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December 29, 2022

VIA E-MAIL

Justin Howard, Esq.
McGuireWoods
800 East Canal Street
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Re: The City of Bristol, TN v. The City of Bristol, VA

Dear Justin:

We are writing in response to your email of December 27, 2022, and the Reply in Support of Motion for Mediation filed by Bristol, VA on December 28, 2022.

We were surprised by your representation that Bristol, TN has never outlined the terms necessary for settlement of this case. We checked our notes of our video conference on August 15, 2022, and confirmed that mediation and our position regarding same was discussed. We also want to point out, again, that Bristol, TN has regularly and repeatedly stated that it is willing to settle this case if Bristol, VA will commit to actions to address the issues associated with the landfill, a timeline for implementation of those actions, and permanent closure of the landfill. Written examples of Bristol, TN's willingness to settle and expectations for settlement are plentiful. For example, please see the following enclosures:

- Email from Andrea Wortzel to Jim Guynn dated January 10, 2022, asking whether the City would be willing to enter into a settlement agreement with Bristol, TN to establish a timeline for repair work to take place.
- Email from Michael Lacy to Jim Guynn dated June 2, 2022, noting that Bristol, TN would review Bristol, VA's action plan with its consultants to assess whether that could be incorporated into a broader settlement.
- Letter from Andrea Wortzel to Jim Guynn and Randy Eads dated July 29, 2022, explaining the information expected to be included in Bristol, VA's action plan, including the plan for permanent closure. The reason for asking for this report was to be able to identify specific actions and timelines that could be included in a future settlement.

- Letter from Andrea Wortzel to Erin Ashwell dated August 17, 2022, reiterating that the purpose of the action plan required by Item 5 of the Preliminary Injunction was to outline the actions to be taken to develop and implement a permanent closure plan.

In addition to these written communications, we have communicated to you and Erin Ashwell verbally that Bristol, TN is seeking a concrete action plan and timeline for implementing the Expert Panel Report and a commitment that the Landfill will be permanently closed. This was again communicated at the hearing on Bristol, VA's Motion for Partial Dismissal on November 3, 2022.

In response, Erin provided the City's proposed action plan and timeline on November 8, 2022. After reviewing this action plan and timeline with Bristol, TN's City Council and Bristol, TN's consultants, Bristol, TN communicated to you during a video conference on December 14, 2022, that the action plan and timeline were acceptable. We further stated that Bristol, TN would be willing to settle the case if the action plan and timeline – as well as a commitment to permanently close the Landfill – is converted into a permanent injunction order entered by the Court. Given the apparent ongoing negotiations between Bristol, VA and the Virginia Department of Environmental Quality relating to a consent order, you expressed a concern that the anticipated orders needed to be consistent. Accordingly, your team suggested that it would make sense for your team to draft the permanent injunction order, as Bristol, TN is not privy to the proposed consent order, despite our requests for same.

Lastly, we explained that as part of a resolution, Bristol, TN needed to be compensated for its damages, legal expenses, and costs incurred in dealing with the issues created by the Landfill. Bristol, VA requested that Bristol, TN provide its current fees and damages, which was provided on December 16, 2022. Bristol, VA has suggested that it needs more information regarding Bristol, TN's damages and expenses, but it has not provided a comprehensive description of the information it is seeking, as requested by Andrea's email of December 21 and my email of yesterday.

Regardless of our respective recollections of our prior communications, Bristol, TN believes that focusing on trying to resolve this case is the best path forward, and that it has made clear the terms that must be included in any resolution. To that end, and in an effort to move the discussions forward, Bristol, TN will draft a proposed permanent injunction order that incorporates the terms of the previously provided action plan and a commitment to permanent closure. We will provide that draft to you next week.

In the meantime, please advise if/when we can expect to receive a comprehensive description of the information Bristol, VA is seeking regarding Bristol, TN's damages and fees.

In light of the above and the statements made in Erin's emails of December 15 and 16, we continue to believe that involvement of a mediator is unnecessary to resolve this matter. If Bristol, VA disagrees, we would also like to understand the issues that Bristol, VA believes require the involvement of a mediator.

We look forward to receiving your responses to these questions.

Sincerely,


Michael Lacy

Sincerely,


Andrea W. Wortzel

Enclosures

cc: Erin Ashwell, Esq.