

ILLINOIS POLLUTION CONTROL BOARD

June 21, 2007

COLLINS & AIKMAN (Property)	
Identification Number 14-03-32-400-017),)	
)	
Petitioner,)	
)	
v.)	PCB 07-111
)	(Tax Certification - Water)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On May 11, 2007, the Illinois Environmental Protection Agency (Agency) recommended that the Board certify certain facilities of Collins & Aikman as “pollution control facilities” for preferential tax treatment under the Property Tax Code (35 ILCS 200/11-5 *et seq.* (2006)). The facilities are a storage area used to house the oil/water separator, which consists of 1,217 square feet and includes the roof, walls, and a secondary containment structure at Collins & Aikman’s automotive part facility in Champaign County. But, in the same filing, the Agency recommended denial of tax certification to a structure that houses the re-grind equipment. 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 Collins & Aikman’s facilities are pollution control facilities. The Board grants certification to the oil/water separator facilities. Further, as the time for Collins & Aikman to file an appeal of the Agency’s recommended denial has passed, the Board declines to certify the re-grind equipment 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 (2006); *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 (2006); *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 (2006); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from Collins & Aikman for its automotive part facilities on September 30, 2004. Agency Recommendation (Agency Rec.) at 1. On May 11, 2007, the Agency filed a recommendation on the application with the Board. The Agency's recommendation identifies the facilities at issue:

storage area used to house the oil/water separator, which consists of 1,217 square feet and includes the roof, walls, and a secondary containment structure. *Id.* at 2

structure that houses the re-grind equipment, which consists of 1,438 square feet and includes roof, walls, and floor. *Id.*

The Agency's recommendation also identifies the location of the facilities: Section 32, Township 22 North, Range East of the 3rd Principal Meridian, in Champaign County. *Id.*

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

Storage area used to house the oil/water separator and a secondary containment

structure: 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 (2006)) because the primary purpose of the facilities is eliminating, preventing, or reducing water pollution. Agency Rec. at 3.

Structure that houses the re-grind equipment: 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 (2006)). Agency Rec. at 3. Collins & Aikman 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 was due to be filed on or before June 11, 2007. The Board has not received a petition for review and therefore declines to certify the structure that houses the re-grind equipment as pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2006)).

TAX CERTIFICATE

The Board finds and certifies that Collins & Aikman's storage area used to house the oil/water separator and a secondary containment structure, as identified in this order, are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2006)). 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, whichever is later.” 35 ILCS 200/11-25 (2006); *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 (2006)). The Clerk therefore will provide Collins & Aikman 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 21, 2007, by a vote of 4-0.

A handwritten signature in black ink, appearing to read "Dorothy M. Gunn". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board