

Carbon Capture Equipment Eligible for Pollution Control Exemption

AECT Position: Support

HB 4087 by Smith

Proposal

- HB 4087 confirms that carbon capture, utilization and storage (CCUS) equipment qualifies for “pollution control property,” because it both exceeds and environmental rule, and is fully intended for pollution control, not production.
- HB 4087 preserves local control over property tax appraisals, and further narrows the application to CCUS projects that do not have an established enhanced oil recovery market in the county in which the project is located.

Background

- Proposition 2 was adopted by Texas voters in 1993 to provide property tax relief for certain pollution control equipment mandated to reduce pollution. In 2007, HB 3732 was enacted to create a set of incentives to encourage carbon capture, utilization and storage (CCUS) projects. The bill specifically identified these projects as eligible for the Prop. 2 exemption since, at that time, federal carbon rules had only been proposed but not finalized.
 - The legislature sought to encourage early implementation of CCUS projects to help the State and its critical power infrastructure prepare for carbon rules.
 - Eventually, environmental rules relating to carbon emissions were passed by the EPA regulating carbon as a pollutant under the Clean Air Act.
- NRG undertook to develop “Petra Nova,” a project using proven technology for a commercial-scale carbon capture system that will capture 90 percent of the CO₂ in the processed flue gas from a coal unit at the Parish Plant southwest of Houston. The incentives provided in HB 3732, including the Prop. 2 property tax exemption, were an integral part of the decision to move forward with the world’s largest post-combustion carbon capture facility at an existing coal plant.

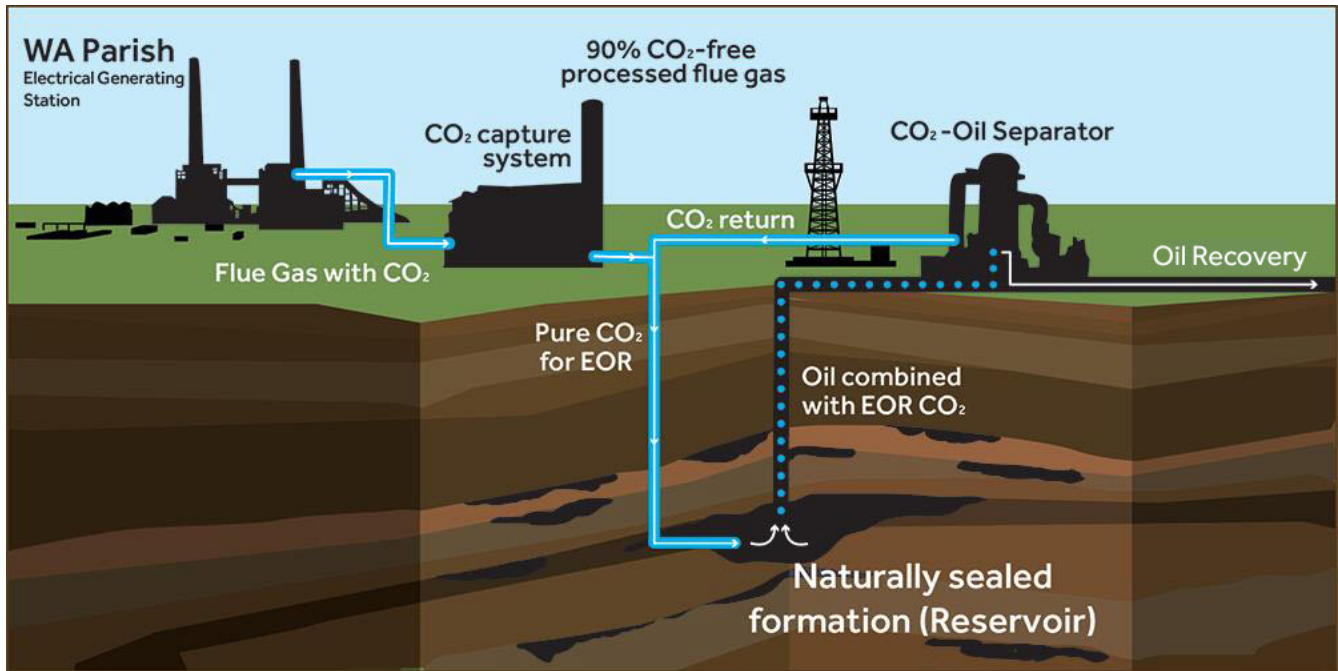
Discussion

- A 2013 decision at TCEQ created uncertainty as to whether the Petra Nova project would qualify for this exemption.
 - Specifically, that decision was based on the interpretation that if a company is not required by law to capture CO₂ emissions, a CCUS project would not qualify for the tax exemption, contrary to the specific language of HB 3732 in 2007.
- **In short, HB 4087 is narrowly drafted to eliminate this ambiguity and ensure the legislative intent of the 2007 legislation, making clear that a CCUS project qualifies for the tax exemption.**

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Example of CCUS Project



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