

ILLINOIS POLLUTION CONTROL BOARD
August 27, 2020

WIN PRODUCTION, LLC (Property)	
Identification Number 00301701301),)	
)	
Petitioner,)	
)	
v.)	PCB 20-12
)	(Tax Certification - Water)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.M. Santos):

On August 19, 2020, the Illinois Environmental Protection Agency (IEPA) filed a recommendation that the Board certify specified facilities of Win Production, LLC (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 operation is located at 6324 Pilger Lane in Beardstown, Cass County. In this order, the Board describes the legal framework for tax certifications, discusses IEPA’s recommendation, and certifies that Win Production’s identified livestock waste handling 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 IEPA. *See* 35 Ill. Adm. Code 125.202. If IEPA receives a tax certification application, IEPA 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, IEPA’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).

IEPA RECOMMENDATION

IEPA states that it received a tax certification application from Win Production on July 6, 2020.¹ Rec. at 1. On August 19, 2020, IEPA filed a recommendation with the Board, attaching Win Production’s application (Rec. Exh. A). IEPA’s recommendation identifies the facilities at issue:

[l]ivestock waste management facilities consisting of three (3) earthen holding ponds (approximately 200 ft. x 550 x 10 ft. as E 1, 160 ft. x 390 ft. x 8 ft. as E2, and 150 ft. x 620 ft. x 8 ft. as E3), nine (9) concrete manure pits (approximately 60 ft. x 360 ft. x 3 ft. as E4, 60 ft. 360 ft. x 3 ft. as E5, 34 ft. x 225 ft. x 4 ft. as E7, 34 ft. x 236 ft. x 4.5 ft. as E8, 34 ft. x 168 ft. x 4 ft. as E9, 34 ft. x 88 ft. x 1 ft. as E10, 62 ft. x 510 ft. x 8 ft. as E11, 60 ft. x 250 ft x 2 ft. as E 12, and 41 ft. x 140 ft. x 1 ft. as E13), and the concrete slatted portion of the floor over the manure pits that capture and contain waste generated in the barns above, and ten (10) pump out pits (approximately 6ft. x 6ft each) to allow manure removal from pit under E11, and PVC pipes (approximately 275 ft. x 10" total) that transfer manure from concrete pits into the earthen holding ponds. *Id.* at 1-2.

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

IEPA recommends that the Board certify that the livestock waste handling 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., Exh. A at 1 (IEPA memorandum), 2 (IEPA review sheet).

TAX CERTIFICATE

Based upon IEPA’s recommendation, Win Production’s application, and the Board’s technical review, the Board finds and certifies that Win Production’s livestock waste handling 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 IEPA 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

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

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

Names and Addresses for Receiving Service of Any Appeal Filed with the Circuit Court	
Parties	Board
Win Production, LLC Attn: Terry Feldman 3116 N. Dries Lane, Suite 100 Peoria, Illinois 61604 tlfeldmann@mstutz.com	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601 don.brown@aillinis.gov
Win Production, LLC Attn.: Brian Bradshaw 44619 Co. Hwy. 2 Griggsville, Illinois 62340 brian@winproductionsllc.com	
Illinois Environmental Protection Agency Attn: Joshua Leopold, Assistant Counsel 1021 North Grand Avenue East PO Box 19276 Springfield, Illinois 62794-9276	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 27, 2020, by a vote of 4-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board