

ILLINOIS POLLUTION CONTROL BOARD

August 5, 2004

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| UAP RICHTER-DIXON (Property |) | |
| Identification Number 02-15-07-100-020), |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 05-11 |
| |) | (Tax Certification - Water) |
| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Respondent. |) | |

ORDER OF THE BOARD (by J.P. Novak):

On July 23, 2004, the Illinois Environmental Protection Agency (Agency) recommended that the Board certify certain agrichemical secondary containment facilities of UAP Richter at its Dixon, Shelby County site as “pollution control facilities” for preferential tax treatment under the Property Tax Code (35 ILCS 200/11-5 *et seq.* (2002)). But, in the same filing, the Agency recommended denial of tax certification to a certain portion of a building over the minibulk/package agrichemical secondary containment structure at the site. 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 UAP Richter’s agrichemical secondary containment facilities are pollution control facilities. The Board grants certification to the agrichemical secondary containment facilities are pollution control facilities. The Board takes no action today on the portion of the building over the minibulk/package agrichemical secondary containment structure at the site, since UAP Richter may file a petition to contest it on or before August 27, 2004.

LEGAL FRAMEWORK

Under the Property Tax Code, “[i]t is the policy of this State that pollution control facilities should be valued, at 33⅓% of the fair cash value of their economic productivity to their owners.” 35 ILCS 200/11-5 (2002); *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 (2002); *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 (2002); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from UAP Richter for its Dixon site on December 24, 2002. Agency Recommendation (Agency Rec.) at 1. On July 23, 2004, the Agency filed a recommendation on the application with the Board. The Agency's recommendation identifies two separate sets of facilities at issue:

Agrichemical containment structures consisting of two liquid agrichemical operational area containment structures; two bulk liquid agrichemical secondary containment structures; one minibulk/package agrichemical secondary containment structure; the portion of the building over two liquid agrichemical operational area containment structures and two bulk liquid agrichemical secondary containment structures (excluding the portion of Building # 1 that does not cover either of the two liquid agrichemical operational area containment structures or the bulk liquid agrichemical secondary containment structure within Building # 1); and associated collection and recovery systems as approved under the Agency-endorsed Agrichemical Facility Permit No. 92021656 (Log Nos. 02107261 and 03127704). Agency Rec. at 1-2.

The portion of a building over the minibulk/package agrichemical secondary containment structure. Agency Rec. at 2.

The Agency's recommendation also identifies the location of the facilities: Section 7, Township 20 North, Range 10 East of the Fourth Principal Meridian in Shelby County. *Id.* at 1.

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

Agrichemical secondary containment structure facilities: 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 (2002)) because the primary purpose of the facilities is eliminating, preventing, or reducing water pollution. Agency Rec. at 3.

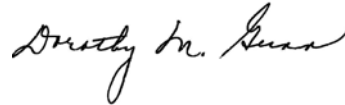
Building over the minibulk/package agrichemical secondary containment facilities: The Agency recommends that the Board deny certification that the identified facilities are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2002)). Agency Rec. at 3. UAP Richter 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 August 27, 2004. After that, the Board will determine what further actions may be appropriate.

TAX CERTIFICATE**Agrichemical Secondary Containment Structure Facilities**

The Board finds and certifies that UAP Richter's facilities identified in this order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2002)). 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 (2002); *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 (2002)). The Clerk therefore will provide UAP Richter 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 August 5, 2004, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board