

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In The Matter Of:

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

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement ("COA") is entered into this 28th day of April 2021, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department"), Westmoreland Sanitary Landfill LLC ("Sanitary"), and County Hauling, LLC ("County Hauling").

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 Waste Transportation Safety Act, Act of June 29, 2002, P.L. 596, 27 Pa C.S.A. §§ 6201-6209 ("WTSA"); 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. County Hauling, LLC 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, and County Hauling owns and operates a waste transportation company, both located at 111 Conner Lane, Belle Vernon, PA 15012, Westmoreland County (“Site”). County Hauling transports solid waste in Pennsylvania.

D. Pursuant to 27 Pa C.S.A. § 6204(a) of the WTSA, it is unlawful for a transporter to operate a waste transportation vehicle without obtaining written authorization from the Department.

E. Pursuant to 27 Pa C.S.A. § 6206 of the WTSA, no disposal facility shall accept municipal or residual waste from a waste transportation vehicle without a current authorization sticker issued by the Department.

VIOLATIONS

F. Between December 31, 2018 and July 3, 2019, on numerous occasions County Hauling used two trucks to transport waste to the Landfill for disposal without valid Act 90 authorizations, and Sanitary accepted such vehicles for disposal of their waste. Specifically, County Hauling used Truck #RL02, a 2019 Freightliner, Vehicle Identification Number 1FVHCYFE6KHJZ5297, PA License # ZPC-8320 and Truck #RL12, a 2018 Freightliner, Vehicle Identification Number 1FVHCYFE8JHJM9808, PA License # ZPC-8321 to transport municipal waste to the Landfill on these occasions without valid Act 90 Waste Hauler Authorization. County Hauling is a “transporter,” and these vehicles were engaged in “waste transportation” at the times set forth above, as those terms are utilized in 27 Pa C.S.A. §§ 6204(a) and 6206 of the WTSA.

G. The violations described in the preceding Paragraph F constitute unlawful conduct under 27 Pa C.S.A. § 6204(a) of the WTSA, and subject Sanitary and County Hauling to a claim for civil penalties under 27 Pa C.S.A. § 6208(b) of the WTSA.

H. The Department has calculated a proposed civil penalty in the amount of FORTY THOUSAND DOLLARS (\$40,000) for the violations described in Paragraph F.

I. Pursuant to the Department's "Policy for the Acceptance of Community Environmental Projects in Conjunction with Assessment of Civil Penalty," Sanitary has asked the Department to accept a civil penalty in the amount of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) while in addition funding a Community Environmental Project ("CEP" or "Project") valued at FIFTEEN THOUSAND DOLLARS (\$15,000.00), as follows:

Sanitary and County Hauling shall provide free landfill disposal capacity and waste transportation services for cleanup projects as identified by the Department. Although the CEP is in lieu of a civil penalty of FIFTEEN THOUSAND (\$15,000.00), Sanitary and County Hauling have agreed to provide disposal and hauling services valued at TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) to satisfy the CEP, utilizing pricing as set forth below for each project identified by the Department. The Department has determined that the Project(s) will provide substantial public health, safety, and environmental benefit and that the Project(s) is not something that Sanitary or County Hauling is otherwise legally required to do. The Department has agreed that the value of the Project(s) is at least FIFTEEN THOUSAND DOLLARS (\$15,000.00).

After full and complete negotiations of all matters set forth in this COA 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 and County Hauling as follows:

1. Authority. This Consent Order and Agreement ("COA") is an Order of the Department authorized and issued pursuant to Sections 104(7) and 602 of the SWMA, 35 P.S. §§ 6018.104(7) and 602; and Section 1917-A of the Administrative Code, 71 P.S. § 510-17.

2. Findings.

a. Sanitary and County Hauling agree that the findings in Paragraphs A through I are true and correct and, in any matter or proceeding involving Sanitary or County Hauling and the Department, neither Sanitary nor County Hauling shall challenge the accuracy or validity of these findings.

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

3. Civil Penalty Assessment. In resolution of the Department's claim for civil penalties, which the Department is authorized to pursue under 27 Pa C.S.A. § 6208(b) of the WTSA, the Department hereby assesses a civil penalty of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00). Sanitary and County Hauling shall, jointly and severally, pay the civil penalty within ten (10) days of the date of this Consent Order and Agreement. The payment shall be made by corporate check or the like made payable to "Commonwealth of Pennsylvania, Waste Transportation Safety Account" and sent to Sharon Svitek, Regional Program Manager, Waste Management, 400 Waterfront Drive, Pittsburgh, PA 15222.

4. Community Environmental Project ("CEP"). For a period of up to five (5) years from the date of execution of this Consent Order and Agreement (which may, in writing, be extended unilaterally by the Department for an additional five (5) years), Sanitary and County Hauling shall provide free waste transportation services and landfill disposal capacity for cleanup projects as identified by the Department until such time that the total value of services provided for this CEP amount to TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00). At such time that Sanitary and County Hauling have provided a total value of approved services for this CEP in the amount of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00), the obligations of

Sanitary and County Hauling for this CEP shall be deemed satisfied. All solid waste accepted and disposed as part of this Consent Order and Agreement shall be counted in calculating the maximum and daily average daily per quarter volumes of the respective landfill used for disposal and shall further be handled in accordance with all applicable provisions of the SWMA, 35 P.S. §§ 6018.101 – 6018.1003 and Act 101, 53 P.S. §§ 4000.101 – 4000.1904. Sanitary Landfill shall also be solely responsible for payment of all government and host municipality fees associated with the disposal of said solid waste.

a. Within fourteen (14) days after completion of each transportation and disposal project performed as part of the CEP, Sanitary Landfill shall provide the Department with copies of all landfill receipts associated with the shipment(s) of solid waste and a statement identifying each individual shipment, all transportation and disposal costs associated with each individual shipment and the remaining credit in the funding of the CEP. The statement and landfill receipts shall be forwarded to the Department in accordance with the requirements of Paragraph 10.

b. On a quarterly basis, Sanitary Landfill shall provide the Department with a statement reflecting the total credit remaining in the funding of the CEP. The quarterly statement shall be forwarded to the Department in accordance with the requirements of Paragraph 10.

c. For purposes of its requirement to fund the CEP, solid waste disposal and transportation services shall be valued for the complete term of the CEP to include all applicable government and host municipality fees as set forth below:

Solid waste disposal	\$50.00 per ton
Quartered tire disposal	\$100.00 per ton
Transportation services	\$500.00 per 30 cubic yard roll off container, up to 20 miles from Sanitary

Additional mileage \$10.00 / mile for each additional mile from Sanitary

d. Any services rendered by either Sanitary or County Hauling as part of its obligation to fund the CEP which are not first identified by the Department shall be approved in writing and in advance by the Department's Southwest Regional Waste Management Manager. Any CEP first identified and proposed by the Department to Sanitary and County Hauling shall be deemed as approved by the Department's Southwest Regional Waste Management Manager.

5. Tax Deductibility. Sanitary Landfill and County Hauling shall not deduct any costs incurred in connection with or in any way associated with the Community Environmental Project described in Paragraph 4 for any tax purpose or otherwise obtain favorable tax treatment for those costs. If requested to do so by the Department, Sanitary and County Hauling shall submit an affidavit of the corporate officer responsible for the financial affairs of both Sanitary and County Hauling certifying that neither Sanitary nor County Hauling have deducted or otherwise obtained favorable tax treatment of any of the costs of the Community Environmental Project.

6. Publicity About the Project. Sanitary and County Hauling agree that whenever either publicizes, in any way, the Project, it will state that the Project was undertaken as part of the settlement of an enforcement action with the Department.

7. Completion of Project. Within 10 days of the completion of the Project(s) with an aggregate value of services in the amount of \$25,000.00, Sanitary and County Hauling shall submit to the Department an affidavit of the corporate official or management-level employee responsible for overseeing the Project. The affidavit shall contain a certification that the Project(s) is complete and a statement setting forth all costs incurred in completing the Project(s).

8. Remedies. In the event Sanitary or County Hauling fail to make any payment required by Paragraph 3 of this Agreement, all remaining payments shall immediately be due and payable. In the event that Sanitary or County Hauling fails to complete the Community Environmental Project required by Paragraph 4, Sanitary and County Hauling shall pay a stipulated penalty in the amount of FIFTEEN THOUSAND DOLLARS (\$15,000.00). In either event, the Department may pursue any remedy available for failure to pay a civil penalty, including the filing of this Agreement as a lien in any county in this Commonwealth.

9. Liability of Operator. Sanitary and County Hauling shall be liable for any violations of the Consent Order and Agreement, including those caused by, contributed to, or allowed by their officers, agents, employees, or contractors. Sanitary and County Hauling also shall be liable for any violation of this Consent Order and Agreement caused by, contributed to, or allowed by their successors and assigns.

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

Sharon Svitek, Environmental Program Manager
Waste Management
400 Waterfront Drive
Pittsburgh, PA 15222
412-442-4000

11. Correspondence with Sanitary and/or County Hauling. All correspondence with Sanitary and/or County Hauling concerning this Consent Order and Agreement shall be addressed to:

Rich Walton, President
Westmoreland Sanitary Landfill, LLC
111 Conner Lane
Belle Vernon, PA 15012
724-665-1002
610-698-9291 cell

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

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

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

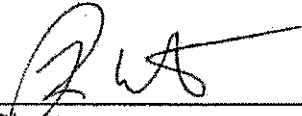
14. Modifications. No changes, additions, modifications, or amendments of this Consent Order and Agreement shall be effective unless they are set out in writing and signed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Consent Order and Agreement to be executed by their duly authorized representatives. The undersigned representatives of Sanitary and County Hauling 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 Sanitary and County Hauling; that Sanitary and County Hauling consent to the entry of this Consent Order and Agreement as a final ORDER of the Department; and that Sanitary and County Hauling hereby knowingly waive all 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, Act of July 13, 1988, P.L. 530, 35 P.S. § 7514; the

Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provisions of law. Signature by Sanitary and County Hauling's attorney(s) certifies only that the agreement has been signed after consulting with counsel.


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**FOR WESTMORELAND SANITARY
LANDFILL, LLC:**



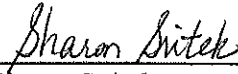
Signature
Name (print) Richard Walton
Title: President

Signature
Name (print) _____
Title: _____

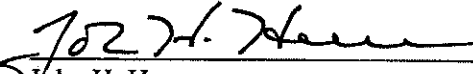


Signature
Name (print) KIT F. PETTIT, BERNSTEIN-BURKLEY, P.C.
Attorney for Westmoreland Sanitary Landfill, LLC
(or initials indicating waiver of right to attorney review)

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

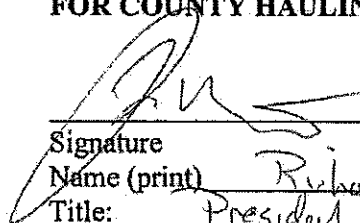


Sharon Svitek
Regional Manager
Waste Management



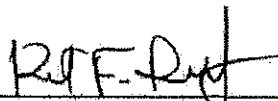
John H. Herman
Regional Counsel

FOR COUNTY HAULING, LLC:



Signature
Name (print) Richard Walton
Title: President

Signature
Name (print) _____
Title: _____



Signature
Name (print) KIT F. PETTIT, BERNSTEIN-BURKLEY, P.C.
Attorney for County Hauling, LLC
(or initials indicating waiver of right to attorney review)