

ILLINOIS POLLUTION CONTROL BOARD
December 6, 1983

PEOPLE OF THE STATE OF ILLINOIS)
)
 v.) PCB 83-212
)
 Freeman United Coal Mining Co.)
 (Certification No. 21RA-ILL-WPC-83-27))

Proposal to Revoke Tax Certification.

ORDER OF THE BOARD (by J.D. Dumelle):

Recently enacted Public Act (P.A.) 83-0883, which became effective on September 9, 1983, amends the definition of "Pollution Control Facility" as contained in Section 21a-2 of the Illinois Revenue Act of 1939 (Ill. Rev. Stat. Ch. 120, par. 502a-2) in the following manner:

"For purposes of assessments made after January 1, 1983, "pollution control facilities" shall not include, however, a) any system, method, construction, device or appliance appurtenant thereto, designed, constructed, installed or operated for the primary purpose of (i) eliminating, containing, preventing or reducing radioactive contaminants or energy, or (ii) treating wastewater produced by the nuclear generation of electric power; b) any large diameter pipes or piping systems used to remove and disperse heat from water involved in the nuclear generation of electric power; or c) any equipment, construction, device or appliance appurtenant thereto, operated by any person other than a unit of government, whether within or outside of the territorial boundaries of a unit of local government, for sewage disposal or treatment.

The Pollution Control Board shall revoke any prior certification in conflict with this amendatory act of 1983 before January 1, 1984."

Pursuant to this statutory directive, the Board has reviewed Pollution Control Facility Certifications and Applications for

Certification which were referred to the Board by the Illinois Environmental Protection Agency for decertification under this language. On the basis of this information, the Board finds that the facility which is the subject of this certification falls within subparagraph (c) of paragraph 502a-2 of the Illinois Revenue Act of 1939, as amended. (The information on which this belief is based is attached to this Order.)

OPPORTUNITY FOR HEARING

The Board will provide an opportunity for a hearing for any party to present contrary facts on this matter on December 20, 1983 at 9:00 a.m. at the Pollution Control Board Office, Suite 300, 309 W. Washington Street, Chicago, Illinois. However, a hearing will be scheduled in this matter only if, 1) the Board receives a request for hearing, and 2) a short statement of the facts to be presented at hearing is filed with the Clerk of the Board by no later than 12:00 noon on December 19, 1983. Such statement of facts shall also be served on the Attorney General by no later than 12:00 noon on December 19, 1983. Requests for hearing should be directed to Mr. Lee Cunningham at 312/793-6923. At such hearing oral argument will be limited to 15 minutes for each party. Accompanying written submissions shall be limited to 15 pages. The Board will hear cases in the order that it receives requests for hearing. This hearing will be conducted pursuant to the contested case provisions of the Illinois Administrative Procedure Act (Ill. Rev. Stat. Ch. 127, par. 1010-1018.)

WRITTEN SUBMISSIONS IN LIEU OF HEARING

If no facts are contested, legal argument on this proposed revocation may be submitted in written form rather than at hearing. Legal briefs on this matter must be filed with the Clerk of the Board at Suite 300, 309 W. Washington Street, Chicago, Illinois 60606, and served on the Attorney General, no later than 5:00 p.m. on December 20, 1983. Responsive legal briefs may be filed no later than 12:00 noon on December 27, 1983. All briefs shall be limited to no more than 15 pages.

FINAL ORDER

The Board proposes to adopt a Final Order which may revoke this Certification on or before December 28, 1983. Due to the impending statutory deadline for revocation of affected certifications, no motions for reconsideration or stay of the Final Order in this matter will be heard by the Board. As provided in paragraph 502a-7 of the Illinois Revenue Act of 1939, as amended, appeal of the Board's Final Order may be made to the

Circuit Court pursuant to the Administrative Review Act (Ill. Rev. Stat. Ch. 110, pars. 264 et seq.)

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 6th day of December, 1983 by a vote of 7-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board