



New York State  
Department of Economic Development  
Division of Minority and Women's  
Business Development

---

In the matter of the appeal of

**JBS Dirt, Inc.**

FINAL ORDER 23-08

From a denial of recertification as a Woman-owned Business Enterprise pursuant to Executive Law Article 15-A.

---

This order arises from an administrative appeal brought on behalf of JBS Dirt, Inc. (“JBS Dirt” or “Appellant”) pursuant to section 144.2 of Title 5 of the New York Codes, Rules and Regulations.<sup>1</sup> Appellant seeks reversal of the decision of the Division of Minority and Women’s Business Development (the “Division”), dated November 12, 2019, to deny JBS Dirt’s October 7, 2016, recertification application as a Woman-owned Business Enterprise (“WBE”).

Appellant initiated its appeal by sending a notice of appeal letter dated December 10, 2019, to the Division, requesting to appeal the denial determination via hearing. On May 8, 2023, the Division sent a notice of hearing to the Appellant. The virtual hearing was held on June 9, 2023, Ms. Diane I. Plue, Esq. appeared on behalf of the applicant in addition to three witnesses, and Mr. Michael Livolsi, Esq. appeared on behalf of the Division with one witness, Associate Certification Director, Raymond Emanuel. Administrative Law Judge (“ALJ”) Richard A. Sherman presided over the appeal.

The issues on appeal were whether Appellant sufficiently demonstrated that the woman owner relied upon for certification (1) has made capital contributions in the form of money, property, equipment or expertise in proportion to her equity interest, as required by 5 NYCRR § 144.2(a)(1); (2) shares in the risks and profits in proportion to her ownership interest in the business

---

<sup>1</sup> The Division’s November 12, 2019, denial determination and Appellant’s December 10, 2019, request to appeal pre-date the December 2, 2020, amendments made to 5 NYCRR Parts 140 et al. Accordingly, the eligibility criteria set forth under the former regulations are referenced throughout this final order.

enterprise, as required by 5 NYCRR § 144.2(c)(2); and (3) makes decisions pertaining to the operation of the business enterprise, as required by 5 NYCRR § 144.2(b)(1).

On August 2, 2023, the Division received a Recommended Order from ALJ Sherman that recommended affirmation of the Division's denial of the application to recertify JBS Dirt, Inc. as a WBE on the grounds set forth in the Division's November 12, 2019, denial letter.

After considering the appeal record, I accept the recommendation of the Administrative Law Judge as it pertains to the facts of this case. Incorporation by reference is hereby made with respect to the findings and conclusions of the Recommended Order.

It is hereby **ORDERED** that the decision to deny recertification, dated November 12, 2019, is affirmed. Accordingly, JBS Dirt, Inc. will be removed from the Division's directory for Minority and Women-owned Business Enterprises.

August 17, 2023



---

Jason M. Clark  
Executive Vice President and Executive Director  
Division of Minority and Women's Business Development