



February 18, 2011

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Re: Jurisdictional Opinion 5-13 Agri-Mark, Inc., Town of Cabot  
Water Supply System and Uses of Warehouse Structure  
Requests for Reconsideration

Dear Warren and Charlotte:

This letter provides a decision on the requests for reconsideration with respect to Jurisdictional Opinion 5-13 which was issued on December 16, 2010. The Jurisdictional Opinion stated conclusions in the context of Act 250 Rule 2(A)(6) ("material change") relative to 1) the use of the creamery's water supply system beyond the permitted rate of 72.5 gpm and 2) changes in use of the warehouse structure.

Agri-Mark, Inc. filed its request for reconsideration on January 14, 2011 and the request for reconsideration on behalf of adjoining property owner Jill Alexander was filed on January 19, 2011. Both requests were timely filed within the time period specified in Rules 3(B) and 6(A). Response positions were then filed by Agri-Mark, Inc. on January 27, 2011, by means of the January 26, 2011 letter from John R. Ponsetto, Esq., and by Charlotte on January 31, 2011 on behalf of Ms. Alexander. No statutory parties or other persons filed positions in this matter.

**Ms. Alexander as a Qualifying Party Under Rule 3(B)**

Based upon a review of the materials on file for application 5W0870-17 and in the present matter, Jill Alexander is an adjoining property owner to the Agri-Mark, Inc. project tract. Consideration of the site plans on file for application 5W0887, and as were discussed in Jurisdictional Opinion 5-13, support a conclusion that Ms. Alexander's residential water supply is within a sufficient proximity of the creamery's wells so as to demonstrate a particularized interest recognized under at least criterion 3 (potential impacts on existing water supply). This conclusion is supported by a reading of the Environmental Court's conclusions in Lamoille Valley Rail Trail Act 250 Jurisdictional Opinion (Reconsidered) (Appeal of Vtrans and VAST (Docket #208-10-09 Vtec) (July 30, 2010).

**CONCLUSIONS**

Having given close consideration to the arguments advanced in the requests for reconsideration and having reviewed the December 16, 2010 Jurisdictional Opinion, the requests for reconsideration are denied. Accordingly, the conclusions of Jurisdictional Opinion 5-13 are final subject to any appeal to the Environmental Court, as stated on page 7 of the Jurisdictional Opinion.

Sincerely,

/s/ Edward Stanak  
Edward Stanak  
District Coordinator

