

ILLINOIS POLLUTION CONTROL BOARD

August 23, 2018

HODEL TURKEY FARM, INC. – EL PASO	)	
(Property Identification No. 11-22-400-008),	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 19-41
	)	(Tax Certification - Water)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

On April 12, 2018, the Illinois Environmental Protection Agency (IEPA or Agency) filed a recommendation that the Board certify certain facilities of Hodel Turkey Farm, Inc. – El Paso (Hodel Turkey Farm) as “pollution control facilities” for preferential tax treatment under the Property Tax Code. See 35 ILCS 200/11-5 et seq. (2016); 35 Ill. Adm. Code 125. Hodel Turkey Farm’s swine finishing facility is located at 1304 County Road 2375 E. in El Paso, Woodford County. In this order, the Board describes the legal framework for tax certifications, discusses IEPA’s recommendation, and certifies that Hodel Turkey Farm’s identified livestock waste handling 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 (2016); 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 (2016); 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 (2016); see also 35 Ill. Adm. Code 125.216(a).

### **IEPA RECOMMENDATION**

IEPA states that it received a tax certification application from Hodel Turkey Farm on April 12, 2018.<sup>1</sup> Rec. at 1. On August 6, 2018, IEPA filed a recommendation with the Board, attaching Hodel Turkey Farm’s application (Rec. Exh. A). IEPA’s recommendation identifies the facilities at issue:

[t]he livestock waste handling facilities consists of one concrete manure pit (approximately 193 ft. x 102 ft. x 8 ft. deep), the concrete slatted portion of the floor over the manure pit that capture and contain waste generated in the barn above, eight pumpout pits (each approximately 6 ft. x 6 ft.) to allow manure removal from the manure pit, and Form-A-Drain perimeter drainage pipes (approximately 686 ft. x 6 in.) located around the footing of manure pit to prevent flotation of the pit.. Rec. at 1.

IEPA further describes the facilities as being “used to collect, transport, and/or store livestock waste prior to cropland application.” *Id.* at 2.

IEPA recommends that the Board certify that the livestock waste management facilities are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2016)) with the “primary purpose “of eliminating, preventing, or reducing water pollution.” Rec. at 2; *see also* Rec. Exh. A at 1 (IEPA memorandum), 2 (IEPA review sheet).

### **TAX CERTIFICATE**

Based upon IEPA’s recommendation, Hodel Turkey Farm’s application, and the Board’s technical review, the Board finds and certifies that Hodel Turney Farm’s livestock waste handling facilities identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2016)). 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 (2016); *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 (2016)). The Clerk therefore will provide Hodel Turkey Farm and IEPA 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.* (2016)). *See* 35 ILCS 200/11-60 (2016). 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.

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<sup>1</sup> IEPA’s recommendation is cited as “Rec. at \_.”

<b>Names and Addresses for Receiving Service of Any Appeal Filed with the Circuit Court</b>	
<b>Parties</b>	<b>Board</b>
Hodel Turkey Farm, Inc. Attn: Nathan Hodel 1362 Co. Rd. 2250 E. Roanoke, Illinois 61561	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Illinois Environmental Protection Agency Attn: Assistant Counsel Jacob H. Smith 1021 North Grand Ave. E. Springfield, IL 62794-9276	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 23, 2018, by a vote of 5-0.



Don A. Brown, Clerk  
Illinois Pollution Control Board