

ILLINOIS POLLUTION CONTROL BOARD
November 7, 2013

ENBRIDGE PIPELINES (SOUTHERN)
LIGHTS) LLC, (CONTAINMENT PIT)
LOCATED NEAR THE NORTH END OF)
THE FACILITY) PROPERTY ID NUMBER)
12-29-101-102-0000)
)
Petitioner,)
)
v.) PCB 14-29
) (Tax Certification - Water)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (D. Glosser):

On November 1, 2013, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify certain facilities of Enbridge Pipelines 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. Enbridge Pipeline’s facility is located at 15637 West Bruns Road, Manhattan, Will County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that petitioner’s identified containment pit 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 March 8, 2012.¹ Rec. at 1. On November 1, 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 as "a containment pit located near the north end of the facility." *Id.*

The Agency further describes the facility as being used for "the primary purpose of collecting and containing any leaked and/or spilled petroleum or petroleum products drained from the facility breakout tanks' secondary containment area and is further described in Exhibit A." Rec. at 1. The Agency's recommendation identifies the location of the facilities as "NW 1/4 of Section 29, T34N, R11E of the 3rd PM in Will 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 3.

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 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 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).

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 7, 2013, by a vote of 4-0.



John T. Therriault, Clerk

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

Illinois Pollution Control Board