

ILLINOIS POLLUTION CONTROL BOARD
October 6, 2022

WIN PRODUCTION, LLC. (Property)
Identification Number 05-35-400-002),)
)
Petitioner,)
)
v.) PCB 23-38
) (Tax Certification - Water)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)
)

ORDER OF THE BOARD (By A. Palivos):

On September 14, 2022, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify a specified facility of WIN Production, LLC. (WIN) as “pollution control facilities” for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2020); 35 Ill. Adm. Code 125. WIN’s livestock facility is located at 798 Witwer Rd., Winchester, Scott County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that WIN’s identified livestock waste management facility 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 (2020); *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 (2020); *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 (2020); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from WIN on December 30, 2019.¹ Rec. at 1. On September 14, 2022, the Agency filed a recommendation with the Board, attaching WIN’s application (Rec. Exh. A). The Agency’s recommendation identifies the facility at issue:

Livestock waste management facilities consisting of four (1) earthen holding ponds (approximately 135 ft. x 285 ft. x 12 ft. as E9, 120 ft. x 185 ft. x 12 ft. as E10, 100 ft. x 200 ft. x 12 ft. as E11, and 74 ft. x 154 ft. x 10 ft. as E12), seven (7) concrete pits (approximately 534 ft. x 77 ft. x 2 ft. as E1, 343 ft. x 82.5 ft. x 2 ft. as E2, 184 ft. x 32 ft. x 2 ft. as E6, 158 ft. x 39.5 ft. x 2 ft. as E7, 158 ft. x 39.5 ft. x 2 ft. as E8, 537 ft. x 156 ft. x 12 ft. as E14, and 340 ft. x 135 ft. x 8 ft. as E15) and the concrete slatted portion of the floor over the manure pits that capture and contain waste generated in the barns above, a total of eighteen (18) pumpout pits (approximately 5 ft. x 4 ft. x 11 ft. each) to allow manure removal from pit E14 and E15, PVC pipes (approximately 1,650 ft. x 8 in. total and 300 ft. x 4 in. total) and a concrete lift station (approximately 6 ft. x 6 ft. x 10 ft. as E13) that transfer manure from concrete manure pits to the earthen holding ponds, one (1) concrete roofed building (approximately 204 ft. x 36 ft. x 6 ft. as E3) for mortality compost, and perimeter drainage tiles (approximately 2,414 ft. x 4 in. corrugated perforated pipe and 555 ft. x 6 in. dual wall plastic pipe) located around the footing of the manure pit E14 and E15 to prevent flotation of the pits.. *Id.* at 1.

The Agency recommends that the Board certify that the livestock waste management facility is a pollution control facility as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2020)) with the “primary purpose of eliminating, preventing, or reducing water pollution.” Rec. at 2; *see also* Rec., Agency Technical Memorandum.

TAX CERTIFICATE

Based upon the Agency’s recommendation, WIN’s application, and the Board’s technical review, the Board finds and certifies that WIN’s livestock waste management facility identified in this order is a pollution control facility under the Property Tax Code (35 ILCS 200/11-10 (2020)). 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 (2020); *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 (2020)). The Clerk therefore will provide WIN and the Agency with a copy of this order.

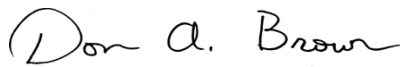
IT IS SO ORDERED.

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.* (2020)). *See* 35 ILCS 200/11-60 (2020). Within 35 days after receiving this final Board order, a party to this Board proceeding may file a motion asking the Board to reconsider or modify the order. 35 Ill. Adm. Code 101.520. Filing a motion to reconsider this final Board 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
WIN Production, LLC. 798 Witwer Rd. Winchester, IL 62694 Brian Bradshaw 44619 Co. HWY 2 Griggsville, IL 62340	Illinois Pollution Control Board Attn: Don A. Brown, Clerk 60 E. Van Buren St., Suite 630 Chicago, Illinois 60605
Joshua Leopold Assistant Counsel Illinois Environmental Protection Agency 1021 North Grand Avenue East P.O. Box 19276 Springfield, IL 62894-9276	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 6, 2022, by a vote of 5-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board