

ILLINOIS POLLUTION CONTROL BOARD

January 9, 2025

SUNRISE FS - HAVANA (Property	)	
Identification Number 09-12-100-003),	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 25-36
	)	(Tax Certification - Water)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by M. Gibson):

On December 20, 2024, the Illinois Environmental Protection Agency (Agency) filed a recommendation that the Board certify specified facilities of Sunrise FS – Havana (Sunrise 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. Sunrise FS’s agrichemical facility is located at 1216 South Water Street in Havana, Mason County. In this order, the Board describes the legal framework for tax certifications, discusses the Agency’s recommendation, and certifies that Sunrise FS’s identified agrichemical containment structures 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 Sunrise FS on December 18, 2023.<sup>1</sup> Rec. at 1. On December 20, 2024, the Agency filed a recommendation with the Board, attaching Sunrise FS's application (Rec. Exh. A). The Agency's recommendation identifies the facilities at issue:

A concrete bulk dry agrichemical operational containment structure for loader transfer of bulk dry fertilizer between storage and the hopper (located in dry fertilizer storage building) measuring approximately 34 ft. (width) x 152 ft (length) and the portion of the building over this operational containment structure.

A concrete truck loading area for the loading of bulk dry fertilizer transportation and application equipment (located in the truck loadout building) measuring 40 ft. (width) x 100 ft. (length) and the portion of the building over this operational containment structure.

A concrete operational containment structure for the blending of bulk dry fertilizer within the operational blender room (located in the truck load out building) 20 ft. (width) x 57 ft. 5 ¼ in. (length) and the portion of the building over this operational containment structure.. *Id.* at 1.

The Agency further describes the facilities as being 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. AC92051414 (Log No. 22063671 issued on September 3, 2022) 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 2; *see also* Rec. Exh. A (Agency memorandum).

### **TAX CERTIFICATE**

Based upon the Agency's recommendation, Sunrise FS's application, and the Board's technical review, the Board finds and certifies that Sunrise FS's agrichemical containment structures 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*

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<sup>1</sup> The Agency's recommendation is cited as “Rec. at \_\_.”

any.” 35 Ill. Adm. Code 125.216(d) (quoting in italics 35 ILCS 200/11-30 (2022)). The Clerk therefore will provide Sunrise 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.

Names and Addresses for Receiving Service of Any Appeal Filed with the Circuit Court	
Parties	Board
Sunrise FS - Havana Attn.: Jim Meinhart, General Manager 20735 IL Highway 125 PO Box 108 Virginia, Illinois 62691	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.: Gabriel Neibergall, Assistant Counsel 1021 North Grand Avenue East PO Box 19276 Springfield, Illinois 62794	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 9, 2025, by a vote of 5-0.



Don A. Brown, Clerk  
Illinois Pollution Control Board