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June 20, 2011

Joe Hall, Director  
Michigan Septic Tank Association  
Hall's Serv-All  
10427 Leer Rd  
Posen, MI 49776

Re: MSTA

Dear Joe:

Thank you for the opportunity to present the MSTA's position to the House Natural Resources Committee earlier this week. During our meeting and presentation, I was provided a copy of the Michigan Township Association's memo (authorized by their lobbyist, Tom Frazier) to the Committee expressing their dissatisfaction with the proposed legislation. It occurs to me that Mr. Frazier should have specific questions presented to him regarding the MTA's position on the proposed legislation. First, Mr. Frazier should be asked **exactly and specifically** what would change for township governments under this new statute. Frankly, I think Mr. Frazier would be hard pressed to think of a specific change in township control over septage regulation. Under the proposed amendment, townships still control if land application is banned, and if not banned, the townships still control how, when and where septage is land-applied. I think Mr. Frazier should then be asked a series of follow-up questions such as:

1. Don't the townships have the ability to control any change under the amendment by simply not adopting a land ban ordinance (an ordinance which bans the land application of septage)?
2. If the townships can control whether or not they have to build or make available a receiving facility, do they really lose anything under this proposed legislation?
3. Do you acknowledge that currently a township can make a receiving facility in another township or county "available" as their receiving facility, regardless of how far away it may be?
4. Do you consider it reasonable that a hauler should have to haul septage more than 25 miles?

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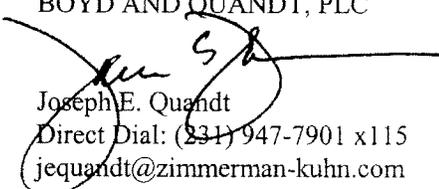
5. Do you realize that in many rural communities, the 25 radial mile limitation may require that a hauler actually haul septage much greater distances than 25 miles due to a lack of road network?
6. Do you acknowledge that, under the current status of the law today, a township could appoint another township or county receiving facility as its designated receiving facility, realizing that such a designation would require a hauler to haul septage much greater distances than 25 miles?
7. If a community bans the land application of septage, do you think that community has a responsibility to the public to make a receiving facility available for septage pumped from tanks within that community?
8. So, knowing that, do you acknowledge that townships have a responsibility to provide for safe and environmentally responsible disposition of septage generated within its township borders?
9. Then would you agree that if a township has a responsibility to make sure that septage generated within its community is responsibly managed, that part of that responsible management is making sure that the septage can be managed in a way that is cost-effective for the septic tank owner and the septic tank pumper?
10. How could it be cost-effective for the septic tank owner and septic tank pumper if the material has to be transported over 25 miles away, which is, as you acknowledged, what the law currently allows?

I think you can see my point here that the MTA's position is not only legally untenable, but also doesn't make any practical or financial sense. It might also be appropriate to ask Mr. Frazier whether or not he was present during the drafting of the 2004 amendments and whether or not he agrees with the House fiscal agency's comments on the Bill that it was the intent of the Legislature, when adopting Section 15 of Part 117, to require communities to build receiving facilities in their jurisdiction if they chose to outlaw land application of septage?

Please let me know if you need any further commitment from me or my staff on this issue.

Sincerely,

ZIMMERMAN, KUHN, DARLING,  
BOYD AND QUANDT, PLC



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