

ILLINOIS POLLUTION CONTROL BOARD
December 20, 2001

AUX SABLE LIQUID PRODUCTS (Property)
Identification Numbers 03-22-100-003, 03-22-)
100-009, 03-22-300-011),)
)
)
Petitioner,)
)
)
v.) PCB 02-72
) (Tax Certification)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
)
Respondent.)

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

On December 10, 2001, the Illinois Environmental Protection Agency (Agency) recommended that the Board certify certain facilities of Aux Sable Liquid Products (Aux Sable) 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). In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Aux Sable’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 (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 Aux Sable on June 14, 2001. Agency Recommendation (Agency Rec.) at 1. On December 10, 2001, the Agency filed a recommendation on the application with the Board. The Agency's recommendation identifies the facilities at issue:

An in-line pH controller with automatic acid and caustic feed system, a 773,000 gallon retention pond with 2 feet of compacted clay liner covered by a 60 mil HDPE liner with a working volume of 523,000 gallons, a baffled coalescing oil/water separator rated at 400 gallons per minute with oil removal by vacuum truck, a dechlorination unit consisting of chemical feed to the effluent lift station sump and all necessary piping, pumps and appurtenances to treat an average of 450,000 gallons per day (gpd) and a maximum of 518,400 gpd of cooling tower blowdown, water softener regenerant, cooling tower sidestream filter backwash and cooling tower pumphouse floor drains tributary to the Illinois River, a sanitary treatment system consisting of a package RBC unit which includes a primary clarifier, final clarifier, chlorine contact tank, and the RBC with 3,704 square feet of filter media to treat an average of 2,000 gpd and a maximum of 4,000 gpd of sanitary waste water tributary to the Illinois River and a stormwater treatment system consisting of collection system, bag filter, dual carbon filters detention pond and oil water separator designed to detain a 10 year-24 hour storm event with discharge to the Illinois River. Agency Rec. at 1-2.

The Agency's recommendation further states that the water pollution control facilities "treat process waste water prior to discharge." Agency Rec. at 3. The Agency's recommendation also identifies the location of the facilities: Quarter Section 22, Township 34N, Range 8E, Grundy County. *Id.* 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 "eliminating, preventing, or reducing water pollution." Agency Rec. at 3.

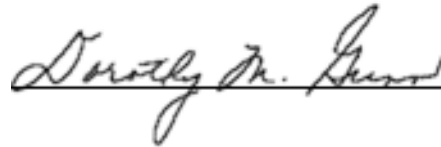
TAX CERTIFICATE

The Board finds and certifies that Aux Sable'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 Aux Sable 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) (2000); *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 December 20, 2001, 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