



CERTIFIED MAIL

August 21, 2002

Mr. Louis Vinagro, Jr.
New England Ecological Development, Inc.
23 Green Hill Road
Johnston, Rhode Island 02919

Re: Solid Waste Management Facility License Application – **Notice of Intent to Deny**
New England Ecological Development, Inc.

Dear Mr. Vinagro:

The Department has completed its review of the application materials submitted on your behalf by Alternative Resources, Inc. and C&E Engineering Partners, Inc. to the Office of Waste Management in support of your application for a Transfer Station and Construction and Demolition Debris Processing Facility license for New England Ecological Development, Inc. (NEED), located in Johnston, Rhode Island. The following submittals were received and reviewed, and herein constitute the application:

- Operating and Closure Plan – Volume I, New England Ecological Development, Inc. Solid Waste Transfer Station and Wood Recovery Building dated August 1997.
- Operating Plan – Volume II, New England Ecological Development, Inc. “Re-Tech” Plant/Recyclable Material Storage Cells/Wood Recovery Plant dated August 1997.
- Operating and Closure Plan, New England Ecological Development, Inc. Solid Waste Transfer Station dated August 1997, revised August 1999.
- Operating Plan, New England Ecological Development, Inc. “Re-Tech” Plant dated April 2001.
- Closure Plan, New England Ecological Development, Inc. “Re-Tech” Plant dated April 2001.
- Litter Control Plan, New England Ecological Development, Inc. “Re-Tech” Plant dated April 2001.

- Onsite Monitoring Plan for the New England Ecological Development, Inc. Facility dated January 2002.

It is the Department's opinion that the sum total of the above information is incomplete and does not support the issuance/renewal of a license. Given this finding, the Department is providing, through this letter and attached comment package, our Notice of Intent to Deny the license application.

Be advised that this communication of our Intent to Deny is being issued pursuant to R.I.G.L. 23-18.9-9 and is not a denial at this time. Rather, it is a final accounting of the deficiencies we have found in reviewing your application and the initiation of the statutorily mandated hearing process.

As you are aware, the Department has now reviewed multiple iterations of the licensing application for the NEED Facility. It is therefore time to bring closure on the licensing process of this facility. You have an opportunity to correct the deficiencies through the administrative process delineated below. NEED's last amended application for the Transfer Station activities was submitted in August 1999 and for the Construction and Demolition Debris Processing activities was submitted in April 2001. However, absent correction of the issues identified herein and any additional relevant issues that may be raised by the public during this administrative process, we will issue a final denial of the application at the end of the proceedings.

The process following a Notice of Intent to Deny provides opportunity for correcting the deficiencies identified and addressing substantive comments received from the public. With your receipt of this letter, the Department will issue a Public Notice of this Notice of Intent to Deny. Within fifteen (15) days of the date of that Public Notice the Department will hold an informal informational workshop for the public on the information submitted to date. Between sixty (60) and seventy-five (75) days from the Public Notice, the Department will schedule a public comment hearing to formally receive verbal and written comments from all interested parties on the pending application and Notice of Intent to Deny. This hearing will be solely for the purpose of taking comments and compiling an administrative record on your application. The Department does not intend to present any further information, beyond the deficiencies cited in this package at that hearing. During the time period leading up to the hearing, you have the opportunity to correct the deficiencies cited in the attachment to this letter. We also urge you to present any information at this public forum that you may have now or have developed by that time that you feel adequately addresses the deficiencies we have listed.

Following the public comment hearing the Department will continue to accept written comments from all interested parties on the application and the comments received at hearing for an additional thirty (30) days. Once this post-hearing thirty-day comment period is closed, the Office of Waste Management will issue a final decision on your application within ninety (90) days. We believe this is a fundamentally fair process to the applicant and the public, complies with the statutory mandate, and establishes a mandated timeframe for closure of the licensing issues.

Our comprehensive listing of comments on the license application and operating plans are delineated in the attachment to this letter. In summary, the general focus of our concerns centers on the following general areas:

The first area is the continued excessive storage of processed and unprocessed construction and demolition debris in violation of State Statutes and Rule 7.2.02 of the Regulations. This includes the berms and storage cells. NEED's current practices for storage of waste currently conflicts with State Statutes, as well as, the Regulations and is viewed as illegal landfilling. The application shall detail proposed procedures to bring the Facility into compliance with mandated storage and processing requirements and ensure continued compliance in the future.

The second area of concern is that insufficient documentation or assurances were provided to verify markets for processed materials. Processed materials from NEED have been found at numerous public and private projects in violation of the Regulations. In addition, testing of the waste material has shown high levels of contaminants including, but not limited to, lead, arsenic and benzo(a)pyrene.

The third general area of critical concern is the lack of an approvable closure plan. Said plan shall include an adequate funding mechanism for properly closing the site and disposing of the current stockpiled waste, as well as, the maximum proposed stockpiled waste (process and unprocessed) in the future. The closure plan shall include an accurate estimate of the maximum amounts of materials to be stored and a detailed accounting of the associated third party costs for removal.

The last area relates to general issues of non-compliance. The Department has cited numerous violations in the past and continues to be seriously concerned with these issues.

These, and the other remaining deficiencies, are explained in greater detail in the attached comment package.

Based on the collective significance of these deficiencies, we are issuing this Notice of Intent to Deny. The Department is willing to meet with you to discuss these problems and proposals for final resolution throughout the time period leading up to the close of the public comment hearing process.

If you have any question on this package, please call Ms. Laurie Grandchamp or me. If you have questions regarding the administrative process relating to this Notice of Intent to Deny, please call John Langlois of the Department's Office of Legal Services.

Sincerely,

Leo Hellested, P.E., Chief
Office of Waste Management

Cc: Terrence Gray, RIDEM Assistant Director
Laurie Grandchamp, RIDEM OWM

John Langlois, RIDEM OLS
Emile Martineau, Esq. NEED
Tom Nicholson, C&E Engineering Partners