



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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Lt. Governor

RONALD FARR,

Petitioner,

v.

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION,
DIVISION OF PARKS AND
FORESTRY,

Respondent.

ADMINISTRATIVE ACTION

) FINAL DECISION

) OAL DKT NO.: ENH 00273-21

) AGENCYREF.NO.: N/A

This Order addresses the Initial Decision of the Honorable Julio C. Morejon, ALJ, issued on May 16, 2024, which affirmed Respondent New Jersey Department of Environmental Protection's (DEP) decision dated October 2, 2019, to remove Petitioner Ronald Farr (Farr) from the Approved Foresters List for a period of one year. The issue before the ALJ was whether DEP had proven that Farr submitted Woodland Data Forms (WD-1 Forms) for properties that did not have Woodland Management Plans or Forest Stewardship Plans approved by DEP. For the reasons set forth herein, I ADOPT the Initial Decision in full.

FACTUAL AND PROCEDURAL BACKGROUND

The Farmland Assessment Act allows property that is used for the production and sale of forest products, such as timber or firewood, to become eligible for significantly reduced property taxes. N.J.S.A. 54:4-23.3; N.J.A.C. 18:15-1 to -14. The property owner must first develop a Woodland Management Plan or Forest Stewardship Plan that is approved by DEP. N.J.S.A. 54:4-

23.3; N.J.A.C. 7:3-5.1. The Plan describes the forest resources on the property, including the number of acres, tree species, and age of the trees, and it explains how those resources will be managed over a ten (10)-year period. N.J.A.C. 7:3-5.1(i), -5.6.

To receive a property tax reduction, the landowner must also submit, among other things, an annual WD-1 Form. The WD-1 Form lets DEP and the local tax assessor know how much forest product was harvested and the income received over the past year. The WD-1 Form is signed by the landowner and the forester working with the landowner.

The State Forest Service, which is a subdivision of DEP, oversees the forestry program, including the Woodland Management Program and the Forest Stewardship Program, and it maintains the List of Approved Foresters. N.J.A.C. 7:3-3.2. Approved Foresters draft Woodland Management Plans and Forest Stewardship Plans for landowners and sign WD-1 Forms certifying that DEP has approved a plan for that property and that the landowner is following the plan. N.J.A.C. 7:3-3.3. Approved Foresters must have at least two (2) years of forestry experience and meet educational and other criteria in N.J.A.C. 7:3-3.2. DEP has discretion over removing people from the List of Approved Foresters for any of the reasons outlined in N.J.A.C. 7:3-3.7. Notable here, a person shall be removed from the list if “determined by the Department to have certified a woodland data form without satisfying the requirements of N.J.A.C. 7:3-3.3(b).” N.J.A.C. 7:3-3.7(a)(5).

DEP issued a “Notice of [DEP’s] Intent to Remove Ronald Farr from [DEP’s] List of Approved Foresters, N.J.A.C. 7:3-3.7” (Notice of Removal) on October 2, 2019. The Notice of Removal alleged that between 2012 and 2019, Farr certified at least 41 WD-1 Forms without first satisfying the requirements of N.J.A.C. 7:3-3.3(b), which mandates that an Approved Forester shall only certify a WD-1 Form if he or she has determined that “the owner has a Department-



approved forest stewardship plan or woodland management plan that applies to the property” and that “the management of the property is in conformance with the plan.” N.J.A.C. 7:3-3.3(b)(1) and (4). As such, the Notice of Removal provided Farr with written notice that DEP intended to remove his name from DEP’s List of Approved Foresters pursuant to N.J.A.C. 3:3-3.7(a)(5).

Farr timely challenged DEP’s decision of removal and requested a hearing in the Office of Administrative Law (OAL). On December 24, 2020, Farr’s appeal was filed with the OAL as a contested case. Several status conferences were held, and on March 9, 2022, a remote Zoom hearing was held before ALJ Morejon. In the hearing the following individuals testified: Farr, Jon Klischies, Supervising Forester at DEP, and Michael Hart, Regional Forester at DEP. At the conclusion of the hearing, the parties were allowed an opportunity to file post-hearing written submissions, which were filed on or about April 25, 2022. The record remained open until March 29, 2024.

THE INITIAL DECISION

In a May 16, 2024, Initial Decision, the ALJ concluded that DEP had met its burden of proof that Farr violated N.J.A.C. 7:3-3.3(b) by submitting certified WD-1 Forms for properties that did not have DEP-approved Woodland Management Plans or Forest Stewardship Plans.

Among his findings, the ALJ specifically found credible the testimony of Klischies and Hart concerning the requirements of an Approved Forester for submission of WD-1 Forms to DEP for properties having approved Plans. The ALJ further found credible Klischies’s testimony that he spoke with Farr in August 2017, and then met with him in June 2018, concerning Farr’s alleged violations in certifying WD-1 Forms for properties that did not have approved Forest Stewardship or Woodland Management Plans, or where management of the property was not in conformance with such Plans. As to Farr’s testimony, the ALJ found it unavailing, because Farr’s interpretation



that signing a WD-1 Form did not require an “approved plan” was contrary to statutory requirements.

The ALJ ultimately concluded that DEP’s decision to remove Farr was reasonable and within the agency’s discretion as there is ample evidence in the record that Farr repeatedly submitted WD-1 Forms without satisfying the requirements of N.J.A.C. 7:3-3.3(b), and Farr’s failure to satisfy those requirements warrants his removal from the Approved Foresters List, pursuant to N.J.A.C. 7:3-3.7(a)(5). Of the specific violations alleged in the Notice of Removal, the ALJ upheld only those violations alleged to have occurred after December 18, 2017, when DEP substantially amended its forestry rules, including N.J.A.C. 7:3-3.3. The violations alleged to have occurred prior to then were dismissed. Based on the violations being upheld, the ALJ affirmed DEP’s decision to remove Farr from the Approved Forester list. Pursuant to N.J.A.C. 7:3-3.8, his removal shall last one year, at which point he will be eligible to apply for reinstatement.

No exceptions were filed in response to the Initial Decision.

CONCLUSION

The question before me is whether the ALJ’s decision is supported by “substantial, credible evidence in the record as a whole.” *Henry v. Rahway State Prison*, 81 N.J. 571, 579-80 (1980). The ALJ had the benefit of weighing the evidence in the record, observing witness testimony, determining the credibility of witnesses, and drawing conclusions from their testimony. *Dore v. Bd. Of Ed. of Bedminster*, 185 N.J. Super. 447, 453 (App. Div. 1982). An ALJ’s decision should only be reversed if it is “arbitrary, capricious or unreasonable.” *Dennery v. Bd. of Ed. of Passaic*



Co. Reg. H.S., 131 N.J. 626, 641 (1993). Because I believe that the ALJ's Initial Decision ably reaches the proper factual and legal conclusions under the circumstances presented in this matter,

I ADOPT it in its entirety.

IT IS SO ORDERED

Date: September 25, 2024



Shawn M. LaTourette
Commissioner



RONALD FARR

v.

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF PARKS & FORESTRY

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