

ILLINOIS POLLUTION CONTROL BOARD

November 21, 2024

WABASH VALLEY SERVICE COMPANY -)	
BROWNS (Property Identification Number 09-))	
33-300-037),)	
)	
Petitioner,)	
)	
v.)	PCB 25-22
)	(Tax Certification - Water)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (J. A. Van Wie):

On November 6, 2024, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify specified facilities of Wabash Valley Service Company - Browns (WVSC) as “pollution control facilities” for preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2022); 35 Ill. Adm. Code 125. WVSC’s agrichemical facility is located at 917 Illinois State Route 15 in Browns, Edwards County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that WVSC’s identified agrichemical containment structures 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 (2022); *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 (2022); *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 (2022); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from WVSC on November 20, 2023.¹ Rec. at 1. On November 6, 2024, the Agency filed a recommendation with the Board, attaching WVSC's application (Rec. Exh. A). The Agency's recommendation identifies the facilities at issue:

Two (2) bulk dry fertilizer storage domes. One (1) dome measuring 61 ft. diameter with an estimated storage capacity of 1,500 tons and One (1) dome measuring 61' (diameter) with an estimated storage capacity of 1,800 tons. Constructed of 12 ft. (height) x 12" (thick) reinforced concrete walls and 6" (thick) asphalt floors. *Id.*

The Agency notes that WVSC previously applied for tax certification for facilities including the bulk dry fertilizer storage domes. Rec. at 1, citing Wabash Valley Service Co. v. IEPA, PCB 18-65 (Mar. 6, 2018). The Agency reports that WVSC withdrew the request regarding the domes "based on the understanding that the primary purpose of the structures were storage and to protect product quality." *Id.* In its current recommendation, however, the Agency cites Department of Agriculture rules requiring that "[n]onliquid fertilizers shall be stored inside a sound structure or device having a cover or rooftop, sidewalls and base sufficient to prevent contact with precipitation and surface waters." Rec. at 1-2, citing 8 Ill. Adm. Code 255.140(b).

The Agency states that it "has now determined that the dry fertilizer storage domes are agrichemical facilities used to collect, store, and/or prevent the commingling of precipitation with dry fertilizer prior to use . . . and prevent stormwater runoff from agrichemical affected areas." Rec. at 2.

The Agency recommends that the Board certify that the agrichemical facilities are pollution control facilities] as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2022)) with the "primary purpose of eliminating, preventing, or reducing water pollution." Rec. at 2; *see also* Rec., Agency Memorandum and application).

TAX CERTIFICATE

Based upon the Agency's recommendation, WVSC's application, and the Board's technical review, the Board finds and certifies that WVSC's agrichemical facilities identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2022)). 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, which ever is later." 35 ILCS 200/11-25 (2022); *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 (2022)). The Clerk therefore will provide WVSC and the Agency with a copy of this order.

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

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.* (2022)). *See* 35 ILCS 200/11-60 (2022). 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.

Names and Addresses for Receiving Service of Any Appeal Filed with the Circuit Court	
Parties	Board
Wabash Valley Service Company - Browns Attn.: Kent Ochs 909 North Court Street Grayville, Illinois 62884 kentochs@wabashvalleyfs.com	Illinois Pollution Control Board Attn.: Don A. Brown, Clerk 60 East Van Buren Street, Suite 630 Chicago, Illinois 60601 don.brown@illinois.gov
Illinois Environmental Protection Agency Attn.: Amanda Kimmel, Assistant Counsel 1021 North Grand Avenue East Springfield, Illinois 62794-9276	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 21, 2024, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board