

ILLINOIS POLLUTION CONTROL BOARD
September 7, 2017

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| KOPPERS, INC. (Property Identification |) | |
| Number 19-04-200-026-000), |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 18-7 |
| |) | (Tax Certification - Water) |
| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Respondent. |) | |

ORDER OF THE BOARD (by B.K. Carter):

On August 30, 2017, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify certain facilities of Koppers, Inc. (Koppers) 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. Koppers’ water pollution control facility is located at 3900 South Laramie Avenue in Cicero, Cook County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Koppers’ identified secondary containment and wastewater treatment system additions 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 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 (2016); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from Koppers on June 27, 2017.¹ Rec. at __. On August 30, 2017, the Agency filed a recommendation with the Board, attaching Koppers' application (Rec. Exh. A). The Agency's recommendation identifies the facilities at issue:

Secondary Containment Additions: creosote tank emissions, ortho day tank improvements, spill containment paving, and ortho tank farm containment.

Wastewater Treatment System Additions: activated sludge biological treatment systems, which consists of an aeration tank, clarifier, stormwater holding tank, chemical additives instruments and controls. *Id.* at 1.

The Agency further describes the facilities: “[t]he primary purpose of the Secondary Containment Additions is to collect leaked and/or spilled wastewater/chemicals. The primary purpose of the Wastewater Treatments Additions is for treatment of process wastewater and regulated stormwater runoff.” *Id.* at 1-2.

The Agency recommends that the Board certify that the secondary containment and wastewater treatment system additions 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.

TAX CERTIFICATE

Based upon the Agency's recommendation, Koppers' application, and the Board's technical review, the Board finds and certifies that Koppers' secondary containment and wastewater treatment system additions 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 Koppers 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.* (2016)). *See* 35 ILCS 200/11-60 (2016).

¹ The Agency's recommendation is cited as “Rec. at __.”

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 7, 2017, by a vote of 5-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive style with a large, circular initial "D".

Don A. Brown, Clerk
Illinois Pollution Control Board