

ILLINOIS POLLUTION CONTROL BOARD

January 4, 2007

LASALLE COUNTY FARM SUPPLY (Vapor))	
Recovery System) (Property Identification)	
Number 22-25-333-000),)	
)	
Petitioner,)	
)	
v.)	PCB 07-51
)	(Tax Certification)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On December 28, 2006, the Illinois Environmental Protection Agency (Agency) recommended that the Board certify certain facilities of LaSalle County Farm Supply (LaSalle County FS) 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. LaSalle County FS’ fuel bulk storage facility is located at 2540 South Illinois Route 23 in Ottawa, LaSalle County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that LaSalle County FS’ vapor recovery system is a pollution control facility.

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 LaSalle County FS on August 30, 2006.¹ Rec. at 1. On December 28, 2006, the Agency filed a recommendation on the application with the Board, attaching relevant portions of the application. The Agency's recommendation describes LaSalle County FS' vapor recovery system:

[The] Vapor Recovery System [] is associated with the fuel storage and truck loading/unloading facilities. The Vapor Recovery System generally collects volatile organic materials that would otherwise be emitted from process operations during the loading and unloading of gasoline and diesel products stored in the storage tanks.

The [Agency] notes that [LaSalle County FS] has not documented whether the cost estimate in its application is representative of the total costs for the fuel storage and truck loading/unloading facilities in their entirety or for the vapor recovery system alone. For purposes of this Tax Certification, preferential tax treatment should only be afforded to the costs of the vapor recovery system. *Id.* at 2-3.

The application further identifies LaSalle County FS' facility location as follows: SW QTR SEC 25, T33N, R3E. *Id.*, Exh. A at 1.

The Agency recommends that the Board certify that the identified vapor recovery system is a pollution control facility as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2004)) because the primary purpose of the system is to prevent, eliminate, or reduce air pollution. Rec. at 2, Exh. B.

TAX CERTIFICATE

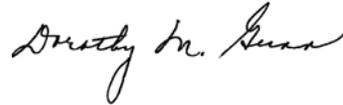
Based on the Agency's recommendation and the provided portions of LaSalle FS' application, the Board finds and certifies that LaSalle FS' vapor recovery system identified in this order is a pollution control facility under the Property Tax Code (35 ILCS 200/11-10 (2004)). Under Section 11-25 of the Property 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 LaSalle County FS and the Agency with a copy of this order.

IT IS SO ORDERED.

¹ The Agency's recommendation is cited as "Rec. at _."

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. 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