

ILLINOIS POLLUTION CONTROL BOARD
January 21, 2021

WEST CENTRAL FS, INC. - MONMOUTH)
(Property Identification Number 09-042-108-)
00),)
)
Petitioner,)
)
v.) PCB 21-55
) (Tax Certification - Water)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

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

On January 8, 2021, the Illinois Environmental Protection Agency (IEPA) filed a recommendation that the Board certify specified facilities of West Central FS, Inc. (West Central FS) 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. West Central FS’s agrichemical facility is located at 903 S. Sunny Lane in Monmouth, Warren County. In this order, the Board describes the legal framework for tax certifications, discusses IEPA’s recommendation, and certifies that West Central FS’s identified agrichemical containment 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 West Central FS on December 24, 2018, which West Central FS supplemented on August 19, 2020, and September 2, 2020.¹ Rec. at 1. On January 8, 2021, IEPA filed a recommendation with the Board, attaching West Central FS's application (Rec., Exh. A). IEPA's recommendation identifies the facilities at issue:

[a]grichemical containment structures consisting of five (5) concrete liquid agrichemical operational containment dikes (approximately 80 ft. x 100 ft. x 0.67 ft. as OC-1, 8 ft. x 41 ft. x 0.5 ft. as OC-2, 5 ft. x 7 ft. x 0.5 ft. as OC-3, 65 ft. x 20 ft. x 1 ft. as OC-4, 8 ft. x 35 ft. x 0.5 ft. as OC-5), two (2) concrete bulk liquid agrichemical secondary containment dikes (approximately 14.5 ft. x 96 ft. x 1.33 ft. as SC-1, 39.33 ft. x 39.33 ft. x 4 ft. as SC-3), one welded steel secondary containment tank (approximately 92.5 ft. dia. x 15.7 ft. ht. as SC-2), four (4) reinforced concrete operational containment pads (approximately 15 ft. x 124 ft., 20 ft. x 94 ft., 20 ft. x 30 ft and 50 ft. x 60 ft.), associated collection and recovery system to the dikes and tank, the portion of the building over the containment dikes and pads as approved under the Agency endorsed Agrichemical Facility Permit No. AC93062274 (Log No. 15031674 issued on June 2, 2015). *Id.* at 1.

IEPA further describes the facilities as being “used to collect, transport, and/or store agrichemical rinsates, residues, or washwaters prior to reuse or disposal.” *Id.* at 2.

IEPA recommends that the Board certify that the agrichemical 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 (IEPA memoranda).

TAX CERTIFICATE

Based upon IEPA's recommendation, West Central FS's application, and the Board's technical review, the Board finds and certifies that West Central FS's agrichemical 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 West Central FS and IEPA with a copy of this order.

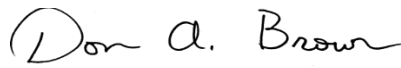
IT IS SO ORDERED.

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

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
West Central FS, Inc. Attn.: Jim McNelly 1445 Monmouth Blvd. Galesburg, Illinois 61401 jmcnelly@westcentralfs.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, Asst. Counsel 1021 North Grand Ave. 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 January 21, 2021, by a vote of 4-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board