

ILLINOIS POLLUTION CONTROL BOARD
September 17, 2020

WIN PRODUCTION, LLC – ASTORIA)
(Property Identification Number 242-631-200-)
001),)
)
Petitioner,)
)
v.) PCB 21-17
) (Tax Certification - Water)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

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

On September 3, 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 facility is located at 785 North Taylor Lane in Astoria, Fulton 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 management 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 December 30, 2019.¹ Rec. at 1. On September 3, 2020, IEPA filed a recommendation with the Board, attaching WIN Production’s application (Rec. Exh. A). IEPA’s recommendation identifies the facilities at issue:

The livestock waste handling facilities consisting of one (1) earthen holding pond (approximately 212 ft. x 162 ft. x 8 ft. as E12), two (2) concrete manure storage tanks (approximately 25 ft. x 40 ft. x 8 ft. as E3, and 85 ft. x 250 ft. x 8 ft. as E13), eleven (11) concrete pits (approximately 62 ft. x 275 ft. x 2 ft. as E1, 40 ft. x 100 ft. x 2 ft. as E5, 36 ft. x 160 ft. x 2 ft. as E6, 20 ft. x 96 ft. x 2 ft. as E7, 30 ft. x 60 ft. x 1.3 ft. as E8, 48 ft. x 138 ft. x 2 ft. as E9, 48 ft. x 138 ft. x 2 ft. as E10, 67 ft. x 168 ft. x 2 ft. as E11, 40 ft. x 40 ft. x 2 ft. as E14, 62 ft. x 95 ft. x 2 ft. as E17, and 59 ft. x 205 ft. x 10 ft. as E21) and the concrete slatted portion of the floor over the manure pits that capture and contain waste generated in the barns above, manure gutters (approximately 512 ft. x 1 ft. x 1 ft. total as E15 and E16), two (2) pumpout pits (approximately 6 ft. x 6 ft. x 11 ft. each) to allow manure removal from pit E21, PVC pipes (approximately 620 ft. x 6 in. and 190 ft. x 8 in. total) and two (2) concrete lift stations (approximately 6 ft. dia. x 8 ft. deep each as E18 and E19) that transfer manure from manure pits to concrete storage tanks, two (2) concrete roofed buildings (approximately 100 ft. x 85 ft. as E2, and 28 ft. x 10 ft. as E22) and two (2) outdoor concrete structures (approximately 32 ft. x 15 ft. x 4 ft. each as E23 and E24) for mortality compost, and perimeter drainage tiles (approximately 860 ft. x 4 in. total corrugated perforated pipe) located around the footing of the manure pit E21 to prevent flotation of the pit..
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 management 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 3; *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 management 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

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

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 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 L. Feldmann 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@illinois.gov
Illinois Environmental Protection Agency Attn: Amanda S. Kimmel, Assistant Counsel 1021 N. Grand Ave. E. 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 September 17, 2020, by a vote of 4-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board