

October 5, 2017

Warren Goetsch & Doug Owens
Illinois Dept of Agriculture
P.O. Box 19281, Springfield, IL 62794-9281

Dear Mr. Goetsch and Mr. Owens:

This letter is in response to the September 18, 2017 letter submitted to the Department by Frank & West regarding the Memory Lane Acres, LLC project and Isabel Memorial Park.

We disagree with Frank & West in their statement regarding the application base date. To date the owner/operator has NOT submitted all the required information as the set-back map still contains errors and omissions. The original application date is not the official base date as outlined in the excerpt below from Section 900.304(a) of the Act:

The date the Department issues the acknowledgment of setback compliance pursuant to Section 900.303(b)(3) of this Part or notifies the owner or operator that all information has been submitted pursuant to Section 900.303(c)(1) of this Part establishes the base date for the determination of whether residences, non-farm businesses, or common places of assembly exist for setback purposes. The date the Department issues the acknowledgment of setback compliance pursuant to Section 900.303(b)(3) of this Part or notifies the owner or operator that all information has been submitted pursuant to Section 900.303(c)(1) of this Part establishes the base date for the determination of whether residences, non-farm businesses, or common places of assembly exist for setback purposes.

The NOITC is incomplete due to the following errors and omissions on the setback map and related documents:

- The amended setback map Frank & West provided to the Department on 3/7/2017 as an amended setback map [Appendix A] does not list all the occupied residences. It was amended to show the rental home owned by Craig Porter. However, the home of Winnetta Peters' is still not listed as an occupied residence on the list of those in the setback area as required by the law (Section 900.303.b.4 of this part). The setback map is incorrect making the NOITC incomplete.
- Frank & West's amended setback map [Appendix A] incorrectly shows the location of the nearest potable well as 4500 feet. Based on resident reports, over 60 wells are located within a 2 mile radius of the proposed site. Some of these potable wells are used for household purposes, while others are used outside the home for livestock, pets, and other purposes. Several households that are on the South Fulton Water System still use their well water in addition to the water system. The nearest potable well is much closer than the stated 4500 feet and the setback map needs to be corrected. The NOITC is incomplete.
- Frank & West's amended setback map [Appendix A] incorrectly states the "surface drainage is to the west." We are assuming the company is referencing an older version of the plat map for our area as the 2016 Isabel Township plat map [Appendix B] clearly shows the drainage to the east for the area where the buildings are to be located. This was also documented in Brad Beaver's report on March 8, 2017. Only the western portion of the farm-owned land will drain to the west.

According to the documents provided in the NOITC, the buildings will be located on the east side of the farm-owned property. The setback map is incorrect making the NOITC incomplete.

- Frank & West's amended setback map [Appendix A] on the NOITC incorrectly lists Otter Creek as the nearest stream even though an unnamed stream beginning on the property and running to the east has been documented by the IDOA in Brad Beaver's report on March 8, 2017. The setback map is incorrect making the NOITC incomplete.
- Frank & West's amended setback map [Appendix A] on the NOITC states "there are no subsurface drainage lines"; however, residents have reported tiling done on the property - 1996 and 2016 - in numerous letters and e-mails submitted to the Department.
 - Subsurface tiling was also done on the farm-owned property in the fall of 2016 by the Timewell Drainage Company. This information was included in our letter to the Department on 3/16/17.
 - The site was also tiled in 1996 based on documents provided to our organization by the previous land owner. These tiles run along the north-south border on the eastern side and the east-west border on the southern property line. This tiling system is connected to a freshwater pond and unnamed stream running east towards the Spoon River. This stream was documented by Brad Beaver in his report to the IDOA on March 8, 2017.
 - This stream serves as a water source for livestock on neighboring farms. This information was also included in our letter to the Department on 3/16/17. This stream was documented by Brad Beaver in his report to the IDOA on March 8, 2017. Further research using the NFWS Wetlands Mapping application [Appendix C], has shown the stream begins at a freshwater pond located .23 miles to the east of the site property.
- Frank & West's amended setback map [Appendix A] incorrectly lists the nearest non-farm business as Van Horn, LLC. This business is no longer located in our township. However, there are other non-farm businesses within a 2 mile radius of the site. The setback map is incorrect making the NOITC incomplete.

Regarding Isabel Memorial Park, it is our understanding that the LMFA does not require a park to have existed for any length of time prior to the beginning of the base period unlike the requirements outlined for an "occupied residence". The law states: *"Populated area" means any area where at least 10 inhabited non-farm residences are located or where at least 50 persons frequent a common place of assembly or a non-farm business at least once per week.* The park fully conforms to the definition of "populated area".

Even if we were to consider our first official day for the park as March 21, 2017, which is the first day our organization started documenting visitors, the park still qualifies for a setback. Our organization has submitted several letters to the Department [3/16/17, 4/10/17, 6/4/17, 7/6/17, 8/2/17, 9/25/17] documenting the usage of the park, which has averaged 82 visitors per week since the "first" day.

However, this area has historically been used as a recreational gathering place. It was used for church and neighborhood gatherings when it was owned by Bob Harn. It continues to be used today as a gathering area under Craig Porter, it's current owner. Our organization documented the history of the park in our letter to the Department on 3/17/17. We also provided the names of the people who had

used the park in the past and those who planned to use it in the future in our letter to the Department on 4/10/17.

The regulations outlined in the LMFA (see below) does not require the park to be open year round. Seasonal variations in usage are acceptable. The park is used during the summer months as well as the first two weekends of October for the Spoon River Scenic Drive, which classifies it as seasonal.

[510 ILCS 77/10.60] The existence of a populated area shall be determined by identifying the area around the livestock management or livestock waste handling facility delineated by a distance equal to the applicable setback distance and identifying the number of residences or the existence of a non-farm business or the existence of a common place of assembly within that area. For the purpose of setback requirements, common places of assembly or non-farm businesses include but are not limited to churches, hospitals, schools, day care centers, manufacturing companies, land managed for recreational or conservation purposes, museums, camps, parks, retail and wholesale facilities, and shopping centers. A common place of assembly or a non-farm business includes places that operate less than 52 weeks per year, such as schools with seasonal vacation periods and businesses or other places which experience seasonal shutdowns, and parks, camps, and recreational areas which experience seasonal shutdowns or reduced attendance during a portion of the calendar year, provided that such places are frequented by at least 50 persons at least once per week during the portions of the year when seasonal shutdowns or reductions in attendance do not occur.

Further, the regulations outlined above from the LMFA does not require it to be a public park. The park is posted as a private park as recommended for insurance purposes, but anyone may request the use of the park by contacting the property owner. His phone number is posted on the sign at the park.

In our opinion, the concerns detailed in this document clearly demonstrate the need for the applicant to resubmit a setback map that makes the necessary corrections before its application is deemed complete. Furthermore, when that is done, it will become clear to the Department that the proposed site cannot comply with the setback distances required by law and other siting criteria. We respectfully request that the Department deny the application based on these facts.

Respectfully submitted,

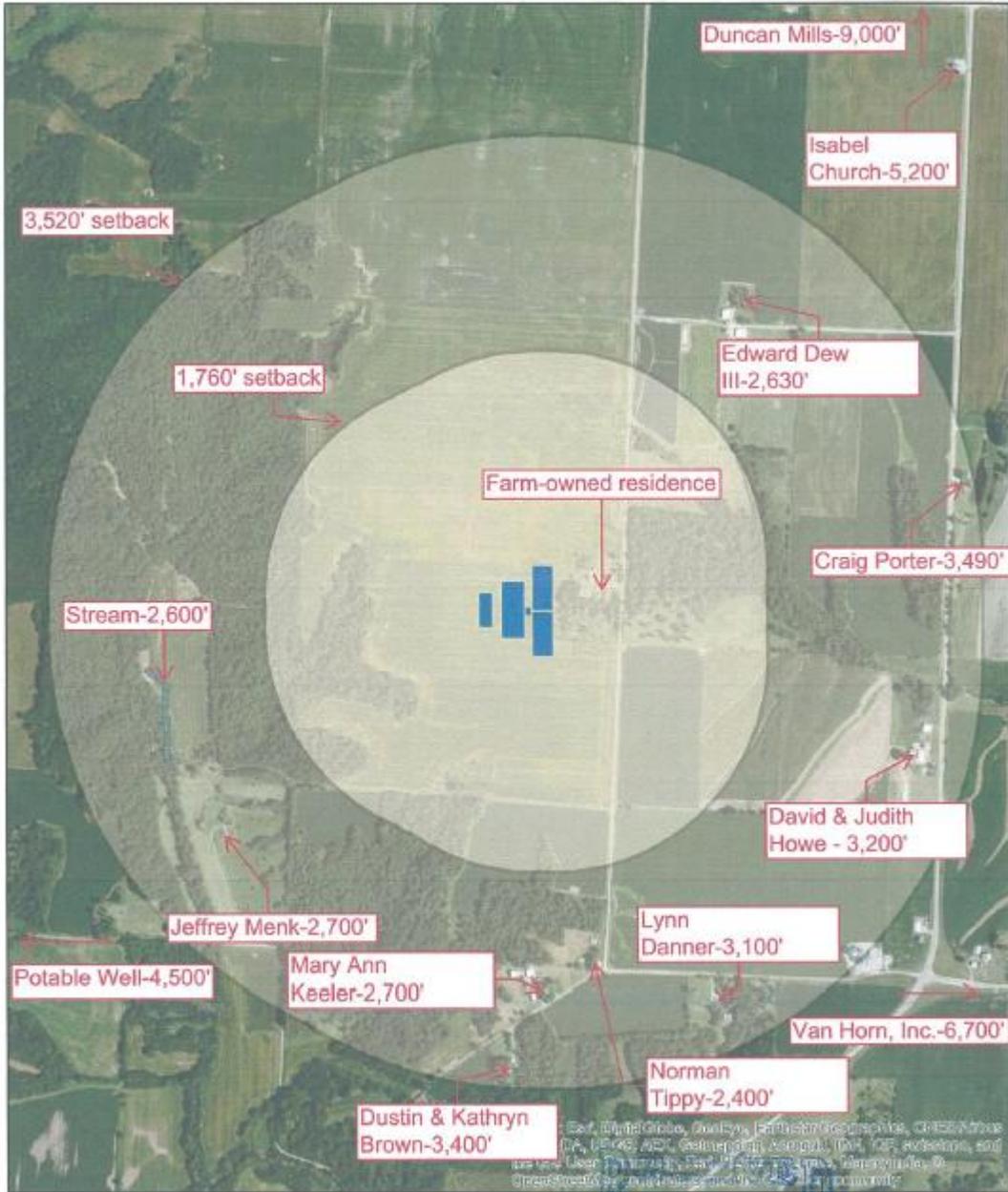
Concerned Citizens of Isabel Township
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309-338-1520
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CC: Attorney General Lisa Madigan, Sen. Jil Tracy, Rep. Norinne Hammond, Sen. Dave Koehler, Rep. Cheri Bustos, Nick Tinsman (Barnhart-Tinsman-Lane Law Office)

Appendix A: Amended Setback Map provided by Frank & West on 3/7/17

Memory Lane Acres, LLC

Setback Map



- Notes:
- *No abandoned wells within 1,000'
 - *No subsurface drainage lines within 100'
 - *Surface water flow is west away from the buildings

MAR 07 2017

1,100 Feet

Dept. of Agriculture
 Div. of Environmental Management

Frank & West
 Professional Engineers, Inc.

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Appendix C: Unnamed Freshwater Pond

