

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In The Matter Of:

Westmoreland Sanitary Landfill LLC	:	
111 Conner Lane	:	
Belle Vernon, PA 15012	:	Solid Waste Management Act
Rostraver Township	:	
Westmoreland County	:	
ENF. ID No. _____	:	

**CONSENT ASSESSMENT OF CIVIL PENALTY**

This Consent Assessment of Civil Penalty ("CACP") is entered into this 28<sup>th</sup> day of April 2021, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department") and Westmoreland Sanitary Landfill LLC ("Sanitary").

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"); and the rules and regulations promulgated thereunder.
- B. Sanitary is a Delaware limited liability company with a registered corporate mailing address of 111 Conner Lane, Belle Vernon, PA 15012.
- C. Sanitary owns and operates a solid waste disposal facility ("Landfill") pursuant to Waste Management Permit No. 100277 issued by the Department, located at 111 Conner Lane, Belle Vernon, PA 15012, Westmoreland County ("Site").
- D. Pursuant to 25 Pa. Code § 273.213(h);
  - (h) An access road shall be maintained to control dust and to prevent or control the tracking of mud on and off the site.

E. On December 2, 2020, the Department conducted an inspection of the Site. At the intersection of Grand Blvd and Tyrol Blvd, off-site tracking of mud from the Landfill was present from the landfill entrance to Johnson Avenue.

F. On December 22, 2020, the Department received photographs from Rostraver Township officials, documenting the tracking of mud from the Landfill onto Tyrol Blvd at the Landfill entrance on that date.

G. On December 23, 2020, the Department conducted an inspection of the site. Off-site tracking of mud from the Landfill was present on Tyrol Blvd in the Northbound lane, north of the facility entrance. Off-site tracking of mud was also present on Tyrol Blvd in the Southbound lane, south of the facility entrance.

H. On December 28, 2020, the Department conducted an inspection of the Site. Off-site tracking of mud was present at the Landfill entrance/exit on Tyrol Blvd. Tracking was evident in the northbound lane, north of the facility entrance and in the southbound lane, south of the facility entrance. Tracking was present over roughly one-half mile in both directions.

I. On December 29, 2020, the Department conducted an inspection of the site. Off-site tracking of mud from the Landfill was present on Tyrol Blvd, with tracked mud present in the Southbound lane of Tyrol from the entrance/exit on Tyrol Blvd to the stop sign intersection with Pricedale Road.

J. On December 30, 2020, the Department conducted an inspection of the Site. Offsite tracking of mud was present from the Landfill entrance/exit onto Tyrol Blvd, continuing in the Southbound lane of Tyrol Blvd. from the entrance/exit to the stop sign at Pricedale Road.

K. On January 2, 2021, the Department received photographs from Rostraver Township officials, documenting the tracking of mud from the Landfill onto Tyrol Blvd at the Landfill entrance on that date.

L. On January 6, 2021, the Department conducted an inspection of the site. Muddy water was flowing down the Landfill access road and onto Tyrol Blvd. Tracking of mud from the Landfill was evident in the northbound lane, north of the facility entrance and in the southbound lane, south of the facility entrance.

M. On January 8, 2021, the Department conducted an inspection of the site. Mud tracked from the Landfill extended approximately 1/4-mile from the facility entrance/exit. Tracking was visible in both the northbound and southbound lanes.

N. On January 21, 2021, the Department conducted an inspection of the site. Some off-site tracking of mud from the Landfill was visible in both directions exiting the landfill onto Tyrol Blvd.

O. On February 2, 2021, the Department received photographs from Rostraver Township officials, documenting the presence of mud tracked from the Landfill onto Tyrol Blvd at the Landfill entrance on that date.

### **VIOLATIONS**

P. Between December 2, 2020 and February 2, 2021, on at least 11 occasions, Sanitary allowed the tracking of dirt and mud off-site onto Tyrol Boulevard in violation of Section 25 Pa. Code 273.213(h) of the Department's Regulations and Sections 610(4) and (9) of the SWMA, 35 P.S. §§ 6018.610(4) and (9). This was also in violation of Paragraph 3.a.(ii) of the October 7, 2020 Consent Order Agreement, executed with Sanitary.

Q. The violations described in Paragraph P constitute unlawful conduct under Section 610 of the SWMA, 35 P.S. § 6018.610; a public nuisance pursuant to Section 601 of the SWMA, 35 P.S. § 6018.601, and subject Sanitary to a claim for civil penalties under Section 605 of the SWMA, 35 P.S. § 6018.605.

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 by Sanitary 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; the Department hereby assesses a civil penalty of TWENTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$27,500.00), which Sanitary hereby agrees to pay.

2. **Civil Penalty Settlement.** Within ten (10) days of complete execution of this CACP, Sanitary 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 set forth in Paragraph P, for the dates set forth therein. The payment shall be by corporate check or the like, made payable to "Commonwealth of Pennsylvania, Solid Waste Abatement Fund" and sent to Sharon Svitek, Regional Program Manager, Waste Management, Pennsylvania Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

3. **Findings.**

a. Sanitary agrees that the findings in Paragraphs A through Q are true and correct and, in any matter or proceeding involving Sanitary and the Department, Sanitary 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. **Remedies.** In the event Sanitary fails to make any payment required by this CACP, 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 CACP as a lien in any county in this Commonwealth.

5. **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 reserves the right to challenge any action which the Department may take but waive the right to challenge the content or validity of this CACP.

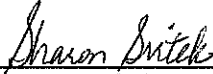
IN WITNESS WHEREOF, the parties have caused this CACP to be executed by their duly authorized representatives. The undersigned representatives of Sanitary certify, under penalty of law, as provided by 18 Pa. C. S. § 4904, that they are authorized to execute this CACP on behalf of Sanitary, that Sanitary consents to the entry of this CACP as an ASSESSMENT of the Department; that Sanitary hereby knowingly waives any right to a hearing under the statutes referenced in this CACP; and that Sanitary knowingly waives all rights 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, 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's attorney(s) certifies only that the agreement has been signed after consulting with counsel.

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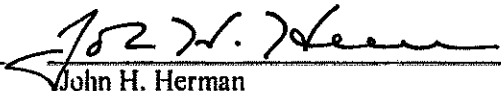
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LANDFILL, LLC:**

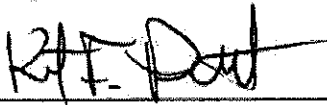
  
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Signature  
Name (print) Richard Walton  
Title: President

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

  
\_\_\_\_\_  
Sharon Svitek  
Regional Manager  
Waste Management

\_\_\_\_\_  
Signature  
Name (print) \_\_\_\_\_  
Title: \_\_\_\_\_

  
\_\_\_\_\_  
John H. Herman  
Regional Counsel

  
\_\_\_\_\_  
Signature  
Name (print) KIT E. PETTIT, BERNSTEIN-BURKLEY, P.C.  
Attorney for Westmoreland Sanitary  
Landfill, LLC (or initials indicating waiver  
of right to attorney review)