

ILLINOIS POLLUTION CONTROL BOARD
October 15, 2020

JOLIET BULK, BARGE & RAIL, LLC)
(Emissions Monitoring System) (Property)
Identification Number 07-29-304-004-0000 or)
portion thereof),)
)
Petitioner,) PCB 21-25
) (Tax Certification – Air)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)

Respondent.

ORDER OF THE BOARD (by J. Van Wie):

On September 28, 2020, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify specified facilities of Joliet Bulk, Barge & Rail, LLC (Joliet Bulk) 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. Joliet Bulk’s petroleum terminal and storage facility is located at 1035 Laraway Road in Joliet, Will County, Illinois. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Joliet Bulk’s identified petroleum terminal and storage 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 Joliet Bulk on June 19, 2020.¹ Rec. at 1. On September 28, 2020, the Agency filed a recommendation with the Board, attaching Joliet Bulk’s application (Rec. Exh. A). The Agency’s recommendation describes the facilities at issue:

Emissions Monitoring System for monitoring fugitive emissions of volatile organic materials (VOM) from the various petroleum storage tanks (total capacity of 760,000 barrels) and associated equipment and piping located at the terminal facility. The system was implemented beginning in late 2015 and is comprised of hand-held monitors that are utilized by facility personnel to periodically probe for fugitive VOM emissions. The monitoring system is part of the facility's obligation to monitor for leak detection under the federal New Source Performance Standards promulgated at 40 CFR Part 60.7. *Id.* at 2

The Agency further states “the primary purpose of the Emissions Monitoring System [is] to prevent or reduce air pollution” and “it is the Agency's engineering judgment that such systems or devices may be considered as ‘pollution control facilities’ in accordance with the statutory definition [Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2018))] and consistent with the Board's regulations at 35 Ill. Adm. Code 125.200.” *Id.* at 2-3; *see also* Rec., Agency Technical Memorandum.

TAX CERTIFICATE

Based upon the Agency’s recommendation, Joliet Bulk’s application, and the Board’s technical review, the Board finds and certifies that Joliet Bulk’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 (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 Joliet Bulk and the Agency with a copy of this order.

IT IS SO ORDERED.

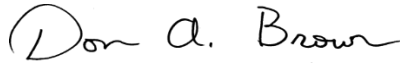
Section 11-60 of the Property Tax Code provides that any applicant or holder aggrieved by the issuance, refusal to issue, denial, revocation, modification or restriction of a pollution control certificate or a low sulfur dioxide emission coal fueled device certificate may appeal the Board’s finding and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

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
Katherine Tronsberg Macciocca c/o Duff and Phelps, LLC 2000 Market Street, Suite 2700 Philadelphia, PA 19103 Kathryn.Tronsberg@duffandphelps.com	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 Springfield, IL 62794-9276 Robb.Layman@illinois.gov	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 15, 2020, by a vote of 4-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board