by taxpayer expert appraiser - \$230,000,000 to \$250,000,000

Calumet purchased this property in 2012 for \$125,000,000 with a production capacity of 10,000 barrels per day or \$12,500 per barrel. The production capacity now is at 25,000 barrels per day. Based on the evidence and testimony provided refinery sales price range from \$3,600 to \$10,400 per barrel.

NOTE: Furthermore, it is important to note that the Calumet property does not have a Coker unit. A Coker unit converts residual oil into low molecular weight hydrocarbon gases, light and heavy gas oils and petroleum coke. This is an important factor in the buying and selling of refineries as it adds an additional source of income and reduces the amount of waste. Most if not all of the sales and some if not all of the other Montana Refineries have Coker units. This limits the production output for the Calumet refinery, thus having an impact on its market value. The DOR provided no discussion on the possibility of significant functional obsolescence for the absence of a Coker unit.

Subject value range based on the sales range of BPD - \$72,000,000 to \$208,000,000

Subject value based on per barrel per day of subject sales price - \$312,500,000

Therefore, considering all the evidence and testimony presented and placing the most weight on the sale of the subject to extract the proper unit of comparison I move that the aggregate value of all parcels under appeal and owned by Calumet Specialty Products LP, to include the following geocodes:

1. 02-3015-01-1-11-02-0000
2. 02-3015-01-1-11-05-0000
3. 02-3015-01-2-02-02-0000
4. 02-3015-01-2-02-03-0000
5. 02-3015-01-2-04-06-0000
6. 02-3015-01-2-05-01-0000
7. 02-3015-01-2-05-02-0000
8. 02-3015-01-2-06-01-0000
9. 02-3015-01-2-06-03-0000
10. 02-3015-01-2-07-08-0000
11. 02-3015-01-2-07-13-0000
12. 02-3015-01-2-07-17-0000

13. 02-3015-01-2-07-22-0000

14. 02-3015-01-2-07-24-0000

**Be entered on the tax rolls with a total aggregate value of \$312,500,000 or
25000 bbls x \$12,500**