

ILLINOIS POLLUTION CONTROL BOARD
December 5, 2013

EJS, LLC (Property ID No. 15-10-05-400-007))
)
 Petitioner,)
)
 v.) PCB 14-38
) (Tax Certification - Water)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (D. Glosser):

On November 12, 2013, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify certain facilities of EJS, LLC as “pollution control facilities” for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2012); 35 Ill. Adm. Code 125. EJS LLC’s facility is located at 10010 N. Rock City Road, Rock City, Stephenson County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that petitioner’s identified sump system 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 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 petitioner on October 28, 2013.¹ Rec. at 1. On November 12, 2013, the Agency filed a recommendation on the application with the Board, attaching petitioner's application. The Agency's recommendation identifies the facility at issue:

Four million gallon aerated storage lagoon with four 5 hp jet aerators, 11,000 feet of 8- inch forcemain, one 75 hp pump rated at 450 gpm at 435 ft. of TDH and all appurtenances necessary to spray irrigate 5.3 million gallons per year of soy milk processing equipment wash water via a center pivot low pressure spray irrigation system at rates not to exceed the agronomic rates of the crop grown to leased property. *Id.*

The Agency further describes the facilities as being used for "purpose of preventing and eliminating pollutants which, if not treated, might be harmful, detrimental or offensive to human, plant or animal life, or to property." Rec. at 1. The Agency's recommendation identifies the location of the facilities as "NW 1/4 of Section 7, T28N, R9E of the 4th PM in Stephenson County." *Id.*

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 (2012)) with the primary purpose of eliminating, preventing, or reducing water pollution. Rec. at 2.

TAX CERTIFICATE

Based upon the Agency's recommendation and petitioner's application, the Board finds and certifies that petitioner's facilities identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2012)). 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 state 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 petitioner 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.* (2012)). *See* 35 ILCS 200/11-60 (2012).

¹ The Agency's recommendation is cited as "Rec. at _."

I, John Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 5, 2013, 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 at the end.

John T. Therriault, Clerk
Illinois Pollution Control Board