

ILLINOIS POLLUTION CONTROL BOARD
February 28, 2019

RON MUELLER, JR.)	
(Property Identification Number)	
08-05-19-400-002),)	
)	
Petitioner,)	
)	
v.)	PCB 19-88
)	(Tax Certification - Water)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On February 20, 2019, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify certain facilities of Ron Mueller, Jr. 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. Mr. Mueller’s livestock waste management facilities are located at 41583 East 2300 North Road in Cropsey, Ford County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Mr. Mueller’s identified livestock waste management facilities 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 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 (2016); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from Mr. Mueller on February 9, 2019.¹ Rec. at 1.² On February 20, 2019, the Agency filed a recommendation with the Board, attaching Mr. Mueller's application. (Exh. A). The Agency's recommendation identifies the facilities at issue:

Two (2) concrete breeding/gestation barn manure pits (approximately 200 ft. x 102 ft. x 8 ft. each) with 6 concrete pumpout pits (approximately 6 ft. x 6 ft. x 8 ft. deep), approximately 20,400 square ft. of precast concrete slat flooring over the manure pits and 676 linear feet of 4 inch diameter perforated perimeter drainage tile;

One (1) concrete breeding/gestation barn manure pit (approximately 241 ft. x 163 ft. x 8 ft.) with 8 concrete pumpout pits (approximately 6 ft. x 6 ft. x 8 ft. deep), approximately 38,880 square ft. of precast concrete slat flooring over the manure pit and 904 linear feet of 4 inch diameter perforated perimeter drainage tile;

One (1) concrete cattle finishing barn manure pit (approximately 121 ft. x 50 ft. x 8 ft. deep) with 2 concrete pumpout pits (approximately 6 ft. x 6 ft. x 8 ft. deep), approximately 5,760 square ft. of precast concrete slat flooring over the manure pit and 366 linear feet of 6 inch "Form-a-Drain" perimeter drainage tile;³ and

Sixty (60) concrete swine farrowing barn manure sumps (approximately 7.5 ft. x 70 ft. x 2 ft. each), the plastic slatted floor over the pits and the concrete guttering and 825 linear feet of 8 inch diameter SDR35 pipe that drains all livestock waste sumps to the breeding/gestation deep pits. Rec at 1-2.

The Agency further describes the facilities as: "used to collect, transport, and/or store livestock waste prior to cropland application." *Id.* at 2.

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 (2016)) with the "primary purpose of eliminating, preventing, or reducing water pollution." Rec. at 3; *see also* Exh. A at 2 (Agency technical memorandum).

¹ The Agency recommendation and attached exhibit reflect Agency receipt of Mr. Mueller's application on February 9, 2018. The Board assumes the year listed is a clerical error.

² The Agency's recommendation is cited as "Rec. at _."

³ The Agency's recommendation does not accurately reflect the length and type of the cattle pit's perimeter drainage tile. The recommendation provides, "676 linear feet of 4 inch diameter perforated perimeter drainage tile." Rec. at 2. However, Mr. Mueller's application lists 366 linear feet of 6-inch "Form-a-Drain" perimeter drainage tile. *See* Exh. A at 9. The drainage tile length of 366 feet is consistent with the perimeter of the manure pit (approx. 342 feet). The Board's technical review and today's order certifying the cattle pit as a "pollution control facility" is based on the information provided in Mr. Mueller's application.

TAX CERTIFICATE

Based upon the Agency's recommendation, Mr. Mueller's application, and the Board's technical review, the Board finds and certifies that Mr. Mueller's livestock waste management facilities 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 Mr. Mueller 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.* (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.

Names and Addresses for Receiving Service of Any Appeal Filed with the Circuit Court	
Parties	Board
Ron Mueller, Jr. 41583 East 2300 North Road Cropsey, Illinois 61731	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: Jacob H. Smith 1021 North Grand Avenue East P.O. Box 19276 Springfield, Illinois 62794-9276	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 28, 2019, by a vote of 5-0.



Don A. Brown, Clerk
Illinois Pollution Control Board