

ILLINOIS POLLUTION CONTROL BOARD
April 15, 2021

APPLEWOOD FARMS OF VIRGINIA, IL,)
LLC (Property Identification Number 05-012-)
011-01),)
)
Petitioner,)
) PCB 21-80
v.) (Tax Certification - Water)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (A. Palivos):

On December 28, 2020, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify specified facilities of Applewood Farms of Virginia, IL (Applewood Farms) as “pollution control facilities” for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2018); 35 Ill. Adm. Code 125. Applewood Farms’ livestock waste management facility is located at 31635 Lynn Road, in Oakford, Cass County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Applewood Farms’ identified facilities recommended for certification 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 (2018); *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 (2018); *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 (2018); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from Applewood Farms on December 28, 2020.¹ Rec. at 1. On March 26, 2021, the Agency filed a recommendation with the Board, attaching Applewood Farms' application (Rec. Exh. A). The Agency's recommendation identifies the facilities at issue:

Livestock waste management facilities consisting of eleven (11) concrete manure storage pits (approximately 10 ft. x 88 ft. x 4 ft. as E1, 8 ft. x 146 ft. x 4 ft. as E2, 20 ft. x 200 ft. x 4 ft. as E3, 48 ft. x 200 ft. x 2 ft. as E3A, 20 ft. x 200 ft. x 4 ft. as E4, 44 ft. x 200 ft. x 4 ft. as E4A, 44 ft. x 400 ft. x 4 ft. as E5, 50 ft. x 400 ft. x 2 ft. as E6, 16 ft. x 200 ft. x 2 ft. as E7, 52 ft. x 126 ft. x 4 ft. as E8, and 54 ft. x 292 ft. x 2 ft. as E9), two gutter channels (approximately 4 ft. x 200 ft. x 0.5 ft. each as E7 A and E8A), the concrete slatted portion of the floor over the pits and channels that capture and contain waste generated in the barns, three earthen lagoons with clay liners and 2.5:1 side slopes (approximately 152 ft. x 187 ft. x 10 ft. as L1, 329 ft. x 360 ft. x 10 ft. as L2, and 560 ft. x 350 ft. x 12 ft. as L3), and PVC sewer pipes (approximately 2,045 ft. x 10 in. total). *Id.* at 1.

The Agency further describes the facilities as “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 facilities recommended for certification are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2018)) with the “primary purpose of eliminating, preventing, or reducing water pollution...” Rec. at 2.

TAX CERTIFICATE

Based upon the Agency's recommendation, Applewood Farms' application, and the Board's technical review, the Board finds and certifies that Applewood Farms' facilities recommended for certification identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2018)). 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 (2018)). The Clerk therefore will provide Applewood Farms and the Agency with a copy of this order.

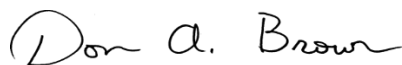
IT IS SO ORDERED.

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.* (2018)). *See* 35 ILCS 200/11-60 (2018). Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Appeal Filed with the Circuit Court	
Parties	Board
Applewood Farms of Virginia Attn: Gary Holloway 5793 IL Rte. 78 N Virginia, IL 62691 gary.applewood@gmail.com	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Illinois Environmental Protection Agency Attn: Amanda S. Kimmel 1021 North Grand Avenue East P.O. Box 19276 Springfield, IL 62794 Amanda.Kimmel@illinois.gov	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 15, 2021, by a vote of 3-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board