

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

IN THE MATTER OF:

Advanced Disposal Services Chestnut Valley Landfill, LLC	:	
Solid Waste Permit #100419	:	
	:	Solid Waste Management Act
German Township	:	
Fayette County	:	
Enf. ID # 386255	:	

**CONSENT ASSESSMENT OF CIVIL PENALTY**

This Consent Assessment of Civil Penalty (“CACP”) is entered into this 3rd day of ~~July~~ August, 2020, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”) and Advanced Disposal Services Chestnut Valley Landfill, LLC.

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, the Act of July 7, 1980, P.L. 380, *as amended*, 35 P.S. §§ 6018.101 – 6018.1003 (“SWMA”); and the rules and regulations (“rules and regulations”) promulgated thereunder.

B. Advanced Disposal Services Chestnut Valley Landfill, LLC is a limited liability company, with a local mailing address at P.O. Box 266, McClellandtown, PA 15458 (hereinafter “ADS”). ADS is the owner and operator of a municipal waste landfill located in German Township, Fayette County (“Landfill”), operating under the authority of Permit No. 100419 reissued by the Department on September 16, 2011 (“Permit”).

C. ADS is a “person” as that term is defined in Section 103 of the SWMA, 35 P.S. § 6018.103.

D. Pursuant to Sections 610(2), (7) and (9) of the Solid Waste Management Act, SWMA, 35 P.S. §§ 6018.610(2), (7) and (9), “It shall be unlawful for any person or municipality to:

(2) Construct, alter, operate or utilize a solid waste ... disposal facility in violation of the rules or regulations adopted under this act, or ...in violation of any term or condition of any permit issued by the department.

(7) Refuse, hinder, obstruct, delay, or threaten any agent or employee of the department in the course of performance of any duty under this act, including, but not limited to, entry and inspection under any circumstances.

(9) Cause or assist in the violation of any provision of this act, any rule or regulation of the department, any order of the department or any term or condition of any permit.”

E. Pursuant to 25 Pa. Code § 273.201(c)(2) of the Department’s Municipal Waste Regulations, “a person or municipality that operates a municipal waste landfill shall comply with the following:

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

F. Pursuant to 25 Pa. Code § 273.218(b)(1) of the Department’s Municipal Waste Regulations; “*Odors*. An operator shall implement the plan approved under § 273.136 (relating to nuisance minimization and control plan) to minimize and control public nuisances from odors.”

## **VIOLATIONS**

G. On January 24, 2019, the Department conducted a routine inspection of the Landfill, pursuant to its duties under the SWMA. The Department arrived at the Landfill at approximately 3:00 PM. On January 24, 2019, the following violations occurred:

1. ADS failed to meet the operational standards set forth in Solid Waste Permit No. 100419. Specifically, ADS did not conduct and properly record twice-daily off-site odor monitoring surveys during operations (AM & PM) on January 24, 2019, in violation of ADS' nuisance minimization and control plan, the Permit, and 25 Pa. Code §§ 273.201(c)(2) and 273.218(b)(1).

2. The Department reviewed an odor survey record that ADS provided for the Department's review that was signed by John Nock – then ADS Site Manager, which contained inaccurate and false information regarding the completion of odor survey activities on the afternoon of January 24, 2019. ADS's preparation of an inaccurate odor survey record violated Section 1.3 "Record Keeping and Reporting" of its nuisance minimization and control plan, the Permit, and 25 Pa. Code §§ 273.201(c)(2) and 273.218(b)(1). The preparation of a false odor survey record by ADS Site Manager John Nock constitutes obstruction of the Department in the course of its performance of inspecting the Landfill for compliance under the SWMA and the regulations promulgated thereunder, in violation of Sections 610(2), (7) and (9) of the Solid Waste Management Act, SWMA, 35 P.S. §§ 6018.610(2), (7) and (9).

H. ADS has advised the Department that ADS terminated Mr. Nock on February 4, 2019.

I. The violations described in Paragraph G constitute unlawful conduct under Section 610 of the SWMA, 35 P.S. § 6018.610 and a public nuisance pursuant to Section 601 of the SWMA, 35 P.S. § 6018.601 and subject ADS 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 to by ADS 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-FIVE THOUSAND DOLLARS (\$25,000.00), which ADS hereby agrees to pay.

2. **Civil Penalty Assessment.** Within ten (10) days of signing this CACP, ADS 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 G above, for the dates set forth in Paragraph G above. 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, Program Manager, Waste Management, Pennsylvania Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

3. **Findings.**

a. ADS agrees that the findings in Paragraphs A through H are true and correct and, in any matter or proceeding involving ADS and the Department, ADS 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. ADS reserves the right to challenge any

action which the Department may take, but waives 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 ADS certify, under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this CACP on behalf of ADS; that ADS consents to the entry of this CACP as an ASSESSMENT of the Department; that ADS hereby knowingly waives any right to a hearing under the statutes referenced in this CACP; and that ADS 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 ADS's attorney certifies only that the agreement has been signed after consulting with counsel.

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**FOR ADVANCED DISPOSAL SERVICES  
CHESTNUT VALLEY LANDFILL, LLC:**

*s/ Melissa Bachhuber*

Signature

Name (print) Melissa Bachhuber

Assistant Secretary \_\_\_\_\_

Title

*s/ Melissa Bachhuber*

Signature

Name (print) Melissa Bachhuber

Vice President

Title

*s/ Katherine M. Knickelbein*

Signature

Name (print) Katherine M. Knickelbein

Attorney for Advanced Disposal Services

Chestnut Valley Landfill, LLC (or official's initials indicating  
waiver of Right to attorney review)

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

Sharon Svitek

Sharon Svitek

Program Manager

Bureau of Waste Management

John H. Herman

John H. Herman

Regional Chief Counsel

SECRETARY'S CERTIFICATE

On behalf of **ADVANCED DISPOSAL SERVICES CHESTNUT VALLEY LANDFILL, LLC.** (the "Company"), the undersigned does hereby certify in his/her capacity as Secretary of the Company that:

The officers shown below are duly elected or appointed, qualified and acting officers of the Company holding the office indicated below, and each of them is authorized to execute and deliver agreements, documents and written instruments necessary or required in connection with documents in which violations of law are admitted to and all related agreements, documents, certificates and instruments on behalf of the Company.

John Spegal	President
Guy Thompson	Vice President
William Soffera	Vice President
Tammy Wilson	Vice President
Mark Nighbor	Vice President
Jeffrey Everett	Secretary and Vice President
Melissa Bachhuber	Assistant Secretary and Vice President
Steve Del Corso	Treasurer
Bob Chizmar	Assistant Treasurer and Vice President
Zachary Salata	Assistant Treasurer and Vice President

The principal place of business of the Company is 90 Fort Wade Road, Ponte Vedra, Florida 32081.

IN WITNESS WHEREOF, I have executed this Secretary's Certificate on 7/30/2020

Printed Name: Jeffrey Everett

Title: Secretary

STATE OF FLORIDA )  
COUNTY OF ST. JOHNS )

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of JULY, 2020 by Jeffrey Everett  
He/She is personally known to me or has produced a \_\_\_\_\_ driver's license as identification.

NOTARY SEAL

Notary: Donna Kay LaFontaine  
Print Name: Donna Kay LaFontaine  
Notary Public, State of FLORIDA

