



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL  
ANDREW M. CUOMO

# FACSIMILE TRANSMISSION

DATE: 4/18/08

NUMBER OF PAGES: 6  
(INCLUDING THIS PAGE)

TO: Honorable Richard B. Meyer  
Supreme Court, Essex County  
(518) 873-3376

cc: John Privitera, Esq.  
447-3368

Sarah Reynolds, Esq.  
891-3938

FROM: Loretta Simon  
AAG, Environmental Protection Bureau  
Tel: 518-402-2724; Fax: (518) 473-2534

RE: Lewis Family Farm Inc. v. New York State  
Adirondack Park Agency, Index No.: 315-08  
Adirondack Park Agency v. Lewis Family Farm Inc.,  
Salim B. Lewis and Barbara Lewis  
Index No.: 332-08

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NAME: Jill deGonzague

OFFICE

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FAX NO.

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STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ANDREW M. CUOMO  
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
ENVIRONMENTAL PROTECTION BUREAU

April 18, 2008

BY FACSIMILE AND MAIL

Honorable Richard B. Meyer  
Supreme Court, Essex County  
Essex County Courthouse  
7559 Court Street  
Elizabethtown, New York 12932

Re: Lewis Family Farm Inc. v. New York State  
Adirondack Park Agency  
Index No.: 315-08  
Adirondack Park Agency v. Lewis Family Farm Inc.,  
Salim B. Lewis and Barbara Lewis  
Index No.: 332-08

Dear Justice Meyer:

On April 11, 2008, the Office of the Attorney General filed a complaint against the Lewis Family Farm Inc., Barbara, and Salim Lewis, for various violations of the Adirondack Park Agency Act ("APA Act") and the Wild, Scenic, and Recreational River System Act ("Rivers Act"). A copy of the complaint was served on Monday, April 14, 2008, to Office of McNamee, Lochner, Titus & Williams law firm, counsel to the Lewis family and corporation.

Counsel for the Lewises, John Privitera, now implies that I failed to disclose the filing of the action "despite a direct and specific inquiry from Judge Meyer on this issue." See Affirmation of John Privitera in Support of Petitioner's Motion for Consolidation, dated April 14, 2008, ¶10. I believe that the transcript of the April 11<sup>th</sup> proceeding will demonstrate that Mr. Privitera is wrong. This Office has requested the preparation of a transcript of the proceeding and will forward it to the Court when it is available. In my appearance before the Court on April 11, 2008 for oral argument on petitioner's Order To Show Cause ("OSC"), I do not recall Your Honor asking me if

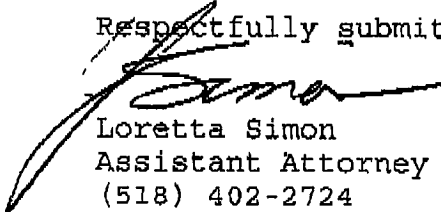
the State had filed an action. My recollection is that the proceeding focused on the OSC, a proposed stay of the APA determination in the above-captioned Article 78, and grounds for injunctive relief. It did not occur to me to discuss the complaint during the OSC hearing as it was not the subject of the hearing, and it had not been served.

Furthermore, if I had raised it during the April 11th oral argument, I believe that Mr. Privitera would have objected to any discussion of it because he had not yet been served with the complaint.

I also note that earlier that same week, the APA had been restrained from filing a complaint because of an ex parte stay order, which had been drafted and presented by Mr. Privitera. Thereafter, on April 9, 2008, the Court lifted the stay order because it was incompatible with New York civil procedure (CPLR § 6313(a)). Thus, there was no bar to filing the APA's complaint on April 11<sup>th</sup>.

During the April 11, 2008 oral argument, Your Honor inquired about paragraph 4 on page 12 of the March 25, 2008 determination which purported to preclude further challenges to the APA's jurisdiction over the development on the Lewis Farm. I understand that on April 18, 2008, the APA rescinded paragraph 4 on page 12 from the earlier 2008 APA determination. A copy of the directive excising paragraph 4 will be attached to the APA's response papers that will be served next Tuesday, and is attached herein.

Respectfully submitted,



Loretta Simon  
Assistant Attorney General  
(518) 402-2724

Att.

cc: John Privitera (By facsimile)  
Paul Van Cott (By facsimile)



NEW YORK STATE  
Adirondack  
parkagency

Via Certified Mail and Facsimile

April 18, 2008

John J. Privitera, Esq.  
McNamee, Lochner, Titus and Williams, P.C.  
677 Broadway  
Albany, NY 12207-2503

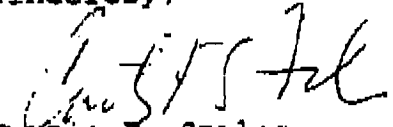
Dear Mr. Privitera:

Re: Lewis Family Farm, Inc. (E2007-041)

Enclosed is a corrected Determination of the Agency's Enforcement Committee rendered after the enforcement proceeding on March 13, 2008. Paragraph 4 on Page 12 of the Determination has been stricken by the Agency. This paragraph was never intended to prevent legal challenge to the Agency's determination, including jurisdiction or any other question of law, and has been stricken to ensure clarity in that regard.

If you have any questions, please contact Barbara A. Rottier, Esq.

Sincerely,

  
Curtis F. Stiles  
Chairman

  
Cecil Wray  
Chairman, Enforcement Committee

CFS:CW:dal  
Enclosure



NEW YORK STATE  
**Adirondack**  
parkagency

-----X

In the matter of the apparent  
violations of Executive Law  
Section 809 and 9 NYCRR  
Part 577 by:

**DETERMINATION  
OF THE ENFORCEMENT COMMITTEE  
Pursuant to 9 NYCRR 581-2.6**

Lewis Family Farm, Inc.

Agency File E2007-041

Respondent.

-----X

The attached substitutes for page 12 of the Enforcement  
Committee's determination, striking paragraph 4 on that page, as  
authorized by Chairman Stiles and Enforcement Committee Chairman  
Wray on April 18, 2006.

Notice of Apparent Violation, the Agency will decline to include that particular violation in its determination of an appropriate civil penalty.

Resolution of the Matter

The Enforcement Committee makes the following determination with regard to disposition of the above violations, which will finally resolve the violations:

- (1) Lewis Farm will apply for a permit for the three new dwellings and the 4-lot subdivision into sites (including retained "lot") by April 14, 2008, by submitting the appropriate major project application.
- (2) By April 28, 2008, Lewis Farm will also submit the following to the Agency:
  - (a) a detailed description of the use of each dwelling and connection to the Lewis Farm agricultural operations;
  - (b) an as-built plan for the septic system and an evaluation by a NYS licensed professional engineer as to whether the installed septic system for the three dwellings complies with NYS Department of Health and Agency standards and guidelines;
- (3) Lewis Farm will reply to any additional information request within 30 days of receipt.
- ~~(4) Lewis Farm will retain all rights of appeal in the project review process, but forgoes the right to challenge Agency jurisdiction and the review clocks otherwise applicable.~~
- (5) Lewis Farm or its employees shall not occupy the three new dwellings located on the corner of Whallons Bay Road and Christian Road unless and until an Agency permit is issued and the civil penalty paid.
- (6) By April 28, 2008, Lewis Farm will pay a civil penalty of \$50,000 to the Agency.



# FAX

## TRANSMISSION SHEET

NEW YORK STATE  
**Adirondack**  
parkagency

1133 SR 86  
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518 891-3938 fax

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To: John Privitera

Date: 4/18/08

Fax Number: 426-4260

No. of pages to follow: 3

From: Barbara Rottier

Re: Matter of Lewis Family Farm, Inc. - Enforcement Committee Determination

Message:

Please see attached.

- |   |   |
|---|---|
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Via Certified Mail and Facsimile

April 18, 2008

John J. Privitera, Esq.  
 McNamee, Lochner, Titus and Williams, P.C.  
 677 Broadway  
 Albany, NY 12207-2503

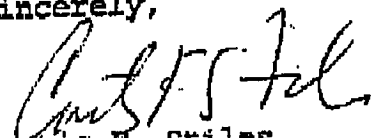
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Sincerely,

  
 Curtis F. Stiles  
 Chairman

  
 Cecil Wray  
 Chairman, Enforcement Committee

CFS: CW: dal  
 Enclosure





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 Section 809 and 9 NYCRR  
 Part 577 by:

DETERMINATION  
 OF THE ENFORCEMENT COMMITTEE  
 Pursuant to 9 NYCRR 581-2.6

Lewis Family Farm, Inc.

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