

STATE OF NEW YORK SUPREME COURT
ESSEX COUNTY

LEWIS FAMILY FARM, INC.,

Petitioner,

v.

NEW YORK STATE ADIRONDACK
PARK AGENCY,

Respondent.

ADIRONDACK PARK AGENCY,

Plaintiff,

v.

LEWIS FAMILY FARM, INC.,
SALIM B. LEWIS and BARBARA LEWIS,

Defendants.

REPLY
AFFIRMATION OF
LORETTA SIMON
IN OPPOSITION
TO MOTION TO DISMISS
APA'S COMPLAINT

INDEX No. 315-08
RJI No. 15-1-2008-0109

INDEX No. 332-08
RJI No. 15-1-2008-0117

Loretta Simon, an attorney duly admitted to practice in the courts of the State of New York, hereby affirms under penalty for perjury pursuant to CPLR § 2106:

1. I serve as an Assistant Attorney General in the Environmental Protection Bureau of the Office of the New York State Attorney General and am litigation counsel to the Adirondack Park Agency ("the APA" or "the Agency") in the above captioned matters. I am familiar with these matters and the underlying facts, having represented the APA in a previous action

June 10, 2008 Reply
Aff. of Loretta Simon

brought by Lewis Family Farm, Inc. ("Lewis Farm") against the APA in 2007 (Lewis Family Farm, Inc., v. APA, Essex Co. Sup. Ct., Index No. 498-07, RJI No. 15-1-2007-0153, assigned to Hon. Kevin K. Ryan [hereafter "Lewis Farm I"]). I also represent the APA in the above-captioned consolidated cases (Index No. 315-08 ["Lewis Farm II"] and Index No. 332-08 ["Lewis Farm III"]).

2. I submit this affirmation in opposition to the Motion of defendants' to dismiss the State APA's civil enforcement action (Lewis Farm III) against Lewis Family Farm Inc. ("Lewis Farm"), Barbara and Salim B. Lewis.

3. These three cases arise from the same underlying facts: construction of three single-family dwellings and subdivision of land pursuant to the APA Act, on land located in the Town of Essex, Essex County in violation of the Adirondack Park Agency Act ("APA Act") and the Wild, Scenic, and Recreational River System Act (the "Rivers Act"). See Executive Law § 809 and Executive Law § 810; Environmental Conservation Law ("ECL") § 15-2701.

4. A detailed recitation of the facts and litigation can be found in the documents already on file in these matters in Supreme Court Essex County and will not be restated herein.

5. The APA filed a civil enforcement action against Lewis Farm, Barbara Lewis and Salim B. Lewis on April 11, 2008, for violations of the Adirondack Park Agency Act ("APA Act"),

Executive Law § 801, and the Wild, Scenic, and Recreational River System Act (the "Rivers Act") Environmental Conservation Law ("ECL") § 15-2701. The APA amended its complaint on May 15, 2008 to add the Agency's March 25, 2008 determination, as corrected.

6. Lewis Farm filed a motion to consolidate civil action no. 332-08 and proceeding no. 315-08, which motion was not opposed by the State and was granted by Justice Richard B. Meyer. See Exhibit A. In a letter to the parties regarding consolidation of the cases, Justice Meyer noted that the State's civil enforcement action would be deemed a counterclaim. See Exhibit A (letter dated May 30, 2008 of Hon. Richard B. Meyer).

7. Lewis Farm's memorandum of law is fashioned both in support of judgment on its CPLR Article 78 proceeding and in support of dismissal of the APA's complaint. This affirmation and accompanying memorandum of law responds solely to Lewis Farm's motion to dismiss. To the extent the petitioner/defendants' memorandum addresses the merits of the petition, the APA will address those matters its responsive papers to be submitted in the CPLR Article 78 proceeding. See Lewis Farm's memorandum of law dated June 3, 2008 ("June 3, 2008 Memo of Law"), Points I -IV.

8. Lewis Farm asserts that the complaint should be dismissed because the APA has failed to state a cause of action against Lewis Farm, Barbara and/or Salim B. Lewis. See June 3,

2008 Memo of Law, pp. 42-43.

9. As set forth in the documents previously submitted to this Court, Lewis Farm is located in the Adirondack Park, in an area regulated as "Resource Management" pursuant to the APA Act, and is also located within 1/4 mile of the Boquet River, a river designated as protected pursuant to the Rivers Act. See Affidavit of Douglas Miller dated March 4, 2008 ("March 4, 2008 Miller Aff.") ¶ 3, Exhibit A.

10. Essex County Supreme Court has determined that the APA has jurisdiction over the three dwellings at issue here. See Decision and Order of Honorable Kevin K. Ryan dated August 16, 2007 (Lewis Farm I).

11. The APA is authorized to bring its action pursuant to Executive Law § 813.

12. Barbara and Salim ("Sandy") B. Lewis are the named individuals who submitted an application to the APA for construction of the three single-family dwellings at issue in this litigation. See Exhibit B (Application of Barbara A. Lewis and Salim B. Lewis dated February 15, 2007).

13. Barbara Lewis and Salim B. Lewis are principals of Lewis Family Farm, Inc. The signature of Salim B. Lewis appears on the Certificate of Incorporation, and Barbara Lewis is listed as President of the corporation. See Exhibit C. (Certificate of Incorporation dated September 23, 1985). In addition, Salim B.

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Lewis submitted a sworn statement in Lewis Farm I indicating he is a shareholder of Lewis Family Farm Incorporated. See Affidavit of Douglas Miller dated December 12, 2007 ¶ 7, Exhibit D (Affidavit of Salim Lewis dated August 7, 2007, ¶ 1).

14. Lewis Farm argues that the APA's action should also be dismissed pursuant to CPLR § 3211 (a) (4), because it is duplicative of petitioner's CPLR Article 78 proceeding herein. While these cases stem from the same facts, the APA's law enforcement action is brought to enforce state statutes and an administrative determination, while the petitioner seeks to annul an administrative determination, along with other claims.

15. Pursuant to CPLR § 3211(a) (4) a party may move to dismiss on the ground that "there is another action pending between the same parties for the same cause of action... the court need not dismiss upon this ground but may make such an order as justice requires." While Lewis Farm II and III are factually and legally related, they are not "the same cause of action" as set forth in CPLR § 3211(a) (4). Moreover, this Court has already ordered that these actions are consolidated. See Exhibit A (letter Decision and Order of Justice Richard B. Meyer dated April 25, 2008).

16. Lewis Farm makes the puzzling argument (without any citation) that the APA's action is premature (See June 3, 2008 Lewis Farm Memo of Law, p. 45). However, there is no dispute

that the houses are already built; nor is there any dispute that the Agency has made a final determination on the violations. Moreover, the compliance deadlines have passed. Accordingly, the enforcement action is not premature.

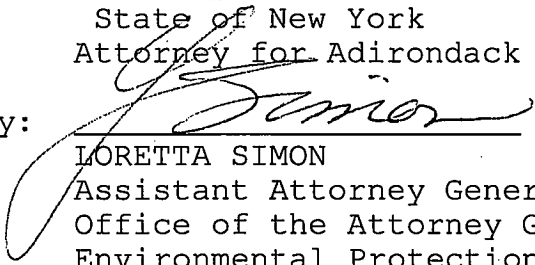
17. Finally, the Agency's enforcement action is not barred by collateral estoppel or res judicata. The Agency seeks enforcement of two state statutes: the APA Act and the Rivers Act, and has statutory authority to bring its action. See Executive Law § 813. No prior court decision prevents the APA from exercising its statutory responsibilities here. However, in contrast, clearly petitioner is barred by these same doctrines from relitigating the same jurisdictional issues already decided against it in the prior Supreme Court Order of Justice Ryan in Lewis Farm I.

18. Accordingly, this Court should deny Lewis Farm's motion to dismiss the APA enforcement action.

Dated: Albany, New York
June 10, 2008

ANDREW M. CUOMO
Attorney General of the
State of New York
Attorney for Adirondack Park Agency

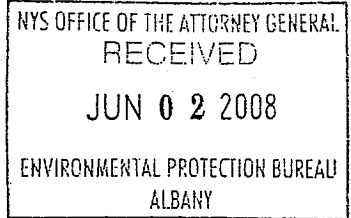
By:


LORETTA SIMON
Assistant Attorney General
Office of the Attorney General
Environmental Protection Bureau
The Capitol
Albany, New York 12224-0341
(518) 402-2724

June 10, 2008 Reply
Aff. of Loretta Simon



STATE OF NEW YORK
COUNTY OF ESSEX
COUNTY, FAMILY & SURROGATE'S COURTS



RICHARD B. MEYER
JUDGE

AMY N. QUINN
COURT ATTORNEY
JILL H. DRUMMOND
SECRETARY

May 30, 2008

VIA FAX AND MAIL

McNamee, Lochner, Titus & Williams, P.C.
Attn: John J. Privitera, Esq.
677 Broadway
Albany, New York 12207

New York State Attorney General
Attn: Loretta Simon, Esq.
Assistant Attorney General
The Capitol
Albany, New York 12224-0341

Re: Lewis Family Farm, Inc. v. Adirondack Park Agency
Index No.: 315-08
RJI No.: 15-1-2008-0109

Adirondack Park Agency -v- Lewis Family Farm, Inc.,
Salim B. Lewis and Barbara Lewis
Index No.: 332-08
RJI No.: 15-1-2008-0117

Counselors:

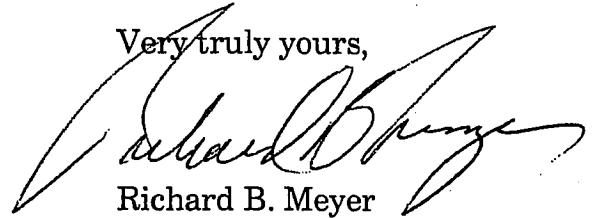
Enclosed please find a copy of the signed order regarding the motion to reargue and renew, the original of which has been entered in the office of the Essex County Clerk this date.

With regard to the pending consolidated proceeding/action, the captions of the two matters have been combined as indicated on the attached order. The oral argument date is hereby scheduled for June 19, 2008 at 1:30 p.m. Counsel are advised to comply with the requirements of CPLR §7804(c), (e) and (f). The action commenced by the Park Agency will be deemed a counterclaim, as indicated in the caption, and motions for summary judgment addressed to the issues raised in that action must comply with CPLR

Rule 2214(b). The supporting papers may refer to papers already filed without the need for new affidavits.

The Court has received an inquiry from the New York State Farm Bureau advising that it will be submitting a brief *amicus curiae*. While this is unusual at the trial court level, the Court is inclined to allow the submission of such a brief, and the Court may allow limited oral argument to be presented by the Farm Bureau on the 19th.

Very truly yours,

A handwritten signature in black ink, appearing to read "Richard B. Meyer", written in a cursive style.

Richard B. Meyer

RBM:jhd

cc: Cynthia Feathers, Esq.,
counsel for New York State Farm Bureau
Arroyo Copland & Associates, PLLC
219 Great Oakes Blvd.
Albany, NY 12203

Essex County Clerk



STATE OF NEW YORK
COUNTY OF ESSEX
COUNTY, FAMILY & SURROGATE'S COURTS

RICHARD B. MEYER
JUDGE

AMY N. QUINN
COURT ATTORNEY
JILL H. DRUMMOND
SECRETARY

May 30, 2008

Joseph A. Provoncha
Essex County Clerk
7559 Court Street, P.O. Box 217
Elizabethtown, NY 12932

Re: Lewis Family Farm, Inc. v. Adirondack Park Agency
Index No.: 315-08
RJI No.: 15-1-2008-0109

Adirondack Park Agency -v- Lewis Family Farm, Inc.,
Salim B. Lewis and Barbara Lewis
Index No.: 332-08
RJI No.: 15-1-2008-0117

Dear Mr. Provoncha:

I enclose herein for filing the original order on the petitioner's motion to reargue and renew in the above matter. By way of a copy of this letter to counsel for petitioner and respondent, I am providing them with a copy of this order.

Very truly yours,

Richard B. Meyer

RBM:jhd

Enclosure

cc: John J. Privitera, Esq.
Loretta Simon, Esq., Assistant Attorney General

At a term of the Supreme Court of the State of New York, held in and for the County of Essex at the Courthouse in Elizabethtown, New York, on the 24th day of April, 2008.

PRESENT: HON. RICHARD B. MEYER, J.S.C. (Acting)

*STATE OF NEW YORK
SUPREME COURT COUNTY OF ESSEX*

LEWIS FAMILY FARM, INC.

Petitioner,

- against -

Index No. 315-08
RJI No. 15-1-2008-0109

*NEW YORK STATE ADIRONDACK PARK
AGENCY,*

Respondent.

ORDER

ADIRONDACK PARK AGENCY,

Plaintiff,

-against-

Index No. 332-08
RJI No. 15-1-2008-0117

LEWIS FAMILY FARM, INC.,

Counterclaimed Defendant,

SALIM B. LEWIS and BARBARA LEWIS,

Defendants.

The petitioner having duly moved for an order to reargue and renew, and said

motion having regularly come on to be heard, and

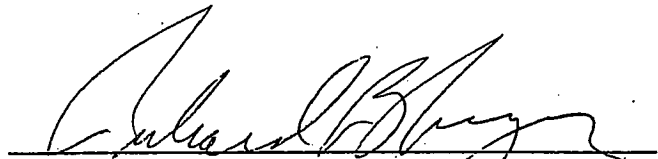
Upon reading and filing the notice of motion dated April 14, 2008, and the affirmation of John J. Privitera, Esq., attorney for petitioner, dated April 14, 2008 with exhibits A-D in support of said motion, and there being no affidavit of Marco Turco submitted therewith, and upon reading and filing the affirmations of Assistant Attorney General Loretta Simon, Esq., with exhibits A-K, and Sarah Reynolds, Esq., with exhibits A-G, both dated April 22, 2008 in opposition thereto, and due deliberation having been had thereon, and the Court having issued a letter decision dated April 25, 2008, a copy of which is annexed hereto and made a part hereof, it is hereby

ORDERED that the motion to reargue and renew be, and the same hereby is granted; and it is further

ORDERED that upon such reargument and renewal, the decision and order of this Court dated April 11, 2008 be and the same hereby is adhered to.

Order signed this 30th day of May, 2008 at Elizabethtown, New York.

ENTER


Richard B. Meyer
Acting Supreme Court Justice



STATE OF NEW YORK
 COUNTY OF ESSEX
 COUNTY, FAMILY & SURROGATE'S COURTS

00002831

BOOK 121 PAGE 317

RICHARD B. MEYER
 JUDGE

AMY N. QUINN
 COURT ATTORNEY
 JILL H. DRUMMOND
 SECRETARY

April 25, 2008

McNamee, Lochner, Titus & Williams, P.C.
 Attn: John J. Privitera, Esq.
 677 Broadway
 Albany, New York 12207

New York State Attorney General
 Attn: Loretta Simon, Esq.
 Assistant Attorney General
 The Capitol
 Albany, New York 12224-0341

Re: Lewis Family Farm, Inc. v. Adirondack Park Agency
Index No.: 315-08
RJI No.: 15-1-2008-0109

Adirondack Park Agency -v- Lewis Family Farm, Inc.,
Salim B. Lewis and Barbara Lewis
Index No.: 332-08
RJI No.: 15-1-2008-0117

Counselors:

This letter constitutes the decision of this Court on the motions by Lewis Family Farm, Inc. to renew and reargue, and for consolidation, as well as on the cross-motion of the Adirondack Park Agency to transfer both cases to the Hon. Kevin K. Ryan, Acting JSC.

The Court has considered the following papers on each motion:

Motion to Reargue and Renew - Notice of Motion dated April 14, 2008 and Affirmation of John J. Privitera, Esq. dated April 14, 2008, with exhibits A-D, in support of the motion. There was no affidavit of Marco Turco sworn to April 14, 2008 included in the motion papers. Submitted in opposition were Affirmations of Assistant Attorney

ESSEX COUNTY COURTHOUSE
 7559 COURT STREET, P.O. BOX 217 • ELIZABETHTOWN, NEW YORK 12932
 (518) 873-3326 • FAX (518) 873-3732

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General Loretta Simon with exhibits A-K, and Sarah Reynolds, Esq. with exhibits A-G, both dated April 22, 2008.

Motion to Consolidate and Cross Motion to Transfer - Notice of Motion dated April 14, 2008 and Affirmation of John J. Privitera, Esq. dated April 14, 2008, with exhibits A and B. Notice of Cross Motion dated April 21, 2008 and Affirmation of Assistant Attorney General Loretta Simon dated April 21, 2008, with exhibits A-J. Affirmation of John J. Privitera, Esq. dated April 23, 2008, with exhibits A-D, in opposition to cross motion.

The motion to consolidate both proceedings is granted. Nothing in the papers submitted by counsel for the Adirondack Park Agency indicates opposition to the motion. Moreover, by seeking transfer of both cases to the Acting Supreme Court Justice who decided the prior action in 2007, the Adirondack Park Agency impliedly concedes that consolidation is proper and appropriate here.

The cross motion to transfer is denied. The prior action between the parties was finally disposed of by a Decision and Order dated August 16, 2007 and filed in the Essex County Clerk's Office on August 29, 2007. Although counsel for Lewis Family Farm stated at oral argument that this decision had been appealed, the transcript of the March 13, 2008 hearing before the Adirondack Park Agency enforcement committee indicates that no appeal had been taken (see Exhibit F to Affirmation of Sarah Reynolds, Esq. dated April 22, 2008 at page 44, line 24 through page 45, line 2). A review of the records of the Essex County Clerk regarding this prior action (Index No. 498-07) reveals that a notice of appeal was filed on October 1, 2007. Whether such was timely is unknown at this time and, if timely, jurisdiction of that action lies with the Appellate Division, Third Department. The assignment of the two pending actions now before this Court was made pursuant to the Administrative Order dated December 20, 2007 established by the Hon. Ann T. Pfau, Chief Administrative Judge of the Courts, and approved by the Hon. Anthony V. Cardona, presiding justice of the Appellate Division, Third Judicial Department. As a result, assignment to this Court of both proceedings complied in all respects with 22 NYCRR §202.3 (see also 22 NYCRR §80.1[b][2]), particularly since there is no related action now pending before the Hon. Kevin K. Ryan.

Counsel for Lewis Family Farm, Inc. is hereby directed to submit an order, on notice to Assistant Attorney General Simon, granting the motion for consolidation and denying the cross motion for transfer, all without costs.

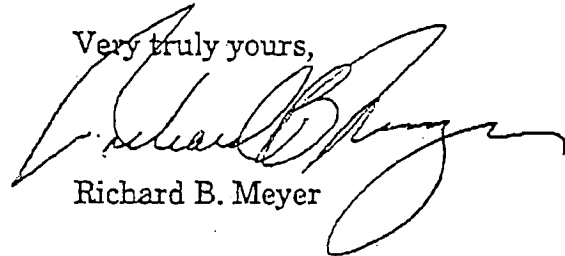
The combined motion by Lewis Family Farm, Inc. to reargue and renew (CPLR §221[f]) is granted, and upon such reargument and renewal, the decision and order of this Court dated April 11, 2008 is adhered to. The "new facts," alleged in support of a stay of the APA's prohibition against use or occupancy of the subject dwelling units,

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were available at the time of the prior motion. Even upon considering those facts, granting a stay for the purposes requested – so that the subject dwelling units could be used and occupied pending final judgment – would go beyond the purposes of a stay, namely to maintain the *status quo* (see *State -v- Town of Haverstraw*, 219 AD2d 64, 641 NYS2d 879). The arguments advanced by Lewis Family Farm, Inc. in its motion to reargue in support of a stay would similarly go beyond the purpose of a stay.

The other arguments advanced by Lewis Family Farm in support of its motion to reargue, to the effect that payment of the fine would constitute a deprivation of constitutional rights since the time for challenging the March 25, 2008 determination under statute (Executive Law §818 [1]) would not have expired by the due date of payment, are without merit. Payment of the fine would not preclude Lewis Family Farm, Inc., from seeking judicial review, and does not constitute an admission or a concession to the March 25, 2008 determination now under review. No irreparable harm has been shown by Lewis Family Farm, Inc., to payment of the fine at this time. Assistant Attorney General Simon is to submit an order on notice to Mr. Privitera, without costs.

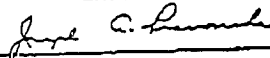
Very truly yours,



Richard B. Meyer

RBM:jhd
cc: Clerk

ENTERED



JOSEPH A. PROVONCHA
ESSEX COUNTY CLERK
DATED: 5/30/08

RECEIVED
ESSEX COUNTY CLERK
08 MAY 30 PM 3:09
ELIZABETH, N.J. 07208

EXHIBIT B

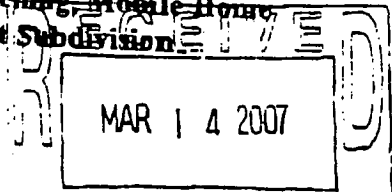


APPLICATION FOR MINOR PROJECT PERMIT

Single Family Dwelling, Mobile Home, or Two Lot Subdivision

P.O. Box 99- Ray Brook, New York 12977
(518) 891-4050 Fax (518) 891-3938

Division of Regulatory Programs



ADIRONDACK PARK AGENCY

Instructions: Please answer all of the applicable questions in each numbered section and complete all applicable Attachments. Type or print clearly in ink. If you need assistance answering the questions, please refer to the "Applicant's Handbook - Minor Project Permit" or call the Agency at the above telephone number. Mail your application and required attachments to the Agency at the above address. A staff person will call the project sponsor to arrange a site visit.

The Adirondack Park Agency Act provides that the time period for the review of this project will not begin to run until the Agency determines that the application is complete. All applicable attachments must be included with the application, or the application may not be accepted as complete for review and review time periods will not commence. The proposed project may not be undertaken until a permit has been issued by the Agency.

The Agency may request pertinent additional information during the course of its review regarding the application based on the specific scope and extent of your proposed project and the existing site conditions found at the project site.

1. Project Sponsor(s) *

Name(s) Barbara A Lewis
S.B. Lewis

Mailing Address:
1212 Whallons Bay Rd
Essex NY 12936

Telephone (Daytime):
518 963 4206

FAX:
963-7710

2. Current Property Landowner(s)
(All named on the current deed of record)

Check if same as project sponsor(s)

Name(s): _____

Mailing Address: _____

Telephone (Daytime): _____

FAX: _____

* The project sponsor is any person having a specific legal interest in property who makes application to the Agency for the review of a project proposed on such property. Documentation demonstrating such legal interest must be provided such as a current deed or purchase contract.

3. Authorized Contact Person

I do not choose to have an authorized contact person.

If you, the project sponsor, choose to have your real estate agent, lawyer, surveyor, engineer, contractor, or another person act on your behalf before the Agency, please complete the following authorization:

I hereby authorize: (name) Mark McKenna

Mailing Address: m. l. l. Road Willsboro NY 12996
in case owner is not available

Telephone (Daytime): 518-963-7153 FAX: cell 518-~~963~~ 572-7337

to act as my agent in all matters relating to this permit application before the Adirondack Park Agency. I acknowledge that all contact regarding the permit application will be through my authorized contact person. I understand that I am ultimately responsible for the accuracy of the information contained in this permit application and for compliance with all terms and conditions of any permit issued to me by the Agency.

4. Project Description (i.e. single family dwelling, mobile home, two-lot subdivision)

Describe the proposed project: 3 single family dwellings
in a farm compound, to be
used by farm employees exclusively

5. Property Site

Town: ESSEX

Tax Map Number (see your tax bill):
Section: 49.3 Block: 2 Parcel: 2.7 road

County: ESSEX

Road: WALTON BAY RD Water body: _____

6. Project Sponsor's Legal Interest in Project Site (check the one that applies)

- owner
- developer
- lessee
- option holder
- Contract vendee
- Other _____

Attach and label, as ATTACHMENT A, a complete copy of the current recorded deed(s) for the project site. If you have an executed contract or agreement to purchase or lease the property, please provide a copy of relevant portions to Agency staff in order to establish your legal interest in the project.

7. Prior Agency Contact

a. Has there been any previous discussions with Agency staff regarding this project or project site, or has any Agency staff visited the project site?

- No
- Yes, staff person's name: _____
Date of Contact: _____

with head of EPA per Brown

b. Has the project site been the subject of a past Agency action (i.e., project application, variance, jurisdictional inquiry, enforcement case or wetland flagging)?

- No
- Yes
- Do not know

If known, provide the following number and date:
 Past Project Permit or Variance Number: _____
 Jurisdictional Inquiry Number: _____
 Enforcement Case Number: _____
 Wetland Boundary Flagging: _____

8. Project Site History

a. What is the current acreage of the project site? Approx 4 acres

small corner of a larger side

b. Was the project site part of a larger parcel as of May 22, 1973, including parcels on the opposite sides of public roads?

- Yes
- No

If yes, what was the acreage of all connected lands owned by the May 22, 1973 landowner, even if the parcels had different deeds and/or tax map numbers?

80 acres.

- c. What is the current acreage of all connected lands owned by the current landowner, even if the parcels have different deeds and/or tax map numbers and even if larger than the project site.

1200 Acres *entire farm approx.* The whole farm is listed as one tax map property

- d. Has any portion of the total contiguous landholding in Question 8.b. as it existed on May 22, 1973 been sold, gifted or otherwise subdivided or developed since that date? Provide a written deed history so that the history of the transfer of ownership of the property can be readily understood.

- No
 Yes If yes, please list the lots or parcels conveyed from the original parcel and the size of each in square feet or acres. (Use a separate 8-1/2"x11" paper if necessary)

Lot Number (from current tax map)	Date of Conveyance	Lot Size (sq. ft. or acres)	Was Conveyance by Gift or Sale?

Attach and label, as ATTACHMENT B, a complete copy of all recorded deeds (not just abstracts) for the project site back through and including May 22, 1973. Make a notation on the bottom of each deed, indicating what current tax map number(s) go with each deed.

Attach and label, as ATTACHMENT C, a full scale copy of a survey map, the current real county property tax map, or a topographic quadrangle map clearly showing the property boundaries of the project site and any tax parcel or lot that the project site was part of on May 22, 1973.

- e. Are there structures (buildings) on the total contiguous landholding now owned by the present landowner?

- No (Go to Section 9. Historic Preservation Resources)
 Yes (Please provide the information below. Attach additional sheets if necessary.)

Number	Date of Construction	Size (Sq. Feet of Footprint)	Height (feet)	Type/Use (e.g. dwelling, garage, barn, shed)
1				
2				
3				
4				

- f. Describe any other structures which existed on the property as of August 1, 1973 which have since been removed or destroyed. Include the date that the structure was removed or destroyed.
- _____
- _____

9. **Historic Preservation Resources**

If the project site or adjacent property has any major buildings (e.g., houses, barns, commercial buildings) that are more than 50 years old, attach and label, as ATTACHMENT D, separate sheets of 8-1/2" X 11" paper with labeled photographs of each such building. The photos must have been taken within the last two years and should show all sides of the building(s) and the setting around those buildings. Show where the photos were taken on a locator map. If any historic structure will be removed, relocated, reconstructed or significantly altered, please provide detailed plans.

10. **Proposed Subdivision of Land**

Does the project involve the proposed subdivision of land into two lots or sites?
 No
 Yes

If yes, provide the size of the parent lot: _____ acres or _____ square feet, and indicate the sizes of the two proposed lots or sites (these must add up to the parent lot acreage).

Lot #1: _____ acres or _____ square feet

Lot #2: _____ acres or _____ square feet

11. **Deed Restrictions and Easements**

Describe and provide as Attachment E any current deed restrictions or easements associated with the property.

Attach as Attachment F, the draft deed language if the project sponsor is subdividing land and will deed-restrict the lots as non-building lots, or if any other deed restrictions or easements are proposed.

12. Shoreline Protection

- a. Does the project site contain any navigable shoreline?
 No (If no, go to Section 13. Wetlands)
 Yes. Name of water body: _____
Length of shoreline of the parent property (as it winds and turns): _____ feet
- b. Is any portion of the shoreline currently being used or proposed for use by others for deeded or contractual access to the water body?
 No
 Yes. Please describe the shoreline access parcels and number of lots having access and date access was granted:

- c. Will any vegetation be cut within 35 feet of a lake, pond, river or stream or within 100 feet of a designated NYS Wild, Scenic or Recreational River?
 No
 Yes. Please describe type, amount and location of vegetation to be removed:

- d. Except for docks and boathouses, what is the horizontal distance from the existing closest structure greater than 100 square feet in size, including attached decks and porches, to the mean high water mark? _____ feet
- e. Except for docks and boathouses, what is the closest horizontal distance from any proposed new or expanded building greater than 100 square feet in size, including attached decks and porches to the mean high water mark? _____ feet
- f. If the project involves a subdivision, what is the width of the smallest proposed lot at the shoreline (as it winds and turns)? _____ feet
- g. Is the project site subject to flooding or within a federally designated floodplain?
 No
 Yes

13. Wetlands

a. Are there any wetlands on the project site?

- No (If no, go to the Section 14. On-Site Individual Wastewater Treatment System)
 Yes
 Do not know

b. Will any of the activities listed below be proposed and occur within the boundaries of a freshwater wetland?

- No
 Yes (check all that apply):
- New land use and development, including driveway, boathouse, dock
 - Subdivision of land involving wetlands
 - Draining; dredging; excavation; removing soil, peat, muck, sand, shells or gravel
 - Dumping or filling with soil, stone, sand, gravel, mud, rubbish or fill of any kind
 - Erecting structures, building roads or driveways, driving pilings, or placing any other obstructions
 - Clearcutting of more than three acres: provide number of acres _____

c. ~~Are~~ any of the activities listed below proposed whether or not within a wetland?

Yes (check any that apply):

- Any form of pollution, including discharge of sewage effluent or other liquid waste into or so as to drain into a wetland (describe):

- Any other activity which impacts the wetland, including diversion of surface or subsurface drainage that adversely affects the natural hydrological regime, or substantially increases erosion or siltation or sedimentation into the wetland (describe)

No

d. Will the project involve the installation of on-site sewage or wastewater treatment system components (e.g., septic tanks, drainage fields, seepage pits, or sewer outfalls) in a wetland or within 100 feet of one?

Yes

See attached

No

If the proposed project will alter or disturb wetlands, attach as ATTACHMENT G an explanation of the steps taken to avoid the wetlands in your design of the project or to minimize the impact to them and a wetlands mitigation plan if required.

14. On-Site Individual Wastewater Treatment System

a. Will a new or replacement on-site wastewater treatment system be installed as part of the project?

No (go to Section 15 Site Plan Map)
 Yes

b. Provide the number of bedrooms for each residence (if not known, design for four bedrooms):

Lot #1 _____ Lot #2 _____

Residence 1 3 bedrooms
South Cottage 3 bedrooms
North Cottage 3 bedrooms

c. Has a deep-hole test pit been dug on the project site at the locations of the proposed on-site wastewater treatment systems?

No (this will need to be done for a complete application)
 Yes, indicate date: _____ and who observed

MARK BUCKLEY

d. Did the deep test pits reveal high seasonal groundwater, bedrock or impermeable soils within 48 inches of the existing grade?

No SEE PLAN

If no, attach as ATTACHMENT H, detailed plans for the proposed conventional wastewater treatment system(s) that are prepared by a contractor experienced in installing such systems and show at a minimum:

- a. soils test pit location and data
- b. percolation test hole location and results for each lot taken within the proposed absorption area(s)
- c. details on design of the system (application rate and number of bedrooms)
- d. size and type of septic tank
- e. pumping station (if necessary)
- f. distribution box
- g. soil absorption system

Yes

If yes, attach as ATTACHMENT I, detailed plans prepared in accordance with the Agency's "Minimum Requirements for Engineering Plans for On-site Wastewater Treatment Systems," for the proposed shallow absorption trench or other acceptable wastewater treatment system(s). The plans must be prepared by an engineer licensed in the State of New York and show at a minimum:

- a. soils test pit location and data
 - b. percolation test hole location and results taken within the proposed absorption area(s)
 - c. details on design of the system (application rate and number of bedrooms, etc.)
 - d. size and type of septic tank
 - e. pumping station (if necessary)
 - f. distribution box
 - g. soil absorption system
- e. If continued use of an existing wastewater treatment system is proposed, indicate the type, material, capacity (size), age and functional condition of each component of the system (septic tank, distribution box, leach lines, etc.)

15. Site Plan Map or Subdivision Plat

Attach as ATTACHMENT J, a SITE PLAN MAP or SUBDIVISION PLAT clearly labeled with the map scale, north arrow, date of preparation and name of preparer.

If the project sponsor wishes to sell, lease or gift the lots to be subdivided as building lots, then building envelopes must be shown on the site plan. The Agency must know in advance that the proposed lots are physically capable of being developed as building lots prior to approving the subdivision. (A future purchaser of a lot can apply to the Agency for a permit amendment if they want to construct in a location that is different from the approved building location.)

Draw the map to a scale of 1 inch equals fifty feet (1" = 50'). Show the entire project site. For larger parcels, show the entire property at a smaller scale, say 1" = 200' or 1" = 400' and show the area of development at 1" = 50'. Show and label, as applicable, the following:

- a. all existing property boundary lines and proposed lot lines, including dimensions of each line, the acreage of each lot, any existing or proposed right-of-ways or easements and label as Lot #1 and Lot #2, as appropriate;

- b. all existing bodies of water, including the water body name and the mean high water mark for any navigable stream, river, pond, lake or intermittent stream;
- c. all mapped or delineated wetland boundaries;
- d. all existing and proposed structures (e.g., single family dwellings, mobile homes, sheds, signs, fences, docks, decks, boathouses), including location, size, use, and setbacks from all roads, water bodies, property lines and lot lines for each lot created as a building lot;
- e. all existing and proposed paved and unpaved roads, driveways and parking area, including locations, dimensions, and construction materials;
- f. all existing and proposed public utilities denoting whether overhead or underground;
- g. all existing on-site wastewater treatment systems and water supplies;
- h. all existing vegetative cover types (e.g., fields, woodlands, shrub areas, lawns) ;
- i. all existing areas of steep slopes (greater than 15%);
- j. all existing areas of bedrock at or near the surface;
- k. all temporary and permanent erosion control and stormwater management facilities, including ditches, swales, culverts, catch basins and sediment basins;
- l. the proposed limits of planned vegetative clearing (complying with minimum shoreline cutting restrictions);
- m. land use area boundaries as shown on the Official Adirondack Park Land Use and Development Plan Map and acreage of site in each land use area;
- n. local town zoning designation boundaries and required town setbacks;
- o. all proposed landscape plantings, including plant name and size; and
- p. all proposed individual on-site water supply and/or individual wastewater treatment system locations (the plan must show all components of each proposed on-site individual wastewater treatment system and a 100% replacement area);
- q. all proposed exterior lighting fixtures, including height, fixture type and wattage.

16. Structure Plans

If you are proposing construction of a single family dwelling, guest cottage, boathouse, dock or accessory structure, attach as Attachment K scaled floor plans and elevations of the proposed structures and label dimensions, materials and colors. Include all proposed decks, porches and walkways.

Maximum height of structures? _____ (lowest point of existing adjoining grade to highest point of structure)

17. Other Government views

a. Have you contacted the municipality?

- Yes
 No

Attach as ATTACHMENT L a copy of the completed Local Government Notice Form.

Attach as ATTACHMENT M a copy of all municipal documents showing that the project has been or will be approved (e.g., permits, letters of approval, meeting minutes) if approval is required from the local government.

b. Have you contacted any of the following New York State or federal agencies concerning this development proposal?

AGENCY	NO	YES	DATE	CONTACT PERSON & PHONE #, if known
NYS Department of Health	<input checked="" type="checkbox"/>			
NYS Department of Transportation	<input checked="" type="checkbox"/>			
NYS Department of Environmental Conservation	<input checked="" type="checkbox"/>			
NYS Office of Parks, Rec. & Historic Preservation	<input checked="" type="checkbox"/>			
U.S. Army Corps of Engineers	<input checked="" type="checkbox"/>			
Lake George Park Commission	<input checked="" type="checkbox"/>			
Other <u>Town of Essex</u>				<u>David Lansing</u>

Attach as ATTACHMENT N, copies of all permits, approvals or determinations received from the above agencies. *David Lansing code officer*

18. Authorization and Signatures

I HAVE PERSONALLY EXAMINED AND AM FAMILIAR WITH THE INFORMATION SUBMITTED IN THIS APPLICATION, INCLUDING ALL ATTACHMENTS, AND I AFFIRM THIS INFORMATION TO BE TRUE, ACCURATE AND COMPLETE.

I HEREBY AUTHORIZE THE ADIRONDACK PARK AGENCY AND MEMBERS OF ITS STAFF TO ENTER ON THE PROPERTY DESCRIBED HEREIN FOR THE PURPOSES OF CONDUCTING SUCH INVESTIGATIONS, EXAMINATIONS, TESTS AND SITE EVALUATIONS AS IT DEEMS NECESSARY, AT REASONABLE TIMES AND WITH ADVANCE NOTICE WHERE POSSIBLE, TO VERIFY INFORMATION CONTAINED IN OR RELATED TO THIS APPLICATION FOR A PROJECT PERMIT. *WITH PRIOR NOTICE*

[Signature] 2-15-07
Date

Signature(s) of all Landowner(s) from current deed of record:
(Required for all applications)

[Signature] 2-15-07
Date

for Lewis Family Farm
Signature of all Project Sponsors (if not the landowners)
(Required for all applications)

Signature of Authorized Contact Person:
(Required if designated in Section 3 of this application) _____ Date

EXHIBIT C

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
July 16, 2007.

Paul LaPointe

Paul LaPointe
Special Deputy Secretary of State

CERTIFICATE OF INCORPORATION

OF

LEWIS FAMILY FARM, INC.

Under Section 402 of the Business Corporation Law

THE UNDERSIGNED, a natural person at least
eighteen years of age, for the purpose of forming a
corporation pursuant to Section 402 of the Business
Corporation Law of the State of New York, hereby certifies
as follows:

FIRST. The name of the corporation is Lewis
Family Farm, Inc.

SECOND. The purposes for which the corporation is
formed are as follows:

To engage in any commercial, mercantile,
industrial, manufacturing, marine, exploration, mining,
agricultural, research, financing, agency, securities
or brokerage business to the extent permitted by the
Business Corporation Law of the State of New York, and
any, some or all of the foregoing.

To acquire, hold, create interests in or dispose
of real or personal property, tangible or intangible,
of any kind in any manner.

527506

B270506

THIRD. The office of the corporation in the State of New York is to be located in the Town of Essex, County of Essex.

FOURTH. The aggregate number of shares which the corporation shall have authority to issue is 200 common shares without par value.

FIFTH. The Secretary of State of the State of New York is designated as agent of the corporation upon whom process in any action or proceeding against it may be served. The address to which the Secretary of State shall mail a copy of any process against the corporation served upon it is Barbara A. Lewis, 55 Montclair Avenue, Short Hills, New Jersey 07078.

SIXTH. By-laws of the corporation may be adopted, amended or repealed by the board of directors of the corporation by the vote of a majority of the directors present at a meeting of the board at which a quorum is present.

SEVENTH. No holder of shares of the corporation of any class, now or hereafter authorized, shall have any preferential or preemptive right to subscribe for, purchase or receive any shares of the corporation of any class, now or hereafter authorized, or any options or warrants for such shares, or any rights to subscribe for or purchase such shares, or any securities convertible into or exchangeable

for such shares, which may at any time be issued, sold or offered for sale by the corporation.

IN WITNESS WHEREOF, I have subscribed and affirm as true under the penalties of perjury this certificate this 23rd day of September, 1933.


G. L. Lewis
22 Riverside Avenue
Short Hills, New Jersey 07078

FILING RECEIPT

NAME RESERVATION INSTRUMENT

CORPORATION NAME

LEWIS FAMILY FARM, INC. (RES FOR 90 DAYS)

DATE FILED

09/13/85

DURATION & COUNTY CODE

FILM NUMBER

2000001

CASH NUMBER

509938

NUMBER AND KIND OF SHARES

LOCATION OF PRINCIPAL OFFICE

**FOR SULLIVAN & CROWELL (SUBMIT CTR FOR FID REG)
*CT**

ADDRESS FOR PROCESS

REGISTERED AGENT

FEES AND/OR TAX PAID AS FOLLOWS:

AMOUNT OF CHECK \$

AMOUNT OF MONEY ORDER \$

200.00

AMOUNT OF CASH \$

\$ _____ DOLLAR FEE TO COUNTY

FILER NAME AND ADDRESS

**SULLIVAN & CROWELL
250 PARK AVENUE**

NEW YORK

NY 10017

**FILING
TAX**

CERTIFIED COPY

DISBURSED FEE \$ 10.00

TOTAL PAYMENT \$ 210.00

RECEIVED BY

10/1/85

5

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED SEP 26 1985

AMT OF CHECK \$ 124.50
FILED FEE \$ 1.00
FAX \$
COPY FEE \$ 4.50
CERT \$
SERIAL \$
SPEC HANDLE \$ 10.
BY *J. J. [unclear]*

QT

CERTIFICATE OF INCORPORATION

LEWIS FAMILY FARM, INC.

Under Section 402 of the Business Corporation Law

595710

B270506

*New Dom. Res. 15-1
9/13/85 [unclear] 9/24*

SEP 24 9 AM '85
R.F.

VB - Co
BILLED

Council, [unclear] & Council
125 Nassau Street
New York, New York 10038

FILED

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
July 17, 2007.

Paul LaPointe

Paul LaPointe
Special Deputy Secretary of State

NYS DEPARTMENT OF STATE - DIVISION OF CORPORATIONS
 Statement of Addresses and Directors, Part A

1027619	FILING PERIOD 09/1992	FEES \$50.00
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CORPORATION NAME
 LEWIS FAMILY FARM, INC.

1 FARM CORPORATION	<input checked="" type="checkbox"/>	The corporation is a corporation engaged in the production of crops, livestock, and livestock products on land used in agricultural production (Agriculture and Markets Law Section 301). It is not required to report.
2 NAME AND BUSINESS ADDRESS OF THE CHAIRMAN OF THE BOARD OF DIRECTORS	NAME	
	ADDRESS	
	CITY	STATE ZIP + 4
3 ADDRESS OF THE PRINCIPAL EXECUTIVE OFFICE	NAME	
	ADDRESS	
	CITY	STATE ZIP + 4
4 SERVICE OF PROCESS ADDRESS	NAME	
	ADDRESS	
	CITY	STATE ZIP + 4

NYS DEPARTMENT OF STATE - DIVISION OF CORPORATIONS
 Statement of Addresses and Directors, Part B

1027619	FILING PERIOD 09/1992	FEES \$50.00
---------	--------------------------	-----------------

CORPORATION NAME
 LEWIS FAMILY FARM, INC.

(11) NAME AND BUSINESS ADDRESS OF THE CHAIRMAN OF THE BOARD OF DIRECTORS

(12) NO. ADDRESS ON FILE

(17) ADDRESS OF THE PRINCIPAL EXECUTIVE OFFICE

NO ADDRESS ON FILE

(13) SERVICE OF PROCESS ADDRESS
 BARBARA A. LEWIS
 66 MONTVIEW AVENUE
 SHORT HILLS NJ 07078

AK 93042300 3085

MAKE NO MARKS BELOW THIS LINE

PLEASE SIGN AND DATE ON REVERSE

DS-1187 (8-81)

0177207 601027619 305000

IMPORTANT NOTICE

AR 93042300 *308*

A New York Corporation which is no longer conducting business should file a Certificate of Dissolution pursuant to section 1003 of the Business Corporation Law, and a foreign corporation no longer conducting business in New York State should file a Surrender of Authority pursuant to section 1310 or a Termination of Existence pursuant to section 1311 of the Business Corporation Law. An inactive corporation continues to accrue tax liability and possible interest and penalties until formally dissolved, surrendered, or terminated. Questions regarding the filing of these certificates should be directed to the NYS Department of State, Division of Corporations, 162 Washington Avenue, Albany, NY 12231-0001 or by calling 518-473-2492. You are also advised to request Publication 110, "Information and Instructions for Termination of Business Corporations" from the Department of Taxation and Finance. Requests for this publication may be made by phone within New York State by calling 1-800-462-8100 or from outside of New York State by calling (518) 438-1073. Mail requests should be addressed to: NYS Department of Taxation & Finance, Taxpayer Assistance Bureau, W. A. Harriman Campus, Albany NY 12227.

Filing Period and Penalty - the filing period is the calendar month during which the original certificate of incorporation or application for authority was filed or the effective date that corporate existence began, if stated in the certificate of incorporation. Failure to timely file this statement will be reflected in the department's records as past due or delinquent and may later subject the corporation to a fine of \$250. See section 409 of the Business Corporation Law.

Filing Fee: The statutory filing fee is \$50. Checks and money orders must be made payable to the "Department of State." **DO NOT** mail cash.

Send entire form, completed, and with \$50.00 fee, in the self-mailer envelope, to the Department of State, Division of Corporations, 162 Washington Avenue, Albany, NY 12231-0002.

Statement of Addresses and Directors, Part C

IN WITNESS WHEREOF, this certificate has been subscribed this 16 day of March, 1993, by the undersigned who affirms that the statements made herein are true under the penalties of perjury.

BARBARA H. LEWIS
PRINT OR TYPE NAME

Barbara H. Lewis
SIGNATURE

PRESIDENT
PRINT OR TYPE TITLE

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED APR 23 1993

MALE NO MARKS BELOW THIS LINE