

ILLINOIS POLLUTION CONTROL BOARD

January 23, 2014

EQUISTAR CHEMICALS, LP (Sour Seal Oil))	
System Project) (Property I.D. No. 03-21-100-)	
013 & Parcel No. 110-032-1141),)	
)	
Petitioner,)	
)	
v.)	PCB 14-93
)	(Tax Certification - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (D. Glosser):

On December 19, 2013, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify a certain facility of Equistar Chemicals, LP (Equistar) as a “pollution control facility” for preferential tax treatment under the Property Tax Code. See 35 ILCS 200/11-5 et seq. (2012); 35 Ill. Adm. Code 125. The facility is associated with Equistar’s chemical manufacturing plant located at 8805 N. Tabler Road in Morris, Grundy County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Equistar’s Sour Seal Oil System Project is a pollution control facility.

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 (2012); 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 (2012); 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 (2012); see also 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from Equistar on or about October 10, 2012.¹ Rec. at ¶ 1. The Agency further states that on or about January 29, 2013, it received “a revised application setting forth supporting information for Equistar’s request in a formal APC 151 Form.” *Id.* On December 19, 2013, the Agency filed a recommendation with the Board, attaching Equistar’s later application (Rec. Exh. A). The Agency’s recommendation identifies the facility at issue:

The subject matter of this request consists of a Sour Seal Oil System Project, which was constructed and installed to address uncontrolled emissions from the existing Sour Seal Oil System associated with the Sour Seal Oil Tank. As described in the application, the project included the addition of a pressure valve to the compressor seal oil system and the additional connection of the system to a flare. The resulting reduction in uncontrolled emissions of volatile organic materials (“VOM”) from the seal oil system, estimated at roughly 10,000 pounds of VOM, will assure that the source achieves compliance with the National Emission Standards for Hazardous Air Pollutants [NESHAPs] promulgated by the United States Environmental Protection Agency at 40 CFR Part 63, Subpart YY (Generic MACT [Maximum Achievable Control Technology] Standards). Rec. at ¶ 4 (citation to Rec. Exh. A omitted).

The Agency further describes the facility: “By its nature, the project prevents or reduces emissions that would otherwise be emitted to the atmosphere.” Rec. at ¶ 4.

The Agency recommends that the Board certify that the Sour Seal Oil System Project is a pollution control facility as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2012)) with the primary purpose “to prevent or reduce air pollution.” Rec. at ¶¶ 7, 8; *see also* Rec. Exh. B (Agency technical memorandum).

TAX CERTIFICATE

Based upon the Agency’s recommendation and Equistar’s application, the Board finds and certifies that Equistar’s Sour Seal Oil System Project identified in this order is a pollution control facility under the Property Tax Code (35 ILCS 200/11-10 (2012)). The Board makes no finding regarding the assessed value of that facility. 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 (2012); *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 (2012)). The Clerk therefore will provide Equistar and the Agency with a copy of this order.

IT IS SO ORDERED.

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

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.* (2012)). *See* 35 ILCS 200/11-60 (2012).

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 23, 2014, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John T. Therriault, Clerk
Illinois Pollution Control Board