

ILLINOIS POLLUTION CONTROL BOARD  
July 16, 2020

KUNTZ BY-PRODUCTS, LLC-CHENOA	)	
(Property Identification Number 03-05-400-	)	
001),	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 20-97
	)	(Tax Certification – Water)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by B.F. Currie):

On June 26, 2020, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify specified facilities of Kuntz By-Products, LLC (Kuntz), as “pollution control facilities” for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2018); 35 Ill. Adm. Code 125. Kuntz’s facilities are located at 31258 North 2550 East Road in Chenoa, McLean County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Kuntz’s identified facilities for management of wastes from processing of bakery waste and production of swine feed 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 (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 Kuntz on March 23, 2020.<sup>1</sup> Rec. at 1. On June 26, 2020, the Agency filed a recommendation with the Board, attaching Kuntz’s application (Rec. Exh. A). The Agency’s recommendation identifies the facilities at issue:

Livestock waste management facilities consisting of one concrete waste water storage pit (approximately 150 ft. dia. x 10 ft. deep). *Id* at 1.

The Agency further describes the facilities as being “used to collect, transport, and/or store livestock waste prior to cropland application.” *Id*.

The Agency recommends that the Board certify that the livestock waste management facilities are pollution control facilities 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 water pollution.” Rec. at 2; *see also* Rec., Agency Technical Memorandum.

### TAX CERTIFICATE

The Agency’s recommendation describes the facility as a “livestock waste management facility” used to collect, transport, and/or store livestock waste prior to cropland application Rec. at 1. However, the tax certification application describes the facility as a “wastewater storage pit” used to collect and store wastewater from the processing of bakery waste and production of swine feed prior to cropland application. Pet. at 11. Either way, the Board notes that the primary purpose of the Kuntz’s facility remains the same, i.e., to eliminate, prevent, or reduce water pollution.

Based upon the Agency’s recommendation, Kuntz’s application, and the Board’s technical review, the Board finds and certifies that Kuntz’s waste management facilities identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2018)). 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, whichever is later.” 35 ILCS 200/11-25 (2018); *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 Kuntz 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

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<sup>1</sup> The Agency’s recommendation is cited as “Rec. at \_.”

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.

<b>Names and Addresses for Receiving Service of Any Appeal Filed with the Circuit Court</b>	
<b>Parties</b>	<b>Board</b>
Kuntz By-Products, LLC-Chenoa Attn: Rollyn Kuntz 25055 East 3100 North Road Chenoa, Illinois 61726	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: Amanda S. Kimmel 1021 North Grand Avenue East Springfield, Illinois 62794-9276 <a href="mailto:Amanda.Kimmel@illinois.gov">Amanda.Kimmel@illinois.gov</a>	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 16, 2020, by a vote of \_\_\_\_\_.

\_\_\_\_\_  
Don A. Brown, Clerk  
Illinois Pollution Control Board