

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In The Matter Of:

Westmoreland Sanitary Landfill, LLC	:	
Westmoreland Sanitary Landfill	:	Solid Waste Management Act
111 Conner Lane	:	Air Pollution Control Act
Belle Vernon, PA 15012	:	
	:	
Rostraver Township	:	
Westmoreland County	:	
ENF. ID No. <u>412964</u>	:	

**CONSENT ASSESSMENT OF CIVIL PENALTY**

This Consent Assessment of Civil Penalty (“CACP”) is entered into this 14th day of February, 2023, 2022, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”) and the Westmoreland Sanitary Landfill, LLC. (“Sanitary Landfill”).

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 Air Pollution Control Act, Act of January 8, 1960, P.L. 2119 (1959), *as amended*, 35 P.S. §§ 4001-4015 (“Air Pollution Control Act”) and the rules and regulations (“rules and regulations”) promulgated thereunder.

B. Sanitary Landfill is a Delaware limited liability company with a business address of 111 Conner Lane, Belle Vernon, PA 15012, and a “person” as that term is defined in Section 103 of the Solid Waste Management Act, 35 P.S. § 6018.103 and in Section 3 of the Air Pollution Control Act, 35 P.S. § 4003.

C. Sanitary Landfill operates a Residual/Municipal Waste Landfill (“Landfill”) at 111 Conner Lane, Belle Vernon, PA 15012 in Rostraver Township, Westmoreland County pursuant to Waste Management Permit No. 100277 issued by the Department (“Waste Permit”)

D. Sanitary Landfill operates air contamination sources and air cleaning devices at the Landfill subject to the terms and conditions of Title V Operating Permit, TV-65-00767 (“Air Permit”).

**Waste Management Violations**

E. On June 29, 2022 at 9:20 AM the Department conducted an inspection of Sanitary Landfill in response to complaints, made to the Department, alleging odor and dust coming from the Landfill. Observations during the inspection noted a large amount of dust was being generated from the access road leading up to the working face and at the working face of the Landfill. Plumes of dust were actively being generated by every vehicle that drove on the access road to the working face. The dust being generated rose into the sky and was blown eastward off the Landfill property. No landfill odors or tracking of material offsite was observed at the time of inspection.

F. On June 29, 2022 at 6:06 PM the Department conducted an inspection of Sanitary Landfill. The inspector observed the following during the inspection:

a. The inspector detected landfill odors present on Lenity School Road, near the rear entrance of the Landfill, at 6:28PM.

b. The gate to the Landfill was not closed during the time of inspection and there were no other barriers restricting access to the Landfill. No attendant was on duty during the time of inspection.

- c. There were many areas where the waste was not covered or was not adequately covered.
- d. The inspector detected a strong odor while traveling to the working face.
- e. The inspector noted a thick layer of heavily pulverized, dusty material was present on the access road, near the working face.

G. On July 5, 2022 at 7:25 PM the Department conducted an inspection of Sanitary Landfill. Observations during the inspection noted:

- a. The gate to the Landfill was not closed during the time of inspection and there were no other barriers restricting access to the Landfill. No attendant was on duty during the time of inspection.
- b. Many of the same areas that were observed in the June 29, 2022 inspection still had waste that was not covered or was not adequately covered.
- c. The inspector detected a strong landfill odor while traveling to the working face.
- d. The inspector detected a slight landfill odor at the intersection of Patton Road and Maria Drive at 8:46 PM.
- e. The inspector noted a thick layer of heavily pulverized, dusty material was present on the access road, near the working face.

H. On July 12, 2022, the Department issued a Notice of Violation (“NOV”) to Sanitary Landfill for violations noted during the June 29, 2022 and July 5, 2022 inspections.

I. As described in Paragraph E, Sanitary Landfill’s failure to maintain the access road to control fugitive dust emissions constitutes a violation of 25 Pa. Code § 273.213(h).

J. As described in Paragraphs F(b) and G(a), Sanitary Landfill's failure to block unauthorized access to the Site when an attendant is not on duty constitutes a violation of 25 Pa. Code § 273.212(a).

K. As described in Paragraphs F(c) and G(b), Sanitary Landfill's failure to place a uniform cover of approved daily cover material on exposed waste at the end of each working day or at the end of every 24 hours constitutes a violation of 25 Pa. Code § 273.232(a) and a violation of the approved Revised Corrective Action Plan (CAP-R), which was required by Paragraph 3.e of the October 7, 2020 Consent Order and Agreement.

L. The violations described in Paragraphs I-K, constitute unlawful conduct under Sections 610(2),(4) and (9) of the SWMA, 35 P.S. § 6018.610(2), (4) and (9), and a public nuisance pursuant to Section 601 of the SWMA, 35 P.S. § 6018.601; and subject Sanitary Landfill to a claim for civil penalties under Section 605 of the SWMA, 35 P.S. § 6018.605.

#### **Air Quality Violations**

M. Section C, Condition 003 of the Air Permit and 25 Pa. Code § 123.2 states that: [a] person may not permit fugitive particulate matter to be emitted into the outdoor atmosphere from a source specified in 123.1(a)(1) -- (9) (relating to prohibition of certain fugitive emissions) if such emissions are visible at the point the emissions pass outside the person's property.

N. Sanitary Landfill's fugitive dust emissions emanating from truck traffic on the Landfill outside Sanitary Landfill's property, as described in Paragraph E, above, constitute a violation of 25 Pa. Code § 123.2.

O. The violation identified in Paragraph N, above, constitutes unlawful conduct under Section 8 of the Air Pollution Control Act, 35 P.S. § 4008, and a public nuisance under

Section 13 of the Air Pollution Control Act, 35 P.S. § 4013, and subjects Sanitary Landfill to a claim for civil penalties under Section 9.1 of the Air Pollution Control Act, 35 P.S. § 4009.1.

After full and complete negotiations of all matters set forth in this CACP and upon mutual exchange of the covenants herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ASSESSED by the Department and AGREED to by Sanitary Landfill as follows:

1. **Assessment.** In resolution of the Department’s claim for civil penalties, which the Department is authorized to pursue under Section 605 of the SWMA, 35 P.S. § 6018.605 and Section 9.1 of the Air Pollution Control Act, 35 P.S. § 4009.1, the Department hereby assesses a civil penalty of **THIRTY-TWO THOUSAND FOUR HUNDRED SEVENTY-FIVE DOLLARS (\$32,475.00)**, which Sanitary Landfill hereby agrees to pay.

2. **Civil Penalty Assessment.** Upon execution of this Consent Assessment of Civil Penalty, Sanitary Landfill shall pay the civil penalty assessed in Paragraph 1. This payment is in settlement of the Department’s claim for civil penalties for the violations and dates set forth in Paragraphs E – O above. The payments, made by corporate check or the like, shall be tendered as follows:

a. For violations set forth in Paragraphs E-G, submittal of a corporate check or the like made payable to “Commonwealth of Pennsylvania, Solid Waste Abatement Fund” in the amount of **THIRTY THOUSAND DOLLARS (\$30,000.00)**, and sent to Lauren Fike, Compliance Specialist, Waste Management, Pennsylvania Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222.

b. For violations set forth in Paragraph N and O, submittal of a corporate check or the like made payable to “Commonwealth of Pennsylvania, Clean Air Fund” in the

amount of **TWO THOUSAND FOUR HUNDRED SEVENTY-FIVE (\$2,475.00)**, and sent to the Air Quality Program Manager, Pennsylvania Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222.

3. **Findings.**

a. Sanitary Landfill agrees that the findings in Paragraphs A through O are true and correct and, in any matter or proceeding involving Sanitary Landfill and the Department, Sanitary Landfill shall not challenge the accuracy or validity of these findings.

b. The parties do not authorize any other persons to use the findings in this CACP in any matter or proceeding.

4. **Reservation of Rights.** The Department reserves all other rights with respect to any matter addressed by this CACP, including the right to require abatement of any conditions resulting from the events described in the Findings. Sanitary Landfill reserves the right to challenge any action which the Department may take but waives the right to challenge the content of this CACP.

IN WITNESS WHEREOF, the parties have caused this CACP to be executed by their duly authorized representatives. The undersigned representatives of Sanitary Landfill certify, under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this CACP on behalf of Sanitary Landfill; that Sanitary Landfill consents to the entry of this CACP as an ASSESSMENT of the Department; that Sanitary Landfill hereby knowingly waives any right to a hearing under the statutes referenced in this CACP; and that Sanitary Landfill hereby knowingly waives its right to appeal this CACP, which rights may be available under Section 4 of the Environmental Hearing Board Act, the Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a); and Chapters 5A and 7A, or

any other provision of law. Signature by Sanitary Landfill's attorney certifies only that the agreement has been signed after consulting with counsel.

**FOR WESTMORELAND  
SANITARY LANDFILL, LLC:**

**FOR THE COMMONWEALTH OF  
PENNSYLVANIA, DEPARTMENT OF  
ENVIRONMENTAL PROTECTION:**

Signature

*Rich Walton*

*Sharon Svitek*

Rich Walton  
Authorized Representative for  
Westmoreland Sanitary Landfill, LLC


Sharon Svitek  
Regional Program Manager

*Clifford Levine*  
Clifford Levine  
Attorney for Westmoreland  
Sanitary Landfill, LLC

*John Herman*  
John H. Herman  
Regional Counsel

*Chris A. Wissler*  
PA ID 82313

**PENNSYLVANIA DEPARTMENT OF STATE  
BUREAU OF CORPORATIONS AND CHARITABLE ORGANIZATIONS**

<input type="checkbox"/> Return document by mail to:  <hr/> Name  <hr/> Address  <hr/> City <span style="margin-left: 100px;">State</span> <span style="margin-left: 100px;">Zip Code</span>  <input checked="" type="checkbox"/> Return document by email to: <u>Jschwalbe@NobleEnviro.com</u>	Certificate of Limited Liability Company Authority DSCB:15-8832 (2/2017)   8832
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Read all instructions prior to completing.

Fee: \$70

In compliance with the requirements of the applicable provisions of 15 Pa.C.S. § 8832 (relating to certificate of authority), the undersigned limited liability company, desiring to effect a certificate of authority (or amendment or cancellation thereto) hereby states that:

**I. Required fields for Certificate, Amendment or Cancellation**

1. The name of the limited liability company is: Westmoreland Sanitary Landfill LLC

2. The current registered office address as on file with the Department of State. *Complete part (a) OR (b) – not both:*

(a) <u>111 Connor Lane</u>	<u>Belle Vernon</u>	<u>PA</u>	<u>15012</u>	<u>Westmoreland</u>
Number and street	City	State	Zip	County

(b) c/o: \_\_\_\_\_  
Name of Commercial Registered Office Provider County

**II. Certificate of Company Authority Only**

1. All persons holding the following position (e.g., Managing Member, Manager) Richard Walton, President with respect to the company has the authority to do the following: *Check all that apply. For additional positions, attach additional pages as needed.*

Sign an instrument transferring real property held in the name of the company. Other specification or limitation may be provided. *Additional pages may be attached as needed.*

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Enter into other transactions on behalf of, or otherwise act for or bind, the company. Other specification or limitation may be provided. *Additional pages may be attached as needed.*

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2. The following named person (i.e., John Smith) \_\_\_\_\_ has the authority to do the following: *Check all that apply. For additional persons, attach additional pages as needed.*

Sign an instrument transferring real property held in the name of the company. Other specification or limitation may be provided. *Additional pages may be attached as needed.*

\_\_\_\_\_  
\_\_\_\_\_

Enter into other transactions on behalf of, or otherwise act for or bind, the company. Other specification or limitation may be provided. *Additional pages may be attached as needed.*

\_\_\_\_\_  
\_\_\_\_\_

**III. Amendment to Certificate of Company Authority**

If amending a Certificate of Authority previously filed in the Department of State, check the box below and complete the following:

The Certificate of Company Authority that became effective on \_\_\_\_\_ is amended.  
Date (MM/DD/YYYY)

The contents of the amendment are stated below. *Additional pages may be attached as needed.*

\_\_\_\_\_  
\_\_\_\_\_

**IV. Cancellation of Certificate of Company Authority**

If cancelling a Certificate of Authority previously filed in the Department of State, check the box below and complete the following.

The Certificate of Company Authority that became effective \_\_\_\_\_ is cancelled.  
Date (MM/DD/YYYY)

IN TESTIMONY WHEREOF, the undersigned has caused this Certificate of Company Authority to be signed by a person duly authorized by the company thereof this   3   day of   January  , 20  23  .

Westmoreland Sanitary Landfill LLC

\_\_\_\_\_  
Name of Limited Liability Company

*John Schwalbe*

\_\_\_\_\_  
Signature

Manager

\_\_\_\_\_  
Title

**Pennsylvania Department of State**  
**Bureau of Corporations and Charitable Organizations**  
P.O. Box 8722  
Harrisburg, PA 17105-8722  
(717) 787-1057  
Website: [www.dos.pa.gov/corps](http://www.dos.pa.gov/corps)

## General Information

Typewritten is preferred. If handwritten, the form must be legible and completed in black or blue-black ink in order to permit reproduction. The nonrefundable filing fee for this form is \$70.

Checks should be made payable to the Department of State. Checks must contain a commercially pre-printed name and address.

This form and all accompanying documents, including any necessary governmental approvals, shall be mailed to the address stated above.

### Who should file this form?

This form may be used by a limited liability company to set forth, amend or cancel company authority. With the exception of manager-managed limited liability companies identified as such in their certificates of organization, other law – especially the common law of agency – determines the apparent authority to bind a limited liability company. This apparent authority may be altered by the filing or recording of a Certificate of Company Authority under 15 Pa.C.S. § 8832, which establishes the mechanics for and the legal effect of filing or recording a Certificate of Company Authority.

### Applicable Law

For relations of members and managers to persons dealing with limited liability company, in general, see 15 Pa.C.S. §§ 8831-8835. Statutes are available on the Pennsylvania General Assembly website, [www.legis.state.pa.us](http://www.legis.state.pa.us), by following the link for Statutes.

## Form Instructions

Enter the name and mailing address to which any correspondence regarding this filing should be sent. This field must be completed for the Bureau to return the filing. If the filing is to be returned by email, an email address must be provided. An email will be sent to address provided, containing a link and instructions on how a copy of the filed document or correspondence may be downloaded. Any email or mailing addresses provided on this form will become part of the filed document and therefore public record.

**Section I.** is required whether setting forth, amending or cancelling company authority. To state company authority, complete **Section I** and **Section II**. To amend company authority, complete **Section I** and **Section III**. To cancel company authority, complete **Section I** and **Section IV**. Do not complete any combination of **Section II, III, or IV**.

**Section I.** This field is always required.

**I. 1.** Give the exact name of the limited liability company. The name on this line must match exactly the company name as on file with the Department at the time the Certificate of Company Authority is submitted for filing. **This field is required.**

**I. 2.** Current address. The address provided must be the company's registered office address on file with the Department of State at the time the Certificate of Company Authority is submitted for filing. **This field is required.**

Post office boxes are not acceptable for any address. Under 15 Pa.C.S. § 135(c) (relating to addresses) an actual street or rural route box number must be used as an address, and the Department of State is required to refuse to receive or file any document that sets forth only a post office box address.

**Section II.** This field is required in addition to **Section I** only if the company is stating company authority.

**II. 1.** This field is required if the company is delegating authority to a position, rather than a specific person. List the title of the position that will possess the delegated authority. Check one or both boxes indicating which authority will be delegated to the listed position. Other specifications or limitations may be provided, per the company's preference. Additional pages may be attached as needed. If the company would like to delegate authority to multiple positions, attach additional pages as needed.

**II. 2.** This field is required if the company is delegating authority to a specific individual, rather than a position. Provide the name of the individual that will possess the delegated authority. Check one or both boxes indicating which authority will be delegated to the listed individual. Other specifications or limitations may be provided, per the company's preference. Additional pages may be attached as needed. If the company would like to delegate authority to multiple individuals, attach additional pages as needed.

**Section III.** This field is required in addition to **Section I** only if the company is amending a Certificate of Company Authority which is already on file with the Department of State.

Check the box. List the date that the Certificate of Company Authority that is being amended became effective. List verbatim, the content of the amendment. Additional pages may be attached as needed.

**Section IV.** This field is required in addition to **Section I** only if the company is canceling a Certificate of Company Authority which is already on file with the Department of State.

Check the box. List the date that the Certificate of Company Authority that is being canceled became effective.

**Signature and Verification**

An authorized representative of the limited liability company must sign the Certificate of Company Authority (or amendment or cancellation thereto). Signing a document delivered to the Department for filing is an affirmation under the penalties provided in 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) that the facts stated in the document are true in all material respects. **This field is required.**

**Pennsylvania Department of State**  
Bureau of Corporations and Charitable Organizations  
PO Box 8722 | Harrisburg, PA 17105-8722  
T: 717-787-1057  
dos.pa.gov/BusinessCharities

**Regarding:** Westmoreland Sanitary Landfill LLC  
**Request Type:** Certificate of Registration **Issuance Date:** December 30, 2022  
**Request No.:** 007178528 **File No:** 0004325791  
**Receipt No.:** 311409  
**Filing Type:** Foreign Limited Liability Company  
**Filing Subtype:** Limited Liability Company  
**Initial Filing Date:** January 28, 2015  
**Status:** Active

**TO ALL WHOM THESE PRESENTS SHALL COME, GREETING:**

I DO HEREBY CERTIFY THAT

Westmoreland Sanitary Landfill LLC

is a foreign association duly registered to do business in this Commonwealth as of the issuance date herein.

I DO FURTHER CERTIFY THAT this Certificate of Registration shall not imply that all fees, taxes and penalties owed to the Commonwealth of Pennsylvania are paid.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the seal of my office to be affixed, the day and year above written.

*Leigh M. Chapman*

**Leigh M. Chapman**  
Acting Secretary of the Commonwealth

Verify this certificate online at [www.file.dos.pa.gov](http://www.file.dos.pa.gov)