

ILLINOIS POLLUTION CONTROL BOARD
April 30, 2019

JEFF & SHEILA KOESTER (Property)
Identification Number 08-000-005-00),)
)
Petitioners,)
)
v.) PCB 19-98
) (Tax Certification – Water)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

HEARING OFFICER ORDER

On April 11, 2019, the Illinois Environmental Protection Agency (IEPA or Agency) filed a recommendation (Rec.) that the Board certify certain facilities of Jeff & Sheila Koester (Koesters) as “pollution control facilities” under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2016); 35 Ill. Adm. Code 125. The Koesters’ livestock facility is located at 5405 North Mill Creek Road in Scales Mound, Jo Daviess County. As discussed in this order, IEPA is directed to file a revised recommendation by May 30, 2019.

The Board’s procedural rules provide that, “[i]f the Agency receives a tax certification application . . . , the Agency must file a recommendation on the application with the Clerk unless the applicant withdraws the application. The Agency’s filing must . . . [r]ecommend that the Board issue or deny tax certification; and [s]et forth the Agency’s reasoning for the recommendation.” 35 Ill. Adm. Code 125.204(a).

IEPA received an application for tax certification from the Koesters on March 20, 2018. Rec. at 1. The application requested certification only for a manure storage structure. Rec. Exh. A at 5 (IEPA Review Notes). It “did not include a process/pollutant flow diagram,” which IEPA requested on June 27, 2018. *Id.* at 4 (IEPA memorandum). When IEPA requested this diagram, it raised the possibility of seeking certification of other facilities “such as concrete scrape alleys and waste piping,” but IEPA explained “that building walls and roof were not eligible.” *Id.*

The Koesters submitted supplemental information on December 24, 2018. Rec. Exh. A at 5, 6-8 (Application for Certification). The supplemental information describes the facility as including “Concrete lined manures storage structure 100’ x 100’ x 8’10” D[;] Dairy Parlor & Utility Room 40’ x 50’ and Milk House 12’ x 20’[;] Free Stall Barn 66’ x 184’[; and] Outside Scrape Alley 40’ x 40’”. *Id.* at 7. The record indicates that IEPA contacted the Koesters to advise them that it could not approve certification of structures such as building walls and roofs. *Id.* at 5. IEPA review notes state that “it is understood these items were not requested.” *Id.*

IEPA recommended that the Board certify specific facilities. Rec. at 1-2. However, the Koesters’ application includes additional facilities: “[t]he walls and roofs of the freestall barns

and; [t]he solid concrete floors within the freestall barns.” Rec. Exh. A at 2. For these additional facilities, IEPA states that “[d]enials are not necessary because phone discussion notes indicate the application of PCF [pollution control facility] definition excludes most of the structures that make up the buildings.” *Id.* at 4.

The record, however, does not include any documentation from the Koesters withdrawing these additional facilities from their application. The Board notes that the Koesters may only “contest an Agency recommendation that the Board deny tax certification. . . .” 35 Ill. Adm. Code 125.206(a).

The Koesters’ December 2018 application and IEPA’s recommendation are not consistent with one another. IEPA has not recommended that the Board grant or deny certification of all the facilities in the application. *See* 35 Ill. Adm. Code 125.204(a)(4). The hearing officer directs IEPA to file, by Thursday, May 30, 2019, a revised recommendation addressing facilities that it did not include in its April 11, 2019 recommendation.

IT IS SO ORDERED.



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Hearing Officer
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CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed and e-mailed, on April 30, 2019, to each of the persons on the service list below.

It is hereby certified that a true copy of the foregoing order was e-mailed to the following on April 30, 2019:

Don Brown
Illinois Pollution Control Board
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