

ILLINOIS POLLUTION CONTROL BOARD
September 22, 20011

JMTR, LLC - ERIE, (Property Identification)	
Numbers 13-23-277-001, 13-23-400-005,)	
13-23-400-016, 13-23-400-011),)	
)	
Petitioner,)	
)	
v.)	PCB 12-47
)	(Tax Certification - Water)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by G. T. Girard):

On September 6, 2011, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify certain facilities of JMTR, LLC (JMTR) as “pollution control facilities” for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2010); 35 Ill. Adm. Code 125. JMTR’s livestock farm is located at 8571 Albany Road in Erie, Whiteside County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that JMTR’s livestock manure management facilities 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 (2010); *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 (2010); *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 (2010); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from JMTR on April 27, 2010.¹ Rec. at 1. On September 6, 2011, the Agency filed a recommendation on the application with the Board. The Agency's recommendation identifies the facilities at issue:

Property ID No. 13-23-277-001 Livestock waste management facilities consisting of four concrete manure pits with approximate dimensions as follows: (N1-5) 37 ft. x 8 ft. x 3 ft., (N6) 32 ft. x 22ft. x 3ft., (N7-8)64ft.x 8ft.x 8ft., (N9) 180 ft. 10 ft. x 8 ft., a 4 ft. x 8 ft .x 10 ft. manure reception pit, and the concrete slatted floors that overlay the concrete manure pits.

Property ID No. 13-23-400-005 Livestock waste management facility consisting of a concrete manure pit with approximate dimensions (M1-5) 260 ft. x 40 ft. x 8 ft., and the concrete slatted floors that overlay the concrete manure pit.

Property ID No. 13-23-400-011 Livestock waste management facility consisting of a concrete manure pit with approximate dimensions (M11-14) 384 ft. x 50 ft. x 8 ft., and the concrete slatted floors that overlay the concrete manure pits.

Property ID No. 13-23-400-016 Livestock waste management facility consisting of a concrete manure pit with approximate dimensions (M15 16) 388 ft. x 50 ft. x 8 ft., and the concrete slatted floors that overlay the concrete manure pits. *Id.* at 1-2.

The Agency's recommendation describes the facilities' function as collecting, transporting and/or storing livestock wastes prior to cropland application. Rec. at 2. The Agency's recommendation also identifies the location of the facilities: "Section 23, T20N. R3E of the 4th PM, in the Township of Newton in Whiteside County." *Id.* at 1.

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 (2010)) with the primary purpose of eliminating, preventing, or reducing water pollution. Rec. at 4.

TAX CERTIFICATE

Based on the Agency's recommendation and JMTR's application, the Board finds and certifies that JMTR's facilities identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2010)). 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 (2010); *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*

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

Board's findings and certificate, if any." 35 Ill. Adm. Code 125.216(d) (quoting in italics 35 ILCS 200/11-30 (2010)). The Clerk therefore will provide JMTR and the Agency with a copy of this order.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2010); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 22, 2011, by a vote of 5-0.

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 Therriault, Assistant Clerk
Illinois Pollution Control Board