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ATTORNEYS AT LAW

September 8, 2009

**VIA FACSIMILE – (518) 873-3376**

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

**RE: Lewis Family Farm v. Adirondack Park Agency**  
**(Index No. 315-08/332-08)**

Dear Judge Meyer:

Please accept this letter on behalf of Lewis Family Farm, Inc. in support of the New York Farm Bureau's Motion to File a Memorandum of Law in Support of the Farm's pending Motion for Attorney's Fees.

The Farm Bureau is already an Amicus in this case. This Court and the Third Department granted the Farm Bureau permission to file an Amicus Curiae Brief on the merits because this statewide organization has developed expertise on New York State's Right to Farm Laws and related legislation and jurisprudence. That same expertise qualifies the Farm Bureau to offer assistance on the issue of whether the State's position in this case was "substantially justified" as a matter of law. We support the Farm Bureau's participation as to the matter at hand and believe that its participation will assist this Court in rendering a determination within the Court's sound discretion.

The State admits that it did not object to the Farm Bureau's participation in this case as an Amicus, either before this Court or in the Third Department. To the extent that the State had no objection to the Farm Bureau's participation on the merits, there appears to be no rational basis upon which to object to the Farm Bureau's participation and observations as to whether or not the State's position on the merits was "substantially justified."

We also write to oppose the State's misstatement of law as set forth in its opposition to the Farm Bureau's request dated September 4, 2009.

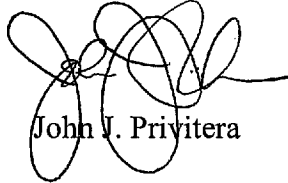
It appears that the State opposes the Farm Bureau's participation in order to suggest that a party's communication with an Amicus party is "not a necessary part of the litigation." As established by the text of Article 86 itself, this Court's discretion goes to whether or not fees are "reasonable," not whether they are absolutely necessary. Indeed, we submit that counsel's refusal

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to communicate with an Amicus that supports counsel's position is unreasonable and contrary to the client's interests.

Respectfully,

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

John J. Privitera

JJP/klh

cc: Loretta Simon, Esq. (via facsimile to 518-473-2534)  
Cynthia Feathers, Esq. (via facsimile to 518-587-0128)