

ILLINOIS POLLUTION CONTROL BOARD  
October 21, 2004

HERITAGE FS, INC. )  
Portion of the Building over the )  
Minibulk/Package Agrichemical Secondary )  
Containment Structures (Property )  
Identification Number 06-10-06-400-005), )  
 )  
Petitioner, )  
 )  
v. ) PCB 05-27  
 ) (Tax Certification - Water)  
 )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

ORDER OF THE BOARD (by J.P. Novak):

On August 9, 2004, the Illinois Environmental Protection Agency (Agency) recommended that the Board not certify a portion of the building over the minibulk/package agrichemical secondary containment structure of Heritage FS, Inc. (Heritage FS) as “pollution control facilities” for preferential tax treatment under the Property Tax Code (35 ILCS 200/11-5 *et seq.* (2002)). The disapproved facilities are at Heritage FS’s agrichemical and fertilizer mixing, loading, and storage facility located in Kankakee County. The Agency filed the recommendation under Part 125 of the Board’s procedural rules (35 Ill. Adm. Code 125). In this order, consistent with the Agency’s recommendation, the Board declines to certify that Heritage FS’s facilities are pollution control facilities.

In the August 9, 2004 filing, the Agency further recommended that the Board certify certain other of Heritage FS’s facilities as pollution control facilities. By an order dated September 2, 2004, the Board certified those separate facilities as recommended by the Agency.

The Agency states that it received a tax certification application from Heritage FS for its minibulk/package agrichemical secondary containment structure at Heritage FS’s agrichemical and fertilizer mixing, loading, and storage on November 27, 2004. Agency Recommendation (Agency Rec.) at 1. On August 9, 2004, the Agency filed a recommendation on the application with the Board. The Agency’s recommendation identifies the facilities at issue:

The portion of the building over the minibulk/package agrichemical secondary containment structures (42 ft. x 50 ft. x 0.75 ft.). Agency Rec. at 2.

The Agency’s recommendation also identifies the location of the facilities: the Southeast 1/4 of Section 6, Tract 31 North, Range 12 East of the Third Principal Meridian, in Kankakee County. *Id.* at 1.

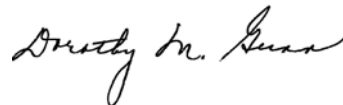
The Agency recommends that the Board deny certification that the identified facilities are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2002)). Agency Rec. at 3.

Heritage FS had 35 days from when it was served with a copy of the Agency's recommendation to contest that recommendation to the Board. 35 Ill. Adm. Code 125.206. Any petition for review was to have been filed on or before October 7, 2004. The Heritage FS failed to file a petition before the Board within that time. Accordingly, consistent with the Agency's recommendation, the Board declines to certify that Heritage FS's facilities are pollution control facilities that are subject to preferential treatment under the Property Tax Code. The Board dismisses this docket.

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 October 21, 2004, by a vote of 5-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board