

ILLINOIS POLLUTION CONTROL BOARD

January 9, 2014

WESTERN GRAIN MARKETING, LLC)	
(Cyclone Baghouses, Rushville Grain Elevator)))	
(Parcel/Property I.D. No.14-000-017-00),)	
)	
Petitioner,)	
)	
v.)	PCB 14-64
)	(Tax Certification - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (D. Glosser):

On December 6, 2013, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify certain facilities of Western Grain Marketing, LLC (Western Grain) 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 Western Grain’s Rushville grain elevator located at 21050 U.S. Highway 136 in Rushville, McDonough County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Western Grain’s Cyclone Baghouses 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 Western Grain on or about December 21, 2010.¹ Rec. at ¶ 1. On December 6, 2013, the Agency filed a recommendation on the application with the Board, attaching Western Grain’s application (Rec. Exh. A). The Agency’s recommendation identifies the facilities at issue:

The subject matter of this request consists of three Cyclone Baghouses, which were constructed and installed by Western Grain at its Rushville grain elevator. According to the application, the Cyclone Baghouses were placed on the receiving pits, on the shipping leg and spout, and on the wet and dry legs of the elevator to effectively “collect grain dust” from the point sources. The grain dust is deposited back into the grain further down-stream of the process. Rec. at ¶ 4 (quoting Rec. Exh. A; citations omitted).

The Agency further describes the facilities: “As generally recognized in the field of air pollution control technology, each of the systems and/or devices is a type of air pollution control that acts to prevent or reduce particulate matter emissions that would otherwise be emitted by the affected grain elevator operations.” Rec. at ¶ 4.

The Agency recommends that the Board certify that the Cyclone Baghouses 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 ¶¶ 7, 8; *see also* Rec. Exh. B (Agency technical memorandum).

TAX CERTIFICATE

Based upon the Agency’s recommendation and Western Grain’s application, the Board finds and certifies that Western Grain’s Cyclone Baghouses 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 Western Grain 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).

¹ The Agency’s recommendation is cited as “Rec. at _.”

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.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

John T. Therriault, Clerk
Illinois Pollution Control Board