

ILLINOIS POLLUTION CONTROL BOARD
November 17, 2016

CHRISTENSEN SWINE-SHEFFIELD)
(Property Identification No. 07-26-400-001),)
)
Petitioner,)
)
v.) PCB 17-8
) (Tax Certification - Water)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (C.K. Zalewski):

On September 22, 2016, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify certain facilities of Christensen Swine-Sheffield (Christensen) as pollution control facilities for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2014); 35 Ill. Adm. Code 125. Christensen’s livestock waste management facilities and livestock mortality management facility are located at 4752 1950 N. Avenue in Sheffield, Bureau County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that specified portions of Christensen’s identified livestock waste management facilities and livestock mortality management facility are pollution control facilities. The Board does not make a determination regarding the facilities already certified as “pollution control facilities” in Christensen Swine-Sheffield (Property I.D. No. 07-26-400-001) v. IEPA, PCB 15-9 (July 24, 2014).

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 Christensen on December 11, 2015.¹ Rec. at 1. On September 22, 2016, the Agency filed a recommendation with the Board, attaching Christensen’s application. Rec. Exh. A. The Agency’s recommendation separates the facilities listed in the application into two groups. First, the Agency describes:

One concrete manure pit (approximately 277 ft. x 71 ft. x 10 ft. deep) with 8² concrete manure pump out pits (approximately 6 ft. x 6 ft. x 10 ft. each) and the portion of concrete slotted flooring over the manure pit; and one livestock mortality management facility consisting of one roofed concrete composting structure (approximately 96 ft. x 26 ft. x 6 ft. deep) consisting of six 16 ft. x 26 ft. bins for the purposes of composting dead swine. Rec. at 1.

The Agency recommends that the Board certify that the livestock waste management facilities and livestock mortality management facility are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2014)) with the primary purpose “of elimination, preventing, or reducing water pollution.” Rec. at 2.

The Agency’s recommendation identifies additional facilities described in the application as:

Livestock waste management facilities consisting of one concrete manure pit (approximately 277 ft. x 71 ft. x 10 ft. deep) with 6 concrete manure pump out pits (approximately 6 ft. x 6 ft. x 10 ft. each) and the portion of concrete slotted flooring over the manure pit; one concrete manure pit (approximately 96 ft. x 50 ft. x 8 ft. deep) and the portion of concrete slotted flooring over the manure pit. Rec. at 3.

The Agency notes that the “additional facilities were granted the requested tax certification by the Board on July 24, 2014”, and attached a copy of the Board’s order in PCB 15-9. Rec. at 3; Rec. Exh. B. The Board takes no further action on these additional facilities at this time.

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

² There is a discrepancy between the Agency’s recommendation, which refers to eight pump out pits, the Agency’s technical memorandum, which refers to both eight and six pump out pits, and Christensen’s application which refers to six pump out pits, but includes an engineering diagram that illustrates eight pump out pits. The Board limits its consideration to the eight pump out pits listed in the Agency’s recommendation and grants tax certification accordingly.

TAX CERTIFICATE

The Board finds and certifies that Christensen's livestock waste management facilities and livestock mortality management facility identified in the first group of facilities, above, are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2014)) consistent with Christensen's application, the Agency's recommendation, and Christensen Swine-Sheffield (Property I.D. No. 07-26-400-001) v. IEPA, PCB 15-9 (July 24, 2014). The Board makes no finding regarding the assessed value of the 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, whichever is later." 35 ILCS 200/11-25 (2014); *see also* 35 Ill. Adm. Code 125.216(a). The Board takes no action on the additional facilities, also described above.

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 Christensen 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 November 17, 2016, by a vote of 5-0.



John T. Therriault, Clerk
Illinois Pollution Control Board