

ILLINOIS POLLUTION CONTROL BOARD
February 15, 2007

LRV FARMS - PROPHETSTOWN)	
(Property Identification Numbers 2117100001)	
and 2177100002),)	
)	
Petitioner,)	
)	
v.)	PCB 07-72
)	(Tax Certification - Water)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by G.T. Girard):

On January 31, 2007, the Illinois Environmental Protection Agency (Agency) recommended that the Board certify certain facilities of LRV Farms as “pollution control facilities” for preferential tax treatment under the Property Tax Code (35 ILCS 200/11-5 *et seq.* (2004)). LRV Farms’ swine production operations are located at 2879 Bishop Road in Prophetstown, Whiteside County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that LRV Farms’ 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 (2004); *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 (2004); *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. *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 (2004); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from LRV Farms on July 26, 2006. Agency Rec. at 1. On January 31, 2007, the Agency filed a recommendation on the application with the Board, attaching the application. The Agency's recommendation identifies the facilities at issue:

Livestock waste management facilities consisting of one concrete manure pit (156 ft. x 102 ft. x 2 ft. deep), with the slotted concrete portion of the floor over the manure pit and three pull plug drains; one glass-lined steel storage tank with a concrete floor for manure storage (98 ft. in diameter x 23 ft. deep); two concrete lift stations (each 6 ft. in diameter x 10 ft. deep) with one 20-horsepower manure transfer pump and one 10-horsepower manure transfer pump; portions of concrete wall to retain manure (120 ft. x 1 ft. deep, 70 ft. x 1.5 ft deep, and 90 ft. x 2.5 ft. deep); approximately 265 feet of 6-inch diameter PVC manure transfer pipe; approximately 300 feet of 8-inch diameter PVC manure transfer pipe; and approximately 150 feet of 10-inch diameter PVC manure transfer pipe. *Id.* at 1.

The Agency's recommendation further describes the facilities: "These livestock waste management facilities are used to collect, transport, and/or store livestock wastes prior to cropland application." Agency Rec. at 2. The Agency's recommendation also identifies the location of the facilities: NW Section 17, T19N, R5E of the 4th P.M. in Whiteside County. *Id.* at 1.

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 (2004)) because the primary purpose of the facilities is "eliminating, preventing, or reducing water pollution." Agency Rec. at 2.

TAX CERTIFICATE

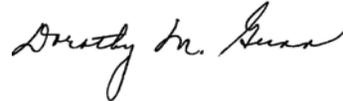
Based on the Agency's recommendation and LRV Farms' application, the Board finds and certifies that LRV Farms' facilities identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2004)). Under Section 11-25 of the Property Tax Code, the effective date 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 (2004); *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 (2004)). The Clerk therefore will provide LRV Farms and the Agency with a copy of this order.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the

order. 415 ILCS 5/41(a) (2004); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 15, 2007, by a vote of 4-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board