

NOTIFY

v 4/23

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO. 06-0790 C

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

v.

NEW VENTURES ASSOCIATES, LLC,

Defendant.

Notified 04-23-19 (NJ)

- OAG / M.I.

- DEP / M.W.D.

- LDJN / R.A.N.

- RJA / A.J.R.

- KR / M.R.R.

JOINT MOTION BY THE PARTIES TO ENTER ORDER REQUIRING REPAIR AND OTHER WORK AND ACTIONS AT THE CROW LANE LANDFILL

This matter came before the Court for hearing on plaintiff Commonwealth of Massachusetts' ("Commonwealth") Complaint for Civil Contempt, supported by affidavits, of this Court's Final Judgment ("Final Judgment") entered on April 30, 2009, and amended by subsequent orders of the Court, and the answer of defendant New Ventures Associates, LLC, ("New Ventures"), supported by affidavits, denying all allegations of contempt. This Court stayed the contempt action, including any necessary discovery and trial, and urged that the parties agree to and propose an order to be entered for the completion of necessary repairs and other work at the Crow Lane landfill in Newburyport, Massachusetts ("Landfill"). Granting a joint motion by the parties to enter a proposed order, this Court (Lauriat, J.), on November 5, 2014, entered an order requiring the installation of new equipment, inspections and repairs, and other work and activity necessary for the Massachusetts Department of Environmental Protection ("MassDEP") to approve a landfill closure completion application for the Landfill.

Duha Lauriat
4/22/19

ALLOWED

NOTIFY

v 4/23

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO. SUCV2006-0790-C

COMMONWEALTH OF MASSACHUSETTS

Plaintiff,

v.

NEW VENTURES ASSOCIATES, LLC,

Defendant.

Notified 04-23-19 (NJ)
-OAG/M.I.
-DEP/M.W.D.
-LDBN/R.A.N.
-RJA/A.J.R.
-KP/M.R.R.
CONSENT ORDER

In September 2014, plaintiff Commonwealth of Massachusetts ("Commonwealth") brought a Complaint for Civil Contempt of this Court's Final Judgment ("Final Judgment") entered on April 30, 2009, and amended by subsequent orders of the Court, against defendant New Ventures Associates, LLC, ("New Ventures"). This Court stayed the contempt action and urged that the parties agree to and propose an order to be entered for the completion of necessary repairs and other work at the Crow Lane landfill in Newburyport, Massachusetts ("Landfill"). Granting a joint motion by the parties to enter a proposed order, this Court (Lauriat, J.), entered an order on November 5, 2014, requiring the installation of new equipment, inspections and repairs, and other work at the Landfill.

In subsequent status conferences and reports, the parties have notified the Court that they have been working to resolve issues regarding the nature and extent of remaining work and activity necessary for the Massachusetts Department of Environmental Protection ("MassDEP") to approve New Ventures' Landfill closure certification report. New Ventures has executed a lease with a solar energy firm to install photovoltaic solar panels atop the Landfill and operate a solar electric generating facility. Once fully approved and permitted for the Landfill site and

operational, this solar energy installation will generate revenue to be paid in monthly installments into an escrow account (“Solar Revenue Rent Payment”).

The parties report that they have reached agreement on a proposed order for completion of certain necessary Landfill work and activity that will allow MassDEP to approve New Ventures’ Landfill closure certification report. The parties further report that, upon New Ventures’ full compliance with paragraphs 1 and 2 of the proposed order, the parties will file a stipulation of dismissal of the stayed contempt action.

Following a hearing and after consideration of the proposed order jointly submitted by the parties, it is hereby ORDERED and ADJUDGED that New Ventures shall take the following actions which are necessary for MassDEP to approve New Ventures’ Landfill closure certification report:

1. Upon entry of this order, New Ventures shall deposit \$125,000 into the existing standby trust account established as financial assurance mechanism for the Landfill by the Corrective Action Standby Trust Agreement dated October 20, 2003 (“FAM Standby Trust”).
2. By no later than June 30, 2019, New Ventures shall:
 - a. purchase and install a new gate with lock at the Landfill Site entrance;
 - b. permanently remove the trailer and any cinder block or other foundation materials from the Landfill Site;
 - c. permanently remove the leachate tanker truck from the Landfill Site;
 - d. permanently remove blasting mats and materials stored on Colby Farm Lane;
 - e. place and install at the Landfill Site a new, 40-cubic-yard roll off container filled with unused pre-treatment media to serve as the Landfill gas pre-treatment system for the Landfill gas control system and maintain on-site, in its present location, the existing 40-cubic-yard roll off container as a backup;
 - f. replace the existing Programmable Logic Controller (PLC) and modem unit on the enclosed flare skid with a new PLC and modem unit;
 - g. replace the existing blower with a new blower for the enclosed flare that burns off residual Landfill gas following treatment by the pre-treatment system;
 - h. replace the existing flame arrestor for the enclosed flare with a new flame arrestor;

- i. replace the existing “knock out” condensate tank on the flare skid with a new knock out condensate tank;
- j. make operational, by repairing or replacing if necessary, the alarm system on the underground condensate storage tanks; and
- k. remedy the source of erosion and runoff to the access road to the top of the Landfill and return the access road to good condition.

3. New Ventures shall provide MassDEP with copies of paid invoices from contractors and consultants for all materials, equipment, and work performed to meet the requirements of the above paragraph 2(a) through (k), of which an amount not to exceed \$40,000 will be credited (“Credited Value”) per the terms of the below paragraphs 4, 5, and 6 toward the amount required to be deposited into the FAM Standby Trust.

4. Starting with the third Solar Revenue Rent Payment and continuing thereafter on a quarterly basis beginning no later than September 1, 2020, New Ventures shall deposit all Solar Revenue Rent Payments for the quarter into the FAM Standby Trust less the cost of landfill post-closure operations and maintenance (“O&M”) expenditures for the quarter. Upon quarterly deposit of Solar Revenue Rent Payments into the FAM Standby Trust, New Ventures shall provide MassDEP with copies of paid invoices documenting landfill post-closure O&M expenditures for the quarter paid from Solar Revenue Rent Payments.

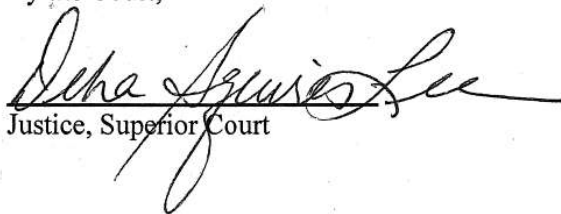
5. Each quarterly deposit of Solar Revenue Rent Payments into the FAM Standby Trust in accordance with the requirements of the above paragraph 4 shall not be less than \$1,000, regardless of quarterly O&M costs, and shall continue on a quarterly basis until such time that a total of \$225,000 less the Credited Value has been deposited into the FAM Standby Trust.

6. By no later than September 1, 2040, New Ventures shall have deposited into the FAM Standby Trust in connection with this Order a total of \$350,000 less the Credited Value— from Solar Revenue Rent Payments or otherwise and including the \$125,000 payment required by the above paragraph 1.

7. For all work and activity to be performed at the Landfill as ordered by the above paragraph 2(a) through (k), New Ventures shall provide MassDEP with two (2) business day notice before beginning or undertaking such work or activity. Such notice to MassDEP may be made by telephone call or by electronic mail.

So ordered.

By the Court,


Justice, Superior Court

Dated: April 22, 2017