

ILLINOIS POLLUTION CONTROL BOARD
January 24, 2002

THE AMERICAN COAL COMPANY-)
GALATIA (Landfill) (Property Identification)
Numbers 11-1-083-01, 1-1-088-01, 1-1-088-)
03, 1-1-088-04, 11-1-093-01, 11-1-093-02, 11-)
1-093-03, 11-1-093-05, 11-1-093-06, 11-1-)
093-07, 11-1-095-01, 11-1-095-02),)
)
Petitioner,)
)
v.) PCB 02-83
) (Tax Certification)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by C.A. Manning):

On January 16, 2002, the American Coal Company (AmCoal) timely filed a petition to contest a tax certification recommendation of the Illinois Environmental Protection Agency (Agency). *See* 35 Ill. Adm. Code 125.206(a). Facilities certified by the Board as “pollution control facilities” receive preferential tax treatment under the Property Tax Code (35 ILCS 200/11-5 *et seq.* (2000)). On December 10, 2001, the Agency recommended that the Board deny a tax certificate for AmCoal’s “472-acre coal cleaning refuse landfill and addition of agricultural lime” in Saline County. Agency Rec. at 2.

In its petition contesting the Agency’s recommendation, AmCoal states that the “purpose of the area sought to be certified is to store waste from the coal cleaning process and to contain the impurities [sulfur and ash] that have been separated from the coal.” Pet. at 3. AmCoal further asserts that this area is a “necessary component” of a:

system . . . designed both to (a) eliminate, prevent, or reduce air or water pollution; and (b) treat, pre-treat, modify or dispose of any potential solid, liquid, or gaseous pollutant, which if released without treatment, pre-treatment, modification or disposal, might be harmful, detrimental, or offensive to human, plant or animal life, or to property as defined in the Property Tax Code. *Id.* at 3, 4.

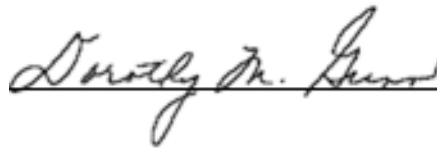
AmCoal’s petition meets the content requirements of 35 Ill. Adm. Code 125.206. The Board accepts the petition for hearing. *See* 35 Ill. Adm. Code 125.210(a)(1).

AmCoal “has the burden to prove that the facility or portion thereof for which it seeks tax certification is a pollution control facility, as defined in [35 Ill. Adm. Code] Section

125.200(a)(1)” 35 Ill. Adm. Code 125.214. The Board will consider the Agency’s record of AmCoal’s tax certification application as well as any evidence admitted at hearing. *See Cass County Service Co. v. IEPA*, PCB 99-31, slip op. at 2 (Jan. 20, 2000). Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record on which it based its recommendation within 30 days after AmCoal filed the petition. 35 Ill. Adm. Code 125.208. If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. *Id.*

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 24, 2002, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board