

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In The Matter Of:

A&M Composting, Inc.	:	Solid Waste Permit No. 602247 and
2650 Audubon Road	:	NPDES Permit
Audubon, PA 19403	:	No. PAG034128
	:	2022 Mountain Road
	:	Penn Township
	:	Lancaster County

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement is entered into this 10th day of September, 2026 ("Effective Date"), by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department") and A&M Composting, Inc.

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 ("SWMA"); the Clean Streams Law, the Act of June 22, 1937, P.L. 1987, as amended 35 P.S. §§ 691.1 – 691.1001 ("Clean Streams Law"); 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"); the rules and regulations promulgated thereunder; and which has been delegated authority to administer the National Pollutant Discharge Elimination System ("NPDES") permit program, under Section 402 of the Federal Clean Water Act, 33 U.S.C. § 1342.

B. A&M Composting, Inc. ("A&M") is a Domestic Business Corporation formed in Pennsylvania, filed with the Pennsylvania Department of State under entity number 749423, with a current mailing address of 2650 Audubon Road, Audubon, PA 19403.

C. As part of its business, A&M operates a permitted composting facility (“Facility”), with a mailing address of 2022 Mountain Road, Manheim, PA 17545, Penn Township, Lancaster County (“Site”). The Facility processes sludge biosolids from municipal wastewater treatment plants for use in landscaping and soil enhancement applications.

D. The Facility operates under Solid Waste Permit No. 602247 and NPDES Permit No. PAG034128, issued by the Department.

E. Solid Waste Permit No. 602247 was renewed on August 16, 2021. The Pollution Prevention and Contingency Plan (“PPC Plan”) approved in the August 16, 2021 permit renewal, requires A&M to submit a written incident report following an incident.

F. On November 3, 2023, A&M notified the Department that an electrical outage occurred causing the Facility’s fans and blowers to become inoperable.

G. On November 3, 2023, Lancaster County HAZMAT notified the Department that smoke and odors were emanating from the Facility’s processing building.

H. On November 6, 2023, the Department conducted an inspection of the Facility in response to public complaints of smoke, the reported smoke and odors from Lancaster County HAZMAT, and the complete electrical outage. During this inspection:

1. A&M notified the Department that power was restored to the Facility on November 4, 2023.

2. The fire had not been extinguished. Smoke and steam were emanating from the Facility and blowing to the northwest. Smoke and flames were observed inside the building in Bay #1 emitting from the recycled chips pile. A&M explained that the local fire department had been onsite in response to this issue on November 5, 2023. On November 6, 2023, A&M was preparing a water tanker truck and hose to spray the fire within Bay #1.

3. A&M explained that Biofilter Exhaust Fan #2 and #3 were not operating. Biofilter Exhaust Fan #2 had not operated since August 2022, according to Department inspection records. During the previous August 31, 2022 inspection, the Department recommended that A&M repair the Biofilter Exhaust Fans. The non-operating biofilter fan was also noted in the Department's January 31, 2023, June 1, 2023, and September 12, 2023, inspection reports. On November 6, 2023, the Department again recommended that A&M repair the non-operating fans as soon as possible.

4. According to A&M, Biofilter Exhaust Fans #1 and #4 had operated in reverse after restoring power due to an incorrect three-phase power connection. A&M indicated that Biofilter Exhaust Fans #1 and #4 had been repaired prior to the inspection on November 6, 2023.

5. The blowers in the composting area were not turned on and A&M personnel turned them on during the inspection.

6. After reviewing the approved Pollution Prevention and Contingency ("PPC") plan, the Department recommended that A&M submit a written report on the power outage and fire incident.

7. Two wall panels had fallen between the North Biofilter area and the finished compost storage area. The Department recommended that A&M repair the Facility's wall panels.

8. Solid waste was observed outside the building on the north side on the ground. Waste appeared to leak from damaged wall panels and through a doorway.

I. On November 7, 2023, the Department conducted an inspection of the Site and the following conditions were present:

1. The fire had not been extinguished. Smoke was emanating from the processing building. Heavy smoke was observed in Bay #1. A&M personnel were using a water tanker truck to spray burning waste in Bay #1.

2. Biofilter Exhaust Fan #2 was not operational during the inspection.

J. On November 14, 2023, the Department conducted an inspection of the Site and the following conditions were present:

1. Smoke was visible emanating from the Facility from Gish Road to the southeast of the Site. Smoke and burning odors were noted on Locust Lane to the southeast of the Site.

2. The fire in Bay #1 was not extinguished. Heavy smoke was observed in Bay #1 and exited the building through the western and southern doors and the roof. The Department recommended that A&M employ additional resources to contain the fire.

3. According to A&M, Biofilter Exhaust Fan #2 had been repaired and was operating.

K. On November 15, 2023, the Department conducted a follow-up inspection at the Site and the following conditions were present:

1. The fire was not extinguished in Bay #1. Heavy smoke was observed exiting the building.

2. Local fire departments had arrived onsite to address the fire following the Department's November 14, 2023 inspection. The Department was advised by the Penryn Volunteer Fire Company Chief ("Chief") that emergency responders used over 115,000 gallons of water on the burning compost piles in Bay #1 on November 14, 2023, and overnight into November 15, 2023. On November 15, 2023, representatives from the Department's Emergency Response

Team, Penn Township Representatives, and Lancaster Emergency Management Representatives were onsite.

3. The Chief was designated as the Incident Commander and notified A&M that burning compost should be removed from the building and spread out to extinguish the fire.

4. A&M personnel stated that they believed the fire could be extinguished without removing materials from the building. A&M personnel moved waste material from Bay #2 into Bay #1 and began saturating the material with water inside the building.

5. The Department recommended to A&M that all wastewater from the incident be contained and disposed of at a permitted disposal facility.

L. On November 16, 2023, the Department issued a Compliance Order to A&M for the violations noted within Paragraphs H, I, J, and K above, requiring that A&M:

1. Cease accepting any solid waste, biosolids, compost, or cover materials until the Department has inspected the Facility and approved the cleanup.

2. Extinguish the fire at the Facility by any means necessary up to and including removing all solid waste, compost, and biosolids from the building.

3. Cease the storage of solid waste and compost that was affected by the fire within the processing building until the Department has inspected and approved the cleanup.

4. If any solid waste, compost, and biosolids are removed from the Facility, such removed solid waste, compost, and biosolids shall be managed in accordance with applicable plans, setbacks, regulations, and the SWMA in a manner to prevent adverse impacts to public health, safety, welfare, or the environment and to prevent pollution to any waters of the Commonwealth, as defined in Section 1 of the Clean Streams Law, 35 P.S. § 691.1.

5. Within three (3) days, unless the Department approves a later date in writing, A&M shall submit a Storage and Handling Plan to the Department that will summarize how all fire impacted compost, biosolids, and waste are managed and stored at the Facility and handled in a manner that will not cause any adverse effect on public health, safety, welfare, or the environment. The Storage and Handling Plan shall have a Designated Waste Storage Area (“Storage Area”) for all materials impacted by the fire.

6. After the waste, biosolids, and compost, (hereafter referred to as “fire impacted waste”) have been extinguished and the potential for fire and the release of solid waste constituents into the air has been eliminated, all fire impacted waste shall be stored and disposed according to the following requirements:

a. All fire impacted compost, biosolids, and waste must be stored within the Storage Area and stored in a manner that meets the requirements of the Storage and Handling Plan.

b. Before December 16, 2023, all fire impacted waste, compost, and biosolids shall be transported from the Facility to a disposal facility that possesses a permit issued by the Department to accept such wastes, compost, and biosolids.

M. On November 17, 2023, the Department conducted an inspection at the Site and the following conditions were present:

1. The fire had not been extinguished. Smoke was observed coming out of the building. Smoldering waste and smoke were observed inside Bay #1. According to A&M, hot spots remained in the Southwest and Northwest corners of Bay #1.

2. Fire impacted waste remained inside the processing building.

3. According to A&M, the Facility stopped accepting sewage sludge on November 14, 2023.

N. On November 17, 2023, A&M submitted the Storage and Handling Plan required by the November 16, 2023 Compliance Order. The Storage and Handling Plan included the following:

1. A&M planned to store fire impacted material within Bay #1.

2. Hot material will be mixed with saturated material to extinguish hot material and create a homogenous mix within the building. Leachate from the saturated material would be collected in floor drains and disposed.

3. After all material was extinguished, A&M planned to mix fire impacted material with new incoming sludge and other composting materials to create a compost product. A&M did not plan on disposing of any materials impacted by the fire.

4. The Storage and Handling Plan also explained that a permanent back-up power source would not be installed. Instead, A&M planned to install a permanent transfer switch for a rented generator to be brought in when needed.

O. On November 20, 2023, the Department conducted an inspection of the Site and the following conditions were present:

1. Prior to the inspection on November 20, 2023, the Department received an emailed notification from A&M noting that the fire had been extinguished. In the notification, A&M explained that small “smoker” piles were addressed and extinguished and no smoke was visible inside the building.

2. Upon arrival at the Facility, A&M personnel were attempting to extinguish a “hot spot” on the north side of Bay #1. During the inspection, A&M personnel were spreading

the smoldering waste within the building and saturating it with water. An additional pile of smoldering and smoking waste was observed by the Department in Bay #1.

3. Fire impacted waste remained inside the building.

4. No smoke or smoke odors were noted downwind from the Facility.

Visibility within Bay #1 had improved.

5. Waste materials were observed on the road outside the finished compost storage area and on the ground outside the northern wall of the building. The Department recommended that A&M sweep up the waste deposited outside of the building. The Department also recommended to A&M that additional controls be utilized to prevent waste from spilling outside the Facility.

6. A puddle of leachate was observed on the ground on the western side of the Facility. Leachate was observed ponding inside the building at the doorway on the western side of the building adjacent to the exterior puddle. The Department recommended that A&M clean up and dispose of the spilled leachate prior to forecasted rain.

7. A&M has not provided a written report of the power outage and fire incident to the Department. The Department discussed the PPC plan with A&M and recommended that A&M submit a written report of this power outage and fire incident to the Department.

P. On December 6, 2023, the Department conducted an inspection of the Site and the following conditions were present:

1. A&M explained that the Facility began accepting about 260 tons of sludge the day after the fire was extinguished.

2. No smoke or fire was observed outside or inside the Facility.

3. A&M had not submitted a written report of the November 2023 power outage and fire incident to the Department.

4. Solid wastes were deposited on the ground on the northern side of the Facility. A&M did not give a timeline for the clean-up of this spilled material.

5. A&M explained that no clean-up had been completed to collect and dispose of leachate observed outside the building since the Department's November 20, 2023 inspection. Large puddles of leachate were observed inside the doors on the western side of the building. A&M explained that the liquids were stormwater from faulty gutters that might be entering the building. The Department recommended that A&M make a determination on the source of the leachate and implement a plan to prevent stormwater from entering the building and leachate from exiting the building. The Department requested that A&M submit a written plan to the Department within thirty (30) days.

6. Interior wall panels between the North Biofilter and the finished compost storage area were not fixed or replaced. A&M did not provide a schedule for the replacement.

Q. On February 7, 2024, the Department conducted an inspection of the Site and the following conditions were present:

1. Wall panels were still not replaced between the North Biofilter and the finished compost storage area. A&M did not give a timeline of when wall panels would be replaced.

2. There was a gap in the exterior wall of the northern side of the building. Waste had collected on the ground outside this wall gap.

3. There was waste on the ground outside the Facility on the north and south sides of the building. A&M did not provide a timeline to clean up this waste.

4. There was waste on roadways outside the building. A&M explained that a sweeper truck is no longer in use at the Facility.

5. A&M had not submitted a written report to the Department detailing the November 2023 fire incident.

R. On February 27, 2024, A&M through American Compost Corporation entered into a Consent Order and Agreement (“2024 COA”) with the Department. The 2024 COA included the following corrective actions:

1. All fire-impacted materials will be properly processed within thirty (30) days after the execution of the 2024 COA. Documentation of completion will be provided to the Department.

2. By March 1, 2024, an application for a permit modification shall be submitted to the Department and address the following items:

a. An updated PPC plan specifying a procedure for monitoring and extinguishing fires within the compost, including the suppression of sewage sludge delivery if there is a fire within the Facility.

b. A backup electrical power source in the event there is a power outage at the Facility.

c. Specification of backup equipment necessary to maintain airflow through the compost mass.

d. Detail how piles of recycled chips and unscreened material will be stored in the Facility. At a minimum the PPC plan should discuss how long material will be stored in Bay #1 and what measures will be taken to monitor and prevent fire from occurring in that bay.

e. All Department deficiency letters shall be addressed within 60 days of their issuance.

3. Submission of all information necessary to obtain a permit modification to address the noted concerns shall be sent to the Department by January 3, 2025.

S. On February 29, 2024, A&M submitted a minor permit modification application to address the 2024 COA described in Paragraph R, above.

T. On March 28, 2024, a written incident report was submitted to the Department documenting the November 2023 fire incident. The Department reviewed the incident report and determined that the violations relating to A&M's failure to comply with the reporting requirement of the approved PPC plan, as described above, were corrected.

U. On April 25, 2024, the Department conducted an inspection of the Site and the following conditions were present:

1. Waste was on the ground outside the finished compost storage area doorway and along the exterior wall on the northern side of the Facility. Some waste surrounded a storm drain outside the finished compost storage area doorway.

2. A&M had not replaced the wall panels between the North Biofilter and the finished compost area.

V. On May 30, 2024, the Department completed a follow-up inspection at the Site and the following conditions were present:

1. Waste was on the ground outside the finished compost area. The Department recommended that A&M submit a written plan to prevent waste from being deposited outside the Facility.

2. Waste that was on the ground outside the north side of the building had been removed.

3. Wall panels between the North Biofilter and the finished compost storage area had been replaced. The repaired wall panels were observed by the Department. Violations relating to A&M's failure to maintain the building according to the drawings and plans approved in the Permit renewal, as described above were corrected.

W. On July 8, 2024, the Department completed a follow-up inspection at the Site and did not observe waste outside the Facility. Violations relating to the A&M's failure to confine waste to approved storage areas, as described above, were corrected.

X. On September 30, 2024, the Department issued a Minor Permit Modification to A&M to reflect the updated PPC plan and the addition of back-up power equipment. This issuance corrected the violations relating to A&M's failure to operate the Facility to prevent and address fires and emergencies, as described above.

Y. On December 6, 2025, A&M contacted the Department via voicemail to notify the Department of a fire that started in the North Biofilter. A&M indicated that the fire was extinguished by the local fire department. The call was made to the telephone number of an off-duty Department inspector and not to the Department's Emergency Response hotline.

Z. On December 8, 2025, the Department called A&M to confirm that the December 6, 2025 voicemail notification was received.

AA. On December 9, 2025, A&M contacted the same Department inspector and left a voicemail indicating that "hot spots" were found in the North Biofilter.

BB. On December 10, 2025, the Department conducted an inspection at the Site, and the following conditions were present:

1. The fire was not extinguished within the building. Smoke was observed in the North Biofilter emanating from an air pipe uncovered in the Biofilter pile.

2. A&M personnel were removing biofilter material to the finished compost storage area within the building and saturating the material with water during the inspection. A&M personnel represented that the fire was under control.

3. The Department requested a daily update of the status of this fire.

CC. On December 12, 2025, the Department contacted A&M and recommended the following:

1. A&M personnel should be present at the Facility at all times to monitor the fire and contact emergency personnel when needed.

2. A&M should extinguish the fire as safely and quickly as possible.

DD. On December 15, 2025, the Department conducted an inspection at the Site, and the following conditions were present:

1. The fire was not extinguished. Heavy smoke was observed emanating from the processing building and odor was noted on Gish Road and Boyer Run Road prior to arriving at the Facility.

2. Multiple fire departments were present at the Site, and several tanker trucks were observed supplying water for firefighting activities.

3. A&M indicated that the fire became worse over the weekend and was not able to be controlled by A&M.

4. A&M represented that A&M ceased accepting sewage waste for processing on December 13, 2025.

5. A&M believed that the cause of the fire was “hot spots” in the finished compost area adjacent to the North Biofilter which spread to the wood chips in the North Biofilter.

6. Visibility in the North Biofilter was very low due to the smoke in the building. Due to the low visibility, the Department could not determine if the fire was contained in the North Biofilter.

7. The Chief believed that the fire could not be extinguished unless all affected material was removed from the Facility.

8. Fire responders applied water onto the burning material in the North Biofilter through a hole cut in the upper portion of the external wall.

9. The Department met with A&M and recommended that the fire be extinguished by any means necessary.

EE. On December 16, 2025, the Department received a written timeline from the Chief who described the following:

1. On December 6, 2025, fire departments from Penryn, Durlach, Mt. Airy, Brickerville, East Petersburg, Lititz, Manheim, Mastersonville, Gordonville, Lincoln, Mt. Gretna, Reamstown, and West Earl were dispatched to the Site. The Chief documented the following:

a. Approximately 7,700 square feet of the Facility were impacted by the fire.

b. Approximately 75,000 gallons of water were utilized by firefighting personnel and A&M personnel to suppress the fire. Water was collected and transported to the Site from a private pond approximately two miles from the Facility.

c. The Chief described that A&M personnel utilized heavy equipment to dig in the burning piles to allow water penetration.

d. A&M personnel represented that the fire was under control and remaining hot spots could be managed by the Facility.

2. On December 12, 2025, the Penryn Volunteer Fire Company received complaints from nearby residents about smoke coming from the Site. The Chief visited the Site to inform A&M management of the public's concerns. The Chief spoke with A&M's scale master who explained that management was not present onsite at that time. A business card was left with the scale master requesting a call from A&M management. A&M did not contact the Chief. At 16:49 on December 12, 2025, the Penryn Volunteer Fire Company was dispatched to the Site due to public calls. A&M management represented that the fire was under control and fire services were not necessary.

3. On December 15, 2025, the Penryn Volunteer Fire Company was called by A&M personnel to request fire services. The Chief documented the following:

a. Approximately fifty (50) firefighting personnel were dispatched to the Site.

b. The Chief estimated that 110,000 square feet of material were affected by the fire.

c. The Chief explained that A&M's non-operable equipment, narrow access lanes, and icy conditions impeded fire equipment from properly accessing the rear of the building.

d. A thermal imaging drone measured the roof temperature to identify the affected area within the building. The roof temperature was measured at approximately 120 degrees Fahrenheit.

e. Firefighting personnel measured the interior temperature of the building to range from 200 to 1200 degrees Fahrenheit.

f. Approximately 120,000 gallons of water were utilized by firefighting personnel to suppress the fire. Water was trucked into the Site from a private pond approximately two miles from the Facility and from the onsite pond.

g. The final roof temperature was measured at 42 degrees Fahrenheit as firefighting personnel prepared to leave the Site.

h. The Chief recommended that A&M personnel use a six-inch pump to pull water from the onsite pond and continue saturating affected piles. The Chief also recommended that A&M hire a contracting firm specializing in compost fires for this type of Facility.

4. The Chief provided the following concerns to the Department:

a. A&M's use of volunteer and public emergency resources instead of implementing emergency preparedness procedures, fire suppression systems, and prevention measures to prevent full-scale emergencies.

b. A large amount of water was used during this event. The Chief observed runoff, identified the lack of a dependable onsite water source for firefighting activities, and raised concerns about the possible depletion of offsite private water sources.

c. Visibility impacts on the nearby portions of the Pennsylvania Turnpike due to the large amount of smoke that was observed coming from the Site.

FF. On December 16, 2025, the Department issued a Compliance Order to A&M that contained requirements that A&M shall:

1. Cease accepting any solid waste, biosolids, or cover materials until the Department has inspected the Facility and approved the cleanup.

2. Remove all fire impacted and actively burning solid waste and biofilter medium from the building and extinguish the fire at the Facility by any means necessary.

3. Cease the storage of biofilter medium that was affected by the fire, thus a solid waste, within the processing building until the Department has inspected and approved the cleanup.

4. If biofilter medium, compost, or any other solid wastes are removed from the Facility, such solid wastes shall be managed in accordance with applicable plans, setbacks, regulations, and the SWMA, in a manner to prevent impacts to public health, safety, welfare or the environment and to prevent pollution to any waters of the Commonwealth, as defined in Section 1 of the Clean Streams Law, 35 P.S. § 691.1.

5. Within three days, unless the Department approves a later date in writing, submit a Storage Handling Plan to the Department that will summarize how all fire impacted biofilter medium, compost, and any other solid wastes are managed and stored at the Facility and handled in a manner that will not cause any adverse effect on public health, safety, welfare. or the environment. The Storage and Handling Plan shall have a Designated Waste Storage Area (“Storage Area”) for all materials impacted by the fire.

Once the biofilter medium, compost, and other solid wastes (hereafter referred to as “fire impacted waste”) have been extinguished and the potential for fire and the release of solid waste constituents into the air has been eliminated, all fire impacted waste shall be stored and disposed according to the following requirements:

6. All fire impacted medium, compost and other solid wastes must be stored within the Storage Area and stored in a manner that meets the requirements of the Storage and Handling Plan.

7. Before January 16, 2026, all fire impacted solid wastes, compost, and biofilter medium shall be transported from the Facility to a disposal facility that possesses a permit issued by the Department to accept such wastes, compost, and biofilter medium.

GG. A&M did not appeal the Department's issuance of the December 16, 2025 Compliance Order.

HH. On December 18, 2025, the Department conducted an inspection at the Site, and the following conditions were present:

1. The fire was not extinguished.
2. Burning material remained in the building. A&M personnel explained that they were working to extinguish some of the fire without removing it from the building.
3. There was an unpermitted discharge of firefighting runoff to an unnamed tributary (UNT) of Behm Run, a water of the Commonwealth, which caused aquatic life impacts in the receiving stream, including a minor fish kill.

II. On December 19, 2025, the Department conducted an inspection at the Site, and the following conditions were present:

1. The fire was not extinguished. A&M represented that one-quarter of the affected biofilter material had been extinguished.
2. Smoke was observed and extended approximately one mile east of the Site at the time of the inspection.

3. A&M personnel were removing burning waste from the building and spread it in a farm field to the southeast of the Facility. A&M personnel were spraying the waste with water.

4. Burning waste remained inside the building.

5. There was an unpermitted discharge of firefighting runoff to the UNT of Behm Run, a water of the Commonwealth, which caused aquatic life impacts in the receiving stream, including a minor fish kill.

JJ. On December 19, 2025, A&M submitted the Storage and Handling Plan to the Department. A&M's Storage and Handling Plan included the following:

1. The identification of the initial storage areas for fire impacted materials as the finished compost storage area adjacent to the North Biofilter in the building and the paved area outside the finished compost storage area where 1,000 cubic yards of material could be spread to allow "hot spots" to cool.

2. The identification of additional storage areas for fire impacted materials removed from the building in a farm field to the Southeast ("Southeast Field") of the building and a farm field to the Southwest ("Southwest Field") of the building.

3. An explanation that approximately 1,000 cubic yards of materials were spread in a thin layer in the Southeast Field.

4. An explanation that down-gradient trenches had been dug in the Southeast Field to collect runoff water. A&M planned to use berms in the Southeast Field to prevent the migration of wastes outside of the storage areas.

5. A&M planned to place impacted materials in the Southwest Field beginning on December 19, 2025. A&M explained that fire impacted materials would be spread into a 1-to-2-foot layer at a high point of the Southwest Field with a 150-foot vegetated field buffer.

6. A&M planned to use the eastern side of the North Biofilter as a storage location once enough material is removed from the North Biofilter to allow sufficient operating space.

7. A&M estimated that one-third of the materials in the North Biofilter had been removed as of the submission of the Storage and Handling Plan.

8. A&M indicated that the entirety of the biofilter materials had been impacted by the fire.

9. There was an unpermitted discharge of firefighting runoff from the northeastern pond to an UNT of Behm Run, a water of the Commonwealth. The Department requested that A&M plug the pond outfall to cease the discharge.

KK. On December 20, 2025, the Department hand delivered a recommended list of Best Management Practices (“BMPs”) to be implemented in the following areas:

1. The staging area on the field located at the Southeast corner of the property, along entrance road;
2. The discharge from east side stormwater pond near leachate storage tank;
3. The staging area on entrance roadway;
4. The south (recharge) stormwater pond; and,
5. Other potential staging areas.

LL. On December 21, 2025, the Department conducted an inspection at the Site, and the following conditions were present:

1. Smoke was observed several miles outside the perimeter of the Facility to the southeast.

2. The fire was not extinguished within the building. Flames and smoke were observed in the North Biofilter.

3. Smoke and flames were observed in the materials removed from the building and spread onto the Southeast and Southwest Fields.

4. A&M had not placed erosion control silt socks around the spreading areas in the Southeast and Southwest Fields.

MM. On December 22, 2025, the Department conducted an inspection at the Site, and the following conditions were present:

1. Prior to entering the perimeter of the Facility, smoke was observed emanating from the building on Gish Road to the south of the Site and on Mountain Road to the east of the Site.

2. The fire was not extinguished. Heavy smoke was observed pluming from the building's northern wall of the North Biofilter.

3. A&M personnel were loading actively burning materials into dump trucks, spreading them on the Southeast and Southwest Fields, and spraying them with water during the inspection. Heavy smoke was observed emanating from the loaded trucks and from the materials spread on the Fields.

4. A&M had dug trenches and placed silt socks around the spreading areas in the Fields.

5. Burning waste remained inside the building.

6. Biofilter material was present along the north side of the primary Facility building, with potential to discharge into an UNT of Behm Run, a water of the Commonwealth.

7. During the December 22, 2025 inspection, the Department confirmed that the northeastern pond outfall had been plugged.

NN. The Department emailed the same recommended list of BMPs in Paragraph KK, above, to A&M on December 22, 2025.

OO. On December 23, 2025, the Department issued a Notice of Violation to A&M for the violations described relating to A&M's failures to prevent and extinguish the fire that began on December 6, 2025 and A&M's failure to comply with the December 16, 2025 Compliance Order as described above.

PP. On December 23, 2025, the Department issued and delivered an updated Compliance Order to A&M that corrected the operator's name and entity information. Aside from those corrections, the contents of the Compliance Order were the same as the December 16, 2026, Compliance Order listed in Paragraphs FF.1 through FF.7, above. In addition, the Department observed that biofilter material continued to be present along the north side of the primary Facility building, with potential to discharge into an UNT of Behm Run, a water of the Commonwealth.

QQ. A&M did not appeal the Department's issuance of the December 23, 2025 updated Compliance Order.

RR. On December 24, 2025, the Department conducted an inspection at the Site, and the following conditions were present:

1. The fire in the North Biofilter was not extinguished.

2. Burning waste remained in the building. A&M personnel were loading waste from the North Biofilter Bay #6 and Bay #7 into trucks to move fire impacted waste to the Southeast and Southwest Fields.

3. Smoke was observed inside the North Biofilter and emanating from the spread wastes in the Southeast and Southwest Fields.

4. Biofilter material was present along the north side of the primary Facility building, with potential to discharge into an UNT of Behm Run, a water of the Commonwealth.

SS. On December 25, 2025, the Department conducted an inspection at the Site, and the following conditions were present:

1. No A&M personnel were present onsite during this inspection.
2. Smoke was observed within the North Biofilter and emanating from the building.
3. A pile of smoldering fire impacted waste was observed inside the North Biofilter.
4. The waste spread in the Southeast Field emitted smoke.

TT. On December 26, 2026, the Department conducted an inspection of the Site and the following conditions were present:

1. A&M personnel were applying water to the fire impacted waste in the Southeast Field.
2. A pile of fire impacted waste remained in the North Biofilter. The pile was estimated by A&M personnel to be 10 to 20 truckloads. A&M personnel were removing fire impacted waste from the building and spreading it in the Southwest Field.
3. No smoke was observed within the building.

4. Smoke was emitting from wastes spread in the Southwest Field. The smoke was migrating to the south of the perimeter of the Facility.

UU. On December 29, 2025, the Department conducted an inspection of the Site and the following conditions were present:

1. A fire was burning in the unscreened compost stored in Bay #1 of the building. According to A&M, the fire started on December 28, 2025.

2. No fire impacted waste was observed in the North Biofilter.

3. Smoke was observed exiting the building's eastern and western bay doors.

4. A&M personnel were removing fire impacted compost from the building and spreading it in the Southwest Field.

5. Smoke was observed migrating offsite to the east of the Facility.

VV. On December 30, 2025, the Department conducted an inspection at the Site and the following conditions were present:

1. The fire in Bay #1 was not extinguished.

2. Smoke was observed exiting the building's eastern and western bay doors.

3. A&M indicated that temperature probes were used in Bays #2, #3, #4, #5, #6, and #7 to monitor the spread of the fire. A&M recorded a temperature reading of 170 degrees Fahrenheit in the southeastern probe in Bay #2, which was the closest to the fire in Bay #1. A&M explained that it planned to install temperature probes to monitor the South Biofilter as well.

4. Fire impacted waste remained in Bay #1. A&M personnel moved truckloads of burning waste from Bay #1 to the Southwest Field during the inspection.

5. A water truck was spraying the waste stored in the Southwest Field during the inspection. Smoke was observed emanating from waste in the Southwest Field. Burning odors were noted by the Department while inspecting the Southwest Field.

6. A&M indicated that approximately 50% of the compost was removed from Bay #1 and spread in the Southeast Field but did not believe that all the materials removed from the building were fire impacted.

7. A&M planned to place temperature probes in the fire impacted wastes spread in the Southeast and Southwest Fields to monitor temperatures.

WW. On December 31, 2025, the Department conducted an inspection at the Site and the following conditions were present:

1. Prior to arrival at the Facility, heavy smoke was observed emanating from the South Biofilter exhaust stacks from Gish Road. Smoke was moving northeast from the Facility.

2. The fire in Bay #1 was not extinguished. Visibility in the South Biofilter and Bay #1 was limited due to heavy smoke. Smoke was observed inside the Facility and exiting the building through the eastern bay door.

3. A&M personnel were saturating the woodchips in the South Biofilter adjacent to the burning compost in Bay #1. A&M explained that a fire break trench was dug in the South Biofilter and they were soaking the woodchips with water as preventative measures.

4. Fire impacted waste remained in Bay #1. A&M personnel were removing burning waste from Bay #1 and spreading it in the Southwest Field during the inspection.

5. A&M personnel were spraying water onto the fire impacted material spread in the Southeast Field during the inspection.

XX. On January 1, 2026, the Department conducted an inspection at the Site and the following conditions were present:

1. The fire in Bay #1 was not extinguished. A&M personnel were applying water onto the burning compost and hot spots within the building during the inspection. A&M explained that temperature monitoring probes were being used to identify hot spots.

2. Fire impacted waste remained in Bay #1. A&M personnel were removing burning and fire impacted compost from Bay #1 and spreading it in the Southeast and Southwest Fields during the inspection.

3. Minimal smoke was observed within the building.

YY. On January 3, 2026, the Department conducted an inspection at the Site and the following conditions were present:

1. No smoke was observed in Bay #1. A&M personnel indicated that no hot spots had been recorded in Bay #1 by the temperature monitoring probes and that the fire had been extinguished.

2. No fire suppression activities occurred inside the building during the inspection.

3. A&M explained that temperature monitoring in Bay #2 was underway to ensure the fire had not affected compost in Bay #2. According to A&M personnel and temperature monitoring data recorded from the probes, the highest temperature in Bay #2 was 173 degrees Fahrenheit at the time of the inspection.

4. Some fire impacted waste remained in Bay #1.

5. No evidence of smoke or fire was observed in the spread wastes in the Southeast and Southwest Fields. A&M explained that temperature monitoring probes were being used in the Southeast and Southwest Fields.

6. A&M reported that it had transported six loads of fire impacted waste offsite on January 3, 2026 for disposal at Pioneer Crossing Landfill in Exeter Township, Berks County, Pennsylvania (Permit # 100346). A staging area for the waste was observed in the Southeast Field.

ZZ. On January 4, 2026, the Department conducted an inspection at the Site and the following conditions were present:

1. No smoke was observed in Bay #1. A&M indicated that no hot spots had been identified in Bay #1 by the temperature monitoring probes and that the fire had been extinguished.

2. No fire suppression occurred inside the building during the inspection.

3. A&M explained that temperature monitoring in Bay #2 was underway to ensure the fire had not affected compost in Bay #2. According to A&M personnel and temperature monitoring data recorded from the probes, the highest temperature in Bay #2 was recorded at 172 to 173 degrees Fahrenheit at the time of the inspection.

4. Fire impacted waste was observed in Bay #1.

5. No evidence of smoke or fire was observed in the spread wastes in the Southeast and Southwest Fields. Temperature monitoring data from the day prior was provided by A&M with a range in temperatures from 32 to 72 degrees Fahrenheit in the fire impacted waste in the Southwest Field. A&M represented that fire impacted waste in the hotter areas was turned over to improve cooling.

6. A&M reported that waste was not removed from the Facility for disposal on January 4, 2026. Staging areas for the waste were observed in the Southwest and Southeast Fields.

AAA. On January 5, 2026, the Department conducted an inspection at the Site and the following conditions were present:

1. No smoke was observed coming from the Facility or inside the building.

2. All fire impacted waste was removed from Bay #1 and the North Biofilter thus correcting the violations relating to A&M's storage of fire impacted waste within the building, as described above.

3. A&M explained that temperature monitoring was ongoing within the building to identify hot spots.

4. A gravel access road and turnaround area were being constructed during the inspection in the Southwest Field.

5. The staging area in Southeast Field was observed. At the time of the inspection, waste hauling tractor trailers were not observed onsite.

BBB. On January 6, 2026, the Department conducted an inspection at the Site and the following conditions were present:

1. No smoke was observed at the Facility.

2. No changes were observed in Bay #1, the North Biofilter, South Biofilter, or the finished compost storage area.

3. The staging area in Southeast Field was observed. At the time of inspection, a waste hauling tractor trailer was loaded with waste. A&M indicated that eighteen (18) loads of

waste on January 2, 2026, eighteen (18) loads on January 3, 2026, and twelve (12) loads on January 5, 2026, were removed from the Southeast Field for disposal at Pioneer Crossing Landfill.

4. No changes were observed in the waste staged in a pile in the Southwest Field. The Department recommended that A&M spread out the staged piles. A gravel access road and turnaround were being constructed in the Southwest Field.

CCC. On January 7, 2026, the Department conducted an inspection at the Site and observed the following:

1. No smoke was observed at the Facility.
2. No changes were observed in Bay #1, the North Biofilter, or the finished compost storage area.
3. Waste in the Southwest Field staging area was spread out as recommended by the Department in the previous inspection. The access road and the truck turnaround in Southwest Field were completed.
4. The Southeast Field staging area was observed. No tractor trailers were loaded during the inspection.

DDD. On January 9, 2026, the Department completed an inspection at the Site and the following conditions were present:

1. No smoke was observed at the Facility.
2. Compost screening equipment was staged in Bay #1 but was not operating during the inspection.
3. Compost screening equipment was operating in the finished compost storage area adjacent to the North Biofilter.

4. The North Biofilter was empty, and no activities were occurring inside the North Biofilter.

5. During the inspection, two tractor trailers hauling fire impacted waste departed from the Site, one tractor trailer was actively loaded with waste, and one empty tractor trailer arrived at the Site which awaited waste loading in the Southeast Field. A&M explained that tri-axle dump trucks were also used to haul fire impacted waste offsite for disposal at the Pioneer Crossing Landfill.

6. Waste in the Southwest Field was staged in a pile near the truck turnaround.

EEE. On January 12, 2026, the Department conducted an inspection at the Site and the following conditions were present:

1. Fire impacted waste removal activities were ongoing. Waste was loaded into trucks from the Southeast Field during the inspection.

2. No changes were observed in the Southwest Field.

3. No changes were observed in Bay #1, the South Biofilter, or North Biofilter.

4. Compost screens were operating in the finished compost storage area.

FFF. On January 12, 2026, A&M submitted an extension request to the Department for the disposal timeline designated in Corrective Action 7 contained on the last pages of the December 16 and December 23, 2025 Compliance Orders.

GGG. On January 14, 2026, the Department conducted an inspection at the Site and the following conditions were present:

1. Waste removal activities of fire impacted wastes were ongoing. Waste from the Southwest Field was being loaded into trucks and hauled offsite during the inspection.

2. Most of the fire impacted waste had been removed from the Southeast Field. A thin layer of the fire impacted waste remained throughout the field.

3. Erosion control socks, berms, and trenches were observed in the Southwest and Southeast Fields. Compost wedges were not observed on the upslope side of the compost filter socks. The Department recommended that A&M install a compost wedge on the upslope side of the compost filter socks in the Southeast and Southwest Fields. The Department also recommended that A&M install a compost filter sock downslope of the new gravel road in the Southwest Field.

4. A layer of spilled compost waste was observed on a gravel access road.

5. Compost screening equipment was operating in the finished compost storage area.

6. No changes were observed in Bay #1 and the North Biofilter.

HHH. On January 15, 2026, the Department granted A&M's extension request for Corrective Action 7 of the December 16 and December 23, 2025 Compliance Orders with the following conditions:

1. The duration of the time allowed for the removal of fire-impacted waste from the Facility property was extended to January 29, 2026. If additional time for removal is needed, A&M should submit another extension request to the Department detailing the reasons for the need for additional time which can be evaluated by the Department.

2. Sampling of the Facility's ground water monitoring wells shall be conducted as soon as practicable, rather than waiting until the last month of the quarter, for the first quarter 2026 sampling event. Data generated from this sampling should be submitted to the Department no later than ten (10) days after A&M's receipt of the laboratory results.

3. Sampling of all private wells within a radius of 500 feet outside the edges of the Southeast and Southwest Fields should be completed by January 29, 2026. The parameters for the analysis shall be the same as the annual groundwater monitoring. Data generated from this sampling should be submitted to the Department no later than ten (10) days after A&M's receipt of the laboratory results. Further regular sampling of these wells may be required by the Department. If A&M is unable to sample any private well within the required radius, A&M shall submit a detailed explanation of its efforts to conduct sampling and reasons why its efforts have been unsuccessful. The detailed explanation shall be submitted to the Department by February 1, 2026.

4. By January 29, 2026, A&M shall install compost wedge on the upslope side of all existing installed compost filter socks in the Southwest and Southeast Fields. All compost filter socks onsite should be installed per the requirements beginning on Page 62 of the Erosion Sediment Pollution Control Program Manual (363-2134-008, March 2012).

5. By January 29, 2026, compost filter sock shall be installed downslope of the new gravel road and turnaround leading to the Southwest Field. The installed compost filter sock should be connected to the existing compost filter sock in the Southwest Field and include a compost wedge on the upslope side.

6. By January 29, 2026, compost filter sock with a compost wedge shall be installed downslope of the roadway along the entire northern edge of the Facility.

III. On January 16, 2026, the Department conducted an inspection at the Site and the following conditions were present:

1. Fire impacted waste removal activities were ongoing. Waste in the Southwest Field was staged near the truck turnaround.

2. A thin layer of waste remained in the Southeast Field

JJJ. On January 20, 2026, the Department conducted an inspection at the Site and the following conditions were present:

1. Fire impacted waste removal activities were ongoing. Waste was loaded into trucks from the Southwest Field during the inspection.
2. Conditions in the Southeast Fields could not be assessed due to snow cover.
3. No changes were observed in Bay #1, the North Biofilter, and the South Biofilter.
4. Compost Screen #1 was operating during the inspection.

KKK. On January 22, 2026, the Department conducted an inspection at the Site and the following conditions were present:

1. Fire impacted waste removal activities were ongoing. Wastes in the Southwest Field were staged near the truck turnaround and were loaded into trucks during the inspection.
2. A layer of waste remained in the Southeast Field.
3. Compost screen #1 and the screen in the finished compost storage area were operating.
4. Screened compost spilled over the finished compost storage area wall into the North Biofilter. The Department recommended that A&M remove compost from the North Biofilter and maintain fire breaks between compost piles and between interior and exterior walls.
5. Recycled chips from the screening operation were stored in Bay #1 without fire breaks between piles. The Department recommended that A&M maintain fire breaks.

LLL. On January 23, 2026, A&M submitted a written response to the Department's December 23, 2025 Notice of Violation.

MMM. On January 29, 2026, the Department conducted an inspection of the Site and the following conditions were present:

1. Fire impacted waste removal activities were ongoing. Waste was loaded into trucks from the Southwest Field during the inspection.
2. Conditions in the Southeast Field could not be assessed due to snow cover.
3. Recycled chips stored in Bay #1 did not have fire breaks between piles.
4. Screened compost was stored in the finished compost storage area without fire breaks. Finished compost remained piled against the interior wall and was observed spilling into the North Biofilter. The Department recommended that A&M remove compost from the North Biofilter and maintain fire breaks between compost piles and between interior and exterior walls.

NNN. On February 3, 2026, the Department conducted an inspection of the Site and the following conditions were present:

1. Waste removal activities were ongoing from the Southwest Field. Waste was loaded into trucks from the Southwest Field during the inspection. A&M explained that all fire impacted waste would be removed for disposal by February 6, 2026.
2. Conditions in the Southeast Field could not be assessed due to snow cover.
3. Recycled chips stored in Bay #1 did not have fire breaks between piles.
4. Screened compost was stored along the internal wall in the finished compost storage area without fire breaks.
5. Compost that was previously observed in the North Biofilter had been removed.

OOO. On February 5, 2026, the Department conducted an inspection at the Site and the following conditions were present:

1. Fire impacted waste removal activities were not occurring during the inspection. According to A&M, all fire impacted waste in the Southeast and Southwest Fields were removed for disposal.

2. A layer of waste was observed in the Southwest Field.

3. Conditions in the Southeast Field could not be assessed due to snow cover.

4. Recycled chips observed in Bay #1 were not stored with fire breaks between piles.

5. Screened compost was stored against the internal wall in the finished compost storage area without fire breaks.

PPP. On February 11, 2026, the Department conducted an inspection at the Site and the following conditions were present:

1. No waste removal activities were observed in the Southwest or Southeast Fields.

2. A layer of waste was observed in the Southwest Field. Conditions in the Southeast Field could not be assessed due to snow cover.

3. Recycled chips piles in Bay #1 were separated by an approximately 15-foot fire break space.

4. Waste compost was observed outside the building on the access road to the finished compost storage area door. A&M indicated that the commercial street sweeper had not come to the Site in several days.

QQQ. Through a Notice of Violation dated February 18, 2026, the Department requested that A&M submit to the Department an NPDES Industrial Stormwater Permit Notice of Intent (“NOI”) within sixty (60) calendar days.

RRR. On February 19, 2026, the Department conducted an inspection at the Site and the following conditions were present:

1. A&M indicated that a “hot spot” was discovered in Bay #7 on February 13, 2026. The Department was notified of the “hot spot” on February 13, 2026. A&M represented that no flames were observed in the “hot spot” and the impacted material was spread and saturated with water.

2. No smoke or fire was observed in the building.

3. A thin layer of waste remained on the Southeast and Southwest Fields. A&M planned to scrape the fields to remove remaining waste during the week of February 23, 2026.

4. Runoff water from the fields had collected in the downslope trenches. Water from the Southeast Field trench was pumped into a water truck during the inspection. A&M explained that runoff water was being transferred to the pre-treatment filters within the building.

5. A street sweeper was operating during the inspection.

SSS. On February 27, 2026, the Department completed an inspection at the Site and the following conditions were present:

1. No smoke or fire was observed at the Facility. A&M represented that no “hot spots” or fires have been found in the building.

2. A layer of waste remained in the Southwest and Southeast Fields. A&M did not provide a completion timeline to the Department.

3. No compost was observed in the North Biofilter.
4. A street sweeper was operating at the Facility during the inspection.

TTT. On March 1, 2026, A&M submitted an Action Plan to the Department.

UUU. On March 5, 2026, The Department conducted an inspection at the Site and the following conditions were present:

1. No smoke or fire was observed at the Facility.
2. One exhaust fan in the North Biofilter and one exhaust fan in the South Biofilter were not operating during the inspection.

3. A layer of waste remained in the Southwest and Southeast Fields. A&M did not provide a completion timeline to the Department.

VVV. On March 18, 2026, the Department conducted an inspection at the Site and the following conditions were present:

1. No smoke or fire was observed at the Facility.
2. One exhaust fan in the North Biofilter and one exhaust fan in the South Biofilter were not operating during the inspection.

3. A layer of waste remained in the Southwest and Southeast Fields.

WWW. On March 16, 2026, the Department received the First Quarter 2026 Groundwater Monitoring report (“Q1 Report”). Analytical results for ammonia-nitrogen, total organic carbon, manganese, sulfate, nitrate, and total dissolved solids indicated potential groundwater degradation in Monitoring Well 2A to the north of the Site.

XXX. On March 31, 2026, A&M submitted the requested NPDES Industrial Stormwater Permit NOI.

YYY. On April 1, 2026, the Department conducted an inspection of the Site, and the following conditions were present:

1. No smoke or fire was observed at the Facility.
2. One exhaust fan in the South Biofilter was not operating.
3. Waste was no longer observed in the Southeast and Southwest Fields.

ZZZ. On April 15, 2026, the Department issued NPDES Permit No. PAG034128 to A&M with an effective date of May 1, 2026, and an expiration date of March 23, 2028.

AAAA. On April 22, 2026, the Department received a groundwater assessment plan from A&M addressing the groundwater degradation indicated within the Q1 Report.

BBBB. On May 26, 2026, the Department conducted a Compliance Evaluation Inspection of the Site and the following conditions were present:

1. An unauthorized and unpermitted discharge of an unknown petroleum product from a tote to the surface of the ground, with potential to enter the stormwater conveyance system leading to Outfall 001 and an UNT to Behm Run.
2. The discharge of stormwater associated with industrial activity from the south (recharge) pond, an unpermitted outfall, to a vegetated field which leads to an UNT to Behm Run.

CCCC. On June 17, 2026, the Department received the Second Quarter 2026 Groundwater Monitoring report (“Q2 Report”) which indicated elevated analytical results of ammonia-nitrogen, fecal coliform, total organic carbon, chemical oxygen demand, manganese, sulfate, nitrogen, and total dissolved solids compared to the Q1 Report.

DDDD. On June 17, 2026, A&M had a leachate spill occur at the Site. A&M explained that a holding tank of approximately 5,000 gallons of leachate broke free from a truck. The tank seam

on the corner of the tank opened, releasing all the leachate from the tank onto the Facility driveway, which then flowed into a stormwater inlet leading to the southeast stormwater pond. A&M reported the leachate spill to the Department on June 22, 2026 via email.

EEEE. On June 24, 2026, the Department conducted an inspection of the Site as a follow-up to a leachate spill that occurred at the Site on June 17, 2026. The Department documented A&M's June 17, 2026, unauthorized and unpermitted discharge of leachate, an industrial waste, to the stormwater conveyance system, with potential to discharge to groundwater and to Outfall 001, leading to an UNT to Behm Run, a water of the Commonwealth. The Department confirmed that the previous tote that was observed to be discharging an unknown petroleum product on May 26, 2026 was no longer present. The Department requested that A&M remove all contaminated material from the southeast stormwater pond and properly dispose of those materials. Following pond remediation, the Department requested that A&M notify the Department prior to returning the pond to service.

FFFF. On July 28, 2026, the Department sent the May 26, 2026 and June 24, 2026 inspection reports and corresponding Notices of Violation to A&M for the violations referenced in Paragraphs BBBB., DDDD., and EEEE., above. The Department provided numerous recommendations to A&M in the inspection reports including, but not limited to, the submission of Standard Operating Procedures ("SOPs") that outline stormwater BMPs to be implemented during firefighting activities.

GGGG. On August 12, 2026, A&M responded in writing to the Department's May 26, 2026 and June 24, 2026 Notices of Violation.

Applicable Law

HHHH. Under 25 Pa. Code § 271.1, a “person” is defined as “[a]n individual, partnership, corporation, association, institution, cooperative enterprise, municipal authority, Federal Government or agency, State institution and agency – including, but not limited to, the Department of General Services and the State Public School Buildings Authority – or another legal entity which is recognized by law as the subject of rights and duties. In the provisions of this article pertaining to a fine or penalty, the term includes the officers and directors of a corporation or other legal entity having officers and directors.” *See also* 35 P.S. § 6018.103.

IIII. Under 25 Pa. Code § 271.1, an “operator” is defined as “[a] person or municipality that operates a municipal waste processing or disposal facility.”

JJJJ. Under 25 Pa. Code § 271.1, a “composting facility” is defined as “[a] facility using land for processing of municipal waste by composting. The term includes land thereby affected during the lifetime of the operations, including, but not limited to, areas where composting actually occurs, support facilities, borrow areas, offices, equipment sheds, air and water pollution control and treatment systems, access roads, associated onsite or contiguous collection, transportation and storage facilities, closure and postclosure care and maintenance activities and other activities in which the natural land surface has been disturbed as a result of or incidental to operation of the facility. The term does not include a facility for composting residential municipal waste that is located at the site where the waste was generated.”

KKKK. Under 25 Pa. Code § 271.1, “solid waste” is defined as “[w]aste, including but not limited to, municipal, residual or hazardous wastes, including solid, liquid, semisolid or contained gaseous materials.” *See also* 35 P.S. § 6018.103.

LLLL. Under 25 Pa. Code § 281.261, “[a] composting facility shall be designed, constructed, maintained and operated to prevent and minimize the potential for fire, explosion or release of solid waste constituents to the air, water or soil of this Commonwealth that could threaten public health or safety, public welfare or the environment.”

MMMM. Under 25 Pa. Code § 281.263(c)(2), “[a]fter an emergency, the operator of the facility shall do the following: [p]revent processing or storage of solid waste in the area affected by the emergency until the operator has cleaned up the area, and the Department has inspected and approved the cleanup.”

NNNN. Under 25 Pa. Code § 281.218(b), “[t]he operator shall control and minimize conditions not otherwise prohibited by this subchapter that are harmful to the environment or public health, or which create safety hazards, odors, dust, noise, unsightliness and other public nuisances.”

OOOO. Under 25 Pa. Code § 281.216(e), “[s]olid waste shall be confined to the unloading area or a storage area approved as part of the operator’s permit.”

PPPP. Under 25 Pa. Code § 281.201(b), in part, “[a] person ... that operates a general composting facility shall comply with the following: [t]he operating requirements of [the SWMA,” Sections 271 and 281 of the municipal waste regulations, orders issued by the Department, and the plans and conditions of the permit issued by the Department.

QQQQ. Section 610(2) of the SWMA, 35 P.S. § 6018.610(2), provides that “[i]t shall be unlawful for any person or municipality to: [c]onstruct, alter, operate or utilize a solid waste storage, treatment, processing or disposal facility without a permit from the Department as required by this act or in violation of the rules or regulations adopted under this act, or orders of the [D]epartment, or in violation of any term or condition of any permit issued by the [D]epartment.”

RRRR. Section 610(4) of the SWMA, 35 P.S. § 6018.610(4), provides that “[i]t shall be unlawful for any person or municipality to: [s]tore, collect, transport, process, treat, beneficially use, or dispose of, or assist in the storage, collection, transportation, processing, treatment, beneficially use or disposal of, solid waste contrary to the rules or regulations adopted under this act, or orders of the [D]epartment, or any term or any condition of any permit, or in any manner as to create a public nuisance or to adversely affect the public health, safety and welfare.”

SSSS. Section 610(9) of the SWMA, 35 P.S. § 6018.610(9), provides that “[i]t shall be unlawful for any person or municipality to: [c]ause or assist in the violation of any provision of this act, any rule or regulation of the [D]epartment, any order of the [D]epartment or any term or condition of any permit.”

TTTT. Section 1 of the Clean Streams Law, 35 P.S. § 691.1, provides that “[p]erson’ shall be construed to include any natural person, partnership, association or corporation or any agency, instrumentality or entity of Federal or State Government. Whenever used in any clause prescribing and imposing a penalty, or imposing a fine or imprisonment, or both, the term “person” shall not exclude the members of an association and the directors, officers or agents of a corporation.”

UUUU. Under 25 Pa. Code § 92a.2., “[p]erson’—Any individual, public or private corporation, partnership, association, municipality or political subdivision of this Commonwealth, institution, authority, firm, trust, estate, receiver, guardian, personal representative, successor, joint venture, joint stock company, fiduciary; department, agency or instrumentality of State, Federal or local government, or an agent or employee thereof; or any other legal entity.”

VVVV. Section 1 of the Clean Streams Law, 35 P.S. § 691.1, provides that “[p]ollution’ shall be construed to mean contamination of any waters of the Commonwealth such

as will create or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, municipal, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life, including but not limited to such contamination by alteration of the physical, chemical or biological properties of such waters, or change in temperature, taste, color or odor thereof, or the discharge of any liquid, gaseous, radioactive, solid or other substances into such waters. The department shall determine when a discharge constitutes pollution, as herein defined, and shall establish standards whereby and wherefrom it can be ascertained and determined whether any such discharge does or does not constitute pollution as herein defined.”

WWWW. Under 25 Pa. Code § 92a.2., “[p]ollutant’—A contaminant or other alteration of the physical, chemical, biological or radiological integrity of surface water that causes or has the potential to cause pollution as defined in section 1 of the State Act (35 P. S. § 691.1).”

XXXX. Section 1 of the Clean Streams Law, 35 P.S. § 691.1, provides that “[i]ndustrial waste’ shall be construed to mean any liquid, gaseous, radioactive, solid or other substance, not sewage, resulting from any manufacturing or industry, or from any establishment, as herein defined, and mine drainage, refuse, silt, coal mine solids, rock, debris, dirt and clay from coal mines, coal collieries, breakers or other coal processing operations. “Industrial waste” shall include all such substances whether or not generally characterized as waste.”

YYYY. Under 25 Pa. Code 92a.2, “[i]ndustrial waste’ – (i) A liquid, gaseous, radioactive, solid or other substance, not sewage, resulting from manufacturing or industry, or from an establishment, and mine drainage, refuse, silt, coal mine solids, rock, debris, dirt and clay from coal mines, coal collieries, breakers or other coal processing operations. (ii) The term includes all of these substances whether or not generally characterized as waste.”

ZZZZ. Section 301 of the Clean Streams Law, 35 P.S. § 691.301, provides that “[n]o person or municipality shall place or permit to be placed, or discharged or permit to flow, or continue to discharge or permit to flow, into any of the waters of the Commonwealth any industrial wastes, except as hereinafter provided in this act.”

AAAAA. Section 307(a) of the Clean Streams Law, 35 P.S. § 691.307(a), in part, provides that “[n]o person or municipality shall discharge or permit the discharge of industrial wastes in any manner, directly or indirectly, into any of the waters of the Commonwealth unless such discharge is authorized by the rules and regulations of the [D]epartment or such person or municipality has first obtained a permit from the [D]epartment.”

BBBBB. Section 316 of the Clean Streams Law, 35 P.S. § 691.316, in part, provides that “[w]henver the [D]epartment finds that pollution or a danger of pollution is resulting from a condition which exists on land in the Commonwealth the [D]epartment may order the landowner or occupier to correct the condition in a manner satisfactory to the [D]epartment”

CCCCC. Section 401 of the Clean Streams Law, 35 P.S. § 691.401, provides that “[i]t shall be unlawful for any person or municipality to put or place into any waters of the Commonwealth, or allow or permit to be discharged from property owned or occupied by such person or municipality into any of the waters of the Commonwealth, any substance of any kind or character resulting in pollution as herein defined. Any such discharge is hereby declared to be a nuisance.”

DDDDD. Under 25 Pa. Code § 92a.1(b), “[a] person [as defined at 25 Pa. Code § 92a.2] may not discharge pollutants from a point source into surface waters except as authorized under an NPDES Permit.”

EEEE. Section 611 of the Clean Streams Law, 35 P.S. § 691.611, provides that “[i]t shall be unlawful to fail to comply with any rule or regulation of the [D]epartment or to fail to comply with any order or permit or license of the [D]epartment, to violate any of the provisions of this act or rules and regulations adopted hereunder, or any order or permit or license of the [D]epartment, to cause air or water pollution, or to hinder, obstruct, prevent or interfere with the [D]epartment or its personnel in the performance of any duty hereunder or to violate the provisions of 18 Pa. C.S. section 4903 (relating to false swearing) or 4904 (relating to unsworn falsification to authorities). Any person or municipality engaging in such conduct shall be subject to the provisions of sections 601, 602 and 605[, 35 P.S. §§ 691.601, 691.602, and 691.611].”

Unlawful Conduct

FFFF. Pursuant to Corrective Action #2 of the November 16, 2023 Compliance Order, A&M was required to extinguish the fire at the Facility by any means necessary up to and including removing all solid waste, compost, and biosolids from the building.

GGGG. Pursuant to Corrective Action #3 of the November 16, 2023 Compliance Order, A&M was required to cease the storage of solid waste and compost, that was affected by the fire, within the processing building until the Department has inspected and approved the cleanup.

HHHH. Pursuant to Corrective Action #2 of the December 16, 2025 Compliance Order, A&M was required to remove all fire impacted and actively burning solid waste and biofilter medium from the building and extinguish the fire at the Facility by any means necessary.

IIII. Pursuant to Corrective Action #3 of the December 16, 2025 Compliance Order, A&M was required to cease the storage of biofilter medium that was affected by the fire, thus a solid waste, within the processing building until the Department has inspected and approved the cleanup.

JJJJ. Pursuant to Corrective Action #4 of the December 16, 2025 Compliance Order, biofilter medium, compost, or any other solid wastes that are removed from the Facility, such solid wastes was required to be managed in accordance with applicable plans, setbacks, regulations, and the SWMA, in a manner to prevent impacts to public health, safety, welfare or the environment and to prevent pollution to any waters of the Commonwealth, as defined in Section 1 of the Clean Streams Law, 35 P.S. § 691.1.

KKKKK. A&M failed to maintain and operate the Facility to minimize the potential for fire and the release of solid waste constituents into the air, water, or soil as evident by the smoke and fire observed at the Site on the dates set forth in Paragraphs G., H., I., J., K., M., Y., AA., BB., DD., HH., II., LL., MM., RR., SS., TT., UU., VV., WW., and XX. above, in violation of 25 Pa. Code § 281.261.

LLLLL. A&M failed to control and minimize conditions that are harmful to the environment or public health, or which creates safety hazards, odors, dust, noise, unsightliness and other public nuisances as evident by the smoke and fire described on the dates set forth in Paragraphs G., H., I., J., K., M., Y., AA., BB., DD., HH., II., LL., MM., RR., SS., TT., UU., VV., WW., and XX., in violation of 25 Pa. Code § 281.218(b).

MMMMM. A&M failed to remove all fire impacted and burning waste from the building contrary to Corrective Actions #1 and #2 of the November 16, 2023 Compliance Order, as described in Paragraphs M.2., N.1., N.2., and O.3., above, in violation of 25 Pa. Code § 281.201(b)(2).

NNNNN. A&M allowed the processing and storage of solid waste within the area affected by fire before the area was cleaned by the operator and the Department had inspected and

approved the cleanup, as described in Paragraphs M.2, N.1, N.2 and O.3, above, in violation of 25 Pa. Code § 281.263(c)(2).

OOOOO. A&M failed to maintain the building walls and exhaust fans and failed to operate the Facility in accordance with the Permit and approved plans as described in Paragraphs H.3., H.7., I.2., Q.1., U.2., UUU.2., VVV.2., and YYY.2., above, in violation of 25 Pa. Code § 281.201(b)(2).

PPPPP. A&M failed to comply with the requirements of the PPC plan approved in the August 16, 2021 Solid Waste Permit No. 602247 renewal as described in Paragraphs O.7., P.3., and Q.5., and T., above, in violation of 25 Pa. Code § 281.201(b)(2).

QQQQQ. A&M had not removed all fire-impacted waste within the processing building contrary to Corrective Actions #2 and #3 of the December 16, 2025 Compliance Order, as described in Paragraphs HH.2., II.4., MM.5., RR.2., SS.3., TT.2., UU.1., VV.4., WW.4., XX. 2., YY.4., and ZZ.4., above, in violation of 25 Pa. Code § 281.201(b)(2).

RRRRR. Despite its efforts to fight the fire, A&M failed to remove all fire impacted waste from the building in accordance with Corrective Action #2 of the December 16, 2025 Compliance Order, as described in Paragraphs HH.2., II.4., MM.5., RR.2., SS.3., TT.2., UU.1., VV.4., WW.4., XX. 2., YY.4., and ZZ.4., above, in violation of 25 Pa. Code § 281.201(b)(2).

SSSSS. Despite its efforts to fight the fire, A&M failed to extinguish the fire by any means necessary and failed to manage waste removed from the building in a manner that prevented impacts to public health, safety, welfare, contrary to Corrective Action #2 and #4 of the December 16, 2025 Compliance Order, as evident by the smoke and fire observed emanating from wastes spread in the Southeast and Southwest Fields, as described in Paragraphs II. 2., LL. 1., MM.1.,

MM.3., RR.3., SS. 4., TT. 4., UU. 5, and VV. 5., above, in violation of in violation of 25 Pa. Code § 281.201(b)(2).

TTTTT. A&M failed to confine waste to approved storage areas as described in paragraphs H.8., O.5., O.6., P.4., P.5., Q.2. through Q.4., U.1., V.1., V.2., and KKK.4., above, in violation of 25 Pa. Code § 281.216(e).

UUUUU. A&M failed to maintain fire breaks between compost piles in Bay #1 and within the finished compost storage area following the events of the December 2025 fire, as described in Paragraphs KKK.4., KKK.5., MMM.3, MMM.4., NNN.3., NNN.4., OOO.4., and OOO.5. above, and, therefore failed to operate the Facility to minimize the potential for fire in violation of 25 Pa. Code § 281.261.

VVVVV. A&M failed to prevent the unauthorized and unpermitted discharge of leachate, an industrial waste, to the stormwater conveyance system, with potential to discharge to a water of the Commonwealth, as described in Paragraphs BBBB.1., BBBB.2., DDDD., and EEEE., above in violation of 35 P.S. §§ 691.301 and 307(a) and 25 Pa. Code § 92a.1(b).

WWWWW. A&M failed to prevent an unpermitted discharge of firefighting runoff to an UNT of Behm Run, a water of the Commonwealth, which caused aquatic life impacts in the receiving stream, including a minor fish kill, as described in Paragraphs HH.3. and II.5., above in violation of 35 P.S. § 691.401.

XXXXX. A&M failed to prevent biofilter material from accumulating along the north side of the primary Facility building, with the potential to discharge industrial leachate into an UNT of Behm Run, a water of the Commonwealth, as described in Paragraphs MM.6. and RR.4., above in potential violation of 35 P.S. § 691.401.

YYYYY. A&M failed to prevent the unauthorized and unpermitted discharge of an unknown petroleum product, an industrial waste, to the surface of the ground, with potential to enter the stormwater conveyance system leading to Outfall 001 and UNT to Behm Run, a water of the Commonwealth, as described in Paragraph BBBB.1., above in potential violation of NPDES Permit No. PAG034128, 25 Pa. Code § 92a.1(b), and 35 P.S. §§ 691.301 and 307.

ZZZZZ. A&M failed to prevent the discharge of stormwater associated with industrial activity from an unpermitted outfall to a vegetated field leading to an UNT to Behm Run, a water of the Commonwealth, as described in Paragraph BBBB.2., above in violation of NPDES Permit No. PAG03412825, Pa. Code § 92a.1(b), and 35 P.S. § 691.401.

AAAAA. A&M failed to prevent the unauthorized and unpermitted discharge of leachate, an industrial waste, to the surface of the ground, with potential to enter the groundwater leading to Outfall 001 and UNT to Behm Run, a water of the Commonwealth, as described in Paragraphs BBBB.1., BBBB.2, DDDD., and EEEE., above in violation of NPDES Permit No. PAG034128, 25 Pa. Code § 92a.1(b), and 35 P.S. §§ 691.301 and 307.

BBBBBB. The violations described in Paragraphs KKKKK. through UUUUU., above, constitute unlawful conduct pursuant to Sections (2), (4), and (9) of the SWMA, 35 P.S. §§ 6018.610(2), (4”) and (9); a statutory nuisance under Section 601 of the SWMA, 35 P.S. § 6018.601; and subject A&M to civil penalty liability under Section 605 of the SWMA, 35 P. S. § 6018.605.

CCCCC. The violations described in Paragraphs VVVVV. through AAAAAA., above, constitute unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. § 691.611; a statutory nuisance under Sections 307 and 401 of the Clean Streams Law, 35 P.S. §

691.307 and 691.401; and subject A&M to civil penalty liability under Section 605 of the Clean Streams Law, 35 P.S. § 691.605.

ORDER

After complete negotiation of all matters in this Consent Order and Agreement and upon mutual exchange of the covenants in this Consent Order and Agreement, the parties desiring to avoid litigation and intending to be legally bound, the Department ORDERS and A&M AGREES as follows:

1. ***Authority.*** This Consent Order and Agreement is an order of the Department authorized and issued under Sections 104, 601 and 602 of the SWMA, 35 P.S. §§6018.104, 6018.601, and 6018.602, Sections 5, 316, 402, and 610 of the Clean Streams Law, 35 P.S. §§ 691.5, 691.316, 691.402, and 691.610; and Section 1917-A of the Administrative Code, 71 P.S. §510-17.

2. ***Findings.***

a. In any matter or proceeding between A&M and the Department, the Department may rely on, and A&M shall not challenge or deny, the Department's assertion of the truth, accuracy, or validity of paragraphs A. through CCCCCC.

b. The parties do not authorize any other persons to use the findings in this Consent Order and Agreement in any matter or proceeding and nothing in this Consent Order and Agreement constitutes an admission on the part of A&M in any matter or proceeding not between A&M and the Department.

3. ***Corrective Action.***

a. Within twenty (20) days of the Effective Date of this Consent Order and Agreement, A&M shall submit to the Department a plan with a projected timeline to restore the

building, biofilters, and equipment at the Site to the operating standards of the August 16, 2021 Solid Waste Permit No. 602247 renewal, as modified on September 30, 2024.

b. Upon completion of any restoration that requires construction, A&M shall submit a Form 37- Certification of Facility Construction Activity, including the as-built drawings for Department review and approval prior to use of the building.

c. A&M shall not accept waste for processing until the Department has inspected and approved the Facility to begin operation under the relevant air, water, and waste permits.

d. Within sixty (60) days of the Effective Date of this Consent Order and Agreement, A&M Compost shall submit an application for a permit modification that shall include at least the following items:

i. An updated PPC plan specifying a procedure for monitoring, identifying, and extinguishing fires within the Facility.

ii. Updated maps to identify the access roads, fire breaks, and doors proposed in the March 1, 2026, Action Plan.

iii. The installation and maintenance of monitoring equipment, fire breaks, walls, water storage tank, and fire access infrastructure proposed in the March 1, 2026 Action Plan.

iv. Details on how A&M will store piles of recycled chips, unscreened materials, and finished compost in the Facility. At a minimum, the details should also discuss how long materials will be stored, how A&M tracks the accumulation of materials in Bay #1 and the finished compost area, and other measures that A&M

will implement to monitor and prevent fires from occurring in the materials stored in Bay #1 and the finished compost storage area.

v. Details on the measures that A&M will take to monitor and prevent fires in the North and South Biofilters.

vi. Details on the maintenance and repair of equipment A&M will use to maintain airflow and normal operations at the Facility such as fans, blowers, screens, and street sweepers.

e. Within thirty (30) days of Effective Date of this Consent Order and Agreement, A&M shall submit to the Department a verification that the field analysis of pH during stormwater sample collection will be completed within the 15-minute hold time by the current contract accredited laboratory.

f. Within thirty (30) days of Effective Date of this Consent Order and Agreement, A&M shall develop and submit to the Department for review, the Facility's Firefighting SOPs for proper management of storm and fire water run-off from any future firefighting activities at the Site. The Firefighting SOPs shall include stormwater BMPs to be implemented during any future firefighting activities onsite.

g. Within thirty (30) days of the Effective Date of this Consent Order and Agreement, A&M shall submit the Facility's Operation and Maintenance SOPs to the Department for review that shall include at least the following items:

i. Records of visual observations and stormwater releases from the leachate tank containment dike shall be maintained in accordance with applicable Department requirements.

- ii. All leachate collection system pumps and conveyance pipes shall function as designed.
- iii. All contents from the leachate collection inlets shall be collected for proper reuse or disposal as needed to ensure that contents of the inlet, including residual leachate, do not overflow and discharge into the stormwater conveyance system.
- iv. BMPs shall be implemented to prevent drag-out of material from the compost building from occurring, and to address how it will be cleaned up if it ever does occur.
- v. All dumpsters shall be covered when not in use.
- vi. Additional BMPs shall be implemented to ensure compost material is not discharged to the stormwater conveyance system.
- vii. All fluid storage containers shall be properly labeled to represent current contents of each container and maintain records of waste fluids hauled offsite for a minimum of five (5) years.
- viii. The contents of all tanks in the maintenance building at the Site shall be identified for proper use or disposal.
- ix. All fluids shall be properly stored onsite and all containers shall be properly sealed.
- x. A spill kit shall be maintained at the diesel fueling area.
- xi. Outfall 001 shall be monitored to ensure that no contaminated liquid discharges from Outfall 001.

h. Within thirty-five (35) days of Department approval of the Facility's Operation and Maintenance SOPs, A&M shall submit a report detailing the implementation of the SOPs to the Department.

4. ***Submission of Documents.*** With regard to any document that A&M is required to submit under paragraphs 3.a., 3.f., and 3.g. of this Consent Order and Agreement, the Department will review the document(s) and will approve or disapprove the document(s), in writing. If the Department disapproves the document(s), A&M shall submit revised document(s) to the Department that addresses the Department's concerns within a reasonable time that the Department specifies. Upon the Department's approval, the document(s), including any Department-approved implementation schedules, becomes a part of this Consent Order and Agreement and enforceable against A&M.

5. ***Civil Penalty Settlement.*** A&M consents to the assessment of a civil penalty of **SEVEN HUNDRED AND TWO THOUSAND TWO HUNDRED SIXTY-ONE DOLLARS (\$702,261.00)**, which A&M shall pay in accordance with the schedule below. The payment settles the Department's claim for civil penalties against A&M for the violations in paragraphs DDDDD. through AAAAAA. covering the dates set forth in paragraphs F. through K, M., O. through Q., U., V., Y., AA., BB., DD., HH., II., LL., MM., RR. through EEE., GGG., III. through OOO., QQQ., RRR., UUU., XXX., AAAA., CCCC., and DDDD. A&M shall make the initial payment at the time that it signs this Consent Order and Agreement through two corporate checks with the first check made payable to the "**Commonwealth of Pennsylvania**" in the amount of **\$50,737.00** with the memo line indicating the "**Solid Waste Abatement Fund**" and the second check made payable to the "**Commonwealth of Pennsylvania**" in the amount of **\$76,524.00** with the memo line indicating the "**Clean Water Fund.**" A&M shall pay the remainder of the civil penalty through

five equal installments in the amount of **\$115,000.00** by checks made payable to the “**Commonwealth of Pennsylvania**” in the with the memo line indicating the “**Solid Waste Abatement Fund.**” The installments of \$115,000 each are due: November 1, 2026; December 1, 2026; January 1, 2027; February 1, 2027, and, March 1, 2027. All checks shall be sent to the Department contact listed under paragraph 12 (*Correspondence with the Department*) of this Consent Order and Agreement.

6. ***Remedies.*** In the event A&M fails to make any payment required by this Consent Order and Agreement, all remaining payments shall be immediately due and payable. In that event, the Department may pursue any remedy available for failure to pay a civil penalty, including an action for breach of contract or the filing of this Consent Order and Agreement as a lien in any county in this Commonwealth.

7. ***Stipulated Civil Penalties.***

a. A&M’s failure to comply with any term or provision of this Consent Order and Agreement is a violation of a Department order and, in addition to other applicable remedies, A&M agrees to pay a stipulated civil penalty in the amount determined under the following schedule:

- i. For any violation of paragraph 3.c., \$25,000 per day for each violation to be payable to the Solid Waste Abatement Fund;
- ii. For any violation of paragraphs 3.a., 3.b. or 3.d., \$250 per day for each violation to be payable to the Solid Waste Abatement Fund; and
- iii. For any violation of paragraphs 3.e. through 3.h., \$250 per day for each violation to be payable to the Clean Water Fund.

b. A&M shall pay stipulated civil penalty payments monthly on or before the 15th day of each succeeding month by check made payable to the Commonwealth of Pennsylvania

and sent to the Department contact listed under paragraph 12 (*Correspondence with the Department*) of this Consent Order and Agreement.

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

d. Stipulated civil penalties are due automatically and without notice.

8. ***Additional Remedies.***

a. If A&M fails to comply with any term or 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 for civil penalties or action to enforce this Consent Order and Agreement.

b. The remedies provided by this paragraph and paragraph 7 (*Stipulated Civil Penalties*) are cumulative and the exercise of one does not preclude the exercise of another. The delay or failure of the Department to pursue any remedy is not a waiver of that remedy. The payment of a stipulated civil penalty, however, precludes any further assessment of civil penalties for the violation for which the stipulated penalty is paid.

9. ***Reservation of Rights.*** The Department reserves the right to require additional measures to achieve compliance with applicable law. A&M reserves the right to challenge any action which the Department may take to require those measures but A&M waives the right to challenge the content or validity of this Consent Order and Agreement.

10. ***Liability of Operator.*** A&M is liable for any violations of this Consent Order and Agreement, including those caused by, contributed to, or allowed by its governing body, managers, members, officers, agents, employees, or contractors. Unless A&M's obligations are modified or terminated as provided in paragraph 11.c. (*Transfer of Operator or the Site*), A&M is also liable for any violation of this Consent Order and Agreement caused by, contributed to, or allowed by its successors and assigns.

11. ***Transfer of Operator or the Site.***

a. The transfer of any legal or equitable interest in A&M or a portion or all of the Site will not modify, diminish, terminate, or otherwise alter A&M's duties and obligations under this Consent Order and Agreement.

b. If A&M intends to transfer any legal or equitable interest in the Site, or any portion in the Site, which is affected by this Consent Order and Agreement, A&M shall, at least thirty (30) days before the contemplated transfer, serve a copy of this Consent Order and Agreement upon the prospective transferee of the legal and equitable interest and notify the Department of its intent to transfer.

c. The Department in its sole discretion may agree to modify or terminate A&M's duties and obligations under this Consent Order and Agreement upon transfer of A&M, the Site, or part thereof. A&M waives any right that it may have to challenge the Department's decision.

12. ***Correspondence with Department.*** A&M shall address all correspondence with the Department concerning this Consent Order and Agreement to:

Kalen Boyer
Operations Manager
Waste Management Program
Pennsylvania Department of Environmental Protection

Southcentral Regional Office
909 Elmerton Avenue
Harrisburg, PA 17110

13. ***Correspondence with A&M.*** All Department correspondence with A&M concerning this Consent Order and Agreement will be addressed to:

Pasquale N. Mascaro, President
A&M Composting, Inc.
2650 Audubon Road
Audubon, PA 19403
Email: pat.mascaro@jpmascaro.com

A&M shall notify the Department whenever there is a change in the contact person's name, title, or address. A&M agrees that the Department's service on A&M of any notice, document, court filing, court Order, or any legal process for any purpose under this Consent Order and Agreement, including its enforcement, may be made electronically by email to the above email address or by mailing a copy by first class mail to the above address.

14. ***Force Majeure.***

a. If a strike, flood, act of God, or other circumstance beyond A&M's control which A&M by the exercise of all reasonable diligence is unable to prevent, prevents A&M from complying with any time limit imposed in this Consent Order and Agreement, then A&M may petition the Department for an extension of time. Neither an increase in the cost of performing the obligations set forth in this Consent Order and Agreement nor A&M's economic inability to comply with any of the obligations of this Consent Order and Agreement qualifies as circumstance beyond A&M's control.

b. A&M will only be entitled to the benefits of this paragraph if it notifies the Department within five (5) business days by telephone and within ten (10) business 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, an affidavit from an authorized individual specifying the reasons for the delay, the expected duration of the delay and the efforts that have been made and are being made by A&M to mitigate the effects of the event and to minimize the length of the delay. A&M may supplement the initial written submission within ten (10) business days of its submission.

c. The Department will decide whether to grant all or part of the extension requested based on all documentation submitted by A&M and other information available to the Department. In any subsequent litigation, A&M will have the burden of proving that the Department's refusal to grant the requested extension was an abuse of discretion based upon the information available to the Department at the time of the decision.

d. The Department may require modification of this Consent Order and Agreement to document an extension of a time limit under this paragraph.

15. ***Severability.*** The provisions of this Consent Order and Agreement are severable. If any provision of this Consent Order and Agreement is held to be unenforceable by an authority with proper jurisdiction in the matter, that provision is severed, and the remainder of this Consent Order and Agreement will remain binding upon the parties.

16. ***Entire Agreement.*** This Consent Order and Agreement constitutes the entire agreement between the parties and supersedes and integrates all prior discussions, agreements, and understandings pertaining to the agreement. No prior or contemporaneous communications or prior drafts will be relevant or admissible for purposes of determining the meaning or extent of any provisions in this Consent Order and Agreement in any litigation or any other proceeding.

17. ***Attorney Fees.*** The parties will 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.

18. ***Modifications.*** No alterations or variations of this Consent Order and Agreement are valid unless they are made in writing and signed by the parties with the same formality as this Consent Order and Agreement.

19. ***Relation to Other Laws.*** A&M agrees that failure to comply with the provisions of paragraph 3 (*Corrective Action*) of this Consent Order and Agreement constitutes a failure to comply with an “enforcement action” as provided in 35 P.S. § 6020.1301.

20. ***Decisions Under Consent Order.***

a. A&M 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, Act of July 13, 1988, P.L. 530, *as amended*, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa.C.S. § 103(a), and Chapters 5A and 7A; or any other provision of law. Except as provided in paragraph 11.c. (*Transfer of Operator or the Site*), in which the Department’s decisions cannot be challenged, the Department agrees that any objection that A&M may have to any such decision may be raised in any court where the Department enforces this Consent Order and Agreement.

b. The Department’s decision to issue or deny the permits contemplated by paragraph 3.d. is not “a decision that the Department makes under the provisions of this Consent Order and Agreement” for the purposes of this paragraph 20.a.

21. **Termination.** A&M's obligations under paragraphs 3, 4, 7, and 11 of this Consent Order and Agreement terminate when the Department notifies A&M in writing that A&M has complied with the requirements of paragraphs 3 and 4, and A&M has paid all civil penalties due under paragraphs 5, 6, and 7 (*Civil Penalty Settlement, Remedies and Stipulated Civil Penalties*).

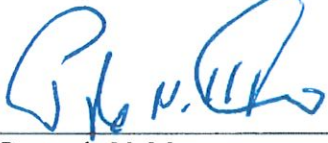
22. **Counterparts.** The Department and A&M may execute this Consent Order and Agreement in counterparts and each signature page, including copies sent to a party by electronic transmission, together constitutes one and the same signature page of this Consent Order and Agreement. A copy of this fully executed Consent Order and Agreement has the same authority and effect as an executed original document.

23. **Signatures.** This Consent Order and Agreement may be signed electronically in accordance with the Pennsylvania Electronic Transactions Act, Act 69 of 1999, 73 P.S. §§ 2260.301 – 2260.312.

The parties are executing this Consent Order and Agreement through their duly authorized representatives. The undersigned representatives of A&M 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 A&M; that A&M consents to the entry of this Consent Order and Agreement as a final ORDER of the Department; and that A&M hereby knowingly waives its rights 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, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa.C.S. § 103(a), and Chapters 5A and 7A; or any other provision of law. Signature by A&M's attorney certifies only that the agreement has been signed after consulting with counsel.

[Remainder of Page Intentionally Left Blank]

FOR A&M COMPOSTING, INC.:



Pasquale N. Mascaro
President



William F. Fox
General Counsel

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION



Carrie A. Fleming
Program Manager
Waste Management Program



Beverly H. Rampaul
Assistant Counsel
Office of Chief Counsel