

ILLINOIS POLLUTION CONTROL BOARD

November 21, 2024

MARK BANWART - CONGERVILLE)	
(Property Identification Number 15-02-400-)	
002),)	
)	
Petitioner,)	
)	
v.)	PCB 25-23
)	(Tax Certification - Water)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On November 6, 2024, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify specified facilities of Mark Banwart – Congerville (Banwart) 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. Banwart’s livestock facility is located at 2500 East Highway 24 in Congerville, Woodford County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Banwart’s identified livestock waste management 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 Banwart on March 14, 2024.¹ Rec. at 1. On November 6, 2024, the Agency filed a recommendation with the Board, attaching Banwart’s application (Rec. Exh. A). The Agency’s recommendation identifies the facilities at issue:

[o]ne (1) concrete livestock waste pit measuring 201 ft. (length) x 101 ft. 8 in. (width) x 8 ft. (depth) with four (4) 6 ft. (length) x 6 ft. (width) x 8 ft. 10 in. (depth) concrete pump out pits. Approximately 20,433 sq. ft. of concrete slatted flooring covering the entire manure pit. One hundred forty-four (144) 12 in. (diameter) x 7 ft. 2 in. tall concrete columns to hold up 12 ft. (length) x 10 in. (width) x 8 in. (depth) concrete beams. The one hundred forty-four (144) concrete columns sit on top of 36 in. (length) x 36 in. (width) x 10 in. (depth) concrete footings. The below ground portion of the partition wall that supports the concrete slatted flooring measuring approximately 201 ft. (length) x 10 in. (width) x 8.4 ft. (height). Pit floor is 5 in. thick concrete. Pit is surrounded by approximately 653 linear feet of 6 in. perimeter drain tile (Form-A-Drain). *Id.*

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 (2022)) with “the primary purpose of eliminating, preventing, or reducing water pollution.” Rec. at 2 *see also* Rec. Exh. A (Agency memorandum and recommendation).

TAX CERTIFICATE

Based upon the Agency’s recommendation, Banwart’s application, and the Board’s technical review, the Board finds and certifies that Banwart’s livestock waste management 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 Banwart 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

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

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
Mark Banwart 207 Reaba Avenue Congerville, Illinois 61729	Illinois Pollution Control Board Attn.: Don A. Brown, Clerk 60 East Van Buren Street, Suite 630 Chicago, Illinois 60605 don.brown@illinois.gov
Illinois Environmental Protection Agency Attn.: Joshua Leopold, 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