

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In The Matter Of:

Keystone Sanitary Landfill, Inc.	:	Violations of the Solid Waste
249 Dunham Drive	:	Management Act – Municipal
Dunmore, PA 18512	:	Waste Violations

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement is entered into this 29th day of MARCH 2024, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”) and Keystone Sanitary Landfill, Inc. (“KSL”).

The Department has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce the Solid Waste Management Act, Act of July 7, 1980, P.L. 380, *as amended*, 35 P.S. §§ 6018.101-6018.1003 (“Solid Waste Management Act”); the Air Pollution Control Act of January 8, 1960, P.L. 2119, *as amended*, 35 P.S. § 4001 *et seq.* (“Air Pollution Control Act”), Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S. § 510-17 (“Administrative Code”); and the rules and regulations (“rules and regulations”) promulgated thereunder.

B. KSL is a Pennsylvania business corporation with an address of 249 Dunham Drive, Dunmore, Pennsylvania 18512, and KSL is a “person” as that term is defined by Section 103 of the Solid Waste Management Act, 35 P.S. § 6018.103.

C. On or about March 31, 1982, the Department issued Solid Waste Management Permit No. 101247, as amended, (hereinafter “Permit”) to KSL for the operation of a solid waste disposal facility, to wit, a municipal waste landfill located in Dunmore and Throop Boroughs, Lackawanna County, Pennsylvania (“Facility”).

Applicable Law

D. 25 Pa. Code § 273.201(c) provides that a person or municipality that operates a municipal waste landfill shall comply with the following:

(1) The act, this article and other applicable regulations promulgated under the act.

(2) The plans and specifications in the permit, the terms and conditions of the permit, the environmental protection acts, this title and orders issued by the Department.

E. 25 Pa. Code § 273.217(a) states in part: “The operator shall implement fugitive air contaminant control measures and otherwise prevent and control air pollution in accordance with the Air Pollution Control Act (35 P. S. §§ 4001—4014), Article III (relating to air resources) and § 273.218 (relating to nuisance minimization and control).”

F. 25 Pa. Code § 273.217(b) states: “The operator shall comply with the terms and conditions of an air quality plan approval and air quality operating permit issued to the facility under Chapter 127 (relating to construction, modification, reactivation and operation of sources).”

G. 25 Pa. Code § 123.31(b) states: “A person may not permit the emission into the outdoor atmosphere of any malodorous air contaminants from any source, in such a manner that the malodors are detectable outside the property of the person on whose land the source is being operated.”

H. 25 Pa. Code § 127.444 states: “A person may not cause or permit the operation of a source subject to this article unless the source and air cleaning devices identified in the application for the plan approval and operating permit and the plan approval issued to the source are operated and maintained in accordance with specifications in the application and conditions in the plan approval and operating permit issued by the Department. A person may not cause or permit the operation of an air contamination source subject to this chapter in a manner inconsistent with good operating practices.”

I. 25 Pa. Code § 273.218(b)(1) states in part: “An operator shall implement the plan approved under § 273.136 (relating to nuisance minimization and control plan) to minimize and control public nuisances from odors.”

J. 25 Pa. Code § 273.218(b)(2) states: “An operator shall perform regular, frequent and comprehensive site inspections to evaluate the effectiveness of cover, capping, gas collection and destruction, waste acceptance and all other waste management practices in reducing the potential for offsite odor creation.”

K. 25 Pa. Code § 273.218(b)(3) states: “An operator shall promptly address and correct problems and deficiencies discovered in the course of inspections performed under paragraph (2).”

L. 25 Pa. Code § 273.218(c) states: “An operator shall implement the plan approved under § 273.136 to minimize and control other conditions that are harmful to the environment or

public health, or which create safety hazards, odors, dust, noise, unsightliness and other public nuisances.”

M. 25 Pa. Code § 273.233(b)(1) states in part: “The intermediate cover shall prevent vectors, odors, blowing litter and other nuisances.”

N. 25 Pa. Code § 273.292(a) states: “The operator shall implement the gas control and monitoring plan approved under § 273.171 (relating to gas monitoring and control plan).”

O. Part II Section II Condition 7.a of the Permit states: “The operator shall implement fugitive dust control measures and otherwise prevent and control air pollution in accordance with the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations.”

P. Part II Section II Condition 8.b of the Permit states: “The operator shall also prevent and eliminate conditions that are harmful to the environment or public health, or which create safety hazards, odors, dust, noise, unsightliness and other public nuisances.”

Q. Part II Section III Condition 3.b of the Permit states: “The composition of the intermediate cover material shall meet requirements as stated in 25 Pa. Code § 273.233 (Intermediate Cover and Slopes).”

R. Part II Section VIII Condition 1.d of the Permit states in part: “Gas monitoring shall be conducted in accordance with the approved plan.”

S. Title V Permit No. 35-00014 Section C Site Level Requirement Number 003 states: “The permittee may not permit the emission into the outdoor atmosphere of any malodorous air contaminants from any source in such a manner that the malodors are detectable outside the property of the person on whose land the source is being operated.”

T. Condition 4 of the February 17, 2021 Minor Permit Modification regarding the Settlement Accommodation Plan states: “While implementing the settlement accommodation plan, the facility must remain in overall operational compliance regarding landfill gas odors, surface emissions, leachate outbreaks, nuisance controls, etc. If the Department determines that the facility is unable to maintain overall operational compliance, the Department may suspend future Settlement Accommodation Plan (SAP) implementation.”

U. Condition 20 of the June 3, 2021 Major Permit Modification for the Phase III Site Development (Phase III Expansion) states in part: “In conjunction with the odor mitigation practices approved in the Phase II Western Boundary Adjustment Permit Modification issued on June 10, 2013 and currently being utilized, KSL shall also implement additional odor mitigation practices contained in the approved Nuisance Minimization and Control Plan (NMCP) submitted as part of the Phase III permit application. These measures include, but are not limited to:

- (a) For intermediate slopes in place for 6 months or upon the completion of the initial sixty-foot lift, whichever comes first, KSL will initiate enhanced surface monitoring on these slopes. Evaluation of the results of this monthly surface monitoring will be evaluated to determine if additional gas mitigation efforts need to be implemented as per the Nuisance Minimization and Control Plan. (Mitigation measures include, but are not limited to the addition and compaction of clay like soils, adjustments to existing gas collection devices and/or construction of additional gas collection devices, prompt mitigation of any leachate break outs, installation of geosynthetic cap, etc.)”

V. On November 9, 2022, a representative of the Department’s Waste Management Program performed an investigation in response to multiple odor complaints and detected a landfill gas odor attributed to the Facility offsite in Dunmore Borough, including a landfill gas malodor at multiple complainants’ residences.

W. On November 15, 2022, a representative of the Department’s Air Quality Program performed an investigation in response to multiple odor complaints and detected a landfill gas odor attributed to the Facility offsite in the Scranton and Dunmore areas, including a landfill gas odor at multiple complainants’ residences.

X. On November 16, 2022, a representative of the Department’s Waste Management Program performed an investigation in response to multiple odor complaints and detected a landfill gas odor attributed to the Facility offsite along Marshwood Road in Throop Borough.

Y. On November 21, 2022, a representative of the Department’s Waste Management Program performed an odor patrol in response to the multiple odor complaints being filed and detected landfill odors attributed to the Facility offsite along Marshwood Road in Throop Borough and State Route 6 in Dunmore Borough and Throop Borough.

Z. On November 21, 2022, representatives of the Department’s Waste Management Program performed an inspection at the Facility where high readings on a surface methane gas monitoring meter (Thermo Scientific TVA2020 FID/PID) were recorded specifically in the intermediate cover areas of Pad 10, and at the base of landfill gas collection wells. Landfill gas odors were detected in many areas of Pads 9 and 10. A hydrogen sulfide odor was noted downwind of the west leachate lagoon.

AA. On December 16, 2022, a representative of the Department’s Emergency Response Team performed an odor complaint investigation and detected a landfill odor attributed to the Facility offsite at the residence of the complainant in Jefferson Township. The same landfill odor was also detected along State Route 6 in Dunmore Borough and Throop Borough.

BB. On December 21, 2022, a representative of the Department's Waste Management Program performed an investigation in response to multiple odor complaints and detected landfill gas and hydrogen sulfide odors attributed to the Facility offsite in Dunmore Borough and Throop Borough, including landfill gas and hydrogen sulfide malodors at multiple complainants' residences.

CC. On December 23, 2022, a representative of the Department's Waste Management Program performed an odor patrol in response to the multiple odor complaints being filed the previous day and detected landfill odors attributed to the Facility offsite along Marshwood Road in Throop Borough and State Route 6 in Dunmore Borough and Throop Borough.

DD. On December 28, 2022, a representative of the Department's Waste Management Program performed an odor patrol in response to the multiple odor complaints being filed and detected landfill gas and hydrogen sulfide odors attributed to the Facility offsite in Dunmore Borough, Jessup Borough, and Throop Borough.

EE. On December 30, 2022, a representative of the Department's Waste Management Program performed an investigation in response to multiple odor complaints and detected landfill odors attributed to the Facility offsite in Dunmore Borough and Throop Borough, including landfill odors at multiple complainants' residences.

FF. On January 5, 2023, representatives of the Department's Waste Management Program and Air Quality Program performed an inspection at the Facility where high readings on a surface methane gas monitoring meter (Thermo Scientific TVA2020 FID/PID) were recorded in intermediate cover areas near several gas collection wells on Pads 9, 10 and 11. Information provided by KSL as a follow-up to the inspection showed that KSL failed to conduct enhanced surface monitoring on intermediate slopes in place for six months or upon completion of the initial sixty-foot lift.

GG. On January 25, 2023, the Department issued a Notice of Violation to KSL for the violations described in Paragraphs V through FF above which requested that KSL submit a written response identifying the reason the violations occurred and how such violations would be prevented in the future.

HH. On March 27, 2023, the Department received KSL's response to the Notice of Violation dated January 25, 2023.

II. On October 19, 2023, a representative of the Department performed an inspection of the Facility during which landfill gas odors were detected near each of the two working faces KSL was operating at the time, including a distinct stronger "old" waste like odor near the working face in the SAP area.

JJ. On October 30, 2023, after review of KSL's recent enhanced surface emissions monitoring isopach maps, the Department issued a letter to KSL noting that Department staff had regularly been detecting landfill related odors offsite during investigations of odor complaints, which had been increasing since September. The Department noted that it appeared that under KSL's NCMP, emission reduction efforts should have been triggered. The Department requested additional information to determine if KSL complied with its NMCP. The Department also recommended that KSL consider additional mitigation measure to minimize offsite odors, as KSL's mitigation measures at that time had not been effective.

KK. On November 8, 2023, KSL responded to the Department's October 30, 2023 letter; however, the response did not adequately address all the information requested by the Department.

LL. On November 13, 2023, in response to the increased volume of odor complaints being received by the Department since September 2023, the Department began conducting daily odor patrols of the areas surrounding the Facility.

MM. On November 16, 2023, representatives of the Department's Waste Management Program performed an inspection at the Facility during which strong, pungent landfill gas odors were noted in the SAP area. High readings on a surface methane gas monitoring meter (Thermo Scientific TVA2020 FID/PID) were recorded throughout the SAP area and in intermediate cover areas along the Western and Northwestern slopes of the Phase II area of the Facility.

NN. On November 17, 2023, the Department responded to KSL's November 8, 2023 response to the Department's October 30, 2023 letter, requesting that KSL provide the information that was missing from its November 8, 2023 response. On November 22, KSL responded with the information the Department requested for the Department's review.

OO. On November 21, 2023, the Department issued a Suspension of Settlement Accommodation Plan Operations letter due to the odor complaints received since September 2023, the confirmation of landfill gas odors offsite by Department staff, and the results of the Department's November 16, 2023 inspection. In the letter, the Department requested that KSL submit a plan to mitigate and control the landfill gas odors emanating from the SAP areas.

PP. On November 30, 2023, the Department received KSL's response to the November 21, 2023 Suspension of Settlement Accommodation Plan Operations Letter. KSL provided information on measures taken and planned to eliminate odors from the SAP area, including installation of horizontal collection wells, re-establishment of vacuum headers, drilling new gas extraction wells, soil cover placement, backfilling of the anchor trench of concern during the Department's November 16, 2023 inspection, and implementing final closure activities.

QQ. On December 2, 2023, a representative of the Department's Emergency Response Team performed an odor complaint investigation and detected leachate odors attributed to the Facility offsite along Cypress Street, Dunmore Street, George Street, Marshwood Road, and South Street in the Dunmore Borough and Throop Borough areas, including malodors at multiple complainants' residences.

RR. On December 13, 2023, due to landfill gas odors being detected off KSL property on numerous occasions during the Department's odor patrols, extensive areas of intermediate cover with excessive methane emissions results for the months of September and October 2023, and the conditions observed by the Department at the Facility during the November 16, 2023 inspection, the Department issued a Notice of Violation to KSL for failure to maintain a uniform intermediate cover that prevents odors. In the Notice of Violation, the Department requested that KSL submit a proposed plan and schedule to address the correction and prevention of the violation.

SS. On December 21, 2023, KSL filed an appeal of the Department's November 21, 2023 Suspension of Settlement Accommodation Plan Operations letter with the Environmental Hearing Board ("EHB") which docketed the appeal at EHB Docket No. 2023-098-L.

TT. On December 26, 2023, a representative of the Department's Waste Management Program conducted a routine inspection at the Facility. During the inspection, the Department representative observed that additional work needed to be done to address the intermediate cover along the Western slope of the Phase II area of the Facility and specifically the SAP area.

UU. On January 8, 2024, the Department issued a Notice of Violation to KSL for the offsite odors detected by the Department on December 2, 2023, as described in Paragraph QQ, above, which requested that KSL submit a proposed plan and schedule to address the correction and prevention of the violations.

VV. On January 12, 2024, the Department received KSL's response to the Notice of Violation dated December 13, 2023 with a proposed plan to address odors, including accelerated installation of gas wells, collection devices, and permanent cap; installation of temporary geomembrane liner, a leachate lagoon foaming operation, another reverse osmosis system, and ultimately leachate storage tanks; utilization of aerial drone methane detection; and engaging additional independent contractors.

WW. On January 23, 2024, the Department received KSL's response to the Notice of Violation dated January 8, 2024 which summarized and incorporated KSL's response dated January 12, 2024.

XX. On January 24, 2024, representatives from the Department's Waste Management Program and KSL's staff held a meeting at the Facility to discuss the proposed plan in KSL's January 12, 2024 response and any potential additional measures to mitigate and prevent odors.

YY. On February 4, 2024, a representative of the Department's Waste Management Program performed an investigation in response to multiple odor complaints and detected landfill gas and leachate odors attributed to the Facility offsite in Throop Borough, including leachate malodors at multiple complainants' residences. The Department's representative met with a representative of KSL on Marshwood Road and confirmed the presence of a persistent leachate odor.

ZZ. The Department's review of results of the daily odor patrols referenced in Paragraph LL, above, showed that, on the following dates, representatives of the Department detected landfill gas odors attributed to the Facility offsite: November 14, 15, 16, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30, 2023; December 1, 4, 6, 7, 8, 10, 11, 13, 18, 19, 21, 22, 23, 25, 26, and 31, 2023; January 1, 3, 5, 10, 12, 13, 14, 16, 17, 18, 19 and 31, 2024; and February 2, 13 and 23, 2024.

AAA. The Department's review of results of the daily odor patrols referenced in Paragraph LL, above, showed that, on the following dates, representatives of the Department detected leachate odors attributed to the Facility offsite: November 13, 17 and 19, 2023; December 12, 14, 15, 16, 17, 24, and 28, 2023; January 2, 9, 21, 22, 23, and 30, 2024; and February 6, 7, 8, 10, 15, 18 and 20, 2024.

BBB. The Department determined that on November 9, 15, 16, and 21, 2022; December 16, 21, 23, 28, and 30, 2022; November 13, 17, and 19, 2023; December 2, 12, 14, 15, 16, 17, 24, and 28, 2023; January 2, 9, 21, 22, 23, and 30, 2024; and February 4, 6, 7, 8, 10, 15, 18, and 20, 2024, KSL failed to implement the Nuisance Minimization and Control Plan to minimize and control other conditions that are harmful to the environment or public health, or which create safety hazards, odors, dust, noise, unsightliness and other public nuisances, in violation of 25 Pa. Code §§ 273.201(c) and 273.218(c) and Solid Waste Management Permit Number 101247 Part II Section II Condition 8.b.

CCC. The Department determined that on November 9, 2022, December 21, 2022, December 2, 2023 and February 4, 2024, KSL failed to implement the Nuisance Minimization and Control Plan to minimize and control public nuisances from odors, in violation of 25 Pa. Code §§ 273.201(c) and 273.218(b)(1) and Solid Waste Management Permit Number 101247 Part II Section II Condition 8.b.

DDD. The Department determined that on November 9, 2022, December 21, 2022, December 2, 2023 and February 4, 2024, KSL failed to prevent and control air pollution in accordance with the Air Pollution Control Act, Article III and 25 Pa. Code § 273.218, in violation

of 25 Pa. Code §§ 273.201(c) and 273.217(a) and Solid Waste Management Permit No. 101247 Part II Section II Condition 7.a.

EEE. The Department determined that on November 9, 2022, December 21, 2022, December 2, 2023 and February 4, 2024, KSL permitted the emission of a malodorous air contaminant from the Facility into the atmosphere in such a manner that the malodors were detectable outside the Facility where the malodors were generated, in violation of 25 Pa. Code §§ 123.31(b), 127.444, and 273.217(b) and Title V Permit No. 35-00014 Section C Site Level Requirement Number 003.

FFF. The Department determined on November 21, 2022 and January 5, 2023, KSL failed to implement the gas control and monitoring plan approved under 25 Pa. Code § 273.171 (relating to the gas monitoring and control plan), in violation of 25 Pa. Code §§ 273.201(c) and 273.292(a) and Permit 101247 Part II Section VIII Condition 1.d.

GGG. The Department determined that KSL's failure to maintain a uniform intermediate cover that prevents odors, as described in Paragraphs Z, FF, MM, TT and ZZ, above, constitutes violations of 25 Pa. Code §§ 273.201(c) and 273.233(b)(1) and Solid Waste Management Permit Number 101247 Part II Section III Condition 3.b.

HHH. The Department determined that KSL's failure to conduct enhanced surface monitoring on intermediate slopes in place for six months or upon the completion of the initial sixty-foot lift, as described in Paragraph FF above, constitutes a violation of the June 3, 2021 Permit Modification Condition 20., 25 Pa. Code §§ 273.201(c) and 273.218(b)(2) and (3), and Solid Waste Management Permit Number 101247 Part II Section II Condition 8.b.

III. The violations described in Paragraphs V through HHH constitute unlawful conduct under Section 610 of the Solid Waste Management Act, 35 P.S. § 6018.610, a statutory nuisance under Section 601 of the Solid Waste Management Act, 35 P.S. § 6018.601, and subject KSL to civil penalty liability under Section 605 of the Solid Waste Management Act, 35 P.S. § 6018.605.

JJJ. The violations described in Paragraphs V, BB, QQ, YY and EEE constitute unlawful conduct under Section 8 of the Air Pollution Control Act, 35 P.S. § 4008; a statutory nuisance under Section 13 of the Air Pollution Control Act, 35 P.S. § 4013; and subjects KSL to civil penalty liability under Section 9.1 of the Air Pollution Control Act, 35 P.S. § 4009.1.

ORDER

After full and complete negotiation of all matters set forth in this Consent Order and Agreement and upon mutual exchange of covenants contained herein, the parties desiring to avoid

litigation and intending to be legally bound, it is hereby ORDERED by the Department and AGREED to by KSL as follows:

1. Authority. This Consent Order and Agreement is an Order of the Department authorized and issued pursuant to Section 602 of the Solid Waste Management Act, 35 P.S. § 6018.602; Section 4 of the Air Pollution Control Act, 35 P.S. § 4004; and Section 1917-A of the Administrative Code, 71 P.S. § 510-17.

2. Findings.

a. In any matter or proceeding between KSL and the Department, KSL shall not challenge or deny the Department's assertion of the truth, accuracy or validity of Paragraphs A through JJJ, above.

b. The parties do not authorize any other persons to use the findings in this Consent Order and Agreement in any matter or proceeding.

3. Corrective Action.

Leachate Lagoon Odor Mitigation Measures

a. Upon execution of this Consent Order and Agreement, KSL shall implement the application of foam on the leachate lagoons and the use of the leachate additive Prosweet to mitigate potential offsite odors. KSL shall inspect the surface coverage of foam daily and a log of these inspections shall be maintained by KSL. KSL shall continue to evaluate alternative automated foam application equipment.

b. By July 30, 2024, KSL shall complete installation of the Hexprotect AQUA cover system on the surface of the leachate lagoons. The effectiveness of this floating cover shall be evaluated to determine if the foam application system should be modified.

c. Within thirty (30) days of execution of this Consent Order and Agreement, KSL shall submit to the Department a minor permit modification for the installation of the two 2,500,000-gallon leachate storage tank systems at the Facility.

d. KSL shall respond to any technical deficiency letters pertaining to the minor permit modification application referenced in Paragraph 3.c, above, within thirty (30) days of receipt.

e. By April 1, 2025, KSL shall complete installation and submit a Form 37 for the two 2,500,000-gallon leachate storage tank systems, including jet mixing system and vapor capture system, at the Facility. KSL shall commence operation of the foregoing upon receipt of a Form 37 approval, and any other necessary approvals, from the Department.

Leachate Generation and Reverse Osmosis (RO) Reject Water Evaluation

- f. By May 1, 2024, KSL shall complete an evaluation to determine appropriate RO system modifications needed to reduce the volume of RO reject water being generated.
- g. By May 1, 2024, KSL shall submit an evaluation of leachate generation rates to determine areas of the landfill that contribute the most significant volumes of leachate generated as a result of storm events. The evaluation should include measures to be implemented to minimize the impact storm events have on leachate generation.
- h. By June 1, 2024, KSL shall submit a minor permit modification to include the installation of a fourth RO unit and any other proposed changes to the current RO leachate treatment system and an evaluation to determine maximum safe volumes of RO reject water that can be disposed of in the active working face. This evaluation shall include the potential impact the RO reject water disposal has on landfill gas generation rates, landfill gas collection devices, odors, and slope stability.
- i. By August 1, 2024, KSL shall complete installation of a fourth RO leachate treatment system.

Intermediate Cover and Landfill Gas Emission Mitigation Measures

- j. Upon execution of this Consent Order and Agreement, KSL shall implement more frequent surface emission monitoring utilizing aerial drone technology, at a minimum of once per month, in addition to monthly active area/intermediate cover areas FID scans and mapping.
- k. Upon execution of this Consent Order and Agreement, KSL shall utilize the crusher to make cover material for the landfill ensuring, with testing at a minimum of once per acre, the cover material meets minimum intermediate cover standards. KSL shall ensure that there is an adequate supply of cover material on hand and that other operations of the crusher do not interfere with maintaining such supply.
- l. Upon execution of this Consent Order and Agreement, KSL shall confirm to the Department that it has applied Posi-Shell material and/or a temporary latex foam capping material on approximately 2.5 acres of intermediate cover in Area C, as depicted on the Phase II map, which is attached hereto as Exhibit A.
- m. Upon execution of this Consent Order and Agreement, KSL shall confirm to the Department that it has applied rain tarp on approximately 3 acres in Area D, as depicted on the Phase II map.

- n. By March 29, 2024, KSL shall complete the installation of rain tarp or temporary liner on approximately 10 acres in Area A, as depicted on the Phase II map.
- o. By April 5, 2024, KSL shall complete the final capping of approximately 7 acres of intermediate cover in Area B, as depicted on the Phase II map.
- p. By April 30, 2024, KSL shall complete the installation of temporary liner of approximately 4 acres in Area E, as depicted on the Phase II map.
- q. By May 15, 2024, KSL shall apply Posi-Shell material and/or a temporary latex foam capping material on approximately 2.5 acres of intermediate cover in Area I, as depicted on the Phase II map, unless already final capped.
- r. By June 1, 2024, KSL shall complete the final capping of approximately 5 acres of intermediate cover in Area F, as depicted on the Phase II map.
- s. By July 12, 2024, KSL shall complete the final capping of approximately 10 acres of intermediate cover in Area A, as depicted on the Phase II map.
- t. By August 2, 2024, KSL shall complete the final capping of approximately 4 acres of intermediate cover in Area E, as depicted on the Phase II map.
- u. By September 6, 2024, KSL shall complete the final capping of approximately 5 acres of intermediate cover in Areas C and I, as depicted on the Phase II map.
- v. By October 4, 2024, KSL shall complete the final capping of approximately 4 acres of intermediate cover in Area G, as depicted on the Phase II map.
- w. By December 31, 2024, KSL shall complete the final capping of approximately 7 acres of intermediate cover in Areas D and H, as depicted on the Phase II map.
- x. Within sixty (60) days of execution of this Consent Order and Agreement, KSL shall submit to the Department an updated NMCP to include, but not limited to, the measures noted above, an evaluation to determine a maximum acreage of intermediate cover that can be in place at any given time while ensuring landfill gas emissions are controlled to a level where offsite odors adequately mitigated, as well as any additional measures recently taken to address odors.
- y. KSL shall obtain written approval from the Department for any modifications to the corrective actions pertaining to leachate odor management and alternative intermediate cover products.
- z. KSL shall submit to the Department monthly reports to include the progress on the installation of cap material; the results compiled from all surface emission

monitoring conducted, including any mitigation measures taken as a result of the surface monitoring; the volume of RO concentrate disposed in the landfill and an update of progress made towards reducing the volumes of RO concentrate generated; daily leachate lagoon foam inspection logs; and progress on the construction of the two 2,500,000-gallon leachate storage tank systems. The reports shall be due by close of business on the 10th day of the month for the previous month and shall be submitted until the two leachate storage tank systems are installed. Reports shall be sent by email, as an attachment, to following resource account: ra-epwm-nero@pa.gov. Copies of each report shall also be sent to Dunmore Borough and Throop Borough.

aa. Submission of Documents. With regard to any document that KSL is required to submit pursuant to Paragraph 3, above, of this Consent Order and Agreement, the Department will review the document and will approve or disapprove the document, or any portion thereof, in writing. If the document, or any portion thereof, is disapproved by the Department, KSL shall submit a revised document to the Department that addresses the Department's concerns within a reasonable time, as specified by the Department. Upon approval by the Department, the document, including any Department-approved implementation schedules, shall become a part of this Consent Order and Agreement for all purposes and shall be enforceable as such.

4. a. Civil Penalty Settlement. KSL consents to the assessment of a civil penalty of one hundred eighty thousand dollars (\$180,000.00), which shall be paid in full upon signing. This payment is in settlement of the Department's claim for civil penalties for the violations set forth in Paragraphs V through JJJ, covering the period from November 9, 2022 through February 23, 2024. The civil penalty payment shall be made by corporate check or the like made payable to the *Commonwealth of Pennsylvania – Solid Waste Abatement Fund* and sent to Pennsylvania Department of Environmental Protection, 2 Public Square, Wilkes- Barre, PA 18701-1915, Attn: Roger Bellas, Waste Management Program Manager.

b. Cost Recovery. KSL shall pay \$35,000.00 to reimburse the Department's costs incurred regarding the matters addressed by this Consent Order and Agreement up to and including February 9, 2024. The reimbursement shall be made by corporate check or the like made payable to the Commonwealth of Pennsylvania and sent to Pennsylvania Department of Environmental Protection, 2 Public Square, Wilkes- Barre, PA 18701-1915, Attn: Roger Bellas, Waste Management Program Manager.

c. Community Environmental Projects.

i. **Dunmore Borough**. KSL shall establish a fund for use by Dunmore Borough to benefit the residents of Dunmore Borough through the funding of projects which substantially improve, protect, restore or remediate the environment, or which improve, protect or reduce risks to the public health or safety ("Community Environmental Project"), as follows:

1. Within 30 days after the date of this Consent Order and Agreement, Keystone shall deposit \$180,000.00 into a segregated bank account in trust for

Dunmore Borough ("Dunmore Account") and submit to the Department written documentary evidence of the establishment of the account and the deposit;

2. Upon written request by Dunmore Borough identifying with detail the Community Environmental Project to be funded, KSL shall release the requested funds from the Dunmore Account to Dunmore Borough, provided:

a. The written request provides a description of the Community Environmental Project, its location, its cost, and the benefits to public health and safety, or the environment;

b. The funds disbursed for the Community Environmental Project will not be used for: (i) Dunmore Borough's general budgetary expenditures that are not associated with an identified Community Project; (ii) Projects on property owned by KSL or related parties; (iii) Contributions to an organization that does not focus on environmental, public health or community development issues; (iv) Performance of projects not directly related to public health and safety or the environment; (v) Payments to an environmental organization for general purposes as opposed to a specific project; (vi) Projects that are necessary for compliance; (vii) General educational or public environmental awareness projects that are not an integral part of a specific project; or (viii) actions that KSL is required to perform as a condition of a federal, state or local permit, or that KSL may be required to do as remediation, corrective action, or injunctive relief.

c. Within 5 days after receiving a written request for funding from Dunmore Borough, KSL shall provide the Department a copy of the request.

3. On or before December 31 of each year until all funds have been disbursed from the Dunmore Account, KSL shall submit to the Department an accounting of all expenditures from the Dunmore Account, including but not limited to, proof of payment of funds released from the Dunmore Account to Dunmore Borough and identification of the Community Project for which the funds were requested.

4. Upon expiration of three years following the date of this Consent Order and Agreement, all funds remaining in the Dunmore Account shall be disbursed to the Department and the obligations of this Paragraph 4.c.i. shall expire. The disbursement required by this Paragraph 4.c.i.4. shall be made by corporate check or the like made payable to the Commonwealth of Pennsylvania - Solid Waste Abatement Fund and sent to Pennsylvania Department of Environmental Protection, 2 Public Square, Wilkes- Barre, PA 18701-1915, Attn: Waste Management Program Manager.

ii. **Throop Borough.** KSL shall establish a fund for use by Throop Borough to

benefit the residents of Throop Borough through the funding of projects which substantially improve, protect, restore or remediate the environment, or which improve, protect or reduce risks to the public health or safety ("Community Environmental Project"), as follows:

1. Within 30 days after the date of this Consent Order and Agreement, Keystone shall deposit \$180,000.00 into a segregated bank account in trust for Throop Borough ("Throop Account") and submit to the Department written documentary evidence of the establishment of the account and the deposit;

2. Upon written request by Throop Borough identifying with detail the Community Environmental Project to be funded, KSL shall release the requested funds from the Throop Account to Throop Borough, provided:

a. The written request provides a description of the Community Environmental Project, its location, its cost, and the benefits to public health and safety, or the environment;

b. The funds disbursed for the Community Environmental Project will not be used for: (i) Throop Borough's general budgetary expenditures that are not associated with an identified Community Project; (ii) Projects on property owned by KSL or related parties; (iii) Contributions to an organization that does not focus on environmental, public health or community development issues; (iv) Performance of projects not directly related to public health and safety or the environment; (v) Payments to an environmental organization for general purposes as opposed to a specific project; (vi) Projects that are necessary for compliance; (vii) General educational or public environmental awareness projects that are not an integral part of a specific project; or (viii) actions that KSL is required to perform as a condition of a federal, state or local permit, or that KSL may be required to do as remediation, corrective action, or injunctive relief.

c. Within 5 days after receiving a written request for funding from Throop Borough, KSL shall provide the Department a copy of the request.

3. On or before December 31 of each year until all funds have been disbursed from the Throop Account, KSL shall submit to the Department an accounting of all expenditures from the Throop Account, including but not limited to, proof of payment of funds released from the Throop Account to Throop Borough and identification of the Community Project for which the funds were requested.

4. Upon expiration of three years following the date of this Consent Order and Agreement, all funds remaining in the Throop Account shall be disbursed to the Department and the obligations of this Paragraph 4.c.ii. shall expire. The

disbursement required by this Paragraph 4.c.ii.4. shall be made by corporate check or the like made payable to the Commonwealth of Pennsylvania - Solid Waste Abatement Fund and sent to Pennsylvania Department of Environmental Protection, 2 Public Square, Wilkes- Barre, PA 18701-1915, Attn: Waste Management Program Manager.

5. Stipulated Civil Penalties.

a. In the event KSL fails to comply in a timely manner with any term or provisions of this Consent Order and Agreement, KSL shall be in violation of this Consent Order and Agreement and, in addition to other applicable remedies, shall pay a civil penalty determined as follows:

- (i) For any violation of Paragraphs 3.d and 3.z, two hundred fifty dollars (\$250.00) per day for each violation.
- (ii) For any violation of Paragraphs 3.a through 3.c, and 3.e through 3.y, five hundred dollars (\$500.00) per day for each violation.

b. Stipulated civil penalty payments shall be payable monthly on or before the fifteenth day of each succeeding month, and shall be made by corporate check or the like made payable to the Commonwealth of Pennsylvania – Solid Waste Abatement Fund and sent to Pennsylvania Department of Environmental Protection, 2 Public Square, Wilkes-Barre, PA 18701-1915, Attn: Roger Bellas, Waste Management Program Manager.

c. Any payment under this paragraph shall neither waive KSL's duty to meet its obligations under this Consent Order and Agreement nor preclude the Department from commencing an action to compel KSL's compliance with the terms and conditions of this Consent Order and Agreement. The payment resolves only KSL's liability for civil penalties arising from the violations of this Consent Order and Agreement for which the payment is made.

d. Except for violations of Paragraphs 3.d and 3.z, stipulated civil penalties shall be due automatically and without notice. No stipulated civil penalty will be owed for violations of Paragraphs 3.d and 3.z if the violations are corrected within three (3) days of notice from the Department.

6. Additional Remedies.

a. In the event KSL fails to comply with any provision of this Consent Order and Agreement, the Department may, in addition to the remedies prescribed herein, pursue any remedy available for a violation of an order of the Department, including an action to enforce this Consent Order and Agreement.

b. The remedies provided by this paragraph and Paragraph 5 (Stipulated Civil Penalties) are cumulative and the exercise of one does not preclude the exercise of any other. The

failure of the Department to pursue any remedy shall not be deemed to be a waiver of that remedy. The payment of a stipulated civil penalty, however, shall preclude any further assessment of civil penalties for the violation for which the stipulated penalty is paid.

7. Reservation of Rights. The Department reserves the right to require additional measures to achieve compliance with applicable law. KSL reserves the right to challenge any action which the Department may take to require those measures.

8. Liability of Operator. KSL shall be liable for any violations of the Consent Order and Agreement, including those caused by, contributed to, or allowed by its officers, agents, employees, or contractors. Except as provided in Paragraph 9.c, KSL also shall be liable for any violation of this Consent Order and Agreement caused by, contributed to, or allowed by its successors and assigns.

9. Transfer of Site.

a. The duties and obligations under this Consent Order and Agreement shall not be modified, diminished, terminated or otherwise altered by the transfer of any legal or equitable interest in the Facility or any part thereof.

b. If KSL intends to transfer any legal or equitable interest in the Facility which is affected by this Consent Order and Agreement, KSL shall serve a copy of this Consent Order and Agreement upon the prospective transferee of the legal and equitable interest at least thirty (30) days prior to the contemplated transfer and shall simultaneously inform the Northeast Regional Office of the Department of such intent.

c. The Department in its sole discretion may agree to modify or terminate KSL's duties and obligations under this Consent Order and Agreement upon transfer of the Facility.

10. Correspondence with Department. All correspondence with the Department concerning this Consent Order and Agreement shall be addressed to:

Roger Bellas
Waste Management Program Manager
Department of Environmental Protection
2 Public Square
Wilkes-Barre, PA 18701-1915
Phone: 570-826-2511
Fax: 570-826-2357

11. Correspondence with KSL. All correspondence with KSL concerning this Consent Order and Agreement shall be addressed to:

Dan O'Brien, Business Manager
Keystone Sanitary, Inc.

249 Dunham Drive
Dunmore, PA 18512
Phone: 570-343-5782
Email: dano@kslco.com
Fax: 570-348-3135

KSL shall notify the Department whenever there is a change in the contact person's name, title, or address. Service of any notice or any legal process for any purpose under this Consent Order and Agreement, including its enforcement, may be made by mailing a copy by first class mail to the above address.

12. Force Majeure.

a. In the event that KSL is prevented from complying in a timely manner with any time limit imposed in this Consent Order and Agreement solely because of a strike, fire, flood, act of God, or other circumstance beyond KSL's control and which KSL, by the exercise of all reasonable diligence, is unable to prevent, then KSL may petition the Department for an extension of time. An increase in the cost of performing the obligations set forth in this Consent Order and Agreement shall not constitute circumstances beyond KSL's control. KSL's economic inability to comply with any of the obligations of this Consent Order and Agreement shall not be grounds for any extension of time.

b. KSL shall only be entitled to the benefits of this paragraph if it notifies the Department within five (5) working days by telephone and within ten (10) working days in writing of the date it becomes aware or reasonably should have become aware of the event impeding performance. The written submission shall include all necessary documentation, as well as an affidavit from an authorized individual specifying the reasons for the delay, the expected duration of the delay, and the efforts which have been made and are being made by KSL to mitigate the effects of the event and to minimize the length of the delay. The initial written submission may be supplemented within ten working days of its submission. KSL's failure to comply with the requirements of this paragraph specifically and in a timely fashion shall render this paragraph null and of no effect as to the particular incident involved.

c. The Department will decide whether to grant all or part of the extension requested on the basis of all documentation submitted by KSL and other information available to the Department. In any subsequent litigation, KSL shall have the burden of proving that the Department's refusal to grant the requested extension was an abuse of discretion based upon the information then available to it.

13. Dispute Resolution.

a. KSL may initiate dispute resolution under this Paragraph, in response to any decision required of the Department under this Consent Order and Agreement.

b. To initiate dispute resolution, KSL shall provide written notice to the

Department within ten (10) days of the decision in dispute. KSL shall have an additional ten (10) days to provide the Department with a written list of objections to the decision in dispute, the relevant facts, analysis and opinions and other supporting data ("Statement of Position"). The Department shall have twenty (20) days to provide its Statement of Position.

c. Within the twenty (20) day period following receipt of the Department's Statement of Position, the Northeast Regional Office Waste Management Program Manager and KSL shall confer in an attempt to resolve the dispute. In the event that the parties are unable to resolve the dispute within this period, the Statements of Position shall be provided to the Director of the Department's Bureau of Waste Management to issue a final decision resolving the dispute ("Dispute Resolution Decision").

d. During the pendency of the dispute resolution procedures set forth in Paragraphs 13a.-c., any obligation to be performed under this Consent Order and Agreement which is the subject of such dispute and any associated activities whose performance is directly dependent upon the resolution of the dispute shall be postponed for a period of time not to exceed the actual time taken to resolve the dispute pursuant to Paragraphs 13a.-c. or as otherwise agreed by the parties or upon the issuance of the Dispute Resolution Decision defined in Paragraph 13.c. All other obligations and activities shall be completed in accordance with the terms of this Consent Order and Agreement.

e. Any time period for dispute resolution set forth herein may be extended by written agreement of the parties.

14. Severability. The paragraphs of this Consent Order and Agreement shall be severable and should any part hereof be declared invalid or unenforceable, the remainder shall continue in full force and effect between the parties.

15. Entire Agreement. This Consent Order and Agreement shall constitute the entire integrated agreement of the parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for purposes of determining the meaning or extent of any provisions herein in any litigation or any other proceeding.

16. Attorney Fees. The parties shall bear their respective attorney fees, expenses and other costs in the prosecution or defense of this matter or any related matters, arising prior to execution of this Consent Order and Agreement.

17. Modifications. No changes, additions, modifications, or amendments of this Consent Order and Agreement shall be effective unless they are set out in writing and signed by the parties hereto.

18. Titles. A title used at the beginning of any paragraph of this Consent Order and Agreement may be used to aid in the construction of that paragraph but shall not be treated as controlling.

19. Decisions Under Consent Order. KSL waives its rights to appeal to the Environmental Hearing Board any decision that the Department makes under the provisions of this Consent Order and Agreement, including a notice that stipulated civil penalties are due, which rights may be available under Section 4 of the Environmental Hearing Board Act, the Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provisions of law. The Department agrees that any objection that KSL may have to any such decision may be raised as a defense in any Court where the Department enforces this Consent Order and Agreement.

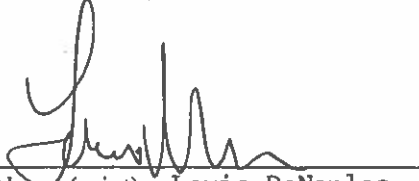
20. Termination. The obligations of Paragraphs 3.a through 3.z shall terminate when the Department determines that KSL has complied with the requirements of Paragraphs 3.a through 3.z and the construction certification for the two 2,500,000-gallon leachate storage tank systems is approved by the Department.

21. Execution of Agreement. This Consent Order and Agreement may be signed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Consent Order and Agreement to be executed by their duly authorized representatives. The undersigned representatives of KSL certify under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this Consent Order and Agreement on behalf of KSL; that KSL consents to the entry of this Consent Order and Agreement as a final ORDER of the Department; and that KSL hereby knowingly waives its right to appeal this Consent Order and Agreement and to challenge its content or validity, which rights may be available under Section 4 of the Environmental Hearing Board Act, Act of July 13, 1988, P.L. 530, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other

provisions of law. Signature by KSI.'s attorney certifies only that the agreement has been signed after consulting with counsel.

FOR KEYSTONE SANITARY
LANDFILL, INC.:



Name (print): Louis DeNaples
Title (print): President
Keystone Sanitary Landfill, Inc.

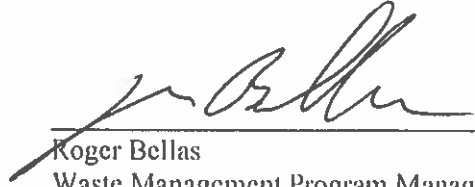


Name (print): Dan O'Brien
Title (print): Business Manager
Keystone Sanitary Landfill, Inc.



Name (print): Jeffrey Belardi
Attorney for Keystone Sanitary Landfill, Inc.

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:



Roger Bellas
Waste Management Program Manager



Lance Zeyher
Regional Counsel

EXHIBIT A

