

ILLINOIS POLLUTION CONTROL BOARD
June 18, 2020

JOLIET BULK, BARGE & RAIL, LLC)	
(Property Identification Number 07-29-304-)	
004-0000))	
)	
Petitioner,)	
)	
v.)	PCB 20-83
)	(Tax Certification - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by B.K. Carter):

On May 29, 2020, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify a specified facility of Joliet Bulk, Barge & Rail, LLC (JBB&R), as a “pollution control facility” for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2018); 35 Ill. Adm. Code 125. JBB&R’s internal floating roof in tank no. 1 of its petroleum terminal and storage facility is located at 1035 Laraway Road in Joliet, Will County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that JBB&R’s identified internal floating roof 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 (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 JBB&R, on November 13, 2019.¹ Rec. at 1. On May 29, 2020, the Agency filed a recommendation with the Board, attaching JBB&R's application (Rec. Exh. A). The Agency's recommendation identifies and describes the facility at issue:

The subject matter of this request consists of an Internal Floating Roof installed to Tank No. 1 of the petroleum terminal and storage facility. The tank stores petroleum products and possesses a storage capacity of 150,000 barrels. The installation of the internal floating roof serves to protect and retain product in storage tanks. However, the nature of the floating roof system also results in the reduction in hydrocarbon emissions from the affected storage tank, as the system is allowed to rise and fall with the level of liquids inside the tank and thereby reduce the volume of vapor space. In doing so, the installation of the system acts to reduce or prevent the release of hydrocarbon emissions (i.e., volatile organic materials) from the storage tank. *Id.* at 2.

The Agency recommends that the Board certify that the internal floating roof is a pollution control facility 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 air pollution." *Id.*; *see also* Rec. Exh. B (Agency technical memorandum).

TAX CERTIFICATE

Based upon the Agency's recommendation, JBB&R's application, and the Board's technical review, the Board finds and certifies that JBB&R's internal floating roof identified in this order is a pollution control facility under the Property Tax Code (35 ILCS 200/11-10 (2018)). The Board makes no finding regarding the assessed value of that facility. 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 JBB&R, and the Agency with a copy of this order.

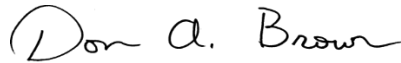
IT IS SO ORDERED.

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.* (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.

¹ The Agency's recommendation is cited as "Rec. at 2-3."

Names and Addresses for Receiving Service of Any Appeal Filed with the Circuit Court	
Parties	Board
Joliet Bulk, Barge & Rail, LLC Attn: Katherine Tronsberg Macciocca 2000 Market Street, Suite 2700 Philadelphia, PA 19103 Kathryn.Tronsberg@duffandphelps.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: Robb H. Layman 1021 North Grand Avenue East Springfield, IL 62794-9276 robb.layman@illinois.gov	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 18, 2020, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board