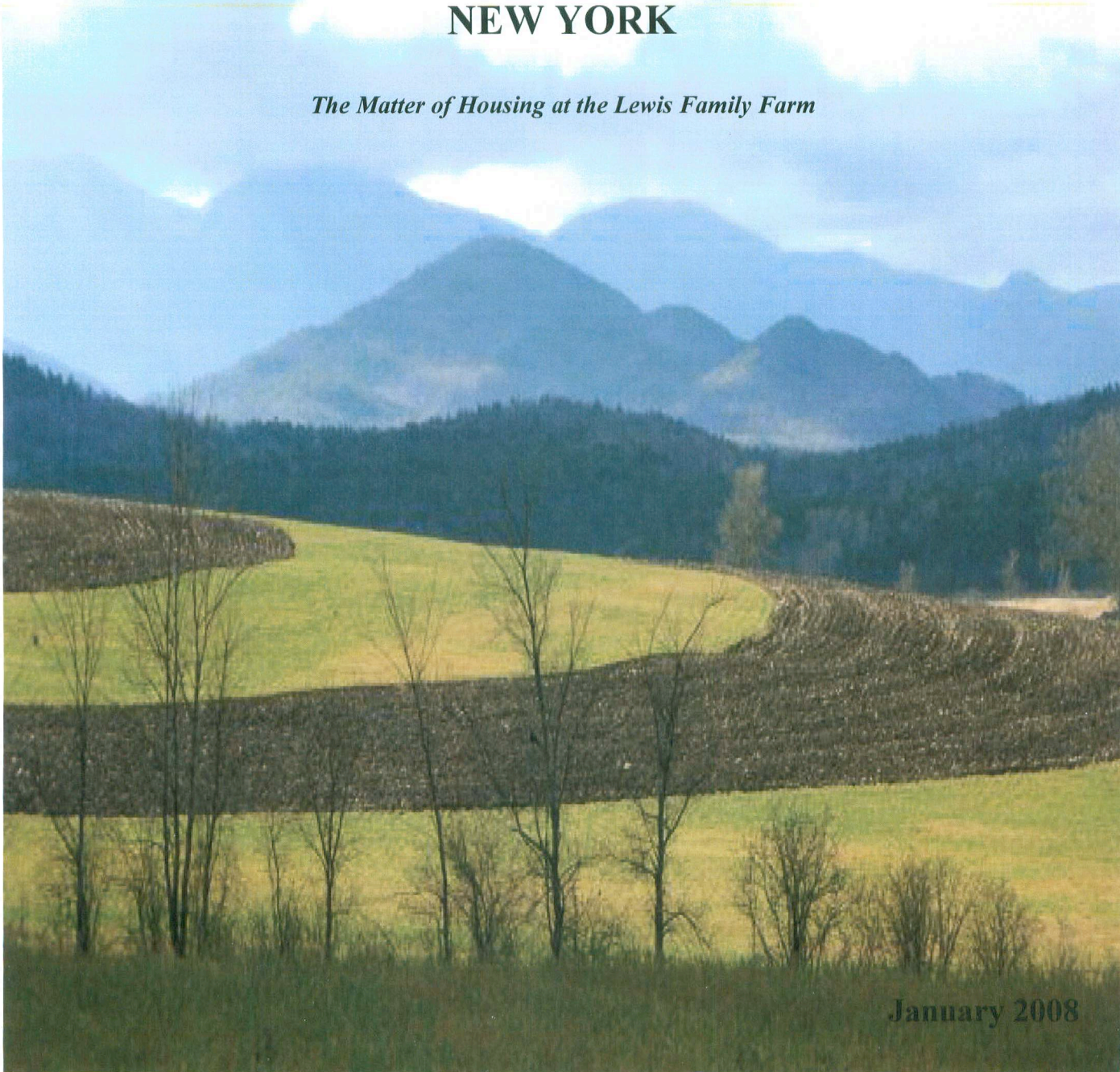


**THE RIGHT TO FARM
in the
CHAMPLAIN VALLEY
of
NEW YORK**

The Matter of Housing at the Lewis Family Farm



January 2008



"Agriculture is not just an important part of our economy – it's a way of life in our communities. By supporting our farmers, by giving them the tools they need to access new markets, we will preserve this way of life in New York, and leave stronger farms – and a stronger state – to our children and grandchildren."

New York State Governor Eliot Spitzer, January 16, 2008



Photographs of Lewis Family Farm by Barbara A. Lewis

ADIRONDACK PARK AGENCY

In the Matter of

Agency File: E2007-041

LEWIS FAMILY FARM, INC.,

Respondent.

**MEMORANDUM OF LAW IN SUPPORT
OF RESPONDENT'S REQUEST FOR DISMISSAL
OF THIS ENFORCEMENT PROCEEDING AND
ANNULMENT OF THE CEASE AND DESIST ORDER
AND IN OPPOSITION TO STAFF'S APPLICATION FOR
IMPOSITION OF PENALTIES WITHOUT A HEARING**

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PRELIMINARY STATEMENT

Respondent Lewis Family Farm, Inc. (hereafter "the Lewis Family Farm"), through its undersigned counsel, submits this memorandum of law in opposition to staff's enforcement proceeding and respectfully asks the Agency to dismiss this proceeding because it is based upon gross misapprehensions of law that cannot be countenanced by the Members of the Agency. Staff seeks to lead the Committee down a dangerous, untrodden and unmarked path that is far beyond the furthest edges of the Agency's jurisdiction. That is, staff asks this Committee to violate the New York State Constitution and expand its reach beyond its statutory power by entering an order that penalizes the Lewis Family Farm for constructing two farm buildings.

Pursuant to its constitutional duty to encourage farming, the legislature exempted farm buildings from Agency regulation when it enacted the Adirondack Park Agency Act (the "Act"). Thus, the Agency's attempt to regulate farm buildings here is unconscionable and unconstitutional. It will also lead this Agency into an illegal fray and a policy nightmare that does violence to the public's right to farm in New York State, a right that is held by all New York citizens.

Agriculture is among New York State's most important industries. Agricultural production returned over \$3.6 billion to the farm economy in 2005.¹ New York's farms employ some 113,000 people. Food industry employment accounts for 425,000 jobs. Related transport, marketing, and international sales are equally important. Thus, a strong and viable agricultural industry is a foundation of New York State's economy. State law recognizes the economic and aesthetic value of farms and protects them from enforcement proceedings such as this. The Act

¹ New York State Department of Agriculture & Markets, Ag. Facts and Annual Reports. See <http://www.agmks.state.ny.us/agfacts.html>.

demands that the Agency protect the open space that farm land provides by encouraging farm development. Staff's efforts in this case defeat a core mission of the Agency.

The three million acres of private land in the Adirondacks hold a wealth of natural resources that includes an agricultural resource base sustained by abundant rainfall, productive soils, a sufficient growing season and proximity to the nation's largest markets.² The Agency is obliged by law to encourage, not penalize, farm development of these resources.

The New York State Constitution provides substantial benefits and protections to farmers under Article 14, the same Article that protects the forest preserve as forever wild. These bedrock legal mandates must be given equal weight. Article 25-AA of New York State's Agriculture and Markets Law authorizes the creation of local agricultural districts pursuant to land owner initiative, county review, state certification and county adoption. The Lewis Family Farm lies within such a district. Agricultural districting, upon which the Agency has nothing to say, encourages farming and use of farmland for agricultural production. Local land use laws in New York State may not regulate farming. New York State farmers have a right to farm.

As summarized more fully below and supported by the accompanying affidavits of Barbara Lewis, Klaas Martens and John Privitera, this proceeding must be dismissed promptly. Moreover, the illegal Cease and Desist Order issued by the acting Executive Director must be annulled, thereby allowing the Lewis Family Farm to complete construction and occupy its farm employee houses this spring. As revealed below, staff's efforts to seek an unprecedented order by the Agency, devoid of legal or policy formulation, is unconstitutional, contorts the Act beyond comprehension, does violence to the open space elements of the Park Plan and cannot be countenanced.

² New York Farm Bureau; 2007 Policy Statement; p. ii.

FACTS

A. History of the Lewis Family Farm

In 1978, Salim and Barbara Lewis purchased a large tract of farmland in the County of Essex. (Affidavit of Barbara A. Lewis, ¶ 2). Over the years, they acquired adjacent lands to form what is now known as the Lewis Family Farm, consisting of approximately 1,200 acres, 826 of which are currently under cultivation and used for pasture. The remainder includes maple sugarbush, recovering logged areas, and protective winter habitat for cattle. (Lewis Aff., ¶ 2). The Lewis Family Farm, a modern and innovative farming operation, is one of New York State's largest USDA Certified organic farms and a national leader in organic farming. (Lewis Aff., ¶ 3); (Affidavit of Klaas Martens, ¶ 4). Further, it has become a showcase for the Cornell Cooperative Extension and has, through example, contributed to neighboring farms that have also become organic operations. (Lewis Aff., ¶ 4; Martens Aff., ¶¶ 8, 10). As a recognized leader in farming, the Lewis Family Farm allows students and apprentices from national international programs to work and study on the farm for academic credit. (Lewis Aff., ¶ 4).

Over the years, the Lewis Family Farm has made significant capital improvements to its land, infrastructure and operations in an effort to remain an economically viable, energy efficient, and environmentally sound working farm. (Lewis Aff., ¶ 5). The farm has cleaned up the roadsides and farmsteads, making the area far more attractive. (Martens Aff., ¶ 6). As it grew in size, the Lewis Family Farm demolished at least fifteen (15) residences that were broken beyond repair, residences with unhealthy sewage conditions, residences with vulnerable or unreliable water supplies, and residences considered unsafe and substandard due to severe mold contamination. (Lewis Aff., ¶ 6).

In addition to the demolition of these houses and the removal of numerous unheated farm worker houses, the Lewis Family Farm constructed at least fifteen (15) farm buildings and several other farm structures in support of the farm, including several barns and two substantial bridges designed and built to protect wetlands. (Lewis Aff., ¶ 7). The Lewis Family Farm did not obtain any permits from the Adirondack Park Agency for these farm structures. (Id.). At no time since these many farm buildings were constructed has the Lewis Family Farm been informed that an Agency permit was necessary at the time of construction, other than the Notice of Violation that was received for the farm worker houses at issue in this matter. (Id.).



2003 Color infra-red image of a portion of the Lewis Farm where the farm employee housing was constructed. These structures were demolished prior to building the employee housing cluster.

B. The Farm Employee Housing

As a successful large-scale organic farm, the Lewis Family Farm requires highly skilled professional employees in order produce crops and animal products that meet strict organic standards. (Martens Aff., ¶ 11). The Lewis Family Farm has a full-time manager and three full-time employees that work on the farm throughout the calendar year. (Lewis Aff., ¶¶ 8-9). Additionally, the Lewis Family Farm customarily has interns and other farm workers working on the farm throughout the year.³ (Lewis Aff., ¶¶ 9-10). Thus, at times, there are several farm workers that are in need of housing on or near the Lewis Family Farm for themselves and their families. These employees require on-farm housing so that they can properly monitor and survey the farm and provide around-the-clock surveillance. (Martens Aff., ¶ 12). Providing housing for these farm workers and their families in off-farm housing is incredibly inconvenient and costly. (See Lewis Aff., ¶¶ 9-10). Therefore, in late 2006, the Lewis Family Farm invested in on-farm employee housing, in the knowledge that safe, modern, comfortable and energy efficient on-farm employee housing is a fundamentally sound agricultural practice, which is crucial to the farm's operation and essential for a self-sustaining farm in the Adirondack Park. (Lewis Aff., ¶ 11; Martens Aff., ¶ 16).

³ For example, in the last year alone, the Lewis Family Farm had four student interns and one apprentice from Washington State, Georgia, Long Island, Plattsburgh, and France, respectively. (Lewis Aff., ¶ 10). Additionally, the Lewis Family Farm had has been approached by the government of Nepal to host four of its farmers so that they may learn the methods of sustainable organic farming. (Lewis Aff., ¶ 9). These Nepalese farmers had been scheduled to arrive in the fall of 2007 and now plan to arrive in late spring 2008. (*Id.*).

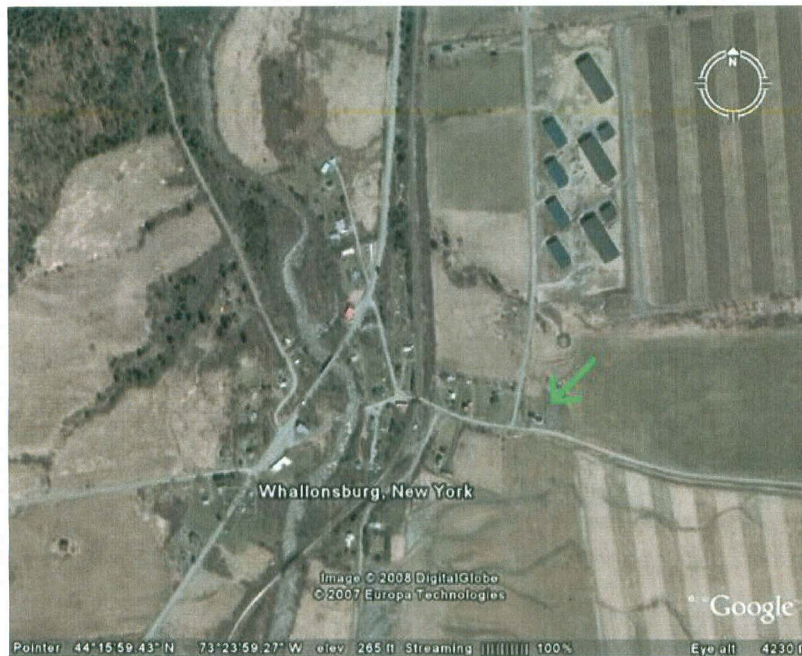


This is a 2008 image of the clustered housing on the Lewis Family Farm. Homes will be used to house farm employees. The housing was constructed on the same footprint where a home and barns existed in the 2003 image. The edge of the Hamlet of Whallonsburg, no more than 200 feet away, is evident behind the South Family Cottage.

The Lewis Family Farm employee housing project involves four structures: the manager's house at Clark and Cross Roads, which was finished in late 2007 and is now occupied by Dr. Turco; and, a three-building cluster near the primary farm barns near the intersection of Whallons Bay Road and Christian Road, which contains two (2) three bedroom cottages for nuclear farm families and a larger four bedroom residence designed for employees, interns, apprentices, and farm consultants. (Lewis Aff., ¶ 12). It is this three-building employee housing cluster that is at issue in this proceeding. It was built at the old Walker Farm, now demolished, at the corner of Christian Road and Whallons Bay Road. (Lewis Aff. ¶ 30, Ex. H).

The three-building employee housing cluster, adjacent to the Barn Plaza on the Lewis Family Farm, is several hundred feet from the Boquet River, with several residences, a railroad track, some high ground, and roads situated between the employee houses and the river. (Lewis Aff., ¶ 13). In fact, the farm worker houses, are no more than 200 feet east of the Hamlet of

Whallonsburg in the Town of Essex, New York. (Privitera Aff., ¶ 13 and Ex. H).⁴ The placement of the units is specifically designed to facilitate easy and energy efficient access to and surveillance of the adjacent barns. (Lewis Aff., ¶ 14).



The location of the Lewis Family Farm employee housing cluster is marked by the green arrow. Note the location of the houses in relation to the Hamlet of Whallonsburg and the Lewis Family Farm's angled Barn Plaza.

Contrary to staff's contention otherwise, no subdivision of land or sites was involved in the design and construction of the employee housing units, as all are on the Lewis Family Farm and are not the subject of separate parcels or the division of the farm's land. (Lewis Aff., ¶ 14). Indeed, the three-building housing cluster is designed as a farmer community. (Id.). The three employee houses are closely adjacent to one another and share a common well, driveway, septic system and leach field located beneath a common courtyard. (Id.). The houses are clearly not designed for any use other than for farm employees. (Id.).

⁴ Having built the farm employee houses adjacent to the hamlet serves the overall values of the Plan by maximizing open space and minimizing visual impacts. Concentrating development at the hamlet where unlimited growth is allowed is a farming plan that ought to be recognized, commended and exemplified – not penalized.



The Barn Plaza is located adjacent to the clustered employee homes. A common yard will contain the leach field, which will be used by all three of the homes.

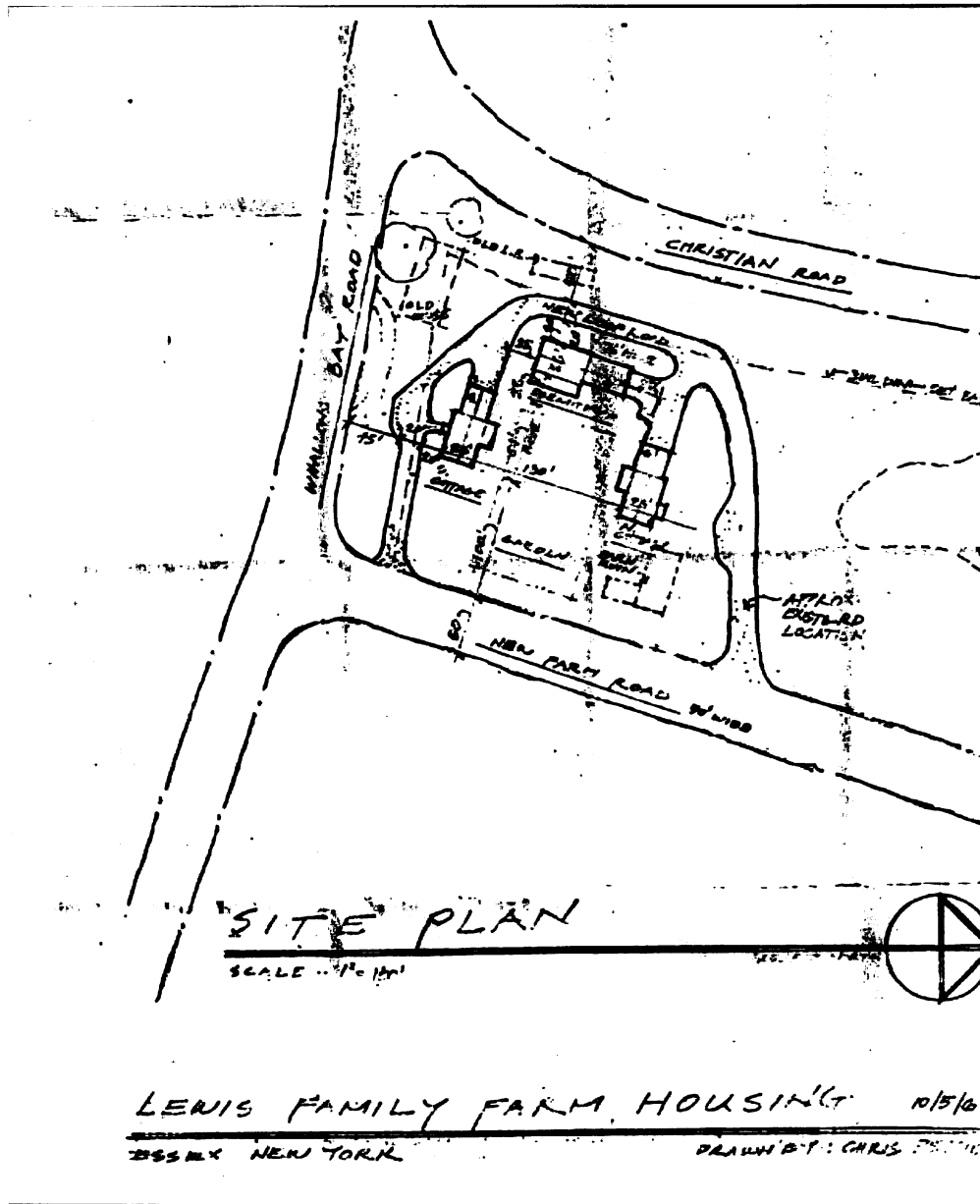
C. Procedural History and Timeline

In November 2006, the Lewis Family Farm applied for building permits from the Town of Essex for the four farm employee houses, including the three house cluster near the barns that is the subject of this proceeding. (Lewis Aff., ¶ 15). The Town granted a foundation permit on November 14, 2006, and ultimately granted building permits A-698 (Farm Manager Home); A-699 (Residence I); A-700 (North Family Cottage); and A-701 (South Family Cottage). (*Id.*). The Town of Essex had informed the Lewis Family Farm during the building permit application process that no Agency permits or any other permits were required for the farm employee houses. (Lewis Aff., ¶ 17).

Construction of the farm employee houses commenced in late 2006 and proceeded until mid-March 2007, when Barbara Lewis contacted the Agency staff after hearing rumors of complaints. (Lewis Aff., ¶ 19)⁵. The Lewis Family Farm voluntarily halted construction of the

⁵ Staff's papers presume to express a view regarding the value of these farms improvements, supported by speculation rather than documentation. Staff's Memo of Law ¶ 19. This is factually wrong and quite immaterial to the Agency's inquiry.

employee houses in March 2007 after speaking with staff in order to clear up any misunderstandings about the project. (Lewis Aff., ¶ 20).



The Lewis Family Farm employee housing cluster, as engineered and approved by the Town of Essex. (Lewis Aff., Ex. B). Residence I is labeled "Dormitory" in October 2006.

In May 2007, staff proposed a "settlement agreement" demanding that the Lewis Family Farm waive the right to challenge Agency jurisdiction to regulate farming, allow Agency review

of all future farm buildings, and pay a \$10,000 fine by June 15, 2007, which they suggested was small by staff's standard. (Lewis Aff., ¶ 22) (See also Ex. A to Van Cott Aff.). Notwithstanding staff's demand that the Lewis Family Farm surrender its right to farm, Barbara Lewis was informed several times by staff that the farm employee housing cluster near the barns was fine where it is located and that the Agency would issue a permit for it. (Lewis Aff., ¶ 24). However, staff insisted that the farm must acknowledge the Agency's purported jurisdiction over farming and pay a substantial fine for failing to get a permit before commencing construction. (Id.).

In early June 2007, the Lewis Family Farm was informed that due to a significant regulatory change, the Canadian manufacturer of the farm employee houses (which are modular homes) could not honor its contract to install the houses after the first week of July 2007. (Lewis Aff., ¶ 25). Having concluded that this dispute related only to whether or not a fine is paid, since staff informed the farm that the buildings were satisfactorily located, the Lewis Family Farm accepted delivery and installation of the modular employee houses so as to not allow them to suffer any damage from the elements during the pendency of this dispute. (Id.). Moreover, the Lewis Family Farm was also advised by its counsel at Nixon Peabody that the construction of the farm employee housing was permissible as a matter of law. (Lewis Aff., ¶ 26).



Modular housing is vulnerable to the North Country elements upon arrival. Here, a piece of one of the Lewis Family Farm employee cottages is craned into place.

Therefore, on June 26, 2007, the Lewis Family Farm commenced an action in Essex County Supreme Court seeking a declaratory judgment that the Agency could not prohibit the completion of the farm employee housing project because it is beyond the Agency's authority to regulate farms. (Lewis Aff., ¶ 27). The next day, the acting Executive Director of the Agency issued a Cease and Desist order prohibiting the completion of the farm employee houses. (Lewis Aff., ¶ 28). On August 16, 2007, the Essex County Supreme Court dismissed the declaratory action upon a finding that it was "not ripe for judicial intervention" because the Agency has yet to render an enforcement determination. (See Justice Ryan's Decision and Order, pg. 6, Ex. B to Van Cott Aff.).

Staff maintains that only two of the three farm employee houses are illegal. (See staff's Memo of Law, pg. 12). There is no indication as to which of the three farm employee houses that staff alleges are illegal. (See Lewis Aff., ¶ 30). As of today, the three farm employee houses remain uncompleted at great expense to the Lewis Family Farm. (Id.).



Farm employee housing clustered together with a combined leach field that will be used by all three structures. The homes are located in close proximity to the barns.

D. New York State Policy On Farm Housing

The Commissioner of the New York State Department of Agriculture and Markets has stated that the Lewis Family Farm has a legal right to the use of its farm employee housing because it obtained approval from the Town of Essex and nothing more can be required. (Privitera Aff. Ex. B). The Department's statewide policy on employee housing clearly supports the Commissioner's determination. (Privitera Aff., Ex. C).

ARGUMENT

POINT I

**THE AGENCY HAS UNMET CONSTITUTIONAL AND
STATUTORY DUTIES TO PROMULGATE A POLICY THAT
ENCOURAGES THE DEVELOPMENT OF FARM LAND**

A. The Agency's Constitutional Duty

In 1969, Article 14 of the New York State Constitution was adopted by the People of New York State to protect the State's natural resources and agricultural lands. Specifically, Section 4 of Article 14 states as follows:

The policy of the state shall be to conserve and protect its natural resources and scenic beauty and *encourage the development and improvement of its agricultural lands* for the production of food and other agricultural products.

N.Y. CONSTITUTION, Article 14, § 4 (McKinney 2006) (emphasis supplied).

This section of the New York State Constitution, which was adopted as part of the "Conservation Bill of Rights", imposes a mandatory duty upon this Agency to encourage improvement of farms, not penalize farm development. It also specifies that the development of agricultural lands is a matter "of particular importance for action by the legislature." Proceedings of the Constitutional Convention of the State of New York, Vol. XI, Document No. 53, pg. 5 (1967). In fact, Section 4 of Article 14 further directs the legislature "to provide for the exercise of various governmental powers to encourage the maintenance of lands in their agricultural state." Id.

The Constitutional directive to "encourage the development and improvement" of farm lands is contained in the very same Article of the New York State Constitution as the highly regarded and well-known "forever wild" clause. See N.Y. CONSTITUTION, Article 14, § 1

(McKinney 2006).⁶ Accordingly, the "pro-farm development" clause is no less important than the "forever wild" clause, and it must be equally honored and obeyed.

Here, the Agency is in violation of its constitutional duty to encourage the development and improvement of farms, because staff's heavy handed penalty effort and gross distortion of the Act is unguided by a written Agency farm policy. The Agency cannot say that it has established a policy, because it has none. This, alone, violates the pro-farm development clause. The Agency's constitutional shortcomings are exacerbated by this enforcement case, which is based upon an illegal cease and desist order and seeks to penalize the Lewis Family Farm for constructing two locally permitted statutorily exempt farm buildings.

This Agency—formed only two years after the adoption of Article 14 of the New York State Constitution—is obliged to develop a pro-farm development policy and put it in place.⁷ Indeed, the absence of a pro-farm development policy violates the Constitution as much as if the Agency itself clearcut a portion of the forest preserve.

The legislature was cognizant of New York State's constitutionally mandated policy of encouraging farm development when it enacted the Act two years after adoption of the pro-farm development clause of the Constitution. Under the Act, the Agency only has jurisdiction to

⁶ Section 1 of Article 14 of the New York State Constitution provides, in pertinent part, as follows: "The lands of the state, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest lands."

⁷ Because the New York State Constitution compels the Agency to develop and publish an agriculture policy that encourages the development and improvement of the Park's agricultural land, the Agency must meet this obligation sooner or later. When the Agency ultimately engages this effort, it must build upon statewide policies that have already been developed. Most recently, Governor Spitzer appointed the New York State Council on Food Policy, which issued a report on December 1, 2007. See Governor Spitzer Executive Order No. 13. The primary goal of the Policy is to "expand agricultural production, including locally grown and organically grown food." Policy, pg. 6. The Council on Food Policy identified four "key issue areas" as specific priorities, including support for "efficient and profitable agricultural food production." Id. at p. 8. This enforcement proceeding, unfounded in policy or law, which seeks to penalize a sound agricultural practice designed to build sustainable efficiency and profitability, is directly contrary to emerging State farm policy, as identified by the New York State Council on Food Policy report of last month. Privitera Aff. ¶ 16 and Ex. J.

review "Class A" and "Class B" regional projects within the Park. See N.Y. Exec. Law § 810. In defining this limited class of projects over which the Agency has jurisdiction, the legislature was careful to protect farming by not listing "agricultural use structures" as jurisdictional even if a farm building exceeds forty feet in height.⁸ See Point II, *infra*.

Although the lack of a pro-farm development policy by the Agency violates the Constitution, the Agency may reach a just disposition in this proceeding if the Act is followed and applied as written rather than distorted and contrived as staff would have it.

Obviously, the Agency cannot stand the Act on its head, ignore the explicit exemption for agricultural use structures, and somehow gain jurisdiction by unilaterally labeling agricultural use structures such as farm employee housing as a "single family dwelling". Such a contorted reading, designed to overreach and regulate farming, would do violence to the legislative intent and careful legislative structure of the Act, crafted to be consistent with the then-recently amended Constitution, in exempting farms. Farm buildings are beyond the reach of the Agency under the Act. Here, the attempted regulation of farming is contrary to the balanced purposes of the Act in protecting farms as open space resources and as one of the foundation stones upon which the fragile economy inside the Adirondack Park must be supported.

New York State's Constitution is unquestionably the supreme law of the State. See Dalton v. Pataki, 5 N.Y.3d 243, 296 (2005). Thus, the Agency must obey the New York State Constitution by developing a policy of encouraging the development and improvement of

⁸ "Structure" is broadly defined to include anything from a fence to a building, including housing. N.Y. Exec. Law § 802(62). The definition of "Agricultural Use Structure" borrows from this broad definition of "Structure" and provides that "Agricultural Use Structure" includes any barn, stable, shed, silo, garage, fruit and vegetable stand or other building or structure directly and customarily associated with agricultural use. Clearly, farm employee housing, barns and other such improvements are within the definition of "Agricultural Use Structure". N.Y. Exec. Law § 802(8).

agricultural lands. Accordingly, the Agency's attempt to regulate the Lewis Family Farm without a written pro-farm development policy is unconstitutional and must be prohibited.

B. The Agency's Statutory Duty

In 1971—the same year that the Agency was formed—the legislature enacted Article 25-AA of the Agriculture and Markets Law. A recent Court of Appeals decision succinctly states the purpose of this statute as follows:

The Legislature enacted [A]rticle 25-AA of the Agriculture and Markets Law in 1971 for the stated purposes of protecting, conserving and encouraging 'the development and improvement of [this State's] agricultural lands' (L 1971, ch 479, § 1). At that time and again in 1987 (L 1987, ch 774, § 1), the Legislature specifically found that 'many of the agricultural lands in New York state are in jeopardy of being lost for any agricultural purposes' due to local land use regulations inhibiting farming, as well as various other deleterious side effects resulting from the extension of nonagricultural development into farm areas.

Town of Lysander v. Hafner, 96 N.Y.2d 558, 563 (2001) (citing N.Y. Agric. & Mkts. Law § 300).

To facilitate this purpose, the legislature enacted Section 305 of the Agriculture and Markets Law to require all New York State agencies to create and/or modify policy to support the development of farming within the State:

3. Policy of state agencies. *It shall be the policy of all state agencies to encourage the maintenance of viable farming in agricultural districts and their administrative regulations and procedures shall be modified to this end...*

N.Y. Agric. & Mkts. Law § 305 (McKinney 2004) (emphasis supplied).

This statutory mandate is more focused and direct than the Constitution. It requires that this Agency "modify its regulations and procedures" to encourage the maintenance of viable farming in agricultural districts. The Lewis Family Farm is in such a district, so it is entitled to the benefit of this statutory protection. (Lewis Aff. ¶ 3). These mandated policies, regulatory and procedural changes have yet to occur in the Agency. When the Agency ultimately meets its

mandatory duty to publish a pro-farm development policy under the Constitution, it must also modify its regulations and procedures to provide the additional protection required by the Agriculture and Markets Law for agricultural district farms.⁹

The Agency can hardly say that its regulations and procedures are "encouraging the maintenance of viable farming" in this case when staff issued an illegal cease and desist order that violates the Constitution, State agricultural law, the Act and Agency's own enforcement policy and seeks to penalize the Lewis Family Farm for constructing two locally-permitted, exempt farm buildings. Staff's draconian penalty demand, which exceeds \$1 million, is not grounded in any policy, law or regulation.¹⁰ (See staff's Memo of Law, pg. 15). Indeed, staff's blustering papers are largely devoted to an alleged disobedience to unstated law.¹¹

⁹ In addition to constitutional mandates and the dominant farm law and policy articulated by the Department of Agriculture and Markets which must be followed here, the Agency's own charter demands protection of farms as open space. The Act states that the Agency's "policy shall recognize the major state interest in the conservation, use and development of the Park's resources and the preservation of its open space character." N.Y. Exec. Law § 801.

¹⁰ Governor Spitzer's recently formed "Smart Growth Cabinet" will inevitably be compelled to focus upon relationships among agricultural policy, including farm employee housing; the work of the New York State Council and Food Policy; and, the problems of sprawl. Ultimately, a significant element of the equation must be to protect the economics of farms, so they are less attractive to suburban development. See G.S. Kleppel, Ph.D., To Fight Sprawl, We Must Use Land Wisely, ALBANY TIMES UNION, January 13, 2008, at D1 ("When farming is profitable, farmers stay on their land"). Staff seeks to destroy the profitability of the Lewis Family Farm by seeking a seven figure penalty that no farm could ever pay. Contrary to wise policy, staff seeks to render the Lewis Family Farm suitable only for development when all farming profit is gone.

¹¹ Staff seeks desperately to distract the Agency from a reasoned approach to a decision in this case in accordance with the rule of law. This distraction is largely constructed through staff's false description of representatives of the Lewis Family Farm as outlaws, which forms the bulk of their papers. John Banta swears that on December 5, 2005, he advised Salim B. Lewis that farm employee housing needed an Agency permit. (Banta Affidavit July 23, 2007, ¶ 5). Mr. Lewis denies having heard it, which is not surprising since he is deaf in one ear. Thus, if the Agency regards this as a material issue, it is in dispute and needs a hearing. See Affidavit of Barbara A. Lewis, ¶ 18. Respondent's Answer, ¶ 5 (Denial). Meanwhile, the Lewis Family Farm, having been properly informed by the Town of Essex that building permits were sufficient and that no Agency permit was required, commenced construction. After the farm employee housing cluster was well under way and exposed to the elements, staff issued an illegal Cease and Desist Order that violated Agency enforcement policy and wrongfully claimed that the exempt agricultural use structures were "single family dwellings." See Affidavit of Paul Van Cott dated December 13, 2007, Exhibit C; and Affidavit of Douglas Miller, dated July 20, 2007, Exhibit F. Counsel for the Lewis Family Farm, Inc. advised the Farm that the Cease and Desist Order was illegal and staff never sought the Agency's enforcement of it. Even before the illegal Cease and Desist Order, staff repeatedly emphasized orally and in writing that the farm employee housing cluster could stay where it is. This remains staff's position today. See Affidavit of John Quinn, dated December 12, 2007, ¶ 4. Notwithstanding staff's formidable distraction, it *cannot be said that the*

Since the Adirondack Park Agency Act and Section 305 of the Agriculture and Markets Law were both enacted in 1971, the legislature was undoubtedly mindful of New York State's constitutional mandate to promulgate and maintain a policy of encouraging farm development, which was adopted only two years prior to the enactment of these statutes. Therefore, the legislature's deliberate exclusion of "agricultural use structures," a defined term in the Act, from Agency jurisdiction, is informed by its historical context. That is, the Act was written to exempt farm buildings from the Agency's regulatory power promptly after the Constitution was amended to mandate a pro-farm development policy and at the same time the legislature established the statutory right to farm in agricultural districts. See Friedman v. Connecticut Gen. Life Ins. Co., 9 N.Y.3d 105, 115 (2007) ("A court must consider a statute as a whole, reading and construing all parts of an act together to determine legislative intent, and...[give] effect and meaning...to the entire statute and every part and word thereof") (internal citations omitted); see also Briar Hill Lanes, Inc. v. Ossining Zoning Bd. of Appeals, 142 A.D.2d 578, 581 (2d Dep't 1988) ("The task in interpreting a statute or ordinance is to give effect to the intent of the body which adopted it"); American Motors Sales Corp. v. Brown, 152 A.D.2d 343, 349 (2d Dep't 1989) ("courts are required to harmonize statutes with each other as well as with the overall legislative intent in an effort to provide a logical and unstrained interpretation to each").

Moreover, the New York Department of Agriculture and Markets supports the rights of the Lewis Family Farm and the farming community under New York law, including the right to engage in sound agricultural practices and the right of farmers to support their operations with

Lewis Family Farm set out to violate the law. Moreover, under the circumstances of this case, it cannot reasonably be argued that the Lewis Family Farm had an obligation to surrender their investment in the farm employee housing project to the north country elements. Since John Banta has identified himself as a material witness to these proceedings, he is disqualified as serving as counsel for any party, and cannot advise the Agency Members on the Lewis Family Farm. See NYS Code of Prof. Resp., DR 5-102 ("A lawyer shall not act, or accept employment that contemplates the lawyer's acting, as an advocate on issues of fact before any tribunal if the lawyer knows or it is obvious that the lawyer ought to be called as a witness on a significant issue on behalf of the client").

necessary buildings and infrastructure, which includes farm employee housing. (Privitera Aff. ¶ 5, Ex. B; ¶ 6, Ex. C). The Department recognizes that farm employee housing is an integral part of a successful farm operation. Id.

Housing accommodates the work day of farm laborers and farm management, and meets needs in recognition of the shortage of nearby rental housing in rural farm communities. (See 2006 Annual Report of the Adirondack Park Agency, pg. 27, Ex. E to Privitera Aff.). Farm employees cannot afford to buy or even rent good housing in the Adirondacks.

The Department of Agriculture and Markets firmly maintains that the construction of farm employee housing is protected by Article 25-AA of the Agriculture and Markets Law, as upheld by the Court of Appeals in Town of Lysander v. Hafner, 96 N.Y.2d 558 (2001), *supra*. (See Privitera Aff., ¶ 5, Ex. B).

C. The Agency Must Follow The Policy Set Forth By The Department Of Agriculture And Markets

In the absence of an Agency policy implementing the pro-farm development clause contained in the New York State Constitution and Agriculture and Markets Law, the Agency is obliged to follow the policy of the Department of Agriculture and Markets. There can be no doubt that the Department of Agriculture and Markets is exclusively responsible for the interpretation, implementation and administration of the New York State Agriculture and Markets Law, including the right to farm set forth in Article 25-AA (Agricultural Districts). See N.Y. Agric. & Mkts. Law § 16.

The Agency has no mission, charter, or responsibility with respect to agricultural protection, other than honoring the obligation to have a pro-farm development policy under the New York State Constitution and Agriculture and Markets Law. With respect to all other matters, this Agency is obliged to defer to the governmental agency charged with the

responsibility for the administration of the statute, which interpretation, if it is not irrational or unreasonable, must be respected and followed. See generally Kurcsics v. Merchants Mutual Insurance Company, 49 N.Y.2d 451, 459 (1980); see also Town of Lysander, 96 N.Y.2d at 564.

Here, the Commissioner of the Department of Agriculture and Markets has spoken with great clarity as to the statewide policy under the Agriculture and Markets Law within his purview, as to the severe limitations on the regulation of farm employee housing. As a matter of policy, a farmer need only obtain a local building permit to assure that the structure complies with building codes with respect to public health and safety. Nothing else is required of her. No other scrutiny is allowed. Even permit conditions that demand the screening of the housing are unreasonable according to the Commissioner's articulation of statewide agriculture policy. (See Privitera Aff., ¶ 6, Ex. C).

Indeed, the Commissioner is on record with the Agency as having expressed the sound view that this Agency has a statutory obligation to embrace, rather than penalize the Lewis Family Farm's employee housing in this case. (Privitera Aff., ¶ 5, Ex. B). "The Commissioner's view in this regard is entitled to deference." Town of Lysander, 96 N.Y.2d at 564. This Agency must defer. The Agency simply cannot proceed with enforcement in this case in the absence of a policy that favors farm development and that guides staff in its mission.

Therefore, the Agency must meet its constitutional and statutory mandatory duties by deferring to the Commissioner in implementing state agricultural policy. Since the Lewis Family Farm obtained local building permits, any further review or conditions violates state policy. Accordingly, this proceeding must be dismissed in its entirety.

D. **Any Assertion Of Jurisdiction By The Agency Over Farm Buildings Violates The Agriculture And Markets Law**

Local governments are prohibited from unreasonably hindering farming operations in agricultural districts. "[L]ocal governments, when exercising their powers to enact and administer comprehensive plans and local laws, ordinances, rules or regulations...shall not unreasonably restrict or regulate farm operations with agricultural districts." N.Y. Agric. & Mkts. Law § 305-A(1)(a). The legislature does not define "local governments" in the statute. See N.Y. Agric. & Mkts. Law § 2. Therefore, this Agency must adopt a functional and practical approach to the definition.

The Court of Appeals has spoken as to the Agency's powers, and regards the Agency as functioning with the combined powers of a "*local* planning board and a *local* zoning entity." Hunt Brothers v. Glennon, 81 N.Y.2d 906, 909 (1993) (emphasis supplied). In Hunt Brothers, the Court of Appeals held that the New York State Department of Environmental Conservation had exclusive jurisdiction to regulate mining, but that the Agency may have limited jurisdiction over incidental matters unrelated to mining itself. Id. In so doing, the Court of Appeals found that the Agency's powers and goals resemble the powers of local government. Id.

Therefore, the Court of Appeals' clear holding in Town of Lysander, which prohibits the regulation of safe farm employee housing under of Article 25-AA of the Agriculture and Markets Law, prevents this Agency—which resembles a local government—from regulating farm buildings in agricultural districts. This rule of law must be followed here because the Agency must administer the Act consistent with the law.

POINT II

THE AGENCY LACKS THE REQUISITE DELEGATED STATUTORY AUTHORITY TO REGULATE FARMING

"[A]dministrative agencies, as creatures of statute, are without power to exercise any jurisdiction beyond that conferred by statute." Flynn v. State Ethics Comm'n, 208 A.D.2d 91, 93 (3d Dep't 1995); see also Foy v. Schechter, 1 N.Y.2d 604 (1956) (stating that an agency must have jurisdiction in order for its determinations to be valid, and absent such jurisdiction, agency acts are void). To this end, "the APA cannot operate outside its lawfully designated sphere, with the propriety of its actions often depending upon the nature of the subject matter and the breadth of the legislatively conferred authority." Gerdts v. State, 210 A.D.2d 645, 648-49 (3d Dep't 1994).

Here, the legislature has specifically excluded farm buildings from regulation by the Agency. Thus, the Agency is without power to regulate farming or exercise jurisdiction over farm development, including the farm employee housing on the Lewis Family Farm.

A. Legislative History

In 1971, the legislature determined that the three million acres of private land inside the Adirondack Park needed a regional land use law. To ensure optimum overall conservation, preservation, development and use of the Park's resources, State lawmakers determined to establish the Adirondack Park Agency (the "Agency") and the Adirondack Park Agency Act (the "Act") under Article 27 of the Executive Law. In so doing, the lawmakers specifically determined to "exempt bona fide forest and agricultural management practices" from regulation by the Adirondack Park Agency. (McKinney's 1971 Session Laws of New York, Legislative Memoranda, Adirondack Park Agency-Creation, ch. 706 pg. 2471). At the time, Governor Nelson A. Rockefeller regarded the creation of the Adirondack Park Agency as one of the most

significant accomplishments of the 1971 Session. The Governor embraced the comprehensive nature of the law, yet also proclaimed the wisdom of its limitations on executive power. He determined that the law achieved a "balance between desirable development and economic growth and the protection of the natural resources of the Adirondack Park." Id. at 2627.

At the time of passage, the State Executive Department recognized that the land use plan at the heart of the Act "would be implemented primarily by the park's local government...the Agency would have concurrent jurisdiction only over large scale projects and those proposed to be located in especially critical environmental areas of the park." Id. at 2202. The Legislature also determined to make the Wild, Scenic and Recreational Rivers Act consistent with the provisions of the Act.

B. The Intensity Controls of the Act Exempt Farm Buildings

Ultimately, State lawmakers developed a comprehensive approach under the Act through the Adirondack Park Land Use and Development Plan (the "Plan"). The Plan is carefully designed to nourish and facilitate existing economic activities in the Adirondack Park while providing a two-fold approach to controlling land use and development by setting forth compatible uses and overall intensity guidelines. N.Y. Exec. Law § 805. Specifically, the Plan provides "Primary Uses" for each area of the Park, which are those uses generally considered compatible with the character, purposes, policies and objectives of such land use area. These Primary Uses are fully permitted "so long as they are in keeping with the overall intensity guidelines for such area." N.Y. Exec. Law § 805(3)(a). Further, all private lands in the Park are classified into six categories, identified by color on the Park plan map: hamlet (brown), moderate intensity use (red), low intensity use (orange), rural use (yellow), resource management (green) and industrial use (purple).

The classification of particular areas depended upon such factors as existing land use and population growth patterns, soils, geological features, biological considerations, the need to preserve the open space character of the Park and the protection of certain fragile ecosystems.¹² The two-fold purpose of the land classification system established by the law is to (i) channel growth into areas where it can best be supported, and (ii) limit incompatible uses in some land use areas. Thus, "primary compatible uses" are listed for each of the six land use areas under the Plan and overall intensity guidelines are in place for each of the land uses. See generally N.Y. Exec. Law § 805.

The intensity guidelines facilitate compatible uses in appropriate land use categories while significantly limiting the number of "Principal Buildings" in other areas. Compatible uses, such as homes in the hamlets, are not limited in the intensity guidelines, nor are compatible industrial uses in the industrial zones. The overall intensity guidelines are fairly summarized as follows:

Overall Intensity Guidelines

<u>Land Use Area</u>	<u>Color on Map</u>	<u>Bldgs. (per sq. mile)</u>	<u>Size (acres)</u>
Hamlet	brown	no limit	none
Moderate Intensity Use	red	500	1.3
Low Intensity Use	orange	200	3.2
Rural Use	yellow	75	8.5
Resource Management	green	15	42.7
Industrial Use	purple	no limit	none

¹² See generally Citizens Guide to the Adirondack Park Agency Land Use Regulations, Adirondack Park Agency, pp. 2-6 (2006).

In accordance with the legislative purpose of exempting farming practices from regulation by the Agency, agricultural uses and agricultural use structures are deemed a compatible use throughout the Park, except in the hamlets.¹³

In fulfilling its commitment to exempt farming practices from regulation by the Agency, the Legislature took several steps in the Act to prevent the exercise of State executive power over farming. The Legislature acknowledged that "open space uses, including forest management, agriculture and recreational activities, are found throughout" the land use designation of "resource management areas" where "Agricultural Uses" and "Agricultural Use Structures" are classified as the highest and best use of the land. The Legislature recognized that farms achieve two of the primary goals of the overall act: (1) "protection of open space resources"; and (2) protection of farming as an economic activity in the Park. See N.Y. Exec. Law § 805(3)(g)(1). Specifically, the Legislature acknowledged in the text of the statute that:

Important and viable agricultural areas are included in resource management areas, with many farms exhibiting a high level of capital investment for agricultural buildings and equipment. These agricultural areas are of considerable economic importance to segments of the park and provide for a type of open space which is compatible with the park's character. Id.

Most important, although the intensity guidelines within resource management areas limit growth to fifteen "Principal Buildings" per square mile in this land use area, the Legislature carefully crafted the statute to embrace and protect unlimited economic growth of farms in the resource management areas without any impact whatsoever upon the density guidelines. This was done through a specific paragraph within the definition of "Principal Building", which provides as follows:

¹³ Executive Law §805(3)(d)(4)(4) and (5) [farming compatible in moderate intensity use areas]; Executive Law §805(3)(e)(4)(4) and (5) [farming compatible in low intensity use areas]; Executive Law §805(3)(f)(4) and (5) [farming compatible in rural use areas]; Executive Law §805(3)(g)(4)(1) and (2) [farming compatible in resource management areas]; Executive Law §805(3)(h)(3)(9) and (10) [farming compatible in industrial use areas].

All agricultural use structures and single family dwellings or mobile homes occupied by a farmer of land in agricultural use, *his employees engaged in such use and members of their respective immediate families*, will together constitute and count as a single principal building.

N.Y. Exec. Law §802(50) (emphasis supplied).

Thus, as the Adirondack Park Agency regulates development in accordance with the intensity guidelines, the Agency has absolutely nothing to say about the growth of farms as a matter of law. The expansive definition of "Principal Buildings" on farms could not be clearer in expressing a legislative requirement that farms be allowed to grow without regulation by the Agency. A farm may have many farm structures upon it, including employee housing, yet all of the structures are counted as just one "principal building," thereby assuring the growth and prosperity of farms in protecting open space and providing an economic foundation for residents of the Park. Simply put, the Agency does not have jurisdiction over farm development.

Since a farm is the highest order of land use in a resource management area as a matter of law, and all of the farm buildings including farm employee housing on any one farm count as only one Principal Building, a farm will always be "in keeping with the overall intensity guidelines" as required by the plan, no matter how big it gets and no matter how many agricultural use structures are built on the farm.

Thus, staff's misguided effort to seek penalties against the Lewis Family Farm serves no land use purpose under the Plan. The Act makes clear that the Agency must not control the density of farms. Indeed, staff's senseless attack upon the Lewis Family Farm is directly contrary to the best interests of the Park and the legislative purpose of the Plan because it seeks to harm, rather than protect, farm development—a fragile, valuable Park asset "of paramount importance because of overriding natural resource and public considerations." N.Y. Exec. Law § 805(3)(g)(1).

The Economic Affairs Committee of this Agency has recognized and continues to struggle with the primary threat to the economic vitality of the Park, reasonably priced housing.¹⁴ The first steps the Agency must take towards solving this policy crisis is to recognize the legal protection afforded to farmers as a matter of law, honor the pro-farm development mandate of the Constitution and State Agriculture law and leave the growth of farms and farm employee housing beyond the reach of the Agency.

C. **The Farm Building Exemptions in the Act**

The Act defines "Agricultural Use Structure" to include "any barn, stable, shed, silo, garage, fruit and vegetable stand *or other building or structure directly and customarily associated with agricultural use.*" N.Y. Exec. Law § 802(8) (emphasis supplied).¹⁵ On-farm employee housing falls into this definition because it is a sound agricultural practice that provides the foundation for any self-sustaining farm. (See Martens Aff., ¶ 16; Privitera Aff. ¶¶ 5 and 6, Ex. C and D). The Act is consistent with the New York State Constitution in that it exempts these buildings from Agency regulation.

Under the Act, the Agency only has jurisdiction to review "Class A" and "Class B" regional projects within the Park. See N.Y. Exec. Law § 810. In defining this limited class of projects over which the Agency has jurisdiction, the Legislature was careful to follow through with its protection of farming by not listing "agricultural use structures" as jurisdictional. Indeed, not only did the Legislature go out of its way to not list "agricultural use structures" as jurisdictional, it specifically provided that throughout the Park, including the hamlets, all "agricultural use structures" are exempt from regulation as a "Project" even if they are in excess

¹⁴ See Adirondack Park Agency 2006 Annual Report, pg. 27.

¹⁵ "Structure" is broadly defined to include anything from a fence to a building, including housing. N. Y. Exec. Law § 802(62). The definition of "Agricultural Use Structure" borrows from this broad definition of "Structure." Clearly, farm employee housing, barns and other such improvements are within the definition of "Agricultural Use Structure". N.Y. Exec. Law § 802(8).

of forty feet in height.¹⁶ The Agency admits in its public literature that all "agricultural use structures" are non-jurisdictional throughout the Park. (See Privitera Aff., ¶ 12 and Ex. G).

1. **The Lewis Family Farm Buildings Are Not a "Class A" Project**

The Lewis Family Farm is located in a Resource Management area of the Park. See staff's Memo of Law, pg. 3. Section 810(1)(e) of the Executive Law sets forth a list of projects in Resource Management that are deemed "Class A" projects. Farm buildings are specifically exempted from "Class A" project determination. After listing several types of projects that are "Class A" projects, the statute reads as follows:

Provided however, *that the above shall not include* forestry uses (other than clearcutting as specified in number eleven below and sand and gravel pits associated with such uses located within three hundred feet of the edge of the right of way of the above described travel corridors), *agricultural uses* (other than sand and gravel pits associated with such uses located within three hundred feet of the edge of the right of way of the above described travel corridors), open space recreation uses, public utility uses, *and accessory uses or structures (other than signs) to any such uses or to any preexisting use.*

N.Y. Exec. Law § 810(1)(e)(1)(f) (emphasis supplied).

Thus, agricultural use structures, which are defined to include farm employee housing, are exempt from "Class A Projects." Moreover, the legislature's intent of exempting farm buildings from "Class A" project status is evident through its inclusion of "[a]ll structures in excess of forty feet in height, except agricultural use structures." N.Y. Exec. Law § 810(1)(e)(8). The only reasonable way to read the statute is to read it as exempting all agricultural use structures. It would be nonsense for the Agency to be able claim jurisdiction over an agricultural use structure *under* forty feet in height, when it is clearly unable to claim jurisdiction over that

¹⁶ N.Y. Exec. Law §810(1)(a)(4) [agricultural use structures of any height exempt from regulation in hamlet areas]; *Id.*, § 810(1)(b)(5) [agricultural use structures of any height exempt from regulation in moderate intensity areas]; *Id.*, § 810(1)(c)(1)(d)(5) [agricultural use structures of any height exempt from regulation in low intensity use areas]; *Id.*, § 810(1)(d)(1)(d)(5) [agricultural use structures of any height exempt from regulation in rural use areas]; and *Id.*, § 810(1)(e)(8) [agricultural use structures of any height exempt from regulation in resource management areas].

same structure if it were over forty feet high.¹⁷ Surely the legislature did not set out to encourage tall farm buildings.

Based on the foregoing, it is clear that the Lewis Family Farm's two farm buildings at issue here are not "Class A" projects.

2. The Lewis Family Farm Buildings Are Not a "Class B" Project

Since the Lewis Family Farm buildings are not a "Class A" project, the only way the Agency would have jurisdiction over the Lewis Family Farm buildings is if they are listed as a "Class B" project. They are not.

Section 810(2)(d) of the Executive Law sets forth a list of projects in Resource Management that are deemed "Class B" projects. Farm buildings are not listed.

The legislature's deliberate decision, consistent with the pro-farm development clause of the Constitution, to not include "agricultural use structures" in the list of "Class B" projects, ends this Agency's inquiry. See N.Y. Exec. Law § 810(2)(d). The legislature's intent to exempt farm buildings from "Class B" status is obvious, because it did include "forestry use structures" in the definition of "Class B" projects. See id., § 810(2)(d). Recall that the legislature specifically exempted both "forestry use structures" and "agricultural use structures" from the statutory definition of "Class A" projects. See id., § 810(1)(e)(1)(f). Therefore, by specifically including "forestry use structures" and excluding "agricultural use structures" in the definition of "Class B" projects, the legislature clearly chose to exclude farm buildings from Agency jurisdiction as "Class B" projects.

¹⁷ Not only has staff failed to embrace the constitutional mandate of proceeding in accordance with the pro-farm development clause, its hostility toward sustainable farming is evident in its failure to even acknowledge the fact that farm buildings of any size or height are exempt from Agency review.

The statute also provides an additional all-encompassing provision that subjects "any land use or development not now or hereafter included on either the list of primary uses or the list of secondary uses for resource management areas" to Agency jurisdiction as a "Class B" project. N.Y. Exec. Law § 810(2)(d)(6). However, "agricultural use structures" are included in the list of primary uses of resource management areas. See N.Y. Exec. Law § 805(3)(g)(4). Therefore, they are not "Class B" projects.

Although, "forestry use structures", "hunting and fishing cabins", "golf courses", and "municipal roads" are either primary or secondary uses in resource management areas, they are listed as "Class B" projects, whereas "agricultural use structures" are not. See N.Y. Exec. Law § 805(3)(g)(4). Therefore, by including these other primary and secondary uses in the "Class B" list, it is again clear that the legislature chose to exclude "agricultural use structures" from Agency jurisdiction as "Class B" projects. See Friedman, Briar Hill Lanes, Inc., and American Motors Sales Corp., supra. Thus, the Lewis Family Farm's employee houses are exempt from "Class B" status.

Finally, the Agency admits that when a structure fits into a specific definition, then the specific definition applies—even if the structure could also be defined as a "single family dwelling." See staff's Memo of Law, pg. 13. Thus, even though the statute includes single family dwellings as "Class B" projects, they are only deemed as such if they do not fit into a more specific definition, as here (i.e., "agricultural use structures").

3. Staff Misstates the Law in Its Attempt to Gain Jurisdiction

Staff attempts to gain jurisdiction over the Lewis Family Farm buildings by classifying them as "single family dwellings", rather than "agricultural use structures." See staff's Memo of Law, pg. 12. This is evident through staff's gross misstatement of the law:

Pursuant to Executive Law 802(50)(g), all agricultural use structures and single family dwellings occupied by a farmer of land in agricultural use, his employees engaged in such use, or their respective families, together constitute and count as a *single family dwelling*.

Staff's Memo of Law, pg. 13 (emphasis supplied).

This misstatement of the law is the false foundation of staff's only argument. To be sure, "single family dwellings," if they are not "agricultural use structures," are "Class B" projects. See N.Y. Exec. Law § 810(2)(d)(1). But farm employee housing is an "agricultural use structure" as a matter of law, so staff misquoted the law to advance its contorted argument. Section 802(50)(g) of the Executive Law, which defines the number of principal buildings—not single family dwellings—for intensity purposes, states as follows:

g. all agricultural use structures and single family dwellings or mobile homes occupied by a farmer of land in agricultural use, his employees engaged in such use and members of their respective immediate families, will together constitute and count as a *single principal building*.

N.Y. Exec. Law § 802(50)(g) (emphasis supplied).

Thus, the legislature determined that, in the interest of the economy of farms in the Park, the constitutional mandate of a pro-farm development policy, the new provisions of the Agriculture and Markets Law and the overall value of open space preservation provided by farms, each farm has freedom to build without altering the intensity of development in the Park.

Obviously, staff cannot stand the Act on its head and somehow gain jurisdiction by labeling farm employee housing solely as a "single family dwelling". Such a contorted reading, unconstitutionally designed to overreach and regulate farming, would do violence to the legislative intent and careful legislative structure of the Act in exempting farms. Farm employee

housing is always an "agricultural use structure," because this definition includes housing. Thus, these structures are beyond the reach of the Agency under the Act.¹⁸

The Agency's numbing insistence on controlling the number of nuclear families who live and work on farms is contrary to law and will doom the future of farming in the Adirondacks. Successful farm employee housing is more than just a bunkhouse with shared sanitary facilities. See N.Y. Exec. Law § 802(50).

This comprehensive review of the Act establishes that regulation of the growth of farms, including farm employee housing, is not permitted by the limited jurisdiction provided to the Agency. In addition, regulation of the growth of farms, including farm employee housing, serves absolutely none of the goals and purposes of the Act because "agricultural use structures", including farm employee housing, are not counted as principal buildings in the intensity guidelines. Indeed, regulation of farms is contrary to the balanced purposes of the Act in protecting farms as open space resources. Farming is one of the foundation stones upon which the fragile economy inside the Adirondack Park must be supported. The Agency is obliged by the Constitution to encourage farm development.

¹⁸ To be sure, a farm owner's house must be considered a "single family dwelling" under the Act. This is the only rational way to read the Act since the farmer's house is not an "agricultural use structure" in that it is not directly and customarily associated with agricultural use. See N.Y. Exec. Law § 802(8). Considering a farmer's house as a "single family dwelling" is consistent with the Act, which provides that the house and all associated "agricultural use structures" constitute only a "single principal building" for intensity purposes. See N.Y. Exec. Law § 802(50)(g).

D. Construction of Agricultural Use Structures Including Farm Employee Housing is Not a Subdivision That Grants Jurisdiction to the Agency

Ordinarily, a farmer constructs housing for her employees on lands of her own, without changing the appearance of the land, the use of the land or the description of the land in real property terms. No land is divided, no new lots are created, no new ownership regimes are imposed and no leases are signed.¹⁹ That is what happened here.

The Act defines "Subdivision of Land" as a "division of land into two or more lots, parcels or sites" for "separate ownership or occupancy". N.Y. Exec. Law § 802(63). The Lewis Family Farm has not divided its land.²⁰ Indeed, the three-house cluster with common areas and systems next to the barns cannot be divided. The construction of farm employee housing by a farmer in the ordinary course does not include "the division of land", the creation of lots, separate ownership or separate occupancy. Rather, the occupancy anticipated in farm employee housing is only that which is integral to and within the employment structure of the Lewis Family Farm; it is not "separate" from the Lewis Family Farm, it is part of the Lewis Family Farm. The Lewis Family Farm owns it all. It is constructed and used to sustain the Lewis Family Farm.

Moreover, the Agency's regulations clarify that the construction of farm employee housing does not automatically create a subdivision because "subdivision into sites" only occurs

¹⁹ In this regard, one is hard pressed to even maintain that the construction of an agricultural use structure, including farm employee housing, is "land use or development" under the meaning of the Act. "Land use or development" is limited to activity that "materially changes the use or appearance of land or a structure or the intensity of the use of the land or a structure." Since the Legislature made clear that agricultural use structures are not to be counted as "principal buildings", it made a specific finding that the growth of farms does not change the use or appearance of land nor does it change the intensity of the use of the land. N.Y. Exec. Law § 802(28).

²⁰ Staff also suggests in passing, that a subdivision has occurred by operation of 9 NYCRR § 573.6(e). This is wrong. The quoted regulation only applies to rebuilding scenarios where a mobile home is involved. None is involved here. In any event, the Walker farmhouse and other agricultural use structures, including farm employee housing that existed in 1973, and remained as recently as 2003, (see Privitera Aff. ¶ 15, Ex. I); can be rebuilt or replaced in the same general location without a permit, 9 NYCRR Part 573.6(a). Moreover, a house may always be enlarged or rebuilt "to any extent," which is not subject to review by the Agency. See N.Y. Exec. Law § 811(5).

when an additional principal building is constructed. 9 NYCRR § 570.3(ah)(3). As stated above, farm growth does not impact the intensity guidelines sought to be fostered by the structure of the Act, because the Legislature directed the Agency to not count agricultural use structures such as farm employee housing as "principal buildings" within the intensity guidelines.

Since the very definition of "principal building" that is relied upon in this definition of "subdivision" in the Agency's own regulations demands that farm employee housing not be counted as a "principal building", the subdivision statute and regulations are not triggered such that the Agency gains subdivision jurisdiction. Farm employee housing is never an additional "principal building". See N.Y. Exec. Law § 802(50)(g). Since the land is not divided and no principal buildings are built, farm employee housing is never an automatic subdivision over which the Agency may assert jurisdiction.²¹

Staff argues that, notwithstanding the exemption of farm buildings from "Class A" Project treatment, "Class B" Project treatment, and the Rivers Act, the construction of a farm employee house automatically works a "subdivision" as a matter of law, giving the Agency review authority, notwithstanding the exemptions. (See staff's Memo of Law, pg. 11). This topsy-turvy reading of the statute is nothing less than an effort to swallow the farm building exemption and defeat a farmer's right to farm with an inapplicable rule. It also violates fundamental statutory construction. If the legislature intended that the Agency would have a review authority over farm employee housing by virtue of some kind of magical subdivision that in fact has not occurred, it would not have provided for the exemption for "agricultural use

²¹ Staff's "subdivision" argument is complete nonsense as a matter of real estate law. Since staff assumes the right to 'declare' a subdivision where no division of land has occurred, does it also assume the power to file a subdivision map at the County Clerk's office, drawing the metes and bound wherever it may chose, perhaps through the common *leach field*, in derogation of a farmer's constitutionally protected property rights?

structures" in the first place. The Agency's own literature states that farm buildings are non-jurisdictional. (Privitera Aff. ¶ 12, Ex. G). Staff's newly-minted "subdivision" argument, as belied by this Agency's own publication, makes no sense. Staff's confounding effort is manifestation that staff sorely needs the guidance of a promulgated pro-farm development policy.

E. The Farm Buildings Cannot Be Both a "Class A" and "Class B" Project

Staff argues, in complete derogation of law as set forth above, that the Lewis Family Farm employee housing project is *both* a "Class A" project and a "Class B" project. This cognitive impossibility leaves the Act in shambles. Staff invites the Agency to embrace this dissonant reasoning to further its vindictiveness because if the Agency can fathom a project as both "Class A" and "Class B", of course it should be penalized twice. (See staff's Memo of Law, pp. 11-12) (citing Exec. Law § 810(1) violations ["Class A" projects] and § 810(2) ["Class B" projects]). This makes no sense as a matter of law.

POINT III

**THE RIVERS ACT DOES NOT EXPAND THE
AGENCY'S JURISDICTION OVER FARMING**

The Wild, Scenic and Recreational River System Act (the "Rivers Act") was enacted pursuant to a Legislative finding that rivers possess outstanding natural, scenic, historic, ecological and recreational values that ought to be protected consistent with law. ECL § 15-2701(1). The primary purpose of the Act is to preserve the free flowing condition of the rivers for recreational uses. ECL § 15-2701(3).

Except for a few select areas where wild rivers are found, the Legislature made clear that the right to farm protected by the Act, as bolstered by the Constitution and New York's Agriculture and Markets Law, ought to be carried through with respect to the regulation of

development near scenic rivers and recreational rivers. Thus, the Rivers Act specifically provides as follows with respect to recreational river areas:

In recreational river areas, *the lands may be developed for the full range of agricultural uses*, forest management pursuant to forest management standards duly promulgated by regulations, stream improvement structures for fishery management purposes, *and may include small communities as well as disbursed or cluster residential areas*.

ECL § 15-2709(2)(c) (emphasis supplied).

Clearly, the Legislature knew what it meant when it passed the Rivers Act several years after the Act. The direct statement in the statute that the freedom to farm "for the full range of agricultural uses" is a deliberate reference to the farm development exemptions then in existence in the Act itself.

This Agency followed through with this Legislative directive, and in passing the regulations designed to implement the Rivers Act, the Agency stated:

The following *may be undertaken without a permit* if in compliance with the restrictions and standards set forth in Section 577.6 of this Part:

In recreational river areas:

Agricultural uses, agricultural use structures, open space recreation uses, game preserves and private parks . . .

9 NYCRR § 577.4(b)(3)(ii) (emphasis supplied).²²

There can be no doubt that the freedom to farm in the Adirondacks, including the unfettered right to build farm employee housing, is carried through in the Rivers Act.²³

²² Of course, virtually all agricultural use structures including farm employee housing are in compliance with the standards set forth in § 577.6, as referenced in this permit exemption, because they are usually more than 150 feet from the mean high water mark of the river, as here. 9 NYCRR § 577.6(b)(3). The housing project is several hundred feet from the Boquet River. See Lewis Aff., ¶ 13.

²³ Staff's Memorandum of Law deliberately fails to read the Rivers Act Regulations as a whole in order to serve the arbitrary and punitive result they seek. Staff claims that, "9 NYCRR § 570.3(ah)(3) defines a subdivision into sites as occurring where one or more dwellings is to be constructed on a parcel already containing at least one existing dwelling ..." See staff's Memo of Law, pg. 11. This is wrong. "Subdivision" is defined as "any division of land into two or more lots." 9 NYCRR § 570.3(ah)(1) (emphasis supplied). In recreational river areas, only "subdivisions of

The statutes and regulations that are brought to bear to control development within the Adirondack Park have uniformly and consistently placed all farm structures beyond the regulatory reach or control of the Adirondack Park Agency. This deliberate legislative decision was made to eliminate any discretion whatsoever within the Agency to control the size, growth, character or success of any farm in the Park. The Legislature wisely determined, consistent with the pro-farm development clause of the Constitution and as informed by the Blue Ribbon Commission empanelled by Governor Rockefeller and the Right to Farm statute, that farming in the Adirondacks needed complete freedom in order to foster two very important goals inside the park: the preservation of open space; and, the cultivation of economic growth. This Agency must breathe life into these legal protections in the interest of the Park's future.

POINT IV

THE SUPREME COURT'S DECISION DISMISSING THE LEWIS FAMILY FARM'S DECLARATORY JUDGMENT ACTION DOES NOT OPERATE TO GRANT THE AGENCY JURISDICTION OVER THE LEWIS FAMILY FARM BUILDINGS

Before receiving the illegal cease and desist order, the Lewis Family Farm commenced an action in Essex County Supreme Court seeking a declaratory judgment and an injunction on the Agency's enforcement proceeding. On August 16, 2007, upon the Agency's motion, Acting Supreme Court Justice Kevin K. Ryan issued a decision and order dismissing the Lewis Family Farm's declaratory action, stating that it was "not ripe for judicial intervention" until such time that the Agency renders an enforcement determination. See Justice Ryan's Decision and Order, pg. 6, Ex. B to Van Cott Aff. Thus, the Court concluded that, at this juncture, this proceeding remained "an internal matter in which the Court will not interfere." Id.

land" require a permit, which involves the physical division of land. Staff's twisted reading of "subdivision into sites" does not apply. 9 NYCRR § 577.5(c)(1).

Despite dismissing the action for lack of jurisdiction due to ripeness, the Court rendered several pages of what amounts to an ill-advised advisory opinion whereby it said that the Agency had authority to regulate the Lewis Family Farm's buildings under construction. Id. at 4. Staff contends that this "confirm[s] Agency jurisdiction over the single family dwellings." See staff's Memo of Law, pg. 2. Staff is wholly mistaken as a matter of law.

In order for a determination to be binding under the doctrines of *res judicata* and collateral estoppel, it must have been made in the context of an adjudication, otherwise it is an unwarranted advisory opinion. See Jeffreys v. Griffin, 301 A.D.2d 232, 247 (1st Dep't 2002); Nuro Transp. v. Judges of Civil Court, 95 A.D.2d 779, 780 (2d Dep't 1983) (holding that "the prohibition against advisory opinions is to prevent the judicial determination of unripe claims in which a current controversy does not exist"); see also New York Public Interest Research Group, Inc. v. Carey, 42 N.Y.2d 527, 531 (1977) (stating that a court's determination of any issue beyond what is necessary to dispose of a case is "merely advisory" when the request for a declaratory judgment is premature).

Based on the foregoing, Judge Ryan's determination that the Agency would have jurisdiction over the Lewis Family Farm's construction of its farm worker housing was nothing more than an advisory opinion that is not binding on the Lewis Family Farm in this enforcement proceeding under the doctrines of *res judicata* or collateral estoppel.²⁴

²⁴ Advisory opinions are unreliable because they are not informed by the adversarial process. Here, Judge Ryan, unengaged, speculated without citation to law that a farmer could "build a cow barn within a few feet of the river." (Van Cott Aff. Ex. B, pg. 5). This is wrong as a matter of law. Cow barns and all other agricultural use structures in resource management areas must be located more than 150 feet from the Boquet River, as here. 9 NYCRR § 577.6(b)(3).

POINT V

THE CEASE AND DESIST ORDER VIOLATES AGENCY POLICY AND MUST BE ANNULLED

The Cease and Desist Order, seeking to halt farm development, violates the Constitution. It violates the Agriculture and Markets Law. It violates the Agency's own jurisdictional table. It violates the Park Act. It violates the Rivers Act.

Moreover, the Agency's general enforcement policy provides that cease and desist orders will only be issued in cases "where there is on-going environmental damage." (See Agency's General Enforcement Guidelines, pg. 3, Ex. F to Privitera Aff.). Here, a Cease and Desist Order was issued to the Lewis Family Farm by the acting Executive Director on June 27, 2007. (See Cease and Desist Order, Ex. C to Van Cott Aff.). However, there is no on-going environmental damage. Thus, the Agency violated its policy in this case by issuing this Cease and Desist Order.

Finally, the Cease and Desist Order is unconstitutionally vague. Although it seeks to prohibit the construction of three farm worker houses, it makes no attempt to differentiate among the three farm buildings. Now, staff apparently seeks to prohibit the Lewis Family Farm from constructing only two of the three farm worker houses that it is constructing on the farm. (See staff's Memo of Law, pg. 12). However, this position directly conflicts with that set forth in the staff's accompanying affidavits, whereby it is claimed that all three of the farm buildings are illegal. (See Affidavit of Douglas Miller, December 12, 2007; Affidavit of John Quinn, dated December 12, 2007). Thus, it appears that even staff is not sure which of the farm buildings they are attempting to regulate.²⁵

²⁵ The weakness of staff's legal position is revealed in its arbitrary and mercurial enforcement selections with respect to the farm employee housing on the Lewis Family Farm. No enforcement action has been taken, nor is any proposed, with respect to the farm manager's new house at the corner of Clark and Cross Roads that was built at the same time as the housing cluster at issue here.

Based on the foregoing, the cease and desist order issued to the Lewis Family Farm should be annulled because it violates the Agency's enforcement policy and is unconstitutionally vague.

POINT VI

**THE ENFORCEMENT COMMITTEE'S CONSIDERATION
OF STAFF'S REQUEST FOR A FINDING OF LIABILITY
WITHOUT A HEARING IS A VIOLATION OF DUE PROCESS.**

The Executive Director commenced this administrative enforcement proceeding against the Lewis Family Farm by service of a Notice of Violation, as required by 9 NYCRR § 581-4.3 and the State Administrative Procedures Act. The Lewis Family Farm timely answered the Complaint under § 581-4.4. The Answer asserted all of the Lewis Family Farm's procedural rights under the State Administrative Procedures Act, the United States Constitution, the New York State Constitution and the Agency regulations. The Lewis Family Farm properly asserted and preserved an affirmative defense, pleading the inapplicability of the Permit requirement to the activity alleged as a violation, all in accordance with § 581-4.4(d). The Lewis Family Farm also requested the appointment of a Hearing Officer under § 581-4.7(a). Upon this request, the Executive Director has a regulatory obligation to appoint a Hearing Officer under § 581-4.7(d). A record of the hearing must be compiled and a hearing report by the Hearing Officer is also usually compiled under § 581-4.15(a) and (b).

After the hearing record and, properly done, hearing report are filed with the Agency, the Enforcement Committee is obliged to review the record before it makes a recommendation to the Agency for consideration. 9 NYCRR § 581-4.16(a).

Thereafter, the full Agency is required to review the record compiled by the Hearing Officer and the Enforcement Committee recommendations before the Agency is able to make a final determination. 9 NYCRR § 581-4.16(b).

The full Agency is empowered to make a finding of liability or issue an order dismissing the charges and it may assess penalties consistent with the Act. The Agency may also order injunctive relief or modify a permit. The final determination of the Agency must be issued on or before 60 days after receipt by the Agency of a hearing record. 9 NYCRR § 581-4.16(d)(7).

Agency staff ignores all of the fundamental due process protections and carefully staged procedural process set forth in the regulations. Instead, Agency staff seeks to abort the due process of law and seeks a finding of liability by the Enforcement Committee before the enforcement proceeding has been held, citing only § 581-2.6(d), which provides as follows:

Following the enforcement proceeding, the Enforcement Committee shall consider the alleged violation in executive session and may make a determination as to whether a violation has occurred. The Enforcement Committee may also decide on an appropriate disposition of the enforcement action, or may decide to adjourn the matter for additional investigation or consideration or for any other reason it deems appropriate.

Id. (emphasis added).

The operative language of this subsection, "Following the enforcement proceeding" is an obvious reference to the careful procedure set forth in § 581-4.3, cited above. Thus, staff has failed to meet a condition precedent to the Enforcement Committee's consideration as set forth in the only procedural regulation upon which staff relies. Any consideration by the Enforcement Committee at this procedural hour is a violation of the Lewis Family Farm's fundamental due process rights. Moreover, it is unfair and abusive of the Enforcement Committee's time and consideration, because the Committee does not have the benefit of findings of fact and

conclusions of law properly developed in accordance with law as reported by a hearing officer, all of which is available if due process is followed.

For this reason alone, staff's request for a finding of liability must be dismissed at this time.

Although the Agency lacks jurisdiction to enforce the Cease and Desist Order or otherwise punish the Lewis Family Farm for constructing farm buildings, the Agency does have jurisdiction to dismiss this proceeding in its entirety. See Foy v. Schechter, 1 N.Y.2d 604 (1956) (stating that an agency must have jurisdiction in order for its determinations to be valid, and absent such jurisdiction, agency acts are void); See Flynn v. State Ethics Comm'n, 208 A.D.2d 91, 93 (3d Dept 1995) (stating that "administrative agencies, as creatures of statute, are without power to exercise any jurisdiction beyond that conferred by statute"); see also Gerdtts v. State, 210 A.D.2d 645, 648-49 (3d Dept 1994) (stating that "the APA cannot operate outside its lawfully designated sphere, with the propriety of its actions often depending upon the nature of the subject matter and the breadth of the legislatively conferred authority").

CONCLUSION

Based on the foregoing, Respondent Lewis Family Farm, Inc. prays that this proceeding be dismissed with prejudice and that the Cease and Desist Order be annulled.

Dated: Albany, New York
January 22, 2008

Respectfully submitted,



John J. Privitera, Esq.
Jacob F. Lamme, Esq.
Counsel for Respondent
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Co-Counsel for Respondent
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Queensbury, New York 12801

TO: Paul Van Cott
Enforcement Attorney

Lewis Affidavit

ADIRONDACK PARK AGENCY

In the Matter of

Agency File: E2007-041

LEWIS FAMILY FARM, INC.,

Respondent.

AFFIDAVIT OF BARBARA A. LEWIS

STATE OF NEW YORK)
) ss.:
COUNTY OF ESSEX)

BARBARA A. LEWIS, being sworn, deposes and says:

1. I am an officer of Lewis Family Farm, Inc., the Respondent in this matter. I make this affidavit in support of the Lewis Family Farm's Motion to Dismiss and in opposition to Agency Staff's request for a summary finding of liability and imposition of a fine without a hearing.

2. In 1978, my husband, Salim B. Lewis, and I purchased a farmstead in the County of Essex following a long family association with the Adirondacks which dates back to 1951. Over the years we acquired adjacent lands thus forming what is now a farm of approximately 1200 acres, 826 of which are currently under cultivation and used for pasture and the remainder comprising a maple sugarbush, recovering logged areas, and protective winter habitat for cattle.

3. Our farmstead, now known as The Lewis Family Farm, is one of New York State's largest USDA Certified organic farms. Our farm is located within Essex County Agricultural District No. 4, a County adopted, state certified agricultural district.

4. The Lewis Family Farm has become a showcase for the Cornell Cooperative Extension and has, through example, contributed to four neighboring farms that have also become organic operations. The Lewis Family Farm has a strong reputation that has allowed for students and apprentices from the United States and from international programs to work and study on the Lewis Family Farm for academic credit.

5. As a working farm, the Lewis Family Farm has made significant capital improvements to its land, infrastructure and operations in an effort to remain economically viable, energy efficient and environmentally sound.

6. As the farm grew in size we were compelled to demolish at least 15 houses on our farmlands, residences broken and beyond repair, residences with unhealthful sewage conditions, residences with vulnerable or unreliable water supplies, and residences so mold infested as to be considered unsafe and substandard housing.

7. In addition to the demolition of these houses and the removal of innumerable unheated hired hand accommodations that had been on the Lewis Family Farm, we have constructed or substantially upgraded fifteen (15) farm buildings and several other farm structures in support of the farm. This includes nine (9) structures at the barn plaza, four (4) by the farmstead, the Grandview Barn, the cattle shed, and two (2) substantial bridges designed and built to protect wetlands. The Lewis Family Farm did not obtain permits from the Adirondack Park Agency for any these farm structures. At no time since these many farm buildings were constructed has the Lewis Family Farm been informed that an APA permit was necessary at the time of construction, other than the Notice of Violation we received for the farm employee houses at issue in this matter.

8. As we have gained knowledge in our organic farming practices, we feel obliged to provide academic opportunities to agricultural students. The current manager of

our farm and our primary employee is Marco Turco, a PhD and agricultural scholar, who is an adjunct faculty member at the nearby State University of New York at Plattsburgh. Dr. Turco has developed a program at this and other universities that allows academic credit for internships under his tutelage.

9. In addition, the Lewis Family Farm has been approached by the government of Nepal to host four farmers from Nepal so that they may learn the methods of sustainable, organic farming. These farmers had been scheduled to arrive in the fall of 2007 and now plan to arrive in late spring 2008. In addition to Dr. Turco's management of the Lewis Family Farm, the Lewis Family Farm has three full time employees. These include Mr. Scott Pulsifer, Mr. Timothy Benway and Mr. Gregg Facette. None of these employees are able to live on our farm, because we do not currently have on-farm housing for them. This is particularly inconvenient and expensive with respect to Mr. Gregg Facette, who commutes from north of Plattsburgh.

10. In addition, during the growing season and summer of 2007, the Lewis Family Farm had four student interns and one apprentice working with us, from Washington State, Georgia, Long Island, Plattsburgh and France, respectively. Contrary to our plans, and because of this enforcement proceeding, we had to house these interns in off-farm housing, some distance away and at considerable cost to the farm.

11. In late 2006, the Lewis Family Farm took the step of investing in on-farm employee housing, in the knowledge that safe, modern, comfortable and energy efficient on-farm employee housing is a fundamentally sound agricultural practice. It is crucial to our operations and in accordance with our philosophy. The people who care for the land have to be cared for as well. In our view, on-farm employee housing is essential for a self-sustaining farm in the Adirondack Park.

12. Our employee housing project involves four structures: the manager's house at Clark and Cross Roads, which was finished in late 2007 and is now occupied by Dr. Turco and his family; and, a three building cluster near the primary farm barns on Christian Road. The three-building cluster includes Residence I, the South Family Cottage and the North Family Cottage. Residence I has 4 bedrooms and is designed for employees, interns, apprentices and farm consultants; the North Family Cottage and the South Family Cottage each have 3 bedrooms. The Cottages are designed for nuclear farm families, the bedrock of sustainable farming.

13. The three-house cluster for employees adjacent to the barns is several hundred feet from the Boquet River. Several residences, a railroad track high ground and roads exist between the employee houses and the river.

14. No subdivision of land or sites was anticipated or involved in the design and construction of the four employee housing units. All are on the Lewis Family Farm and they are not the subject of separate parcels or the division of our farm lands. Indeed, the three-building housing complex on Christian Road is designed as a farmer community. The three houses are closely adjacent to one another and oriented in a horseshoe pattern around a common play area and courtyard. They share a well and are serviced by a common driveway and a common septic system and leach field, which is under the area of the planned common courtyard. The units are designed to form a courtyard, so that children of the farm families may play safely and common activities may take place. The placement of the units is specifically designed to facilitate easy and energy efficient access to and surveillance of the adjacent barns. Given the common driveway, common septic system, common water supply, and common courtyard layout of the housing cluster near the barns, the houses are clearly not designed for any use other than for farm employees. I have repeatedly informed Agency

Staff orally and in writing that the housing cluster is for farm employees. I attach this description as **Exhibit "A"**. This housing has been under consideration by me for many years and has always been considered as part of the overall scheme for consolidating farm operations near the barn plaza, which has nine (9) farm buildings we have built. As built, the housing complex is clearly not a subdivision, nor is it divisible.

15. I obtained permits from the Town of Essex for the four farm employee houses, including the three house cluster near the barns that is the subject of this proceeding. The application and site plans are attached as **Exhibit "B"**. The Town granted a foundation permit on November 14, 2006, attached as **Exhibit "C"**. The Town ultimately granted four farm building permits to the Lewis Family Farm as A-698 (Marco Home); A-699 (Residence I); A-700 (North Family Cottage); and A-701 (South Family Cottage). Copies of the final building permits are attached as **Exhibit "D"**. The approved common septic system for the housing project, designed by Mark Buckley, P.E., is attached as **Exhibit "E"**. The approval of the septic system is attached as **Exhibit "F"**.

16. The four farm employee houses are modular and as such are very susceptible to the elements until they are fully constructed with roofs erected and covered. Significant damage can occur if they are not immediately protected from the weather by being assembled and weatherproofed.

17. The Lewis Family Farm abides by high legal, ethical and environmental standards. We set out to comply with the law in building the farm employee housing. Upon being informed of Agency Staff's position that is at issue in this proceeding with respect to the three-house building cluster near the barns, I was shocked and upset as representatives of the Town of Essex had informed us during the building permit application process that no APA permits, or additional permits of any kind, were required. In addition, I had never

obtained any APA permits for any of the other farm buildings and structures that we have built over the years, without objection.

18. Staff suggests that the Lewis Family Farm should have known of the Staff's view that it has the power to regulate farm housing based upon a purported statement to my husband, Salim B. Lewis, during a group meeting over two years ago. My husband may not have heard it, as he is hard of hearing and deaf in one ear. In any event, my husband did not relay the purported statement to me, I was not present on this occasion and I believe his attached affidavit to be true. **Exhibit "G"**.

19. I had no idea that the APA Staff had formed an opinion that two of the four farm employee houses that we began to build in late 2006 needed an APA permit until mid-March, 2007, when I called Staff after hearing rumors of complaints.

20. I voluntarily put a hold on the three-home cluster after speaking with Staff. I consulted counsel at Nixon Peabody who informed me of their legal opinion that Staff was wrong as a matter of agricultural law.

21. Without counsel, I attempted to resolve the matter with Staff, who insisted that they had jurisdiction over farm development and they maintained that payment of a substantial fine of \$10,000 was mandatory. Indeed, Staff suggested this fine was small by their usual standards.

22. In mid-May 2007, I received a proposed "settlement agreement" from Agency Staff that demanded I waive the right to challenge APA jurisdiction to regulate farming, and pay a \$10,000 fine by June 15, 2007. This "settlement agreement," attached as Exhibit "A" to Mr. Paul VanCott's affidavit, also demanded that I agree to Agency review of all future farm buildings. Upon reading this, I finally informed my husband for the first time of the housing dispute with the APA Staff. He expressed deep concern about the matter.

23. On June 1, 2007 I traveled to APA headquarters with counsel from Nixon Peabody in Rochester for a prearranged meeting with Mr. Paul VanCott but he did not show up. Rather, other Staff met with us and informed us that they could not resolve the case if we did not withdraw our considered view that the farm buildings were not subject to APA review and we paid the \$10,000 fine. I came away from this meeting with a clear understanding that the APA assumes the right to regulate farming.

24. Notwithstanding Staff's demand that the Lewis Family surrender our right to farm, I was informed several times by APA Staff that the farm employee housing cluster near the barns was fine where it is and that the APA would issue a permit for it. But Staff insisted that I had to acknowledge that the APA had jurisdiction over farming and the Lewis Family Farm had to pay a substantial fine for failing to get an APA permit before construction began. **Exhibit "A"** is a true description of the Lewis Family Farm employee housing project that I provided to the Agency several months ago.

25. In early June 2007, I received a concerned telephone call from the Canadian manufacturer of the farm employee housing, indicating that, due to a significant regulatory change, they could not honor their contract to install the houses after about the first week in July 2007.

26. Since I concluded that this dispute relates only to whether or not a fine is authorized, and since APA Staff informed me that the buildings were permissible to stay where they are, I decided to accept delivery and installation and not allow the buildings to suffer any damage from the elements during the pendency of this dispute. I was also advised by Nixon Peabody that it was permissible as a matter of law. Therefore, we completed the outside of the three houses and much of the interior work on Residence I.

27. On June 26, 2007, I followed the advice of my counsel at Nixon Peabody and I filed a case in Essex County Supreme Court seeking an order from the Court that the APA could not stop the completion of the farm housing project on the Lewis Family Farm because it is beyond the APA's review authority to regulate farms.

28. On June 27, 2007 my counsel at Nixon Peabody received a "Cease and Desist" order from APA Staff stating that construction of the three homes in the cluster must stop, although one of them, as yet unidentified, was legal.

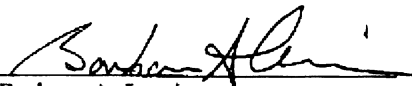
29. Upon receipt of the Cease and Desist Order I again consulted with counsel at the law firm of Nixon Peabody who informed me that, in his legal opinion, farm buildings including farm employee housing were exempt from APA permit requirements and that the Cease and Desist Order was moot because we were in court already and the Judge would decide if construction had to stop.

30. At this time, the houses stand as depicted in a series of photographs attached as **Exhibit "H"**. The interiors of the North Family Cottage and South Family Cottage have not been addressed and the homes cannot be occupied. Residence I is largely finished on the inside and could be ready for a certificate of occupancy shortly. I still have no idea as to which of the three houses in the cluster are purportedly illegal. Nonetheless, we have halted construction at this time, at great expense to the farm. A construction Team had been hired originally to work on all the homes simultaneously in order to work cost effectively. The value of this plan was lost.


31. As previously stated, at the time that Agency Staff informed me of their opinion that two of the farm employee houses in the cluster were jurisdictional, Staff demanded a permit application and a \$10,000 fine.

32. At no time between the demand for a \$10,000 fine and Agency Staff's filing before the Commissioners in December 2007, did I receive any notice, warning or information suggesting that the fine might increase.

33. I respectfully ask that the Commissioners dismiss this proceeding in the interests of the Lewis Family Farm's constitutionally protected right to farm. I ask that the Cease and Desist Order be annulled promptly so that the farm employee homes may be finished immediately and allowed to house farm families in the 2008 season.


Barbara A. Lewis

Sworn to before me this
17th day of January, 2008.


Notary Public

JANET L. MERO
NOTARY PUBLIC STATE OF NEW YORK
NO. 2685400
QUALIFIED IN ESSEX COUNTY 9/30/09
COMM. EXPIRES

A

Project Description:

Building of four homes to house farm staff. One home will be located on the site of the former Clark Farm and is to house the farm manager. Detailed plans for this home are included in the packet.

Three homes built in a compound arrangement are for farm employees and their families. These homes are to be built on the site of the former Walker property. The existing home is to be removed as the project nears completion. Plans for these are also included in the packet.

All homes have met New York State building guidelines and have been approved.

Homes will be placed on foundations including a full basement.

All vehicular entrances are by gravel driveway directly to the garage of each home.

The homes in the compound will be served by one loop drive accessing all garages. This road enters and exits on an existing farm road.

The center of the compound is planned to have a communal garden and play area.

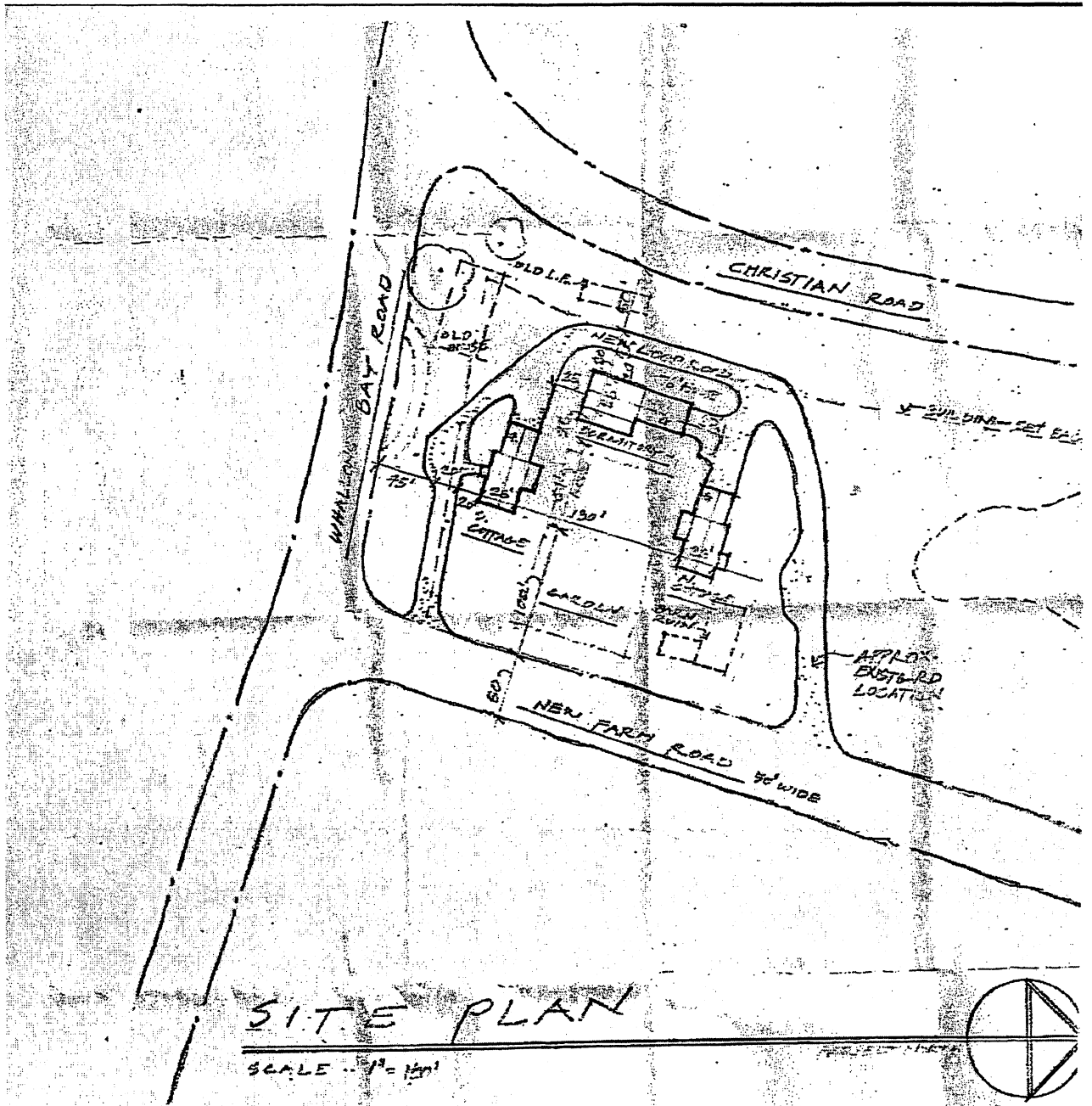
The perimeter will be landscaped with indigenous species of trees and shrubs chosen to maximize bird cover, reduce any possible erosion and appear natural.

Landscaping around the farm manager's home will meet the same criteria and, in addition will attempt to deal with the creation of dust from Wollastonite tailings created by moving vehicles on the adjacent roads.

Each site has a new dug well and will have an approved new septic system.

In the design of these homes we have attempted to address the architectural vernacular of the region.

B



LEWIS FAMILY FARM HOUSING 10/5/06
 ESSEX NEW YORK DRAWN BY: CAROL PETTIT

The Lewis Family Farm employee housing cluster, as engineered and approved by the Town of Essex. (Lewis Aff., Ex. B).

Residence I is labeled "Dormitory" in October 2006.

APPLICATION FOR A PROJECT PERMIT
TOWN OF ESSEX, NEW YORK

Tax Map Parcel Number: 49.3-2-27.020

11-12-06
Application Date

11-14-06
Date Recorded

2-263
Application #

Barbara Lewis
Applicant's Name

Whallons Bay rd.
Address

Essex
Town

N.Y.
State

12936
Zip

963-4206
Telephone Number

The applicant hereby states that he or she is the owner or authorized agent for which the foregoing work is proposed to be performed, and that he or she is duly authorized to execute such work, and that all work will be performed in accordance with all existing State laws and the Zoning Law in effect in the Town of Essex.

Barbara Lewis *(mm)*
Applicant's Signature

11-12-06
Date

Application is hereby made to:

For the purpose of:

- use
- erect
- repair
- alter
- extend
- remove
- demolish
- occupy
- other _____

- residences **3**
- commercial business
- industry
- accessory structure
- agricultural use
- forestry use
- mobile home
- public use
- resource extraction
- Other _____

Zoning District:

- Essex Hamlet
- Whallonsburgh Hamlet
- Agricultural District
- Forest/Recreation
- Residential I
- Residential II
- Historic Overlay
- Shoreline Overlay

On a separate sheet, describe the project in detail.

This application shall be accompanied by a drawing to scale, showing, but not limited to the following:
(see reverse side of form)

1. Lot size
2. Existing Property Lines
3. Proposed Structure
4. Parking and driveways
5. Abutting street width
6. Rear Yard set back
7. Front Yard set back
8. Side Yard set back

9. Water System
10. Septic and sewage system
11. Abutters
12. Height: Stories _____ Feet _____
13. Number of family units
14. Construction type
15. Other _____

Date of Action:

Application Received

11-14-06

Supplemental Material Received

Fee Paid, Amount: \$ 20.00

Application Referred to Planning Board

Application Approved by Planning Board

Zoning Permit: Issued () Denied


11-14-06

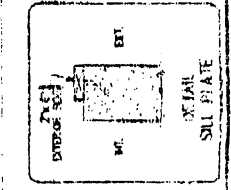
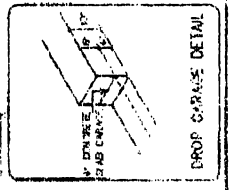
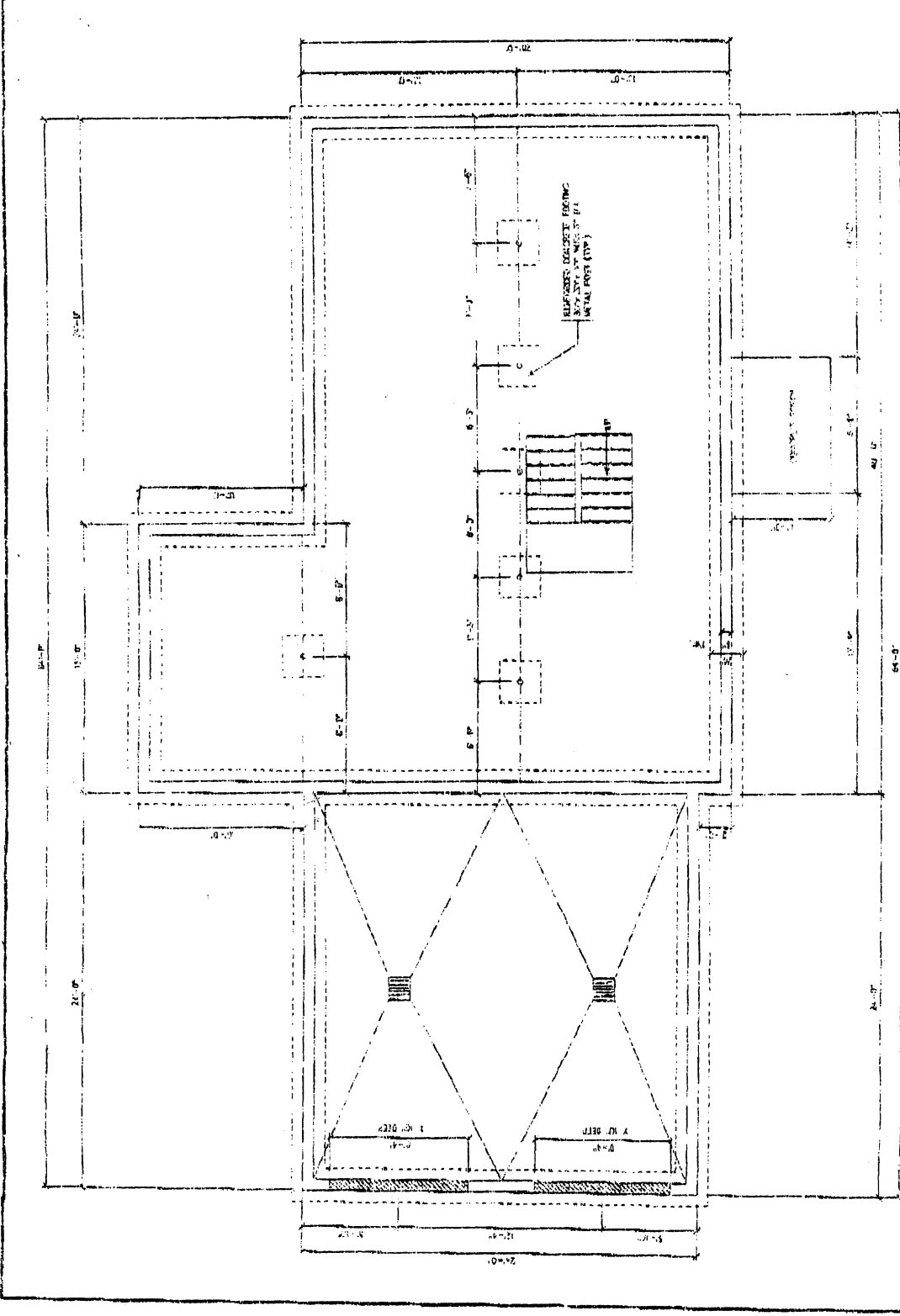
Reasons for denial: _____

David A. Lansing
 David Lansing
 Zoning and Codes Enforcement Officer
 518-963-4287

11-14-06
 Date

NORTH COTTAGE

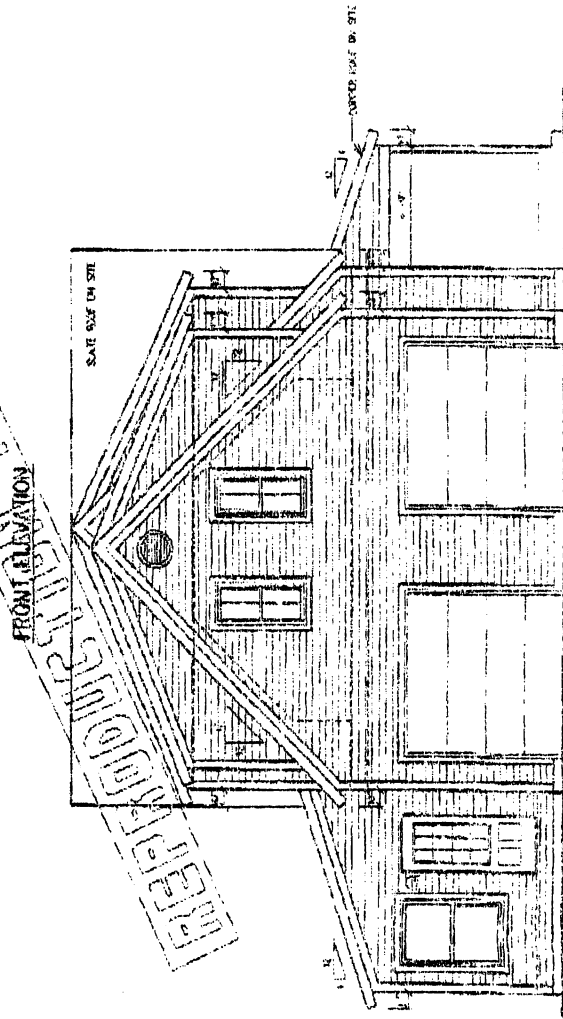
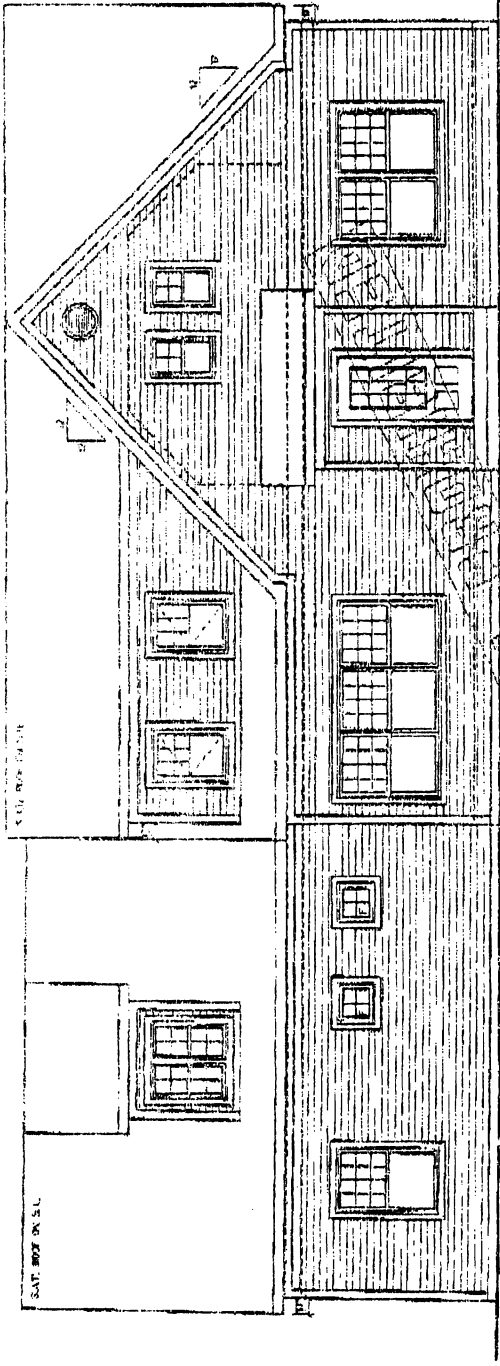
NO. IN SERIES / PRODUCT NO. 158475	OWNER / CONTRACTOR SARAH LEMUS NORTH COTTAGE	 DANTEC	DESCRIPTION / MAKE BLOCK	REVISION / PAGE
NO. IN SERIES / SERIAL NO.	DATE 10/10/2006		TIME / WEEK	FOUNDATION PLAN
			CONTRACTOR / TRAILER	
			E. MORALES	
			SCALE: 1/4" = 1'	
			DESIGNED BY / DRAWN BY MARRIE BELANDIER	REVISION / PER 158475



NOTE:
ALL DIMENSIONS SHOWN TO THE CENTER UNLESS OTHERWISE SPECIFIED.
ALL DIMENSIONS ARE PERIODIC AND SHALL BE SUBJECT TO THE DESIGNER'S DISCRETION.
THE DESIGNER SHALL BE RESPONSIBLE FOR THE DESIGN, CONSTRUCTION AND MAINTENANCE OF THE STRUCTURE.

FOUNDATION PLAN

NO.	REVISION	DATE
1	ISSUE FOR PERMITS	11/10
2	REVISED PERMITS	11/10
3	REVISED PERMITS	11/10
4	REVISED PERMITS	11/10
5	REVISED PERMITS	11/10



DEMTEC

NO. 14 PAGES / SHEET NO.
08475

CLIENT / PROJECT
BARBARA LEWIS
NORTH COTTAGE

NO. 14 SHEETS / SHEET NO.

NO.	REVISION	DATE
1	ISSUE FOR PERMITS	11/10
2	REVISED PERMITS	11/10
3	REVISED PERMITS	11/10
4	REVISED PERMITS	11/10
5	REVISED PERMITS	11/10

LEFT ELEVATION

Building Codes Department

Main Street

Essex, NY 12936

It shall be the responsibility of the owner, applicant, or his agent to inform the Building Inspector that the building is ready for inspection as the stages of construction listed below are complete.

NUMBER: A-662

DATE: 1-30-06

This notice, which must be prominently displayed on the property or premises to which it pertains, indicates that a

BUILDING PERMIT

has been issued to LEWIS FAMILY FARM

permitting CONSTRUCTION OF A SINGLE FAMILY HOME FOR FARM RESIDENCE

at 1058 WHALLOWSBAY RD ESSEX, N.Y. 12936

All work shall be executed in strict compliance with the permit application, approved plans, the Uniform Fire Prevention and Building Code, and all other laws, rules and regulations which apply. The building permit does not constitute authority to build in violation of any federal, state, or local law, or other rule or regulation.

Do not proceed beyond these points until countersigned below by the Inspector.

- | | |
|---|---|
| Footing before pouring concrete ... _____ | Foundation before backfill _____ |
| Framing before enclosing _____ | Electrical before enclosing _____ |
| | Inspection to be done by electrical inspection agency |
| Plumbing before enclosing _____ | Heating, Ventilation, Air Conditioning before enclosing.. _____ |
| Insulation Inspection _____ | Final Inspection _____ |

Permission is hereby granted to proceed with the work as set forth in the specifications, plans, or statements now on file in this Department. Any amendments made to the original plans and specifications must first be submitted for approval.


Issuing Officer

**APPLICATION FOR A PROJECT PERMIT
TOWN OF ESSEX, NEW YORK**

Tax Map Parcel Number: 49.3-2-27.00

11-30-06
Application Date

11-30-06
Date Recorded

7-264
Application #

LEWIS FAMILY FARM
Applicant's Name

1058 WHALLONSBAY RD
Address

ESSEX N.Y. 12936 _____
Town State Zip Telephone Number

The applicant hereby states that he or she is the owner or authorized agent for which the foregoing work is proposed to be performed, and that he or she is duly authorized to execute such work, and that all work will be performed in accordance with all existing State laws and the Zoning Law in effect in the Town of Essex.

R. Anthony Lewis 11-30-06
Applicant's Signature Date

Application is hereby made to:

For the purpose of:

- use
- erect
- repair
- alter
- extend
- remove
- demolish
- occupy
- other _____

- residence
- commercial business
- industry
- accessory structure
- agricultural use
- forestry use
- mobile home
- public use
- resource extraction
- Other FARM HELP
RESIDENCE

Zoning District:

- Essex Hamlet
- Whallonsburgh Hamlet
- Agricultural District
- Forest/Recreation
- Residential I
- Residential II
- Historic Overlay
- Shoreline Overlay

On a separate sheet, describe the project in detail.

This application shall be accompanied by a drawing to scale, showing, but not limited to the following:
(see reverse side of form)

1. Lot size
2. Existing Property Lines
3. Proposed Structure
4. Parking and driveways
5. Abutting street width
6. Rear Yard set back
7. Front Yard set back
8. Side Yard set back

9. Water System
10. Septic and sewage system
11. Abutters
12. Height: Stories _____ Feet _____
13. Number of family units
14. Construction type
15. Other _____

SEE ATTACHED DWGS

Date of Action:

Application Received

11-30-06

Supplemental Material Received

Fee Paid, Amount: \$ 20.00

\$ 20.00

Application Referred to Planning Board

NO

Application Approved by Planning Board

N/A

Zoning Permit: Issued () Denied

11-30-06

Reasons for denial: _____

David Lansing
 David Lansing
 Zoning and Codes Enforcement Officer
 518-963-4287

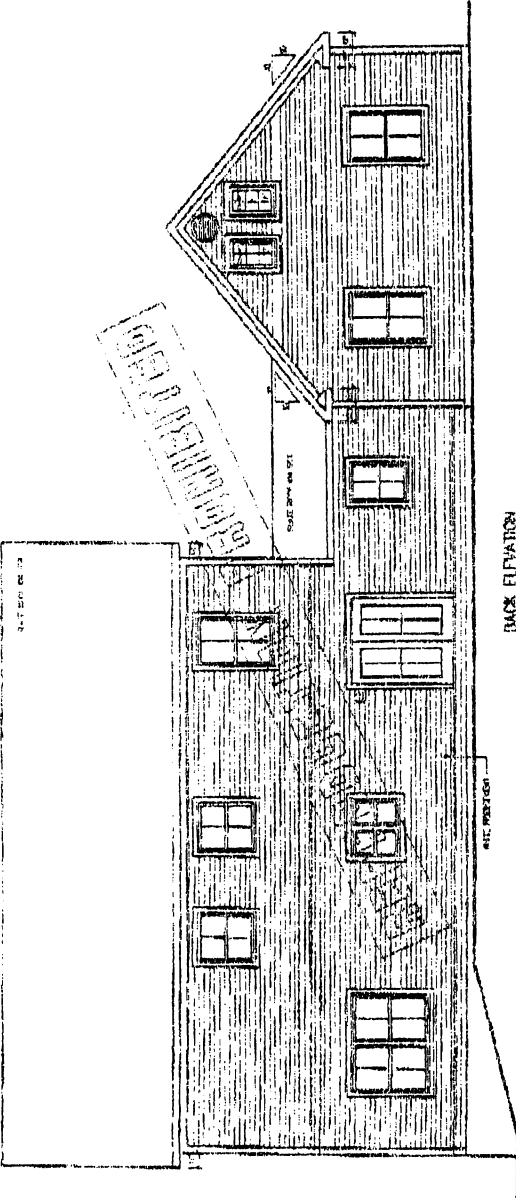
11-30-06
 Date

NO.	DESCRIPTION	DATE
1	1 st FLOORING	2/2
2	BASELINE PLAN	5/15
3	BASELINE DOOR SCHEDULE	7/15
4	BASELINE WINDOW SCHEDULE	8/15
5	BASELINE ROOFING	11/15
6	BASELINE INTERIORS	5/16

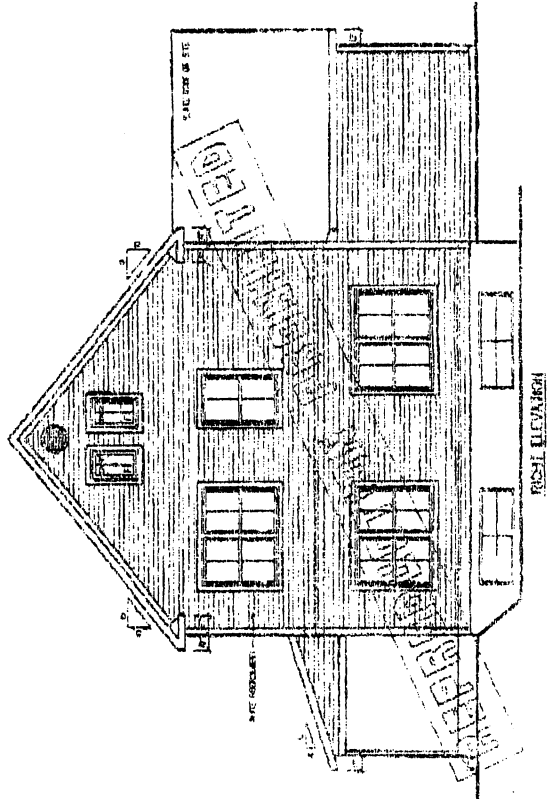
SHEET NO. PROJECT / PROPERTY NO.
 02463
 CLIENT / CONTRACTOR
 BARBARA LEWIS
 MARCO HOUSE
 1001 W. 10TH ST. / SUITE 101
 AUSTIN, TX 78702



ARCHITECT / TITLE
 BOB LEE
 DATE
 02/09/2006
 SHEET / TOTAL
 BACK ELEVATION
 PROJECT NO. / REVISED
 B. MCDONALD
 3/16 = 1
 DESIGNER / DRAWN BY
 K. MARSH BELANGER
 APPROVED BY
 BOB LEE
 PROJECT / FILE
 02463

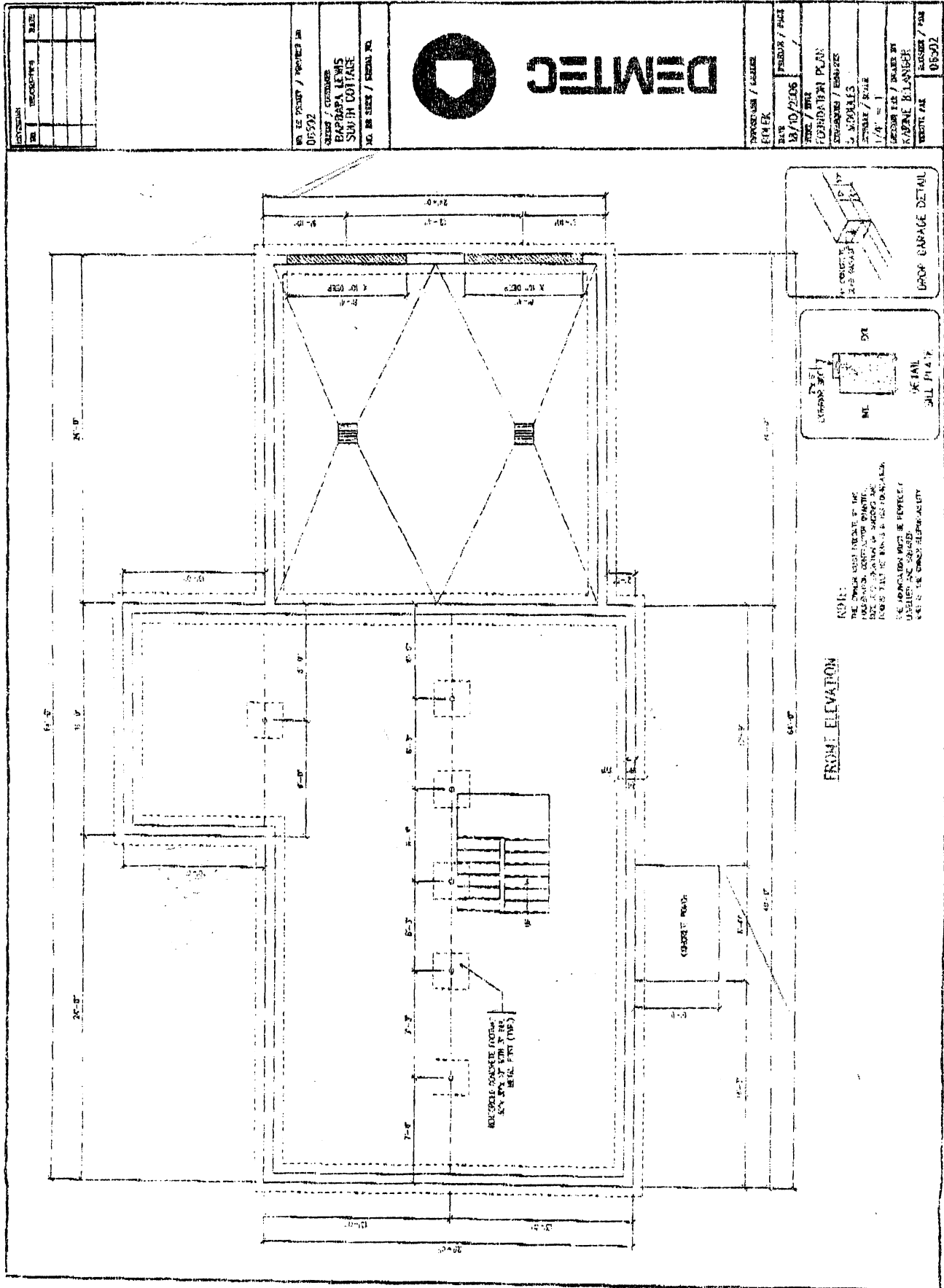


BACK ELEVATION



FRONT ELEVATION

SOUTH COTTAGE



NO.	DESCRIPTION	DATE
1	BASELINES	10/78
2	CONTRACT	10/78
3	ELECTRIC PLAN	12/78

NO. 18 PROJECT / PROJECT NO.
06502

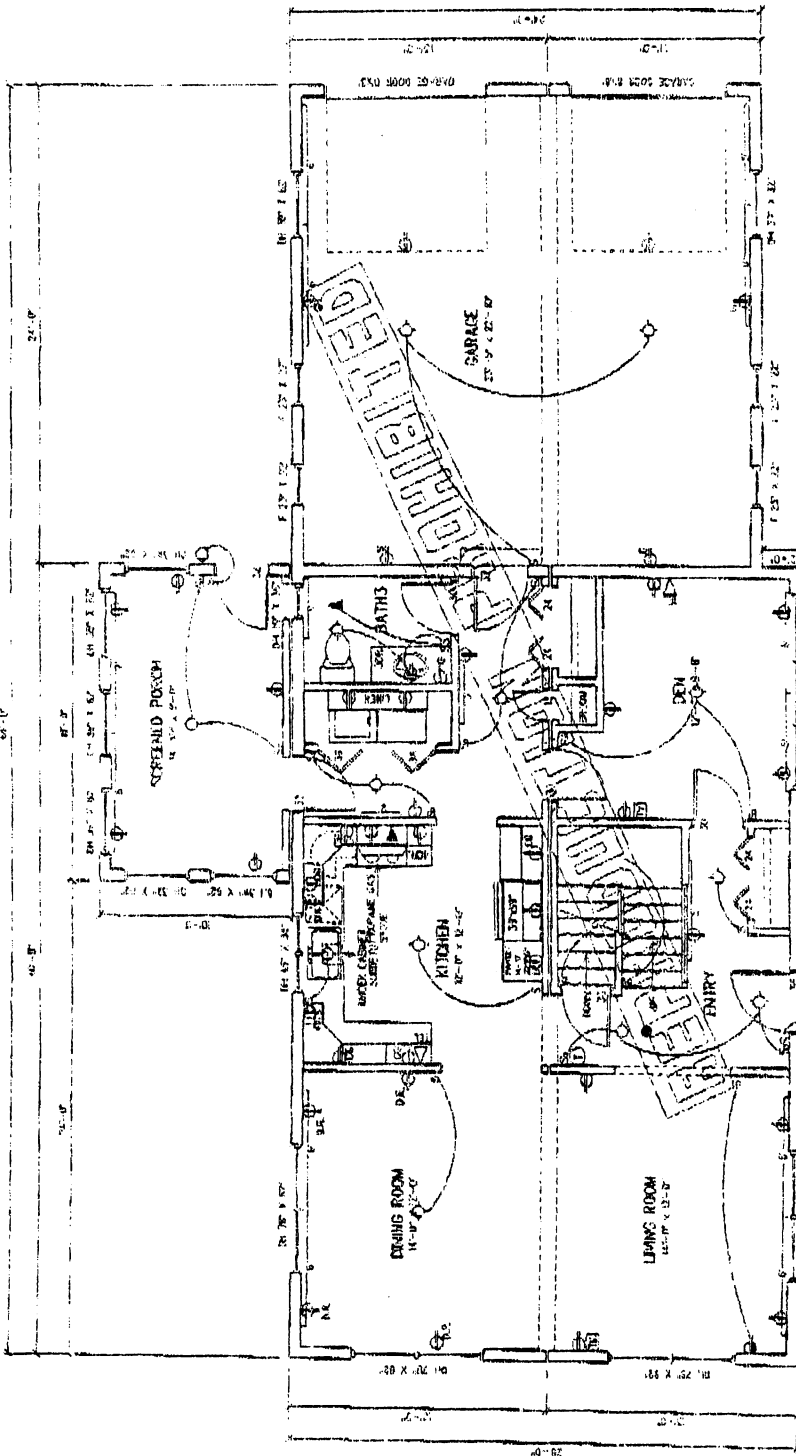
CUSTOMER / CONTRACTOR
BARBARA LEWIS
SOUTH COTTAGE

NO. 18 SERIES / SERIES NO.



DENTEC

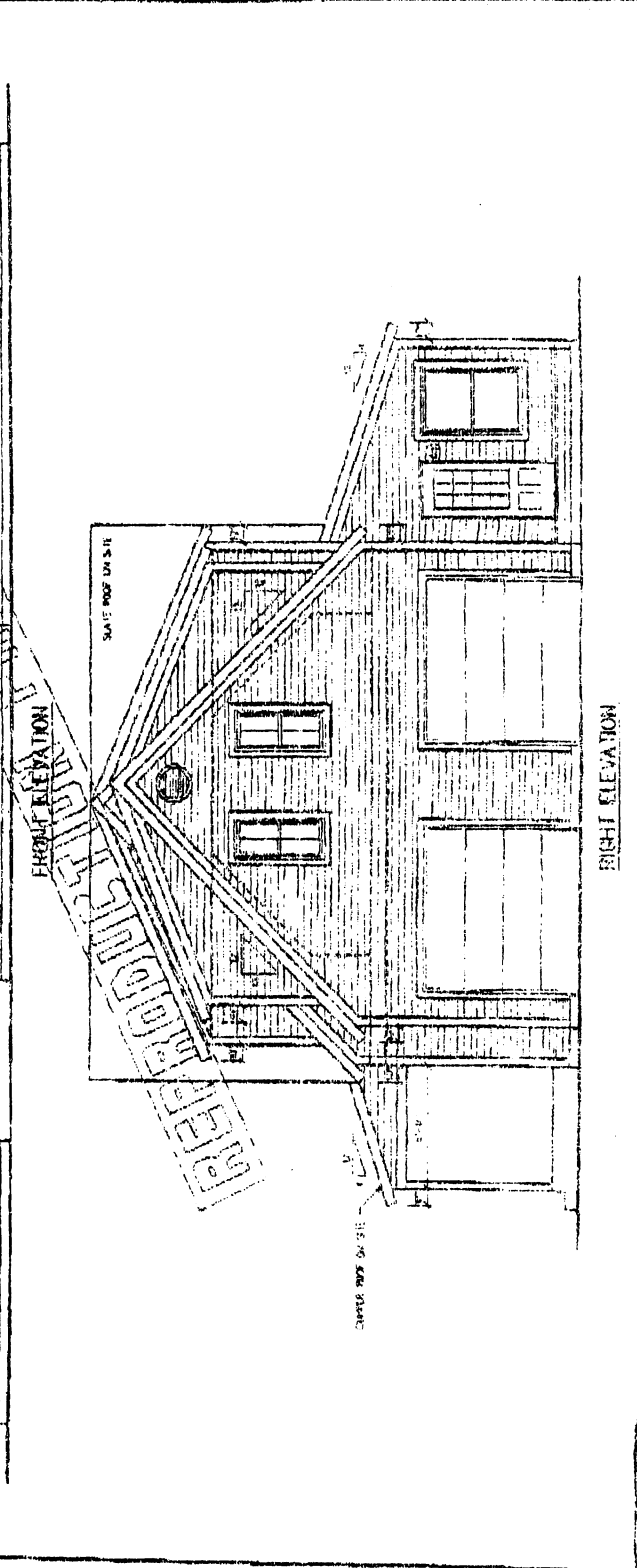
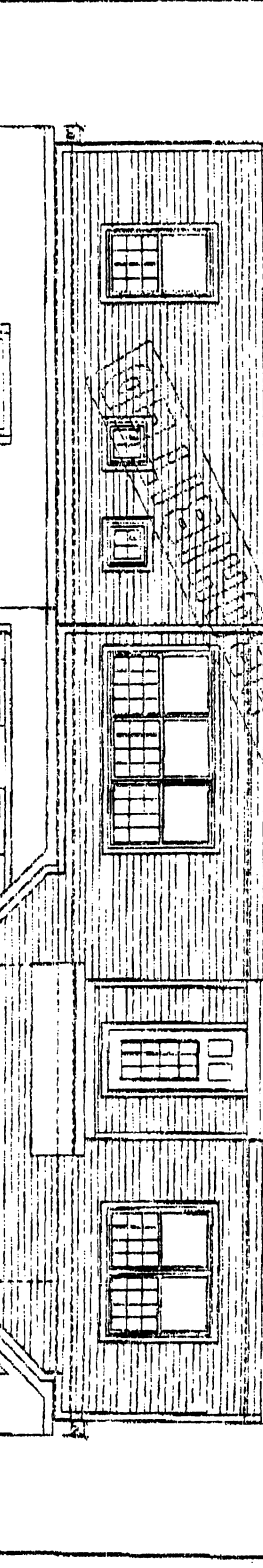
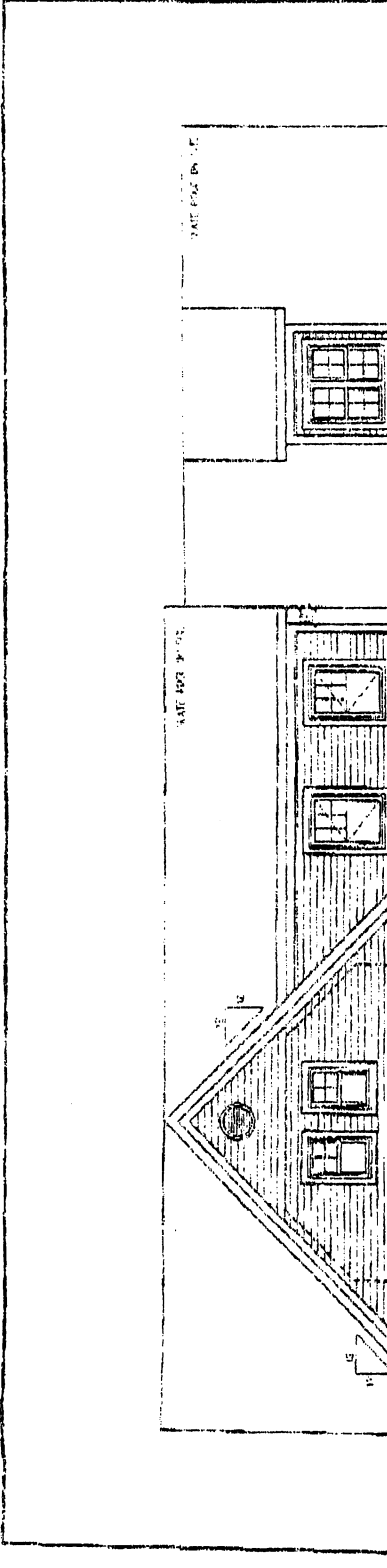
DATE: 12/11/2008
DRAWN BY: J. BOLEK
CHECKED BY: J. BOLEK
PROJECT / FILE: 06502



- ELECTRIC SYMBOLS**
- 1. 120V 20A GFI
 - 2. 120V 15A GFI
 - 3. 120V 15A GFI
 - 4. 120V 15A GFI
 - 5. 120V 15A GFI
 - 6. 120V 15A GFI
 - 7. 120V 15A GFI
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 - 95. 120V 15A GFI
 - 96. 120V 15A GFI
 - 97. 120V 15A GFI
 - 98. 120V 15A GFI
 - 99. 120V 15A GFI
 - 100. 120V 15A GFI

1st FLOOR ELECTRIC PLAN

NO.	REVISIONS	DATE
1	ISSUED FOR CONSTRUCTION	01/10



CONTRACT NO. 05500

CLIENT / CUSTOMER
 BARBARA LEWIS
 5070K COTTAGE

NO. 05500 / PROJECT NO.

NO. 05500 / DESIGN NO.



DENTEC

ARCHITECT / DESIGNER	DENTEC
DATE	01/10
NO. / REV.	05500 / 01
PROJECT ELEVATION	FRONT ELEVATION
NO. OF MODULES	5
SCALE	1/4" = 1'
DESIGNED BY / DRAWN BY	BARBARA LEWIS
PROJECT NO.	05500

NO. 05500 / PROJECT NO.

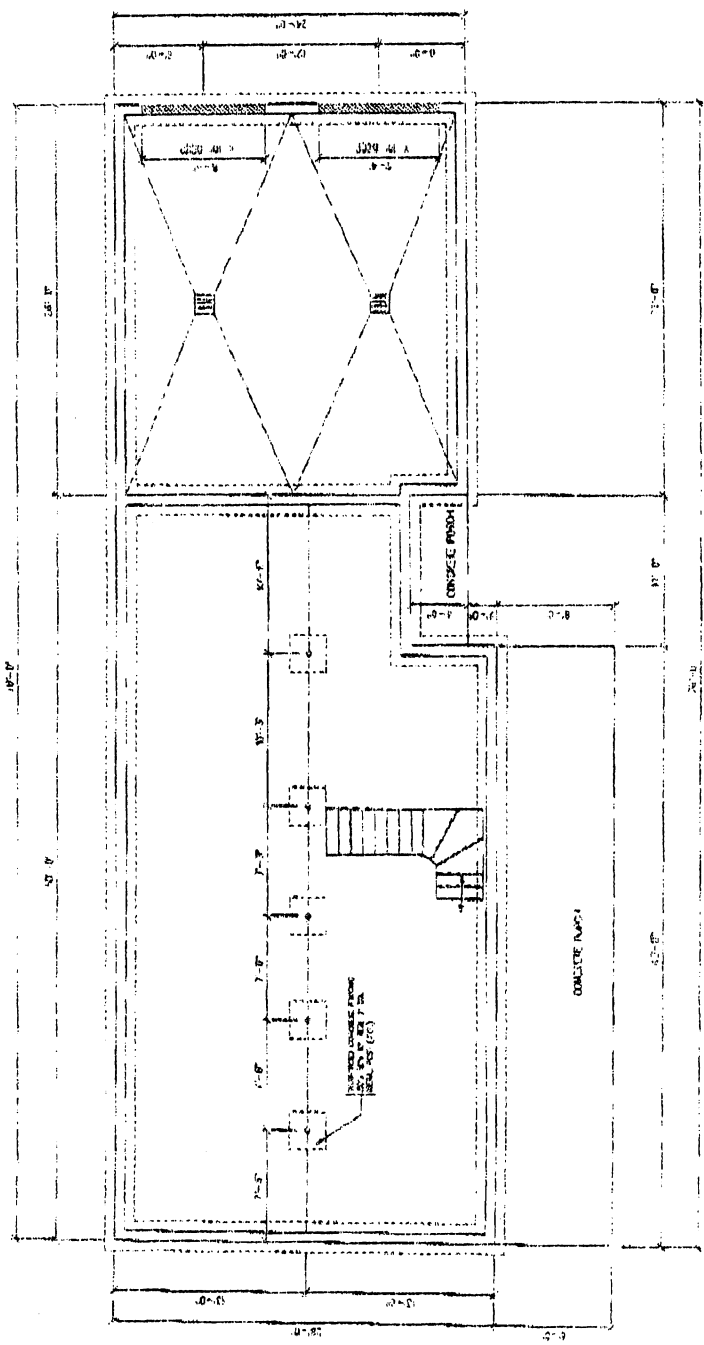
RESIDENCE 1



NO.	DESCRIPTION	DATE

NO. OF SHEETS / FRONT NO.
 05450
 CLIENT / ADDRESS
 BARBARA LEMS
 RESIDENCE #1
 NO. OF SHEETS / TOTAL NO.

OWNER / DESIGNER / ARCHITECT
 DATE
 15/10/2013
 SHEETS / TOTAL
 FOUNDATION PLAN
 FOUNDATION WALLS
 4 MIDDLES
 EXTERIOR / WALL
 3/15" = 1"
 NUMBER OF / SCALE BY
 KANGOR BELANDIER
 SHEET NO.
 05450



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FOUNDATION PLAN

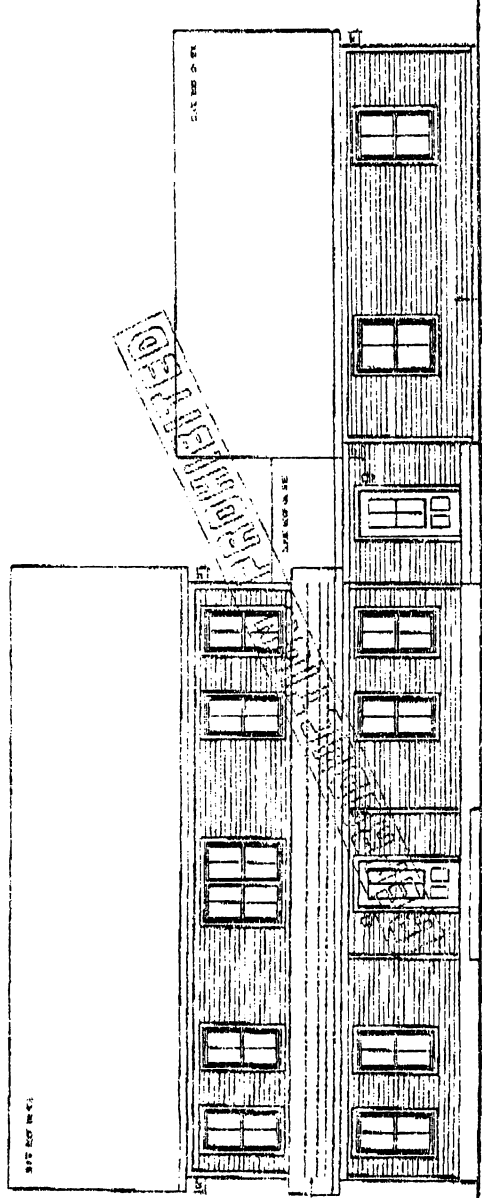
NO.	DESCRIPTION	DATE
1	INTERMEDIATE ROOF	2/7/0
2	EXTERIOR WALLS	2/7/0
3	WALLS/DOORS/WINDOWS	2/7/0
4	FINISH SCHEMATIC (PART)	2/11/0

05-460
 CLIENT / CUSTOMER
 BARBARA LEWIS
 RESIDENCE #1
 101. 2ND FLOOR / SOUTH, IN.

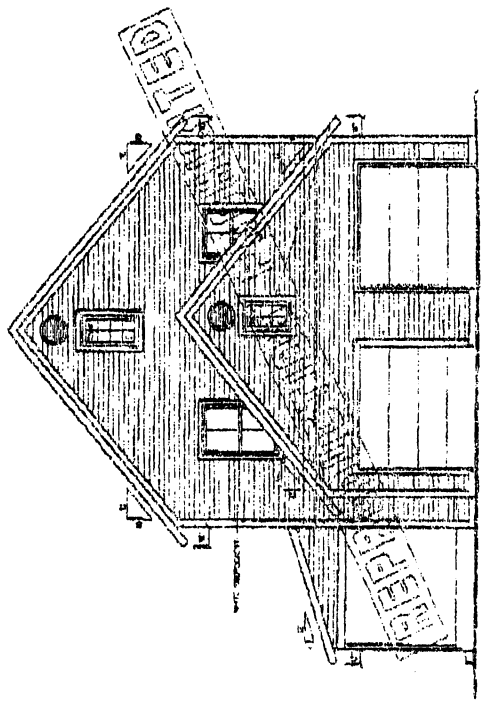


DENTEC

PROJECT / NAME
 22/09/2008
 FRONT ELEVATION
 2 MOODLES
 2/15/08
 PROJECT # / ORDER #
 24000000 / 00000000
 PROJECT / FILE
 05-460



FRONT ELEVATION



RIGHT ELEVATION

NO.	DESCRIPTION	DATE
1	SLATE ROOF	2/10
2	INTERIOR PAINT	2/15
3	EXTERIOR PAINT	2/15
4	PAINT BRUSHES	2/15

NO. OF PERMITS / VOUCHER NO.
00450

CLIENT / CONTRACTOR
BARBARA LEWIS
RESIDENCE #1

NO. OF SHEETS / SHEET NO.



DMTEC

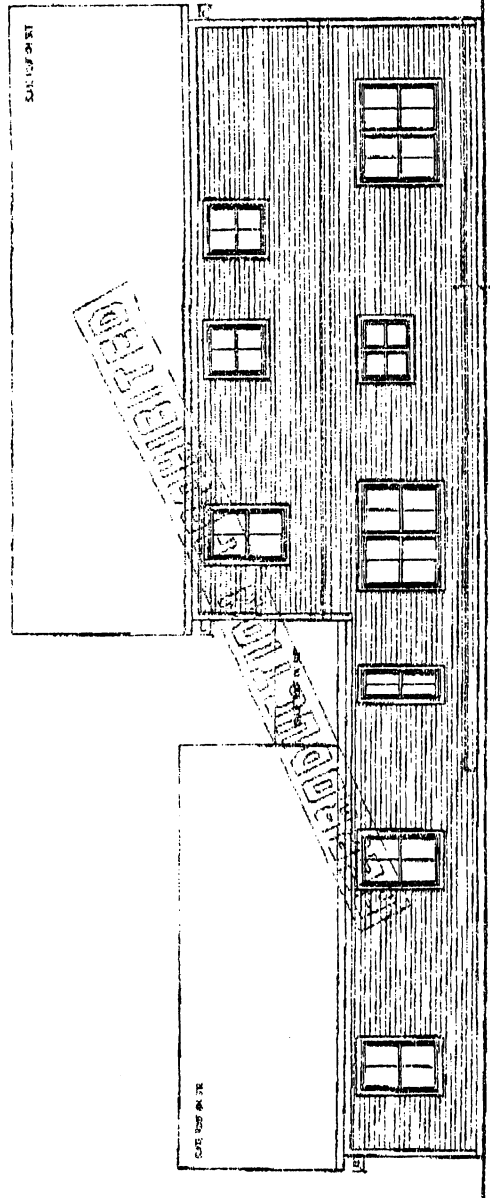
DATE / TIME
22/09/2008

PROJECT / SHEET
BACK ELEVATION

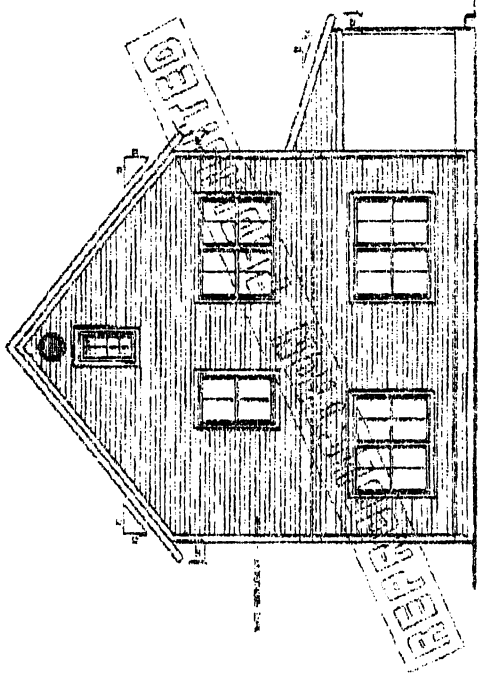
SCALE / SHEET
1/8" = 1'

DESIGNED BY / DRAWN BY
KARINE BELANGER

PROJECT NO.
UP-400

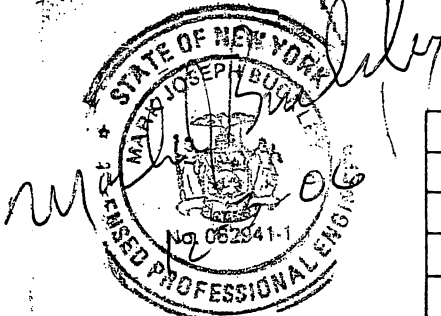
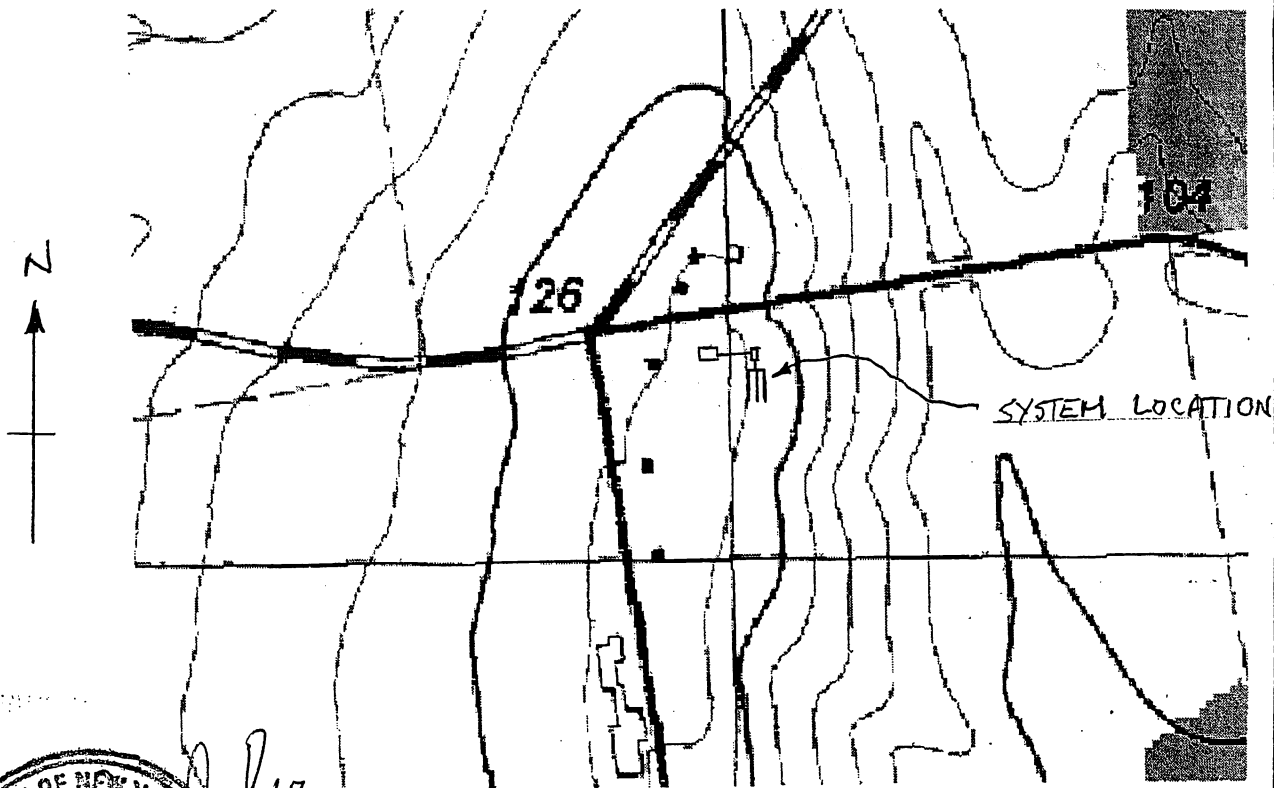


BACK ELEVATION



LEFT ELEVATION

REQUIRED SEPARATION DISTANCES FROM WASTEWATER SYSTEM COMPONENTS (FEET)					
SYSTEM COMPONENT	WELL OR SUCTION LINE	TO STREAM, LAKE WATERCOURSE OR WETLAND	DWELLING	PROPERTY LINE	DRAINAGE DITCH
HOUSE SEWER	50	25	3	10	-
SEPTIC TANK	50	50	10	10	10
EFFLUENT LINE TO DISTRIBUTION BOX	50	50	10	10	10
DISTRIBUTION BOX	100	100	20	10	20
ABSORPTION FIELD	100	100	20	10	20
SEEPAGE PIT	150	100	20	10	20
DRY WELL (ROOF AND FOOTING)	50	25	20	10	10
RAISED OR MOUND SYSTEM	100	100	20	10	20



LEWIS HOUSE PROJECT CROSS ROAD WHALLENSBURG, NY SITE PLAN			
		DATE: 12-2-06	DRAWN BY: MARK BUCKLEY
		SCALE: NONE	

1/24/90

Building Permit Application

Town of Essex Building Codes

Permit No.

A-698

READ INSTRUCTIONS ON REVERSE BEFORE COMPLETING THIS APPLICATION

1. Applicant's Name

YALBANA Lewis

Daytime

Phone No. 518 963-4206

Street Address

WILLIAMSBAY rd

City

Essex

State

N.Y.

Zip Code

12936

2. Applicant is (check one or more):

Property Owner

General Contractor

Other (Specify)

3. Provide Project Location Information:

A. County

Essex

D. Street Address or Directions

CROSS rd

B. City, Town, Village

Essex

Essex N.Y.

C. Tax Map No. (check with assessor)

49.3-2-27.000

12936

4. Provide Names, Addresses, and Telephone Numbers for Individuals Named Below (use additional sheets, if needed):

A. Property Owner

YALBANA Lewis

B. Architect or Engineer

DEMTEC

C. General Contractor/Builder

M. McLenno

LEWIS FAMILY FARM

5. Contractor Insurance

Workers' Compensation & Disability Benefits Secured by Contractor

Wages To Be Paid Yes No Policy No.

6. Project Cost (Estimate) (see instructions)

335,000

Number Square Feet

2350

7. Check All Items That Apply to the Named Projects:

- New House/Building
- Garage/Carport
- Mobile Home
- Storage Shed
- Manufactured Home
- Swimming Pool
- Masonry Chimney
- MFG Chimney
- Deck
- Addition
- Alterations
- Relocation
- Change of Use
- Demolition
- Solid Fuel
- Other

Construction Class

- Type 1 Fire Resistive
- Type 2 Noncombustible
- Type 3 Heavy Timber
- Type 4 Ordinary
- Type 5 Wood Frame
- Unknown

Occupancy Use Classifications

- A1 One-Family Dwelling
- A2 Two-Family Dwelling
- B1 Multiple Dwelling Apartments
- B2 Multiple Dwelling Hotel/Motel
- B3 Multiple Dwelling Sr. Citizen
- B4 Multiple Dwelling Adult Residential Care
- C1 Business
- C2 Mercantile
- C3 Industrial
- C4 Storage
- C5 Assembly
- C6 Institutional
- C7 Miscellaneous

- 8. A. Is the site within a flood plain? Yes No
- B. Is the site in whole or in part a designated wetland? Yes No
- C. Is the site under APA jurisdiction? Yes No
- D. Is the site under local zoning jurisdiction? Yes No
- E. "X" all of the following that describe the provisions for water and sewer:
 - Public Water System
 - New Private Well
 - Prior Existing Private Well
 - Public Sewer System
 - New Septic System
 - Prior Existing Sewer System
 - Other

9. What will be the method of providing heat?

Primary: Oil Boiler Secondary: None

10. Plans are (see instructions):

Enclosed/Attached Shipped Separately Not Supplied

11. Has any work covered by this application been started or completed? Yes No

* If yes, read instructions carefully and provide a description and explanation ->

12. APPLICATION CERTIFICATION - I hereby certify that I have read the instructions and examined the same to be true and correct. All provisions of laws and ordinances covering this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or land use or the performance of construction.

Signature of Applicant/Authorized Agent M. McLenno Date 6-25-06

Consult instructions on attached sheet about appropriate fee. Mailing instructions are on reverse side. Make check payable to Town of Essex Building Codes Department.

Required Fee \$ 50.00 6212 Check Money Order Other

OFFICE USE ONLY

Date Received	Reviewed	Approved Disapproved	Permit No. A-698	CO or CC Issued												
				6-25-07	6-25-07	6-25-07	1	2	3	4	5	6	7	8	9	10

Special Conditions:

BUILDING PERMIT APPLICATION INSTRUCTIONS

This form applies within communities where the Town of Essex enforces the Uniform Fire Prevention and Building Code (Uniform Code). Consult your local government officials to see if a zoning or other special permit is also required. Application procedure regulations are contained in Part 442, Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR); copies of which are available upon request. A permit will be issued when it is determined that the application is complete and the proposed work conforms to the requirements of the Uniform Code. The authority conferred with the permit may be limited by conditions. The Town of Essex must be notified of any changes to information contained in the application during the period for which the permit is in effect.

A BUILDING PERMIT IS REQUIRED BEFORE commencing construction or other improvement, removal or demolition of any building or structure (including auction barns, farm residences, and other such structures) except as noted below; and **BEFORE** the installation of heating equipment.

A BUILDING PERMIT IS NOT REQUIRED for necessary repairs which do NOT involve material alteration of structural features, plumbing, electrical, or heating/ventilation systems; for agricultural buildings such as dairy barns and poultry houses; erecting fences, constructing non-commercial storage facilities under 140 sq. ft.; and for replacing roofing or siding materials.

ITEM INSTRUCTIONS FOR THE APPLICATION: (Items not listed are self explanatory. For further assistance, contact the Building Fire Code Department listed below.)

3C. The tax map or property ID number can be obtained from the local assessor, by consulting the appropriate tax map, or through your county real property tax office. A Certificate of Occupancy will not be issued without this number.

5. Workers' compensation and disability benefits are necessary if wages are to be paid to anyone working on the project.

6. Project cost includes the material and labor costs associated with the project work. Not included are architect, attorney, engineer, or other fees and land acquisition costs. If the project involves the installation of a mobile or factory manufactured home, do not include the purchase price of the unit. Project cost does include direct costs for wells, septic systems, electrical hook-ups, foundation systems, etc.

7. If unsure of class, check off UNKNOWN or refer to Part 701, 19 NYCRR. Most new single family homes are wood frame (Type 5).

8. Your Town Clerk may be able to help you determine if the project site is in a flood plain or is designated as a wetland. If not, or under APA jurisdiction, contact the nearest NYS Department of Environmental Conservation.

9. Enter Oil Hot Air, Oil Hot Water, Electrical Baseboard, Wood, etc., as appropriate.

10. Plans and specifications describing the proposed work are to be submitted with the application, in accordance with the State Education Law, Sections 7307 and 7209. The original seal and signature of a licensed and registered architect or professional engineer must be affixed to ALL plans submitted; except residential buildings under 1,500 sq. ft. of living area, OR for alterations costing under \$10,000. Plans should include site work and landscaping, elevations, sections, dimensions, and schedules.

11. Undertaking activity that requires a building permit prior to obtaining such a permit is prohibited. In considering what action, if any, to take in specific cases, the Department will evaluate violations based on prior experience with the applicant and other relevant factors.

12. **APPLICATION FEE:** The appropriate application fee in the form of a check, money order, or government voucher made payable to The Town of Essex Building Code Department is required as indicated on the fee schedule attached.

NOTHING contained in this permit shall be construed to satisfy any legal obligation of the applicant to obtain any governmental application or permit from any entity other than The Town of Essex whether Federal, State, Regional, or Local.

SEND THIS COMPLETED APPLICATION to the Town of Essex Building Code Department, Main Street, Essex, NY 12936

Town of Essex Building Codes Department
Town of Essex
Main Street
Essex, NY 12936

BUILDING PERMIT APPLICATION INSTRUCTIONS

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SEND THIS COMPLETED APPLICATION to the Town of Essex Building Code Department, Main Street, Essex, NY 12936

Town of Essex Building Codes Department
Town of Essex
Main Street
Essex, NY 12936

1/24/90

Building Permit Application

Town of Essex Building Codes

Permit No.

A-700

READ INSTRUCTIONS ON REVERSE BEFORE COMPLETING THIS APPLICATION

1. Applicant's Name BARBARA LEWIS Daytime Phone No. 508-963-7153

Street Address Whallon Bay Rd. City Essex State NY Zip Code 12936

2. Applicant is (check one or more): Property Owner General Contractor Other (Specify)

3. Provide Project Location Information: A. County Essex B. City, Town, Village Essex C. Tax Map No. (check with assessor) 49.3-2-27000 D. Street Address or Directions Whallons Bay Rd. N Cottage

4. Provide Names, Addresses, and Telephone Numbers for Individuals Named Below (use additional sheets, if needed):

A. Property Owner	B. Architect or Engineer	C. General Contractor/Builder
<u>BARBARA LEWIS</u>	<u>DEMTEC</u>	<u>M. McNamee</u>
<u>LEWIS FAMILY FARM</u>		

5. Contractor Insurance Workers' Compensation & Disability Benefits Secured by Contractor Wages To Be Paid Yes No Policy No.

6. Project Cost (Estimate) (see instructions) 320,000 Number Square Feet 2,350

7. Check All Items That Apply to the Named Projects: New House/Building Garage/Carport Addition Change of Use Mobile Home Storage Shed Alterations Demolition Manufactured Home Swimming Pool Relocation Solid Fuel Masonry Chimney MFG Chimney Deck Other Construction Class Type 1 Fire Resistive Type 3 Heavy Timber Type 5 Wood Frame Type 2 Noncombustible Type 4 Ordinary Unknown

Occupancy Use Classifications A1 One-Family Dwelling A2 Two-Family Dwelling B1 Multiple Dwelling Apartments B2 Multiple Dwelling Hotel/Motel B3 Multiple Dwelling Sr. Citizen B4 Multiple Dwelling Adult Residential Care C1 Business C2 Mercantile C3 Industrial C4 Storage C5 Assembly C6 Institutional C7 Miscellaneous

8. A. Is the site within a flood plain? Yes No B. Is the site in whole or in part a designated wetland Yes No C. Is the site under APA jurisdiction? Yes No D. Is the site under local zoning jurisdiction? Yes No E. 'X' all of the following that describe the provisions for water and sewer: Public Water System New Private Well Prior Existing Private Well Public Sewer System New Septic System Prior Existing Sewer System Other

9. What will be the method of providing heat? Primary: OIL BURNER Secondary: None

10. Plans are (see instructions): Enclosed/Attached Shipped Separately Not Supplied

11. Has any work covered by this application been started or completed? Yes No * If yes, read instructions carefully and provide a description and explanation ->

12. APPLICATION CERTIFICATION - I hereby certify that I have read the instructions and examined the same to be true and correct. All provisions of laws and ordinances covering this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or land use or the performance of construction.

Signature of Applicant/Authorized Agent M. McNamee Date 6-25-07

Consult instructions on attached sheet about appropriate fee. Mailing instructions are on reverse side. Make check payable to Town of Essex Building Codes Department.

Required Fee \$ 50.00 6212 Check Money Order Other

Date Received	Reviewed	Approved / Disapproved	Permit No.	Inspections										CO or CC Issued			
				1	2	3	4	5	6	7	8	9	10				
<u>6-25-07</u>	<u>6-25-07</u>	<input checked="" type="checkbox"/>	<u>A-700</u>														

OFFICE USE ONLY

Special Conditions:

BUILDING PERMIT APPLICATION INSTRUCTIONS

This form applies within communities where the Town of Essex enforces the Uniform Fire Prevention and Building Code (Uniform Code). Consult your local government officials to see if a zoning or other special permit is also required. Application procedure regulations are contained in Part 442, Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR); copies of which are available upon request. A permit will be issued when it is determined that the application is complete and the proposed work conforms to the requirements of the Uniform Code. The authority conferred with the permit may be limited by conditions. The Town of Essex must be notified of any changes to information contained in the application during the period for which the permit is in effect.

A BUILDING PERMIT IS REQUIRED BEFORE commencing construction or other improvement, removal or demolition of any building or structure (including auction barns, farm residences, and other such structures) except as noted below; and BEFORE the installation of heating equipment.

A BUILDING PERMIT IS NOT REQUIRED for necessary repairs which do NOT involve material alteration of structural features, plumbing, electrical, or heating/ventilation systems; for agricultural buildings such as dairy barns and poultry houses; erecting fences, constructing non-commercial storage facilities under 140 sq. ft.; and for replacing roofing or siding materials.

ITEM INSTRUCTIONS FOR THE APPLICATION: (Items not listed are self explanatory. For further assistance, contact the Building Fire Code Department listed below.)

3C. The tax map or property ID number can be obtained from the local assessor, by consulting the appropriate tax map, or through your county real property tax office. A Certificate of Occupancy will not be issued without this number.

5. Workers' compensation and disability benefits are necessary if wages are to be paid to anyone working on the project.

6. Project cost includes the material and labor costs associated with the project work. Not included are architect, attorney, engineer, or other fees and land acquisition costs. If the project involves the installation of a mobile or factory manufactured home, do not include the purchase price of the unit. Project cost does include direct costs for wells, septic systems, electrical hook-ups, foundation systems, etc.

7. If unsure of class, check off UNKNOWN or refer to Part 701, 19 NYCRR. Most new single family homes are wood frame (Type 5).

8. Your Town Clerk may be able to help you determine if the project site is in a flood plain or is designated as a wetland. If not, or under APA jurisdiction, contact the nearest NYS Department of Environmental Conservation.

9. Enter Oil Hot Air, Oil Hot Water, Electrical Baseboard, Wood, etc., as appropriate.

10. Plans and specifications describing the proposed work are to be submitted with the application, in accordance with the State Education Law, Sections 7307 and 7209. The original seal and signature of a licensed and registered architect or professional engineer must be affixed to ALL plans submitted; except residential buildings under 1,500 sq. ft. of living area, OR for alterations costing under \$10,000. Plans should include site work and landscaping, elevations, sections, dimensions, and schedules.

11. Undertaking activity that requires a building permit prior to obtaining such a permit is prohibited. In considering what action, if any, to take in specific cases, the Department will evaluate violations based on prior experience with the applicant and other relevant factors.

12. APPLICATION FEE: The appropriate application fee in the form of a check, money order, or government voucher made payable to The Town of Essex Building Code Department is required as indicated on the fee schedule attached.

NOTHING contained in this permit shall be construed to satisfy any legal obligation of the applicant to obtain any governmental application or permit from any entity other than The Town of Essex whether Federal, State, Regional, or Local.

SEND THIS COMPLETED APPLICATION to the Town of Essex Building Code Department, Main Street, Essex, NY 12936

Town of Essex Building Codes Department

Town of Essex
Main Street
Essex, NY 12936

1/24/90

Building Permit Application

Town of Essex Building Codes

Permit No.

A-699

READ INSTRUCTIONS ON REVERSE BEFORE COMPLETING THIS APPLICATION

1. Applicant's Name IRABARA Lewis Daytime Phone No. ()

Street Address Whalloons Bay rd City Essex State N.Y. Zip Code 12936

2. Applicant is (check one or more): Property Owner General Contractor Other (Specify)

3. Provide Project Location Information: A. County Essex B. City, Town, Village Essex C. Tax Map No. (check with assessor) 49.3-2-27.000 D. Street Address or Directions Whalloons Bay rd, Residence 1

4. Provide Names, Addresses, and Telephone Numbers for Individuals Named Below (use additional sheets, if needed): A. Property Owner IRABARA Lewis B. Architect or Engineer DEHTEC C. General Contractor/Builder MMA McLean

5. Contractor Insurance Workers' Compensation & Disability Benefits Secured by Contractor Wages To Be Paid Yes No Policy No.

6. Project Cost (Estimate) (see instructions) 315,000. Number Square Feet 2,350

7. Check All Items That Apply to the Named Projects: New House/Building Garage/Carport Addition Change of Use Mobile Home Storage Shed Alterations Demolition Manufactured Home Swimming Pool Relocation Solid Fuel Masonry Chimney MFG Chimney Deck Other Construction Class Type 1 Fire Resistive Type 3 Heavy Timber Type 5 Wood Frame Type 2 Noncombustible Type 4 Ordinary Unknown Occupancy Use Classifications A1 One-Family Dwelling C1 Business A2 Two-Family Dwelling C2 Mercantile B1 Multiple Dwelling Apartments C3 Industrial B2 Multiple Dwelling Hotel/Motel C4 Storage B3 Multiple Dwelling Sr. Citizen C5 Assembly B4 Multiple Dwelling Adult Residential Care C6 Institutional C7 Miscellaneous

8. A. Is the site within a flood plain? Yes No B. Is the site in whole or in part a designated wetland Yes No C. Is the site under APA jurisdiction? Yes No D. Is the site under local zoning jurisdiction? Yes No E. "X" all of the following that describe the provisions for water and sewer: Public Water System New Private Well Prior Existing Private Well Public Sewer System New Septic System Prior Existing Sewer System Other

9. What will be the method of providing heat? Primary: Oil Boiler Secondary: None

10. Plans are (see instructions): Enclosed/Attached Shipped Separately Not Supplied

11. Has any work covered by this application been started or completed? Yes No * If yes, read instructions carefully and provide a description and explanation ->

12. APPLICATION CERTIFICATION - I hereby certify that I have read the instructions and examined the same to be true and correct. All provisions of laws and ordinances covering this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or land use or the performance of construction.

Signature of Applicant/Authorized Agent M. McLean Date 6-25-07

Consult instructions on attached sheet about appropriate fee. Mailing instructions are on reverse side. Make check payable to Town of Essex Building Codes Department.

Required Fee \$ 50.00 6212 Check Money Order Other

OFFICE USE ONLY table with columns: Date Received, Reviewed, Approved/Disapproved, Permit No., Inspections (1-10), CO or CC Issued. Includes handwritten permit number A-699 and date 6-25-07.

Special Conditions:

BUILDING PERMIT APPLICATION INSTRUCTIONS

This form applies within communities where the Town of Essex enforces the Uniform Fire Prevention and Building Code (Uniform Code). Consult your local government officials to see if a zoning or other special permit is also required. Application *procedure* regulations are contained in Part 442, Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR); copies of which are available upon request. A permit will be issued when it is determined that the application is complete and the proposed work conforms to the requirements of the Uniform Code. The authority conferred with the permit may be limited by conditions. The Town of Essex must be notified of any changes to information contained in the application during the period for which the permit is in effect.

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A BUILDING PERMIT IS NOT REQUIRED for necessary repairs which do NOT involve material alteration of structural features, plumbing, electrical, or heating/ventilation systems; for agricultural buildings such as dairy barns and poultry houses; erecting fences, constructing non-commercial storage facilities under 140 sq. ft.; and for replacing roofing or siding materials.

ITEM INSTRUCTIONS FOR THE APPLICATION: (Items not listed are self explanatory. For further assistance, contact the Building Fire Code Department listed below.)

3C. The tax map or property ID number can be obtained from the local assessor, by consulting the appropriate tax map, or through your county real property tax office. A Certificate of Occupancy will not be issued without this number.

5. Workers' compensation and disability benefits are necessary if wages are to be paid to anyone working on the project.

6. Project cost includes the material and labor costs associated with the project work. Not included are architect, attorney, engineer, or other fees and land acquisition costs. If the project involves the installation of a mobile or factory manufactured home, do not include the purchase price of the unit. Project cost does include direct costs for wells, septic systems, electrical hook-ups, foundation systems, etc.

7. If unsure of class, check off UNKNOWN or refer to Part 701, 19 NYCRR. Most new single family homes are wood frame (Type 5).

8. Your Town Clerk may be able to help you determine if the project site is in a flood plain or is designated as a wetland. If not, or under APA jurisdiction, contact the nearest NYS Department of Environmental Conservation.

9. Enter Oil Hot Air, Oil Hot Water, Electrical Baseboard, Wood, etc., as appropriate.

10. Plans and specifications describing the proposed work are to be submitted with the application, in accordance with the State Education Law, Sections 7307 and 7209. The original seal and signature of a licensed and registered architect or professional engineer must be affixed to ALL plans submitted; except residential buildings under 1,500 sq. ft. of living area, OR for alterations costing under \$10,000. Plans should include site work and landscaping, elevations, sections, dimensions, and schedules.

11. Undertaking activity that requires a building permit prior to obtaining such a permit is prohibited. In considering what action, if any, to take in specific cases, the Department will evaluate violations based on prior experience with the applicant and other relevant factors.

12. APPLICATION FEE: The appropriate application fee in the form of a check, money order, or government voucher made payable to The Town of Essex Building Code Department is required as indicated on the fee schedule attached.

NOTHING contained in this permit shall be construed to satisfy any legal obligation of the applicant to obtain any governmental application or permit from any entity other than The Town of Essex whether Federal, State, Regional, or Local.

SEND THIS COMPLETED APPLICATION to the Town of Essex Building Code Department, Main Street, Essex, NY 12936

Town of Essex Building Codes Department
Town of Essex
Main Street
Essex, NY 12936

**APPLICATION FOR A PROJECT PERMIT
TOWN OF ESSEX, NEW YORK**

Tax Map Parcel Number: 49.3-2-27.000

11-12-06 11-14-06 2-263
Application Date Date Recorded Application #

Barbara Lewis
Applicant's Name

Whallons Bay rd.
Address

Essex N.Y. 12936 963-4206
Town State Zip Telephone Number

The applicant hereby states that he or she is the owner or authorized agent for which the foregoing work is proposed to be performed, and that he or she is duly authorized to execute such work, and that all work will be performed in accordance with all existing State laws and the Zoning Law in effect in the Town of Essex.

Barbara Lewis ^(mm) 11-12-06
Applicant's Signature Date

- | | |
|---|---|
| Application is hereby made to: | For the purpose of: |
| <input type="checkbox"/> use | <input checked="" type="checkbox"/> residences <u>3</u> |
| <input checked="" type="checkbox"/> erect | <input type="checkbox"/> commercial business |
| <input type="checkbox"/> repair | <input type="checkbox"/> industry |
| <input type="checkbox"/> alter | <input type="checkbox"/> accessory structure |
| <input type="checkbox"/> extend | <input type="checkbox"/> agricultural use |
| <input type="checkbox"/> remove | <input type="checkbox"/> forestry use |
| <input type="checkbox"/> demolish | <input type="checkbox"/> mobile home |
| <input type="checkbox"/> occupy | <input type="checkbox"/> public use |
| <input type="checkbox"/> other _____ | <input type="checkbox"/> resource extraction |
| | <input type="checkbox"/> Other _____ |

- Zoning District:
- | | |
|---|--|
| <input type="checkbox"/> Essex Hamlet | <input type="checkbox"/> Residential I |
| <input type="checkbox"/> Whallonsburgh Hamlet | <input type="checkbox"/> Residential II |
| <input checked="" type="checkbox"/> Agricultural District | <input type="checkbox"/> Historic Overlay |
| <input type="checkbox"/> Forest/Recreation | <input type="checkbox"/> Shoreline Overlay |

On a separate sheet, describe the project in detail.

This application shall be accompanied by a drawing to scale, showing, but not limited to the following:
(see reverse side of form)

- | | |
|----------------------------|--------------------------------------|
| 1. Lot size | 9. Water System |
| 2. Existing Property Lines | 10. Septic and sewage system |
| 3. Proposed Structure | 11. Abutters |
| 4. Parking and driveways | 12. Height: Stories _____ Feet _____ |
| 5. Abutting street width | 13. Number of family units |
| 6. Rear Yard set back | 14. Construction type |
| 7. Front Yard set back | 15. Other _____ |
| 8. Side Yard set back | |

Date of Action:

Application Received

11-14-06

Supplemental Material Received

Fee Paid, Amount: \$ 20.00

Application Referred to Planning Board

Application Approved by Planning Board

Zoning Permit: Issued () Denied

11-14-06

Reasons for denial: _____

David S. Lansing
 David Lansing
 Zoning and Codes Enforcement Officer
 518-963-4287

11-14-06
 Date

APPLICATION FOR A PROJECT PERMIT
TOWN OF ESSEX, NEW YORK

Tax Map Parcel Number: 49.3-2-27.00

11-30-06
Application Date

11-30-06
Date Recorded

2-264
Application #

LEWIS FAMILY FARM
Applicant's Name

1058 WHALLONSBAY RD
Address

ESSEX
Town

N.Y.
State

12936
Zip

Telephone Number

The applicant hereby states that he or she is the owner or authorized agent for which the foregoing work is proposed to be performed, and that he or she is duly authorized to execute such work, and that all work will be performed in accordance with all existing State laws and the Zoning Law in effect in the Town of Essex.

BALBINA Lewis M.M
Applicant's Signature

11-30-06
Date

Application is hereby made to:

For the purpose of:

- use
- erect
- repair
- alter
- extend
- remove
- demolish
- occupy
- other _____

- residence (1)
- commercial business
- industry
- accessory structure
- agricultural use
- forestry use
- mobile home
- public use
- resource extraction
- Other FARM HELP
RESIDENCE

Zoning District:

- Essex Hamlet
- Whallonsburgh Hamlet
- Agricultural District
- Forest/Recreation

- Residential I
- Residential II
- Historic Overlay
- Shoreline Overlay

On a separate sheet, describe the project in detail.

This application shall be accompanied by a drawing to scale, showing, but not limited to the following:
(see reverse side of form)

- 1. Lot size
- 2. Existing Property Lines
- 3. Proposed Structure
- 4. Parking and driveways
- 5. Abutting street width
- 6. Rear Yard set back
- 7. Front Yard set back
- 8. Side Yard set back

- 9. Water System
- 10. Septic and sewage system
- 11. Abutters
- 12. Height: Stories _____ Feet _____
- 13. Number of family units
- 14. Construction type
- 15. Other _____

SEE ATTACHED DWGS

Date of Action: 11-30-06

Application Received _____

Supplemental Material Received _____

Fee Paid, Amount: \$ 20.00 \$ 20.00

Application Referred to Planning Board NO

Application Approved by Planning Board N/A

Zoning Permit: Issued () Denied 11-30-06

Reasons for denial: _____

David Lansing
 David Lansing
 Zoning and Codes Enforcement Officer
 518-963-4287

11-30-06
 Date

1/24/90

MARCO

Building Permit Application

Town of Essex Building Codes

Permit No.

A-714

READ INSTRUCTIONS ON REVERSE BEFORE COMPLETING THIS APPLICATION

1. Applicant's Name LEWIS FAMILY FARM Daytime Phone No. ()
 Street Address 52 CANTON RD City ESSEX State NY Zip Code

2. Applicant is (check one or more):
 Property Owner General Contractor Other (Specify)

3. Provide Project Location Information:
 A. County ESSEX
 B. City, Town, Village ESSEX
 C. Tax Map No. (check with assessor) 49.3-2-27.000
 D. Street Address or Directions

4. Provide Names, Addresses, and Telephone Numbers for Individuals Named Below (use additional sheets, if needed):

A. Property Owner	B. Architect or Engineer	C. General Contractor/Builder
<u>SAME AS ABOVE</u>	<u>MAMBUCKLEH</u>	<u>BENJAMIN ZIEBRA TRSA</u>

5. Contractor Insurance
 Workers' Compensation & Disability Benefits Secured by Contractor
 Wages To Be Paid Yes No Policy No.

6. Project Cost Estimate (see instructions) Number Square Feet

7. Check All Items That Apply to the Named Projects:

<input type="checkbox"/> New House/Building	<input type="checkbox"/> Garage/Carport	<input type="checkbox"/> Addition	<input type="checkbox"/> Change of Use
<input type="checkbox"/> Mobile Home	<input type="checkbox"/> Storage Shed	<input type="checkbox"/> Alterations	<input type="checkbox"/> Demolition
<input type="checkbox"/> Manufactured Home	<input type="checkbox"/> Swimming Pool	<input type="checkbox"/> Relocation	<input type="checkbox"/> Solid Fuel
<input type="checkbox"/> Masonry Chimney	<input type="checkbox"/> MFG Chimney	<input type="checkbox"/> Deck	<input checked="" type="checkbox"/> Other

Construction Class
 Type 1 Fire Resistive Type 3 Heavy Timber Type 5 Wood Frame
 Type 2 Noncombustible Type 4 Ordinary Unknown

Occupancy Use Classifications
 A1 One-Family Dwelling C1 Business
 A2 Two-Family Dwelling C2 Mercantile
 B1 Multiple Dwelling Apartments C3 Industrial
 B2 Multiple Dwelling Hotel/Motel C4 Storage
 B3 Multiple Dwelling Sr. Citizen C5 Assembly
 B4 Multiple Dwelling Adult Residential Care C6 Institutional
 C7 Miscellaneous

8. A. Is the site within a flood plain? Yes No
 B. Is the site in whole or in part a designated wetland? Yes No
 C. Is the site under APA jurisdiction? Yes No
 D. Is the site under local zoning jurisdiction? Yes No
 E. "X" all of the following that describe the provisions for water and sewer:
 Public Water System New Private Well Prior Existing Private Well
 Public Sewer System New Septic System Prior Existing Sewer System
 Other

9. What will be the method of providing heat?
 Primary: Secondary: None

10. Plans are (see instructions):
 Enclosed/Attached Shipped Separately Not Supplied

11. Has any work covered by this application been started or completed? Yes No
 * If yes, read instructions carefully and provide a description and explanation ->

12. APPLICATION CERTIFICATION - I hereby certify that I have read the instructions and examined the same to be true and correct. All provisions of laws and ordinances covering this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or land use or the performance of construction.

Signature of Applicant/Authorized Agent MAMBUCKLEH Date 9-20-07

Consult instructions on attached sheet about appropriate fee. Mailing instructions are on reverse side. Make check payable to Town of Essex Building Codes Department.

OFFICE USE ONLY		Permit No.	CO or CC Issued
Date Received	Reviewed		
9-20-07	9-19-07	A-714	10

Special Conditions:

NO LMA SOUTH CO N

1/24/90

Building Permit Application

Town of Essex Building Codes

Permit No.

A-715

READ INSTRUCTIONS ON REVERSE BEFORE COMPLETING THIS APPLICATION

1. Applicant's Name LEWIS FAMILY FARM Daytime Phone No. ()

Street Address 52 CHRISTIAN RD ESSEX NH. City State Zip Code

2. Applicant is (check one or more):
 Property Owner General Contractor Other (Specify)

3. Provide Project Location Information:
 A. County ESSEX
 B. City, Town, Village ESSEX
 C. Tax Map No. (check with assessor) 49.3-2-27.007
 D. Street Address or Directions

4. Provide Names, Addresses, and Telephone Numbers for Individuals Named Below (use additional sheets, if needed):

A. Property Owner	B. Architect or Engineer	C. General Contractor/Builder
<u>JAMIE AS A-BOUR</u>	<u>MARK BUCKLEY</u>	<u>BEAUFAY ZEBRA TECH</u>

5. Contractor Insurance
 Workers' Compensation & Disability Benefits Secured by Contractor
 Wages To Be Paid Yes No Policy No.

6. Project Cost Estimate (see instructions) Number Square Feet

7. Check All Items That Apply to the Named Projects:

<input type="checkbox"/> New House/Building	<input type="checkbox"/> Garage/Carport	<input type="checkbox"/> Addition	<input type="checkbox"/> Change of Use
<input type="checkbox"/> Mobile Home	<input type="checkbox"/> Storage Shed	<input type="checkbox"/> Alterations	<input type="checkbox"/> Demolition
<input type="checkbox"/> Manufactured Home	<input type="checkbox"/> Swimming Pool	<input type="checkbox"/> Relocation	<input type="checkbox"/> Solid Fuel
<input type="checkbox"/> Masonry Chimney	<input type="checkbox"/> MFG Chimney	<input type="checkbox"/> Deck	<input checked="" type="checkbox"/> Other <u>SEPTIC</u>

Construction Class
 Type 1 Fire Resistive Type 3 Heavy Timber Type 5 Wood Frame
 Type 2 Noncombustible Type 4 Ordinary Unknown

Occupancy Use Classifications

<input checked="" type="checkbox"/> A1 One-Family Dwelling	<input type="checkbox"/> C1 Business
<input type="checkbox"/> A2 Two-Family Dwelling	<input type="checkbox"/> C2 Mercantile
<input type="checkbox"/> B1 Multiple Dwelling Apartments	<input type="checkbox"/> C3 Industrial
<input type="checkbox"/> B2 Multiple Dwelling Hotel/Motel	<input type="checkbox"/> C4 Storage
<input type="checkbox"/> B3 Multiple Dwelling Sr. Citizen	<input type="checkbox"/> C5 Assembly
<input type="checkbox"/> B4 Multiple Dwelling Adult Residential Care	<input type="checkbox"/> C6 Institutional
	<input type="checkbox"/> C7 Miscellaneous

8. A. Is the site within a flood plain? Yes No
 B. Is the site in whole or in part a designated wetland Yes No
 C. Is the site under APA jurisdiction? Yes No
 D. Is the site under local zoning jurisdiction? Yes No
 E. "X" all of the following that describe the provisions for water and sewer:
 Public Water System New Private Well Prior Existing Private Well
 Public Sewer System New Septic System Prior Existing Sewer System
 Other

9. What will be the method of providing heat?
 Primary: Secondary: None

10. Plans are (see instructions):
 Enclosed/Attached Shipped Separately Not Supplied

11. Has any work covered by this application been started or completed? Yes No
 * If yes, read instructions carefully and provide a description and explanation →

12. APPLICATION CERTIFICATION - I hereby certify that I have read the instructions and examined the same to be true and correct. All provisions of laws and ordinances covering this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or land use or the performance of construction.

Signature of Applicant/Authorized Agent M. M. M. M. Date 9-20-07

Date Received	Reviewed	Approved / Disapproved	Permit No.	Inspections																
				1	2	3	4	5	6	7	8	9	10							
9-19-07	9-19-07	9-19-07	A-715																	

OFFICE USE ONLY

Special Conditions:

1/24/90

RESIDENCE

Building Permit Application

Town of Essex Building Codes

Permit No.

A-716

READ INSTRUCTIONS ON REVERSE BEFORE COMPLETING THIS APPLICATION

1. Applicant's Name EBBETS FAMILY FARM Daytime Phone No. ()
 Street Address 52 CHRISTIAN RD ESSEX NY City ESSEX State NY Zip Code 12926

2. Applicant is (check one or more):
 Property Owner General Contractor Other (Specify) _____

3. Provide Project Location Information:
 A. County ESSEX
 B. City, Town, Village ESSEX
 C. Tax Map No. (check with assessor) 49.3-2-27.000
 D. Street Address or Directions _____

4. Provide Names, Addresses, and Telephone Numbers for Individuals Named Below (use additional sheets, if needed):

A. Property Owner	B. Architect or Engineer	C. General Contractor/Builder
<u>SAMIRAS ABUWA</u>	<u>MARK BUCKLEY</u>	<u>BENJAMIN ZEBRA TRON</u>

5. Contractor Insurance
 Workers' Compensation & Disability Benefits Secured by Contractor
 Wages To Be Paid Yes No Policy No. _____

6. Project Cost Estimate (see instructions) _____ Number Square Feet _____

7. Check All Items That Apply to the Named Projects:

<input type="checkbox"/> New House/Building	<input type="checkbox"/> Garage/Carport	<input type="checkbox"/> Addition	<input type="checkbox"/> Change of Use
<input type="checkbox"/> Mobile Home	<input type="checkbox"/> Storage Shed	<input type="checkbox"/> Alterations	<input type="checkbox"/> Demolition
<input type="checkbox"/> Manufactured Home	<input type="checkbox"/> Swimming Pool	<input type="checkbox"/> Relocation	<input type="checkbox"/> Solid Fuel
<input type="checkbox"/> Masonry Chimney	<input type="checkbox"/> MFG Chimney	<input type="checkbox"/> Deck	<input type="checkbox"/> Other <u>SEPTIC</u>

Construction Class
 Type 1 Fire Resistive Type 3 Heavy Timber Type 5 Wood Frame
 Type 2 Noncombustible Type 4 Ordinary Unknown

Occupancy Use Classifications
 A1 One-Family Dwelling C1 Business
 A2 Two-Family Dwelling C2 Mercantile
 B1 Multiple Dwelling Apartments C3 Industrial
 B2 Multiple Dwelling Hotel/Motel C4 Storage
 B3 Multiple Dwelling Sr. Citizen C5 Assembly
 B4 Multiple Dwelling Adult Residential Care C6 Institutional
 C7 Miscellaneous

8. A. Is the site within a flood plain? Yes No
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 E. "X" all of the following that describe the provisions for water and sewer:
 Public Water System New Private Well Prior Existing Private Well
 Public Sewer System New Septic System Prior Existing Sewer System
 Other _____

9. What will be the method of providing heat?
 Primary: _____ Secondary: _____ None

10. Plans are (see instructions):
 Enclosed/Attached Shipped Separately Not Supplied

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 * If yes, read instructions carefully and provide a description and explanation →

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Signature of Applicant/Authorized Agent Mark M Date 9-20-07

Consult instructions on attached sheet about appropriate fee. Mailing instructions are on reverse side. Make check payable to Town of Essex Building Codes Department.

OFFICE USE ONLY		CO or CC Issued											
		1	2	3	4	5	6	7	8	9	10		
Date Received	Approved / Disapproved	Reviewed	Permit No.	Inspections									
				9-19-07	9-19-07	9-19-07	A-716						

Special Conditions:

RESIDENCE

1/24/90

Building Permit Application

Town of Essex Building Codes

Permit No.

A-662

READ INSTRUCTIONS ON REVERSE BEFORE COMPLETING THIS APPLICATION

1. Applicant's Name LEWIS FAMILY FARM Daytime Phone No. ()

Street Address 1058 WHALLOWAY City ESSEX State N.Y. Zip Code 12936

2. Applicant is (check one or more):
 Property Owner General Contractor Other (Specify)

3. Provide Project Location Information:
 A. County ESSEX
 B. City, Town, Village ESSEX
 C. Tax Map No. (check with assessor) 49.3-2-27.000
 D. Street Address or Directions

4. Provide Names, Addresses, and Telephone Numbers for Individuals Named Below (use additional sheets, if needed):

A. Property Owner	B. Architect or Engineer	C. General Contractor/Builder
<u>LEWIS FARM (MRLCO)</u>		

5. Contractor Insurance
 Workers' Compensation & Disability Benefits Secured by Contractor
 Wages To Be Paid Yes No Policy No.

6. Project Cost Estimate (see instructions) _____ Number Square Feet _____

7. Check All Items That Apply to the Named Projects:

<input type="checkbox"/> New House/Building	<input type="checkbox"/> Garage/Carport	<input type="checkbox"/> Addition	<input type="checkbox"/> Change of Use
<input type="checkbox"/> Mobile Home	<input type="checkbox"/> Storage Shed	<input type="checkbox"/> Alterations	<input type="checkbox"/> Demolition
<input type="checkbox"/> Manufactured Home	<input type="checkbox"/> Swimming Pool	<input type="checkbox"/> Relocation	<input type="checkbox"/> Solid Fuel
<input type="checkbox"/> Masonry Chimney	<input type="checkbox"/> MFG Chimney	<input type="checkbox"/> Deck	<input checked="" type="checkbox"/> Other <u>FOUNDATION</u>

Construction Class
 Type 1 Fire Resistive Type 3 Heavy Timber Type 5 Wood Frame
 Type 2 Noncombustible Type 4 Ordinary Unknown

Occupancy Use Classifications
 A1 One-Family Dwelling C1 Business
 A2 Two-Family Dwelling C2 Mercantile
 B1 Multiple Dwelling Apartments C3 Industrial
 B2 Multiple Dwelling Hotel/Motel C4 Storage
 B3 Multiple Dwelling Sr. Citizen C5 Assembly
 B4 Multiple Dwelling Adult Residential Care C6 Institutional
 C7 Miscellaneous

8. A. Is the site within a flood plain? _____ Yes _____ No
 B. Is the site in whole or in part a designated wetland? _____ Yes _____ No
 C. Is the site under APA jurisdiction? _____ Yes _____ No
 D. Is the site under local zoning jurisdiction? _____ Yes _____ No
 E. "X" all of the following that describe the provisions for water and sewer:
 Public Water System New Private Well Prior Existing Private Well
 Public Sewer System New Septic System Prior Existing Sewer System
 Other

9. What will be the method of providing heat?
 Primary: _____ Secondary: _____ None

10. Plans are (see instructions):
 Enclosed/Attached Shipped Separately Not Supplied

11. Has any work covered by this application been started or completed? Yes No
 * If yes, read instructions carefully and provide a description and explanation →

12. APPLICATION CERTIFICATION - I hereby certify that I have read the instructions and examined the same to be true and correct. All provisions of laws and ordinances covering this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or land use or the performance of construction.

Signature of Applicant/Authorized Agent _____ Date NOV. 30, 06

Consult instructions on attached sheet about appropriate fee. Mailing instructions are on reverse side. Make check payable to Town of Essex Building Codes Department.

OFFICE USE ONLY

Date Received	Reviewed	Approved / Disapproved	Permit No.	Inspections																
				1	2	3	4	5	6	7	8	9	10							
<u>11-30-06</u>	<u>11-30-06</u>	<u>11-30-06</u>	<u>A-662</u>																	

Special Conditions:

MARCO

1/24/90

Building Permit Application Town of Essex Building Codes Permit No. A-662

READ INSTRUCTIONS ON REVERSE BEFORE COMPLETING THIS APPLICATION

1. Applicant's Name LEWIS FAMILY FARM Daytime Phone No. ()

Street Address 1058 W HOLLOWAY City ESSEX State N.Y. Zip Code 12936

2. Applicant is (check one or more): Property Owner General Contractor Other (Specify)

3. Provide Project Location Information: A. County ESSEX B. City, Town, Village ESSEX C. Tax Map No. (check with assessor) 49.3-2-27.00 D. Street Address or Directions

Table with 3 columns: A. Property Owner, B. Architect or Engineer, C. General Contractor/Builder. Row 1: LEWIS FARM

5. Contractor Insurance Workers' Compensation & Disability Benefits Secured by Contractor Wages To Be Paid Yes No Policy No.

6. Project Cost Estimate (see instructions) Number Square Feet

7. Check All Items That Apply to the Named Projects: New House/Building, Mobile Home, Manufactured Home, Masonry Chimney, Garage/Carport, Storage Shed, Swimming Pool, MFG Chimney, Addition, Alterations, Relocation, Deck, Change of Use, Demolition, Solid Fuel, Other FOUNDATION, Type 1 Fire Resistive, Type 2 Noncombustible, Type 3 Heavy Timber, Type 4 Ordinary, Type 5 Wood Frame, Unknown.

Occupancy Use Classifications: A1 One-Family Dwelling, A2 Two-Family Dwelling, B1 Multiple Dwelling Apartments, B2 Multiple Dwelling Hotel/Motel, J3 Multiple Dwelling Sr. Citizen, B4 Multiple Dwelling Adult Residential Care, C1 Business, C2 Mercantile, C3 Industrial, C4 Storage, C5 Assembly, C6 Institutional, C7 Miscellaneous.

9. What will be the method of providing heat? Primary: Secondary: None

10. Plans are (see instructions): Enclosed/Attached Shipped Separately Not Supplied

11. Has any work covered by this application been started or completed? Yes No

12. APPLICATION CERTIFICATION - I hereby certify that I have read the instructions and examined the same to be true and correct. All provisions of laws and ordinances covering this type of work will be complied with whether specified herein or not.

Signature of Applicant/Authorized Agent Barbara Lewis (M.M.) Date NOV. 30, 06

Consult instructions on attached sheet about appropriate fee. Mailing instructions are on reverse side. Make check payable to Town of Essex Building Codes Department.

OFFICE USE ONLY table with columns: Date Received, Reviewed, Approved/Disapproved, Permit No., Inspections (1-10), CO or CC Issued. Values: 11-30-06, 11-30-06, 11-30-06, A-662

Special Conditions:

NORTH COTTAGE

1/24/90

Building Permit Application

Town of Essex Building Codes

Permit No.

A-662

READ INSTRUCTIONS ON REVERSE BEFORE COMPLETING THIS APPLICATION

1. Applicant's Name LEWIS FAMILY FARM Daytime Phone No. ()

Street Address 1058 W HALLONSAY City ESSEX State N.Y. Zip Code 12936

2. Applicant is (check one or more):
 Property Owner General Contractor Other (Specify)

3. Provide Project Location Information:
 A. County ESSEX
 B. City, Town, Village ESSEX
 C. Tax Map No. (check with assessor) 49.3-2-27.028
 D. Street Address or Directions

4. Provide Names, Addresses, and Telephone Numbers for Individuals Named Below (use additional sheets, if needed):

A. Property Owner	B. Architect or Engineer	C. General Contractor/Builder
<u>LEWIS FARM</u>		

5. Contractor Insurance
 Workers' Compensation & Disability Benefits Secured by Contractor
 Wages To Be Paid Yes No Policy No. _____

6. Project Cost Estimate (see instructions) _____ Number Square Feet _____

7. Check All Items That Apply to the Named Projects:

<input type="checkbox"/> New House/Building	<input type="checkbox"/> Garage/Carport	<input type="checkbox"/> Addition	<input type="checkbox"/> Change of Use
<input type="checkbox"/> Mobile Home	<input type="checkbox"/> Storage Shed	<input type="checkbox"/> Alterations	<input type="checkbox"/> Demolition
<input type="checkbox"/> Manufactured Home	<input type="checkbox"/> Swimming Pool	<input type="checkbox"/> Relocation	<input type="checkbox"/> Solid Fuel
<input type="checkbox"/> Masonry Chimney	<input type="checkbox"/> MFG Chimney	<input type="checkbox"/> Deck	<input type="checkbox"/> Other

Construction Class
 Type 1 Fire Resistive Type 3 Heavy Timber Type 5 Wood Frame
 Type 2 Noncombustible Type 4 Ordinary Unknown

Occupancy Use Classifications
 A1 One-Family Dwelling C1 Business
 A2 Two-Family Dwelling C2 Mercantile
 B1 Multiple Dwelling Apartments C3 Industrial
 B2 Multiple Dwelling Hotel/Motel C4 Storage
 B3 Multiple Dwelling Sr. Citizen C5 Assembly
 B4 Multiple Dwelling Adult Residential Care C6 Institutional
 C7 Miscellaneous

8. A. Is the site within a flood plain? _____ Yes _____ No
 B. Is the site in whole or in part a designated wetland _____ Yes _____ No
 C. Is the site under APA jurisdiction? _____ Yes _____ No
 D. Is the site under local zoning jurisdiction? _____ Yes _____ No
 E. "X" all of the following that describe the provisions for water and sewer:
 Public Water System New Private Well Prior Existing Private Well
 Public Sewer System New Septic System Prior Existing Sewer System
 Other

9. What will be the method of providing heat?
 Primary: _____ Secondary: _____ None

10. Plans are (see instructions):
 Enclosed/Attached Shipped Separately Not Supplied

11. Has any work covered by this application been started or completed? Yes No
 * If yes, read instructions carefully and provide a description and explanation →

12. APPLICATION CERTIFICATION - I hereby certify that I have read the instructions and examined the same to be true and correct. All provisions of laws and ordinances covering this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or land use or the performance of construction.

Signature of Applicant/Authorized Agent _____ Date NOV. 30, 06

Consult instructions on attached sheet about appropriate fee. Mailing instructions are on reverse side. Make check payable to Town of Essex Building Codes Department.

OFFICE USE ONLY

Date Received	Reviewed	Approved / Disapproved	Permit No.	Inspections																
				1	2	3	4	5	6	7	8	9	10							
<u>11-30-06</u>	<u>11-30-06</u>	<u>11-30-06</u>	<u>A-662</u>																	

Special Conditions:

SOUTH COTTAGE

1/24/90

Building Permit Application

Town of Essex Building Codes

Permit No.

A-662

READ INSTRUCTIONS ON REVERSE BEFORE COMPLETING THIS APPLICATION

1. Applicant's Name LEWIS FAMILY FARM Daytime Phone No. ()

Street Address 1058 WHALLOUSBAY City ESSEX State N.Y. Zip Code 12936

2. Applicant is (check one or more):
 Property Owner General Contractor Other (Specify)

3. Provide Project Location Information:
 A. County ESSEX
 B. City, Town, Village ESSEX
 C. Tax Map No. (check with assessor) 49.3-2-27.080
 D. Street Address or Directions

4. Provide Names, Addresses, and Telephone Numbers for Individuals Named Below (use additional sheets, if needed):

A. Property Owner	B. Architect or Engineer	C. General Contractor/Builder
<u>LEWIS FARM</u>		

5. Contractor Insurance
 Workers' Compensation & Disability Benefits Secured by Contractor
 Wages To Be Paid Yes No Policy No. _____

6. Project Cost Estimate (see instructions) _____ Number Square Feet _____

7. Check All Items That Apply to the Named Projects:

<input type="checkbox"/> New House/Building	<input type="checkbox"/> Garage/Carport	<input type="checkbox"/> Addition	<input type="checkbox"/> Change of Use
<input type="checkbox"/> Mobile Home	<input type="checkbox"/> Storage Shed	<input type="checkbox"/> Alterations	<input type="checkbox"/> Demolition
<input type="checkbox"/> Manufactured Home	<input type="checkbox"/> Swimming Pool	<input type="checkbox"/> Relocation	<input type="checkbox"/> Solid Fuel
<input type="checkbox"/> Masonry Chimney	<input type="checkbox"/> MFG Chimney	<input type="checkbox"/> Deck	<input checked="" type="checkbox"/> Other <u>FOUNDATION</u>

Construction Class
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8. A. Is the site within a flood plain? _____ Yes _____ No
 B. Is the site in whole or in part a designated wetland? _____ Yes _____ No
 C. Is the site under APA jurisdiction? _____ Yes _____ No
 D. Is the site under local zoning jurisdiction? _____ Yes _____ No
 E. "X" all of the following that describe the provisions for water and sewer:
 Public Water System New Private Well Prior Existing Private Well
 Public Sewer System New Septic System Prior Existing Sewer System
 Other

9. What will be the method of providing heat?
 Primary: _____ Secondary: _____ None

10. Plans are (see instructions):
 Enclosed/Attached Shipped Separately Not Supplied

11. Has any work covered by this application been started or completed? Yes No
 * If yes, read instructions carefully and provide a description and explanation ->

12. APPLICATION CERTIFICATION - I hereby certify that I have read the instructions and examined the same to be true and correct. All provisions of laws and ordinances covering this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or land use or the performance of construction.

Signature of Applicant/Authorized Agent _____ Date NOV. 30, 06

Consult instructions on attached sheet about appropriate fee. Mailing instructions are on reverse side. Make check payable to Town of Essex Building Codes Department.

OFFICE USE ONLY		Inspections										
		1	2	3	4	5	6	7	8	9	10	
Date Received	11-30-06	Permit No.	A-662									
Approved / Disapproved	Approved <input checked="" type="checkbox"/>	Reviewed	11-30-06									
Special Conditions:												

C

Building Codes Department

Main Street

Essex, NY 12936

It shall be the responsibility of the owner, applicant, or his agent to inform the Building Inspector that the building is ready for inspection as the stages of construction listed below are complete.

NUMBER: A-656,657,658

DATE: 11-14-06

This notice, which must be prominently displayed on the property or premises to which it pertains, indicates that a

BUILDING PERMIT

has been issued to LEWIS FAMILY FARM

permitting CONSTRUCTION OF 3 FOUNDATIONS FOR 3 SINGLE FAMILY HOMES AS PER APPLICATION.

at 909 W HALLONSBAY RD ESSEX, N.Y. 12936

All work shall be executed in strict compliance with the permit application, approved plans, the Uniform Fire Prevention and Building Code, and all other laws, rules and regulations which apply. The building permit does not constitute authority to build in violation of any federal, state, or local law, or other rule or regulation.

Do not proceed beyond these points until countersigned below by the Inspector.

Footing before pouring concrete ... _____ Foundation before backfill _____

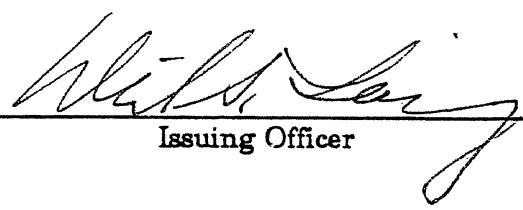
Framing before enclosing _____ Electrical before enclosing _____

Inspection to be done by electrical inspection agency

Plumbing before enclosing _____ Heating, Ventilation, Air Conditioning before enclosing.. _____

Insulation Inspection _____ Final Inspection _____

Permission is hereby granted to proceed with the work as set forth in the specifications, plans, or statements now on file in this Department. Any amendments made to the original plans and specifications must first be submitted for approval.



Issuing Officer

D

TOWN OF ESSEX
Building Codes Department
Main Street
Essex, NY 12936

It shall be the responsibility of the owner, applicant, or his agent to inform the Building Inspector that the building is ready for inspection as the stages of construction listed below are complete.

NUMBER: A-698 DATE: 6-25-07

MARCC HOME
This notice, which must be prominently displayed on the property or premises to which it pertains, indicates that a

BUILDING PERMIT

has been issued to LEWIS FAMILY FARM

permitting CONSTRUCTION-INSTALLATION OF A

PREFAB HOME AS PER DWGS (2,350
SQ FT.

at CROSS RD & W HALLSBAY RD ESSEX, NY

All work shall be executed in strict compliance with the permit application, approved plans, the Uniform Fire Prevention and Building Code, and all other laws, rules and regulations which apply. The building permit does not constitute authority to build in violation of any federal, state, or local law, or other rule or regulation.

Do not proceed beyond these points until countersigned below by the Inspector.

Footings before pouring concrete ... _____	Foundation before backfill _____
Framing before enclosing _____	Electrical before enclosing _____
	Inspection to be done by electrical inspection agency
Plumbing before enclosing _____	Heating, Ventilation, Air Conditioning before enclosing.. _____
Insulation Inspection _____	Final Inspection _____

Permission is hereby granted to proceed with the work as set forth in the specifications, plans, or statements now on file in this Department. Any amendments made to the original plans and specifications must first be submitted for approval.

Luigi J. Lansing
Issuing Officer

TOWN OF ESSEX
Building Codes Department
Main Street
Essex, NY 12936

It shall be the responsibility of the owner, applicant, or his agent to inform the Building Inspector that the building is ready for inspection as the stages of construction listed below are complete.

NUMBER: A-699

DATE: 6-25-07

RESIDENCE #1

This notice, which must be prominently displayed on the property or premises to which it pertains, indicates that a

BUILDING PERMIT

has been issued to LEWIS FAMILY FARM

permitting CONSTRUCTION OF A MODULAR HOME

SINGLE FAMILY 2,356 SQFT AS PER

DWGS.

at FORMER WALKER SITE - WHALLOWSBAY RD
ESSEX

All work shall be executed in strict compliance with the permit application, approved plans, the Uniform Fire Prevention and Building Code, and all other laws, rules and regulations which apply. The building permit does not constitute authority to build in violation of any federal, state, or local law, or other rule or regulation.

Do not proceed beyond these points until countersigned below by the Inspector.

Footing before pouring concrete ... _____ Foundation before backfill _____

Framing before enclosing _____ Electrical before enclosing _____

Inspection to be done by electrical inspection agency

Plumbing before enclosing _____ Heating, Ventilation, Air
Conditioning before enclosing.. _____

Insulation Inspection _____ Final Inspection _____

Permission is hereby granted to proceed with the work as set forth in the specifications, plans, or statements now on file in this Department. Any amendments made to the original plans and specifications must first be submitted for approval.

Lewis S. Lansing
Issuing Officer

TOWN OF ESSEX
Building Codes Department
Main Street
Essex, NY 12936

It shall be the responsibility of the owner, applicant, or his agent to inform the Building Inspector that the building is ready for inspection as the stages of construction listed below are complete.

NUMBER: A-700 DATE: 6-25-07

NORTH COTTAGE
This notice, which must be prominently displayed on the property or premises to which it pertains, indicates that a

BUILDING PERMIT

has been issued to LEWIS FAMILY FARM

permitting CONSTRUCTION OF MODULAR HM (SINGLE FAMILY) 2,350 SQ FT ASPEN DWGS

CAROLYN
at FORNER WALKER SITE, WHALLONS BAY RD ESSEX

All work shall be executed in strict compliance with the permit application, approved plans, the Uniform Fire Prevention and Building Code, and all other laws, rules and regulations which apply. The building permit does not constitute authority to build in violation of any federal, state, or local law, or other rule or regulation.

Do not proceed beyond these points until countersigned below by the Inspector.

- | | |
|---|---|
| Footing before pouring concrete ... _____ | Foundation before backfill _____ |
| Framing before enclosing _____ | Electrical before enclosing _____ |
| | Inspection to be done by electrical inspection agency |
| Plumbing before enclosing _____ | Heating, Ventilation, Air Conditioning before enclosing.. _____ |
| Insulation Inspection _____ | Final Inspection _____ |

Permission is hereby granted to proceed with the work as set forth in the specifications, plans, or statements now on file in this Department. Any amendments made to the original plans and specifications must first be submitted for approval.

Lewis Lansing
Issuing Officer

TOWN OF ESSEX
Building Codes Department
Main Street
Essex, NY 12936

It shall be the responsibility of the owner, applicant, or his agent to inform the Building Inspector that the building is ready for inspection as the stages of construction listed below are complete.

NUMBER: A-701

DATE: 6-25-07

50 COTTAGE

This notice, which must be prominently displayed on the property or premises to which it pertains, indicates that a

BUILDING PERMIT

has been issued to LEWIS FAMILY FARM

permitting CONSTRUCTION OF MODULAR HOME (SINGLE FAMILY) 2,350 SQFT AS PER DWGS

at CAROLYN FORMER WAKEL SITE W HAWKESBAY RD ESSEX

All work shall be executed in strict compliance with the permit application, approved plans, the Uniform Fire Prevention and Building Code, and all other laws, rules and regulations which apply. The building permit does not constitute authority to build in violation of any federal, state, or local law, or other rule or regulation.

Do not proceed beyond these points until countersigned below by the Inspector.

Footing before pouring concrete ... _____ Foundation before backfill _____

Framing before enclosing _____ Electrical before enclosing _____

Inspection to be done by electrical inspection agency

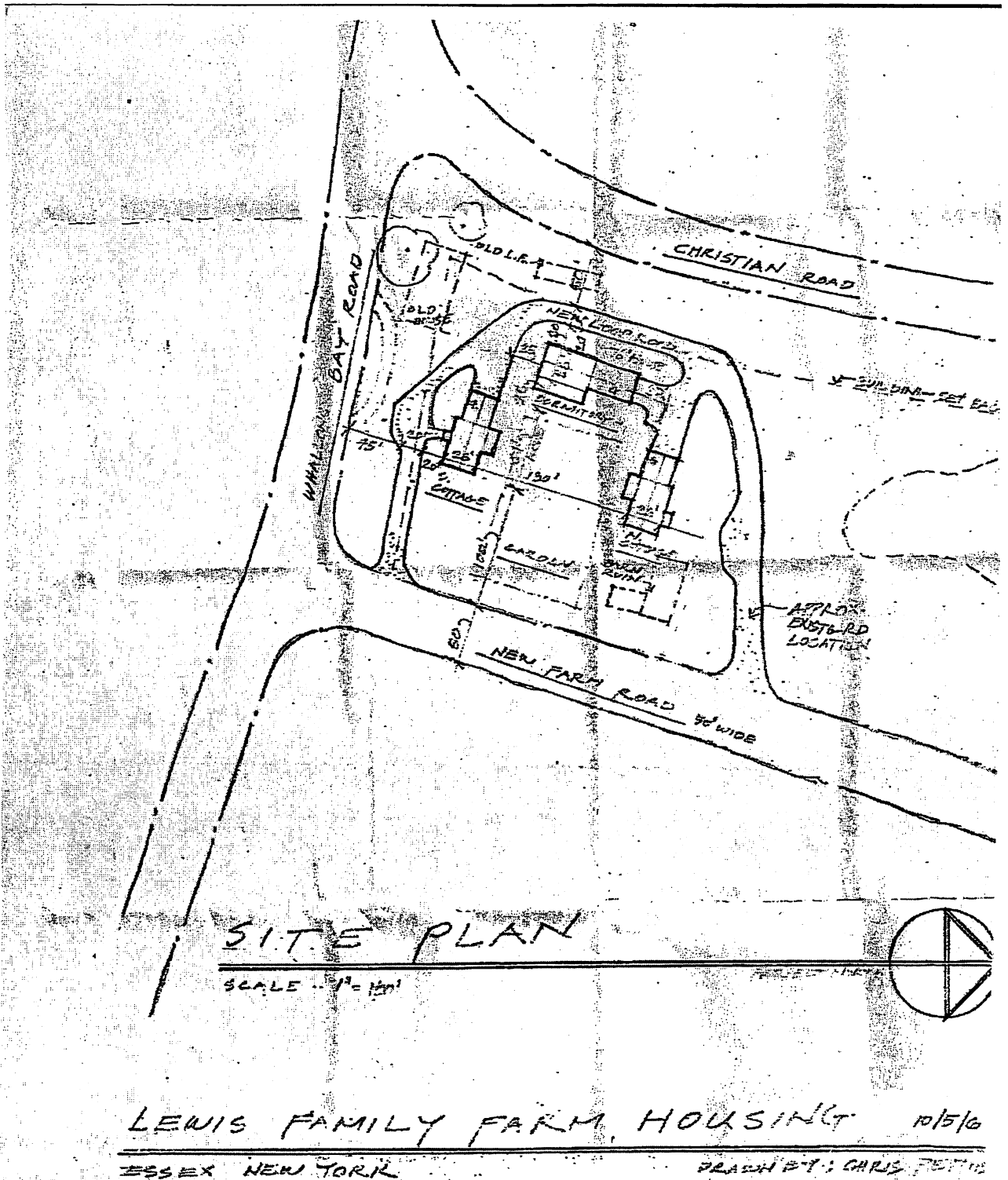
Plumbing before enclosing _____ Heating, Ventilation, Air Conditioning before enclosing.. _____

Insulation Inspection _____ Final Inspection _____

Permission is hereby granted to proceed with the work as set forth in the specifications, plans, or statements now on file in this Department. Any amendments made to the original plans and specifications must first be submitted for approval.

Luigi S. Lansing
Issuing Officer

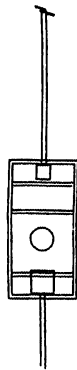
E



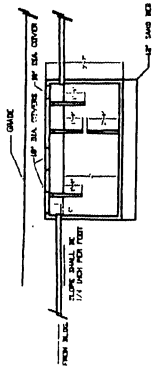
The Lewis Family Farm employee housing cluster, as engineered and approved by the Town of Essex. (Lewis Aff., Ex. B).

Residence I is labeled "Dormitory" in October 2006.

REQUIRED LENGTH OF ABSORPTION TRENCH			
PERC. RATE	FLOW RATE (GALS./DAY)		
MIN./INCH	2 BDRM (220)	3 BDRM (330)	4 BDRM (440)
13			273
SEPTIC TANK SIZE (GAL)	1,250		



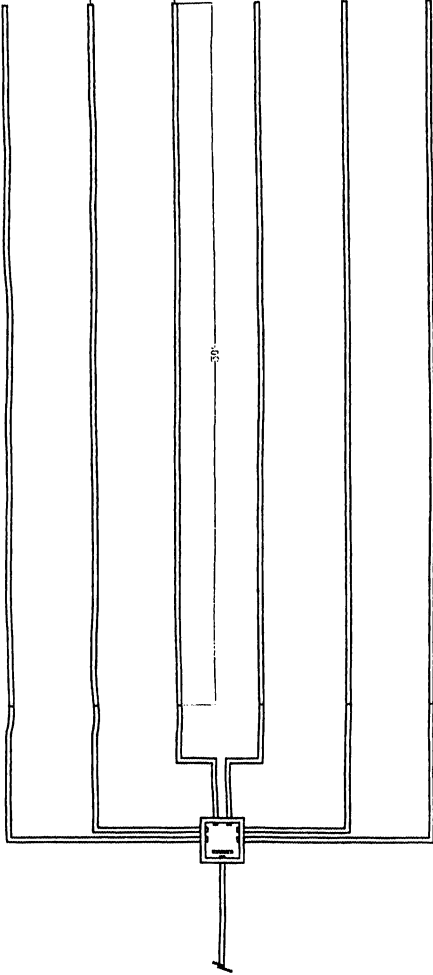
1,250 GAL. SEPTIC TANK
(TYP.)



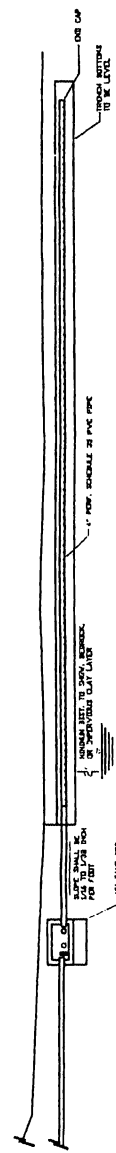
1,250 GAL. SEPTIC TANK
(TYP.)

DEEP HOLE TESTS			NOTES
TEST HOLE	DEPTH	SHGW	BEHROCK
TP 1	93'	34'	>93'
			0-15" SAND, 15-23" SANDY CLAY LOAM, 23-34" CLAY W/12" STONES, 34-41" SANDY CLAY, 41-93" CLAY, WATER @ 41', MOTTLING @ 34'

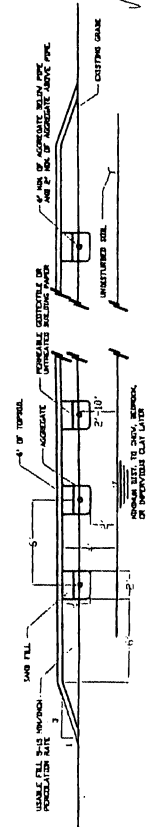
PERCOLATION TEST RATES			
TEST HOLE	DEPTH	PERC. RATE (MIN./IN)	DATE
SP 1	15'	13	8-31-07
SP 2	10'	10	8-31-07



ABSORPTION FIELD PLAN VIEW
LATERALS SHOULD BE OF EQUAL LENGTH
AND 30 FT. OR LESS IN LENGTH



ABSORPTION FIELD SECTION



ABSORPTION FIELD SECTION

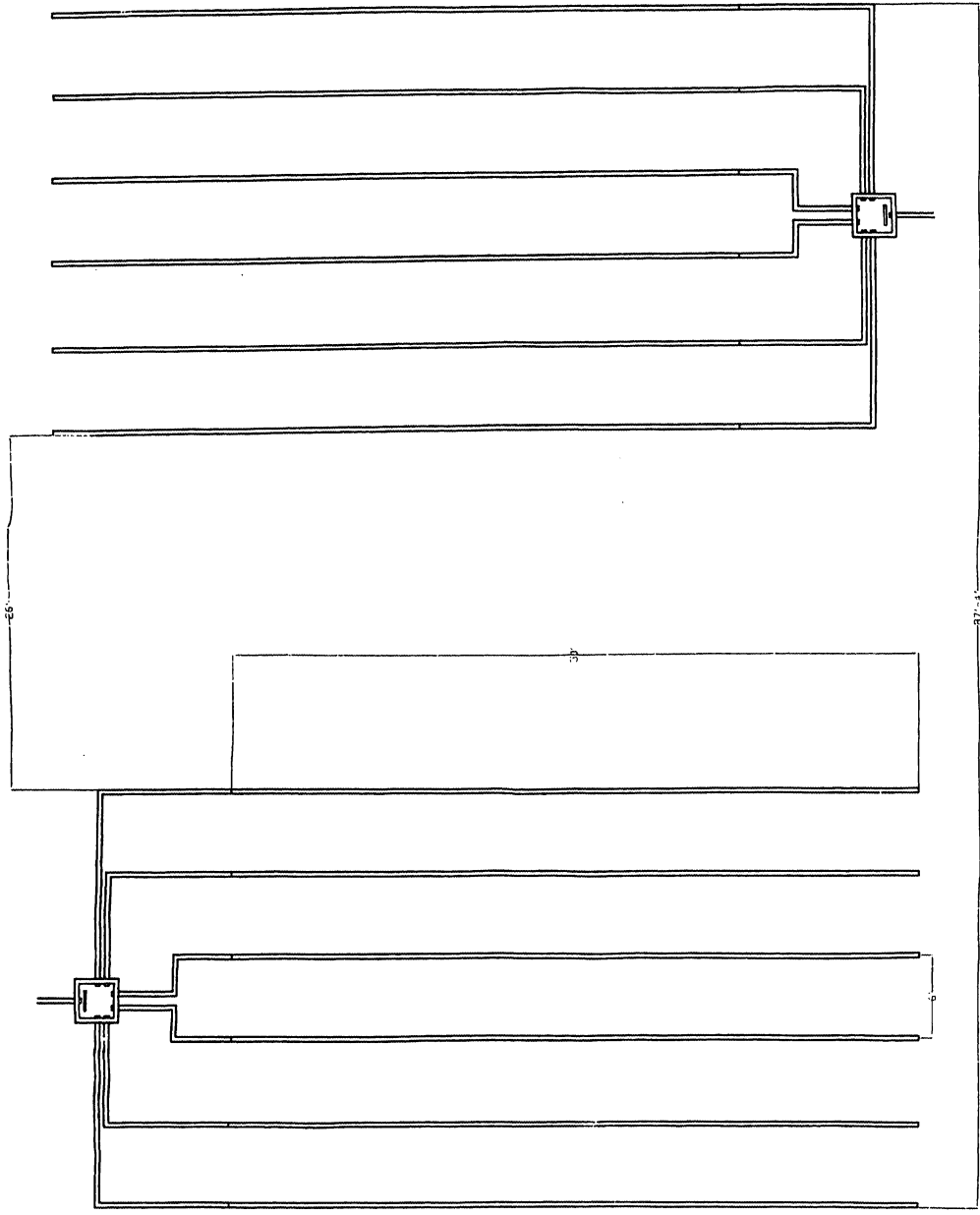


LEVITS HOUSE PROJECT
WHALLONS BAY ROAD
WHALLONSBURG, NY
SEPTIC SYSTEM

DATE: 10-02-06
SCALE: NONE

REVISED: 3-2-07
REVISIONS: 9-17-07

GENERAL NOTES:
1) MIN. 12" FILL OVER SEPTIC TANK, PUMP STATION, OR REQUIRED AND DIST. BOX.
2) ALL TRENCHES, PUMP STATIONS, AND BOXES TO BE CONCRETE, 4" MIN. THICKNESS.
3) TO CONFORM TO SECTION 200.00 OF NYS PUBLIC HEALTH LAW, APPENDIX 75-A
4) ALL TRENCH, PUMP STATIONS, AND BOXES TO BE 12" MIN. WATER TIGHT
5) ALL PIPE TO BE SCHEDULE 40 PVC UNLESS OTHERWISE SPECIFIED.



ABSORPTION FIELD PLAN VIEW
(TYP.)

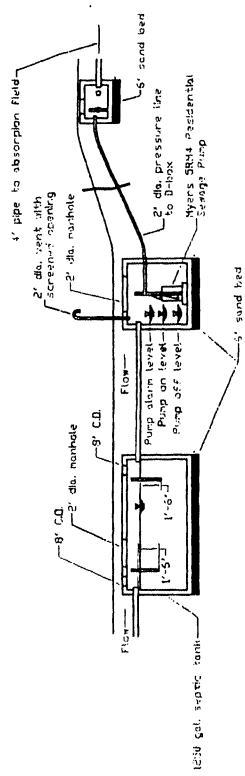
LEWIS HOUSE PROJECT
WHALLONS BAY ROAD
WHALLONSBURG, NY
ABSORPTION FIELD

REVISED: 9-2-07	DATE: 10-30-06	BY: JMK	PROJECT
REVISED: 8-17-07	SCALE: NONE		

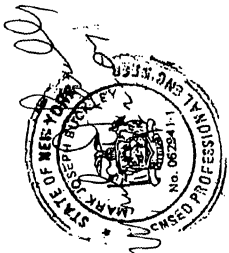
NOTES:

- 1) Min. 12" cover over septic tank, pump station and dist. box.
- 2) Septic tank baffles to have one inch clear on top.
- 3) Slope on all non-perforated gravity pipe to be 1/8" per L.F. unless otherwise noted.
- 4) All tanks, pump stations, and boxes to be concrete (3000 psi). Size and specifications to conform to NYSDOH Design Handbook for Individual Residential Wastewater Treatment Systems dated 1996.
- 5) All tanks, pump stations and boxes to be water tight.
- 6) Pump Stations to be supplied with:
 - a) Union for disconnection of press. line.
 - b) Moisture resistant junction box.
- 7) All solid pipe to be schedule 40 PVC.
- 8) Alarm panel for pump station to be located in dwelling. Electrical service to have separate GFI breaker.
- 9) Inlet on septic tank and D-box to be 2" higher than outlet.
- 10) Dose capacity of pump station should be set at 75% to 85% of the pipe network volume.
- 11) Pump Sta. tank to hold one days capacity between pump high level alarm and inlet from septic tank.
- 12) Install pump station only if absorption field can not be fed by gravity

SYSTEM COMPONENT	REQUIRED SEPARATION DISTANCES FROM WASTEWATER SYSTEM COMPONENTS (FEET)			
	USL TO SUCTON LINE	SEPTIC TANK OR WASTEWATER VEGETATION	PROPERTY LINE	DRAINAGE DITCH
HOUSE SEWER	50	25	10	-
SEPTIC TANK	50	50	10	10
EFFLUENT LINE TO DISTRIBUTION BOX	50	50	10	10
DISTRIBUTION BOX	100	100	10	20
ABSORPTION FIELD	100	100	10	20
SEEPAGE PIT	150	100	10	20
DRY WELL (DEEP AND FLOATING)	50	25	10	10
RAISED OR HUND SYSTEM	100	100	10	20



SEPTIC TANK, PUMP STATION AND DIST. BOX X-SECTION



LEWIS HOUSE PROJECT	GRAVEY BAY PARK, HICKOLEY
WHALLENS BAY ROAD	
WHALLENSBURG, NY	
SITE PLAN	
DATE: 9-2-07	
SCALE: NONE	

F

FARM
MANAGER'S
RESIDENCE

TOWN OF ESSEX
Building Codes Department
Main Street
Essex, NY 12936

It shall be the responsibility of the owner, applicant, or his agent to inform the Building Inspector that the building is ready for inspection as the stages of construction listed below are complete.

NUMBER: A-710

DATE: 8-8-07

This notice, which must be prominently displayed on the property or premises to which it pertains, indicates that a

BUILDING PERMIT

has been issued to LEWIS FARM

permitting CONSTRUCTION OF AN ON SITE SEPTIC SYSTEM AS PER P.E. MARK BUCKLEY PLANS

at MARCUS TUNCO RESIDENCE (W HAZZONS BAY B)

All work shall be executed in strict compliance with the permit application, approved plans, the Uniform Fire Prevention and Building Code, and all other laws, rules and regulations which apply. The building permit does not constitute authority to build in violation of any federal, state, or local law, or other rule or regulation.

Do not proceed beyond these points until countersigned below by the Inspector.

Footing before pouring concrete ... _____ Foundation before backfill _____

Framing before enclosing _____ Electrical before enclosing _____
Inspection to be done by electrical inspection agency

Plumbing before enclosing _____ Heating, Ventilation, Air
Conditioning before enclosing.. _____

Insulation Inspection _____ Final Inspection _____

Permission is hereby granted to proceed with the work as set forth in the specifications, plans, or statements now on file in this Department. Any amendments made to the original plans and specifications must first be submitted for approval.

Lewis Lansing
Issuing Officer

RESIDENCE
1

TOWN OF ESSEX
Building Codes Department
Main Street
Essex, NY 12936

It shall be the responsibility of the owner, applicant, or his agent to inform the Building Inspector that the building is ready for inspection as the stages of construction listed below are complete.

NUMBER: A-716

DATE: 9-19-07

This notice, which must be prominently displayed on the property or premises to which it pertains, indicates that a

BUILDING PERMIT

has been issued to LEWIS FAMILY FARM
permitting CONSTRUCTION OF SEPTIC SYSTEM
AS PER PLANS

at 52 CHRISTIAN RD ESSEX, N.Y. 12936

All work shall be executed in strict compliance with the permit application, approved plans, the Uniform Fire Prevention and Building Code, and all other laws, rules and regulations which apply. The building permit does not constitute authority to build in violation of any federal, state, or local law, or other rule or regulation.

Do not proceed beyond these points until countersigned below by the Inspector.

- | | |
|--|---|
| Footings before pouring concrete ... _____ | Foundation before backfill _____ |
| Framing before enclosing _____ | Electrical before enclosing _____ |
| | Inspection to be done by electrical inspection agency _____ |
| Plumbing before enclosing _____ | Heating, Ventilation, Air Conditioning before enclosing.. _____ |
| Insulation Inspection _____ | Final Inspection _____ |

Permission is hereby granted to proceed with the work as set forth in the specifications, plans, or statements now on file in this Department. Any amendments made to the original plans and specifications must first be submitted for approval.

Lewis Lansing
Issuing Officer

SOUTH
COTTAGE

TOWN OF ESSEX
Building Codes Department
Main Street
Essex, NY 12936

It shall be the responsibility of the owner, applicant, or his agent to inform the Building Inspector that the building is ready for inspection as the stages of construction listed below are complete.

NUMBER: A-715

DATE: 9/19/07

This notice, which must be prominently displayed on the property or premises to which it pertains, indicates that a

BUILDING PERMIT

has been issued to LEWIS FAMILY FARM

permitting CONSTRUCTION OF A SEPTIC SYSTEM
AS PER PLANS

at 52 CHRISTMAS RD ESSEX, NY 12936

All work shall be executed in strict compliance with the permit application, approved plans, the Uniform Fire Prevention and Building Code, and all other laws, rules and regulations which apply. The building permit does not constitute authority to build in violation of any federal, state, or local law, or other rule or regulation.

Do not proceed beyond these points until countersigned below by the Inspector.

Footing before pouring concrete ... _____	Foundation before backfill _____
Framing before enclosing _____	Electrical before enclosing _____
	Inspection to be done by electrical inspection agency
Plumbing before enclosing _____	Heating, Ventilation, Air Conditioning before enclosing.. _____
Insulation Inspection _____	Final Inspection _____

Permission is hereby granted to proceed with the work as set forth in the specifications, plans, or statements now on file in this Department. Any amendments made to the original plans and specifications must first be submitted for approval.

Lucretia Lansing
Issuing Officer

NO 117+
COTTAGE

TOWN OF ESSEX
Building Codes Department
Main Street
Essex, NY 12936

It shall be the responsibility of the owner, applicant, or his agent to inform the Building Inspector that the building is ready for inspection as the stages of construction listed below are complete.

NUMBER: A-714

DATE: 9-19-07

This notice, which must be prominently displayed on the property or premises to which it pertains, indicates that a

BUILDING PERMIT

has been issued to LEWIS FAMILY FARM

permitting CONSTRUCTION OF A SEPTIC SYSTEM

AS PER PLANS

at 52 CHRISTIAN RD ESSEX, NY 12936

All work shall be executed in strict compliance with the permit application, approved plans, the Uniform Fire Prevention and Building Code, and all other laws, rules and regulations which apply. The building permit does not constitute authority to build in violation of any federal, state, or local law, or other rule or regulation.

Do not proceed beyond these points until countersigned below by the Inspector.

Footing before pouring concrete ... _____ Foundation before backfill _____

Framing before enclosing _____ Electrical before enclosing _____

Inspection to be done by electrical inspection agency

Plumbing before enclosing _____ Heating, Ventilation, Air
Conditioning before enclosing.. _____

Insulation Inspection _____ Final Inspection _____

Permission is hereby granted to proceed with the work as set forth in the specifications, plans, or statements now on file in this Department. Any amendments made to the original plans and specifications must first be submitted for approval.

Lucretia Lansing
Issuing Officer

G

Lewis Affidavit

STATE OF NEW YORK
SUPREME COURT

COUNTY OF ESSEX

LEWIS FAMILY FARM, INC.,

Plaintiff.

- vs -

NEW YORK STATE ADIRONDACK PARK AGENCY,

Defendant.

**AFFIDAVIT OF SALIM
B. LEWIS**

Index No. 000498-07

STATE OF NEW YORK)
) ss.:
COUNTY OF ESSEX)

Salim B. Lewis, being duly sworn, deposes and says:

1. I am a shareholder of the Lewis Family Farm, Inc. ("Lewis Farm"), the plaintiff in the above captioned action. I have personal knowledge of the facts stated herein or, where indicated, to be upon information and belief. believe such facts to be true.

2. I offer this affidavit in further support of the Lewis Farm's motion for a temporary restraining order and preliminary injunction, and in opposition to Defendant New York State Adirondack Park Agency's ("APA") motion to dismiss.

3. Since 1978, the Lewis Farm has had the vision of becoming the premier organic farm in New York State. Today's Lewis Farm, I am told, offers a standard to which farms in the region and the nation may aspire.

4. The Lewis Farm started with a few acres around our residence, and now encompasses approximately 1,200 contiguous acres.

5. Among the Lewis Farm's missions, we wish to create and maintain the sustainable USDA certified, National Organic Program organic agriculture model in Essex

County by producing high quality organic food and breeding that will compete in domestic and international markets.

6. To accomplish this goal, the Lewis Farm has invested in modern agricultural equipment, practices and in the people who will perfect these strategies. The Lewis Farm seeks to employ highly educated individuals, increasingly expert in organic farming, people that can propel the Lewis Farm forward, making it the most modern and innovative organic farm in New York State.

7. We are told the Lewis Farm is important to the agricultural economy of Essex County, and to the agricultural future of the region, because it serves as a model that helps other farmers in the region and throughout the state to see that organic farming is profitable and sustainable.

8. The Lewis Farm has progressed from a small, simple, money-losing hay operation, spraying insecticide and herbicide, to a growing, entirely organic, increasingly bio-dynamic and holistic farm that produces and sells grains, hay, and forage crops, and breeds and raises grass-fed, grass-finished beef from a registered organic herd of national importance.

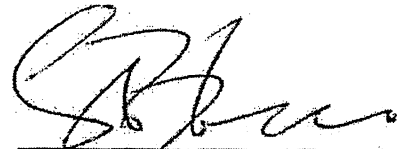
9. We regularly offer local residents, government officials, and other representatives of the organic and environmental communities tours of the Lewis Farm. The purpose of these tours is to educate. Our neighbors, government officials and others learn about organic initiatives and products at the Farm. These tours showcase the culture of cleanliness and commitment among the Lewis Farm employees, giving farm staff the opportunity to show and tell.

10. Several years ago we invited John Banta, Richard Lefebvre, and Mark Sengenberger, among others from the APA, to tour the Lewis farm. The purpose of the tour was to educate.

11. During this tour, I drove Messrs. Banta, Lefebvre, and Sengenberger around the Lewis Farm. I showed the Lewis Farm, explained its history and growth, described its organic initiatives, and showcased the high quality work performed by our employees.

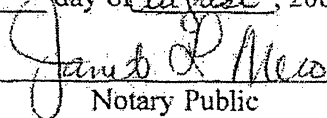
12. The sole purpose of the tour was to educate Messrs. Banta, Lefebvre, and Sengenberger. At no time did I seek their legal opinion regarding any aspect of our operation.

13. When I gave Messrs. Banta, Lefebvre, and Sengenberger a tour of the Lewis Farm, the Lewis Farm had not yet decided to build onsite employee housing, and I did not discuss with Messrs. Banta, Lefebvre, and Sengenberger whether or not such housing would be subject to the APA's permitting authority, nor am I aware that they said it would not be. I do not recall any such discussion.



Salim B. Lewis

Sworn to before me this
7th day of August, 2007


Notary Public

JANET L. MERO
NOTARY PUBLIC STATE OF NEW YORK
NO. 2685403
QUALIFIED IN ESSEX COUNTY 9/30/07
TERM EXPIRES

H



2003 Color infra-red image of a portion of the Lewis Farm where the farm employee housing was constructed. These structures were demolished prior to building the housing.



This is a 2008 image of the clustered housing on the Lewis Farm. Homes will be used to house farm employees. The housing was constructed on the same footprint where a home and barns existed in the 2003 image. The edge of the Hamlet of Whallonsburg, no more than 200 feet away, is evident behind the South Family Cottage.



Farm employee housing clustered together with a combined leach field that will be used by all three structures. The Homes are located in close proximity to the barns.



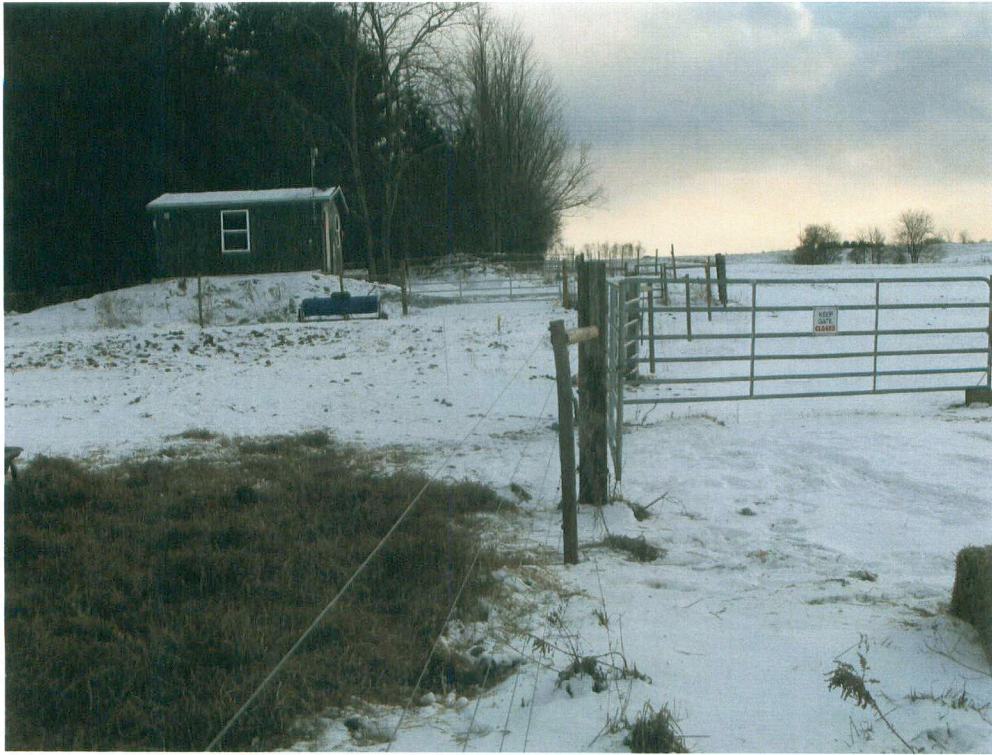
Guest home on the farm. Image taken looking east toward the High Peaks. Such views do not exist where the farm employee housing is located.



Barns housing the farm's equipment is located adjacent to the clustered homes. Common yard will contain the leach field, which will be used by all three of the homes.



The Lewis Family Farm employee housing cluster on Christian Road, looking west.



The Lewis Family Farm cow shed.



Lewis Family Farm's farm manager's house, farm barn, and farm office with orchard and interior Lewis Farm Family road in foreground.



Lewis Family Farm field with wascob in foreground, a soil conservation and sediment control structure.



Lewis Family Farm employee housing cluster; wascobs in field and barn plaza on right. Farm interior gravel road in foreground.



Lewis Family Farm employee housing cluster from Barn Plaza with bridge and wetlands in foreground.



Lewis Family Farm bridge over wetlands with farm office, farm barn, and farm manager's house in background.



Hamlet houses and Lewis Family Farm employee housing cluster looking northeast from the Hamlet's Angier Hill Road.



Traditional Hamlet white house with slate roof and Lewis Family Farm housing cluster looking north from Angier Hill Road.



Traditional neighbor's house with Lewis Family Farm's grain bins on edge of field.



Lewis Family Farm employee housing cluster roofs in background looking east from Hamlet;
Hamlet roofs and wires in foreground.



Hamlet houses and Lewis Family Farm employee housing cluster from Hamlet on Whallons Bay Road.

Martens Affidavit

ADIRONDACK PARK AGENCY

In the Matter of

Agency File: E2007-041

LEWIS FAMILY FARM, INC.,

Respondent.

AFFIDAVIT OF KLAAS MARTENS

State of New York)
) ss.:
County of Yates)

Klaas Martens, being sworn, deposes and says:

1. I live at 1443 Ridge Road, Penn Yan New York. I have been a certified organic farmer for 14 years and grow 1400 acres of grains, beans, vegetables and seed crops.

2. In addition to my work as an organic farmer, I also work as a professional consultant to organic farmers across the country, and have done so for the last ten years. I speak regularly at conferences on organic farming and both my wife, Mary-Howell Martens and myself have written many published articles on organic farming. We work closely with many university researchers and have authored several research papers ourselves.

3. As part of my work as an organic farmer and professional consultant, I have had the opportunity to meet Sandy and Barbara Lewis, and familiarize myself with their farm, the Lewis Family Farm, Inc. ("Lewis Farm"). I have visited and toured the

Lewis Farm on several occasions and am quite familiar with its business and agricultural practices.

4. I believe that Lewis Farm is the most modern and innovative organic farm in New York State, and is a national leader in organic farming.

5. Lewis farm has implemented extensive conservation practices including contour farming, strip cropping, diversion terraces, extensive subsurface drainage, sod waterways, and rock surfaced field roadways that protect and greatly improve the quality of the watersheds that it drains into.

6. They have cleaned up the roadsides and farmsteads on their property making the area far more attractive. They have constructed well built attractive new farm buildings on their property and keep them in excellent condition.

7. Lewis farm has invested heavily in the world's most advanced organic agricultural technology. They employ the most up to date agronomic practices and produce very high yields of excellent quality organic crops.

8. Many organic farmers benefit greatly from the Lewis Farm's presence. Many of the superior practices and machinery that were first employed at Lewis Farm have been adopted by other organic farmers all over the United States and are now common practice on the best operations.

9. Lewis Farm is unique among large organic farms in it's rapid and successful conversion to organic management and adoption of the newest technology.

10. I and other organic farmers have benefited by having the Lewis Farm in New York State because it serves the valuable role of showing other organic farms how to properly implement and use new technology and practices.

11. Due to the complexities of organic farming, any successful organic farm requires skilled professional employees that produce crops and animal products that will meet strict organic standards.

12. Such employees need to be housed onsite so that they can properly monitor and survey the farm and provide around-the-clock surveillance. Due to their high levels of education and training, such employees require proper onsite housing.

13. The Lewis Family Farm faces these same demands and pressures, and has undertaken an ambitious plan to renovate its onsite housing by tearing down all of the old housing and replacing it with new housing.


14. The new employee housing on the Lewis Family Farm is essential and vital for the continued success of the Lewis Family Farm because without, it is unlikely that the Lewis Family Farm will be able to recruit and retain employees with the requisite level of education and training needed to maintain the high standards to which the Lewis Family Farm aspires.

15. The Lewis Family Farm's need for highly educated and well trained employees is even more acute than that of other organic farms because the Lewis Family Farm, due to the resources that the Lewises have dedicated to it, is on the leading edge of agricultural practices and technology.

16. In my experience, on-farm employee housing is a sound agricultural practice and a foundation stone of a self-sustaining farm.


17. I understand that if the APA is successful in imposing its large and unfair fines on Lewis Farm that it will force them into bankruptcy. That would be a tragic loss both to the Adirondack Park and to the many organic farmers in this country who benefit

from the advanced knowledge and organic practices that the Lewis Farm demonstrates and generously shares with other farmers.


Klaas Martens

STATE OF NEW YORK)
) ss.:
COUNTY OF Yates)

On the 17 day of January in the year 2008, before me, the undersigned, a Notary Public in and for said state, personally appeared Klaas Martens, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public Kate H. Decker
Notary Public, State of New York
Reg. No. 01DE6141307
Qualified in Yates County
Commission Expires May 15, 20 10

Privitera Affidavit

ADIRONDACK PARK AGENCY

In the Matter of

LEWIS FAMILY FARM, INC.,

Respondent.

AFFIDAVIT

Agency File: E2007-041

STATE OF NEW YORK)
) ss.:
COUNTY OF ALBANY)

John J. Privitera, being duly sworn, deposes and states as follows:

1. I am duly licensed and admitted to practice law in the State of New York, and I am a principal with the law firm of McNamee, Lochner, Titus & Williams, P.C., attorneys for respondent Lewis Family Farm, Inc. (hereafter "Lewis Family Farm"). As such, I am fully familiar with the pleadings and proceedings had in this action, and with the matters set forth herein.

2. I make this affidavit in support of the Lewis Family Farm's request for dismissal of this enforcement proceeding and annulment of the cease and desist order, and in opposition to staff's application for imposition of penalties without a hearing.

3. Despite the expansiveness of the Adirondack Park, precious agricultural land only makes up a miniscule amount of the Park. Therefore, it is of paramount importance that these lands be protected as valuable open space and that farmers in the Park be encouraged to develop and plant their land. A map of the Park highlighting agricultural district land is attached as **Exhibit "A"**.

4. It is my legal opinion that the New York State Constitution, Agriculture and Markets Law, and Adirondack Park Agency Act, Rivers Act and applicable regulations all require that farm employee housing be exempt from regulation by the Adirondack Park Agency.

5. On November 26, 2007, Commissioner Patrick Hooker of the New York State Department of Agriculture and Markets sent a letter to Chairman Curt Stiles of the Adirondack Park Agency stating that State agriculture policy protects farm worker housing as exempt from regulation by the Adirondack Park Agency. A copy of the November 26, 2007 Letter from Commissioner Hooker is attached as **Exhibit "B"**.

6. Commissioner Hooker's letter reinforces the New York State Department of Agriculture and Markets' official position on farm worker housing as evidenced in the Department's Guidelines for Review of Local Laws Affecting Farm Worker Housing, which were published on August 27, 2003. A copy of the Guidelines is attached as **Exhibit "C"**.

7. As set forth in the accompanying memorandum of law, the Adirondack Park Agency has a constitutional and statutory duty to formulate policy that encourages the development of farming. I have studied all publicly available material concerning this issue and have concluded that the Adirondack Park Agency does not have a published policy that encourages farming or protects the open space and development of farms in the Park. A record of policies listed on the Agency's website is attached as **Exhibit "D"**. It does not include an agricultural policy.

8. Because the Adirondack Park Agency lacks the requisite pro-farm development policy, the Agency must defer to Commissioner Hooker's findings, which represents the state farm policy, as determined by the New York State Department of Agriculture and Markets.

9. Following this general policy of encouraging farming and exempting farm employee housing from Agency regulation would not only comport with the Agency's

constitutional and statutory duties, but it would also aid in combating one of the most pressing issues facing the residents of the Park – affordable housing. The 2006 Annual Report of the Adirondack Park Agency considers reasonably priced housing as one of the three most "important issues for the region's long-term economic viability." (2006 Annual Report, pg. 27). A copy of the relevant excerpts of the 2006 Annual Report is attached as **Exhibit "E"**.

10. The Adirondack Park Agency's enforcement policy provides that cease and desist orders will be issued only in cases "where there is on-going environmental damage." (See Agency's General Enforcement Guidelines, pg. 3). A copy of the Agency's General Enforcement Guidelines is attached as **Exhibit "F"**.

11. Thus, the Agency violated its policy in this case by issuing a cease and desist order to the Lewis Family Farm since there is no on-going environmental damage. Indeed, Agency Staff have sworn that the farm employee housing at issue in this case can stay where it is currently located.

12. The Adirondack Park Agency's website contains the "APA Jurisdictional Table", which serves as a guide to the requirements of the Adirondack Park Agency Act and Wild, Scenic and Recreational Rivers System Act. Interestingly, the APA Jurisdictional Table states that **all agricultural use structures are non-jurisdictional throughout the Park**, including in resource management areas, while forestry use structures are deemed "Class B" projects in resource management areas, but are non-jurisdictional throughout the remainder of the Park. A copy of the APA Jurisdictional Table is attached as **Exhibit "G"**. See page 6.

13. The two farm employee houses at issue in this proceeding are located near the intersection of Whallons Bay Road and Christian Road – less than 200 feet east of the possible eastern edge of the Hamlet of Whallonsburg in the Town of Essex, New York. A map showing the Agency's Land Use Classification in the Town of Essex is attached as **Exhibit "H"**, but this

is a very general color map that does not prove the precise edge of the Hamlet of Whallonsburg. Respondent reserves the right to examine this issue in this proceeding, because Exhibit H suggests Christian Road may be closer to the Hamlet. (See also Affidavit of Douglas Miller, Exhibits B & C). The Lewis Family Farm has clustered its nine barns and three farm employee houses on the edge of the Hamlet of Whallonsburg, which ought to be commended not penalized.

14. Indeed, the Agency really should embrace the Lewis Family Farm for having created much more open space than the Act envisions. The Lewis Family Farm consists of 1200 acres, which is about two square miles. Under the intensity guidelines, if the Lewis Family Farm is destroyed and rendered bankrupt, as is apparently intended by Staff here, it will lay the groundwork for 30 individually owned, scattered houses. However, the careful planning of Barbara Lewis for these 1200 acres puts most of the development at the edges. Moreover, there are only six houses on the Lewis Family Farm, four of which are agricultural use structures.

15. The Lewis Farm employee housing cluster at the corner of Christian Road and Whallons Bay Road, is well planned as essentially part of the Hamlet of Whallonsburg, just as it is well-situated adjacent to Barn Plaza on the Lewis Family Farm. See **Exhibit "I"**.

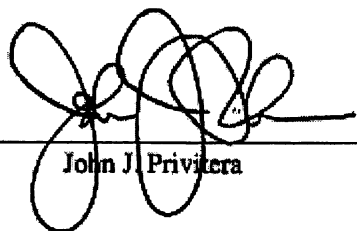
16. The value of agricultural production is of extreme importance in New York State. Governor Eliot Spitzer recently appointed the New York State Council on Food Policy, which issued a report on December 1, 2007. A copy of the New York State Council on Food Policy is attached as **Exhibit "J"**. The primary goal of the Policy is to "expand agricultural production, including locally grown and organically grown food." Policy, pg. 6. This enforcement proceeding, unfounded in policy or law, which seeks to penalize a sound agricultural practice designed to build sustainable efficiency and profitability, is directly contrary to emerging State farm policy, as identified by the New York State Council on Food Policy.

17. As the Governor stated in his first "State of Upstate Address" in Buffalo on January 16, 2008, two executive initiatives are on the horizon which relate directly to the Lewis farm employee housing project. First, a \$100 million "Housing Opportunity Fund" will be created that will assist in building needed upstate housing "that form the building blocks of a sustainable community." In addition, an "Upstate Agribusiness Fund" will be created because, "Agriculture not only matters to us – we are looking to it to become one of the main forces behind upstate's economic revitalization." As the Governor stated:

Agriculture is not just an important part of our economy – it's a way of life in our communities. By supporting our farmers, by giving them the tools they need to access new markets, we will preserve this way of life in New York, and leave stronger farms – and a stronger state – to our children and grandchildren.
See Exhibit "K".

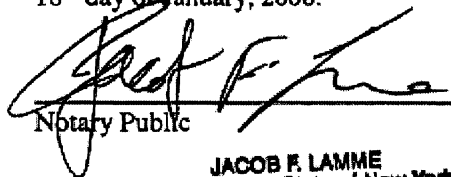
The Agency must breathe life into the Governor's words. There will be no farming "way of life" if farm families cannot live on farms in the Adirondacks.

18. For the reasons set forth herein, and for the reasons set forth in the accompanying affidavits and memorandum of law submitted herewith, the Lewis Family Farm respectfully requests that the Agency dismiss this proceeding in its entirety and annul the cease and desist order.



John J. Privitera

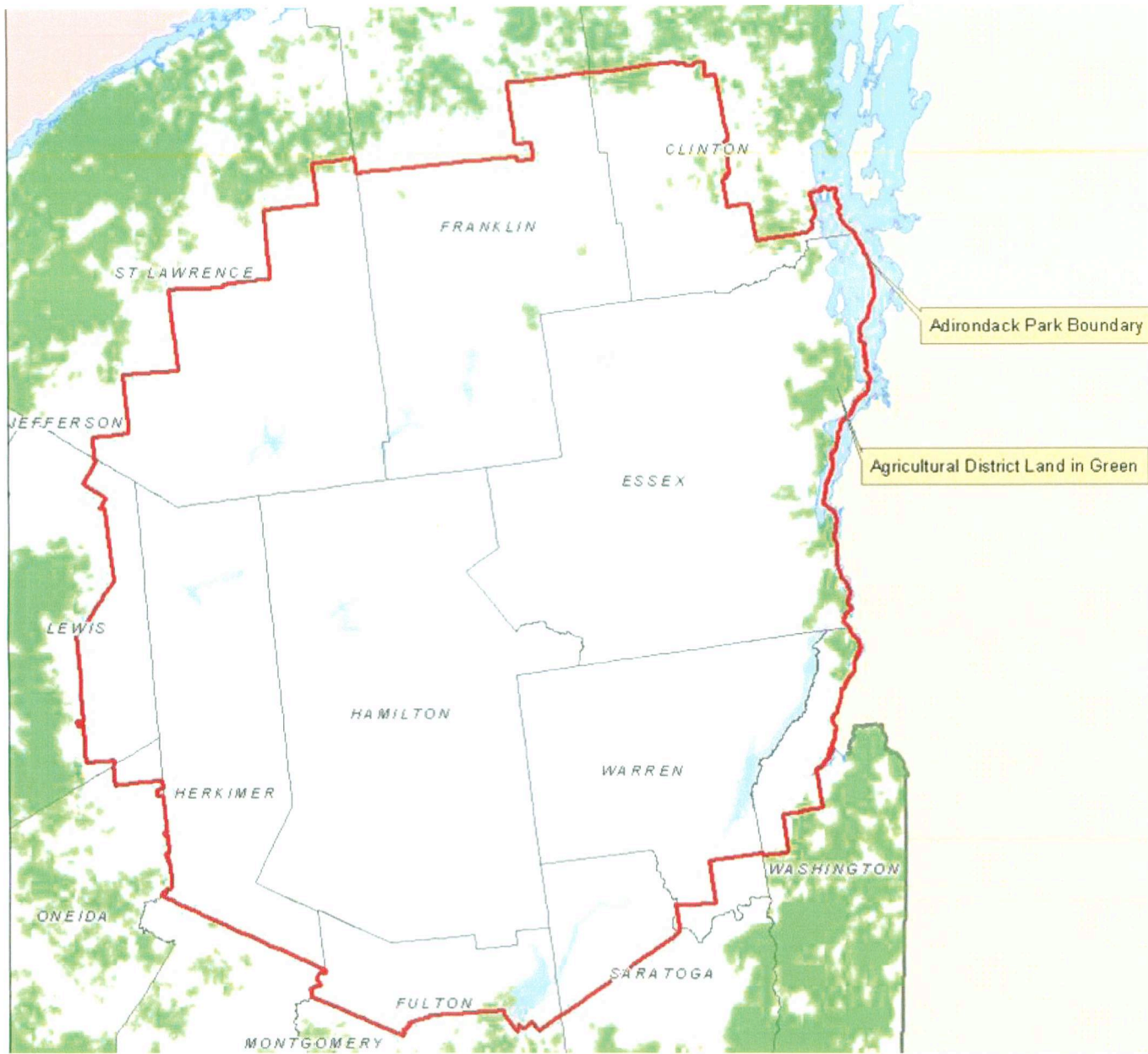
Sworn to before me this
18th day of January, 2008.



Notary Public

JACOB F. LAMME
Notary Public, State of New York
Qualified in Albany County
No. 02LA6150759
Commission Expires Aug. 7, 2010

A



B



STATE OF NEW YORK
DEPARTMENT OF AGRICULTURE AND MARKETS
10B Airline Drive, Albany, New York 12235
518-457-8876 Fax 518-457-3087
www.agmkt.state.ny.us

Eliot Spitzer
Governor

Patrick Hooker
Commissioner

November 26, 2007

Curt Stiles, Chairman
Adirondack Park Agency
PO Box 99
NYS Route 86
Ray Brook, NY 12977

Dear Mr. Stiles:

Congratulations on your recent appointment to Chairman of the Adirondack Park Agency. In that capacity, I am seeking your assistance in trying to resolve an issue between Sandy and Barbara Lewis, Town of Essex, Essex County and the Adirondack Park Agency. Mr. and Mrs. Lewis own and operate one of the State's largest certified organic farms. They have vastly improved their landholdings and have removed many of the older homes on the various farms that have been purchased to make up their landholdings. The Lewis' are in the process of constructing farm worker housing on the farm and were of the belief that such housing is exempt from the APA permitting process. The Department of Agriculture and Markets supports the Lewis' efforts in their attempt to provide modern, energy efficient housing for their employees. The Lewis farm is located within Essex County Agricultural District No. 4, a county adopted, State certified, agricultural district.

On August 8, 2007 one of my staff, Robert Somers, Manager of the Department's Farmland Protection Program, met with Mark Sengenberger, John Banta, Anita Deming and others to discuss the APA's treatment of farm worker housing and temporary greenhouses under State Law. Dr. Somers informs me that the APA maintains that the Lewis' must obtain a permit from that agency prior to constructing such housing even though the Agricultural Districts Law is clear that under certain circumstances farm worker housing is an agricultural structure and part of a "farm operation".

AML §301, subd. 11, defines a "farm operation", in part, as "...the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in subdivision thirteen of this section and "timber processing" as

Curt Stiles, Chairman (cont.)
Adirondack Park Agency
Page 2

defined in subdivision fourteen of this section. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other."

Farm worker housing, including mobile homes (also known as "manufactured homes"), modular or stick built structures, are an integral part of numerous farm operations. Farmers often provide on-farm housing for their farm laborers to, among other things, accommodate the long workday, meet seasonal housing needs and address the shortage of nearby rental housing in rural areas. The use of manufactured or modular homes for farm worker housing is a common farm practice. Manufactured, modular and stick built homes provide a practical and cost effective means for farmers to meet their farm labor housing needs. Farm labor housing used for the on-farm housing of permanent and seasonal employees is part of a farm operation.

The Department's *Guidelines for Review of Local Laws Affecting Farm Worker Housing* (copy enclosed) provides that the term "on-farm buildings" includes housing used as a residence for permanent and seasonal employees. Generally, in evaluating the use of farm labor housing under the AML, the Department considers whether the housing is used for seasonal and/or full-time employees and their families; whether the housing is provided by the farm operator (i.e., the farmer must own the housing); whether the worker is an employee of the farm operator and employed in the farm operation(s); and whether the farm worker is a partner or owner of the farm operation. The Department does not consider the residence of the owner or partner of the farm operation (and their family) to be protected under AML §305-a. The Department has interpreted a seasonal employee to mean migrant workers or workers employed during the season of a crop; i.e., from cultivation to harvest. The Department has not considered part-time employees to be "full-time or seasonal."

Although the Department considers farm worker housing to be part of a farm operation for the purposes of administering AML §305-a, the Department has found that local laws which regulate the health and safety aspects of the construction of farm buildings through provisions to meet local building codes or the State Building Code [unless exempt from the Uniform Code under Building Code §101.2(2) and Fire Code § 102.1(5)] and Health Department requirements for potable water and sewage disposal, are not unreasonably restrictive. Requirements for local building permits and certificates of occupancy to ensure that health and safety requirements are met are also generally not unreasonably restrictive.

State Building Code §101.2(2) provides an exemption from the Building Code for "[a]gricultural buildings used solely in the raising, growing or storage of agricultural products by a farmer engaged in a farming operation." State Building Code §202 defines an agricultural building as "[a] structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. This

Curt Stiles, Chairman (cont.)
Adirondack Park Agency
Page 3

structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public." Therefore, a farm operator must obtain a local building permit for farm worker housing and the housing is subject to the requirements of the State Building Code. It is my understanding that the Lewis farm has obtained the necessary permits from the Town to construct such housing.

The Office of Real Property Services also agrees with the Department's position that housing for farm workers is an agricultural structure. Farm worker housing may qualify for a 10-year real property tax exemption by filing with the local assessor RPT Form RP-483. This is a tax exemption that is applied to newly constructed agricultural and horticultural buildings and structures. I have enclosed the instructions page for the exemption which clearly states that under certain circumstances, farm worker housing is considered an agricultural building.

The Department's position on farm worker housing has been supported by the State's Court of Appeals (Town of Lysander v. Hafner, 98 N.Y.2d 558 [2001]) and pursuant to AML §305, subd. 3, "...it shall be the policy of all State agencies to encourage the maintenance of viable farming in agricultural districts and their administrative regulations and procedures shall be modified to this end..."

I would like to discuss this issue with you further. Please contact me at your earliest convenience.

Sincerely,



Patrick Hooker
Commissioner of the New York Department
of Agriculture and Markets

Enclosures

C

Guidelines for Review of Local Laws Affecting Farm Worker Housing

Farm worker housing, including mobile homes (also known as "manufactured homes"), is an integral part of numerous farm operations. Farmers often provide on-farm housing for their farm laborers to, among other things, accommodate the long workday, meet seasonal housing needs and address the shortage of nearby rental housing in rural areas. The use of manufactured or mobile homes for farm worker housing is a common farm practice. Manufactured or mobile homes provide a practical and cost effective means for farmers to meet their farm labor housing needs. The term "on-farm buildings" includes farm labor housing, including manufactured housing, used for the on-farm housing of permanent and seasonal employees, and is therefore subject to the protection of Agriculture and Markets Law (AML) §305-a.¹

Generally, in evaluating the use of farm labor housing under §305-a, the Department considers whether the housing is used for seasonal and/or full-time employees and their families; is provided by the farm operator (irrespective of whether the operator owns or rents the farm for the production of agricultural products); whether the employee to be housed is engaged in the production function(s) of the farm operation and is not a partner or owner of the farm operation. The Department does not consider the primary residence of the owner or partner of the farm operation to be protected under §305-a.

The degree of regulation of farm worker housing that is considered unreasonable depends on the number of units, size of the structure(s) and the complexity of the housing to be provided. A requirement to apply for a permit is generally not unreasonable. Depending upon the size and complexity of the structure(s) to be built or the number of units to be sited on a farm, a site plan review requirement may be reasonable. The Department urges local governments to take into account the size, complexity and number of units of housing required by the farm operation when setting and administering such requirements. For example, the Department has not considered the need to undergo site plan review, where more than two mobile homes are sited on the same farm complex, unreasonable. However, conditions placed upon the issuance of a permit and/or the cost and time involved to complete site plan review requirements may be unreasonable.

In some cases farmers should exhaust their local administrative remedies and seek, for example, certain permits, exemptions available under a local law or area variances, before the Department reviews the administration of a local law. However, an administrative requirement/process may, itself, be unreasonably restrictive. The Department evaluates the reasonableness of the specific requirement/process, as well as the substantive requirements imposed on the farm operation. Local laws which the Department has found not to be unreasonably restrictive include those which regulate the health and safety aspects of the construction of farm buildings through provisions to meet local building codes or the State Uniform Fire Prevention and Building Code ("Uniform Code") [unless exempt from the Uniform Code under Building Code §101.2(2) and Fire Code §102.1(5)] and Health Department requirements for potable water and sewage disposal. Requirements for local building permits and certificates of occupancy to ensure that health and safety requirements are met are also generally not unreasonably restrictive.

¹ The Department's interpretation was upheld in *Town of Lysander v. Hafner*, New York Court of Appeals, 96 N.Y.2d 558 (October 18, 2001).

Some municipalities have developed reasonable requirements to ensure that farm labor housing is used only for legitimate farm employees; is removed if it is not used for its intended purpose; and is periodically reviewed for compliance.

The following are some of the specific matters that the Department considers when reviewing a local law that affects farm worker housing:

A. Minimum Dimensions

Establishing minimum square foot dimensions and/or floor space has been determined to be unreasonably restrictive in certain instances. Many mobile homes used for farm labor housing have outside dimensions of 14 feet by 70 feet (i.e., 980 square feet). Older model manufactured housing may have lesser square foot dimensions, however. To address this concern, a municipality may elect to not establish a minimum square foot requirement for farm worker housing on a farm operation within a State certified agricultural district.

B. Lot Size

Requiring a minimum lot size exceeding 10,000 to 15,000 square feet may be unreasonably restrictive. A farmer may be unable to meet such a minimum lot size due to the configuration of the land used for production or lying fallow as part of a conservation reserve program. The need to be proximate to a water supply, sewage disposal and other utilities is also essential. Farm worker housing is usually located on the same property which supports other farm structures. Siting farm labor housing very near other farm structures, such as a barn or milking parlor, is important for ease of access and for security purposes. Presumably, minimum lot size requirements are adopted to prevent over concentration of residences and to assure an adequate area to install a properly engineered well and waste disposal system. Farm worker housing should be allowed to be sited on the same lot as other agricultural use structures subject to the provision of adequate water and sewage disposal facilities and meeting minimum setbacks between structures.

C. Setbacks

Minimum setbacks from front, back and side yards have not been viewed as unreasonable unless a setback distance is unusually long. Setbacks that coincide with those required for other residential structures have, in general, been viewed as reasonable.

D. Screening

A requirement to screen farm labor housing from view has been found by the Department to be unreasonable. Screening requirements suggest that farm worker housing is, in some way, objectionable or different from other forms of residential housing that do not have to be screened. Farmers should not be required to bear the extra costs to provide screening unless screening is required to address a threat to the public health or safety or is shown to be necessary due to special local conditions.

E. Compliance with HUD Standards

A requirement that mobile homes constructed before June 1976 comply with HUD construction and safety standards may be unreasonably restrictive. Manufactured homes do not need to meet current HUD standards to be safe and fit for human occupancy. The adoption of the federal standards does not mean that manufactured homes constructed prior to their

promulgation (June 1976) are unsafe or unfit for human occupancy, any more than a conventional unit built prior to the application of a local building code or the State Uniform Fire Prevention and Building Code can be considered unsafe. The Uniform Code provides that manufactured homes constructed before June 15, 1976 need not be built in accordance with HUD standards and have a certifying label and data plate if they have been inspected to determine that they are structurally sound and free of heating and electrical system hazards [Residential Code of New York State, AE 102.6]. Manufactured homes as part of a farm operation should be allowed to meet either the HUD standards or pass inspection as provided in Residential Code, AE 102.6.

F. Removal of Farm Labor Housing if Unoccupied

Requiring farm labor housing be immediately removed from a site upon cessation of its use by the farm operation or if a farm operation stops producing an agricultural crop may be unreasonable. Housing may be used only seasonally. In addition, unforeseen circumstances, such as a change in a farm operation due to a death in the family or a change in ownership, may prevent such housing from being used within a given year. Some municipalities require the removal of farm labor housing if it has not been used for such purposes for three years. Such a requirement is reasonable and takes into account changes in farm circumstances.

G. Sharing of Farm Labor and Housing

Farmers may, under certain circumstances, share farm labor and housing to provide full employment to farm workers throughout the growing season. This helps ensure that labor needs are met and workers do not leave the area for other employment opportunities. There should be some flexibility in a local law to accommodate the sharing of farm labor and/or housing. The Department considers the facts of a particular case in making a determination whether a local law is unreasonably restrictive, but generally would view a requirement that workers be employed or used more than 51 percent of the time by the farm operation where the housing is located as reasonable.

D



NEW YORK STATE



NEW YORK STATE

Adirondack
parkagency

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Policies

The following Adirondack Park Agency policies provide the Agency and its staff documents that promote consistent execution of responsibilities, insure adherence to law and rule, and reflect a commonly agreed upon way of doing business.

(Some documents require Adobe Acrobat Reader. These documents are labeled with the PDF file name and file size.)

[Agency Minutes Policy](#) -- (Agency3_minutes.pdf 17kb)

[Agency Policy, Procedures & Guidance System](#) -- (agency1.pdf 15kb)

[Agency Public Comment Policy](#) -- (revised August 10, 2007 public_comment_policy.pdf 31kb)

[General Enforcement Guidelines](#) -- LEGAL - 1 Policy (GeneralEnforcementGuidelines.pdf 119kb)

[Memorandum Of Understanding Between The Adirondack Park Agency And The Department Of Environmental Conservation Concerning Implementation Of The State Land Master Plan For The Adirondack Park](#) (APA-DEC_MOU_State_Lands.pdf 51kb)

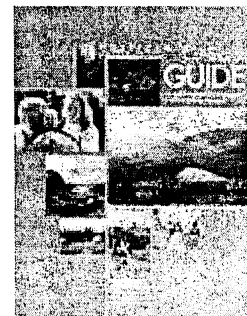
[Review of Proposed Amendments to Agency-Approved Local Land Use Programs](#) -- (agency5.pdf 27kb)

[Review of Variances Referred to the Agency from Agency-Approved Local Land Use Programs](#) -- local_services.pdf 23kb)

[Telecommunication Towers and Tall Structures Policy](#) -- (telecom_towers_tall_structures.pdf 19kb)

Fast Facts

If you're not sure where to start, start with the [Citizen's Guide](#). It should answer many questions or direct you to sources that will.



Other sources of information from New York State include: the [State Library](#) the [State Museum](#) the [State Archives](#) the [Department of Environmental Conservation](#)

The following documents commonly meet many needs.

[Citizen's Guide](#) -- (CitizensGuide.pdf 370kb)

[Adirondack Park Agency Act](#) -- (294kb)

[Rules and Regulations](#) -- (670kb)

[Adirondack Park State Land Master Plan](#) -- (635kb)

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E



New York State

Adirondack Park Agency

2006

ANNUAL REPORT

Eliot Spitzer, Governor

Protecting the open-space character and environmental quality of the Adirondack Park and helping to build a sustainable economy in Park communities are compatible goals for the Adirondack Park Agency. Working through the Agency's Economic Affairs Committee and its staff-level Economic Services unit, quality-of-life improvements are pursued with stakeholders, including local governments.

In 2006, the Economic Affairs Committee focused its attention on three important issues for the region's long-term economic viability: community housing or housing that is available for residents of the Park at a reasonable price; broadband; and challenges facing the paper-making industry and the forests that have traditionally been the source of wood fiber for the region's mills.

During 2006, there were new local and Parkwide initiatives to address housing needs, including the Adirondack Regional Housing Trust funded through grant monies secured by State Senator Elizabeth O'C. Little. The Agency has been considering specific ways that it can be of support to these initiatives consistent with the statutes it administers.

There is also increasing recognition of the importance of broadband service in building a sustainable economy for the Adirondack Park. During the year, the Agency closely monitored a range of new broadband planning initiatives and ensured, through designated liaisons, that any questions regarding permit jurisdiction or the permitting process are quickly answered.

Regarding paper making, the Agency has been building its understanding of global trade issues that are affecting the long-term future of this important Adirondack industry. The Board and staff recognize the important relationship of viable regional wood product firms and the long-term maintenance of vast areas of private, forested open space in the Adirondack Park. Active research into the potential for and impacts of alternative uses for Adirondack timber is being followed.



Economic Services

The Economic Services unit provides expertise in real estate and financial feasibility analysis, economic and fiscal impact analysis and economic development planning. It also provides general public guidance on development sites and assists project sponsors, economic developers and planners in the evaluation of specific business development sites.



Frank Mezzano, *Chair Economic Affairs*
Stephen M. Erman, *Special Assistant-Economic Affairs*

Stephen M. Erman, Special Assistant for Economic Affairs (far left), stands next to Tom Amidon, Professor and Faculty Chair, Paper Science and Engineering at SUNY/ESF; Dennis Gingles, Regional Forest Products Procurement Coordinator for International Paper; and Chris Mallon, Mill Manager for the Ticonderoga International Paper Mill. This photo was taken after their Economic Affairs Committee presentation to the Agency Board on paper making and its economic impacts to the Adirondack region.

The Economic Services unit also assisted economic development planning in the Park by working with entrepreneurs needing Agency permits to establish or expand their businesses. Economic staff provided expertise on economic and fiscal issues to the Regulatory Programs Division and other Agency divisions on an as-needed basis and assisted in the 9th annual Local Government Day conference in March 2006.

The Agency is proud of its increased attention to community and economic issues and the quest for a more vibrant and sustainable economic future for the Park.



F

Adirondack Park Agency Policy, Procedures & Guidance System	LEGAL - 1
Topic: General Enforcement Guidelines	
Cecil Wray, Chairman, Enforcement Committee	Effective Date: January, 2003

I. Purpose and Applicability

These General Enforcement Guidelines establish the Agency's objectives and approach for the investigation and resolution of violations of the Adirondack Park Agency Act (APA Act), the Wild, Scenic and Recreational Rivers System Act (Rivers Act) and the Freshwater Wetlands Act (FWA). Failure to obtain necessary Agency permits under these laws, or to undertake a project pursuant to the terms and conditions of an issued permit, would constitute violations to which these guidelines apply.

These Guidelines are the first in a series of guidelines intended to address issues relating to the Agency's enforcement program. Other specific enforcement guidelines may be adopted such as:

- a. Substantive Standards for Settlements
- b. Civil Penalty Guidelines;
- c. Environmental Benefit Project Guidelines;
- d. Permit Compliance Guidelines.

II. Statutory and Regulatory Enforcement Authority

Adirondack Park Agency Act

The APA Act establishes land use controls for the private lands within the six-million-acre Park. The purpose of the APA Act is to "insure optimum overall conservation, protection, preservation, development and use of the unique scenic, aesthetic, wildlife, recreational, open space, historic, ecological and natural resources of the Adirondack Park."

Executive Law, Section 813(1) provides that any "person" ¹who violates the APA Act or Agency regulation or permit or order issued by the Agency is liable for a civil penalty up to \$500 per day for each day the violation continues. Penalties are recoverable in an action by the Attorney General.

The Attorney General may also institute an action to prevent, restrain, enjoin or correct any violation, and may join in the action any appropriate person or the person responsible for the violation to take such affirmative actions as are necessary to correct the violation (Executive Law, Section 813[2]).

Any civil penalty may be released or compromised by the Agency before referral to the Attorney General, or after referral, by the Attorney General with the consent of the Agency (Executive Law, Section 813[3]).

New York State Freshwater Wetlands Act

The Agency implements the FWA within the Adirondack Park (Environmental Conservation Law, Articles 24 and 71). The purpose of the FWA is to preserve, protect and conserve freshwater wetlands and their benefits, consistent with the general welfare and beneficial development (ECL Section 24-0103). Any loss of wetlands causes a loss of important wetland benefits, such as protection of surface and ground water, flood control, wildlife habitat, recreation, open space and aesthetic appreciation, and other values (ECL Section 24-0105).

Pursuant to ECL Section 71-2303, the Agency can impose penalties up to \$3,000 for each violation of the FWA after notice and opportunity for hearing, and can order remediation and restoration of wetlands by the violator after a hearing.

New York State Wild, Scenic and Recreational Rivers System Act

The Legislature has determined that certain of the State's rivers and their environs possess outstanding natural, scenic, historic, ecological and recreational values, and enacted the Rivers Act so that the designated rivers would be preserved in their free-flowing condition for the benefit and enjoyment of present and future generations (Environmental Conservation Law, Article 15, Title 27). For private lands in the Park, the Rivers Act is implemented by the Agency.

Section 15-2723 of the Rivers Act provides that any person who violates any provision of or order issued pursuant to the Rivers Act may be compelled to comply and shall pay a civil penalty of not less than \$100 and not more than \$1,000 per day for each day of the violation.

1 "Person" includes individuals, businesses or other private entities, and municipalities, but not the State or State agency.

Agency Enforcement Regulations

Agency regulations (9 NYCRR Part 581) effective January, 2003, provide the process for implementation of the Agency's enforcement authority under the APA Act, FWA, and the Rivers Act. The regulations provide for issuance of administrative cease and desist orders, requests to redress damage to environmental resources, opportunity to resolve violations by agreement, and an administrative process to be implemented when a Notice of Apparent Violation has been issued by staff. For violations of the FWA, the Agency may impose penalties after notice and opportunity for hearing, and can order remediation and restoration of wetlands after a hearing. In all cases involving permit violations, the Agency may, after an opportunity for a hearing, revoke, suspend or modify the permit. The Agency will not process an application for a permit or variance for property involved in a violation. An unresolved case may be referred to the Attorney General for civil action.

III. **Agency Enforcement Objectives**

The Agency regulates land use and development on private lands within the Adirondack Park through a permitting program. Effective enforcement of the Agency's laws, regulations, permits and orders is fundamental to the meaningful regulation of land use and development in the Park and to the fulfillment of the Agency's statutory mandate to protect the natural resources of the Park.

In any case where there is on-going environmental damage, the Agency will seek cessation of the on-going actions and immediate remediation of the damage.

The primary objective of the Enforcement Program is to obtain compliance with regulatory environmental requirements. The Agency will require actions to ensure that the environmental damage created by violations will be eliminated or minimized for the long term.

A further objective of the program is to deter additional violations, either by that landowner or other landowners, or the public. The consistently applied requirement that properties in violation be brought into compliance with regulatory environmental standards has a significant deterrent effect. The imposition of civil penalties in appropriate cases also creates a significant deterrent effect. Violators should not profit from the undertaking of a violation. To that end, the Agency will seek actions that eliminate the economic benefit derived from violations. Where intentional or knowing violations occur, the Agency's objective will be to make the cost of noncompliance greater than the cost of compliance would have been.

Agency enforcement efforts will be calculated to encourage prompt, voluntary cooperation resulting in the firm, but fair resolution of violations. It is the Agency's intention to generally provide an incentive to violators who voluntarily and promptly agree to a binding obligation to achieve resolution of the violation, both with respect to remediation and the payment of any civil penalties. Prompt and voluntary remediation is

far more effective to environmental protection than adjudication. Prompt resolution also contributes to the Agency's efforts to address other violations by allowing staff to use its time on other cases.

Finally, the Agency's enforcement process should be efficient, fair, and consistent, taking into account particular facts and circumstances and the need to ensure environmental protection.

IV. Preventive Measures

The most effective enforcement tool is the prevention of violations before they occur. Voluntary compliance by the people who live, work or recreate in the Park is the key to the future of the Park and the protection of its resources. In order for the people of the Park to both appreciate the basis for and comply with Agency regulations, relevant information must be readily available.

Therefore, the Agency will promote public awareness and understanding of the value of the Park resources and of proper design and technique in executing development projects. The Agency will make every effort to prevent violations by continuing to provide assistance to the public in jurisdictional matters, and by ensuring that the project review process is timely and permitting requirements are clear, based on specific and accurate development plans. The Agency will continue to establish and participate in various outreach and training programs, and to enhance communications and the sharing of information between the Agency and local governments. All these actions are designed to apprise the public and local officials of the potential for Agency jurisdiction, perhaps preventing some violations.

The Agency has for thirty years been the subject of considerable public scrutiny and press coverage. Therefore, the Agency expects that landowners, developers, attorneys, purchasers, real estate agents and local government officials are aware of the potential for Agency jurisdiction. The Agency has, since its inception, maintained staff available to answer questions relating to its jurisdiction, the permit process, and other Agency matters. Hence, the Agency anticipates that the public and professionals practicing in the Park will take advantage of the service offered and ascertain the legal status of a parcel or whether there is Agency jurisdiction over a proposed action prior to purchase or action.

V. Enforcement Procedures

Investigation

The Agency receives complaints about possible violations from the public and staff. Complaints will be investigated by staff and no determination of violation will be made unless and until there is sufficient proof. Investigations will be prioritized according to the potential for significant environmental damage and the need for prompt action.

Agency enforcement officers will undertake the investigation of the alleged violations assigned to them, including obtaining information to determine the legal and factual history of the site and its use, whether a violation has in fact occurred, and options for resolution. A staff attorney is assigned to each case to ensure legal guidance. Agency project review and resource analysis staff are consulted on issues which require more expertise. Once all the necessary legal and factual information has been obtained, and if a violation has been demonstrated, the enforcement officer and assigned attorney will prepare a recommendation for resolution of the violation.

Administrative Resolution of Violations by Staff

The Executive Director or his designee will make all reasonable efforts to resolve violations with the voluntary cooperation and/or consent of the violator(s) and landowners. Almost all violations should be resolved at this level of the enforcement process to ensure the most efficient use of staff resources, and timely compliance and/or remediation of environmental damage. In developing proposed resolutions, input from appropriate executive, legal, technical, and project review staff must be obtained. Resolutions of violations should generally be consistent in similar cases, while also taking into account the specific facts and circumstances of each case. When applicable, proposed resolutions should be consistent with guidelines subsequently developed in this enforcement guideline series.

Settlement agreements entered into to resolve a violation are not permits and are not a means to bypass or circumvent the legal process and protections created by the permit system. Enforcement staff does not have the benefit of the statutory requirement that a project applicant provide all necessary information; they cannot compel production of the detailed information and plans usually required for a project to be evaluated for approval. Moreover, enforcement staff will not have the benefit of the public comment provided for in the project review process. The resolution of many violations will therefore include a requirement that the individuals involved apply for a permit for the project which has already been undertaken. However, the referral of a violation to the after-the-fact permit process will not be allowed unless or until all necessary site stabilization and restoration has occurred and the appropriate civil penalty has been paid.

When violations cannot be resolved at the staff level, they may be referred to the Enforcement Committee for resolution or, in the case of violations of the Freshwater Wetlands Act or of an Agency permit, to the Agency for a determination and order.

Administrative Resolution of Violations by the Enforcement Committee

The Enforcement Committee shall consider violations of the APA Act or the Rivers Act upon staff referral or at its request. The Agency may consider such violations instead of the Enforcement Committee upon a referral by the Committee or a request by a majority of Agency members. A determination shall be made as to whether a violation has occurred and include an appropriate disposition of the matter. Such disposition may

include a proposal to resolve the violation administratively, referral of the violation to the Attorney General, or adjournment of the matter. Where contested factual issues exist, the Enforcement Committee or the Agency may request that a fact-finding hearing be held before making its determination. The Enforcement Committee or the Agency, in reaching a determination based on the relevant facts and circumstances of the matter, will also take into account staff efforts to resolve a violation with the voluntary cooperation and/or consent of the individuals involved.

Agency Determinations in Freshwater Wetlands Act or Permit Suspension, Modification or Revocation Proceedings

The Agency may make a determination and order in matters involving violations of the FWA Act or permit violations requiring suspension, modification or revocation of an Agency permit. The Agency's decision will be based on a record after an opportunity for an adjudicatory hearing, and will also take into account any Enforcement Committee recommendation concerning the matter. Proceedings leading to a determination and order in such matters will generally only occur after staff have made a reasonable effort to resolve the violations(s) with the voluntary cooperation and/or consent of the individuals involved.

Civil Action by the Attorney General on behalf of the Agency

Where violations cannot be resolved at the administrative level, or where judicial involvement is appropriate to obtain access to property, cooperation in the investigation process, or the immediate cessation of ongoing environmental damage, the Attorney General may be asked to initiate appropriate civil action on behalf of the Agency. In such cases, all prior settlement offers and negotiations shall be inadmissible as evidence in such proceedings consistent with the Civil Procedure Law and Rules.

VI. Legal Effect

The guidance and procedures set out in this document are intended solely for the use of Agency staff. They are not intended to create any substantive or procedural rights, enforceable by any party in administrative or judicial litigation with the State of New York. The Agency reserves the right to act at variance with these guidelines and each case will be evaluated as to its particular facts and circumstances.

G

SUMMARY OF ADIRONDACK PARK AGENCY AUTHORITY OVER LAND USE AND DEVELOPMENT AND SUBDIVISIONS

THIS CHART IS INTENDED AS A GENERAL GUIDE TO THE REQUIREMENTS OF THE ADIRONDACK PARK AGENCY ACT, WILD, SCENIC AND RECREATIONAL RIVERS SYSTEM ACT, AND FRESHWATER WETLANDS ACT. WHILE IT IS A GENERAL SUMMARY OF THEM, IT DOES NOT INCLUDE ALL THE PROVISIONS OF THESE LAWS.

PERSONS CONTEMPLATING A NEW LAND USE OR DEVELOPMENT OR SUBDIVISION, OR AN EXPANSION OF 25% OR MORE OF AN EXISTING USE ARE URGED TO CONTACT THE AGENCY (P.O. BOX 99, RAY BROOK, NY 12977 [518-891-4050]) WHICH WILL PROMPTLY ISSUE A FORMAL, BINDING DETERMINATION AS TO WHETHER AN AGENCY PERMIT OR VARIANCE IS NECESSARY.

IN CHECKING WHETHER APA AUTHORITY MAY APPLY TO A PROPOSED ACTIVITY, EACH SECTION OF THE CHART SHOULD BE REVIEWED.

SHORELINE RESTRICTIONS

THESE RESTRICTIONS APPLY TO ALL NEW (POST AUGUST 1, 1973) LAND USE AND DEVELOPMENT AND SUBDIVISION ON SHORELINES, WHETHER OR NOT A PERMIT IS ALSO NECESSARY. THE AGENCY IS AUTHORIZED TO ISSUE VARIANCES TO THEM UPON A SHOWING OF "PRACTICAL DIFFICULTY."

		APA ACT LAND USE AREAS					
		HAMLET	MODERATE INTENSITY USE	LOW INTENSITY USE	RURAL USE	RESOURCE MGMT.	INDUSTRIAL USE
Minimum Setback from Mean high water mark (m.h.w.m.).	Building (for navigable waterways)	50 Ft.	50	75	75	100	None
	Septic System (for navigable & non-navigable waterways)	100 Ft.	100	100	100	100	100
Minimum Lot Width		50 Ft.	100	125	150	200	None
Minimum Frontage For Deeded or Contractual	5-20 lots	100 Ft.	100	100	100	100	100
	21-100 lots	100 Feet plus 3 Ft. for each lot exceeding 20					
	101-150 lots	340 Feet plus 2 Ft. for each lot exceeding 100					

Over 150
lots

440 Feet plus 1 Ft. for each lot exceeding 150

Vegetative Cutting Restrictions

Within 35 feet of m.h.w.m., not more than 30% of the trees over 6" DBH during any 10 year period.
Within 6 feet of m.h.w.m., up to 30% of the shorefront may be clear of vegetation on any lot.

FRESHWATER WETLANDS PROJECTS

PERMITS ARE REQUIRED FOR A WIDE VARIETY OF ACTIVITIES IN FRESHWATER WETLANDS. WETLANDS INCLUDE ANY LAND ANNUALLY SUBJECT TO PERIODIC OR CONTINUED INUNDATION AND COMMONLY CALLED BOGS, SWAMPS, OR MARSHES, AS WELL AS OPEN WATERS IMMEDIATELY ADJACENT THERETO OR SURROUNDED THEREBY IF ESSENTIAL TO THEIR PRESERVATION THEY ALSO INCLUDE SOME OTHER TYPES OF LAND THAT MOST PEOPLE WOULD NOT CONSIDER WETLANDS, SUCH AS "SPRUCE SWAMPS" AND ARTIFICIAL MUDFLATS EXPOSED BY RESERVOIR DRAWDOWNS. WETLANDS ARE REGULATED IF THEY EXCEED ONE ACRE IN SIZE OR, REGARDLESS OF SIZE, IF THEY ARE ADJACENT TO AND HAVE A FREE INTERCHANGE OF SURFACE WATER WITH A LAKE, POND, RIVER OR STREAM. THE AGENCY WILL, UPON REQUEST OF ANY PERSON CONTEMPLATING LAND USE, DEVELOPMENT, SUBDIVISION OR OTHER ACTIVITY WHICH MIGHT INVOLVE A WETLAND, DETERMINE WHETHER WETLANDS ARE PRESENT AND THE EXACT LOCATION OF THEIR BOUNDARIES.

PERMITS ARE NEEDED FOR THE FOLLOWING IF WITHIN A WETLAND:

1. Land use and development or subdivision;
2. Draining, dredging, excavation, removing soil, peat, mud, sand, shells, or gravel;
3. Dumping or filling soil, stones, sand, gravel, mud, rubbish or fill of any kind.

PERMITS ARE NEEDED FOR THE INSTALLATION OF ON-SITE SEWAGE DRAINAGE FIELDS OR SEEPAGE PITS, OR SEWER OUTFALLS, IN A WETLAND OR WITHIN 100 FEET OF ONE.

PERMITS ARE NEEDED FOR THE FOLLOWING WHETHER OR NOT THEY OCCUR WITHIN A WETLAND:

1. Any forms of pollution, including installation of septic tanks and sewer outfalls, or discharge of sewage effluent or other liquid waste into or so as to drain into the wetland; and
2. Any other activity which harms the wetland.

PROVIDED THERE IS NO FILLING OR OTHER MATERIAL DISTURBANCE, PERMITS ARE NOT NEEDED FOR:

WITHIN 100 FEET OF ONE.

1. Fishing, hunting, trapping, ricing, berrying, shell-fishing, aquaculture;
2. Grazing or watering livestock;
3. Making reasonable use of water resources;
4. Harvesting natural products;
5. Selectively cutting timber and constructing skid trails without using fill; and
6. Draining for growing agricultural products.

PROJECTS WITHIN ¼ MILE OF WILD, SCENIC OR RECREATIONAL RIVERS

SPECIAL PERMIT REQUIREMENTS AND OTHER REGULATIONS APPLY, OUTSIDE OF HAMLET AND MODERATE INTENSITY USE AREAS, WITHIN ONE-QUARTER MILE OF THE FOLLOWING RIVERS. PLEASE CONTACT THE AGENCY IF YOU ARE PLANNING LAND USE, DEVELOPMENT, OR SUBDIVISION IN THESE AREAS.

- | | | |
|-----------------------------|------------------------------|-------------------------------|
| Ampersand Brook | Hudson River | Sacandaga River (East Br.) |
| Ausable River (East Branch) | Independence River | Sacandaga River (Main Br.) |
| Ausable River (Main Branch) | Indian River | Sacandaga River (West Br.) |
| Ausable River (West Branch) | Jordan River | St. Regis River (East Br.) |
| Black River | Kunjamuk River | St. Regis River (Main Br.) |
| Blue Mountain Stream | Long Pond Outlet | St. Regis River (West Br.) |
| Bog River | Marian River | Salmon River |
| Boquet River | Moose River (Middle, North | Saranac River (Main Br.) |
| Boreas River | South and Main Branches) | Schroon River |
| Cedar River | Opalescent River | West Canada Creek |
| Cold River | Oswegatchie River (Main Br.) | West Canada Creek (South Br.) |
| Deer River | Oswegatchie River (Mid. Br.) | West Stony Creek |
| East Canada Creek | Oswegatchie River (West Br.) | |
| Grasse River (Middle Br.) | Otter Brook | |
| Grasse River (North Br.) | Piseco Lake Outlet | |
| Grasse River (South Br.) | Raquette River | |
| | Red River | |
| | Rock River | |
| | Round Lake Outlet | |

REGIONAL PROJECTS

APA ACT LAND USE AREAS

		HAMLET	MODERATE INTENSITY USE	LOW INTENSITY USE	RURAL USE	RESOURCE MGMT.	INDUSTRIAL USE
M0128629.1}	Principal Buildings per		500	200	75	15	

	Principal		500	200	75	15	
	Average Lot		1.3	3.2	8.5	42.7	
	"NJ"	"A"	"B"	"IC-B"			
	NJ	A	B		IC-B		
	Wetlands						
	Within 1/4	NJ					NJ
	Elevation of	NJ					NJ
	Within 1/8	NJ					NJ
	Within 150ft of	NJ	NJ	NJ			NJ
	Within 300ft of	NJ	NJ	NJ	NJ		NJ
	1 Single Family	NJ	NJ	NJ	NJ	B	IC-B
	2 Individual	NJ	NJ	NJ	NJ	B	IC-B
		NJ 2 to 99 lots	NJ 2-14 lots	NJ 2-9 lots	NJ 2-4 lots		

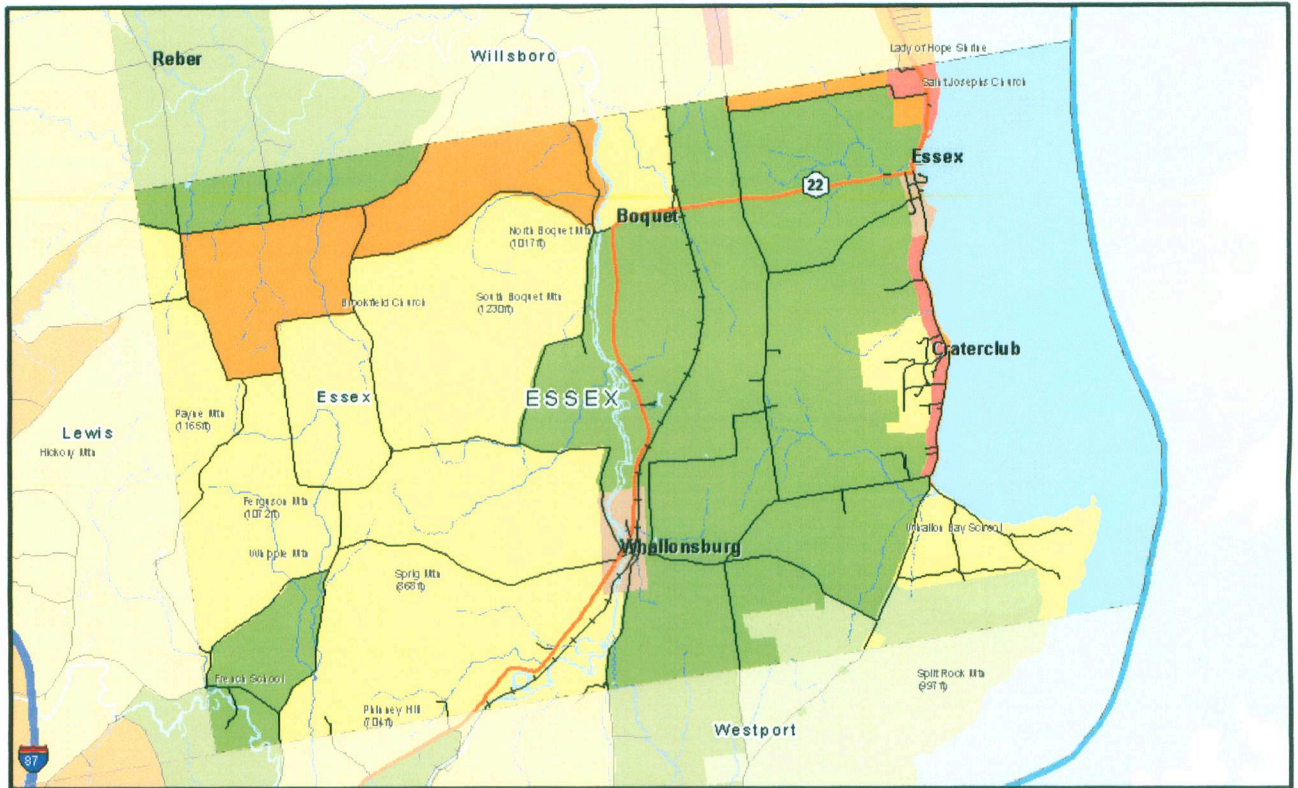
REVIEW AUTHORITY BY TYPE OF LAND USE AND DEVELOPMENT

Residential Uses and Subdivisions

1. Single Family	NJ	NJ	NJ	NJ	B	IC-B		
2. Individual	NJ	B 15-74 lots or 2-14 lots if any shoreline lot less than 25,000 sq. ft. or inland lot less than 40,000 sq.ft.	B 10-34 lots or 2-9 lots if any shoreline lot less than 50,000 sq. ft. or inland lot less than 120,000 sq.ft.	B 5-19 lots or 2-4 lots if any shoreline lot less than 80,000 sq. ft. or inland lot less than 320,000 sq.ft.	B	IC-B		
3. Residential Subdivision	NJ 2 to 99 lots				Or if any lot does not conform to the shoreline lot width requirements.		A All subdivisions	IC-B
	A 100 or more lots				A 75 or more lots	A 35 or more lots		
4. Mobile Home Court	NJ	B	B	B	IC-B	IC-B		
	A 100 or more lots	A 75 or more lots	A 35 or more lots	A 20 or more lots				
	NJ	B	B	B				
	A 100 or more lots	A 75 or more lots	A 35 or more lots	A 20 or more lots				
6. Open Space Recreation	NJ	NJ	NJ	NJ	NJ	NJ		

Public/Open Space/Forestry/Agriculture	Fishing Cabin, Private Club Structure					B 500 sq.ft. or more	
	12. Game Preserve, Private Park	NJ	NJ	NJ	NJ	NJ	IC-B
	13. Private Road	NJ	NJ	NJ	NJ	NJ	NJ
	14. Cemetery	NJ	NJ	NJ	NJ	IC-B	IC-B
	15. Private Sand-Gravel Extraction	NJ	NJ	NJ	NJ	NJ	NJ
	16. Public Utility Use	NJ	NJ	NJ	NJ	NJ	NJ
	17. Public/Semi-Public Building	NJ	B	B	B	IC-B	B
	18. Municipal Road	NJ	B	B	B	B	B
Commercial/Industrial/Recreational	19. Agricultural Service Use	NJ	B	B	B	A	B
			A 10,000 sq.ft. or more	A 5,000 sq.ft. or more	A 2,500 sq.ft. or more		
	20. Commercial Use	NJ	B	B	B	IC-B	B
			A 10,000 sq.ft. or more	A 5,000 sq.ft. or more	A 2,500 sq.ft. or more		
	21. Tourist Accommodation	NJ	B	B	A	IC-B	IC-B
		A if 100 or more units				A if Ski Center	
	22. Tourist Attraction	NJ	A	A	IC-B	IC-B	IC-B
23. Marina, Boat Launching Site	NJ	B	B	B	IC-B	IC-B	
24. Golf Course	NJ	B	B	B	B	IC-B	

H



Town of Essex APA Land Classification

- | | | | |
|------------------|---------------------|----------------|------------------------|
| Park Blueline | Land Classification | Industrial Use | Historic |
| State Boundary | Hamlet | Wilderness | State Administrative |
| County Boundary | Moderate Intensity | Canoe Area | Pending Classification |
| Town Boundary | Low Intensity | Primitive | Open Water |
| Village Boundary | Rural Use | Wild Forest | Stream |
| | Resource Mgmt. | Intensive Use | |

1 Mile



Adirondack
Park Agency

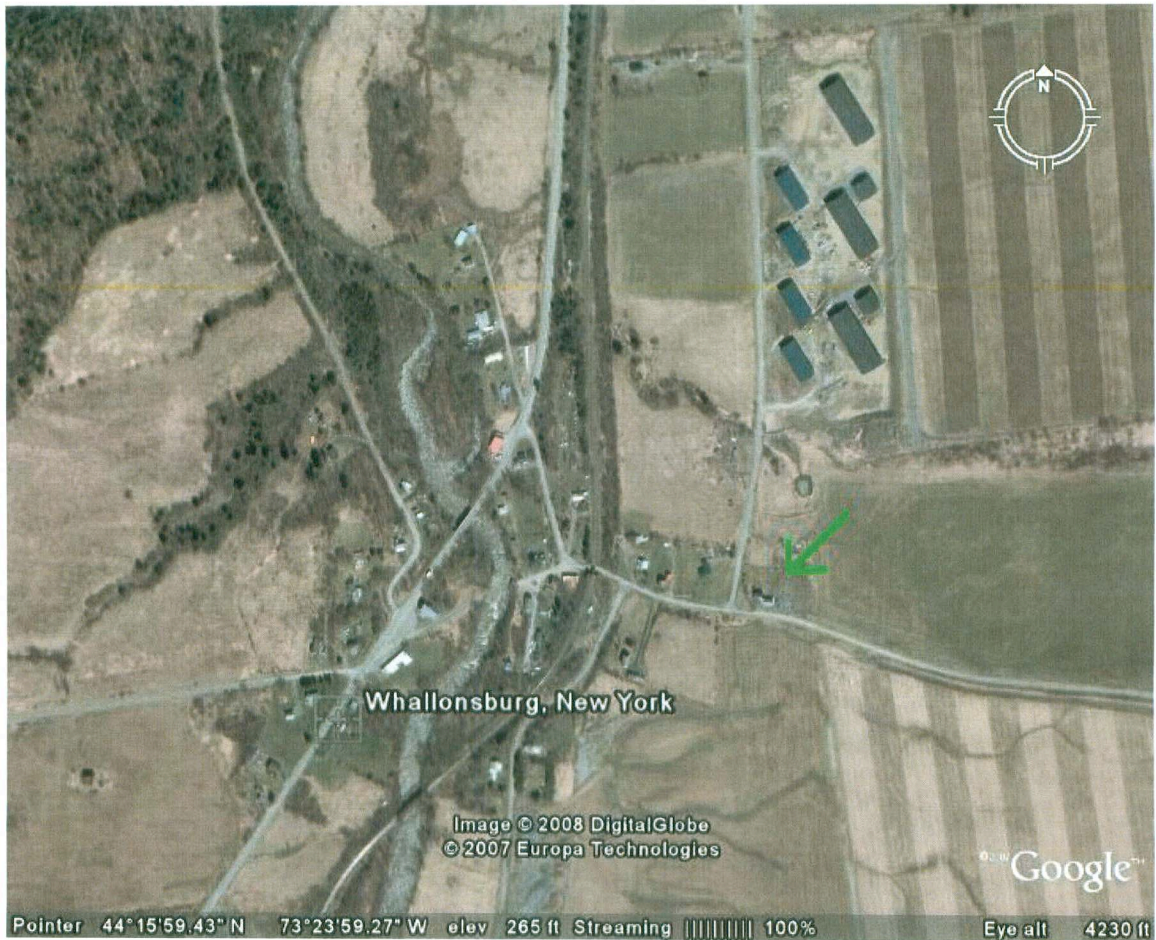
February 2005

This map should
not be used for legal
jurisdictional determinations.

Locator



I



The location of the Lewis Family Farm employee housing cluster is marked by the green arrow.

Note the location of the houses in relation to the Hamlet of Whallonsburg and the Lewis Family Farm's Barn Plaza.

J

**NEW YORK STATE
COUNCIL ON FOOD POLICY**

December 1, 2007

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NEW YORK STATE COUNCIL ON FOOD POLICY

December 1, 2007

Council Chairperson

Patrick Hooker, Commissioner of the New York State Department of Agriculture and Markets

Council Members

Mindy Bockstein, Chairperson of the New York State Consumer Protection Board

Linda Bopp, Executive Director of the Nutrition Consortium of New York State

Bruce Both, President of the United Food and Commercial Workers Union; Local 1500

Michael Burgess, Director of the New York State Office for the Aging

Mary Warr Cowans, RD, CDN, Associate Director of the Division of Nutrition at the New York State Department of Health

Dr. Richard Daines, Commissioner of the New York State Department of Health

Raymond Denniston, Food Service Director of the Johnson City Central School District; Co-Chairperson of the New York State Farm to School Coordinating Committee

Diane Eggert, Executive Director of the Farmers Market Federation of New York

John Evers, Executive Director of the Food Bank Association of New York State

Daniel Gundersen, Upstate Chairperson of Empire State Development Corporation

David Hansell, Commissioner of the Office of Temporary and Disability Assistance

Dr. Susan Henry, Dean of the New York State College of Agriculture and Life Sciences at Cornell University

Richard Mills, Commissioner of the State Education Department

Cathryn Mizbani, Senior Extension Administrator; WIC Program Coordinator of the Cornell University Cooperative Extension of Schenectady County

Liz Neumark, Chief Executive Officer of Great Performances; Sylvia Center

William Rapfogel, Executive Director and Chief Executive Officer of Metropolitan Council on Jewish Poverty

Irwin Simon, Founder, Chairperson, President and Chief Executive Officer of the Hain Celestial Group, Inc

Julie Suarez, Director of Public Policy for the New York Farm Bureau

Eleanor Wilson, MS, RN, CDN, Corporate Dietitian for Price Chopper Supermarkets, Inc

Catharine Young, New York State Senator, 57th District; Chairperson of the Senate Agriculture Committee

Executive Summary

The New York State Council on Food Policy was created in May of 2007 by Governor Eliot Spitzer's Executive Order No. 13, in which it is recognized that a need exists to support the State's agricultural industry as well as to ensure that all New Yorkers have access to safe, affordable, nutritious food. The twenty-one members of the Council on Food Policy were appointed in September of 2007 after a rigorous and thoughtful selection process. The Council members include seven state agency heads and 14 members from the public and non-profit sectors. Together they represent nearly all aspects of the food system. At the time of appointment, Governor Spitzer charged the members of the Council with the tasks of helping the State coordinate its food-related policies and promote healthier communities.

In October of 2007, the Council on Food Policy held its first meeting in Albany, NY. This meeting was open to the public and well attended. The meeting consisted of short overviews of: State demographics, some of the existing food security and nutrition related programs operating in the State, and the food industry in the State. A discussion period followed in which Council members expressed their food policy priorities and offered suggestions for key issue areas to focus upon in the coming year. Many members of the public seized the opportunity to contribute their food policy related comments and concerns to the Council members.

As a result of information shared at the Council meeting, individual expertise, and consideration of public comments, Council members identified four (4) key food policy issue areas for more in-depth examination in the coming year.

Maximization of collaboration potential along agency, public and private sector lines within these key issue areas contributed to the discourse. Health concerns, such as the need to combat diet-related diseases such as obesity, diabetes and heart disease strongly influence all priorities presented.

Key Issue Areas identified by the Council on Food Policy are as follows:

- 1) Maximize participation in food and nutrition assistance programs;
- 2) Strengthen the connection between local food products and consumers;
- 3) Support efficient and profitable agricultural food production and food retail infrastructure; and
- 4) Increase consumer awareness and knowledge about healthy eating and improve access to safe and nutritious foods

Researching and evaluating the efficacy of the Key Issue Areas and associated priorities to meet the objectives of Executive Order No. 13 will be the basis for Council activities in the coming year. The Council proposes to develop and recommend a specific food policy for the State that will ensure the availability of an adequate supply of affordable, fresh and nutritious food to its residents, and expand agricultural production. Additionally, the Council proposes to develop and recommend a strategic plan for implementation of the State food policy, including benchmarks and criteria for measuring progress. Further, the Council intends on offering comments on State regulations, legislation and budget proposals in the area of food policy.

Being highly sensitive to the value of stakeholder input to gain accurate perspective on the issues, the Council members are preparing to hold numerous public forums around the State. The next scheduled meetings for the Council are in May and October of 2008 or as business requires.

NEW YORK STATE COUNCIL ON FOOD POLICY

December 1, 2007

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Enclosed: New York State Council on Food and Nutrition Policy: "Five Year Food & Nutrition
Plan 1988-1992" (1987)

NEW YORK STATE COUNCIL ON FOOD POLICY

December 1, 2007

I. Introduction

Governor Eliot Spitzer created the New York State Council on Food Policy by Executive Order No. 13 that was delivered on May 18, 2007 (Appendix A). In this document, Governor Spitzer specifies that:

5. The Council shall: (a) develop and recommend a food policy for the State which recognizes that it is in the best interests of the State to ensure the availability of an adequate supply of affordable, fresh, nutritious food to its residents; (b) develop and recommend State policies to expand agricultural production, including locally-grown and organically-grown food; (c) develop and recommend a strategic plan for implementation of the State food policy, including benchmarks and criteria for measuring progress in achieving State food policy objectives; and (d) offer comments on State regulations, legislation and budget proposals in the area of food policy, to ensure a coordinated and comprehensive inter-agency approach to food policy issues.

The ensuing report is in response to directives of Executive Order No. 13 that mandating, among other things, that:

6. The Council shall issue a written report on the first day of December each year on: (a) the activities of the Council during the preceding year; (b) recommended food policies for the State; (c) recommended changes to the strategic plan; (d) an account of the progress made in achieving the goals of the Council; and (e) actions which are necessary to implement the recommendations of the Council and effectuate the purposes of this Order.

II. History: 1984 New York State Council on Food and Nutrition Policy

Based on the New York State Five Year Food and Nutrition Plan 1988-1992 (1987)

In 1984 evidence indicated that a substantial number of New Yorkers were "neither adequately fed nor nourished... despite state and federal initiatives to

improve peoples' access to an adequate diet and promote public understanding of ... good nutrition". At that time Governor Mario Cuomo established the New York State Council on Food and Nutrition Policy "to address and access this problem, and to propose ways to correct it" in the form of a Five-Year Plan. Seven heads of state agencies involved in food and nutrition programs were appointed by the Governor with the Commissioner of Health serving as Chairperson. A twenty-two member advisory committee to the Council included representatives from agricultural, nutrition, food production and consumer interests.

The four purposes for the plan were to:

- 1) Promote good health and prevent food and diet-related diseases;
- 2) Alleviate and ultimately prevent hunger through increased access to food and resources;
- 3) Support food production in NYS while preserving environmental resources and jobs; and
- 4) Promote the development and economic viability of the state's food processing, marketing, and distribution industries.

In 1987, after reviewing available data, evaluating existing state programs and soliciting comments from interested parties at public meetings, the Council on Food and Nutrition Policy produced the *New York State Five Year Food and Nutrition Plan 1988-1992*. The basic goal of the recommended Food and Nutrition Policy as outlined in the *Plan* was "not only to provide adequate nutrition in an accessible and affordable manner, but to strive to achieve efficient growth in agricultural production, job generation, food security and expanded markets for goods".

As stated in the document, the 1984 Council on Food and Nutrition Policy concluded that:

- Nutrition programs are failing, often to a very significant degree, to reach or meet all the needs of their target population;

- New York State should press federal officials for more money and more state control of these initiatives; and
- Further erosion of New York's agricultural industry would not be in the state's interest if it is to achieve its goal of nutritional adequacy for all its citizens.

To correct the inadequacies found; to promote new initiatives; and to improve effectiveness of programs, twenty recommendations were proposed for food and nutrition policy in New York State. A comprehensive set of goals, objectives and recommended actions followed. A recap of the "Recommendations" from the *New York State Five Year Food and Nutrition Plan 1988-1992* with current (2007) status reports from the respective state agencies that the original recommendation was directed to is located in Appendix B.

Data tables from the *New York State Five Year Food and Nutrition Plan 1988-1992* have been updated with recent data results to parallel the 1987 data. When available, new programs and /or relevant data have been included that illustrates the state's response to meet a specific demand in the food and nutrition arena (Appendix C).

III. Activities of the New York State Council on Food Policy in 2007

A. Executive Order No. 13 Issued On May 20, 2007, Governor Eliot Spitzer issued Executive Order No. 13 announcing the creation of the Council on Food Policy (Appendix A). At that time, Governor Spitzer said:

"Ensuring that all New Yorkers have access to safe, fresh and nutritious food is a top priority that the Council on Food Policy will be addressing head-on" ... and that ... "The Council will bring the public, producers and government together to explore ways in which we can improve our existing food production and delivery systems, expand capacity, and in particular, address the critical needs of children and low-income New Yorkers. Additionally, by expanding the sale of locally grown products, we can help struggling farmers, and expand the local agriculture and state economy."

In Executive Order No. 13, Governor Spitzer recognizes that hunger in New York is a serious problem and further, that access to affordable, fresh, nutritious food, including fresh fruit and vegetables, especially for children, is a serious problem facing many families. Food insecurity is defined by USDA as a condition that arises from lack of money and other resources to acquire food. Research supports the link between food insecurity and health, nutrition and children's development. It is further noted that one in five low-income households buy no fruits or vegetables (fresh or processed) on a weekly basis (USDA 2005, ERR-29. USDA Agriculture Info Bulletin 792-5 2004). According to The Food Bank Association of New York State, approximately 2.1 million New Yorkers currently utilize Emergency Feeding Programs (EFP) to meet their food security need.

B. Council Members Appointed After a thorough consideration of the great number of qualified candidates drawn from state, local, private and non-profit entities interested in serving on the Council on Food Policy, Governor Spitzer appointed the members of the Council on September 19, 2007 (Governor's Press Release/0919072). At that time Governor Spitzer said: "The members of this Council will bring new and diverse expertise to this important policy area." The Council has been designed so that advocates and representatives from all areas of food system are embedded in the structure of the Council proper. This structure is significant in that it affords uninterrupted opportunities for not just comprehensive inter-agency collaborative efforts but system wide collaboration efforts.

Council members include State agency heads from the Department of Agriculture and Markets; Department of Health; Office of Temporary and Disability Assistance; Department of Economic Development; Office for the Aging; State Education Department; and the Consumer Production Board. The Council will also benefit from the expertise and insight contributed by the Dean of the New York State College of Agriculture and Life Sciences at Cornell University; an anti-

hunger advocate; two food assistance organization representatives; a nutritionist; a school food administrator; a farm organization; and three representatives from the food industry (producers, distributors, processors, retailers) one of which is involved in organic production; and members with food policy related experience recommended by the Majority and Minority Leaders from both houses of the Legislature.

C. Agriculture and Markets to Chair The Commissioner of Agriculture and Markets serves as the Chairperson of the New York State Council on Food Policy. Governor Spitzer recognizes that agriculture is a critically important industry to the State of New York and that there are significant environmental, health and economic benefits to the State and its residents from expanding agricultural production, including locally-grown and organically-grown food ([Governor's Press Release/0919072](#)).

The mission of the New York State Department of Agriculture and Markets is to foster a competitive food and agriculture industry that benefits producers and consumers alike. Agriculture makes up one-quarter of the State's land area and contributes immensely to the quality of life in New York State by generating economic activity and producing wholesome products to nourish our families. The Department works diligently to promote a viable agricultural industry, foster agricultural environmental stewardship, and safeguard our food supply (<http://www.agmkt.state.ny.us/TheDepartment.html>).

D. First Meeting of the Council The first meeting of the New York State Council on Food Policy was held on Monday, October 15, 2007 from 10:00 a.m. to 2:00 p.m. in Room 250 of the New York State Capitol Building. This meeting was open to the public.

After introductions and reviewing the objectives of the Governor's Executive Order No. 13, the Council members heard short presentations about New York

State demographics and the variety of federal and state food and nutrition programs currently in place. Presentations were delivered from representatives from the NYS Education Department, Department of Health, Office of Temporary and Disability Assistance, Office for the Aging, Department of Agriculture and Markets, Food Bank of NYS and Smart Growth.

Approximately twenty-five members of the public were in attendance. During an open-microphone session members of the public shared their comments and concerns with the Council members. The Council also received, and continues to receive public comments in writing.

In the afternoon, Council members shared what they believed to be some of the key issue areas to explore more in depth over the coming year. From these comments and subsequent statements from the Council members, a document was produced that outlined the "Key Issue Areas" that the Council members plan to explore in the next year. Health concerns, such as the need to combat diet-related diseases such as obesity, diabetes and heart disease strongly influence all priorities and actions proposed. Ultimately, the Council members agreed to seek avenues where collaboration can be maximized to meet the expressed needs of our communities and our State.

E. Key Issue Areas Identified The Council on Food Policy is charged with developing a food policy for the State to ensure an adequate supply of affordable, fresh, nutritious food to its residents and to expand agricultural production, including locally-grown and organically-grown food. While New York farmers produce an abundance of milk and dairy products, vegetables, fruits, meat and poultry products; and New York State offers a vast array of food assistance programs, some of our most vulnerable residents have little or no access to fresh, affordable, nutritious food. At the same time, some food assistance programs are not meeting their full potential and local farmers are having difficulty marketing their goods.

The recurring Key Issue Areas emerging from the October 15, 2007 Council meeting and follow-up statements from the Council members fall under four broad categories. These categories are as follows:

- 1) Maximize participation in food and nutrition assistance programs;
- 2) Strengthen the connection between local food products and consumers;
- 3) Support efficient and profitable agricultural food production and food retail infrastructure; and
- 4) Increase consumer awareness healthy eating and improve access to safe and nutritious food.

Council members identified a number of specific priorities to be explored within each Key Issue Area as described below.

1) Maximize participation in food and nutrition assistance programs

- a) Increase education about assistance programs and benefits using traditional and non-traditional outreach strategies such as in job placement offices, places of worship, schools, drug stores, and farmer's markets;
- b) Encourage increased collaboration among State agencies administering the programs by co-enrolling participants for benefits and/or making enrollment more user friendly;
- c) Create incentives to purchase nutritious food with food stamps;
- d) Explore options for ensuring that food assistance programs have adequate quality and stable quantities of resources needed to meet demands;
- e) Increase number of markets / outlets that are capable of receiving food stamps; and
- f) Perform an assessment of methods to ease program participation in food and nutrition assistance programs and identify strategies to address the challenges.

2) Strengthen the connection between local food products and consumers

- a) Support initiatives in schools for healthy food choices: look to change consumption behavior of youth as well as introduce youth to food system dynamics (explore potential to incorporate farm and/or food related topics and experiences in curriculum);
- b) Create avenues for local farmers to produce for state institutions and other food service programs (schools, universities, nursing homes);
- c) Address volume requirements on buying- promote aggregate selling / buying of produce;
- d) Research the feasibility of expanding local / community food security initiatives to the state level (such as examples taken from "Regional Community Food Projects", farmer's market incentives, Veggie Vans, CSAs and wholesale markets); and
- e) Consider culture, age and geographic region of all consumers to best serve their needs.

3) Support efficient and profitable agricultural food production and food retail infrastructure

- a) Encourage local products procurement preference when possible;
- b) Foster partnerships with grocers to drive local preference;
- c) Improve marketing, promotion of nutritious products- research models of market development and behavioral economics;
- d) Perform an assessment of obstacles and methods for easing business development in NY;
- e) Address obstacles of marketing retail food products in target areas (urban and rural) such as transportation / delivery issues and lack of access to grocery stores / supermarkets
- f) Explore possibilities to increase regional food processing infrastructure; and
- g) Seek opportunities to maximize utilization of incubator programs and cooperatives.

4) Increase consumer awareness and knowledge about healthy eating; and improve access to safe and nutritious foods

- a) Increase awareness of obesity and diet related diseases- focus on professionally recommended, data-driven prevention initiatives;
- b) Increase consumer awareness of food ingredients, nutritional value, processing and allergens through labeling and other forms of consumer outreach;
- c) Provide farmer / producer education opportunities about "best practices"; and
- d) Continue to educate consumers of where their food comes from and nutritional value thereof.

IV. Activities Proposed for the New York State Council on Food Policy in 2008

Plan for Year 2008 The Council members have acknowledged the importance of implementing evidence-based best practices that will obtain measurable results. The Council members are also highly sensitive to the value of stakeholder input to gain accurate statewide perspectives on the issues. Therefore, in order to adequately assess the "Key Issue Areas" outlined, the Council members identified some supporting steps that need to be taken. Supporting steps include:

- 1) Researching successful food security initiatives, local and national, that may be applicable to New York State's agenda;
- 2) Reviewing and reconsidering the "Recommendations" from the New York State Council on Food and Nutrition Policy's *Five Year Food and Nutrition Plan 1988-1992*;
- 3) Organizing / facilitating a communication avenue for the members (such as videoconferences and a website); and

- 4) Planning a listening tour of up to six sites that embody a food-related policy area. This listening tour should begin early next year.

The next full meetings of the Council on Food Policy are to be scheduled for the Spring and Fall of 2008. During those times, the Council members will develop and solidify specific action items, benchmarks and / or recommendations for a State food policy. Throughout the year the Council members will actively explore the potential of pursuing specific priorities of the Key Issue Areas.

K

Text Spitzer state of upstate speech delivered January 16 at SUNY Buffalo.

Text of January 16 Spitzer press release.

State of Upstate Address

Rockwell Hall
Buffalo State College
Buffalo, NY
January 16, 2008

[As prepared for delivery]

To the people of Buffalo and Upstate New York, and to all my fellow New Yorkers: thank you for joining us on this historic day.

To my partners in State government—Lieutenant Governor Paterson, Speaker Shelly Silver and Leader Malcolm Smith—thank you for joining us. Let me also thank our partners who could not join us today: Leader Joe Bruno, Leader Jim Tedisco, Attorney General Andrew Cuomo and Comptroller Tom DiNapoli.

To the members of the Western New York delegation who are here—Francine DelMonte, Michael Cole, Dennis Gabryszak, Joe Giglio, James Hayes, Sam Hoyt, George Maziarz, Bill Parment, Crystal Peoples, Jack Quinn, Mary Lou Rath, Robin Schimminger, Mark Schroeder, Bill Stachowski, Antoine Thompson and Dale Volker—thank you for hosting us.

To all of our partners in local government—including our host, Mayor Byron Brown—thank you for joining us.

And to the many business leaders, labor leaders and civic leaders from across Upstate who have gathered here, thank you for all you do for your communities and for being here with us today in Buffalo.

Let us begin by recognizing our fellow New Yorkers who serve and protect us here at home and around the world.

Joining us today are four soldiers from the New York Army National Guard: Captain Matthew Ryan, Staff Sergeant Robert Waters, Sergeant Jason Wiechec and Sergeant Aaron Spallina. These soldiers serve with the 2nd Squadron, 101st Cavalry, which is based here in Buffalo. They have been deployed once before, to Iraq. Now, they are preparing to deploy to Afghanistan.

To Captain Ryan, Staff Sergeant Waters, Sergeant Wiechec and Sergeant Spallina—and to the thousands of men and women in our nation's military who are part of our New York family—you represent the very best New York has to offer. Today—and every day—we thank you for your bravery, your courage, your sacrifice and your service.

* * *

I am deeply honored to stand before you this morning to deliver the first State of Upstate Address in New York's history.

The vision I will outline today is one we all share: to make Upstate New York the best place in the world to live, work, raise a family and run a business.

To realize this vision, we must focus with a singular purpose on an agenda for economic growth and opportunity. We need a world-class education system from Pre-K through graduate school. We need an affordable health care system that's available to all. We need lower taxes, strong infrastructure, great places to live, and, above all, good jobs. And, we need all of these things throughout New York—upstate and down, from Western New York to Westchester, from the Adirondacks to Long Island.

While this vision remains the same, we are here today because we recognize that the economic challenges facing Upstate are so numerous, significant, particular, and urgent that the traditional State of the State Address alone is not sufficient to hold us accountable for meeting them.

Making the State of Upstate an annual event will force us each year to monitor our progress, take stock of what remains undone, engage in a public debate about how to move forward, and, if necessary, recalibrate our efforts in response to conditions on the ground. This will create the accountability that Upstate New Yorkers demand and deserve.

That is why FDR's advice resonates so strongly. "It is common sense," he said, "to take a method and try it. If it fails, admit it frankly and try another. But above all, try something."

We all realize that many past methods have not adequately met the challenges before us. We know this because we continue to see our young people leaving for opportunity someplace else.

That is why we must talk plainly about the hurdles that stand in our way and why we need real cooperation to make the tough choices to move forward.

Yet, as daunting as the challenge may seem, I have reason for hope, because we still have our strongest competitive advantage: our people. I know it because I've seen it.

Almost *one year ago*, the snow began falling in Oswego County, and it didn't stop. It didn't stop the following day, or even the day after that. Seven days later, the region was buried under nearly 10 feet of snow.

At a break in the storm, Senator Schumer and I traveled to the town of Parish to monitor the progress of relief efforts.

There I met plow operators who worked 16-hour days clearing the roads and then—the moment they finished their double shift—went back outside to dig out their neighbors.

I met volunteer firefighters who worked non-stop, rescuing those who were stranded, and opening their fire halls to those who lost heat.

And I met hundreds of ordinary New Yorkers who spent long hours helping their neighbors clear their roofs and their driveways; who walked through the streets giving a push to motorists stuck in the snow; who checked in on the elderly to make sure they had enough food.

The way the people of Oswego County responded was watched and admired by the entire nation.

But when I offered words of praise for their remarkable community spirit, they said: "That's the way it always is. When there's a storm, everyone pitches in to help."

The storm we face today is not natural; it is economic. But if we put that same strength, that same resiliency, and that same community-mindedness to work—if we summon the will to work together to achieve the reforms and make the investments I will lay out today—we can overcome this storm and return growth and prosperity to Upstate New York. We can make Upstate open for business; we can attract young people and keep them here; and we can truly become the best place in the world to live, work, raise a family and start a business.

That is our vision. Now, this is our agenda.

Our Strategy

Our first year was about laying the foundation for growth.

Our second year will be about building on that foundation with a major infusion of strategic funding and programmatic initiatives to revitalize Upstate.

First, let me discuss the foundation we laid last year.

Our foundation consisted of four major components:

First, broad-based reforms to make Upstate more competitive by lowering the cost of doing business and lowering taxes;

Second, breaking gridlock on regionally- and locally-specific projects to build the infrastructure for economic

growth;

Third, retooling State government so it is built to zero in on Upstate's unique economic challenges; and, Fourth, changing the way we approach economic development by incorporating local and regional stakeholders into everything we do.

Last year, we made progress on each of these fronts.

To lower costs, we cut workers' comp premiums by over 20 percent—a cost savings to New York businesses of \$1.2 billion dollars. We also held the line on taxes. In fact, we actually cut taxes—reducing business taxes and providing additional property tax relief to middle-class New Yorkers.

To break gridlock on key projects, we implemented “City by City” plans focused on jump-starting important projects in our Upstate cities. As a result, projects like Buffalo's waterfront, the Connective Corridor in Syracuse and the Midtown Plaza redevelopment in Rochester are now moving forward.

To retool government to zero in on Upstate's unique challenges, we created a powerful economic development agency focused squarely on the needs of Upstate—and put its headquarters right here in Buffalo, with regional offices throughout Upstate.

Upstate ESDC is already responsible for securing private-sector pledges to create 8,000 new jobs and preserve 24,000 jobs all across Upstate.

Five hundred new jobs from Carestream Health that we brought to Rochester. 300 new R&D jobs at Corning. 500 new GE Energy jobs that will re-establish Schenectady as a GE headquarters. 289 jobs at Bitzer Scroll in East Syracuse. In Western New York, 500 jobs at Data Listing Services in Cattaraugus County.

And just yesterday, at the northeastern corner of our state—where New York, Vermont and Canada intersect—we announced that Akrimax Pharmaceuticals, with our assistance, purchased the Wyeth plant in Rouses Point, preserving 1,200 jobs in the North Country.

To incorporate local input, we held Regional Blueprint Meetings in every Upstate region. Dan Gundersen, our chair of Upstate ESDC, put 35,000 miles on his Jeep last year alone visiting every Upstate county. Everywhere Dan stopped, he sat down for an audience with the best economic development consultants of all: local business leaders, who know their economies best, but whose views were rarely engaged in the past.

Of everything we did last year, I believe this was the most important.

Why? Because government money and government programs alone cannot turn our economy around. There must be a true partnership between government and the private sector. That's because, in the end, it's the people on the ground who must translate this funding and these programs into economic growth.

In sum, now that we have begun to lower the costs of doing business; now that we have broken gridlock on key projects; now that we have created an entire agency devoted to the task of bringing Upstate back; and now that we have incorporated the advice of hundreds of Upstate New Yorkers into our strategy, we are ready to take the next step.

We are ready to build upon this foundation with a major infusion of funding and programmatic initiatives to revitalize the Upstate economy.

The \$1 Billion Upstate Revitalization Fund

That is why, in my Executive Budget, I will propose a \$1 billion Upstate Revitalization Fund.

In my State of the State Address last week, I sketched out this concept in broad strokes. Today, I would like to describe what I mean in greater detail.

\$350 million Regional Blueprint Fund

A few moments ago, I talked about the Regional Blueprint Meetings that Dan Gundersen held in every region—and how, on these trips, he sat down with the regional stakeholders who know the Upstate economy best.

The result of that outreach is the first component of our proposed \$1 billion Fund: the \$350 million Regional

Blueprint Fund.

Everything in this fund flows from the conversations we had on the ground. Let me give you some examples.

In every single Regional Blueprint session, we heard that our infrastructure for economic development is inadequate. We heard that, in many cases, the problem is not that businesses don't want to locate here; the problem is that there are often no suitable sites where they can locate.

For example, of the 960,000 acres that make up Herkimer County, only 50 of those 960,000 million acres are truly development-ready.

We cannot create the jobs our communities need until we create the development-ready sites our businesses need. So, working together, that is what we must do.

Our proposed \$350 million Regional Blueprint Fund will contain a significant amount of capital for the construction of development-ready sites and industrial parks, and for bringing existing sites up to the standards businesses are seeking today. That means everything from water, sewer and drainage systems; clearing and site development costs; and even support for planning and engineering.

These dollars could support pivotal projects like the completion of the Marcy Nanotech site in the Mohawk Valley—a cutting-edge technology park championed by Assemblywoman RoAnn Destito that is poised for growth but lacks the financial resources to move to development-ready status.

To fully address the shortage of development-ready land Upstate, we must also face the hard reality that New York's Brownfields cleanup program is failing.

This program was enacted in 2003 to provide incentives to remediate contaminated land for new development. However, the program's formula is broken, and—as a result—it too often provides massive taxpayer subsidies for development that would have happened anyway. For example, we don't need to be using millions of taxpayer dollars to underwrite a luxury condominium project in Westchester while 3,000 acres of brownfields in Rochester await investment.

Therefore, this year, we will submit new and improved legislation to reform our Brownfields program so it can fulfill its original purpose of creating development-ready sites where they are needed most, while also protecting our environment.

On our trips Upstate, we also learned of another major need: we learned that small businesses often lack the capital they need to expand, innovate and thrive.

Don't forget: Kodak, GE and IBM were all once small businesses in Upstate New York. But today, the future Kodaks, GEs and IBMs of Upstate tell us that they cannot grow here because New York doesn't have investment programs to help small companies—while other states do.

We must change that. As Assemblyman Joe Morelle points out, we must provide small businesses with the programs and tools that can result in large-scale job creation down the road.

That is why our proposed \$350 million Regional Blueprint Fund will include the nation's best small business loan programs for machinery, equipment, real estate and other needs. Our small businesses deserve the best opportunities in America—and we propose to give them just that.

On our trips, we also learned about what must be done to strengthen the Innovation Economy Upstate.

We made significant progress on this front in our first year. Thanks, in large part, to the efforts of Lieutenant Governor David Paterson, we enacted the Stem Cell Research Fund. Not only is stem cell research a moral imperative, it is also an engine for creating jobs.

Just last week, the first round of stem cell grants were released, making New York's fund the fastest in the country to go from green light to grant-making. And our Upstate research institutions were major beneficiaries—receiving a total of over \$2.4 million dollars in research funding. Here in Buffalo, UB received a \$600,000 dollar grant, and Roswell Park received \$420,000 dollars. In Rochester, the U of R Medical School received a \$1 million dollar grant. This funding will catalyze groundbreaking medical research and job creation at the same time.

However, stem cell research is only part of the picture. New York still faces significant obstacles in its effort to adapt to the Innovation Economy.

The good news is that everywhere you turn—in our colleges and universities, in companies large and small—Upstate New Yorkers are developing groundbreaking ideas. The problem is that we lack the programs to help translate these ideas—especially from our institutions of higher education—into jobs.

Here's just one example. SUNY-Binghamton has thousands of students who are enrolled in some of the nation's most prestigious graduate programs. But when we visited, we learned that they don't have a single incubator where spin-off companies can commercialize that research and harness its potential for job creation.

That is why our proposed \$350 million Regional Blueprint Fund will finance the kind of programs, tools and facilities we need to link idea creation to job creation. Our Fund will also include a \$10 million Venture Capital Fund—a pilot program to provide seed capital tied to accountability measures for 10 to 15 small companies that have the potential to expand into major employers, much in the same way Comptroller Tom DiNapoli successfully invests part of the State Pension Fund in promising upstarts throughout New York.

These funding streams and programs will make it possible for innovative companies to grow and create jobs on a larger scale.

Finally, on our trips Upstate, we learned that too little was being done to attract international investment.

The fact that we share hundreds of miles of border with Canada, and that we are so close to Montreal and Toronto, is one of our greatest opportunities. We should be marketing Upstate aggressively in Canada—especially now, when exchange rates favor foreign investment.

That is why our Budget will include funding for new efforts that tap international markets, including the creation of a new international marketing office within Upstate ESDC. These efforts will help our Upstate communities—especially our border communities like Plattsburgh, Ogdensburg, Niagara Falls and Buffalo—realize their potential for greater international investment.

The components I just discussed—building development-ready sites, investing in small businesses, connecting innovation to job creation, and increasing our international marketing footprint—are some examples of how our proposed \$350 million Regional Blueprint Fund will address the issues many of you in this very auditorium raised with us last year.

Taken together, by meeting the needs of businesses today—from small-scale loans and venture capital for small businesses, to development-ready sites for large industries—our Regional Blueprint Fund will help Upstate New York become a magnet for innovation and job creation in the twenty-first century economy.

New Round of City by City Projects

But our Regional Blueprint Fund is just one piece of our proposed \$1 billion Fund.

Our effort to attract businesses here will be complemented if we can restore greater vitality to our Upstate cities—which have such incredible potential, but which need help to free themselves from a cycle of decline.

Let me take this opportunity to acknowledge three of our Upstate Mayors: Mayor Bob Duffy of Rochester, Mayor Matt Driscoll of Syracuse and Mayor Brian Stratton of Schenectady. These Mayors—and all the other hard-working Mayors who are here—are working vigorously to turn our cities around. We on the State level must do all we can to support their efforts.

To do so, this year, we announced our City by City Plans—strategies tailor-made for each city to jump-start key projects that have the potential to catalyze significant economic growth. And—from downtown Niagara Falls, to the Charles Street Business Park in Binghamton, to the Bresee's Building in Oneonta, to the Plattsburgh International Airport—we are getting these projects moving.

Today, I want to announce our latest City by City project—one that dovetails with our discussion a moment ago about translating cutting-edge research into job creation.

We are proud to announce the creation of a major research center at the University of Rochester that will spur economic growth in the region for decades. Along with Speaker Silver and our partners in the Assembly, we will commit \$50 million dollars toward the construction of a 150,000-square-foot state-of-the-art building, which will be the home of the University's Clinical and Translational Science Institute. While this facility will create 40 to 50 new research jobs immediately, we expect the real benefit to be in the long term. We expect that the world-class research that is done at CTSI will lead to significant commercial applications, and that within five years, CTSI activities will create hundreds—if not thousands—of new jobs in Rochester. Let me thank Speaker Silver and Assembly members David Gantt, Susan John, Joe Morelle and David Koon for helping to make this project a reality.

But our proposed \$1 billion dollar Fund will not only provide support for the dozens of City by City projects we have already announced. Our proposed Fund will provide full funding for a new, second round of City by City projects across Upstate—this year. Importantly, this second installment of projects will reach beyond our large Upstate cities and jump-start key projects in our smaller cities, which play such a central role in our economic future.

Housing Opportunity Fund

The third major component of our Fund will be \$100 million for Upstate housing and community development, which is part of our proposal to create a Housing Opportunity Fund.

Our Upstate communities have a range of housing needs. Some communities need new affordable housing. Most Upstate communities, however, need funding for housing rehabilitation.

Yet, whether we're talking about building workforce housing or rehabilitating existing housing, our investments need to be strategic. By that, I mean they must always be designed in ways that catalyze further development.

What we've done in Watertown is a good example of this strategy. Working with our partners in Congress and at the local level, Lieutenant Governor Paterson and I waged a successful campaign to bring a new maneuver enhancement brigade—1,500 new troops—to Fort Drum. We won the new brigade because we were the only State to go to the Army with a comprehensive economic development package articulating the specific steps we would take to accommodate the additional soldiers. The centerpiece of that package was \$10 million dollars in funding to ease the affordable housing crunch in Watertown.

Another example of a strategic housing investment can be found on the Near West Side of Syracuse, a project that has long been supported by Assemblyman Bill Magnarelli, where we are not only building low-income housing and lofts for the city's growing community of artists; we are connecting it to the jobs, shopping, recreation, education and cultural facilities that form the building blocks of a sustainable community.

This is the kind of model we need to replicate across Upstate, which is why our Fund contains a \$100 million Upstate housing commitment to provide significant new funding to meet all of these needs, and to build vibrant neighborhoods, and sustainable communities, for the next generation of New Yorkers. We estimate that our funding will result in about 10,000 units of new or rehabilitated housing for our Upstate communities.

Upstate Agribusiness Fund

I have often talked about how New York's future depends on strategic industries. Now, let me discuss one in particular that is not always discussed in the same breath as biotech, nanotech, photonics and aerospace—but it should be.

Our Upstate Revitalization Fund will infuse significant capital into our agricultural sector, which forms the bedrock of so many local economies throughout Upstate.

Last year—inspired in part by the strong voices for farmers in Albany, including the chairs of the Agriculture Committees, Assemblyman Bill Magee and Senator Catherine Young, as well as other strong advocates for our farmers, such as Senator David Valesky and Assemblyman Darrel Aubertine—we fundamentally changed the way New York approaches agricultural policy.

For years, agriculture was seen as a dying industry. That has changed. Today, agriculture not only matters to us—we are looking to it to become one of the main forces behind Upstate's economic revitalization.

This year, our budget will infuse new capital into our agricultural sector with a \$50 million Upstate Agribusiness Fund. Investments will support access to markets; new and expanded food processing centers; and development of alternative fuels like the innovative efforts at the Fulton ethanol plant.

To implement this new Agribusiness Fund, we will hire New York's first Director of Agriculture Development. With these efforts, we believe the "Pride of New York" logo can become the most recognized symbol of food quality in the world.

And this is only the beginning.

In 2008, we will break ground on the Pride of New York Wholesale Farmers' Market in New York City to connect Upstate growers with Downstate consumers. And we will continue to support research at Morrisville College, the Geneva Experiment Station and Cornell University—efforts to which Assemblywoman Barbara Lifton has contributed so much.

Agriculture is not just an important part of our economy—it's a way of life in our communities. By supporting our farmers, by giving them the tools they need to access new markets, we will preserve this way of life in New York, and leave stronger farms—and a stronger state—to our children and grandchildren.

Universal Broadband

We must also address another critically important issue for New Yorkers in rural areas—the lack of access to broadband.

It is unacceptable that only 25 percent of New Yorkers who live in rural areas have access to affordable, high-speed broadband Internet. And the lack of broadband access is an equally serious problem in our inner cities. In a digital age, businesses, families and individuals who lack broadband access find their economic and educational opportunities limited.

Our proposed Fund will respond to this need by tripling State investment in our universal broadband effort to \$15 million. This investment will move us closer to the day when we can close the digital divide in New York and offer everyone in our rural areas, and inner cities, access to high speed, affordable broadband Internet.

Transportation

And just as affordable, high-speed Internet has now become a critical component of infrastructure in the Innovation Economy, we must continue to invest in our traditional infrastructure—our roads, bridges and highways. That is why our Fund will include \$100 million to support critical maintenance of the Upstate network of State and local bridges.

Parks

Finally, our proposed \$1 billion Fund will include a significant investment in New York's State Parks—a major asset when it comes to attracting business.

However, for New York, this tool is not what it should be because, over the years, our parks have fallen into disrepair. That is why our proposed Fund will include \$80 million dollars—out of \$100 million dollars in statewide funding—to restore Upstate's parks.

As the centerpiece of our restoration, we will return Niagara Falls State Park, the oldest state park in the nation, to its former glory—a goal that has long been championed by Assemblywoman Francine DelMonte. And as part of our \$5.5 million dollar restoration for the park, we propose to rebuild and fully reopen the Goat Island Bridge; so thousands more visitors can experience the unspoiled natural wonder of the American side of Niagara Falls.

Those are the major elements of our proposed \$1 billion Fund.

While I realize that this is a large amount of money in tough fiscal times, I also know that it's at these very moments when investment matters most; when the urgency is so great that we simply cannot afford to wait.

These are not piecemeal programs or halfway investments. Rather, these are the programs and investments that came out of the hundreds of conversations we had with regional stakeholders over the past year. Simply put, this

is the funding, and these are the programs, you told us that you need to create good jobs in your communities.

And just as we developed this Fund together, now, let us work together to pass it.

I look forward to working with Economic Development Committee chairs Robin Schimminger and James Alesi in that spirit.

Reducing New York's High Costs

However, even if we are successful, we must continue our efforts to address New York's "perfect storm of unaffordability." To return growth and prosperity to New York—to make our state the best place to live, work, raise a family and start a business—we must hold the line on costs for both families and businesses.

Last year, we made progress.

Working with our partners in the Legislature, and in the business and labor communities, we finally addressed our broken workers' compensation system and unlocked \$1.2 billion in savings for New York's businesses.

This year, we will continue realizing those savings, but we will also work more aggressively to lower taxes and energy costs.

No New Taxes

Lowering costs does not end with the issue of taxes, but it certainly begins there.

Last year, we held the line. We promised no new taxes, and we delivered no new taxes. In fact, we went one better and cut business taxes.

This year—despite the considerable fiscal challenges we face—we can hold the line again. I intend to submit a budget that makes tough choices. But it will protect the critical services of the State, make the investments we need for growth, and it will not raise taxes.

Reducing Property Taxes

This year, however, we will go even further. We will finally get real about our property tax crisis.

Last year, we enacted historic property tax relief, and we targeted it to the middle-class taxpayers who needed it most. This year, we will commit to another round of rebates and again target those rebates to the New Yorkers who need them most.

We will also continue working with local governments to streamline the 4,200 taxing jurisdictions across the state. My Commission on Local Government Efficiency and Competitiveness—led by our former Lieutenant Governor and Mayor of Jamestown, Stan Lundine—has already advanced 150 locally-generated proposals. For the first time, these proposals were advanced from the ground level up, instead of imposed down from Albany—giving us real hope that consolidation and shared services will become a reality. And in April, this Commission will release their final report.

Yet, for all our efforts, property taxes just keep going up. We've heard the message loud and clear from all New Yorkers. And, as I said last week, we will take action.

That is why I will create a bipartisan commission, with Moreland Act powers, to examine the root causes of high property taxes; identify ways to make our relief system fairer; and develop a fair and effective school property tax cap to hold the line on property taxes once and for all—a mechanism that will not only relieve the burden on our working families, but on businesses as well.

Reducing Energy Costs

We must also do what we can to lower Upstate's energy costs.

In the State of the State, I announced that we will once again introduce new legislation to fast-track the building of cleaner power plants to get more power into the grid. Today, I would like to announce legislation on an issue

especially critical to Upstate revitalization: low-cost power.

Last year, we passed a one-year extender for the State's Power for Jobs and Energy Cost Savings Benefit programs, which provide discounted power to over 500 companies that employ more than 300,000 people across the State.

This year, we will submit legislation to provide those companies—especially energy-intensive businesses throughout the State—the additional certainty necessary to allow them to grow and invest.

The legislation will provide an opportunity for eligible companies to receive contracts up to 7 years in length, so that such businesses and even new businesses will be able to count on lower electricity rates for years to come. We will also reform the system to build in stronger job and investment criteria, and reach our goal of reducing our electricity consumption 15 percent by 2015.

Making our Higher Education System an Economic Engine for Growth

As we continue reducing costs, we must make sure our education system—from Pre-K through graduate school—is second to none. Education is an essential building block for keeping Upstate open for business and attracting and retaining our young people. Human capital is the currency of the Innovation Economy and our people and businesses cannot thrive without a world-class education system.

Last year, we made an historic commitment to Pre-K through 12 education. Our formula was simple: investment plus accountability equals excellence. As a result of the commitment we made together with our partners in the Legislature, more children are spending more time in the classroom than ever before. They're learning in smaller classes than ever before. And they're learning from teachers who are starting to get the training and support they need.

Because of the Contracts for Excellence, in Buffalo's 16 most struggling schools, students will spend an extra hour in class each day and an extra 20 days over the school year. That does not just mean more time; it means more quality time, because each school has shrunk their class sizes to just 10 students for those who are furthest behind.

This year, we will implement the next phase of our accountability agenda. But, as we do, we must also set our higher education system on a similar path.

The good news is, we already have a roadmap, one that will only improve as the Legislature and the public have a chance to weigh in.

As the Commission on Higher Education recommended, over the next five years, we need to hire 2,000 more full-time faculty members for SUNY and CUNY, create an Innovation Fund for cutting-edge research at New York's public and private colleges and re-think the way we use and invest in our community colleges.

We know what these investments can mean because we already know how important our colleges and universities are to our Upstate communities.

Our host today, Buffalo State College, epitomizes that connection—educating the vast majority of teachers in Buffalo.

Nearby, at UB, our multi-year commitment to UB's "2020" expansion plan will serve as a model for integrating our SUNY system with our downtowns. We estimate that UB's full expansion will pump an extra \$1 billion into the economy of Western New York each year.

In our State of the State, we talked about what this could mean for revitalizing Buffalo. Just yesterday, we saw some early evidence.

As part of our second round of RESTORE New York grants—which were created because of the leadership of Speaker Silver and the Assembly—we announced a major renovation project at the former Trico factory adjacent to UB's downtown campus. We will provide \$4.5 million dollars to transform part of a former windshield wiper factory into office and lab space for growing biotech companies. What could be a better metaphor than this for Buffalo's transition to the Innovation Economy?

At Geneseo State, new full-time faculty will allow that school to continue its march toward national pre-eminence in liberal arts education, and continue combating the brain drain, as it was recently named the best educational value for out-of-state students in the nation.

And an Innovation Fund can have a tremendous effect on our colleges, our communities and our SUNY faculty. Supercharging the cutting-edge research that is happening at places like Albany Nanotech will supercharge our economy. *With the help* of Senator Tom Libous and others in the Legislature, these investments can propel research universities like SUNY-Binghamton to new heights. And I know how important our private colleges and universities are as well, which is why we are making investments like the one I just announced at the University of Rochester.

We also cannot overlook the power of a strong community college system. Look at Jefferson Community College in the North Country, where military personnel stationed at Fort Drum and their families make up 30 percent of the student body. Or look at schools like Monroe Community College, which is a regional leader in workforce training.

Of course, none of these investments will be possible without figuring out a way to pay for them, which is why I propose unlocking some of the value in our Lottery system to create a \$4 billion Higher Education Endowment. This will create a stable, long-term revenue stream—about \$200 million per year—that will fuel excellence in our higher education system for generations to come.

No one has more at stake in seeing this plan through than Upstate New York, which has more colleges and universities per capita than anywhere in the country. Together, we must transform our higher education system into an economic engine that will power growth throughout all of Upstate.

Building Livable Communities

Let me conclude this agenda by talking about the importance of building livable communities, because—while low costs, strong infrastructure and a world-class higher education system will attract businesses and people to Upstate New York—livable communities are what will keep them here.

I have already touched on the need for more housing and better schools, but our comprehensive approach also includes historic aid to our most distressed communities; a focused strategy to reduce crime; making sure every rural town and inner city has access to a family doctor; and ensuring that, as we grow, we protect our environment for future generations.

Increasing Aid to Distressed Communities

Last year, we made a four-year commitment to increase local aid by \$200 million to our most distressed cities and towns through the Aid and Incentives to Municipalities program.

We know this aid works, especially when it's tied to the accountability measures we implemented last year. For example, the AIM increase received by the City of Niagara Falls helped it actually cut property taxes by almost \$1 million—over 3 percent from the previous year.

I know there have been whispers that, because of the fiscal storm clouds overhead, we will pull back on our AIM commitment. Let me put those rumors to rest even ahead of our Executive Budget. Six days from now, I will propose a budget that delivers \$50 million more in AIM funding to our most economically struggling cities and towns than was included in last year's budget.

Reducing Crime

Besides affordability, the single most important building block for livable communities is public safety. While overall crime is down Upstate, too many of our Upstate cities are struggling with pockets of violence.

Last year, to address the communities that were hardest hit, we invested in Operation IMPACT, which provided grants to local law enforcement officials to implement state-of-the-art crimefighting tools.

In my State of the State Address, I announced that this year we will match that data with the redeployment of 200 State Troopers to those areas experiencing the most intense violence.

But I did not mention another initiative that will be especially meaningful Upstate. As we support local law enforcement through Operation IMPACT, and increase the number of police on the streets through trooper redeployment, we will also build new Crime Analysis Centers. These facilities will include a comprehensive array of world-class crime fighting tools that we can bring to bear in our Upstate cities.

My Executive Budget will include funding to open Crime Analysis Centers in Buffalo, Rochester, Syracuse and Albany this year.

Access to a Family Doctor

Building strong, livable communities also means increasing access to health care.

In my State of the State Address, I proposed the creation of "Doctors Across New York," which will offer grants to help repay education loans and provide other ways to encourage and assist doctors to move to our state's medically underserved areas.

From Franklin County in the North Country to Wyoming County in Western New York, this new initiative will improve health care for thousands of New Yorkers who live in our rural communities and inner cities.

Protecting the Environment

We also must do all we can to protect Upstate's environment, so we can pass on cleaner air, cleaner water and beautiful landscapes to our children and grandchildren.

When it comes to the environment, there are so many priorities, so let me just outline one. In recent years, many New Yorkers near the Great Lakes have been troubled to hear that water levels have been dropping. This poses a threat to shipping, to our fisheries, and to our ecosystems—in other words, to the economy and quality of life in Great Lakes communities.

That's why, today, I call upon the Legislature to pass the Great Lakes Compact, so we can join a multi-state effort to regulate water levels and maintain a strong, sustainable Great Lakes ecosystem and economy.

The "I Live New York" Initiative

No discussion of building livable communities could be complete without talking about the "I Live New York" Initiative, which focuses on attracting and retaining the next generation of New Yorkers.

This year, with Silda's leadership, we convened a remarkably successful summit in Cortland that attracted 600 New Yorkers. Next month, based on the ideas that were shared at the summit, the first-ever "I Live New York Report" will be published. This report will take the ideas from the Summit and translate them into real change.

We are also proud to announce that, next year, the second I Live New York Summit will be held on September 16th right here in Buffalo—which, incidentally, is the birthplace of brainstorming. That's right—the inventor of the concept known as "brainstorming," Alex Osborn, lived and worked right here in Buffalo, New York.

To build on that legacy, this year, Silda will convene the first-of-its-kind Young Leaders Congress. The Young Leaders Congress will enable young New Yorkers themselves to play a central role in our effort to attract and retain the next generation—and build lasting vitality in our Upstate communities.

* * *

So that is our agenda for bringing back Upstate, and for making it—like all New York—the best place in the world to live, work, raise a family and run a business.

Our agenda is centered on a \$1 billion infusion of funding and programs targeted to our greatest needs; on lowering the cost of doing business; on a higher education system that will be a major engine of Upstate economic growth; and on a comprehensive effort to build livable communities, so we can not only attract the next generation of companies, jobs and entrepreneurs—we can keep them here.

Join me in good faith and I will meet you with an open hand, an open door and open mind. For we will realize this opportunity only if we work together in a spirit of cooperation.

* * *

Now, ever since we announced we were doing this speech, some people have said to us: “You always talk about how we are One New York: one state, with one future. Doesn’t a speech focusing only on one part of the State run counter to the very idea of One New York?”

It’s a fair question. But the answer should be clear.

We are not giving this speech in spite of the fact that we’re one state with one future.

We’re giving this speech—and we’ve put the concerns of Upstate front and center on the agenda—precisely because we are one state with one future.

We are One New York, and we rise and fall together. When part of our State is struggling, it affects all of us. Because when a young family leaves the State, everyone has to pay for the cost of decline—the higher taxes, increased health care costs and shrinking national voice in Washington.

The truth is that we will never grow again; we will never prosper again; we will never become a beacon of hope and opportunity again if part of our state is thriving and another part is falling behind. So we must come together and channel all of the passion, energy and determination that is within us toward one goal: restoring growth and prosperity to Upstate New York.

We need only look to our own history for an example of success in a similar endeavor.

It was just a few short decades ago—in the late 1970s—when New York City was in crisis. Its social fabric was torn; its economy was in trouble; it was all but bankrupt; and it was desperate for help.

Yet when the people of New York City asked for help, the people of Upstate did not look the other way. Rather, you said to the people of New York City: “Your struggles are our struggles. Your future is our future. When there’s a storm, everyone pitches in to help. So tell us what we can do.” And working together, we did what many thought was impossible; we brought New York City back to life.

We are here today because we know it is time—indeed, it is long past time—to do the same for Upstate. To create jobs; to build livable, sustainable communities; and to attract and retain the next generation of New Yorkers who will call Upstate home. And just as we did back then, we will do it by working together. Because we must have your buy-in, your best efforts, your grit and your will if we are to succeed.

That is the spirit behind today’s speech. And that is the vision that will guide us until the job is done.

Thank you.

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