

ILLINOIS POLLUTION CONTROL BOARD
December 28, 1983

PEOPLE OF THE STATE OF ILLINOIS)
)
 v.) PCB 83-190
OLIN CORPORATION - EAST ALTON)
(Certification No. 21RA-ILL-WPC73-10)

Revocation of Tax Certification.

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

This matter comes before the Board upon a Proposal to Revoke Tax Certification adopted by the Board on December 6, 1983. Olin Corp. - East Alton (Olin) filed a response opposing the revocation on December 19, 1983. Hearing was held on December 20, 1983, at which only the People of the State of Illinois (People) presented evidence. The People filed a response to Olin's brief on December 27, 1983.

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 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.

OPPORTUNITY FOR HEARING

The Board provided an opportunity for a hearing to present contrary facts on this matter on December 20, 1983 at 9:00 a.m. at the Pollution Control Board Offices. Such hearings were scheduled if the Board received a request for hearing and a short statement of the facts to be presented at hearing no later than 12:00 noon on December 19, 1983. No such hearing was requested in this matter, and the only evidence presented was on behalf of the People and was in support of the revocation.

However, in its response Olin indicates that its package sewage treatment plant has been converted to a surge tank and emergency reservoir to handle manufacturing process wastewater, that it is, therefore, not a sewage treatment or disposal facility subject to P.A. 83-0883, and that its certification should not be revoked. That may well be true. However, as clearly stated in the Board's December 6, 1983 order in this matter, contrary facts were to be presented at hearing, not as a written submission. Further, there is no affidavit supporting the truth of the facts alleged. Therefore, the Board cannot consider this as evidence, and 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 subject certification will, therefore, be revoked.

This Opinion and Order constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

Tax Certification No. 21RA-ILL-WPC-73-10 issued to Olin Corporation - East Alton is hereby revoked.

IT IS SO ORDERED.

Board Member J. Anderson dissented.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 28th day of December, 1983 by a vote of 6-1.


Christan L. Moffett, Clerk
Illinois Pollution Control Board