

ILLINOIS POLLUTION CONTROL BOARD
November 6, 2003

EQUISTAR CHEMICALS, L.P.)
(Line 6 Sulzer Compressor Upgrade, Tank Car)
Aromatics Loading, LLDPE Flare Meter, PP)
Flare Meter, Ethylene Unit Analyzer,)
Particulate Emission Reduction Project,)
Parallel Flare Vaporizer, LDPE Compressor)
Shutdown Improvements, Lines 3 & 4 Hyper)
Suction GC Analyzer, Ethylene Unit Flare)
Meter, EP Analyzer Replacement & PP Flare)
Monitor) (Property Identification Number)
110-032-1141),)
)
Petitioner,)
)
v.) PCB 04-63
) (Tax Certification - Air)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by T.E. Johnson):

On October 17, 2003, the Illinois Environmental Protection Agency (Agency) recommended that the Board certify certain facilities of Equistar Chemicals, L.P. (Equistar) as “pollution control facilities” for preferential tax treatment under the Property Tax Code (35 ILCS 200/11-5 *et seq.* (2002)). 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 Equistar’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 33⅓% 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 Equistar on December 31, 2002. Agency Recommendation (Agency Rec.) at 1. On October 17, 2003, the Agency filed a recommendation on the application with the Board. The Agency's recommendation identifies the facilities at issue:

Line 6 Sulzer compressor upgrade that reduces excess emissions;

Tank car aromatics loading for debutanized concentrate product into rail cars in which volatile organic emissions from the rail car transfer system will result in reduced emissions;

Linear low-density polyethylene (LLDPE) plant flare meter that measures the amount of pollutants going to the control device (flare) in conjunction with the control efficiency of the flare;

Polypropylene (PP) flare meter that measures the amount of pollutants going into the control device (flare) in conjunction with the control efficiency of the flare;

Ethylene unit analyzer vent that measures the amount of pollutants being vented;

Particulate emission reduction project that allows gas to be vented to the flare, thereby reducing volatile organic compound (VOC) and particulate emissions;

Parallel flare vaporizer that eliminated flaring and, as a result, reduced emissions;

Low-density polyethylene (LDPE) plant compressor shutdown improvements that reduce emissions due to reduced venting;

Lines 3 & 4 hyper suction GC analyzer that reduces excess emissions due to reduced venting; off-gas tie-ins that reduce VOC emissions;

EP capacity increases that reduce excess emissions;

H2/C2 Analyzer that reduces VOC emissions and improves process control and reliability;

Ethylene unit flare metering that reduces emissions at flare;

EP analyzer replacement that reduces VOC emissions; and

Polypropylene (PP) plant flare monitor that assures smokeless flare operation from reduced steam consumption with reduces excess emissions. Agency Rec. at 2-3.

The Agency's recommendation also identifies the location of the facilities: 8805 N. Tabler Road, Morris, Grundy County. *Id.* at 2.

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 to reduce or eliminate air pollution. Agency Rec. at 2-3.

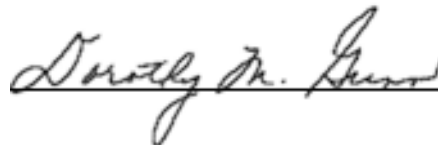
TAX CERTIFICATE

The Board finds and certifies that Equistar'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 (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 Equistar and the Agency with a copy of this order.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2002); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 6, 2003, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board