

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

STATE OF MICHIGAN, DEPARTMENT
OF ENVIRONMENTAL QUALITY,

Plaintiff,

v

File No. 07-127-CE

CHARTER TOWNSHIP OF BRIGHTON,

Honorable JAMES R. GIDDINGS

Defendant.

Jonathan C. Pierce (P47339)
Assistant Attorney General
Environment, Natural Resources,
and Agriculture Division
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Lansing, MI 48910
(517) 373-7540
Attorney for Plaintiff

A previous civil action arising out of the same transaction or occurrence was brought and resolved in *United States of America v Brighton Township, et al*, United States District Court, Eastern District of Michigan, File No. 2:94-cv-75289.

COMPLAINT

1. This is a civil action brought under Parts 31, Water Resource Protection, and 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended, MCL 324.3101 *et seq*, and MCL 324.20101 *et seq*, to obtain injunctive relief to eliminate illegal discharges into the waters of the State. The Plaintiff also seeks recovery of response activity costs, surveillance and enforcement costs, and penalties under Parts 31 and 201 of the NREPA. Finally, the Plaintiff seeks to have the property at issue declared a common law public nuisance.

2. This Court has personal jurisdiction in this matter under MCL 600.711 and subject matter jurisdiction pursuant to MCL 324.3115(1) and MCL 324.20137(3).

3. Venue is proper in this Court under the Revised Judicature Act, MCL 600.1631, MCL 324.3115(1), and MCL 324.20137(3).

PARTIES

4. Plaintiff, the Michigan Department of Environmental Quality (MDEQ), is a principal department within the Executive Branch of the State of Michigan. Statutory authority, powers, duties, functions, and responsibilities previously vested in the Michigan Department of Natural Resources (MDNR) pursuant to Part 5 of the NREPA, MCL 324.501 *et seq.*, were transferred to the MDEQ pursuant to Executive Orders 1995-16 and 1995-18.

5. The Charter Township of Brighton (Township) is the Defendant, and is a "person" under NREPA Section 301(g), MCL 324.301(g).

COMMON ALLEGATIONS

6. The property at issue is a former dump covering about 10 acres located on Corlett Road in Brighton Township, Livingston County, Michigan (the "Property"). The Property was owned first by Vaughn Collett and then his son Jack (collectively "the Colletts"), both since deceased, during the period that it was operated as an active landfill.

7. From 1960 to 1973, the Township first contracted with Vaughn Collett and later with Jack Collett to provide a location for Township residents to dispose of waste at the Property. **Attachment A** provides the Property's legal description.

8. The Township provided Vaughn Collett a permit to operate the Property and compensated the Colletts for making the Property available to the residents of the Township for waste disposal. During the course of the relationship between the Township and the Colletts, the

Township Board directed operations at the Property, including the types of waste, both commercial and residential, to be accepted and decided how compliance with environmental regulations would be achieved at the Property.

9. In 1990, the United State Environmental Protection Agency (USEPA) conducted an emergency response at the Property. The USEPA recovered and removed 250 drums and excavated and removed several cubic yards of contaminated soil from the Property.

10. In 1991 and continuing into 1992, the MDNR conducted a limited-scope investigation of the Property to estimate the extent of contamination associated with the known drum disposal area.

11. Since 1991, the MDNR and then the MDEQ have continued to collect soil, groundwater, surface water, and sediment samples from both on-site and off-site locations. Analytical results have established that all or portions of the Property, along with an adjacent off-Site property area, constitute a "Facility" within the meaning and scope of NREPA Section 20101(1)(o), MCL 324.20101(1)(o) by exceeding the risk-based criteria that define this term.

12. The table in **Attachment B** shows the highest concentrations of various hazardous substances detected thus far at the Facility in the groundwater, and the table in **Attachment C** shows the highest concentrations of several hazardous substances that have been detected thus far in soils at the Facility. Attachments B and C also show selected exceedances of Residential and Commercial I Cleanup Criteria and Groundwater Surface Water Interface (GSI) Criteria for the exposure pathways shown. Data confirming risk-based criteria exceedances and pathways for migration of the hazardous substances present at the Facility may not be limited to the pathways, exceedances, and data and data contained in these two attachments.

13. In early 1996, the MDEQ installed monitor wells around the Property's perimeter for long-term groundwater quality monitoring. Additional activities included installing fencing to control access to hazardous substance source areas, long-term groundwater monitoring, proper grading to obtain contours and slopes of the landfill surface more effective in limiting surface water infiltration and soil erosion, and adding a soil covering over the landfill. Additional wells were installed in and around the drum disposal area to define the extent of the groundwater plume. The groundwater in this area was found to be contaminated with tetrachloroethylene (PCE) and zinc in excess of health-based Residential and Commercial I drinking water standards. Soils with concentrations of arsenic above Residential and Commercial I direct contact values were also found in this area. Contaminated groundwater and sediments, which may have resulted from hazardous substances migrating from areas of the Property other than the drum dumping area, were found south of the dump. Levels of benzene, toluene, ethyl benzene, and xylene (collectively, "BTEX"), trimethylbenzene, vinyl chloride, methyl ethyl ketone (MEK), and 2-hexanone in the groundwater were and remain above the Residential and Commercial I Part 201 drinking-water standard. Levels of heavy metals, especially arsenic, were found in the soil to exceed the GSI interface protection criteria by exceeding GSI values by 20 times, or exceeding Residential and Commercial I values of the Part 201 Drinking Water Protection cleanup criteria. To date, these contaminants found in groundwater and soil continue to exceed these criteria. Other exceedances of hazardous substances in various exposure pathways also exist at the Facility.

14. Also in 1996, the MDEQ's contractor completed two additional remedial investigations of sediments, groundwater, and surface water in the wetlands area south of the Property. Groundwater contamination in the wetlands area was found at higher concentrations

than had been expected. In late 1996 additional monitoring wells were installed in an attempt to fully define the horizontal and vertical extent of groundwater contamination offsite to the east.

15. In September 1999, the MDEQ hired a contractor to remove or cover surface debris at the Property. As part of the MDEQ's continuing investigation to determine the horizontal and vertical extent of the contamination, additional monitoring wells were installed as needed to fill in data gaps.

16. Following the surface debris removal, the MDEQ determined that, before planning and installing a groundwater treatment system, the source area near the wetland should be removed. Soil sampling was conducted in late 1999 to determine the extent of the contamination source area near the wetland. In late 2000, the MDEQ began excavating material from the suspected source area. The remains of 12 buried drums, paint sludges, and large quantities of debris were discovered during excavation. Excavation activities were terminated and additional sampling and test-pitting were conducted to determine if more drums, sludges, or debris were present. The test pits revealed additional contaminated soil and debris, but no additional drums. Two rounds of groundwater samples and static water level measurements were collected in an attempt to determine the extent and the direction of the groundwater contaminant plume.

17. The MDEQ's contractor prepared a focused feasibility study that determined further soil excavation was the most appropriate remedial option to address the debris and contaminated soil in the source area. From late 2001 until early 2002, excavation activities were conducted. Subsequent to the excavation, the MDEQ continued work on a feasibility study for groundwater remediation options. Additional monitor wells were installed to assist in the preparation of the feasibility study for groundwater.

18. The MDEQ anticipates that further removal and other response activities will be necessary to comply with Part 201 at and near the Property.

19. As of January 9, 2007, the MDEQ had incurred \$2,773,604.66 in public funds at the Facility, and continues to incur response activity costs, including statutory interest, that began and continues to accrue from the date of the State's demand letter to the Township. The \$2,773,604.66 includes \$569,202.41 in interest for the period April 2, 2001 through December 31, 2006. A cost summary is provided in **Attachment D**.

20. In a letter dated December 20, 1990, the State first notified the Township that the State had determined that the Township was an operator at the Property and, as such, a potentially responsible party. (**Attachment E**.) The State's notice letter asked the Township to conduct an MDNR-approved investigation to determine the extent of the contamination and to voluntarily remediate the environmental problems associated with the Property.

21. In a letter dated April 2, 2001 (**Attachment F**), the State notified the Township that it was liable for contamination at the Facility and was responsible for the release of hazardous substances that exceeded the residential cleanup requirements of NREPA Section 20120a(1)(a) and (17), MCL 324.20120a(1)(a) and MCL 324.20120a(17). In that letter, the Michigan Department of Attorney General, on the MDEQ's behalf, demanded response activity cost reimbursement.

COUNT I – PART 201

22. Paragraphs 1 through 21 of this Complaint are restated and incorporated by reference.

23. The substances listed in Attachments B and C that have been detected in the soils and groundwater are "hazardous substances" under Section 20101(t) of Part 201, MCL

324.20101(t). Hazardous substances released at the Property constitute a "release" or "threat of release" as those terms are defined in Section 20101(1)(bb) and 20101(ii) of the NREPA, MCL 324.20101(1)(bb) and 324.20101(ii).

24. The Property and the nearby area where hazardous substances have been released into the environment in excess of the concentrations that satisfy the requirements of Sections 20120a(1)(a) or (17) of Part 201, and constitute a "facility" as defined by Section 20101(1)(o) of Part 201, MCL 324.20101(1)(o).

25. NREPA Section 20126(1), MCL 324.20126(1), provides in part:

(1) Notwithstanding any other provision or rule of law and except as provided in subsections (2), (3), (4), and (5) and section 20128, the following persons are liable under this part:

(a) The owner or operator of a facility if the owner or operator is responsible for an activity causing a release or threat of release.

(b) The owner or operator of a facility at the time of disposal of a hazardous substance if the owner or operator is responsible for an activity causing a release or threat of release.

* * *

(d) A person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of a hazardous substance owned or possessed by the person, by any person, at a facility owned or operated by another person and containing the hazardous substance.

26. The Township, through directing operations at the Property and by arranging with the Colletts for Township residents to dispose of their waste at the Property, is responsible for an activity causing a release or threat of release within the meaning of subsections 20126(1)(a)-(b) and (d), MCL 324.20126(1)(a)-(b) and (d).

27. The Township is a person liable under Section 20126 of Part 201 of the NREPA, MCL 324.20126.

28. Section 20126a of the NREPA, MCL 324.20126a, provides in part:

(1) Except as provided in section 20126(2), a person who is liable under section 20126 is jointly and severally liable for all of the following:

(a) All costs of response activity lawfully incurred by the state relating to the selection and implementation of response activity under this part.

* * *

(3) The amounts recoverable in an action shall include interest. This interest shall accrue from the date payment is demanded in writing, or the date of expenditure or damage, whichever is later. The rate of interest on the outstanding unpaid balance of the accounts recoverable under this section shall be the same rate as specified in section 6013(5) of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.613 of the Michigan Compiled Laws.

* * *

(6) If the department determines that there may be an imminent and substantial endangerment to the public health, safety, or welfare, or to the environment because of an actual or threatened release from a facility, the attorney general may bring an action against any person who is liable under section 20126 or any other appropriate person to secure the relief that may be necessary to abate the danger or threat. The court has jurisdiction to grant such relief as the public interest and the equities of the case may require.

29. As a result of releases and threatened releases of hazardous substances that the Township has caused, the State has incurred and is continuing to incur response activity costs, including investigation and enforcement costs, at the Facility. As of January 9, 2007, the State had incurred \$2,773,604.66 in response activity costs, including statutory interest.

30. NREPA Section 20137(1), MCL 324.20137(1), provides in part as follows:

(1) In addition to other relief authorized by law, the attorney general may, on behalf of the state, commence a civil action seeking one or more of the following:

(a) Temporary or permanent injunctive relief necessary to protect the public health, safety, or welfare, or the environment from the release or threat of release.

(b) Recovery of state response activity costs pursuant to Section 20126a.

* * *

(d) A declaratory judgment on liability for future response costs and damages.

* * *

(f) A civil fine of not more than \$10,000.00 for each day of violation of this part or a rule promulgated under this part. A fine imposed under this subdivision shall be based upon the seriousness of the violation and any good faith efforts of the person to comply with this part or a rule promulgated under this part.

* * *

(k) Any other relief necessary for the enforcement of this part.

31. Under NREPA Sections 20126a and 20137(1)(d), MCL 324.20126a and MCL 324.20137(1)(d), the MDEQ is entitled to a declaratory judgment that the Township is responsible for performing all further response activities necessary to protect the public health, safety, and welfare or the environment from the release or threat and release of hazardous substances at the Facility, and is liable to the MDEQ for the State's past and future response activity costs related to its investigation and implementation of other response activities, including oversight of any future response activities that the Township may perform.

COUNT II – PART 31

32. Paragraphs 1 through 31 of this Complaint are restated and incorporated by reference.

33. Section 3109(1) of Part 31 prohibits the direct or indirect discharge of any substance into the waters of this State that is or may be injurious to any of the following:

- (a) To the public health, safety, or welfare.
- (b) To domestic, commercial, industrial, agricultural, recreational, or other uses that are being made or may be made of such waters.
- (c) To the value of utility or riparian lands.
- (d) To livestock, wild animals, birds, fish, aquatic life, or plants or to their growth or propagation.
- (e) To the value of fish and game. [MCL 324.3109.]

34. Section 3112 of Part 31 of the NREPA, MCL 324.3112, prohibits the discharge of any waste or waste effluent into the waters of the State without a permit. The groundwater is a water of the state.

35. As set forth above, the Township has caused numerous discharges to the waters of the State that are or may become injurious. These discharges to the waters of the State were and are unpermitted.

36. Section 3115(1) of Part 31, MCL 324.3115(1), provides that the Attorney General may commence a civil action for appropriate relief, including a permanent or temporary injunction, for violations of Part 31 or its rules. MCL 324.3115(1) also provides in part:

(1) In addition to any other relief granted under this subsection, the court shall impose a civil fine of not less than \$2,500.00 and may award reasonable attorney fees and costs to the prevailing party. However, the maximum fine imposed by the court shall not be more than \$25,000.00 per day of violation.

COUNT III – COMMON LAW PUBLIC NUISANCE

37. Paragraphs 1 through 36 of this Complaint are restated and incorporated by reference.

38. A condition or activity that unreasonably interferes with public rights or threatens the public welfare constitutes a public nuisance.

39. As set forth above, the Township has created a public nuisance.

40. The Attorney General may bring an action to abate a public nuisance, and this Court has the authority and jurisdiction to compel the Township to abate the nuisance.

41. Furthermore, under NREPA Part 31, Section 3109(4), MCL 324.3109(4), a discharge of an injurious substance into the waters of the State is *prima facie* evidence of a public nuisance, and in addition to Part 31's remedies, may be abated according to law in an action that the State may bring.

RELIEF REQUESTED

Plaintiff requests this Honorable Court to grant the following relief:

- A. Declare and adjudge that the Township's conduct is unlawful and in violation of Part 31 and Part 201 of the NREPA;
- B. Order the Township to perform all further response activities necessary to protect the public health, safety, and welfare or the environment from a release or threat of a release of hazardous substances at the Facility in compliance with Part 201;
- C. Require the Township to pay Plaintiff's past response activity costs incurred at or in relation to the Facility, plus statutory prejudgment interest;
- D. Declare and adjudge that the Township is liable for the State's future response costs, including statutory interest applicable under Part 201, in connection with the Facility;
- E. Order the Township to pay appropriate civil penalties, attorney fees, and costs of surveillance and enforcement by the MDEQ;
- F. Order the Township to abate the public nuisance;
- G. Award the MDEQ its costs in this action; and

H. Grant Plaintiff further relief as the Court finds just and appropriate.

Respectfully submitted,

Michael A. Cox
Attorney General



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and Agriculture Division
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(517) 373-7540
Attorney for Plaintiff

Dated: January 30, 2007
Brighton Dump/2000063078/Complaint

ATTACHMENT A

The legal description for the Property, located in Livingston County, Michigan, is as follows:

THE N 628 FT OF THE S 964 FT OF THE NE ¼ OF THE NW ¼
EXC THE W 635.6' THEREOF, SECTION 15 CONTAINING 10
ACRES, TOWN 2 NORTH RANGE 6 EAST, BRIGHTON
TOWNSHIP.

The Property Number (Property's Tax ID Number) is: 4712-15-100-019.

ATTACHMENT B

<u>GROUNDWATER -Brighton Township Dump</u>			
Contaminants exceeding Residential and Commercial I Drinking Water (DW) and Groundwater/Surface Water Interface (GSI) Criteria Under NREPA Part 201 and the Part 201 Administrative Rules.			
Chemical	Concentration	DW criteria	GSI criteria
Benzene	190	5	*
Chloroethane	950	430	*
1,1-Dichloroethane	2700	880	*
1,2-Dichloroethane	98	5	*
1,1-Dichloroethylene	90	7	*
cis-1,2-Dichloroethylene	200	70	*
Ethyl benzene	4700	74	18
Lead	18	4	*
Methyl ethyl ketone	3600	*	2200
Methylene chloride	22	5	*
Methyl isobutyl ketone	2500	1800	*
Tetrachloroethylene	6.5	5	*
Toluene	16000	790	140
1,1,1-Trichloroethane	840	200	200
1,1,2-Trichloroethane	11	5	*
1,2,4-Trimethylbenzene	350	63	*
1,3,5-Trimethylbenzene	77	72	*

Vinyl chloride	73	2	15
Xylenes	27600	280	35
Zinc	41500	2400	22000

Note: All above concentration values are in parts per billion (ppb).

* Analytical result is below established DW or GSI criteria.

NOTE: Data confirming criteria exceedances and pathways for migration of the hazardous substances that are present at the Facility is not necessarily limited to the pathways, exceedances, and data that are shown above.

ATTACHMENT C

SOIL - Brighton Township Dump

Contaminants exceeding Residential and Commercial I Drinking Water Protection (DWP) Criteria, Groundwater/Surface Water Interface Protection (GSIP) Criteria, and Residential and Commercial I Direct Contact (DC) Criteria under NREPA Part 201 and the Part 201 Administrative Rules.

Chemical	Concentration	DWP Criteria	GSIP Criteria	DC Criteria
Benzene	15000	100	4000	*
Ethyl Benzene	31000	1500	360	*
Toluene	110000	16000	28000	*
Total Xylenes	141000	5600	700	*
1,2,4 Trimethylbenzene	46000	2100	570	*
1,3,5 Trimethylbenzene	13000	1800	1100	*
n-Propylbenzene	8300	1600	ID	*
1,2 Dichloroethane	280	100	*	*
Napthalene	2800	*	870	*
Mercury	250	*	100	*
Arsenic	15000	*	*	7600

Note: All above concentration values are in parts per billion (ppb).

* Analytical result is below established DWP, GSIP, or DC Criteria.

ID -- Means insufficient toxicological data available to determine GSIP Criteria.

NOTE: Data confirming criteria exceedances and pathways for migration of the hazardous substances that are present at the Facility is not necessarily limited to the pathways, exceedances, and data that are shown above.

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
REMEDATION AND REDEVELOPMENT DIVISION

Date: 01/10/2007

Source: ERNIE

Cost Recovery Summary Report - Combined

Page: 1 of 2

Site Name: Brighton Twp Dump

County: Livingston

Site ID: 47000004

Packages: 450752-00
1/10/07

BRIGHTON TOWNSHIP DUMP: Original, Update #1, Update #2, QMF #3, Interest

Total for Employee Salaries and Wages

Period Covered: 07/01/1991 - 12/16/2006

\$157,738.44

Indirect Dollars

\$27,763.31

Sub-Total

\$185,501.75

Total for Employee Travel Expenses

Period Covered: 08/01/1991 - 09/09/2006

\$4,189.83

Contractual Expenses

TETRA TECH NUS (Former HNUS) (GA9303)

Period Covered: 04/27/1991 - 08/29/1998

\$600,591.16

VW OPERATION SERVICES (92GA7193)

Period Covered: 07/01/1991 - 08/08/1991

\$7,810.00

VW OPERATION SERVICES (92GA7200)

Period Covered: 01/27/1992 - 05/04/1992

\$76,324.90

VW OPERATION SERVICES (94 GA7080)

Period Covered: 02/25/1994 - 09/01/1994

\$34,990.00

Malcolm Pirnie, Inc. (LOE #9499) (P9001050)

Period Covered: 12/16/1998 - 02/28/2002

\$153,899.52

HOMRICH, INC. (Y90384)

Period Covered: 07/09/1999 - 04/30/2001

\$111,362.92

Trace Analytical Laboratories, Inc. (Y80243)

Period Covered: 10/22/1999 - 07/31/2001

\$12,274.00

Malcolm Pirnie, Inc. (LOE #2005) (P0001598)

Period Covered: 05/01/2000 - 03/08/2006

\$451,850.60

DLZ Laboratories, Inc. (Y80240)

Period Covered: 05/25/2000 - 06/16/2000

\$2,805.00

HOMRICH, INC. (Y02035)

Period Covered: 01/01/2002 - 09/30/2002

\$367,354.14

Trace Analytical Laboratories, Inc. (Y03088)

Period Covered: 08/04/2004 - 11/18/2005

\$1,886.00

Malcolm Pirnie, Inc. (P6200718)

Period Covered: 10/03/2006 - 11/30/2006

\$8,827.54

Contract Sub-Total

\$1,829,975.78

Total for Miscellaneous Expenses

Period Covered: 07/01/1991 - 11/30/2000

\$886.51

MDNR/MDEQ Lab

Period Covered: 11/08/1995 - 05/19/2006

\$135,285.82

Total for MDPH/Community Health Expenses

Alternate Water Supply

Period Covered:

\$0.00

Bottled Water

Period Covered: 03/10/1993 - 05/06/1996

\$997.56

Cost Recovery Summary Report - Combined

MDPH/MDCH Lab	
Period Covered: 07/01/1991 - 10/12/2006	\$27,099.00
Sub-Total	<u>\$28,096.56</u>
Attorney General Expenses	
Period Covered: 09/01/2000 - 10/31/2006	\$19,332.00
Other Expenses	
Period Covered: 10/13/2006 - 10/13/2006	\$1,134.00
Sub-Total	<u>\$2,204,402.25</u>
Interest Calculated from 04/02/2001 through 12/31/2006	<u>\$569,202.41</u>
Total Combined Expenses for Site and Interest	<u><u>\$2,773,604.66</u></u>
Run Date 01/09/2007	

INTEREST CHARGES FOR COST RECOVERY UNDER MCL 600.6013

\$38,747.00

SITE NAME: Brighton Township Dump

DATE OF DEMAND LETTER:

April 2, 2001

YEAR RATE MONTH	TOTAL CURRENT EXPENDITURES BY MONTH	TOTAL EXPENDITURES YTD	INTEREST ON BEGIN OF MONTH CARRY-OVER
2005			
12%			
JAN	\$521.83	\$1,085,159.58	\$10,851.60
FEB	\$425.87	\$1,085,681.41	\$10,856.81
MAR	\$421.68	\$1,086,107.27	\$10,861.07
APR	\$584.69	\$1,086,528.96	\$10,865.29
MAY	\$1,452.84	\$1,087,113.64	\$10,871.14
JUN	\$1,566.61	\$1,088,566.48	\$10,885.66
JUL	\$3,865.86	\$1,090,133.09	\$10,901.33
AUG	\$3,458.17	\$1,093,998.95	\$10,939.99
SEP	\$36,500.37	\$1,097,457.13	\$10,974.57
OCT	\$5,433.06	\$1,133,957.50	\$11,339.57
NOV	\$3,143.49	\$1,139,390.56	\$11,393.91
DEC	\$8,538.35	\$1,142,534.04	\$11,425.34
SUBTOTAL	\$65,912.82		\$132,166.29
YTD	\$877,336.46	\$1,283,238.68	\$405,902.22
2006			
12%			
JAN	\$21,700.15	\$1,283,238.68	\$12,832.39
FEB	\$45,276.83	\$1,304,938.83	\$13,049.39
MAR	\$14,498.59	\$1,350,215.66	\$13,502.16
APR	\$608.93	\$1,364,714.25	\$13,647.14
MAY	\$7,920.30	\$1,365,323.18	\$13,653.23
JUN	\$1,646.06	\$1,373,243.48	\$13,732.43
JUL	\$1,751.04	\$1,374,889.54	\$13,748.90
AUG	\$656.97	\$1,376,640.57	\$13,766.41
SEP	\$3,249.10	\$1,377,297.55	\$13,772.98
OCT	\$6,784.32	\$1,380,546.65	\$13,805.47
NOV	\$4,309.19	\$1,387,330.97	\$13,873.31
DEC	\$4,306.35	\$1,391,640.16	\$13,916.40
SUBTOTAL	\$112,707.83		\$163,300.20
YTD	\$990,044.29	\$1,559,246.71	\$569,202.41

INTEREST CHARGES FOR COST RECOVERY UNDER MCL 600.6013

\$38,747.00

SITE NAME: Brighton Township Dump

DATE OF DEMAND LETTER:

April 2, 2001

YEAR RATE MONTH	TOTAL CURRENT EXPENDITURES BY MONTH	TOTAL EXPENDITURES YTD	INTEREST ON BEGIN OF MONTH CARRY-OVER
<hr/>			
2003			
12%			
JAN	\$2,854.96	\$804,255.41	\$8,042.55
FEB	\$6,592.87	\$807,110.36	\$8,071.10
MAR	\$7,090.99	\$813,703.23	\$8,137.03
APR	\$1,598.43	\$820,794.22	\$8,207.94
MAY	\$1,176.83	\$822,392.65	\$8,223.93
JUN	\$575.28	\$823,569.48	\$8,235.69
JUL	\$780.25	\$824,144.77	\$8,241.45
AUG	\$1,499.62	\$824,925.01	\$8,249.25
SEP	\$1,462.09	\$826,424.63	\$8,264.25
OCT	\$2,712.78	\$827,886.72	\$8,278.87
NOV	\$541.77	\$830,599.50	\$8,306.00
DEC	\$562.81	\$831,141.27	\$8,311.41
<hr/>			
SUBTOTAL	\$27,448.67		\$98,569.47
YTD	\$770,533.98	\$930,273.55	\$159,739.58
<hr/>			
2004			
12%			
JAN	\$2,612.55	\$930,273.55	\$9,302.74
FEB	\$758.02	\$932,886.11	\$9,328.86
MAR	\$2,140.87	\$933,644.12	\$9,336.44
APR	\$2,083.10	\$935,784.99	\$9,357.85
MAY	\$15,751.69	\$937,868.09	\$9,378.68
JUN	\$357.39	\$953,619.77	\$9,536.20
JUL	\$2,175.47	\$953,977.17	\$9,539.77
AUG	\$4,938.45	\$956,152.64	\$9,561.53
SEP	\$4,633.59	\$961,091.08	\$9,610.91
OCT	\$2,827.70	\$965,724.67	\$9,657.25
NOV	\$1,508.62	\$968,552.37	\$9,685.52
DEC	\$1,102.23	\$970,060.99	\$9,700.61
<hr/>			
SUBTOTAL	\$40,889.67		\$113,996.36
YTD	\$811,423.64	\$1,085,159.58	\$273,735.93

INTEREST CHARGES FOR COST RECOVERY UNDER MCL 600.6013

\$38,747.00

SITE NAME: Brighton Township Dump

DATE OF DEMAND LETTER:

April 2, 2001

YEAR RATE MONTH	TOTAL CURRENT EXPENDITURES BY MONTH	TOTAL EXPENDITURES YTD	INTEREST ON BEGIN OF MONTH CARRY-OVER
2001			
12%			
JAN		\$0.00	\$0.00
FEB		\$0.00	\$0.00
MAR		\$0.00	\$0.00
APR	\$48,321.04	\$0.00	\$0.00
MAY	\$25,588.49	\$48,321.04	\$483.21
JUN	\$1,789.23	\$73,909.53	\$739.10
JUL	\$10,768.20	\$75,698.76	\$756.99
AUG	\$11,864.51	\$86,466.96	\$864.67
SEP	\$14,677.52	\$98,331.47	\$983.31
OCT	\$23,650.60	\$113,008.99	\$1,130.09
NOV	\$5,734.01	\$136,659.59	\$1,366.60
DEC	\$10,609.52	\$142,393.60	\$1,423.94
SUBTOTAL	\$153,003.12		\$7,747.90
YTD	\$153,003.12	\$160,751.02	\$7,747.90
2002			
12%			
JAN	\$10,497.54	\$160,751.02	\$1,607.51
FEB	\$19,600.47	\$171,248.56	\$1,712.49
MAR	\$85,617.93	\$190,849.03	\$1,908.49
APR	\$29,186.81	\$276,466.96	\$2,764.67
MAY	\$15,958.59	\$305,653.77	\$3,056.54
JUN	\$38,180.83	\$321,612.36	\$3,216.12
JUL	\$300,036.37	\$359,793.19	\$3,597.93
AUG	\$13,606.10	\$659,829.56	\$6,598.30
SEP	\$60,577.36	\$673,435.66	\$6,734.36
OCT	\$4,589.01	\$734,013.02	\$7,340.13
NOV	\$11,363.34	\$738,602.04	\$7,386.02
DEC	\$867.83	\$749,965.38	\$7,499.65
SUBTOTAL	\$590,082.18		\$53,422.21
YTD	\$743,085.30	\$804,255.41	\$61,170.10

STATE OF MICHIGAN



NATURAL RESOURCES COMMISSION

THOMAS J. ANDERSON
MARLENE J. FLUHARTY
GORDON E. GUYER
KERRY KAMMER
ELLWOOD A. MATTSON
O. STEWART MYERS
RAYMOND POUPORE

JAMES J. BLANCHARD, Governor

DEPARTMENT OF NATURAL RESOURCES

STEVENS T. MASON BUILDING
P.O. BOX 30028
LANSING, MI 48909

DAVID F. HALES, Director

December 20, 1990

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Mel Paunovich, Township Supervisor
Township of Brighton
4363 Buno Road
Brighton, Michigan 48116

Dear Mr. Paunovich:

SUBJECT: Brighton Township Dump, Livingston County

This letter is formal notice that:

1. The Michigan Department of Natural Resources (MDNR) has identified the Brighton Township Dump, Livingston County, Michigan, as a site of environmental contamination; and
2. The MDNR has recommended that the Legislature authorize expenditure of public funds under the Environmental Protection Bond Implementation Act (1988 P.A. 328), for environmental assessment and cleanup measures at this site.

The MDNR is authorized by law, including the Michigan Environmental Response Act (1982 P.A. 307, as amended), to use public funds to undertake actions necessary to protect public health and the environment. Appropriations are being sought for the specific actions described in this letter.

A letter from Mr. Michael K. Hegarty of Lavan and Hegarty, the Brighton Township Attorney, received by MDNR staff on January 17, 1990, indicates that the Township of Brighton leased property described as the Brighton Township Dump from Mr. Jack V. Collett, and that the township operated a dump on the property for township residents and businesses. Investigations conducted by staff from the MDNR, Livingston County Health Department, and the United States Environmental Protection Agency (EPA) indicate the following:

1. This site has been utilized as a township dump for domestic refuse, a scrap metal salvage operation and a disposal site for industrial wastes of unknown characteristics since the early 1960s. This dump, ordered closed in 1973 by the MDNR, has never been properly closed.



December 20, 1990

2. An investigation conducted by Ecology and Environment, Inc., under contract for the EPA, discovered numerous discarded drums containing industrial sludges. Sample results indicate significant contamination of the soils at this site with metals, volatile organics, semivolatile organics, pesticides, and polychlorinated biphenyls (PCBs).
3. The EPA has conducted an emergency clean up to remove the drums of industrial wastes and heavily contaminated soils.

The MDNR considers the soil contamination to be a threat to the public health and the environment. The release or threatened release of hazardous substances at this site, including the discharge and potential discharge of these substances into the groundwater, may violate Sections 6(a) and 7 of the Michigan Water Resources Commission Act (1929 P.A. 245, as amended), as well as other state and federal laws.

The MDNR has determined that as an operator of the Brighton Township Dump, the Township of Brighton is a potentially responsible party and requests that the Township voluntarily undertake corrective actions to remedy the environmental problems at this site. These actions include: conduct a MDNR approved investigation to determine the extent of the contaminated soils and conduct a cleanup of the remaining contaminated soils under a MDNR approved remedial action plan.

Additional investigation and corrective actions, including but not limited to, remediating groundwater contamination, may ultimately be required to fully remediate environmental problems at this site.

The MDNR believes that the Township of Brighton is responsible for undertaking the necessary corrective actions at this site in accordance with Part 5 of the Administrative Rules promulgated pursuant to the Michigan Environmental Response Act. Please provide your written commitment to do so to Dr. James G. Truchan, Chief, Environmental Response Division, P. O. Box 30028, Lansing, Michigan, 48909, within 15 days of receipt of this letter. If we do not receive written commitment, the MDNR may do either of the following:

1. Request the Attorney General to take enforcement action against the Township of Brighton as a potentially responsible party.
2. Take the required corrective action utilizing public funding. Any expenditure of public funds and interest accumulated thereon for this purpose is subject to cost recovery actions by the state pursuant to federal and/or state law, including without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 42 USC 9607 (A)(4)(d), Section 8 of the Michigan Environmental Response Act, MCL 299.608 and Section 10(2) of the Michigan Water Resources Commission Act, MCL 323.10(2).

Mr. Mel Paunovich

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December 20, 1990

The files used by the MDNR to prepare this notice are located in the MDNR Lansing District Office. If you wish to review these files or if you have any questions or concerns regarding this letter, please direct your inquiries to Mr. Dan Yordanich, MDNR Lansing District, P. O. Box 30028, Lansing, Michigan 48909, at 517-322-1300. A list of the names and addresses of other potentially responsible parties who have been sent a notice for this site is enclosed.

Sincerely,

David F. Hales

David F. Hales
ACTING Director
517-373-2329

Enclosure

cc: Mr. Ted R. Westmeier, Livingston County Health Department
Mr. A. Michael Leffler, Department of Attorney General
Dr. James G. Truchan, MDNR
Mr. Dan Yordanich, MDNR

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



WILLIAM J. RICHARDS
Deputy Attorney General

300 S. WASHINGTON SQ., SUITE 530
LANSING, MICHIGAN 48913

JENNIFER MULHERN GRANHOLM
ATTORNEY GENERAL

April 2, 2001

Edward Keelean
WISE & MARSAC, PC
11th Floor Buhl Bldg
Detroit, MI 48226

Dear Mr. Keelean:

Re: Brighton Township Dump

This letter is intended to summarize some of the items discussed at the February 8, 2001 meeting and to transmit the cost documentation. Ms. Diehl is in the process of assembling copies of the technical reports and will forward those documents to Mr Fecho. Ms. Pulley arranged for Carol Skillings of the MDEQ to discuss grant issues with the Township. It is my understanding that Ms. Skillings has already discussed the grant issues with the Township.

You also agreed to provide me with Brighton Township's brief or other documents explaining Brighton Township's position in regards to the federal cost recovery action that would also be applicable to the State's cost recovery action. I have not received those materials yet. Please forward them to me.

Enclosed is the cost documentation for the costs incurred by the State relating to the above Facility. As you know, MDEQ is seeking recovery of these costs from Brighton Township as an operator of the Facility under Part 201 of the Natural Resources and Environmental Protection Act. This letter is a demand for reimbursement of those costs, currently totaling \$1,136,844.83 through the dates indicated on the attached Cost Documentation Summary, and any response activity costs which continue to accrue, including any and all interest. Interest shall begin to accrue on the date the Township of Brighton receives this letter pursuant to MCL 324.20126a(3).

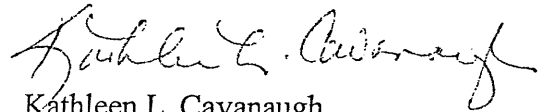
Finally, after exchanging the documents set forth above, the parties agreed to reconvene to discuss the options regarding the State's costs recovery claims and the possibility of the

Edward Keelean
Page 2
April 2, 2001

Township taking over the remaining work at the Site. Someone will contact Brighton Township to arrange this meeting once all documents have been exchanged.

If you have any questions, please call me.

Very truly yours,



Kathleen L. Cavanaugh
Assistant Attorney General
Natural Resources and
Environmental Quality Division
300 S. Washington Square, Suite 530
Lansing, Michigan 48913
(517) 335-1488

KLC/pjb

c: Karen Diehl
Anne Pulley
Darrell A. Fecho w/enc

S: NR/cases/2000063078/Brighton Township Dump/l-keelea