



Agriculture and Markets

KATHY HOCHUL
Governor

RICHARD A. BALL
Commissioner

March 22, 2024

Wayne Wells, Spokesperson
Cameron Committee for a Safe Environment (CCSE)
No Safe Level (NSL)
waynww@gmail.com

Re: Dickson & Sons, Inc., Agriculture and Markets Law Section 305-a Review

Dear Mr. Wells:

Your February 26, 2024, email to Commissioner Ball, setting forth your opposition to the application of sewage sludge to farmland in the Towns of Thurston, Bath and Cameron has been referred to me for a reply. The Department appreciates your inquiry and to assist you in communicating your stated opposition, provides instruction in this letter on our §305-a review process.

As you note, the Department has received an application¹ from Leo Dickson & Sons, Inc., (“Dickson”) for an AML §305-a review of the Town of Thurston’s law with respect to its ban for land application of biosolids within the agricultural district. The receipt of an AML §305-a review application is the first step in an administrative proceeding where, here at the request of a farmer, the Department is asked to determine whether a local law, either as enacted and/or administered by the local government, constitutes an unreasonable restriction on a farm operation located within a county adopted, State certified agricultural district.

The Department will investigate the issues raised by the Dickson application and will solicit comments from the Town of Thurston. The local government and its representatives and the farm operation are the parties to this review. Neighbors, neighbor organizations or other interested entities are not parties to the AML §305-a review. Generally, the core issue before the Department in an AML §305-a review is whether the local law, or its administration, unreasonably restricts a farm operation in an agricultural district. If the Department finds that the local law is unreasonably restrictive, the local government has an opportunity to demonstrate that the farm operation’s proposed activity

¹ Your submission uses the term ‘sound agricultural practice’ which is a term that is referenced in Agriculture and Markets Law §308 which addresses farm’s that are potentially looking at private neighbor nuisance actions. AML Article 25-AA includes a number of farmland protection tools that sometimes are collectively referred to as ‘right to farm’ protections. To clarify, the Department received an AML §305-a local unreasonable restriction application from Dickson.

poses an actual health or safety threat. It is the Town's burden to demonstrate the health or safety threat to uphold the local restriction. You and members of CCSE and NSL should work with the Town and its representatives to ensure that your concerns or any relevant information is provided by the Town to the Department as part of the proceeding. Enclosed is Department guidance titled *Local Laws and Agricultural Districts: How Do They Relate?*, that describes the AML §305-a process in greater detail.

In prior AML §305-a reviews the Department has, as needed, relied on other State agency's expertise to address technical concerns within the jurisdiction of that agency. The New York State Department of Environmental Conservation (DEC) has permitted the Dickson facility pursuant to a Part 360 Permit. Further, the DEC has issued DMM7 Biosolids Recycling in New York State – Interim Strategy for the Control of PFAS Compounds pending the federal Environmental Protection Agency's risk-based standards applicable to recycled biosolids. As part of this AML §305-a review, the Department will consult with DEC regarding any health or safety threats related to the land application of biosolids.

Please feel free to contact Kathleen Tylutki at (518)457-2851 if you have any further questions about the AML §305-a process.

Sincerely,

Michael J. Latham

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Latham
Date: 2024.03.22 13:43:37 -04'00'

Michael J. Latham
Director

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