

ILLINOIS POLLUTION CONTROL BOARD  
February 4, 2016

NEWCOMER FARMS – LANARK	)	
(Property Identification Number	)	
07-09-13-300-001)	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 16-74
	)	(Tax Certification - Water)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (G.M. Keenan):

On January 12, 2016, the Illinois Environmental Protection Agency (Agency) filed a recommendation (Rec.) that the Board certify Newcomer Farms - Lanark of Newcomer Farms as a “pollution control facility for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2014); 35 Ill. Adm. Code 125. Newcomer Farms’ livestock waste management facility is located at 9542 Beede Road, in Lanark, Carroll County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies Newcomer Farms’ livestock waste management facility as a pollution control 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 (2014); *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 (2014); *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 (2014); *see also* 35 Ill. Adm. Code 125.216(a).

**AGENCY RECOMMENDATION**

The Agency states that it received a tax certification application from Newcomer Farms on April 13, 2015. Rec. at 1. On January 12, 2016, the Agency filed its recommendation with the Board, attaching Newcomer Farms' application (Rec. Exh. A). The Agency's recommendation identifies the facility at issue:

Livestock waste management facility consisting of one concrete manure pit (approximately 51 ft. x 391 ft. x 8 ft.) with slotted floors over the pit, and ten livestock waste pumpout pits (approximately 5 ft. x 6 ft. by 8.5 ft.) built into the concrete manure pit. Rec. at 1.

The Agency recommends that the Board certify that the facility is a pollution control facility as defined in Section 11-10 of the Property Tax Code, 35 ILCS 200/11-10 (2014). The Agency states that the livestock waste management facilities have the primary purpose to "collect, transport and/or store livestock wastes prior to cropland application, and are further described in Exhibit A." Rec. at 1.

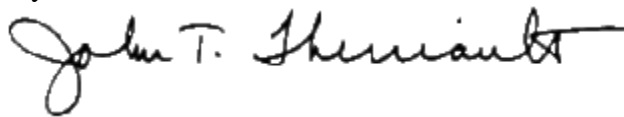
**TAX CERTIFICATE**

Based upon the Agency's recommendation, Newcomer Farms' application, and the Board's technical review, the Board finds and certifies that Newcomer Farms' facility identified in this order is a pollution control facility under the Property Tax Code, 35 ILCS 200/11-10 (2014). The Board makes no finding regarding the facility's assessed value. 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 (2014); *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 (2014)). The Clerk therefore will provide Newcomer Farms 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.* (2014)). *See* 35 ILCS 200/11-60 (2014).

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 4, 2016, by a vote of 5-0.




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John T. Therriault, Clerk  
Illinois Pollution Control Board

