

ILLINOIS POLLUTION CONTROL BOARD

January 4, 2024

CONSERV FS, INC. - WATERMAN	)	
(Property Identification Number 14-16-401-	)	
008),	)	
	)	
Petitioner,	)	
	)	PCB 24-41
v.	)	(Tax Certification - Water)
	)	
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by M. Gibson):

On December 12, 2023, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify specified facilities of Conserv FS, Inc. (Conserv FS) as “pollution control facilities” for preferential tax treatment under the Property Tax Code. See 35 ILCS 200/11-5 et seq. (2022); 35 Ill. Adm. Code 125. Conserv FS’s liquid fertilizer storage facility is located at 450 West Adams in Waterman, DeKalb County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Conserv FS’s identified liquid fertilizer storage facilities are pollution control facilities.

**LEGAL FRAMEWORK**

Under the Property Tax Code, “[i]t is the policy of this State that pollution control facilities should be valued, at 33 1/3% of the fair cash value of their economic productivity to their owners.” 35 ILCS 200/11-5 (2022); see also 35 Ill. Adm. Code 125.200(a)(2). “For tax purposes, pollution control facilities shall be certified as such by the Pollution Control Board and shall be assessed by the Department [of Revenue].” 35 ILCS 200/11-20 (2022); see also 35 Ill. Adm. Code 125.200(a). Under the statute, the Board determines if the facilities are pollution control facilities; however, the Board is not authorized to assess a value of those facilities.

Under Section 125.202 of the Board’s procedural rules, a person may submit an application for tax certification to the Agency. See 35 Ill. Adm. Code 125.202. If the Agency receives a tax certification application, the Agency must file with the Board a recommendation on the application, unless the applicant withdraws the application. See 35 Ill. Adm. Code 125.204(a). Among other things, the Agency’s filing must recommend that the Board issue or deny tax certification. See 35 Ill. Adm. Code 125.204(a)(4). If the Board finds “that the claimed facility or relevant portion thereof is a pollution control facility . . . , the Pollution Control Board . . . shall enter a finding and issue a certificate to that effect.” 35 ILCS 200/11-25 (2022); see also 35 Ill. Adm. Code 125.216(a).

### AGENCY RECOMMENDATION

The Agency states that it received a tax certification application from Conserv FS on December 12, 2022.<sup>1</sup> Rec. at 1. On December 12, 2023, the Agency filed a recommendation with the Board, attaching Conserv FS's application (Rec. Exh. A). The Agency's recommendation identifies the facilities at issue:

One (1) synthetic membrane liner installed and operated within the mild steel bulk liquid fertilizer tank with storage capacity of 1,000,000 gallons. *Id.* at 1.

The Agency further describes the facilities: “[t]hese agrichemical facilities store liquid agrichemicals as approved under the Agency endorsed Agrichemical Facility Permit No. AC21023338 (Log No. 21023338 issued on March 10, 2022).” *Id.*

The Agency recommends that the Board certify that the Conserv FA's liquid fertilizer storage facilities are pollution control facilities as defined in Section 11-10 of the Property Tax Code (35 ILCS 200/11-10 (2022)) with the “primary purpose of eliminating, preventing, or reducing water pollution.” Rec. at 2; *see also* Rec. Exh. A (Agency memorandum and recommendation).

### TAX CERTIFICATE

Based upon the Agency's recommendation, Conserv FS's application, and the Board's technical review, the Board finds and certifies that Conserv FS's liquid fertilizer storage facilities identified in this order /are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2022)). The Board makes no finding regarding the assessed value of those facilities. Under Section 11-25 of the Property Tax Code, the effective date of this certificate is “the date of application for the certificate or the date of the construction of the facility, which ever is later.” 35 ILCS 200/11-25 (2022); *see also* 35 Ill. Adm. Code 125.216(a). Section 125.216(d) of the Board's procedural rules states that the Clerk “will provide the applicant and the Agency with a copy of the Board's order setting forth *the Board's findings and certificate, if any.*” 35 Ill. Adm. Code 125.216(d) (quoting in italics 35 ILCS 200/11-30 (2022)). The Clerk therefore will provide Conserv FS and the Agency with a copy of this order.

IT IS SO ORDERED.

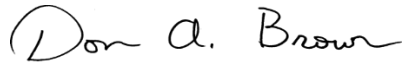
Section 11-60 of the Property Tax Code provides that any applicant or holder aggrieved by the issuance, refusal to issue, denial, revocation, modification, or restriction of a pollution control certificate or a low sulfur dioxide emission coal fueled device certificate may appeal the Board's finding and order to the Circuit Court under the Administrative Review Law (735 ILCS 5/3-101 *et seq.* (2022)). *See* 35 ILCS 200/11-60 (2022). Within 35 days after receiving this final Board order, a party to this Board proceeding may file a motion asking the Board to reconsider or modify the order. 35 Ill. Adm. Code 101.520. Filing a motion to reconsider this final Board order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

<b>Names and Addresses for Receiving Service of</b>
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<sup>1</sup> The Agency's recommendation is cited as “Rec. at \_.”

<b>Any Appeal Filed with the Circuit Court</b>	
<b>Parties</b>	<b>Board</b>
Conserv FS - Waterman Attn.: David Swigart 1110 McConnell Road Woodstock, Illinois 60098 dswigart@conservfs.com	Illinois Pollution Control Board Attn.: Don A. Brown, Clerk 60 East Van Buren Street, Suite 630 Chicago, Illinois 60605 don.brown@illinois.gov
Illinois Environmental Protection Agency Attn.: Joshua Leopold, Assistant Counsel 1021 North Grand Avenue East PO Box 19276 Springfield, Illinois 62794-9276	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 4, 2024, by a vote of 4-0.



Don A. Brown, Clerk  
 Illinois Pollution Control Board