

ILLINOIS POLLUTION CONTROL BOARD  
December 1, 2011

THOMPSON'S PEARL VALLEY EGGS, )  
INC. (Property ID No. 01-16-03-200-002), )  
 )  
Petitioner, )  
 )  
v. ) PCB 12-63  
 ) (Tax Certification - Water)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

ORDER OF THE BOARD (by T.A. Holbrook):

On November 23, 2011, the Illinois Environmental Protection Agency (Agency) recommended that the Board certify certain facilities of Thompson's Pearl Valley Eggs, Inc. (petitioner) as "pollution control facilities" for preferential tax treatment under the Property Tax Code (35 ILCS 200/11-5 *et seq.* (2010)). The facilities are livestock waste manure management structures at petitioner's egg farm located at 968 S. Kent Road, Pearl City, Stephenson County. But, in the same filing, the Agency recommended denial of tax certification to other structures because the "primary purpose of these facilities is to provide an area for the protection of agrichemical products and materials from outside weather conditions, and is not primarily pollution control". Agency Recommendation (Agency Rec.) at 2. 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 petitioner's livestock waste manure management facilities are pollution control facilities. Further, as the time for petitioner to file an appeal of the Agency's recommended denial has not passed, the Board reserves ruling on the request for certification of the agrichemical management 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 (2010); *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 (2010); *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 (2010); *see also* 35 Ill. Adm. Code 125.216(a).

### **AGENCY RECOMMENDATION**

The Agency states that it received a tax certification application from petitioner for its egg farm on December 31, 2008. Agency Rec. at 1. On November 23, 2011, the Agency filed a recommendation on the application with the Board. The Agency's recommendation identifies the facilities at issue:

Livestock Waste Management Facilities consisting of livestock waste storage and composting building (135 ft x 520 ft x 14 ft) with concrete floor (135 ft x 520 ft) and six manure composting isles approximately 20 feet wide comprised of eight poured concrete walls (4 ft x 320 ft x 0.667 ft) each outfitted with a steel crane rail mounted on its top to facilitate the use of one compost turner. *Id.*

Agrichemical management facilities consisting of a dry fertilizer storage building (82 ft x 114 ft) having 12 storage bins (16 ft x 30 ft each); an end loader transfer area (22 ft x 96 ft); a manufacturing and bagging process area (60 ft x 82 ft); a bulk material loading area (18 ft x 82 ft); and a warehouse used to store bagged dry fertilizer (110 ft x 120 ft). *Id.* at 2.

The Agency's recommendation also identifies the location of the facilities: Livestock Waste Management Facilities (Property ID No. 01-16-03-200-002) at Section 3, T26N, R5E of the East 4th P.M., and Agrichemical Management Facilities (Property ID No. 10-11-34-400-003) at Section 34, T27N, R5E of the East 4th P.M., both in Stephenson County. *Id.*

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

**Livestock waste management 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 (2010)) because the primary purpose of the facilities is eliminating, preventing, or reducing water pollution. Agency Rec. at 3.

**Agrichemical Management 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 (2010)). Agency Rec. at 3. Petitioner 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. As the time for the petitioner to file an appeal has not yet run, the Board reserves ruling on the request to certify the dry fertilizer storage building, end loader transfer area, manufacturing and bagging process area, a bulk material loading area, and a warehouse used to store bagged dry fertilizer as pollution control

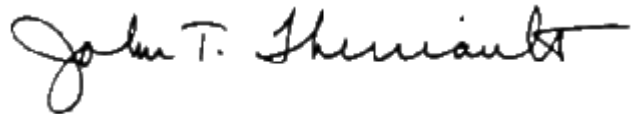
facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2010)) until the appeal time has expired.

**TAX CERTIFICATE**

The Board finds and certifies that petitioner's livestock waste management facilities, as identified in this order, are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2010)). 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 (2010); *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 (2010)). The Clerk therefore will provide petitioner and the Agency with a copy of this order.

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 1, 2011, by a vote of 5-0.



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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board