

ILLINOIS POLLUTION CONTROL BOARD

July 21, 2016

ALLIANCE WOR PROCESSING, LLC)	
(Property Identification Number)	
01-031-009-00/01-031-010-00/01-031-013-00),))	
)	
Petitioner,)	
)	
v.)	PCB 16-113
)	(Tax Certification – Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On June 17, 2016, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify a certain facility owned by Alliance Wor Processing, LLC (Alliance) 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. Alliance’s coal preparation facility is located at 18031 County Road 500 East in Dahlgren, Hamilton County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Alliance’s identified coal preparation facility is 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 Alliance on July 6, 2015. Rec. at 1. On June 17, 2016, the Agency filed a recommendation with the Board, attaching Alliance's application. Rec. at Exh A. The Agency's recommendation identifies the facility as:

the installation of numerous separation and washing processes employed in [Alliance's] coal preparation facility. * * * The coal preparation facility separates out and/or washes waste, rock and other contaminant materials from run-of-the-mill coal, which ultimately reduces or prevents particulate matter, sulfur and ash-related emissions from the processed coal that is imminently sold to coal-fired power plants for generating electricity. Rec. at 2.

The Agency further describes the process as three different stages of separation and washing. *Id.*

The Agency recommends that the Board certify that the coal preparation facility is a pollution control facility as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2014)) with the primary purpose "of eliminating, preventing, or reducing air pollution." Rec. at 7. The Agency explains that the subject equipment in this case is a process of control rather than traditional end-of-the-pipe control or treatment. However, the Agency believes the definition under Section 11-10 is sufficiently broad to encompass this system. Rec. at 3.

TAX CERTIFICATE

Based upon the Agency's recommendation, Alliance's application, and the Board's technical review, the Board finds and certifies that Alliance's 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 assessed value of that facility. 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, whichever 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 Alliance 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 July 21, 2016, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish at the end.

John T. Therriault, Clerk
Illinois Pollution Control Board