

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
OFFICE OF APPEALS AND DISPUTE RESOLUTION

_____	)	DEP Docket Nos. 2005-051 and 2005-072
In the Matter of	)	Former DALA Docket Nos. DEP-05-467 and DEP-05-468
	)	DEP File Nos. UAO-SE-05-4003 and
ALBERT DUMONT AND	)	PAN-SE-05-4001
ATTLEBORO LANDFILL, INC.	)	ATTLEBORO
_____	)	

**JOINT MOTION TO APPROVE SETTLEMENT AGREEMENT AND FOR  
ISSUANCE OF FINAL DECISION**

This is a consolidated appeal of a Unilateral Administrative Order and a Penalty Assessment Notice issued by MassDEP to Albert Dumont and Attleboro Landfill, Inc. (“ALI” or “Petitioners”). Based on ALI’s financial situation, the Petitioners and MassDEP (the “Parties”) requested and were granted a stay of the appeals to enable them to resolve the issues; primarily, the proper capping and closure of the “Phase B” portion of ALI’s landfill and the funding mechanism for post-closure maintenance and monitoring of the ALI landfill. During the stay, the Parties filed regular status reports regarding steps taken to reach an agreement regarding capping and closure. Those steps included the following. In November 2013 ALI submitted a conceptual closure proposal through its consultant, Enviro-Cycle, LLC (“Enviro-Cycle”), that seeks to cap the Phase B area (hereinafter, the “Site”) with a recycled product known as “Re-Crete™.” In the years following submission of the proposal, representatives of ALI, Enviro-Cycle, and MassDEP discussed the technical specifications of the project, participated in a public informational session, collected public comments on the Phase B conceptual closure proposal, and engaged in discussions with local officials, among other things. In

December of 2015, Enviro-Cycle prepared draft responses to comments received on the conceptual closure proposal. Enviro-Cycle also prepared a draft traffic management plan to address one of the primary issues of concern expressed in the comments. Since that time Enviro-Cycle and MassDEP have continued to discuss the conceptual closure proposal, between themselves and with state and local officials. MassDEP and Enviro-Cycle completed discussions on the revised response to comments on the conceptual closure proposal and traffic management plan in early 2017. Following recent meetings between MassDEP and officials from Attleboro and Norton, the Parties have reached agreement regarding the terms of a settlement document and a related administrative consent order governing the closure process.

Pursuant to M.G.L. c. 30A and 310 CMR 1.01(8)(c), the Parties jointly move for approval of the attached Administrative Consent Order and Notice of Noncompliance, **Enforcement Document No. 00002500-SETT** (“Settlement Agreement”), and for issuance of a Final Decision. As set forth in the Settlement Agreement, which has been executed by the Parties, (1) no penalty is currently assessed because MassDEP has determined, based on review of financial information submitted by ALI, that ALI does not have the ability to pay the penalty assessed in the PAN referenced above; (2) MassDEP has determined that Enviro-Cycle’s conceptual closure proposal meets the requirements of the solid waste regulations and the July 6, 2001 Revised Guidelines for Determining Closure Activities at Inactive Unlined Landfill Sites (“Closure Guidelines”) and has notified ALI that it may proceed with preparation and submittal of requisite permit applications set forth in 310 CMR 19.000; and (3) Petitioners have executed and agreed to comply with a separate Administrative Consent Order, Enforcement Document

No. 00002501 (“Consent Order”) which is attached to the Settlement Agreement. The Consent Order establishes a schedule for closure pursuant to which Petitioners and Enviro-Cycle will, *inter alia*: (1) submit an Initial Site Assessment/Comprehensive Site Assessment Scope of Work (ISA/CSA Scope”) permit application and complete the CSA in accordance with MassDEP’s approval; (2) submit a Corrective Action Design (CAD) permit application for the closure and capping of the Site; (3) following MassDEP’s issuance of a final CAD permit decision, but prior to accepting any grading and shaping material, provide MassDEP with documentation that a Financial Assurance Mechanism (FAM) has been established in the amount of approximately \$1.98 million for completion of closure; the FAM shall also include provisions for establishment of a separate “Post-Closure Monitoring and Maintenance Account” in the amount of approximately \$500,000 for the monitoring, maintenance and care of the landfill after the Site has been capped and closed; (4) commence and continue acceptance/placement of approved grading/shaping materials for a period of time not to exceed two years in order to achieve the approved closure grades in the CAD permit; (5) complete installation of the final approved CAD cover/capping system; and (6) submit to MassDEP a Landfill Closure Certification Report to document that the closure/capping activities at the Site have been completed in accordance with the approved CAD permit, the solid waste regulations, MassDEP’s May 1997 “Landfill Technical Guidance Manual”, and all relevant policies, guidelines and requirements.

Settlement of this matter is appropriate because it serves programmatic interests and is in the public interest. As set forth in the attached Settlement Agreement, the Parties waive whatever rights they have to further administrative review of the Settlement

Agreement and Final Decision before MassDEP, as well as any appeal to court, in accordance with 310 CMR 1.01(8)(c). Accordingly, and for all of the foregoing reasons, the Parties request that a Final Decision be issued approving the attached Settlement Agreement.

Respectfully submitted,

**ATTLEBORO LANDFILL, INC. AND ALBERT DUMONT**

By their attorney,

**This final document copy is being provided to you electronically by the  
Department of Environmental Protection. A signed copy of this document  
is on file at the DEP office listed on the letterhead.**

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**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

By its attorney,

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Department of Environmental Protection. A signed copy of this document  
is on file at the DEP office listed on the letterhead.**

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