

ILLINOIS POLLUTION CONTROL BOARD
May 3, 2001

HOG HAVEN L.L.C.,)	
)	
Petitioner,)	
)	
v.)	PCB 01-137
)	(Tax Certification)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.A. Manning):

On April 6, 2001, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify certain facilities of Hog Haven L.L.C. (Hog Haven) as “pollution control facilities” for preferential tax treatment under the Property Tax Code (35 ILCS 200/11-5 *et seq.* (1998)). The Agency filed the recommendation pursuant to 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 Hog Haven’s 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 (1998). “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 (1998).

Pursuant to 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 (1998).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from Hog Haven on December 28, 2000. Agency Recommendation (Ag. Rec.) at 1. On April 6, 2001, the Agency filed a recommendation on the application with the Board. The Agency's recommendation identifies the facilities at issue:

[O]ne concrete manure pit (61 ft. x 140 ft. x 7.92 ft. deep) having three concrete manure pump-out boxes (each 5 ft. x 6 ft. x 8.75 ft. deep with PVC covers) and the slotted concrete portion of the floor over the manure pit in each of two swine buildings (each 61 feet x 140 feet). Ag. Rec. at 1.

The Agency's recommendation further describes the facilities: "These livestock waste management facilities are used to collect, transport and/or store livestock wastes prior to cropland application." Ag. Rec. at 1. The Agency's recommendation also identifies the location of the facilities: "Section 33, T39N, R2E of the 3rd Principal Meridian in Lee County." Ag. Rec. at 1.

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 (1998)) because the primary purpose of the facilities is "eliminating, preventing, or reducing water pollution." Ag. Rec. at 2.

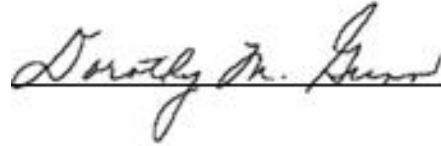
TAX CERTIFICATE

The Board finds and certifies that the facilities of Hog Haven identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (1998)). Pursuant to 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 (1998). 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 (1998)). The Clerk therefore will provide Hog Haven and the Agency with a copy of this order.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1998)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.520, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 3rd day of May 2001 by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board