

ILLINOIS POLLUTION CONTROL BOARD  
January 18, 2024

CONSERV FS, INC. - Caledonia (Property	)	
Identification Number 02-023-200-001),	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 24-46
	)	(Tax Certification - Water)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by M. Gibson):

On January 10, 2024, 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’ agrichemical containment structures are located at 14937 Illinois Route 76 in Caledonia, Boone County.

In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and directs the Agency to file an amended recommendation addressing specified matters by Tuesday, February 20, 2020.

**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. On January 10, 2024, the Agency filed its recommendation (Rec.) with the Board, attaching Conserv FS's application (Rec. Exh. A). The Agency's recommendation identifies the facilities at issue:

[a] concrete liquid agrichemical operational containment structure [OC-1] measuring approximately 57 ft. (length) x 61.83 ft. (width) x 0.33 ft. (height) and the portion of the building over this operational containment structure.

A concrete liquid agrichemical operational containment structure [OC-2] measuring approximately 31 ft. (length) x 62.66 ft. (width) x 0.33 ft. (height) and the portion of the building over this operational containment structure.

A concrete liquid agrichemical operational containment structure [OC-3] measuring approximately 28 ft. (length) x 80 ft. (width) x 0.33 ft. (height) and the portion of the building over this operational containment structure.

A concrete liquid agrichemical secondary containment structure [SC-1] measuring approximately 28.42 ft. (length) x 69.33 ft. (width) x 0.833 ft. (height) and the portion of the building over this secondary containment structure.

A concrete liquid agrichemical secondary containment structure [SC-2] measuring approximately 44 ft. (length) x 58 ft. (width) x 3.5 ft. (height) and the portion of the building over this secondary containment structure.

A concrete liquid agrichemical secondary containment structure [SC-4] measuring approximately 50 ft. (length) x 32.5 ft. (width) x 0.5 ft. (height) and the additional 27 ft. (length) x 28 ft. (width) x 0.5 ft. (height) area for containment of liquid fertilizer.

A concrete liquid agrichemical secondary containment structure [SC-5] measuring approximately 50 ft. (length) x 80 ft. (width) x 0.5 ft. (height) and the portion of the building over this secondary containment structure.

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

A concrete bulk dry agrichemical operational containment structure for loader operations measuring approximately 178 ft. (length) x 36 ft. (width) and the portion of the building over this operational containment structure.

A concrete bulk dry agrichemical operational containment structure for mixing, blending and loading operations measuring approximately 178 ft. (length) x 49.4 ft. (width) and the portion of the building over this operational containment structure.

A concrete bulk dry agrichemical operational containment structure for tractor trailer unloading operations measuring approximately 80 ft. (length) x 22 ft. (width) and the portion of the building over this operational containment structure.

A concrete bulk dry agrichemical secondary containment structure measuring approximately 178 ft. (length) x 54 ft. (width) and the portion of the building over this operational containment structure. *Id.* at 1-2.

The Agency further describes the facilities as being used to “collect, store, or prevent the comingling of precipitation with agrichemical rinsates, residues, or washwaters prior to reuse or disposal, as approved under the Agency endorsed Agrichemical Facility Permit No. 94123326 (Log No. 22053643 and 22053644 issued on October 17, 2023) and prevent stormwater runoff from agrichemical affected areas.” *Id.* at 2.

The Agency recommends that the Board certify that the agrichemical containment structures 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 3; *see also* Rec. at 4-5, 6-10 (Agency memoranda).

After reviewing the Agency’s recommendation, the Board notes that its description of the facilities is not entirely consistent with information in Conserv FS’s application to the Agency.

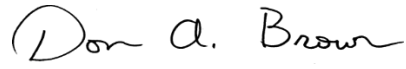
As one example, the Agency’s recommendation addresses “concrete liquid agrichemical secondary containment structure [SC-2]” and includes “the portion of the building over this secondary containment structure.” Rec. at 2; *see* Rec. Exh. A at 2, 7 (Agency memorandum). However, Conserv FS’s application indicates that “SC-2 is an outside containment structure” and is not located within a building. Rec. Exh. A at 21. The application also refers to SC-2 as secondary containment “for the exterior storage of bulk liquid fertilizers.” *Id.* at 44.

Also, the Agency’s recommendation addresses another “concrete liquid agrichemical secondary containment structure [SC-4]” without referring to any portion of a building over it. Rec. at 2; *see* Rec. Exh. A at 2, 4, 7. However, the Agency’s discussion of the SC-4 suggests that it is “situated within the agrichemical building structure” and “within a climate controlled area.” Rec. Exh. A at 5. Conserv FS’s application refers to SC-4 as being “located within the agrichemical building warehouse.” *Id.* at 21.

Based on its review of the Agency’s recommendation and Conserv FS’ application, the Board directs the Agency to file an amended recommendation addressing these apparent inconsistencies by Tuesday, February 20, 2024, the first business days after 30 days from the date of this order.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 18, 2024, by a vote of 4-0.

A handwritten signature in cursive script that reads "Don A. Brown". The letters are fluid and connected, with a large initial "D" and "B".

Don A. Brown, Clerk  
Illinois Pollution Control Board