

Lansing
313 S. Washington Square
Lansing MI 48933

Farmington Hills
32300 Northwestern Highway – Suite 230
Farmington Hills MI 48334

Grand Rapids
1700 E. Beltline NE – Suite 200
Grand Rapids MI 49525

Detroit
333 W. Fort Street – Suite 1400
Detroit MI 48226

Holland
151 Central Avenue – Suite 260
Holland MI 49423

St. Joseph
728 Pleasant Street – Suite 204
St. Joseph MI 49085

Walter S. Foster
1878-1961
Richard B. Foster
1908-1996
Theodore W. Swift
1928-2000
John L. Collins
1926-2001

Michael D. Sanders
Brent A. Titus
Stephen J. Lowney
Jean G. Schtokal
Brian G. Goodenough
Matt G. Hrebec
Melissa J. Jackson
Nancy L. Kahn
Deanna Swisher
Thomas R. Meagher
Doug A. Mielock
Scott A. Chernick
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Lynwood P. VandenBosch
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Richard C. Kraus
Benjamin J. Price
Frank T. Mamat
Michael R. Blum
Norman E. Richards
Jonathan J. David
Frank H. Reynolds
Pamela C. Dausman
Andrew C. Vredenburgh
John M. Kamins

Jack A. Siebers
Julie I. Fershtman
Todd W. Hoppe
Jennifer B. Van Regenmortel
Thomas R. TerMaat
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Ray H. Littleton, II

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Scott A. Dienes
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Glen A. Schmiege
Gilbert M. Frimmet
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Paul D. Yared
Ryan E. Lamb
Barbra E. Homier
Stephen W. Smith
Anna K. Gibson
Patricia J. Scott
Lindsey E. Bosch
Nicholas M. Oertel
Lauren B. Dunn
Alicia W. Birach
Joseph J. Viviano
John W. Mashni

Adam A. Fadly
Allison M. Collins
Leslie A. Dickinson
Julie L. Hamlet
Michael C. Zahrt
Taylor A. Gast
Rachel N. Gizicki
Tyler J. Olney
Mark J. DeLuca
Stefania Gismondì

Writer's Direct Phone: 517.371.8323

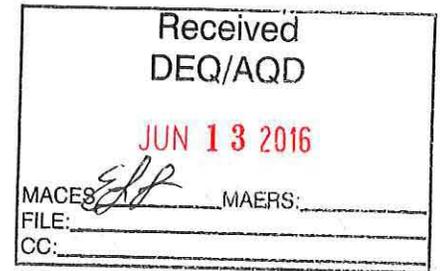
Fax: 517.371.8200

Reply To: Lansing

E-Mail: ZBehler@fosterswift.com

June 9, 2016

Ed Lancaster
Senior Environmental Quality Analyst
Michigan Department of Environmental Quality
1504 West Washington Street
Marquette, MI 49855



Dear Mr. Lancaster:

Re: SRN: U071606687, Baraga County

My name is Zachary Behler and I am writing in my capacity as the Village Attorney for the Village of L'Anse (the "Village"). On May 31, 2016, the Village received a letter alleging that it violated the federal Clean Air Act; Part 55 Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended and the associated administrative rules. The substance of the allegation was that on May 12, 2016 the Village allegedly burned chemically treated pilings at the L'Anse Waterfront Park.

The letter states that the AQD staff received "photographs of open burning of pilings at the L'Anse Waterfront Park, and confirmed the evidence with a site visit on May 17, 2016." The Village does not dispute that it engaged in an open burn at the L'Anse Waterfront Park on May 12, 2016. However, it does dispute the claim that the wood burned was chemically treated. Since the wood burned was not chemically treated the open burn was in compliance with the federal Clean Air Act; Part 55 Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended and the associated administrative rules as set forth below.

As you are probably aware, historically the Village has been the site of significant timber processing operations. As part of the processing of timber, lumbermen would float logs on the Keweenaw Bay

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down to the saw mills in the Village. Many of these logs sunk over the years and came to rest on the bottom of the Keweenaw Bay. In the months prior to May 12, 2016, the Village was subject to several severe weather events. This severe weather caused logs resting on the bottom of the Keweenaw Bay to wash up on the municipal beach. On May 12, 2016 the Village burned the previously sunken logs that had washed ashore to dispose of them prior to the start of the summer beach season. The May 12, 2016 open burn performed in accordance with local ordinance and the local fire department was notified prior to its ignition.

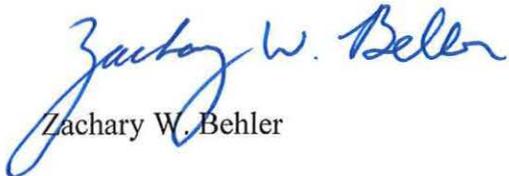
During the site visit on May 17, 2016, the AQD staff pointed out that at least one of the burned logs had nails in it. However, the fact that a log has a couple of nails in it, does not mean it is chemically treated. Further, the allegation that the logs were treated pilings from a dock or pier is not supported by the historical record, since there has not been any pier or dock construction in the area in the last 100 years. Finally, nothing in the photographs provided by MDEQ suggests that the logs burned were chemically treated and to the Village's knowledge, the MDEQ performed no testing that would suggest that any of the burned logs were chemically treated. Therefore, the burn was in compliance with MCL 324.11522 and R 336.1310.

The May 31, 2016 letter also states that "In order to comply with Rule 310, the Village of L'Anse is advised to immediately discontinue any open burning." This statement is not supported by the plain language of Rule 310. Rule 310 expressly allows the open burning of "logs" by a commercial operation like the Village, which is exactly what occurred here.

However, in the spirit of compromise the Village has ceased all open burning in the L'Anse Waterfront Park and sent the ashes and unburned portions of the logs to the Keweenaw Bay Indian Community Solid Waste Facility. The receipt is enclosed. The Village will also continue to not engage in the burning of any chemically treated wood as required by MCL 324.11522 and R 336.1310 and will continue to dispose of such material, when necessary, in compliance with Part 1115 of NREPA.

Sincerely,

FOSTER SWIFT COLLINS & SMITH PC



Zachary W. Behler

ZWB:ZB
Enclosure



Keweenaw Bay Indian Community
Solid Waste Facility
16278 Ojibwa Industrial Park Rd.
Baraga, MI 49908
906-353-8024

TICKET #: 19609

DATE: 06/03/16
TIME: 10:15

OPERATOR: Daniel Connor

CUSTOMER: Village Of L'Anse
TRUCK#:
TRAILER:
PLATE#:
MATERIAL: MSW

GROSS	24600 lb	MAN WT
TARE	21840 lb	MAN WT
NET	2760 lb	

PAYMENT METHOD: 1 - Charge
TIP FEE: 131.10
SPEC FEE: 0.00
TAX: 0.00
TOTAL: \$131.10
TENDERED: 131.10
CHANGE: 0.00

PO#/CHECK#:

Charred logs

CUSTOMER SIGNATURE:

Bob ELIASON

HAVE A GREAT DAY

PURCHASE ORDER#:

NOTE:

6/3/16

Charred logs sent to
KBIC Transfer Station
for disposal to landfill
per DEQ discussion.

Robert Allen LaHave

Village Manager - L'Anse, MI