

ILLINOIS POLLUTION CONTROL BOARD
November 19, 2020

ZENITH ENERGY TERMINALS JOLIET)
HOLDINGS, LLC (Property Identification)
Number 07-29-304-004-0000),)
)
Petitioner,)
) PCB 21-22
v.) (Tax Certification)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by B.F. Currie):

On September 18, 2020, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify some, but not all, of the requested specified facilities of Zenith Energy Terminals Joliet Holdings, LLC (Zenith) 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 125.¹ Zenith’s petroleum products storage facility is located at 1035 W. 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 Zenith’s secondary storage structure and stormwater handling systems are pollution control facilities but denies tax certification for Zenith’s coatings and cathodic protection systems.

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

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

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 Zenith on November 14, 2019.² Rec. at 1. On September 18, 2020, the Agency filed a recommendation with the Board, attaching Zenith’s application (Rec. Exh. A). The Agency’s recommendation identifies the facilities at issue:

Tank secondary structure for six bulk petroleum tanks;
Stormwater handling and holding treatment systems consisting of six hold ponds with control valves, and three oil/water separators;
Coatings and cathodic protection systems that utilize sacrificial anodes to mitigate or reduce corrosion of the tanks and piping. *Id.* at 1.

The Agency recommends that the Board certify that the tank secondary structure for six bulk petroleum tanks and the stormwater handling and holding treatment systems consisting of six hold ponds with control valves, and three oil/water separators 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.

The Agency recommends that the Board deny a tax certificate for Zenith’s coatings and cathodic protection system. Rec. at 3. The Agency states that these portions of the facility do not have the primary purpose of eliminating, preventing, or reducing water pollution. *Id.* at 2-3 (quoting 35 ILCS 200/11-10(b)(3) (2018)).

TAX CERTIFICATE

Based upon the Agency’s recommendation, Zenith’s application, and the Board’s technical review, the Board finds and certifies that Zenith’s tank secondary structure for six bulk petroleum tanks and the stormwater handling and holding treatment systems 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 Zenith and the Agency with a copy of this order.

² The Agency’s recommendation is cited as “Rec. at _.”

Further, Zenith has failed to timely file a petition to contest the Agency's recommended denial. *See* 35 Ill. Adm. Code 125.206(a). Accordingly, based on the Agency's recommendation, the Board denies tax certification as to the coatings and cathodic protection systems.

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
Zenith Energy Terminals Joliet, LLC Attn: Kathryn 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: Amanda S. Kimmel 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 November 19, 2020, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board