

ILLINOIS POLLUTION CONTROL BOARD

February 20, 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.D. Mankowski):

On December 20, 2024, the Illinois Environmental Protection Agency (IEPA) 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.

Based upon the Agency’s recommendation, Sunrise FS’s application for certification, and the Board’s technical review, the Board in an order on January 9, 2025, found and certified that Sunrise FS’s agrichemical containment structures identified in the order are pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2022)).

On February 4, 2025, IEPA filed a motion for modification of the Board’s January 9, 2025 order (Mot.). *See* 35 Ill. Adm. Code 101.520. IEPA stated that, after the Board adopted its January 9, 2025 order, Sunrise FS contacted it to report that IEPA’s recommendation had not included a “bulk dry fertilizer storage building measuring 120 ft. (width) x 208 ft. (length)” for which Sunrise FS has requested certification. Mot. at 1; *see id.* at 11 (Figure 1), 14 (Figure 7), 17, 20-22 (permit), 44-47 (email correspondence). IEPA reports that it “has confirmed that this omission was an error on its part, and that the bulk dry fertilizer storage building may be considered a ‘pollution control facility’ pursuant to 35 Ill. Adm. Code 125.200 with the primary purpose of eliminating, preventing, or reducing water pollution . . . and is eligible for tax certification from the Board.” Mot. at 1. Accompanying IEPA’s motion were a revised recommendation and memorandum, both of which refer to the dry fertilized storage building measuring 120 feet in width and 208 feet in length. Mot. at 3-4 (revised recommendation), 5-6 (revised memorandum).

Under Section 101.520(a), which requires that a motion for modification of a Board order “must be filed within 35 days after receipt of the order” (35 Ill. Adm. Code 101.520(a)), the Board finds that IEPA’s February 4, 2025 motion is timely. Any response to the motion generally “must be filed with 14 days after the filing of the motion” (35 Ill. Adm. Code 101.520(b)), and the Board generally will not grant a motion before the 14-day response period

expires unless undue delay would result (35 Ill. Adm. Code 101.500(d)). However, the Board notes that the timely motion for modification “stays the effect of the order until final disposition of the motion.” 35 Ill. Adm. 101.520(c). The motion does not address the three facilities certified by the Board in its January 9, 2025 order. Also, the motion includes email correspondence showing that Sunrise FS initiated and requested the correction sought in IEPA’s motion. Under these circumstances, the Board proceeds to decide the motion before the 14-day response period expires.

The Board grants IEPA’s motion to modify. Based on IEPA’s motion, its revised recommendation, Sunrise FS’s application, and the Board’s technical review, the Board finds that the following Sunrise FS facilities are “pollution control facilities under the Property Tax Code (35 ILCS 200/11-10 (2022)):

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.

A bulk dry fertilizer storage building measuring 120 Ft. (width) x 208 ft. (length).
See Mot. at 5 (corrected recommendation).

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, whichever 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 Sunrise FS and IEPA 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 60601 don.brown@illinois.gov
Illinois Environmental Protection Agency Attn.: Gabriel Neibergall, Assistant Counsel 2520 West Iles Avenue 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 February 20, 2025, by a vote of 5-0.



Don A. Brown, Clerk
Illinois Pollution Control Board