

ILLINOIS POLLUTION CONTROL BOARD
February 1, 1996

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| CGE FORD HEIGHTS, L.L.C., |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 96-164 |
| |) | (T-C Appeal) |
| |) | |
| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Respondent. |) | |

ORDER OF THE BOARD

This matter comes before the Board on CGE Ford Heights, L.L.C.'s (CGE) "petition for review and hearing to contest denial of application for certification as pollution control facilities." Division 1, Article II of the Revenue Act (35 ILCS 200/11-5 through 200/11-30) (1994) provides that pollution control facilities are to be valued for tax purposes at "33 1/3% of the fair cash value of their economic productivity to their owners," and provides that certification of such facilities is to be made by the Board.

CGE suggests that the Board should proceed in this action pursuant to the Revenue Act and to "Section 40 of the Illinois Environmental Protection Act. . . and Section 105.102 of the Board's Procedural Rules (citations omitted)." While we agree that the procedures of Section 40 and Part 105 of our rules provide a convenient guideline for the handling of this action, the Board's authority to hear this action arises from the Revenue Act. Since the Revenue Act contains no time frames for action on certification petitions, the Board finds that the 120-day decision deadline of Section 40 does not apply in tax certification actions.

Nonetheless, the Board will proceed as expeditiously as possible consistent with the Board's resources. In this case, the burden is on petitioner to demonstrate that its application to the Illinois Environmental Protection Agency proves that its facility is a pollution control facility as defined in 35 ILCS 200/11-10. This matter is accepted for hearing to be conducted pursuant to 35 Ill. Adm. Code 105 to the extent practicable. The Agency shall file its record within 14 days of this order or as otherwise ordered by the hearing officer.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 1st day of February, 1996, by a vote of 7-0.

Dorothy M. Gunn

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board