

ILLINOIS POLLUTION CONTROL BOARD

May 2, 2002

UAP RICHTER COMPANY (McDonough)	
County) (Property Identification Number 08-)	
000-071-00),)	
)	
Petitioner,)	
)	
v.)	PCB 02-182
)	(Tax Certification)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On April 22, 2002, the Illinois Environmental Protection Agency (Agency) filed a recommendation on whether the Board should certify certain facilities of UAP Richter Company (UAP) as “pollution control facilities” for preferential tax treatment under the Property Tax Code (35 ILCS 200/11-5 *et seq.* (2000)). The Agency filed the recommendation under Part 125 of the Board’s procedural rules (35 Ill. Adm. Code 125). The Agency recommended that the Board issue a tax certificate for certain agrichemical containment structures where the primary purpose is the elimination, prevention, and reduction of water pollution. However, the Agency recommended that the Board deny a tax certificate for the portion of the building over the minibulk and package agrichemical secondary containment structure, stating that its primary purpose is to warehouse products for future use.

The Board is not ruling today on whether the portion of the building over the minibulk and package agrichemical secondary containment structure is a pollution control facility under the Property Tax Code (35 ILCS 200/11-10 (2000)). Instead, in a separate order, the Board is opening docket PCB 02-184 to address the Agency’s recommendation on this structure.

In this order, the Board first describes the legal framework for tax certifications, discusses the Agency’s recommendation on the non-sanitary waste-related facilities, and certifies them as 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 (2000); *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 (2000); *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 (2000); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from UAP on April 9, 2001. Agency Recommendation (Agency Rec.) at 1. On April 22, 2002, the Agency filed a recommendation on the application with the Board. The Agency’s recommendation identifies the facilities at issue:

Two liquid agrichemical operational area containment structures;

Two bulk liquid agrichemical secondary containment structures;

One minibulk/package agrichemical secondary containment structure;

The portion of the building over one liquid agrichemical operational area containment structure; and

One bulk liquid agrichemical secondary containment structure and associated collection and recovery systems as approved under the Agency endorsed Agrichemical Facility Permit No. 91120912 (Log No. 97014600). Agency Rec. at 1-2.

The Agency recommendation also identifies the location of the facilities: NE 1/4 of Section 5, T6N, Range 4W of the 4th Principal Meridian, McDonough County. Agency Rec. at 1.

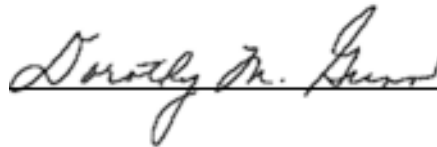
The Agency recommends that the Board certify that the identified facilities are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2000)) because the primary purpose of the facilities is the elimination, prevention, or reduction of water pollution. Agency Rec. at 3.

TAX CERTIFICATE

The Board finds and certifies that UAP's facilities identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2000)). 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 (2000); *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 (2000)). The Clerk therefore will provide UAC, the Agency, and the Illinois Department of Revenue 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 May 2, 2002, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board