



THE COMMONWEALTH OF MASSACHUSETTS
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April 16, 2010

By Email and First Class Mail

Richard A. Nylén, Jr.
Lynch, DeSimone & Nylén, LLP
12 Post Office Square
Boston, MA 02109

re: *Commonwealth of Massachusetts v. New Ventures Associates, LLC*,
Suffolk Superior Court C.A. No. 06-0790 C

Dear Attorney Nylén:

The Office of the Attorney General and the Massachusetts Department of Environmental Protection ("MassDEP") are in receipt of your letter dated April 9, 2010 stating that New Ventures will not meet or even attempt to meet the deadlines in the Settlement Agreement and Final Judgment for completion of the Crow Lane Landfill's closure. The Commonwealth considers New Ventures' statement that it will not meet or attempt to meet the closure deadlines a further default of its Landfill closure obligations.

The remaining closure work includes, without limitation, construction of the MSE berm, construction of the cap over the haul road, construction of the Landfill's sand drainage layer, placement of loam cover and seed over the Landfill's cap, and construction of the storm water control system. As you know, the Settlement and Final Judgment require that New Ventures construct the sand drainage layer and place the loam cover and seed by no later than May 30, 2010, and complete construction of the storm water system by June 14, 2010. The Settlement and Final Judgment also require that New Ventures submit a Landfill Closure Completion application by June 29, 2010.

With regard to the MSE berm construction, New Ventures is already in default of its Landfill closure obligations because it has failed to submit to MassDEP a modified berm design that addresses and "remedies all deficiencies noted by the Department." *Final Judgment*, paragraph 12(a)(vi). As noted in MassDEP's March 3, 2010 letter, New Ventures has not submitted to MassDEP a modified berm design that addresses and "remedies all deficiencies" in MassDEP's October 6, 2009 notice of deficiency regarding New Ventures' berm design modification plan submittals. With regard to New Ventures' request for a meeting to discuss the berm design, there is no need for such a meeting. In



its October 6, 2009 notice of deficiency and in follow-up communications in October and November, 2009, MassDEP has made abundantly clear the precise ways in which New Ventures' berm design modification plan submission is deficient and what is required to address and remedy those deficiencies.

If New Ventures wishes to reconsider its position and commit to meeting its remaining Landfill closure obligations and deadlines in the Settlement and Final Judgment, please provide me and MassDEP with a written certification or confirmation that New Ventures has the funds to complete all remaining landfill closure work -- apart from the funds in Landfill's financial assurance mechanism ("FAM"). In addition, New Ventures must submit to MassDEP a MSE berm design modification plan that addresses and remedies all deficiencies noted in MassDEP's October 6, 2009 deficiency notice, along with a MSE berm construction schedule.

Finally, your April 9, 2010 letter states that unless and until MassDEP approves New Ventures' MSE berm design modification plan, New Ventures will not comply with Judge Cratsley's March 30, 2010 Order that it submit to MassDEP revised Landfill closure and post-closure cost estimates. There is nothing in Judge Cratsley's Order that conditions or makes New Ventures' obligation to submit a revised closure and post-closure cost estimate contingent on any action by MassDEP.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Ireland", with a large, stylized flourish extending to the right.

Matthew Ireland
Assistant Attorney General
Environmental Protection Division
Office of the Attorney General
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Boston, MA 02108
617-727-2200, ex. 2434