

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

Malone Chemical, Inc.)	
(Property Identification Number)	PCB No. 23-_____
12-12-23-400-008))	(Tax Certification)
)	

NOTICE OF FILING

TO: See attached Certificate of Service.

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board Illinois EPA's NOTICE OF FILING, APPEARANCE, RECOMMENDATION, and CERTIFICATE OF SERVICE, copies of which are herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Gabriel H. Neibergall
Gabriel H. Neibergall
Assistant Counsel
Division of Legal Counsel
Gabriel.Neibergall@illinois.gov

DATED: September 15, 2022

1021 N. Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

Malone Chemical, Inc.)	
(Property Identification Number)	PCB No. 23-_____
12-12-23-400-008))	(Tax Certification)
)	

APPEARANCE

The undersigned, as one of its attorneys, hereby enters an Appearance on behalf of the Illinois Environmental Protection Agency.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Gabriel H. Neibergall
Gabriel H. Neibergall
Assistant Counsel
Division of Legal Counsel
Gabriel.Neibergall@illinois.gov

DATED: September 15, 2022

Gabriel H. Neibergall, #6323183
Division of Legal Counsel
Illinois Environmental Protection Agency
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Springfield, IL 62794-9276
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

Malone Chemical, Inc.)
(Property Identification Number) PCB No. 23-_____
12-12-23-400-008) (Tax Certification)
)

RECOMMENDATION

The Illinois Environmental Protection Agency (“Illinois EPA”) hereby files its Recommendation pursuant to Section 125.204 of the regulations of the Illinois Pollution Control Board (“Board”), 35 Ill. Adm. Code 125.204.

1. On November 19, 2018, the Illinois EPA received a request from Malone Chemical, Inc. (log number TC-140643, **Exhibit A**) for an Illinois EPA recommendation regarding the tax certification of water pollution control facilities pursuant to 35 Ill. Adm. Code 125.204.
2. The facility’s address is: Malone Chemical, Inc.
34691 E. 2300 North Rd.
Kempton, IL 60946

The proposed water pollution control facilities in this request are located in the NW ¼ of Section 23, T29N, R8E of the 3rd P.M. in Livingston County, at the above street address and consist of the following:

One (1) liquid fertilizer tank (approximately 484,505 gallons in capacity) with a synthetic membrane liner.

The tank is used to contain 32% nitrogen solution for agricultural purposes, and is further described in Exhibit A.

3. Section 11-10 of the Property Tax Code, 35 ILCS 200/11-10 (2018), and Section 125.200(a) of the Board’s regulations, 35 Ill. Adm. Code 125.200(a), define “pollution control facilities” as:

any system, method, construction, device or appliance appurtenant thereto or any portion of any building or equipment, that is designed, constructed, installed or operated for the primary purpose of: eliminating, preventing, or reducing air or water pollution ...or treating, pretreating, modifying or disposing of any potential solid, liquid or gaseous pollutant which if released without treatment, pretreatment modification or disposal might be harmful, detrimental or offensive to human, plant or animal life, or to property.

4. In order to receive preferential tax treatment as pursuant to 35 ILCS 200/11-5 (2018), pollution control facilities must be certified as such by the Board, 35 ILCS 200/11-20 (2018) and 35 Ill. Adm. Code 125.200(a).
5. Upon receipt of a tax certification application, the Illinois EPA must file a recommendation on the application with the Board, 35 Ill Adm. Code 125.204(a).
6. Based on the information in the application and the purpose of the facility, it is the Illinois EPA's engineering judgment that the described facilities may **not** be considered "pollution control facilities," pursuant to 35 Ill. Adm. Code 125.200(a), because the storage tank and liner do not have the primary purpose of eliminating, preventing, or reducing water pollution, or as otherwise provided in 35 Ill. Adm. Code 125.200, and are **not** eligible for tax certification from the Board.

Webster's dictionary defines a tank as a "usually large receptacle for holding, transporting, or storing liquids." Said dictionary also defines liner as "something used to line or back another part as facing placed between two surfaces or between a surface and some damaging agent to diminish wear, avoid overheating, or serve as reinforcement." See Webster's Third New International Dictionary (1981) at 1,316. Thus, the synthetic membrane liner inside the tank is a protective layer to the steel tank, not a primary containment structure as claimed in the application. Accordingly, the Illinois EPA recommends that these facilities be denied tax certification by the Board.

WHEREFORE, the Illinois EPA recommends that the Board deny the requested tax certification. The applicant has 35 days after the date of service to file a petition with the Board to contest the Illinois EPA's recommendation that the tax certification be denied, as discussed above.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Gabriel H. Neibergall
Gabriel H. Neibergall
Assistant Counsel
Division of Legal Counsel
Gabriel.Neibergall@illinois.gov

DATED: September 15, 2022

Gabriel H. Neibergall, #6323183
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Illinois Environmental Protection Agency
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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY


1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

Memorandum

To: Mike Roubitchek, Division of Legal Counsel

From: Darin E. LeCrone, Manager, Industrial Unit, Permit Section 

Date: January 22, 2021

Re: Malone Chemical, Inc. – Kempton
Recommendation of Denial for Tax Certification
Log# TC-140643
Property Index# 12-12-23-400-008

The Bureau of Water received a request on November 19, 2018 from Martin Malone for an Illinois EPA recommendation regarding the tax certification of water pollution control facilities pursuant to 35 Ill. Adm. Code 125.204. We offer the following recommendation.

The facilities in this request include the following:

Malone Chemical, Inc.
34691 E. 2300 North Rd.
Kempton, IL 60946

NW ¼ of Section 23, T29N, R8E of the 3rd PM in Livingston County

The facilities consisting one (1) liquid fertilizer tank (approximately 484,505 gallons in capacity) with synthetic membrane liner. The tank is used to contain 32% nitrogen solution for agriculture purposes.

The facility is further described in the enclosed applications and supporting documents.

Based on the information included in this submittal, the Bureau of Water has determined that the facilities are not "Pollution Control Facilities" under 35 IAC 125.200(a), with the primary purpose of eliminating, preventing, or reducing water pollution, or as otherwise provided in this section. This determination is based on the following factor(s):

Webster's Third New International Dictionary (1981) published by Merriam-Webster defines a tank as a usually large artificial receptacle used for holding, transporting, or storing liquid (Page 2,237). The steel tank of the application meets this definition with its primary purpose to be liquid fertilizer storage. The dictionary also defines a liner to be something used to line or back another part as a facing placed between two surfaces or between a surface and some damaging agent to diminish wear, avoid overheating, or serve as reinforcement (Page 1,316). The synthetic membrane liner inside the tank is a protective layer to the steel tank according to this definition, not a primary containment structure as claimed by the application.

The Bureau of Water therefore recommends that the Board deny the requested tax certification for these facilities.

Electronic Filing: Received, Clerk's Office 09/15/2022 **PCB 2023-039**

Page No. 2

Log No. TC-140643

If you have any questions regarding the above, please contact Wei Han at 217/782-0610.

DEL:WH:Tax Cert Recommendation.docx

cc: Tax Cert File

Watershed Unit Tax Certification Review Sheet

Project Name: Malone Chemical, Inc.

Date: November 18, 2020

Reviewer: WH

Type: Agchem
 Livestock

Log number: TC-140643

Contact: Same as applicant

Applicant: Martin Malone
34691 E. 2300 North Rd.
Kempton, IL 60946

Phone: 815-252-0221

Facility: Malone Chemical, Inc.
34691 E. 2300 North Rd.
Kempton, IL 60946

Property Index#: 12-12-23-400-008

Parcel#:

County: Livingston

Legal Description:
SE of Section: 23 Twp: 29N R: 8E PM: 3rd

Signature: Martin Malone

Title: Sec. /Treasure

Date Control Devices installed: 2011

Wastes: Livestock waste is applied to cropland.
 Agrichemical rinsate and spillage is recycled through the facility and/or land applied.
 Other: _____

Physical Description of Pollution Control Devices:

Tax certification was requested for a mild steel bulk liquid fertilizer tank (approximately capacity of 484,505 gallons) with synthetic membrane liner.

The primary purpose of the tank is to contain and store liquid fertilizer, and is not pollution control.

Recommended Action: Deny application.



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

217-782-0610

September 14, 2020

copy

Malone Chemical, Inc.
Attn: Martin Malone
34691 E. 2300 N. Rd.
Kempton, IL 60946

RE: Illinois Tax Certification Application
Mild Steel Bulk Liquid Fertilizer Storage Tank
Malone Chemical, Inc. – Kempton
Log No. TC-140643
Bureau ID# W1058030001

Dear Mr. Malone:

The application for Illinois Property Tax Certification received December 24, 2018 for the above listed facilities has been reviewed by the Agency. Based on review of the information included in the submittal, the bulk liquid fertilizer tank does not meet "Pollution Control Facility" under 35 IAC 125.200(a), with the primary purpose of eliminating, preventing, or reducing water pollution.

On February 13, 2018, the Agency sent you a letter requesting additional information to support the application, or withdrawal of subject structure from the application for certification as pollution control facility.

Please respond to this request by either fax at (217)782-9891, email to wei.han@illinois.gov or a written letter. If response is not submitted within 45 days, the Illinois EPA will have no option other than to recommend that the Illinois Pollution Control Board deny the application. Please include the log number in all correspondence. If you have any questions, please contact Wei Han at (217)782-0610.

Sincerely,

A handwritten signature in black ink, appearing to read "Wei Han", with a long horizontal stroke extending to the right.

Wei Han, P.E.
Environmental Protection Engineer
Illinois Environmental Protection Agency
Bureau of Water
Division of Water Pollution Control

WH: P:\Tax Certification\TC-140643 2ndDenLtr.doc
cc: Records Unit

Enclosure



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, ACTING DIRECTOR

217-782-0610

FEB 13 2019

Malone Chemical, Inc.
Attn: Martin Malone
34691 E. 2300 N. Rd.
Kempton, IL 60946

RE: Illinois Tax Certification Application
Mild Steel Bulk Liquid Fertilizer Storage Tank
Malone Chemical, Inc. – Kempton
Log No. TC-140643
Bureau ID# W1058030001

Dear Mr. Malone:

The application for Illinois Property Tax Certification received December 24, 2018 for the above listed facilities has been reviewed by the Agency. Based on review of the information included in the submittal, the bulk liquid fertilizer tank is not considered "Pollution Control Facility" under 35 IAC 125.200(a), with the primary purpose of eliminating, preventing, or reducing water pollution, or as otherwise provided in this section. The following grounds are offered for your consideration and appropriate action.

Pursuant to Webster's Third New International Dictionary (1981), a tank is a usually large artificial receptacle used for holding, transporting, or storing liquid (page 2,237). The steel tank of the application meets this definition with its primary purpose to be liquid fertilizer storage. The Dictionary also defines a liner to be something used to line or back another part as a facing placed between two surfaces or between a surface and some damaging agent to diminish wear, avoid overheating, or serve as reinforcement (page 1,316). The installed synthetic membrane liner inside the tank is not a primary containment as stated by the application.

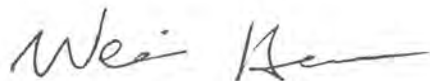
Based on the Agency's finding, the steel storage tank will be recommended for denial with public notice. In order to continue with the review process, please provide additional information to address the above concern, or withdraw the building from the application for certification as pollution control facility.

Please respond to this request by either fax at (217)782-9891, email to wei.han@illinois.gov or a written letter. Include the log number in all correspondence. If you have any questions, please contact Wei Han at (217)782-0610.

Malone Chemical, Inc.

Page 2

Sincerely,

A handwritten signature in black ink, appearing to read "Wei Han", with a long horizontal flourish extending to the right.

Wei Han
Environmental Protection Engineer
Illinois Environmental Protection Agency
Bureau of Water
Division of Water Pollution Control

Enclosure

WH: P:\Tax Certification\TC-140643 DenialLtr.doc
cc: Records Unit

**APPLICATION FOR CERTIFICATION (PROPERTY TAX TREATMENT)
POLLUTION CONTROL FACILITY**
AIR WATER

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
P. O. Box 19276, Springfield, IL 62794-9276

This Agency is authorized to request this information under Illinois Revised Statutes, 1979, Chapter, 120, Section 502a-5. Disclosure of this information is voluntary. However, failure to comply could prevent your application from being processed or could result in denial of your application for certification.

FOR AGENCY USE

File No.	Date Received	Certification No.	Date	
Sec. A APPLICANT	Company Name Malone Chemical, Inc.			
	Person Authorized to Receive Certification Martin Malone		Person to Contact for Additional Details Martin Malone	
	Street Address 34691 East 2300 North Road		Street Address 34691 East 2300 North Road	
	Municipality, State & Zip Code Kempton, IL 60946		Municipality, State & Zip Code Kempton, IL 60946	
	Telephone Number 815-252-0221		Telephone Number 815-252-0221	
	Location of Facility Quarter Section	Township Broughton	Range T-29-N R-8-E	Municipality Broughton
	Street Address 34691 East 2300 North Road		County Livingston	Township Book Number
	Property Identification Number		Parcel Number 12-12-23-400-008	
	Sec. B MANUFACTURING OPERATIONS	Nature of Operations Conducted at the Above Location Agrichemical Facility		
Water Pollution Control Construction Permit No. AC11080415		Date Issued 10/5/2017		
NPDES PERMIT No. Not Applicable		Date Issued	Expiration Date	
Air Pollution Control Construction Permit No. Not Applicable		Date Issued		
Air Pollution Control Operating Permit No. Not Applicable		Date Issued		
Sec. C MANUFACTURING PROCESS	Describe Unit Process Not Applicable			
	Materials Used in Process			
Sec. D POLLUTION CONTROL FACILITY DESCRIPTION	Describe Pollution Abatement Control Facility Mild steel bulk liquid fertilizer storage tank with a capacity of 484,505 gallons with the installation and operation of a synthetic membrane liner within the aforementioned tank to serve as primary containment, in accordance with 8 Illinois Administrative Code 255.60			

7/15/2022
3-20-17-208
5W 7-75

Hafliger, Belinda

From: LeCrone, Darin
Sent: Monday, December 03, 2018 12:16 PM
To: Hafliger, Belinda
Subject: RE: ok

Assign it to Jenny. I don't think she has done a tax cert yet.

Darin E. LeCrone, P.E.
Manager, Industrial Unit
Permit Section
Division of Water Pollution Control
Illinois Environmental Protection Agency

217/782-0610

From: Hafliger, Belinda
Sent: Monday, December 03, 2018 12:06 PM
To: LeCrone, Darin <Darin.LeCrone@Illinois.gov>
Subject: ok

Ok – the one watershed

But, I did ask you about an industrial one and who you'd like it assigned to – do you know yet?

State of Illinois - CONFIDENTIALITY NOTICE: The information contained in this communication is confidential, may be attorney-client privileged or attorney work product, may constitute inside information or internal deliberative staff communication, and is intended only for the use of the addressee. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify the sender immediately by return e-mail and destroy this communication and all copies thereof, including all attachments. Receipt by an unintended recipient does not waive attorney-client privilege, attorney work product privilege, or any other exemption from disclosure.

STATE OF ILLINOIS

COUNTY OF SANGAMON

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)
)
)
)

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that I have served on the date of September 15, 2022, the attached **NOTICE OF FILING**, **APPEARANCE**, and **RECOMMENDATION**, upon the following persons by causing to be mailed a true copy thereof in an envelope duly addressed, bearing proper first class postage, and deposited in the United States mail at Springfield, Illinois:

Martin Malone
34691 E. 2300 North Rd.
Kempton, IL 60946

Copies also provided electronically as follows:

Illinois Department of Revenue
via email at REV.PropTaxApp@illinois.gov
101 West Jefferson
P.O. Box 19033
Springfield, Illinois 62794

[Electronic Filing]

Illinois Pollution Control Board
Don Brown, Clerk
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
don.brown@illinois.gov

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Gabriel H. Neibergall
Gabriel H. Neibergall
Assistant Counsel
Division of Legal Counsel
Gabriel.Neibergall@illinois.gov

DATED: September 15, 2022

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