

ILLINOIS POLLUTION CONTROL BOARD  
April 16, 2020

Evergreen FS, Inc. (Property Identification )  
Number 15-15-03-100-007), )  
 )  
Petitioner, )  
 )  
v. ) PCB 20-58  
 ) (Tax Certification - Water)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )  
 )

ORDER OF THE BOARD (by B.F. Currie):

On March 3, 2020, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify specified facilities of Evergreen FS, Inc. (Evergreen) as “pollution control facilities” for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2018); 35 Ill. Adm. Code 125. Evergreen’s agrichemical facility is located at 5520 N. Rt. 23 in Pontiac, Livingston County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Evergreen’s identified “agrichemical containment structure,” 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 (2018); *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 (2018); *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 (2018); *see also* 35 Ill. Adm. Code 125.216(a).

### AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from Evergreen on May 16, 2019.<sup>1</sup> Rec. at 1. On March 3, 2020, the Agency filed a recommendation with the Board, attaching Evergreen’s application (Rec. Exh. A). The Agency’s recommendation identifies the facilities at issue:

Agrichemical containment structures consisting of two (2) concrete liquid agrichemical operational containment structures (approximately 42 ft. x 67 ft. x 0.83 ft. as OC-1 and 16 ft. x 67 ft. x 0.83 ft. as OC-2) and associated collection and recovery systems; three (3) concrete bulk liquid agrichemical secondary containment structures (approximately 50 ft. x 32 ft. x 0.6 ft. as SC-1, 58.67 ft. x 41 ft. x 3 ft. as SC-02, and 71.5 ft. x 67 ft. x 0.5 ft. as SC-3); and the portion of the building over the operational containment structures and secondary containment structures as approved under the Agency endorsed Agrichemical Facility Permit No. 17062363 (Log No. 17062363 issued on September 13, 2017). *Id.* at 1.

The Agency further describes the facilities: “These facilities collect and store agrichemical rinsates, residues, or washwaters prior to reuse or disposal.” *Id.* at 2.

The Agency recommends that the Board certify that the agrichemical facilities are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2018)) with the “primary purpose “of eliminating, preventing, or reducing water pollution.” Rec. at 2; *see also* Rec., Agency Technical Memorandum.

### TAX CERTIFICATE

Based upon the Agency’s recommendation, Evergreen’s application, and the Board’s technical review, the Board finds and certifies that Evergreen’s agrichemical facilities identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2018)). 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 (2018); *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 (2018)). The Clerk therefore will provide Evergreen 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.* (2018)). *See* 35 ILCS 200/11-60 (2018). Filing a motion asking that the Board

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<sup>1</sup> The Agency’s recommendation is cited as “Rec. at \_.”

reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

<b>Names and Addresses for Receiving Service of Any Appeal Filed with the Circuit Court</b>	
<b>Parties</b>	<b>Board</b>
Evergreen FS, Inc. Steve Conrad 402 N. Hershey Rd. Bloomington, IL 61702 <a href="mailto:sconrad@evergreen-fs.com">sconrad@evergreen-fs.com</a>	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Jacob H. Smith Assistant Counsel Illinois Environmental Protection Agency 1021 North Grand Ave. E. P.O. Box 19276 Springfield, IL 62794-9276	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 16, 2020 by a vote of 4-0.



Don A. Brown, Clerk  
 Illinois Pollution Control Board