

ILLINOIS POLLUTION CONTROL BOARD
July 7, 2016

FARINA FARMS, INC, (Property)	
Identification Number)	
04-07-100-010 & 04-07-100-11),)	
)	
Petitioner,)	
)	
v.)	PCB 16-111
)	(Tax Certification - Water)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by G.M. Keenan):

On June 13, 2016, the Illinois Environmental Protection Agency (Agency) recommended that the Board certify certain livestock waste management facilities owned by Farina Farms, Inc. (Farina Farms) 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. Farina Farms’ livestock waste management facilities are located at 8994 Sullivan Road in Kinmundy, Marion County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Farina Farms’ identified livestock waste management 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 (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 the 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 recommend an action to the Board, 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 Farina Farms on November 2, 2015. Rec. at 1. On June 13, 2016, the Agency filed a recommendation with the Board with Farina Farms' application attached. Rec. at Exh. A. The Agency's recommendation identifies the facilities:

Livestock waste management facilities consisting of eight concrete manure pits (each approximately 49 ft. x 456 ft. x 7 ft. deep) beneath buildings E1-E8 with slotted floors over the pits, a mechanical conveyor system for livestock waste (approximately 162 ft. long x 4ft. wide), a concrete manure storage building, (approximately 110 ft. x 275 ft. x 14 ft.), and a concrete composting building (approximately 40 ft. x 45 ft. x 8 ft.). Rec. at 1.

According to the Agency, the "livestock waste management facilities are used to collect, transport, and/or store livestock waste prior to cropland application." *Id.* at 2.

The Agency 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 (2014)) with the primary purpose "of eliminating, preventing, or reducing water pollution." *Id.*

TAX CERTIFICATE

Based upon the Agency's recommendation, Farina Farms' application, and the Board's technical review, the Board finds and certifies that Farina Farms' livestock waste management facilities identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2014)). 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 (2014); *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 (2014)). The Clerk therefore will provide Farina Farms 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 July 7, 2016, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

John T. Therriault, Clerk
Illinois Pollution Control Board