

ILLINOIS POLLUTION CONTROL BOARD  
July 22, 2004

HOLLAND ENERGY, LLC-BEECHER CITY )	
(Property Identification Numbers 0524-01- )	
00-100-004, 0825-16-00-100-004, 0825- )	
16-00-300-003, 0825-16-00-200-002), )	
)	
Petitioner, )	PCB 05-4
)	(Tax Certification - Water)
v. )	
)	
ILLINOIS ENVIRONMENTAL )	
PROTECTION AGENCY, )	
)	
Respondent. )	

ORDER OF THE BOARD (by J.P. Novak):

On July 14, 2004, the Illinois Environmental Protection Agency (Agency) recommended that the Board certify certain effluent discharge facilities of Holland Energy, LLC (Holland Energy) at its water pollution control facilities as “pollution control facilities” for preferential tax treatment under the Property Tax Code (35 ILCS 200/11-5 *et seq.* (2002)). But, in the same filing, the Agency recommended denial of tax certification to certain river intake structure facilities. The Agency filed the recommendation under Part 125 of the Board’s procedural rules (35 Ill. Adm. Code 125).

In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Holland Energy’s facilities are pollution control facilities. The Board grants certification to the effluent discharge facilities. The Board takes no action today on the negative recommendation as the river intake structure, since Holland Energy may file a petition to contest it on or before August 18, 2004.

**LEGAL FRAMEWORK**

Under the Property Tax Code, “[i]t is the policy of this State that pollution control facilities should be valued, at 33 $\frac{1}{3}$ % of the fair cash value of their economic productivity to their owners.” 35 ILCS 200/11-5 (2002); *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 (2002); *see also* 35 Ill. Adm. Code 125.200(a).

Under Section 125.202 of the Board’s procedural rules, a person may submit an application for tax certification to the Agency. 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. 35 Ill. Adm. Code 125.204(a).

Among other things, the Agency's filing must recommend that the Board issue or deny tax certification. 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 (2002); *see also* 35 Ill. Adm. Code 125.216(a).

### **AGENCY RECOMMENDATION**

The Agency states that it received a tax certification application from Holland Energy for its water pollution control facilities on December 31, 2002. Agency Recommendation (Agency Rec.) at 1. On July 14, 2004, the Agency filed a recommendation on the application with the Board. The Agency's recommendation identifies two separate sets of facilities at issue:

Effluent discharge facilities consisting of an ultrasonic flow meter, backpressure regulating valve, gravity discharge well, 6-mile gravity discharge pipe, and river diffuser. Agency Rec. at 1.

A river intake structure consisting of an intake structure with three submersible pumps (two operating and one standby) to supply 5556 gallons per minute of make-up water to the plant, two 450-kilowatt heaters, a motorized bridge crane with 3-ton capacity hoist, a 6-mile long intake pipeline and all appurtenances to supply source water to the plant. Agency Rec. at 1-2.

The Agency's recommendation also identifies the location of the facilities: Section 16, Township 9 North, Range 4 East of the Third Principal Meridian in Shelby County. *Id.* at 1.

The Agency makes separate recommendations relating to the two separate sets of facilities:

**Effluent discharge facilities:** The Agency recommends that the Board certify that the identified facilities are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2002)) because the primary purpose of the facilities is eliminating, preventing, or reducing water pollution. Agency Rec. at 2.

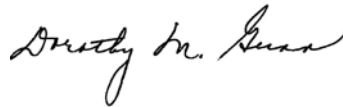
**River intake structure facilities:** The Agency recommends that the Board deny certification that the identified facilities are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2002)). Agency Rec. at 3. Holland Energy has 35 days from when it was served with a copy of the Agency's recommendation to contest that recommendation to the Board. 35 Ill. Adm. Code 125.206. Any petition for review must be filed on or before August 18, 2004. After that, the Board will determine what further actions may be appropriate.

**TAX CERTIFICATE****Effluent Discharge Facilities**

The Board finds and certifies that Holland Energy's effluent discharge facilities identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2002)). 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 (2002); *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 (2002)). The Clerk therefore will provide Holland Energy and the Agency with a copy of this order.

IT IS SO ORDERED.

I Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 22, 2004, by a vote of 5-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board