



December 15, 2006

CERTIFIED MAIL

Michael S. Healey, P.G.
Director of Environmental Affairs
Charbert, Division of NFA Corp.
299 Church Street
Alton, RI 02894

In re: Executed Consent Agreement
Charbert, Division of NFA Corp

Dear Mr. Healey:

The purpose of this letter is to summarize the status of the issue concerning the continued use of the Holding Pond at the property.

On 5 July 2005 DEM and Charbert executed a Consent Agreement to resolve the Notice of Violation that was issued on 13 August 2004. Paragraph C.4.d of the Consent Agreement required Charbert to submit a report that evaluated the feasibility of alternatives for the treatment of wastewater generated at the property and propose one or more wastewater treatment system alternatives and a schedule for completion of the planning, design, permitting, and construction of the wastewater treatment system. DEM agreed as part of the Consent Agreement to allow Charbert to continue to use the unauthorized Holding Pond until such time as the planning, design, permitting, and construction of an alternate wastewater treatment system was completed.

On 6 September 2005 Charbert submitted a Wastewater Alternatives Report pursuant to paragraph C.4.d of the Consent Agreement. The report failed to propose one or more wastewater treatment system alternatives. The report stated that further pilot plant studies must be conducted before a preliminary design could be completed, but provided no date for completion of the pilot plant studies or preliminary design. As such, Charbert did not meet the deadline in paragraph C.4.d of the Agreement.



On 4 November 2005 a Superior Court justice issued an order vacating the Consent Agreement. The Supreme Court granted a stay of the Superior Court Order on 6 January 2006 and required the parties to submit briefs on the issues raised in the Superior Court hearing. The case is still pending at the Supreme Court.

On 23 March 2006 Charbert and DEM met to discuss the wastewater treatment alternatives Charbert was considering and determine a course of action that would allow Charbert to cease further use of the Holding Pond and properly close the Holding Pond and restore the altered freshwater wetlands on the property. In the meeting you described a proposal to construct a rapid infiltration bed for the disposal of the process wastewater. You stated that this proposal, if accepted by DEM, would allow Charbert to properly close the Holding Pond and complete the wetland restoration by the fall of 2006.

On 14 April 2006 Charbert submitted the proposal to DEM for review. DEM submitted a response to Charbert on 12 May 2006 that identified a number of comments that had to be addressed for DEM to complete its evaluation of the proposal. In my telephone conversation with you on 3 October 2006 you indicated that the revised proposal would be submitted to DEM within two weeks. To date, Charbert has not submitted a revised proposal to DEM.

From the date the Superior Court justice vacated the Consent Agreement to present Charbert has advised DEM that use of the Holding Pond occurred in December 2005, May 2006, and November 2006. Since the Consent Agreement was vacated, use of the Holding Pond on those dates represented a violation of the Freshwater Wetlands Act and the Water Pollution Act and the applicable DEM regulations.

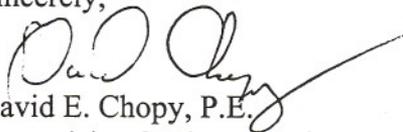
DEM did not take enforcement action on the violations in December 2005 and May 2006 because Charbert was working in good faith to resolve the issue. Based on the timeline recounted above, DEM no longer believes that Charbert is working in good faith on this issue and is hereby advising Charbert that any further use of the Holding Pond may subject Charbert to administrative penalties up to \$25,000 per day. DEM is also considering assessing an administrative penalty for the violation that occurred in November 2006.

Michael S. Healey

If Charbert proceeds with the closure of the Holding Pond and restoration of the freshwater wetlands in accordance with paragraphs C.4.j through C.4.n of the vacated Agreement **OR** submits a revised proposal that addresses all of the comments in the DEM letter dated 12 May 2006 **within thirty (30) days of receipt of this letter**, DEM may decide to use its enforcement discretion and not assess an administrative penalty for the November 2006 violation or future violations that may occur at the property from continued use of the Holding Pond.

If you have any questions concerning this letter, please call me at 222-4700 extension 7257.

Sincerely,



David E. Chopy, P.E.
Supervising Sanitary Engineer

- cc. Brian Wagner, DEM Legal Counsel
Terrence Gray, Assistant Director, DEM
Dean Albro, Chief, Office of Compliance and Inspection, DEM
Angelo Liberti, Chief, DEM Office of Water Resources
Russell Chateaufneuf, Chief, DEM Office of Water Resources
Ernie Panciera, DEM Office of Water Resources