

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
SUFFOLK SUPERIOR COURT

Suffolk, ss

COMMONWEALTH OF MASSACHUSETTS,
Plaintiff

V.

NEW VENTURES ASSOCIATES, LLC,
Defendant

§
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§
§
§
§
§

CA # SUCV2006-00790

EXHIBIT "I"

LYNCH, DESIMONE & NYLEN, LLP

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JAMES W. MURPHY
WAYNE H. SCOTT

January 29, 2010

Via Email & 1st Class Mail

Richard J. Chalpin, Regional Director
Department of Environmental Protection
Northeast Regional Office
205B Lowell Street
Wilmington, MA 01887

Matthew C. Ireland, Esq.
Assistant Attorney General
Environmental Protection Division
Attorney General's Office
100 Cambridge Street, 10th Floor
Boston, MA 02114

Re: **New Ventures Associates, LLC; Crow Lane; Use of FAM for O&M and Expenses**

Dear Mr. Chalpin and Attorney Ireland:

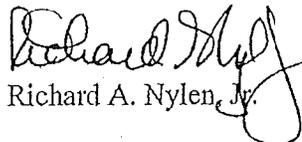
The purpose of this letter is further the discussions between William Thibeault of New Ventures Associates, LLC ("New Ventures") and the Department with respect to the use of the FAM for Operation and Maintenance ("O&M") and expenses associated with the Crow Lane Landfill closure. As the Department is well aware, the expenses associated with this closure have exceeded the projections and there are no revenues coming in to New Ventures at this point.

New Ventures would like to continue the discussions that took place between Mr. Chalpin and Mr. Thibeault with respect to accessing the FAM monies for O&M costs and expenses for the final closure. Mr. Thibeault was informed that the Department intended to forward the necessary documents to commence the process.

New Ventures looks forward to hearing from you on this matter at your earliest convenience. We are available to meet with you at any time to discuss same.

Thank you.

Sincerely,


Richard A. Nylén, Jr.

RAN/kad

cc: Mr. William Thibeault
Michael W. Dingle, Esq.

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March 5, 2010

Via Email & 1st Class Mail

John A. Carrigan, Section Chief
Solid Waste Management
DEP-Northeast Regional Office
205B Lowell Street
Wilmington, MA 01887

**Re: Commonwealth of Massachusetts vs. New Ventures Associates LLC ;
Civil Action No. SUCV2006-00790; FMF# 39545;
Paragraph 27 Notice – Berm**

Dear Mr. Carrigan:

This office is in receipt of a letter dated March 3, 2010 denying the revised berm design. In our opinion, the letter is premature, misinterprets the conclusions of New Ventures' geotechnical consultant and is not supported by the data submitted to date.

The bulk of the Department's letter focuses on conditions, findings and materials submitted by New Ventures prior to the October 22, 2009. It chronicles the work that was performed by New Ventures in accordance with the Settlement Agreement to determine and confirm the materials in the berm including the limited organic material on a portion of the northeast portion of the berm. As a result of collecting this data, GeoComp presented the Department a modification to the design with the stone buttressed slope to meet the design safety factor of 1.3. In addition, GeoComp proposed to monitor the construction and post construction phases. The Department has requested additional information to confirm GeoComp's conclusions.¹ GeoComp is evaluating that request.

Finally, the Standby Trust Agreement does not authorize DEP to draw funds when it does not have evidence that the berm design does not meet the design safety factor. New Ventures has stated publicly and privately that it intends to respond to the items raised by the Department's consultants so that it can go forward and complete the berm construction and complete closure.

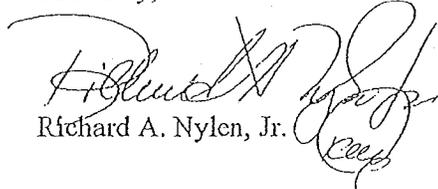
¹ New Ventures notes that the Department has not reached a conclusion that the design does not meet the design safety factor of 1.3. Rather, it is seeking further response to its questions.

March 5, 2010
Page 2

Please contact us if you have any questions.

Thank you.

Sincerely,


Richard A. Nylén, Jr.

RAN/kad

cc: The Honorable Donna Holaday, Mayor
Mr. William Thibeault, New Ventures Associates, LLC
Mr. Michael Quatromoni
Mark R. Reich, Esq.

H:\Thibeault, William\SUCV2006-0790\Letter to Carrigan re berm 03-05-10.doc

Richard Nysten

From: Richard Nysten [rnylen@ldnllp.com]

Sent: Friday, March 05, 2010 4:10 PM

To: 'Ireland, Matthew (AGO)'

Subject: NVLLC; Berm Denial

Matt:

As a follow up to my voice mail, please be advised that I will be away next week with access only to Blackberry and not to large attachments. While we do not have to make a decision on appealing the berm denial under 30A, that does not appear to be an appropriate or practical way to resolve the matter. We still intend to respond to the issues raised in Shaw's Exhibit 2 from your earlier correspondence. Martin offered that position to John Carrigan. We are planning on doing that after I return next on the 15th.

Once again, I would request that a meeting with the parties would be helpful when I return the week of the 15th so that we are able to sort out the Department's direction. The recent actions of the Department suggest that it is contemplating a different course and for that reason I believe that a meeting would be helpful.

Thank you.

Chip

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March 16, 2010

Via Email & 1st Class Mail

John A. Carrigan, Section Chief
Solid Waste Management
DEP-Northeast Regional Office
205B Lowell Street
Wilmington, MA 01887

**Re: Commonwealth of Massachusetts vs. New Ventures Associates LLC ;
Civil Action No. SUCV2006-00790; FMF# 39545;
Repair of FML and Wells**

Dear Mr. Carrigan:

This letter is in response to the Department's letter dated March 11, 2010 that was received while I was away last week. We are writing again in hopes of ending the paper trail and getting back to the business of repairing and closing the Crow Lane Landfill.

At present time the Department has suggested that it may elect to transfer monies from the New Ventures Financial Assurance Mechanism ("FAM") to repair portions of the flexible membrane liner ("FML") and landfill gas system that were damaged during hurricane-like force winds of February 25 and February 26, 2010 rather than allow New Ventures to access the FAM. New Ventures' response to that position was articulated in my letter dated March 5, 2010.

1. The Department stated by letter from Richard Chalpin that future access to the FAM must be supported by presenting New Ventures' financial records to the Department.
2. New Ventures sent a letter dated March 4, 2010 seeking a confirmation that the tax returns are considered confidential under the public records statute and its regulations pursuant to M.G.L., c. 62C. No confirmation has been received as of this date. New Ventures cannot comply with the Department's request without a response to its letter.

3. New Ventures has taken steps and contacted the FML installer to conduct the repairs. The cost for the Department to conduct repairs will exceed costs if New Ventures' supervises the repair which is in the bests interest of all parties.
4. My references to the absence of a public health threat or off-gassing is that Paragraph 27 is designed specifically to assure compliance with the Settlement Agreement and performance standards.
5. New Ventures has also requested a meeting with the Department to discuss the repairs, operation and maintenance and closure issues in lieu of continuous letters that polarize positions rather than focus on completion of the closure.

We await the Department's written response.

Please contact us if you have any questions.

Thank you.

Sincerely,

Richard A. Nylén, Jr.

RAN/kad

cc: The Honorable Donna Holaday, Mayor
Mr. William Thibeault, New Ventures Associates, LLC
Mr. Michael Quatromoni
Mark R. Reich, Esq.

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April 7, 2010

Via Email & First Class Mail

Matthew C. Ireland, Esq.
Assistant Attorney General
Environmental Protection Division
Attorney General's Office
100 Cambridge Street, 10th Floor
Boston, MA 02114

John A. Carrigan, Section Chief
Solid Waste Management
DEP-Northeast Regional Office
205B Lowell Street
Wilmington, MA 01887

Re: Commonwealth of Massachusetts v. New Ventures Associates, LLC; Suffolk Superior Court, C.A. No. SUCV2006-00790; Response to Notice of Default and Superior Court Decision regarding Site Access to Repair Landfill Damage; Notice of New Ventures to Perform Remedial Action

Dear Attorney Ireland and Mr. Carrigan:

This office represents New Ventures Associates, LLC ("New Ventures") with respect to the above-referenced action. New Ventures is in receipt of Superior Court Justice John C. Cratsley's Decision and Order dated March 30, 2010 granting the Department access for the purpose of repairing the damaged FML and the three (3) gas extraction wells at the Crow Lane Landfill.

Please be advised that the Defendant was neither unwilling nor unable to perform the repairs during the past month. Rather, the decision was based upon the email from Richard Chalpin included in the Department's filings and other exchanges between the Department and William Thibeault representing New Ventures. Up until March 26, 2010, New Ventures believed that, based upon the absence of a revenue stream, it would be able to access the Financial Assurance Mechanism ("FAM") monies for the above-referenced repairs. Further, as Mr. Ireland admitted to the Court, at no time has the Department presented evidence that the damages have led to increased levels of H₂S in the neighborhood.

New Ventures opposed the Department's request to access the Crow Lane Landfill for purposes of making the repairs and paying for said repairs out of the FAM for the following reasons:

1. Up until last week, weather fluctuated below 32°F, a temperature that is not appropriate for welding FML.
2. New Ventures believes that the Department's contracts to perform the repairs will be substantially higher than if New Ventures was negotiating the contracts.
3. New Ventures believes that it can manage the FAM monies for purposes of making the repairs far more efficiently and economically than the Commonwealth. The Department's newsletter stating that it intended to make temporary then permanent repairs to the wells is an example of excess costs.
4. New Ventures was preparing financial documents and sent a letter requesting the Department to confirm that tax returns are not public information on March 5, 2010. No response to that letter was ever provided by the Department and it was not until March 26, 2010 that the Department stated it would not be providing New Ventures with the courtesy of a response to its letter, despite telephone calls and emails requesting same.

Now that the Department's position has changed and no limits have been placed upon Department expenditures of FAM monies, New Ventures intends to proceed and repair the wells and FML. New Ventures will perform the repairs in the following sequence:

1. General maintenance and permanent well repairs will take place beginning Wednesday, April 7, 2010 and are being supervised by the engineer of record. A professional well installer will be on-site. New Ventures will complete permanent, not temporary, repairs to the wells this week.
2. Following repair of the wells, the damaged FML area will be addressed by preparing the site for FML repair and installation.
3. FML installation will begin following the completion of the preparation and mobilization.

In the meantime, New Ventures will also comply with Judge Cratsley's Order to submit the closure and post-closure costs to the Department.

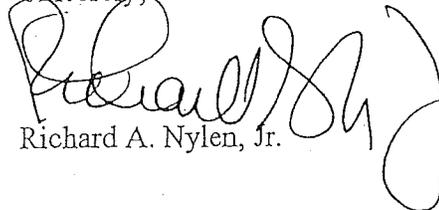
Finally, New Ventures will not deny access to the Department during the repair work.

April 7, 2010
Page 3

Please contact me if you have any questions.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Nylan, Jr.", written over the printed name below it.

Richard A. Nylan, Jr.

RAN/kad

cc: The Honorable Donna Holaday
Mr. William Thibeault/NVLLC
Mr. Richard Chalpin
Michael W. Dingle, Esq.
Mr. Michael Quatromoni
Mark R. Reich, Esq.

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April 9, 2010

Via Email & First Class Mail

Matthew C. Ireland, Esq.
Assistant Attorney General
Environmental Protection Division
Attorney General's Office
100 Cambridge Street, 10th Floor
Boston, MA 02114

**Re: Commonwealth of Massachusetts v. New Ventures Associates, LLC;
Suffolk Superior Court, C.A. No. SUCV2006-00790;
Response to Letter dated April 7, 2010 re FML Repairs**

Dear Attorney Ireland:

This office represents New Ventures Associates, LLC ("New Ventures") with respect to the above-referenced matter and I am in receipt of a letter dated April 7, 2010 with respect to the status of repairs that are being undertaken by New Ventures at the Crow Lane Landfill.

With respect to your request for further information, New Ventures hereby respond as follows:

1. The wells have been repaired and all that remains is for the ordered clamps to arrive and the updated gas valves to be installed next week. Work was performed under the supervision of the engineer of record, a professional well installer and personnel under the direction of same. Vacuum was restored to the wells as of Wednesday, April 7, 2010.
2. There is no contract between New Ventures and the well installer. He will be submitting an invoice to New Ventures.
3. FML repair has already commenced, as witnessed by the Department's third party consultants, including working with the FML as part of a determination if any of the

FML can be salvaged. No work took place today due to the rainy weather conditions. New Ventures intends to have staff on-site on Saturday, April 10, 2010 and next week to continue the site preparation necessary for the FML installer's work beginning on April 19, 2010. The installer has agreed to set aside the time to perform the work. The FML installer, GSE, is the same contractor who performed accelerated closing work last fall and whose services were approved by and paid for by the Department out of the FAM.

4. The contract for the FML repair will be provided to the Commonwealth as a courtesy when it is executed by both parties. In the interest of securing the best price, could you please share any quotes or estimates that you have received for FML repairs.
5. New Ventures will not and cannot agree that it will not request the use of the FAM proceeds in the future for closure and post-closure costs including seeking reimbursement for repair costs. Neither 310 CMR 19.051 or the FAM Standby Trust Agreement prohibit such requests or authorizations. In fact, during final closure, the regulations allow the owner to petition for the reduction of FAM monies per 310 CMR 19.051(8). It is premature for the Department to make this demand.
6. New Ventures will provide the Department with closure or post-closure costs when the Department approves the final berm design and the elevation of Detention Basin #1 has been resolved.

New Ventures has presented a berm design from its geotechnical consultant that meets the 1.3 safety standard and New Ventures has explained the elevation discrepancy for the Detention Basin #1. The Department has rejected same and has refused to meet with New Ventures to discuss resolution of these items. To the extent that the Department will not allow New Ventures to construct the Detention Basin #1 as intended and the berm as designed to meet the 1.3 safety specifications, New Ventures will be unable to close the Landfill or determine the cost for completion of same as well as the costs for post-closure.

As you know New Ventures and this office have made multiple requests during the past month for a meeting to discuss the above closure issues. The Department has rejected the requests for a meeting to resolve these matters in favor of litigation. As a further result of the Department's litigation position and refusal to meet to discuss these items, New Ventures will not be able to meet its deadline for completion of the closure under the Settlement Agreement. We renew the continued request for a meeting.

As to the Department's final comments with respect to access to the FAM, New Ventures disagrees with the Department's position and the regulations support New Ventures' position. While the FAM has acted as a performance bond primarily, the additional costs for the project as a

April 9, 2010

Page 3

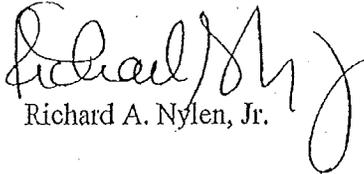
result of the Department's requirement for a gas pretreatment system, the media and containment trailers; the change to 1:1 soil mixing; the reduction of air space, the requirement for 24/7 staffing and complaint hotline; and the continuous Landfill monitoring all have added extraordinary costs that were not contemplated when the pro forma was developed in 2003. Once there is agreement as to the costs associated with closure and post-closure, access to the FAM either on a reduction or reimbursement basis for certain costs may be accomplished without jeopardizing the security for closure and post-closure activities consistent with 310 CMR 19.051.

Now that New Ventures has completed the bulk of the well repair and has commenced the site preparation and FML repair and committed to the repairs, there is no need for the Department to spend or encumber monies under the FAM. Please send along any quotes, estimates or bids for the well repair or FAM repairs that you have as soon as possible, in order that New Ventures can compare pricing to keep its costs down.

We again request a meeting to discuss the remaining issues that affect the cost and sequence for closure and post-closure. New Ventures will comply with the Judge's Order for updated estimates with the Department's cooperation in the resolution of these items.

I look forward to hearing from you to set up the meeting and remain available to answer any questions.

Sincerely,



Richard A. Nylen, Jr.

RAN/kad

cc: Mr. William Thibeault/NVLLC
Mr. John A. Carrigan
Michael W. Dingle, Esq.
Mr. Michael Quatromoni

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April 16, 2010

Via Email & First Class Mail

Matthew C. Ireland, Esq.
Assistant Attorney General
Environmental Protection Division
Attorney General's Office
100 Cambridge Street, 10th Floor
Boston, MA 02114

**Re: Commonwealth of Massachusetts v. New Ventures Associates, LLC;
Suffolk Superior Court, C.A. No. SUCV2006-00790;
Response to Letter dated April 14, 2010**

Dear Attorney Ireland:

This office represents New Ventures Associates, LLC ("New Ventures") with respect to the above-referenced matter. I am in receipt of your letter dated April 14, 2010 which appears to be sent for the sole purpose of creating a record for the Department to take over repair activities despite the fact that the repairs are being performed by New Ventures and its contractors. We respond to the letter as follows:

First, your suggestion that New Ventures has taken actions which are designed "as an effort to interfere with and deny MassDEP and its contractors access to the Landfill site to fully and properly perform the necessary gas well and storm damage repairs authorized by the Court" is not supported by the facts. New Ventures' actions have been directed at commencing and completing repairs on a more timely and cost responsive basis than the Commonwealth.

As you recall, according to its press releases, the Commonwealth announced that it was going to make temporary repairs to the wells beginning Friday, April 12, 2010 and was going to commence soliciting bids for FML repair sometime later. Permanent well repair would follow. New Ventures was on-site on Wednesday and Thursday, April 10th and 11th making the repairs to the wells that restored vacuum and resulted in functioning on a permanent basis, ahead of the Department's schedule. As stated in my letter dated April 12, 2010, the only remaining work on the

April 16, 2010

Page 2

wells was to replace and update several wellheads and to put clamps on the wells. That was accomplished this week as promised. Apparently, your client did not inform you that its third party inspector, Shaw, observed this well work being completed last Wednesday and Thursday. No work was performed last Friday due to the rain. New Ventures responded far more quickly and efficiently than the Commonwealth.

Second, in addition to the well repair completion, New Ventures immediately contacted the FML installer responsible for the second phase of the Landfill closure and arranged for them to come to the Landfill the week of April 19th to repair the FML. In anticipation of the work that will be performed by the FML installer next week, New Ventures and personnel have been working for the past week in pulling back the FML that was rolled up from the winds to prepare it for the FML welder. The rolled up FML could not be left in place and had to be unraveled. New Ventures has arranged to have sufficient FML on-site for that portion of the repair that will require new FML to be applied on top of the geotextile fabric. Apparently, your client has not told you that considerable effort has been taking place in order to unravel the FML and prepare the site for the repairs. The amount of FML that is salvageable will be determined once the installer comes on-site. The installer will follow manufacturer's specifications and the CAD as referenced in the contract. We are extremely disappointed that the letter does not acknowledge the continuous and daily work that has taken place in order for the repairs to be effective. New Ventures has handled more than 50,000 square feet of FML preparing it for the repairs using excavators and equipment necessary in order to unravel the FML so that the work can go forward next week. We are also disappointed that there is no reference to the absence of odors in the neighborhood.

Third, as indicated in my letter dated April 9, 2010, New Ventures agreed to submit a copy of the contract for the FML repair work as a courtesy to the Department upon execution. New Ventures executed the contract on Tuesday, April 13, 2010. Because Mr. Thibeault was physically at the Landfill on Wednesday, April 14, 2010, it was not provided to me until a later date. As promised, a copy is attached. This letter also confirms that SITEC will supervise, repair and perform replacement work to comply with the CAD. It is interesting to note that the Commonwealth did not respond to New Ventures' request that the Commonwealth share cost information in the interest of getting the best work for the best price. We assume that the Commonwealth has solicited bids given the tone of its letter, and it is striking that you have not shared that information to assist in the repair process. Once again, while the contract terms have been set, New Ventures again requests that you share bid prices with them so that we can compare prices:

Fourth, we are puzzled by the Commonwealth's insistence that the FML monies should not be used for repairs when the Commonwealth clearly sought and received permission to access the FAM monies to perform the repairs. While New Ventures will meet its contractual obligations for repair work payment to its vendors, New Ventures will not agree or certify that it will not seek reimbursement for the repair costs at a later time using the process contemplated by the regulations.

April 16, 2010

Page 3

Fifth, the Commonwealth and the Department continue to prevent New Ventures from responding to and complying with the Court's Order to present closure and post-closure costs. As I have stated repeatedly, and which has not yet been acknowledged, the Commonwealth has refused to meet with New Ventures to discuss resolution of the berm design and the elevation of Detention Basin #1. Costs cannot be completed as demanded by the Department without resolution. We again request a meeting to discuss same.

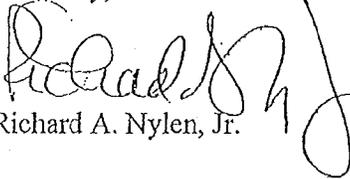
Sixth, the Department's violation of the Freedom of Information Act is no longer excusable. Representatives of the Department have stated to the Court in affidavit and represented otherwise that there are continuing noxious odors in the neighborhood resulting from the operation of the Landfill and suggested that the repairs cause same. On January 28, 2010, more than 11 weeks ago, New Ventures asked formally for the data that is collected on a daily basis from the neighborhoods by its contractor. Under the statute the Department is required to respond within 10 days with said information. It has now been eleven (11) weeks and the unsupported allegations continue to be made by the Department with full knowledge that it does not have the data to support the allegations. Another copy of the letter is attached.

Please let me know if we should pursue statutory remedies with the Secretary of State or whether the Department will comply with the statute and present the data.

I trust this answers your questions and as I have repeatedly offered, please contact me via telephone at any time there are any questions with respect to this matter and to set up the technical meeting to resolve the berm and basin issue.

Thank you.

Sincerely,



Richard A. Nylen, Jr.

RAN/kad
Enclosures (2)

cc: Mr. William Thibeault/NVLLC
Mr. Richard J. Chalpin
Mr. John A. Carrigan
Anthony J. Rossi, Esq.
Michael W. Dingle, Esq.

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April 26, 2010

Via Email & 1st Class Mail

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Attorney General's Office
100 Cambridge Street, 10th Floor
Boston, MA 02114

John A. Carrigan, Section Chief
Solid Waste Management
DEP-Northeast Regional Office
205B Lowell Street
Wilmington, MA 01887

**Re: Commonwealth of Massachusetts vs. New Ventures Associates LLC ;
Civil Action No. SUCV2006-00790; FMF# 39545;
Response to Carrigan Letter dated April 17, 2010 – Berm Default Notice;
Ireland Letter dated April 16, 2010 Letter**

Dear Mr. Carrigan and Attorney Ireland:

This office represents New Ventures Associates, LLC ("New Ventures") and is in receipt of a letter dated Saturday evening, April 17, 2010 with respect to the Department's allegation that New Ventures is responsible for a default with respect to the design of the berm. This letter is also in response to Attorney Ireland's letter dated April 16, 2010.

It is apparent that the Department would rather spend considerable time on a letter writing campaign than to meet with New Ventures to discuss how to constructively close the Landfill. The daily letters consume time and energy and do little to advance the final closure of the Landfill as we have worked so hard to accomplish over the past years. New Ventures continues to be disappointed that the Department would rather engage in self-serving mischaracterizations now that New Ventures has all but completed the closure. The letter alleging default with respect to the berm design is another example of the Department distorting facts in an attempt to make it look good when it is primarily responsible for the stalemate.

As we pointed out to the Department last fall when we were working together to expedite the Landfill capping, the Department's requirement that a skirt be added to the existing FML over the berm requires that the berm must be completed before the loam and sand can take place. At the time the Department was understanding as to the need to address the berm design. New Ventures, at the Department's request, agreed to add the skirt around the perimeter of the FML explaining that

when the berm was constructed on the southwest corner that the heavy equipment needed access to the entire narrow perimeter for construction purposes and therefore it would tie up the loam and sanding of the Landfill. We agreed that an extension of time was necessary for this work to be completed.

Later this winter, in response to the Department's alleged deficiencies in the GeoComp Geotechnical report and following its review, New Ventures requested to meet with the Department to explain the monitoring process. New Ventures indicated to the Department that it agreed to use the FHWA specifications for the buttress below the frost line and that it wanted to explain the proposed short and long term monitoring that would be used to confirm the 1.3 stability certified by GeoComp. New Ventures requested GeoComp to contact the Department directly when the Department would not return New Ventures' telephone calls to address this minor question.

Rather than communicate to New Ventures or set up a meeting between technical personnel, the Department elected to issue a denial of the berm design on March 3, 2010. I personally contacted the Commonwealth following the berm denial and again requested a meeting so that we could iron out the differences. I stated specifically that New Ventures did not want to appeal this improper and unsupported denial by the Department. Since the Department refused to meet with New Ventures to discuss the monitoring protocol, New Ventures was forced to file an appeal of the berm denial by the Department in Superior Court. As noted in previous correspondence, the Department's three (3) page letter dated March 3, 2010 denying the berm consists of two and one-half (2½) pages of history and one paragraph identifying alleged deficiencies in the GeoComp report. The letter does not conclude that the GeoComp design does not meet the 1.3 safety standard, rather it requests information regarding the type of monitoring that GeoComp proposes to employ during the construction and post-construction phases. As plead in the Complaint, the proposed monitoring protocol is not grounds for a Department finding that the safety standard of 1.3 is not met in the GeoComp design. GeoComp's finding that the design meets the 1.3 standard is not contingent upon the monitoring protocol. The Department's failure to allow technical people to discuss this in a professional manner forced New Ventures' appeal. Until an adjudication is made as to whether or not the Department's decision was arbitrary and capricious and supported by substantial evidence, New Ventures is not in default. To find otherwise would be a denial of New Ventures' due process.

New Ventures, as it has for the past three (3) months, remains available to discuss how the closure can be effected in an efficient and coordinated effort. The Department's strategy of attempting to build a case to go back to Court is short-sighted and will result in further extending the completion well beyond New Ventures' schedule. Continued litigation by the Department could cause delays beyond this year which benefit no one. We again request that the Department reconsider its refusal to allow a technical discussion and the completion of the closure to avoid continued delays and to avoid costs that do not bring us closer to closure.

Attorney Ireland's letter dated April 16, 2010 grossly mischaracterizes my April 9, 2010 letter 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." Nowhere in my letter of April 9, 2010 is any statement that New Ventures will not attempt to meet the deadlines. Rather, I pointed out to the Department several times that the timing of final closure depends upon the berm installation, which the Department has denied.

Second, New Ventures has the sand and loam on-site for coverage. Third, New Ventures will submit the revised closure and post-closure estimates based upon its berm design. Since the Department will not speak with New Ventures, New Ventures is ready, willing and able to proceed forward and complete open items at the Landfill to finalize its closure. This is self-evident with the steps taken to repair the wells and to place FML on the damaged area during the past weeks.

Based upon preliminary numbers, there is more than adequate funding in the FAM for proposed closure and post-closure costs. New Ventures will pursue reduction of the FAM by reimbursement or other provision of the regulations.

Please contact us if you have any questions.

Thank you.

Sincerely,



Richard A. Nylen, Jr.

RAN/kad

cc: The Honorable Steven A. Baddour
The Honorable Donna Holaday, Mayor
Representative Michael A. Costello
Mr. William Thibeault, New Ventures Associates, LLC
Mr. Michael Quatromoni
Mark R. Reich, Esq.
Mr. Martin Hawkes

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May 21, 2010

Via Email & First Class Mail

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Re: Commonwealth of Massachusetts v. New Ventures Associates, LLC; Suffolk Superior Court, C.A. No. SUCV2006-00790; Force Majeure; Extension

Dear Attorney Ireland and Mr. Carrigan:

This office represents New Ventures Associates, LLC ("New Ventures") with respect to the above-referenced action. This letter is written in accordance with Paragraphs 23 and 24 of the Settlement Agreement dated April 30, 2009, further amended in May, 2009 with respect to the completion of the closure of the Crow Lane Landfill (the "Landfill"). This letter is a follow up to prior correspondence with respect to the logistics of the closure and to New Ventures' multiple requests to meet with the Department and the Commonwealth for resolution of outstanding design and sequence issues.

New Ventures is unable to complete the closure of the Landfill contemplated in the Settlement Agreement based upon the Department's denial of its berm design dated March 3, 2010 and the Department's continued refusal to meet with New Ventures to resolve this matter. New Ventures complied with the Settlement Agreement and submitted a berm design from a professional geotechnical consultant that meets the required 1.3 safety factor. The Department did not make a finding that the design did not meet 1.3. Rather, the Department requested additional information and has refused to meet with New Ventures since that time. As a result of the Department's refusal to meet with New Ventures, New Ventures was forced to appeal the berm denial. A copy of the appeal is attached. New Ventures intends to complete closure following resolution of the berm denial. New Ventures has stated several times that the rock buttress will be extended consistent with the FHWA specifications but has not received a response.

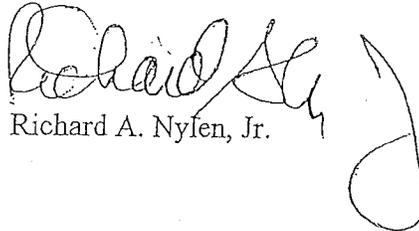
May 21, 2010
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As the Department is well aware, the closure of the Landfill requires the completion of the MSE Berm, and as a result of the denial and Department actions, New Ventures was forced to appeal the Department's improper, unsupported decision. Further, the Department's approved design requires an extension of FML over the berm. On this basis, loaming and seeding must wait for this berm construction.

New Ventures again renews its request to meet with the Department to finalize this closure. New Ventures intends to proceed with the closure when the Department approves the berm design or the appeal is resolved.

Thank you.

Sincerely,



Richard A. Nyfen, Jr.

RAN/kad
Enclosure

cc: The Honorable Donna Holaday
Mr. William Thibeault/NVLLC
Mr. Richard Chalpin
Michael W. Dingle, Esq.
Mr. Michael Quatromoni
Sen. Steven A. Baddour
Rep. Michael A. Costello