

ILLINOIS POLLUTION CONTROL BOARD
June 18, 2020

JOLIET BULK, BARGE & RAIL, LLC)	
Low-Nitrogen Oxides Burner for Boiler)	
(Property Identification Number 07-29-304-)	
004-0000 or portion thereof))	
)	
Petitioner,)	
)	
v.)	PCB 20-81
)	(Tax Certification - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by B.K. Carter):

On May 29, 2020, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify a specified facility of Joliet Bulk, Barge & Rail (“JBB&R”) as a “pollution control facility” for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2018); 35 Ill. Adm. Code 125. JBB&R’s Low-Nitrogen Oxides (“NOx”) Burner is located at 1035 Laraway Road in Joliet, Will County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Joliet BB&R’s identified Low-NOx Burner is a pollution control facility.

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 JBB&R on November 25, 2019.¹ Rec. at 3. On May 29, 2020, the Agency filed a recommendation with the Board, attaching JBB&R's application (Rec. Exh. A). The Agency's recommendation identifies the facility at issue:

The subject matter of this request consists of a Low-Nitrogen Oxides ("NOx") Burner installed to the facility's existing Boiler. A low NOx burner system, as generally recognized in the field of air pollution control technology, is a type of process modification that offers enhanced abatement of NOx emissions while providing the basic functionality of conventional burners. As indicated in the application, such systems are meant to control the fuel and air mixing within the boiler, which lowers peak flame temperature and reduces NOx emissions. In doing so, the installation of the Low-NOx Burner acts to reduce or prevent the release of NOx emissions from boiler operations that would otherwise be emitted to the atmosphere. *Id.* at 4.

The Agency recommends that the Board certify that the Low-NOx Burner is a pollution control facility as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2018)) with the "primary purpose to prevent or reduce air pollution." *Id.*; *see also* Rec., Agency Technical Memorandum.

TAX CERTIFICATE

Based upon the Agency's recommendation, JBB&R's application, and the Board's technical review, the Board finds and certifies that JBB&R's Low-NOx Burner identified in this order is a pollution control facility under the Property Tax Code (35 ILCS 200/11-10 (2018)). The Board makes no finding regarding the assessed value of [that facility/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 JBB&R and the Agency with a copy of this order.

IT IS SO ORDERED.

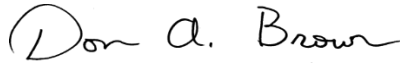
Section 11-60 of the Property Tax Code provides that any applicant or holder aggrieved by the issuance, refusal to issue, denial, revocation, modification or restriction of a pollution control certificate or a low sulfur dioxide emission coal fueled device certificate may appeal the Board's finding and 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

¹ The Agency's recommendation is cited as "Rec. at 3."

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
Joliet Bulk, Barge & Rail, LLC Attn: Katherine Tronsberg Macciocca c/o Duff and Phelps, LLC 2000 Market Street, Suite 2700 Philadelphia, PA 19103	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Illinois Environmental Protection Agency Attn: Robb H. Layman 1021 North Grand Avenue East P.O 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 June 18, 2020, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board