



COMMONWEALTH OF MASSACHUSETTS
 EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 NORTHEAST REGIONAL OFFICE

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 Governor

IAN A. BOWLES
 Secretary

TIMOTHY P. MURRAY
 Lieutenant Governor

LAURIE BURT
 Commissioner

January 26, 2010

Mr. William Thibeault
 New Ventures Associates, LLC
 85-87 Boston Street
 Everett, Massachusetts 02149

Re: NEWBURYPORT – Solid Waste
 Crow Lane Landfill
 FMF # 39545
 Paragraph 27 Seventy-two (72) hour
 notice

Richard A. Nylan Jr, Attorney at Law
 Lynch, DeSimone & Nylan, LLP
 12 Post Office Square
 Boston, MA 02109

Dear Mr. Thibeault and Mr. Nylan:

For the past several weeks, MassDEP has repeatedly notified New Ventures Associates, LLC ("New Ventures") of problems that must be addressed at the Crow Lane Landfill. Based on Landfill inspections by MassDEP staff, along with the observations of MassDEP's consultant, New Ventures has failed to comply with multiple requirements of the Settlement Agreement and Final Judgment in *Commonwealth v. New Ventures Associates, LLC*, Suffolk Superior Court C.A. 06-0790 C, as amended by Orders of the court on May 27, 2009 and October 7, 2009 (the "Final Judgment").

Such noncompliance includes but is not limited to New Ventures' failure to:

- Locate and control releases of H₂S and other landfill gases, including, without limitation: failure to locate and seal points of release from the FML cap, the landfill gas ("LFG") System, the berm, the drain pipe, Basin 1, and wherever LFG is released from the site, in order to prevent nuisance conditions or a condition of air pollution, as required by Appendices B & I of the Settlement Agreement and Final Judgment;
- Extract LFG at a rate sufficient to ensure the optimum operation of the LFG System including the Pre-treatment and flare systems, as required by Appendix B;
- Operate the LFG collection system at a vacuum sufficient to control the surface emissions of H₂S and landfill gas from the Landfill, as required by Appendix B;
- Adjust the LFG System or implement other measures as necessary to control and mitigate the release of H₂S and landfill gas from the site and optimize the operation of the LFG System and implement such measures as necessary to achieve the General Performance Standard in the Settlement Agreement and Final Judgment, including, without limitation: increasing the vacuum on the landfill gas extraction system and expanding the landfill gas extraction system, as required by Appendices B & F;

This information is available in alternate format. Call Donald M. Gomez, ADA Coordinator at 617-556-1057. TDD 1-866-539-7623 or 1-617-574-6658.

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- Implement such measures as are necessary to maintain the LFG System in good working condition to meet the performance standards in the Settlement Agreement and Final Judgment, including, without limitation: removal of condensate from the LFG extraction wells and maintenance and repair of the landfill gas extraction wells, the header lines, the condensate collection system, the LFG Pre-treatment System, and the enclosed flare, as required by Appendices B & F;
- Remove and recharge the Pre-treatment media as necessary to maintain three (3) Pre-treatment vessels at the Landfill, with one (1) vessel held in reserve as back-up or use as a polishing vessel, as required by Appendix B;
- Remove condensate from the LFG System as necessary to ensure the operation of the LFG System in accordance with the requirements of Appendix B, including, without limitation, the draining of condensate from the LFG Pre-treatment System and landfill gas header at sufficient frequency to prevent the clogging of the LFG System by condensate and ice; and
- Maintain at least one set of on-site spare parts necessary for routine maintenance of the enclosed flare including, without limitation: an ignition spark plug, flame arrestor, gaskets, thermocouples, and recording charts, as required by Appendix E.

New Ventures' failure to comply with the requirements of the Final Judgment has created nuisance conditions in the residential neighborhoods in the vicinity of the landfill and has caused or contributed to the release of noxious hydrogen sulfide and other landfill gases in violation of the Final Judgment, 310 CMR 7.00, and 310 C.M.R. 19.000.

Paragraph 27 of the Final Judgment states, in part:

The Department and its contractors shall also, within seventy-two (72) hours of notice by the Department, have the right to access the Site at any time to take actions necessary to: (i) assure that the landfill gas system, the enclosed flare, and the gas collection system, is operating in full compliance with the performance standards in Appendix B; (ii) patch, repair, or extrusion weld any FML rips, tears, seam openings or other damage; (iii) cover, patch or otherwise mitigate any breakouts of hydrogen sulfide or other landfill gases from the Landfill surface; or (iv) place cover over Active or Inactive Areas of the Landfill in order to assure compliance with the requirements of Sections B and C of Appendix C, Landfill Cover Protocol.

New Ventures must return to full compliance with the requirements of the Final Judgment. This letter shall serve as notice pursuant to paragraph 27 of the Final Judgment that New Ventures must remedy all noncompliance within 72 hours in accordance with the terms and requirements of paragraph 27 and the Final Judgment. Pursuant to paragraph 6(a) of the Corrective Action Standby Trust Agreement, MassDEP reserves the right to draw funds against the Trust Fund Property for any actions conducted by MassDEP pursuant to paragraph 27 of the Final Judgment upon notification to the Trustee as required by the Trust Agreement and 310 C.M.R. 19.051

In order to return to compliance with the Final Judgment, New Ventures must:

- Within 72 hours of this notice, locate and seal any points of H₂S or other landfill gas releases from the FML cap, the LFG system, the berm, the drain pipe, Basin 1, or wherever else LFG is released from the site so that the release of H₂S or other LFG is prevented and eliminated. In addition to preventing and eliminating these releases, New Ventures must thereafter continuously eliminate and prevent release points of H₂S or other LFG from developing or recurring with suitable measures such as covering with impervious material and re-welding all scattered tears and breaks in FML. For those tears in the FML that cannot be re-welded

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due to weather, seal with tape or an otherwise suitable temporary patch and maintain such temporary patches until re-welding is conducted.

- In order to address H₂S or other LFG releases that are not evident within 72 hours of this notice or of H₂S or other LFG releases that recur or occur thereafter, provide MassDEP with a plan and schedule for periodic comprehensive of H₂S/LFG-release evaluations of the landfill to be conducted over a several consecutive days at times during the day when odor complaints have been routinely reported and thereafter, routinely conduct such evaluations to ensure compliance with the Final Judgment.
- Within 72 hours of this notice, remove any accumulated condensate, and thereafter continue to routinely remove condensate, from the LFG System gas extraction wells, the header lines, the condensate collection system, the LFG Pre-treatment System, and the enclosed flare, and, without limitation, drain and properly dispose of condensate from the LFG Pre-treatment System and landfill gas header at sufficient frequency to prevent the clogging of the LFG System by condensate and ice;
- Within 72 hours of this notice, remove and recharge any spent or saturated Pre-treatment media and thereafter continue to do so as necessary to maintain the three (3) Pre-treatment vessels at the Landfill, with one (1) vessel held in reserve as back-up or use as a polishing vessel;
- Within 72 hours of this notice, repair, and/or replace the existing landfill gas extraction wells' connections to the landfill gas collection system with the proper approved fittings to ensure maximum available header vacuum is maintained at all times at the point of connection of each wellhead and to allow controlled application of that vacuum to the well;
- Within 72 hours of this notice, take all necessary corrective action to extract landfill gas at a rate sufficient to ensure the proper operation of the LFG System, Pre-treatment System and Flare, as required by Appendix B and the Final Judgment. Such actions are to include, without limitation:
 - Collect and properly dispose of the condensate drained from the system;
 - Implement operational protocols for draining condensate from the Pre-treatment system and other service activities so as to minimize periods for which the flare is shut down, including training of on-site personnel to facilitate independent and timely action by those persons to operate and service the system;
 - Activation and operation of the landfill gas venting blanket;
 - Installation of an auxiliary fan, and/or replace the fan on flare with a fan of larger capacity, to boost available vacuum on the landfill gas collection header; and
 - Repair/modify the Pre-treatment system media tanks to minimize infiltration.

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as, without limitation, the installation of additional extraction wells, trenches, etc., as necessary to expand the LFG extraction system to ensure the zone of active collection of landfill gas encompasses the entire landfill;

- Within 72 hours of this notice, obtain at least one set of spare parts for the enclosed flare and thereafter continue to maintain one or more sets of spare parts on Site for the foreseeable future as necessary for routine maintenance of the enclosed flare, such spare parts to include without limitation: ignition spark plugs, a backup flame arrestor, gaskets, thermocouples, and recording charts;
- Within 72 hours of this notice, implement such measures and thereafter continue to do so as necessary to maintain the LFG System in good working condition to meet the performance standards of the Final Judgment, or, for those items that require parts to be ordered, provide a schedule within 72 hours of this notice to promptly obtain such parts and to repair, replace and/or install such parts on the enclosed flare and landfill gas Pretreatment system. Such measures are to include, without limitation:
 - Install the automatic dialer connection and connect it to a location manned 24 hours per day, 7 days per week, by qualified personnel able to address flare malfunctions;
 - Install prior to the inlet to the Pretreatment system a "knockout tank", or equivalent, to remove condensate entrained in the landfill gas;
 - Install the correct type of wire to thermocouple and recalibrate the recorder;
 - Install a nipple and appropriate adaptors ("sealtite") on thermocouple to properly secure the wiring conduit to the thermocouple body;
 - Replace/repair the propane assist controls, including the actuator valve, and other burner controls (UV, burner, etc.) to provide for full automated operation of the enclosed flare including the propane assist and the temperature control systems;
 - Replace the interior stack insulation; and
 - Take actions to prevent addition ignition "explosions" of the LFG flare and subsequent damage such as insulation blowouts by taking actions to include, but not be limited to, the installation of a purge fan.

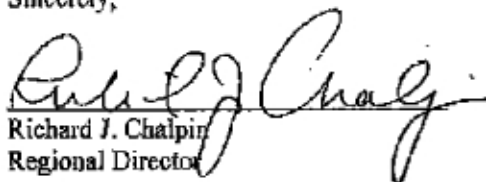
All of the response actions required above must be supervised, overseen and directed by the Engineer of Record as required by the Final Judgment .

A response by New Ventures that does not guarantee that any action will be taken in a timely manner or in a manner that will result in compliance with the Final Judgment and the Air Quality and Solid Waste Regulations will be deemed non-responsive.

This notice is provided by email pursuant to Section 26 of the Final Judgment and by certified mail.

Please mail all information to me at the letterhead address. Feel free to contact me by telephone at (978) 694-3345, if you have any questions regarding this notice.

Sincerely,



Richard J. Chalpin
Regional Director

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CERTIFIED MAIL: _____

CC: Mayor Donna Holaday 60 Pleasant Street, Newburyport, MA 01950

Health Department, 60 Pleasant Street, Newburyport, MA 01950

Michael Dingle, MassDEP/OGC-Boston

Matthew Ireland, Office of the Attorney General, Boston, MA

Michael Quatromoni, SITEC Environmental, Inc., 769 Plain Street, Unit C, Marshfield, MA
02050