

ILLINOIS POLLUTION CONTROL BOARD
August 18, 2005

GOLD STAR FS, INC. (Lyndon Facility))
(Agrichemical Containment Structures)
The Portion of the Building over the)
Endloader Fertilizer Transfer Area)
(Property Identification Number)
15-15-302-006)),)
)
Petitioner,)
)
v.) PCB 06-18
) (Tax Certification - Water)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

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

On August 11, 2005, the Illinois Environmental Protection Agency (Agency) recommended that the Board certify certain facilities of Gold Star FS, Inc. (Gold Star FS) (Lyndon Facility) as “pollution control facilities” for preferential tax treatment under the Property Tax Code (35 ILCS 200/11-5 *et seq.* (2004)). The facilities are agrichemical containment structures at Gold Star FS’s agrichemical mixing, loading, and storage facility in Whiteside County. But, in the same filing, the Agency recommended denial of tax certification to the portion of the building over the endloader fertilizer transfer area. 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 Gold Star FS’s facilities are pollution control facilities. The Board grants certification to the agrichemical containment structures. The Board takes no action today on the negative recommendation as to the portion of the building over the endloader fertilizer transfer area, since Gold Star FS may file a petition to contest it on or before September 12, 2005.

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. 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 (2004); *see also* 35 Ill. Adm. Code 125.216(a).

AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from Gold Star FS for its agrichemical containment structures on December 6, 2004. Agency Rec.at 1. On August 11, 2005, the Agency filed a recommendation on the application with the Board. The Agency's recommendation identifies the facilities at issue:

Agrichemical containment structures consisting of two liquid agrichemical operational area containment structures; two bulk liquid agrichemical secondary containment structures; five dry fertilizer operational containment structures; one dry fertilizer blending operational containment structure; and the portion of the building over two liquid agrichemical operational area containment structures, and one dry fertilizer blending operational containment structure (26 ft. x 37 ft), as approved under the Agency endorsed Agrichemical Facility Permit No.9206 1479 (Log No. 04017745, issued April 24, 2004). Agency Rec. at 2.

The portion of the building over the area for endloader transfer of bulk dry fertilizer between storage and the blenders, measuring 27 feet by 99.5 feet. Agency Rec. at 2.

The Agency's recommendation also identifies the location of the facilities: Section 15, Township 20 North, Range 5 East of the Fourth Principal Meridian, in Whiteside County. *Id.* at 1-2.

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

Agrichemical containment structures: 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. The facilities are used to collect, transport, and store agrichemical rinsates, residues, or washwaters prior to reuse or disposal. Agency Rec. at 3.

Portion of the building over the endloader fertilizer transfer area: 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 (2004)). Agency Rec. at

3-4. Gold Star FS 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 September 12, 2005. After that, the Board will determine what further actions may be appropriate.

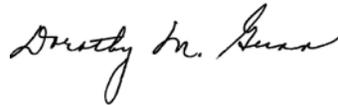
TAX CERTIFICATE

Agrichemical Containment Structures

The Board finds and certifies that Gold Star FS'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 Gold Star FS 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 18, 2005, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board