

**New York State Department of Environmental Conservation  
Office of General Counsel, Room 618**

50 Wolf Road, Albany, New York 12233-1500  
Phone: (518) 457-4415 FAX: (518) 485-8484



John P. Cahill  
Commissioner



July 23, 1999

The Honorable Eliot Spitzer  
Attorney General  
New York State Department of Law  
The Capitol  
Albany, New York 12224

Re: State of New York v. Town of Moreau  
Modified Order on Consent

REGION 5 ENVIRONMENTAL QUALITY	
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cc D.H.P.	✓ done 8/27-Bl
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Dear Attorney General Spitzer:

The Department of Environmental Conservation ("Department") has agreed to extend the December 31, 1998 final closure date for the Town of Moreau landfill, provided for in the April 28, 1995 Third Modified Order on Consent, to October 1, 1999. The original Order on Consent, Index No. 3Q35, was signed by the Supreme Court Justice, Saratoga County, on October 1, 1991. The Order was subsequently modified on three occasions, most recently on April 28, 1995. A copy of the Third Modified Order is attached for your convenience.

Your assistance is once again necessary to obtain a modified Order from the court. Please obtain a modified Order which extends the December 31, 1998 final closure date, set forth in paragraph 1.(b) of the April 28, 1995 Order, to October 1, 1999.

The Regional Attorney contact is Steven Brewer who can be reached at (518) 897-1227. Please send us copies of all draft and final papers for our review and files. Thank you for your attention to this matter.

Sincerely,

Frank V. Bifera  
Deputy Commissioner & General Counsel

Attachment



STATE OF NEW YORK  
DEPARTMENT OF LAW  
ALBANY, NY 12224

RECEIVED

APR 28 1995

Dept. of Environmental Conservation  
Office of Legal Affairs  
RAY BROOK, NEW YORK

DENNIS C. VACCO  
Attorney General

JAMES A. SEVINSKY  
Assistant Attorney General in Charge  
Environmental Protection Bureau

VAL WASHINGTON  
Deputy Bureau Chief  
Environmental Protection Bureau

April 27, 1995

Kermit G. Plummer  
Saratoga County Clerk  
County Municipal Center  
30 McMaster Street  
Ballston Spa, New York 12020

Re: State of New York v. Town of Moreau;  
No. 3Q35

Dear Mr. Plummer:

Enclosed for filing is the original of an order in the above action signed by Judge Plumadore. No fee is tendered pursuant to CPLR 8017.

Very truly yours,

MICHAEL J. MOORE  
Assistant Attorney General  
(518) 474-1190

Enclosure

cc (w/encl.): Steve Brewer, Esq.  
Lewis B. Oliver Jr., Esq.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SARATOGA

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STATE OF NEW YORK and THOMAS C. JORLING,  
Commissioner of the New York State  
Department of Environmental Conservation,

THIRD MODIFIED  
ORDER ON CONSENT

Plaintiffs,

Index No. 3Q35

- against -

TOWN OF MOREAU, Michael Sullivan,  
Supervisor,

Defendant.

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WHEREAS, plaintiffs, Commissioner of the New York State Department of Environmental Conservation and the State of New York filed a complaint against defendant Town of Moreau ("the Town") alleging that defendant had violated the New York State Environmental Conservation Law ("ECL") by operating a solid waste management facility known as the Town of Moreau landfill ("facility") located in the Town of Moreau, County of Saratoga, State of New York, in contravention of ECL Article 27, Title 7 and 6 NYCRR Part 360 and the defendant has denied all the allegations in the complaint; and

WHEREAS, defendant agrees to cease the daily operation of the landfill on a date certain and further agrees to close the landfill pursuant to the requirements of ECL Article 27, Title 7 and 6 NYCRR Part 360; and

WHEREAS, pursuant to an administrative Order on Consent entered into in 1991 between the New York State Department of Environmental Conservation ("Department") and other owners and operators of unpermitted landfills which accept municipal solid

waste in Saratoga County, the Department, in order to provide interim solid waste disposal capacity to said landfill owners and operators, had approved a Saratoga County Solid Waste Landfill Consolidation Plan, prepared by Saratoga County on behalf of said municipal landfill owners and operators, based on a demonstration that the Towns of Halfmoon and Moreau landfills and the Austro Brothers Construction Company landfill were the most environmentally sound landfills in Saratoga County that had the capacity to accept all of the solid waste generated within that County for an interim period to end not later than March 31, 1994; and

**WHEREAS**, by Order on Consent signed by this Court on October 1, 1991 and filed and entered in the office of the Clerk on October 11, 1991 ("the October 1991 Order") plaintiffs and defendant agreed to settle this litigation upon the terms set forth therein; and

**WHEREAS**, the October 1991 Order was subsequently amended to provide for a brief extension of the date for defendant's implementation of the Consolidation Plan; and

**WHEREAS**, in November 1992 plaintiffs and defendant modified the October 1991 Order ("the November 1992 Modification") by conditionally extending the dates for gate closure and final closure of the landfill; and

**WHEREAS**, in March 1994 plaintiffs and defendant again modified the October 1991 Order ("the March 1994 Modification")

by conditionally extending the dates for gate closure and final closure of the landfill; and

**WHEREAS**, plaintiffs and defendant now wish to further modify the October 1991 Order in certain respects, as set forth below;

**NOW, THEREFORE**, upon the application of Dennis C. Vacco, Attorney General of the State of New York, and the consent of the parties to this action as evidenced by the signature of their attorney or authorized representative below, it is hereby

**ORDERED, ADJUDGED AND DECREED** as follows:

1. (a) The gate closure date for the facility set forth in paragraph 8 of the October 1991 Order, as modified, is extended to "April 1, 1996."

(b) The final closure date for the facility set forth in Appendix A of the October 1991 Order, as modified, is extended to "December 31, 1998."

(c) These extensions are granted solely for the purpose of allowing the disposal at the facility of paper mill sludge from Encore Paper Company and other paper mills within the Saratoga County Planning Unit. No other solid waste may be accepted at the facility. If the Department subsequently determines that paper mill sludge management in the Saratoga County Planning Unit is being otherwise addressed and the need for landfilling paper mill sludge at the facility no longer exists, the Department reserves the right to rescind these extensions and require immediate closure of the landfill.

2. The extensions set forth in 1 (a) and (b), above, are conditioned upon compliance with the following. Non-compliance may be grounds for revocation.

(a) The Town must place an intermediate cover (a minimum of 12 inches of compacted material) on all landfill surfaces where no additional solid waste has been or will be deposited, within thirty calendar days after deposition, to minimize runoff from the paper mill sludge and other wastes;


(b) The paper mill sludge must be placed and graded in a manner that will facilitate the final closure of the landfill;

(c) Saratoga County must continue to make satisfactory progress towards the permitting and construction of a new county-wide solid waste landfill and a regional solution to solid waste needs. The Department will reevaluate the County's progress every six months, and

(d) During the extended closure periods set forth above, the Town, in conjunction with Encore Paper Company, will conduct research, development and demonstration projects to evaluate whether paper sludge is an acceptable impermeable cover on a landfill mass and/or acceptable as a component of a final landfill cover system.

3. In all other respects the findings, terms and conditions of the October 1991 Order, the November 1992 Modification and the March 1994 Modification shall continue unchanged.

Dated: March 17, 1995

  
MICHAEL J. MOORE  
Assistant Attorney General  
Attorney for Plaintiffs  
Department of Law  
The Capitol  
Albany, New York 12224  
(518) 474-1190

MARCH 28, 1995

  
MICHAEL SULLIVAN  
Supervisor, Town of Moreau

IT IS SO ORDERED:

28 April, 1995

  
JUSTICE OF THE SUPREME COURT