May 9, 2002

John C. Kasharian
Kash's Farm

.................., NJ 07840

Re: Right to Farm Matter
        Kash's Farm
        Independence Township, Warren County
        Block 17, Lot 74

Dear Mr. Kasharian:

The State Agriculture Development Committee ("SADC"), the agency charged with the administration of the Right to Farm Act ("Act"), has reviewed the certification you submitted in support of your request for a determination that your agricultural operation qualifies for protection under the Act. Specifically, the SADC has reviewed whether your farm market and forest product processing operation are protected activities under the Act. Based upon your certification and the site inspection of your operation conducted by SADC staff on February 22, 2002, SADC staff has concluded that neither the farm market nor the forest product processing activities qualifies for protection under the Right to Farm Act.

The Right to Farm Act protects farm markets associated with a commercial farm if the market meets the Act's definition of "farm market." N.J.S.A. 4:1C-3 and 9c. If produce is marketed wholesale, the Act requires that the produce be the output of the farm on which the market is located. N.J.S.A. 4:1C-3.

Specifically, a farm market is defined as

> [a] facility used for the wholesale or retail marketing of the agricultural output of a commercial farm, and products that contribute to farm income, except that if a farm market is used for retail marketing at least 51% of the annual gross sales of the retail farm market shall be generated from sales of agricultural output of the commercial farm, or at least 51% of the sales area shall be

devoted to the sale of the agricultural output of the commercial farm. . .
[N.J.S.A. 4:1C-3].

Your wholesale farm market does not meet the definition of farm market because as you have indicated, and as SADC staff has observed, the operation entails marketing wholesale produce and food products that have not been produced on your farm. (It should be noted that although a farm market might qualify for protection by meeting this definition, the construction of building and parking areas used for farm markets must nonetheless be in conformance with municipal standards. N.J.S.A. 4:1C-9c.)

Furthermore, the forest product processing operation is not a protected activity under the Act, as it does not entail the production of forest products. The Act protects the production of trees and forest products and the processing of the agricultural output of the farm, N.J.S.A. 4:1C-9a and b (emphasis added). It is the SADC's understanding that your operation entails removing logs and wood from off-site construction sites, processing those products into firewood, and selling the firewood. In addition, you provide a service whereby you remove trees from lands owned by others, then process the wood and resell it. Neither of these activities involves the production of trees and forest products or the processing of products grown on your farm. Accordingly, they are not protected under the Act.

You may appeal this determination by submitting a letter to the SADC within 15 days of the date of your receipt of this letter. If you appeal within 15 days, the SADC will schedule a hearing regarding whether your agricultural operation qualifies for the protections of the Right to Farm Act.

Sincerely,

Gregory Romano

c: Duane Copley, Administrator, Warren CADB
       Art DeFillipis, Zoning Officer, Independence Township
       Eileen P. Kelly, SDAG

       via: certified mail

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