

ILLINOIS POLLUTION CONTROL BOARD  
August 13, 2020

WIN PRODUCTION, LLC-NEW SALEM )  
(Property Identification Number 44-023-12B), )  
 )  
Petitioner, )  
 )  
v. ) PCB 21-10  
 ) (Tax Certification - Water)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )  
 )

ORDER OF THE BOARD (A. Palivos):

On August 5, 2020, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify [a specified facility/specified facilities] of WIN Production, LLC-New Salem (WIN Production) 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. WIN Production’s livestock waste management facility is located at 37808 Country Highway 2 in New Salem, Pike County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that WIN Production’s identified facilities 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 WIN Production on December 30, 2019.<sup>1</sup> Rec. at 1. On August 5, 2020, the Agency filed a recommendation with the Board, attaching WIN Production’s application. The Agency’s recommendation identifies the facilities at issue:

Livestock waste management facilities consisting of four concrete manure pit (approximately 89 ft. x 157.5 ft. x 8 ft. under building P1; 84 ft. x 138 ft. x 8 ft. under building P1; 85 ft. x 18 ft. x 2 ft. under building P1; and 32 ft. x 60 ft. x 2 ft. under E8), the concrete slatted portion of the floor over the manure pit that captures and contains waste generated in the barn above, PVC pipe (approximately 200 ft. x 10 in. and 800 ft. x 8 in. in total) that transfer manure from concrete pits to existing earthen holding ponds, and a perimeter drainage tiles (approximately 665 ft. x 4 in. and 150 ft. x 5 in. total CPP), located around the footing of the manure pit to prevent flotation of the pit, which includes one inspection riser port. *Id.* at 1–2.

The Agency further describes the facilities as being “used to collect, transport, and/or store livestock waste prior to cropland application.” *Id.* at 2.

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

### TAX CERTIFICATE

Based upon the Agency’s recommendation, WIN Production’s application, and the Board’s technical review, the Board finds and certifies that WIN Production’s 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 (2016); *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 WIN Production 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

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

5/3-101 *et seq.* (2018)). *See* 35 ILCS 200/11-60 (2018). Filing a motion asking that the Board 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<br/>Any Appeal Filed with the Circuit Court</b>   |  |
|---|--|
| <b>Parties</b>  | <b>Board</b>   |
| WIN Production, LLC<br>Attn: Brian Bradshaw<br>44619 Co. HWY 2<br>Griggsville, Illinois 62340   | Illinois Pollution Control Board<br>Attn: Don A. Brown, Clerk<br>James R. Thompson Center<br>100 West Randolph Street, Suite 11-500<br>Chicago, Illinois 60601 |
| Illinois Environmental Protection Agency<br>Attn: Amanda S. Kimmel<br>1021 North Grand Avenue East<br>P.O. Box 19276<br>Springfield, IL 62794 |  |

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 13, 2020, by a vote of 4-0.



Don A. Brown, Clerk  
 Illinois Pollution Control Board