

ILLINOIS POLLUTION CONTROL BOARD

April 7, 2005

ARTHUR KELLER-WILLOW HILL)	
(Livestock Waste Management Facilities)	
(Property Identification Number)	
94-15-18-300-007)),)	
)	
Petitioner,)	
)	
v.)	PCB 05-179
)	(Tax Certification - Water)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J.P. Novak):

On March 17, 2005, the Illinois Environmental Protection Agency (Agency) recommended that the Board certify certain facilities of Arthur Keller as “pollution control facilities” for preferential tax treatment under the Property Tax Code (35 ILCS 200/11-5 *et seq.* (2002)). The facilities are livestock waste management facilities at Arthur Keller’s swine facility in Willow Hill, Jasper County. But, in the same filing, the Agency recommended denial of tax certification to certain dead animal compost bin facilities. The Agency filed the recommendation under Part 125 of the Board’s procedural rules (35 Ill. Adm. Code 125).

In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Arthur Keller’s facilities are pollution control facilities. The Board grants certification to the livestock waste management facilities. The Board takes no action today on the negative recommendation as to the dead animal compost bin facilities, since Arthur Keller may file a petition to contest it on or before April 24, 2005, which is 35 days from the presumed date of service on Arthur Keller. *See* 35 Ill. Adm. Code 101.300(c) and 125.204(b).

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 (2002); *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 (2002); *see also* 35 Ill. Adm. Code 125.200(a).

Under Section 125.202 of the Board’s procedural rules, a person may submit an application for tax certification to the Agency. 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. 35 Ill. Adm. Code 125.204(a). Among other things, the Agency's filing must recommend that the Board issue or deny tax certification. 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 (2002); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from Arthur Keller for its swine facilities on December 26, 2001. Agency Rec. at 1. On March 17, 2005, the Agency filed a recommendation on the application with the Board. The Agency's recommendation identifies the facilities at issue:

1. Swine Building 1: two concrete manure pits (each 6 ft. x 150 ft. x 6 inches deep) and one concrete manure collection pit (1 ft. x 24 ft. x 2 ft. deep) with the slotted Wire and plastic portion of the floor over the manure pits, one 6 ft. stainless steel manure scraper on a gear driven cable system, and one gravity drain;
2. Swine Building 2: one concrete manure pit (32 ft. x 112.67 ft. x 6 ft. deep) with the slotted concrete portion of the floor over the manure pit;
3. Swine Building 3: one concrete manure pit (10 ft. x 120 ft. x 0.5 ft. deep) with one pull plug drain;
4. Swine Building 4: two concrete manure pits (each 10 ft. x 220 ft. x 2 ft. deep) with two 10 ft. stainless steel manure scrapers and the slotted concrete portion of the floor over the manure pits;
5. Swine Building 5: one concrete manure pit (41 ft. x 204 ft. x 8 ft. deep) with the slotted concrete portion of the floor over the manure pit located in one swine building;
6. Swine Building 6: two concrete manure pits (each 7 ft. x 60 ft. x 2 ft. deep) with two pull plug drains and the slotted wire and plastic portion of the floor over the manure pits;
7. Swine Building 7: one concrete manure pit (17 ft. x 50ft. x 0.667 ft. deep) with one pull plug, one concrete trench in the bottom of the manure pit (1 ft. x 50 ft. x 2 ft. deep), and the slotted wire and plastic portion of the floor over the manure pit;
8. Swine Building 8: two concrete manure pits (each 50 ft. x 5 ft. x 4 ft. deep) connected to one concrete manure pit (28 ft. x 6 ft. x 5 ft. deep) and five concrete manure pits (each 7 ft. x 25 ft. x 8 inches deep) with five pull plug drains and the

slotted wire and plastic portion of the floor over the five manure pits located in one swine building;

9. Facility 9: one concrete manure reception pit (3 ft. diameter x 6 ft. deep) with one 1.5-HP pump;
10. Swine Building 10 and 11: five concrete manure pits (each 41 ft. x 41 ft. x 2 ft. deep) with 10 pull plug drains and the slotted concrete portion of the floor over the manure pits located in each of two swine buildings;
11. Swine Building 12: four concrete manure pits (each 7 ft. x 80 ft. x 2 ft. deep) with 4 pull plug drains and the slotted plastic and cast iron portion of the floor over the manure pits;
12. Swine Building 13 and 14: four concrete manure pits (each 7 ft. x 100 ft. x 2 ft. deep) with four pull plug drains and the slotted plastic and cast iron portion of the floor over the manure pits located in each of two swine buildings;
13. Swine Building 15: one concrete manure pit (32 ft. x 112 ft. x 6 ft. deep) with one pull plug drain and the slotted concrete portion of the floor over the manure pit;
14. Swine Building 16: one concrete manure pit (10 ft. x 200 ft. x 2 ft. deep) with one pull plug drain and the slotted concrete portion of the floor over the manure pit;
15. Facility 17: one concrete manure storage tank (36 ft. diameter x 16 ft. deep);
16. Swine Building 18: five concrete manure pits (each 22.4 ft. x 60 ft. x 2 ft. deep) with 5 pull plug drains and the slotted steel rod portion of the floor over the manure pits;
17. Facility 19: one concrete manure storage tank (100 ft. diameter x 8 ft. deep);
18. Facility 22: one earthen lined lagoon (150 ft x 250 ft. x 14 ft. deep); and
19. Approximately 40 feet of 12-inch diameter PVC manure transfer pipe;
approximately 580 feet of 10-inch diameter PVC manure transfer pipe;
approximately 800 feet of 8-inch diameter PVC manure transfer pipe, and
approximately 320 feet of 4-inch diameter PVC manure transfer pipe. Agency Rec. at 2-3

The dead animal compost bin (24 ft. x 60 ft.). Agency Rec. at 3.

The Agency's recommendation also identifies the location of the facilities: Section 18, Township 6 North, Range 14 West of the Second Principal Meridian, in Jasper County. *Id.* at 1.

The Agency makes separate recommendations relating to the two separate sets of facilities:

Livestock waste management facilities: The Agency recommends that the Board certify that the identified facilities are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2002)) because the primary purpose of the facilities is eliminating, preventing, or reducing water pollution. Agency Rec. at 4.

Dead animal compost bin facilities: The Agency recommends that the Board deny certification that the identified facilities are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2002)). Agency Rec. at 4. Arthur Keller has 35 days from when it was served with a copy of the Agency's recommendation to contest that recommendation to the Board. 35 Ill. Adm. Code 125.206. Any petition for review must be filed on or before April 24, 2005, which is 35 days from the presumed date of service on Arthur Keller. After that, the Board will determine what further actions may be appropriate.

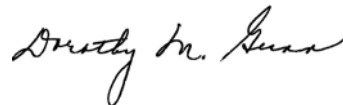
TAX CERTIFICATE

Livestock Waste Management Facilities

The Board finds and certifies that Arthur Keller's facilities identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2002)). 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 (2002); *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 (2002)). The Clerk therefore will provide Arthur Keller and the Agency with a copy of this order.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 7, 2005, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board