

ILLINOIS POLLUTION CONTROL BOARD

January 4, 2007

GROWMARK, INC. (Property Identification	)	
Number 38-11-400-001 and 38-11-400-005),	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 07-50
	)	(Tax Certification)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

On December 22, 2006, the Illinois Environmental Protection Agency (Agency) recommended that the Board certify certain facilities of Growmark, Inc. (Growmark) as “pollution control facilities” for preferential tax treatment under the Property Tax Code. See 35 ILCS 200/11-5 et seq. (2004); 35 Ill. Adm. Code 125. Growmark’s plant is located at State Route 54 in Weedman, McLean County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that certain of Growmark’s agrichemical structures at its plant 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 (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. See 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. See 35 Ill. Adm. Code 125.204(a). Among other things, the Agency’s filing must recommend that the Board issue or deny tax certification. See 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 Growmark on December 27, 2005.<sup>1</sup> Rec. at 1. On December 22, 2006, the Agency filed a recommendation on the application with the Board, attaching the application. The Agency's recommendation identifies the facilities at issue:

Agrichemical containment structures consisting of two liquid agrichemical operational area containment structures; one bulk liquid agrichemical secondary containment structure; the portion of the building over two liquid agrichemical operational area containment structures; and associated collection and recovery systems as approved under the Agency endorsed Agrichemical Facility Permit No. 9710510 (Log No. 01106803) and Permit No. 97115039 (Log No. 02107274). *Id.* at 1-2.

The Agency's recommendation further describes the facilities: "These facilities collect, transport, and store agrichemical rinsates, residues, or washwaters prior to reuse or disposal." Rec. at 2. The Agency's recommendation also identifies the location of the facilities as follows: Section 11, Township 21 North, Range 5 East of the 3d Principal Meridian in McLean 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 (2004)) because the primary purpose of the facilities is eliminating, preventing, or reducing water pollution. Rec. at 2.

### **TAX CERTIFICATE**

Based on the Agency's recommendation and Growmark's application, the Board finds and certifies that Growmark's facilities 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 Growmark and the Agency with a copy of this order.

IT IS SO ORDERED.

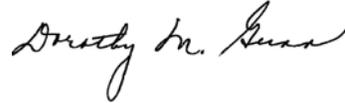
Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2004); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706.

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<sup>1</sup> The Agency's recommendation is cited as "Rec. at \_."

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 January 4, 2007, by a vote of 4-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board