

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO. 06-0790 C

<p>COMMONWEALTH OF MASSACHUSETTS, Plaintiff, v. NEW VENTURES ASSOCIATES, LLC, Defendant.</p>
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FINAL JUDGMENT

notice sent 4-30-09 m.v. m.w.d.

This matter came before the Court for a hearing on the joint motion of the Commonwealth of Massachusetts ("Commonwealth") and New Ventures Associates, LLC ("New Ventures") for entry of Final Judgment and the Settlement Agreement executed on April 30, 2009 between the Commonwealth and New Ventures (the "Settlement Agreement"), and, after due consideration thereof, and New Ventures having expressly consented hereto, it is hereby ORDERED and

*Mass. State Bar
Lan, Jr.
M. R. Kopp
JB*

In hand 4-30-09 m.v. m.w.d. Mass. State Bar Lan, Jr. M. R. Kopp JB

ADJUDGED as follows:

1. This Court has jurisdiction over the subject matter of this action, and over the parties thereto.
2. Defendant New Ventures has a principal Massachusetts business office at 85-87 Boston Street in Everett and is a Delaware Corporation registered with the Secretary of the Commonwealth as a foreign corporation doing business in Massachusetts.
3. New Ventures owns and operates the Crow Lane Landfill, an uncapped, unlined,

**JUDGEMENT ENTERED ON DOCKET 4-30-09
PURSUANT TO THE PROVISIONS OF MASS.R.CIV.P.58(a)
AND NOTICE SENT TO PARTIES PURSUANT TO THE PROVISIONS OF MASS.R.CIV.P.77(d) AS FOLLOWS**

inactive landfill (“Landfill” or “Facility”) located on Crow Lane in Newburyport, Massachusetts (the “Site”) that is in the process of closure.

4. The Commonwealth filed a Complaint in this action alleging, *inter alia*, violations of G.L. c. 111, § 150A, and the regulations promulgated thereunder for site assignment and solid waste, and G.L. c. 111, §§ 142 A-O, and the regulations promulgated thereunder to prevent pollution or contamination of the atmosphere. The Complaint alleges facts that, if proven, constitute good and sufficient grounds for the relief set forth in this Final Judgment

Civil Penalty:

5. New Ventures New Ventures shall pay to the Commonwealth a civil penalty in the sum of \$230,000 in accordance with the following schedule:

First Installment:	\$50,000 on the effective date of the Settlement Agreement;
Second Installment	\$20,000 due by no later than fifteen (15) days after entry of this Final Judgment;
Third Installment:	\$30,000 due by no later than forty-two (42) days after entry of this Final Judgment;
Fourth Installment	\$30,000 due no later than twenty-five (25) days after the Department’s notice to New Ventures approving the Geotechnical Report required by paragraph 12(a)(iii) of this Final Judgment;
Fifth Installment	\$30,000 due no later than fifteen (15) days after the Department’s notice of deficiency, if any, pursuant to the requirements of paragraph 12(a)(vi) of this Final Judgment;

Sixth Installment: \$30,000 due on one of the following dates, whichever is applicable: in the event that the Department approved Geotechnical Report does not require modification of the MSE berm design, by no later than ninety (90) days after the Department's approval of the Geotechnical Report required by paragraph 12(a)(iii) of this Final Judgment, or; in the event that the Department approved Geotechnical Report determines that a MSE berm design modification is necessary, by no later than ninety (90) days after the Department's approval of a MSE berm design modification plan submitted in accordance with the requirements of paragraph 12(a)(v), or; by no later than ninety (90) days after the Department's approval of a revised MSE berm design modification plan, if necessary, in accordance with the requirements of paragraph 12(a)(vi);

Seventh Installment: \$40,000 no later than two hundred ten (210) days after entry of this Final Judgment.

New Ventures' obligation to pay the second through sixth installments of this civil penalty (totaling \$140,000), and \$30,000 of the seventh installment shall be suspended subject to New Ventures' timely compliance with the requirements set forth in paragraphs 6 through 11 immediately below. In the event New Ventures complies in a timely manner with each requirement set forth in paragraphs 6 through 10, its obligation to pay each installment, respectively, shall be waived, and if New Ventures complies in a timely manner with the requirements of paragraph 11, \$30,000 of the seventh installment shall be waived. All payments due under this paragraph 5 shall be made by bank certified or attorney's escrow check payable to the "Commonwealth of Massachusetts," and shall be delivered to the Office of the Attorney General, Environmental Protection Division, One Ashburton Place, Boston, Massachusetts 02108, Attention: Matthew Ireland, Assistant Attorney General. The Commonwealth will not present the check for payment of the First Installment until after this Final Judgment is entered. If any of the penalty installment payments due pursuant to this paragraph 5 are not received by the Office of the Attorney General within five (5) business days after the due date, all remaining unpaid

installment payments, together with the delinquent payment, shall immediately become due and payable (the "Accelerated Unpaid Balance"). In addition, upon such a default in payments, interest shall immediately begin accruing on the Accelerated Unpaid Balance at the rate of twelve percent (12%) per annum, and New Ventures shall be responsible for the payment to the Commonwealth of all accrued interest for the entire period of non-payment of the Accelerated Unpaid Balance. New Ventures shall also pay all expenses, including reasonable attorneys' fees and costs of collection actually incurred by the Commonwealth, associated with collection of the payment of the Accelerated Unpaid Balance and the enforcement of this Final Judgment and the Settlement Agreement.

6. If by no later than fifteen (15) days after entry of this Final Judgment, New Ventures has fully completed the requirements of Section I, "Field Work," of the "Perimeter Berm Geotechnical Investigation Protocol" attached to and incorporated by reference into the Settlement Agreement as Appendix A, the \$20,000 Second Installment shall be waived.

7. If by no later than forty-two (42) days after entry of this Final Judgment, New Ventures has submitted for Department approval the perimeter berm geotechnical investigation results analysis (the "Geotechnical Report") required by paragraph 12(a)(iii) of this Final Judgment, the \$30,000 Third Installment shall be waived.

8. If the Department approved Geotechnical Report finds that no MSE berm design modification is necessary, the \$30,000 Fourth Installment shall be waived. In the event that the Department approved Geotechnical Report finds that a MSE berm design modification is necessary in accordance with the terms and requirements of paragraph 12(a)(iii) and (iv) of this Final Judgment, the \$30,000 Fourth Installment shall be waived if New Ventures submits for Department approval the required MSE berm design modification plan within twenty-five (25) days of the Department's notice to New Ventures approving the Geotechnical Report.

