

ILLINOIS POLLUTION CONTROL BOARD  
June 15, 2006

MARQUIS MTD, INC.—HENNEPIN	)	
(Agrichemical Containment Structures,	)	
Portions of Buildings	)	
(Property Identification Number	)	
H01-10-204-000)),	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 06-180
	)	(Tax Certification - Water)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by G.T. Girard):

On June 1, 2006, the Illinois Environmental Protection Agency (Agency) recommended that the Board certify certain facilities of Marquis MTD, Inc. (Marquis MTD) as “pollution control facilities” for preferential tax treatment under the Property Tax Code (35 ILCS 200/11-5 *et seq.* (2004)). The facilities are agrichemical containment structures at Marquis MTD’s agrichemical facility in Putnam County. But, in the same filing, the Agency recommended denial of tax certification to certain portions of the buildings over the dry fertilizer storage bins and over the two main areas in front of the dry storage bins. 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 Marquis MTD’s facilities are pollution control facilities. The Board grants certification to the agrichemical containment structures. The Board takes no action today on the negative recommendation as to the portions of the buildings over the dry fertilizer storage bins and over the two main areas in front of the dry storage bins, since Marquis MTD may file a petition to contest it on or before July 6, 2006.

**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 (2004); *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 (2004); *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 (2004); *see also* 35 Ill. Adm. Code 125.216(a).

### **AGENCY RECOMMENDATION**

The Agency states that it received a tax certification application from Marquis MTD for its agrichemical facilities on November 16, 2004. Agency Rec. at 1. On June 1, 2006, the Agency filed a recommendation on the application with the Board. The Agency's recommendation identifies the facilities at issue:

Agrichemical containment structures consisting of the portion of the building over two dry fertilizer operational containment structures (one approximately 20 ft. x 160 ft. and one approximately 30 ft. x 80 ft.) and one dry fertilizer blending operational containment structure (approximately 30 ft. x 80 ft. minus the approximately 30 ft. x 30 ft. office area); three dry fertilizer operational containment structures (one approximately 30 ft. x 60 ft., one approximately 40 ft. x 240 ft., and one approximately 4 ft. x 20 ft.); and one dry fertilizer blending operational containment structure (approximately 60 ft. x 80 ft. minus the 30 ft. x 30 ft. office area) as approved under the Agency-endorsed agrichemical facility permit no. 01096736 issued November 21, 2001, and 02097230 issued October 29, 2002. Agency Rec. at 2.

The portion of the building over the dry fertilizer storage bins (approximately 60 ft. x 160 ft. and approximately 60 ft. x 240 ft.); and the portion of the building over the two main areas in front of the dry fertilizer storage bins (one approximately 10 ft. x 160 ft. and one approximately 10 ft. x 240 ft.). Agency Rec. at 2.

The Agency's recommendation also identifies the location of the facilities: Section 9, Township 32 North, Range 2 West of the Third Principal Meridian, in Putnam County. *Id.* at 1-2.

The Agency makes separate recommendations relating to the two separate sets of facilities:

**Agrichemical containment structures:** 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 (2004)) because the primary purpose of the facilities is eliminating,

water pollution. The facilities are used to collect, transport, and store agrichemical rinsates, residues, or washwaters prior to reuse or disposal. Agency Rec. at 3.

**Portions of the buildings over the dry fertilizer storage bins and over the two main areas in front of the dry storage bins facilities:** 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 (2004)). Agency Rec. at 3. Marquis MTD has 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 must be filed on or before July 6, 2006. After that, the Board will determine what further actions may be appropriate.

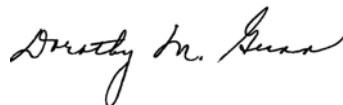
## **TAX CERTIFICATE**

### **Agrichemical Containment Structures**

The Board finds and certifies that Marquis MTD's agrichemical containment structures identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2004)). 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 (2004); *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 (2004)). The Clerk therefore will provide Marquis MTD and the Agency 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 June 15, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board