

ILLINOIS POLLUTION CONTROL BOARD
July 11, 2002

DUKE ENERGY NORTH AMERICA (Lee)
County) (Property Identification Numbers 18-)
08-12-200-005, 18-08-12-200-008, 07-08-01-)
400-003, 14-09-07-100-011),)
)
Petitioner,)
)
v.) PCB 02-113
) (Tax Certification)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

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

On February 11, 2002, the Illinois Environmental Protection Agency (Agency) recommended that the Board not certify certain facilities of Duke Energy North America (Duke) as “pollution control facilities” for preferential tax treatment under the Property Tax Code (35 ILCS 200/11-5 *et seq.* (2000)). The Agency filed the recommendation under Part 125 of the Board’s procedural rules (35 Ill. Adm. Code 125).¹

Specifically, the Agency recommends that the Board deny a tax certificate for Duke’s “sanitary waste septic tank and associated lift station,” which is part of Duke’s natural gas-fired, peak-load electrical power generating plant located at “NE 1/4 of Section 12, T21N, Ranges 9 and 10 W of the 4th Principal Meridian, Lee County on Nashua Road in South Dixon Township.” Agency Rec. at 1, Exh. A. The Agency states that these “sanitary waste-related facilities” come within the following exclusion to the definition of “pollution control facilities” in the Property Tax Code: “any facility operated by any person other than a unit of local government . . . for sewage disposal or treatment.” *Id.* at 2-3 (quoting 35 ILCS 200/11-10(b)(3) (2000)).²

On February 21, 2002, the Board opened this docket to allow Duke to contest the Agency’s recommendation. Duke failed to timely file a petition to contest. *See* 35 Ill. Adm.

¹ The Agency’s recommendation is cited as “Agency Rec. at _.”

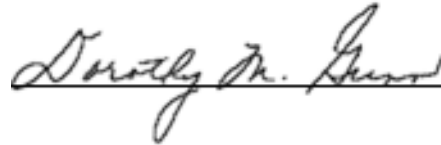
² The Agency also recommended that the Board *certify* certain containment structures and sumps at Duke’s Lee County peaker plant as “pollution control facilities” under the Property Tax Code. The Board did so, issuing a tax certificate on February 21, 2002, in a separate docket, PCB 02-110.

Code 125.206(a). Accordingly, based on the Agency's recommendation, the Board denies tax certification for Duke's septic tank and lift station identified in this order.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2000); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 11, 2002, by a vote of 5-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board