

ILLINOIS POLLUTION CONTROL BOARD
February 6, 2020

FRANKENREIDER BEEF FACILITY -)	
ANNAWAN (Property Identification Number)	
10-22-200-001),)	
)	
Petitioner,)	
)	PCB 2020-35
v.)	(Tax Certification- Water)
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On December 13, 2019, the Illinois Environmental Protection Agency (IEPA) filed a recommendation that the Board certify certain facilities of Frankenreider Beef Facility – Annawan (Frankenreider) 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 125.¹ The Agency also recommends that the Board deny certification of other Frankenreider facilities as pollution control facilities. The Frankenreider Beef Facility is located at 27726 N 2050 Avenue in Annawan, Henry County. Rec. at 3.

On December 19, 2019, the Board entered an order notifying Frankenreider that it had 35 days from service of the Agency’s recommendation to contest the recommended denial. *See* 35 Ill. Adm. Code 125.206(a), 125.216(c). Frankenreider did not timely file a petition to contest IEPA’s recommended denial.

In this order, the Board describes the legal framework for tax certification, discusses the Agency’s recommendation, certifies facilities as recommended by the Agency and the Board’s technical review, and denies certification of other facilities as recommended by the Agency and the Board’s technical review.

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.

¹ The Agency’s recommendation is cited as “Rec. at 3.”

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 Frankenreider on September 3, 2019. Rec. 1. On December 13, 2019, the Agency filed its recommendation that the Board certify the following facilities as pollution control facilities:

One (1) concrete livestock waste pit measuring 448 ft. (length) x 64 ft. (width) x 14 ft. (depth) with 7 concrete pump out pits approximately 6 ft. (length) x 6 ft. (width) x 14.66 ft. (depth) and the total area of concrete slatted flooring over the entire manure pit.

One (1) concrete slab measuring 99 ft. (length) x 52 ft. (width) with 14 inch curbing along the north, south and east sides used for livestock operations such as reception processing and ambulatory care. *Id.* at 2-3.

The Agency describes these facilities as being "used to collect, transport, and/or store livestock waste prior to cropland application." *Id.* at 2. The Agency recommends that the board certify these 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." *Id.*

The Agency also recommends that the Board deny certification for this facility:

The 501 ft. (length) x 99 ft. (width) mono-slope style roof structure consisting of steel frame trusses, beams and support walls and concrete columns.

According to the Agency, the primary purpose of this portion of the facility is "not pollution control" but rather "to provide an area for feeding animals, keeping animals clean, sheltering animals from outside weather conditions, reduce bedding needs." *Id.* at 3, citing *Beef Housing & Equipment Handbook*, Third Ed., Midwest Plan Service (Apr/ 1979).

TAX CERTIFICATE

Based upon the Agency’s recommendation, Frankreider’s application, and the Board’s technical review, the Board finds and certifies that Frankenreider’s facilities recommended by the Agency for certification and 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, which ever is later.” 35 ILCS 200/11-25 (2016); *see also* 35 Ill. Adm. Code 125.216(a).

The Board did not receive a timely petition to contest the Agency’s recommended denial of certification for the other Frankenreider facility identified in this order. Based upon the Agency’s recommendation, Frankenreider’s application, and the Board’s technical review, the Board denies certification of that facility as a pollution control facility.

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 Frankenreider and the Agency with a copy of this order.

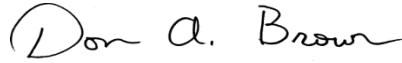
IT IS SO ORDERED.

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.

Names and Addresses for Receiving Service of Any Appeal Filed with the Circuit Court	
Parties	Board
Frankenreider Beef Facility Shannon Frankenreider 21301 IL HWY 78 Annawan, Illinois 61234 sjfrankenreider@yahoo.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 Jacob H. Smith 1021 North Grand Ave. E. Springfield, Illinois 62794-9276	
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I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 6, 2020 by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board