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Salem County Agriculture Development Board
51 Cheney Road
Woodstown, NJ 08098
(856)339-8619

May 25, 2023

Mrs. Susan Payne, Executive Director
State Agriculture Development Committee
Health/Agriculture Building
PO Box 330
Trenton, NJ 08625-0330

RE: SSAMP – ISE America, Inc.

Dear Mrs. Payne,

An SSAMP request was filed and received by ISE America, Inc. on January 20, 2023. The Salem CADB held a formal hearing at its April 26, 2023, meeting and attached is a copy of the Salem CADB resolution that was approved at its May 24, 2023 meeting.

Sincerely,



Kris Alexander
Salem CADB
Program Administrator

Enclosure

Cc: Mannington Township (w/enclosure)
Kevin Hahn, Esq. (w/enclosure)

SALEM COUNTY AGRICULTURE DEVELOPMENT BOARD

RESOLUTION OF APPROVAL

**Recommendation of a Site Specific
Agricultural Management Operation or Practice
Pursuant to *N.J.A.C. 2:76-2.3***

**IN THE MATTER OF ISE AMERICA, INC.
d/b/a RED BIRD EGG FARM
[redacted]
MANNINGTON TOWNSHIP, NEW JERSEY
BLOCK 7, LOT 2**

**Decided: April 26, 2023
Memorialized: May 24, 2023**

WHEREAS, pursuant to the New Jersey Right to Farm Act, *N.J.S.A. 4:1C-1, et seq.* (the “Act”), as well as the State Agriculture Development Committee regulations; namely, *N.J.A.C. 2:76-2.3*, a commercial farm owner or operator who meets the eligibility criteria of the Act is permitted to file an application with the County Agriculture Development Board, in the County where the commercial farm is located, for a site specific recommendation and determination that a specific operation or practice of the commercial farm constitutes a generally accepted agricultural operation or practice pursuant to law; and

WHEREAS, on or about January 20, 2023, Ise America, Inc. d/b/a Red Bird Egg Farm (the “Applicant”), filed an application with the Salem County Agriculture Development Board (the “Board”) seeking a site specific determination that: (i) Applicant meets the eligibility criteria as a commercial farm pursuant to the Act; and (ii) Applicant replacing two previously existing/obsolete barns, used to house egg laying chickens, with two new barns having the same or smaller footprint and to be used for the same purpose, is an operation or practice of a commercial farm which constitutes a generally accepted agricultural operation or practice as recognized by the Act and the applicable regulations; and

WHEREAS, along with its application to the Board, Applicant also provided the Board with the certification required by *N.J.A.C. 2:76-2.3* (d), executed by its vice president and chief financial officer, Denise Ford, wherein Ms. Ford certified that, among other things, Applicant’s egg producing farm located at [redacted], Mannington Township, Salem County, New Jersey, also identified as Lot 2, Block 7 on the Official Tax Map for Mannington Township (the “Subject Farm”), is five acres or more in size; produces agricultural products worth \$2,500 or more annually; and is eligible for differential property taxation pursuant to the Farmland Assessment Act of 1964, and said certification had attached thereto the necessary proofs showing sales well in excess of \$2,500 annually and that the Subject Farm is farmland assessed and has been for quite some time; and

WHEREAS, a public hearing was scheduled at the Board’s regularly scheduled meeting on April 26, 2023, at which time it was initially determined that Applicant submitted the required proofs necessary for the Board to reasonably conclude that Applicant had properly noticed the hearing by complying with the public notice requirements of *N.J.A.C. 2:76-2.8* by mailing, via certified mail, notice of the hearing to all property owners within 200 feet of the Subject Farm as well as to the other entities required to receive such direct notice, and by also publishing a copy of said notice in the official newspaper for the Board; and

WHEREAS, the Applicant appeared before the Board on April 26, 2023, being represented by counsel, Kevin M. Hahn, Esq., who presented the following witnesses to provide testimony and evidence to the Board on behalf of the Applicant and in support of the pending application: Rob Dvorak, Applicant’s

vice president of operations; Ted Brown, Applicant's construction manager; and Stephen A. Cosaboon, PE, PP from Sickels & Associates, Inc., all witnesses having been duly sworn according to law testified under oath; and

WHEREAS, Mr. Dvorak testified and confirmed, among other things, that the Subject Farm is approximately 70 acres in size; the Applicant's total revenue from the sale of eggs in 2022 was approximately \$8 million and in past years the gross revenue was comparable, the Subject Farm is farmland assessed, the Subject Farm has been in existence since the 1950s, the Applicant has owned the Subject Farm since 2006; and the total number of chickens present on the Subject Farm prior to the fire in 2019 was approximately 620,000, and the total number of chickens that will be present on the Subject Farm once all four of the new barns are completed and in operation will be approximately 595,000; and

WHEREAS, Mr. Dvorak further testified that Applicant has never received any complaints or violations related to public health and safety issues at the Subject Farm during the time since Applicant purchased the Subject Farm in 2006 to the present, nor is Applicant aware of any such complaints concerning the Subject Farm prior to 2006; and

WHEREAS, Mr. Brown testified that with respect to the two barns that burned down in 2019, they were rebuilt in 2021 with two modern barns having the same or smaller footprints than the barns that existed previously and that the zoning officer from Mannington Township at the time issued a zoning permit for the replacement of the two barns that burned down, and the two new replacement barns built in 2021 are currently in full operation under a temporary certificate of occupancy (the "TCO") issued by the New Jersey Department of Community Affairs (the "NJDCA") which oversees all construction at the Subject Farm on behalf of Mannington Township pursuant to the New Jersey Uniform Construction Code; and

WHEREAS, Mr. Brown further testified that Applicant determined two other barns on the Subject Farm (identical to the two barns that burned down) were obsolete and should be replaced with two new modern barns identical to the two barns Applicant built on the Subject Property in 2021, having the same or smaller footprints than the old barns; and since the new barns will house approximately 25,000 less chickens once construction on all the new barns is fully completed, the Applicant is in no way looking to "expand" the Subject Farm operation, and since the Subject Farm has been in existence since the 1950s and has been owned and operated by Applicant since 2006, it cannot be said that the Applicant is looking to "establish" the existing poultry egg farm at this time either; nevertheless, the current zoning officer for Mannington Township refused to issue a zoning permit for the two additional barns needed and Applicant was informed that it would need to obtain conditional use approval from the Mannington Township Planning Board or a site specific determination from this Board before it could obtain the necessary building permits to reconstruct the additional two barns; and

WHEREAS, Mr. Cosaboon testified and provided an overview of the Subject Farm using the "Overall Site Plan" drawing as an exhibit (sheet SP-3, prepared by Sickels & Associates, Inc., dated June 3, 2021 and last revised July 13, 2021), showing the property location and building orientation thereon including the layout of the six original houses/barns, the layout of the four new houses/barns which will house the egg laying chickens, the location of the existing egg processing building, and the location of the proposed generator building adjacent to the new barns; and

WHEREAS, Mr. Cosaboon further testified that the total tract area of the Subject Farm is 70+/- acres, the active area of the Subject Farm operation where eggs are produced and processed is 21+/- acres, the area occupied by the six original layer houses/barns was 8.5+/- acres, but that area will be reduced in size since the area to be occupied by the four new layer houses/barns (which are replacing the six old houses/barns), and the generator building, once fully constructed, will be only 6.8+/- acres in size; and

WHEREAS, Mr. Cosaboon further testified that the proposed generator building will be 864 square feet, it will be located within the footprint of the former storage building which has been demolished, and the generator building will be smaller than the former storage building; Mr. Cosaboon also noted that the Applicant's project has already received a soil erosion certification and a 5G3 permit from the New Jersey Department of Environmental Protection (the "NJDEP"), for authorization to discharge stormwater during construction and that all Applicant needs to begin construction on the two new proposed barns are building permits from NJDCA which can be issued once this Board approves the Applicant's site specific agricultural management operation or practice as requested; and

WHEREAS, no one appeared in opposition to the Applicant's application and presentation before the Board nor did anyone submit written comments to the Board concerning this application prior to the hearing conducted on April 26, 2023; and

WHEREAS, at the conclusion of the hearing on April 26, 2023, the Board voted unanimously to recommend that Applicant's commercial farm operation conducted on the Subject Farm property constitutes a generally accepted agricultural operation or practice included in the permitted activities of the Act, *N.J.S.A. 4:1C-9*, after making the following findings of fact and conclusions, based on the information, documentation, testimony and other evidence comprising the hearing record, as presented to the Board by the Applicant during the hearing and application process:

1. The Subject Farm is located at [redacted], Mannington Township, Salem County, New Jersey, and is known as Red Bird Egg Farm. Said farm is owned and operated by Ise America, Inc., the Applicant herein;
2. The Subject Farm is a "commercial farm" as that term is defined under the Act in that the area of the entire tract is 70+/- acres and, thus, greater than five acres, and it produces agricultural products (namely, chicken eggs for human consumption) worth \$2,500 or more annually, and it satisfies the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964 and is, in fact, farmland assessed at the present time and has been for several years;
3. The Subject Farm has been in operation since the 1950s and owned by Ise America, Inc. since 2006;
4. The total number of chickens present on the Subject Farm prior to the fire in 2019 was approximately 620,000, and the total number of chickens that will be present on the Subject Farm once all four new barns are fully constructed and in operation will be approximately 595,000;
5. The Subject Farm is not looking to establish itself or expand beyond re-building the four new barns/chicken houses as noted above—two of the barns are already built and operating under a TCO, and the other two identical barns will be built in the near future as part of the Subject Farm's ongoing agricultural operation and practice once fully approved by this Board;
6. The four new replacement barns/chicken houses will have and do have the same or smaller footprints than the barns they are replacing;
7. In addition to the two new barns, the Applicant will also need to replace and construct a new generator building adjacent to the barns in the same location as the old storage building. The four new barns and generator building will occupy only 6.8+/- acres on the Subject Farm as opposed to the 8.5+/- acres previously occupied by the six old barns and storage building;
8. The Applicant's proposed project has a soil erosion certification and a 5G3 permit from NJDEP;

9. No one appeared at the hearing in opposition to the Applicant's application to re-build the two barns/chicken houses and generator building referenced above nor did anyone submit any comments to the Board prior to the hearing as permitted by *N.J.A.C. 2:76-2.8(c)(2)*.

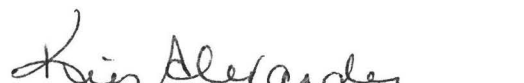
NOW, THEREFORE, BE IT RESOLVED, on this 24th day of May, 2023, that the Salem County Agriculture Development Board does hereby find based upon the record established by the Applicant at the above-referenced hearing and the documents previously submitted to the Board by the Applicant that (i) Red Bird Egg Farm is a "commercial farm" owned and operated by Ise America, Inc.; (ii) Red Bird Egg Farm produces poultry eggs for human consumption which is a permitted activity under the New Jersey Right to Farm Act, *N.J.S.A. 4:1C-9*; (iii) Red Bird Egg Farm replacing the two chicken houses/barns and the adjacent generator building on the Subject Farm property constitutes a generally accepted agricultural operation or practice which is protected by the Act; (iv) Red Bird Egg Farm's related site specific poultry egg production and processing operations, moreover, are themselves generally accepted agricultural operations or practices consistent with and furthering the permissible activities of a commercial farm under the Act; and (v) Red Bird Egg Farm, by its current application to the Board, is not seeking to establish or expand its poultry egg operation on the Subject Farm; therefore, no further approvals from the Mannington Township Planning Board are required and upon the adoption of this Resolution by the Board, the Applicant shall have the right to immediately apply directly to the NJDCA for the necessary building permits to complete the two new barns and the generator building--said structures to be constructed in accordance with the New Jersey Uniform Construction Code; and

BE IT FURTHER RESOLVED, that the Board shall forward a true copy of this written recommendation/Resolution of the site specific approval granted herein to Ise America, Inc. d/b/a Red Bird Egg Farm, to the State Agriculture Development Committee, and to the Clerk of the Township of Mannington within thirty (30) days of its passage as required by *N.J.A.C. 2:76-2.3(l)*.


David Schaeffer, Board Chairman

Date: 5/24/23

The undersigned does hereby certify that the foregoing Resolution is a true copy of the Resolution adopted by the Salem County Agriculture Development Board at its regular meeting held on May 24, 2023, and that same has been disseminated to the necessary parties and entities as noted above.


Kris Alexander, Board Secretary