

ILLINOIS POLLUTION CONTROL BOARD
February 20, 2020

DARE FARMS LLP (Property Identification)
Number 09-08-13-100-001),)
)
Petitioner,)
)
v.) PCB 20-41
) (Tax Certification - Water)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by B.K. Carter):

On February 13, 2020, Dare Farms LLP (Dare Farms) timely filed a petition to contest a tax certification recommendation of the Illinois Environmental Protection Agency (Agency). *See* 35 Ill. Adm. Code 101.300(b), 125.206(a). The petition concerns Dare Farms’ cattle operation located at 27985 North Dare Road in Canton, Fulton County. For the reasons below, the Board accepts the petition as timely filed, but finds the petition deficient.

Facilities certified by the Board as “pollution control facilities” receive preferential tax treatment under the Property Tax Code. *See* 35 ILCS 200/11-5 *et seq.* (2018); 35 Ill. Adm. Code 125. On January 8, 2020, the Agency recommended that the Board deny a tax certificate for the following facilities located at Dare Farms’ Fulton County cattle operation:

A covered feed storage building measuring 80 ft. x 150 ft.;

A solid pack building with open front and back sides measuring 50 ft. x 96 ft.;

A cattle loafing building measuring 30 ft. x 72 ft.;

A cattle loafing building measuring 33 ft. x 108 ft.; and

A solid pack building measuring 100 ft. x 200 ft. (except the portions of concrete curbing that are recommended for approval above).

In its petition contesting the recommendation, Dare Farms states that “this past year the buildings in question kept approximately 1,287,000 gallons of water from coming in contact with manure,” “they are doing an excellent job of keeping literally tons of water clean,” the covered feed storage building “was constructed exclusively to prevent water pollution from all the rain leaching through the stored feed,” and purpose of these facilities is to eliminate, prevent, or reduce water pollution. Petition at 2-3. Dare Farms’ petition specifies the ground for contesting the Agency’s recommendation, but fails to specify the date on which the Agency served Dare

Farms as required by 35 Ill. Adm. Code 125.206. However, the Board's January 16, 2020 order in this docket explicitly states that Dare Farms must file on or before Tuesday, February 18, 2020.

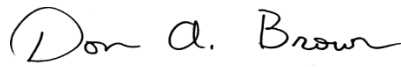
On February 13, 2020, Henry Dare and Phil Dare filed a signed petition for review on behalf of Dare Farms. The Board accepts the petition as timely filed but finds that the petition is deficient.

Specifically, although an individual may represent himself or herself before the Board, "any person other than individuals must appear through an attorney-at-law licensed and registered to practice law" in a Board adjudicatory proceeding, such as a petition for review. *See* 35 Ill. Adm. Code 101.400(b). The petition for review was signed by Henry Dare and Phil Dare on behalf of Dare Farms, Limited Liability Partnership. Unless either Henry Dare or Phil Dare is an attorney, neither can represent Dare Farms. Therefore, Dare Farms must file with the Board an amended petition that (1) states that Henry Jones is an attorney, (2) states that Phil Dare is an attorney or (3) is filed by an attorney on behalf of Dare Farms. In addition, Dare Farms must mail a copy of the amended petition to the Agency and file proof with the Board that the petition was mailed to the Agency. *See* 35 Ill. Adm. Code 101.304.

This deficiency must be remedied before the case can be accepted for hearing. The Board therefore directs that Dare Farms file an amended petition with the Board curing this deficiency. If no amended petition is filed with the Board by March 23, 2020, which is the first business day following the 30th day after the date of this order, the petition will be dismissed.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 20, 2020 by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board