

ILLINOIS POLLUTION CONTROL BOARD
May 17, 2007

EQUISTAR CHEMICALS, LP (Property)	
Identification Number 03-20-200-014),)	
)	
Petitioner,)	
)	
v.)	
)	PCB 07-93
ILLINOIS ENVIRONMENTAL)	(Tax Certification - Water)
PROTECTION AGENCY,)	
)	
Respondent.)	
)	

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

On March 21, 2007, the Illinois Environmental Protection Agency (Agency) recommended that the Board certify certain facilities of Equistar Chemicals, LP (Equistar) as “pollution control facilities” for preferential tax treatment under the Property Tax Code (35 ILCS 200/11-5 *et seq.* (2004)). The facilities are a wastewater treatment plant effluent temperature control and the Lift Station #23 Overflow Prevention at Equistar’s water pollution control facility. Equistar’s facility is located at Section 21, Township 34 North, Range 8 East of the 3rd Principal Meridian in Grundy. But, in the same filing, the Agency recommended denial of tax certification to Potable Water System Improvements. 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 Equistar’s facilities are pollution control facilities. The Board grants certification to the wastewater treatment plant effluent temperature control and the Lift Station #23 Overflow Prevention facilities. Further, as the time for Equistar to file an appeal of the Agency’s recommended denial has passed, the Board declines to certify the Potable Water System Improvements.

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. 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 (2004); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from Equistar for its facilities on April 30, 2003. Agency Rec. at 1. On March 21, 2007, the Agency filed a recommendation on the application with the Board. The Agency's recommendation identifies the facilities at issue:

Wastewater treatment plant effluent temperature control and the Lift Station #23
Overflow Prevention. *Id.* at 2

Potable Water System Improvements. *Id.*

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

Wastewater treatment plant effluent temperature control and the Lift Station #23

Overflow Prevention: 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 3.

Potable Water System Improvements: 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 (2004)). Agency Rec. at 3. Equistar 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. Any petition for review must be filed on or before April 25, 2007. The Board has not received a petition for review and therefore declines to certify the potable water system improvements as a pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2004)).

TAX CERTIFICATE

Wastewater treatment plant effluent temperature control and the Lift Station #23 **Overflow Prevention**

The Board finds and certifies that Equistar's 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 Equistar 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, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 17, 2007, by a vote of 4-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board