

ILLINOIS POLLUTION CONTROL BOARD  
August 25, 2022

47 FINISH LLC (Property Identification )  
Number 29-29-15-400-010), )  
 )  
Petitioner, )  
 )  
v. ) PCB 23-30  
 ) (Tax Certification - Water)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

ORDER OF THE BOARD (By A. Palivos):

On August 18, 2022, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify specified facilities of 47 Finish LLC (47 Finish) 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. 47 Finish’s livestock facilities are located at 41583 E. 2300 N. Road, Cropsey, Livingston County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that 47 Finish’s identified livestock waste handling 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 (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 47 Finish on June 21, 2021.<sup>1</sup> Rec. at 1. On August 18, 2022, the Agency filed a recommendation with the Board, attaching 47 Finish’s application (Rec. Exh. A). The Agency’s recommendation identifies the facilities at issue:

One (1) concrete livestock waste (finishing barn) pit measuring 256 ft. (length) x 122.5 ft. (width) x 10 ft. (depth) with 8 concrete pump out pits approximately 6 ft. (length) x 6 ft. (width) x 10 ft. (depth) and approximately 854 linear feet of 6-inch Form-a-Drain perimeter drain tile and approximately 30,720 sq. ft. of concrete slatted flooring over this manure pit.

One (1) concrete livestock waste (finishing barn) pit measuring 74 ft. (length) x 72 ft. (width) x 2 ft. (depth) and approximately 5,328 sq. ft. of concrete slatted flooring over this manure pit.

Three (3) concrete livestock waste (finishing barn) pits measuring 73 ft. (length) x 30 ft. (width) x 2 ft. (depth) and approximately 2,160 sq. ft. of concrete slatted flooring over this manure pit.<sup>2</sup>

One (1) concrete livestock waste (reception) pit measuring 21 ft. (length) x 17 ft. (width) x 9 ft. (depth) and approximately 75 linear feet of 6-inch diameter SDR21 drain pipe for connection with the 10 ft. deep pit and approximately 200 linear feet of SCH40 PVC drain pipe for connection with the shallow finishing barn pits. *Id.* at 1.

The Agency recommends that the Board certify that the livestock waste handling facilities are pollution control facilities 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, 47 Finish’s application, and the Board’s technical review, the Board finds and certifies that 47 Finish’s livestock waste handling 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.

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

<sup>2</sup> Regarding the concrete slatted floor over the three concrete pits measuring approximately 73 ft. x 30 ft. x 2 ft. each, IEPA’s recommendation specifies, “approximately 2,160 sq. ft. of concrete slatted flooring over *this* manure pit.” Rec. at 1 (Emphasis added). It appears that by “this,” IEPA means the 2,160 sq. ft. of concrete slatted flooring over each of the three pits, totaling 6,480 sq. ft. The information in the petitioner’s application indicates all finisher barn pits are identical with concrete slat floors. Pet. at 4, 6. Accordingly, the Board grants this certification to include the concrete slatted floor over all three manure pits (measuring 2,160 sq. ft. each) to correct a possible typo in the Agency’s recommendation.


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 47 Finish 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.* (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.

<b>Names and Addresses for Receiving Service of Any Appeal Filed with the Circuit Court</b>	
<b>Parties</b>	<b>Board</b>
Ron Mueller, Jr. 47 Finish LLC 41583 E. 2300 N. Road Cropsey, Illinois 61731	Illinois Pollution Control Board Attn: Don A. Brown, Clerk 60 E. Van Buren St., Suite 630 Chicago, Illinois 60605
Gabriel H. Neibergall Assistant Counsel Illinois Environmental Protection Agency 1021 North Grand Avenue East P.O. Box 19276 Springfield, Illinois 62794-9276	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 25, 2022, by a vote of 5-0.



Don A. Brown, Clerk  
Illinois Pollution Control Board