

JUL 20 2016

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July 19, 2016

Mr. Raymond Connors
Manager of Compliance
Maine Board of Pesticides Control
Maine Department of Agriculture, Conservation, and Forestry
28 State House Station
Augusta, ME 04333-0028

Re: Inspection Number: 150710MLP01; Inspection Date: 7/10/15

Dear Mr. Connors:

Please be advised that I have been retained to represent Joseph and Caroline Fazekas in connection with the events discussed in your June 27, 2016 letter involving damage to vegetation located on property owned by the Fazekas's neighbors Debbie Thomas and Ned Douglas at 31 South Dyers Cove Road in Harpswell. All further communication concerning this matter should be directed to my attention at the address given above.

At the outset, my clients deny your unfounded allegation that they made an unauthorized herbicide application to the Thomas and Douglas property. Accordingly, they decline your request that they enter into the consent agreement you have proposed.

Frankly, I am surprised that your office would conclude that my clients engaged in an unauthorized herbicide application based upon the content of the "investigation" described in your letter and accompanying consent agreement. First, it is remarkable that this conclusion was reached without your investigator so much as speaking with my clients concerning the allegation raised. As a result of this oversight, some of the facts set forth in your "Administrative Consent Agreement and Findings of Fact" are in error.

Two summers ago the Fazekases sought permission from Thomas and Douglas to trim a tree on the Thomas/Douglas property which partially obstructed their view of the ocean. That request was turned down by Thomas and Douglas who reported that their arborist felt it was too soon to trim the tree again following its previous trimming without risking the tree's health. The Fazekases made a follow up request last summer to trim the same tree. This request was also turned down by Thomas and Douglas who explained that the tree was their only source of shade. My clients left the matter there.

Now, vegetation in an entirely different area of the Thomas/Douglas property has been damaged. Your investigator seems to be of the erroneous view that the tree my clients had previously sought permission to cut is located in the same area as the vegetation which has now been damaged. This is not so. To illustrate this point, I attach a photo marked as **Exhibit A**

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which depicts the tree my clients sought permission to trim and a second photo as Exhibit B which depicts the now damaged vegetation. It is readily apparent that the two are located in different areas of the Thomas/Douglas property.

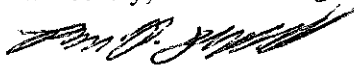
Accordingly, even if your conclusion that the damaged vegetation resulted from an application of glyphosate, a finding we do not concede, you have presented neither any motive which would have led my clients to make that application much less any evidence that they actually did so. The supposition you are left with falls far short of proof by a preponderance of the evidence. Any court will agree.

Had your investigator elected to speak with my clients prior to arriving at his other unwarranted findings, this action and the inconvenience to my clients generated thereby could have been avoided.

I note that my clients have identified other factual misstatements in the materials forwarded to them on June 27, 2016. We do not address each of those misstatements here. In our judgment it is sufficient that we have both: (1) cleared up the confusion which you felt generated a motive; and (2) have pointed out your lack of evidence that my clients applied glyphosate, an allegation they strenuously deny. It is our sincere hope that this communication brings an end to this matter as it is apparent that your office has labored under a misapprehension of fact from which false conclusions were drawn.

Please know that should you choose to pursue this matter further, my clients are fully prepared to defend themselves from these allegations which they categorically deny.

Sincerely,



Ryan P. Dumais

RPD/
Enclosures

cc: Caroline and Joseph Fazekas



EXHIBIT

A

lobbys



EXHIBIT

B

bbblet