

ILLINOIS POLLUTION CONTROL BOARD

June 21, 2018

WABASH VALLEY SERVICE CO.	)	
(Property Identification Number	)	
05-1-34-161-07),	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 18-81
	)	(Tax Certification - Water)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (C.K. Zalewski):

On June 11, 2018, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify certain facilities of Wabash Valley Service Company (Wabash Valley) as pollution control facilities for preferential tax treatment under the Property Tax Code. See 35 ILCS 200/11-5 et seq. (2016); 35 Ill. Adm. Code 125. Wabash Valley’s agrichemical and fertilizer mixing and storing facility is located at 1725 US Highway 45 in Cisne, Wayne County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Wabash Valley’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 (2016); 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 (2016); 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 apply 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 (2016); see also 35 Ill. Adm. Code 125.216(a).

### AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from Wabash Valley on September 5, 2017.<sup>1</sup> Rec. at 1. The Agency filed a recommendation with the Board, attaching Wabash Valley's application (Rec. Exh. A), on June 11, 2018. The Agency's recommendation identifies the facilities at issue:

Agrichemical containment structures consisting of one dry fertilizer operational containment structure (greatest dimensions 58 ft. x 192.5 ft.); one dry fertilizer operational containment structure (14 ft. x 32.33 ft.); one dry fertilizer operational containment structure (17 ft. x 17 ft [sic]); one dry fertilizer operational containment structure (12 ft. x 30.92 ft.); one dry fertilizer operational containment structure (greatest dimensions 48.58 ft. x 60 ft.); one dry fertilizer blending operational containment structure (12.83 [ft.] x 94 ft.); and the portion of the building over the operational containment structures as approved under the Agency endorsed Agrichemical Facility Permit No. 93032063 (Log No. 16011887 issued on February 23, 2016). *Id.* at 1-2.

The Agency further describes the facilities: "These facilities collect and store agrichemical rinsates, residues, or washwaters prior to reuse or disposal, and are further described in Exhibit A." *Id.* at 2.

The Agency recommends that the Board certify that the agrichemical containment structures are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2016)) with the "primary purpose of eliminating, preventing, or reducing water pollution." Rec. at 2; *see also* Rec. Exh. A (Agency technical memorandum).

### TAX CERTIFICATE

Based upon the Agency's recommendation, Wabash Valley's application, and the Board's technical review, the Board finds and certifies that Wabash Valley's agrichemical containment structures identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2016)). 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). 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 (2016)). The Clerk therefore will provide Wabash Valley 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


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<sup>1</sup> 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.* (2016)). *See* 35 ILCS 200/11-60 (2016). 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.

<b>Names and Addresses for Receiving Service of Any Appeal Filed with the Circuit Court</b>	
<b>Parties</b>	<b>Board</b>
Wabash Valley Services Company Attn: Ken Ochs 909 N. Court Street Grayville, Illinois 62844 kentochs@wabashvalleyfs.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 Attn: Christine M. Zeivel 1021 North Grand Avenue East Springfield, Illinois 62794 Christine.Zeivel@Illinois.Gov	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 21, 2018, by a vote of 5-0.



Don A. Brown, Clerk  
 Illinois Pollution Control Board