

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

EID: 364667

In The Matter Of:

Republic Services of Pennsylvania, LLC : The Clean Streams Law and  
d/b/a Modern Landfill : The Solid Waste Management Act  
4400 Mt. Pisgah Road : NPDES Permit No. PA0046680  
York, PA 17406 : Windsor and Lower Windsor Townships  
: York County

CONSENT ASSESSMENT OF CIVIL PENALTY

This Consent Assessment of Civil Penalty ("CACP") is entered into this 7<sup>th</sup> day of June 2018, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department") and Republic Services of Pennsylvania, LLC, ("Republic").

The Department has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce The Clean Streams Law, the Act of June 22, 1937, P.L. 1987, as amended, 35 P.S. 691.1--691.1001 ("The Clean Streams Law"); the Solid Waste Management Act, Act of July 7, 1980, P.L. 380, *as amended*, 35 P.S. §§ 6018.101-6018.1003 ("SWMA"), 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"); and the rules and regulations promulgated thereunder, and with the delegated authority to administer a permit program, the National Pollutant Discharge Elimination System ("NPDES"), under Section 402 of the Federal Clean Water Act, 33 U.S.C. 1342.

B. Republic is a Limited Liability Company registered to do business in Pennsylvania and has a mailing address of 4400 Mt. Pisgah Road, York, Pennsylvania 17406 in Windsor and

Lower Windsor Townships, York County.

C. Republic does business as Modern Landfill ("Modern") and has registered the name with the Pennsylvania Department of State.

D. Republic owns and operates Modern. Modern is located at 4400 Mt. Pisgah Road, York, Pennsylvania 17406 in Windsor and Lower Windsor Townships, York County.

#### Clean Streams Law Violations

E. Industrial wastewater generated by Modern is treated at an on-site industrial wastewater treatment plant ("Plant"). The discharge from the Plant constitutes industrial waste under sections 301 and 307 of the Clean Streams Law, 35 P.S. §§ 691.301 and 691.307. The authority to discharge industrial waste from the Plant through Outfall 001 and into Kreutz Creek, a water of the Commonwealth, is authorized under the terms and conditions of NPDES Permit No. PA0046680, which was effective on April 21, 2017, and expires on January 1, 2022.

F. All permitted dischargers are required by their NPDES Permits and Sections 301 and 307 of the Clean Streams Law, 35 P.S. §§691.301 and 691.307, to fully comply with the effluent limits set forth in their NPDES Permits.

G. At times between May 2015 and March 2018, Republic discharged wastewater contrary to the terms and conditions set forth in its NPDES Permit. The Discharge Monitoring Report ("DMR") violations are fully listed in Exhibit Number 1, which is attached hereto and incorporated herein by reference.

H. On December 29, 2017, Republic provided notification to the Department of a spill of an estimated 1,000 gallons of partially treated leachate, an industrial waste, from the Plant to the surface of the ground. In its notification, Republic stated that the leachate spill was contained on the surface of the ground, that none of the spill reached waters of the Commonwealth and Republic

was completing cleanup and removal of any accumulated leachate or solids and contaminated soils.

I. On January 2, 2018, the Department responded to a notification from Republic of a discharge of partially treated leachate, an industrial waste, from the Plant to the onsite stormwater collection and conveyance system, an Unnamed Tributary to Kreutz Creek, and to Kreutz Creek, waters of the Commonwealth. During its incident response investigation, Department staff discovered that the leachate discharge was caused by a loss of power to part of the Plant. From the Plant, the leachate discharged to the onsite stormwater collection and conveyance system and flowed in two directions; part of the flow entered stormwater sedimentation pond “G,” and part of the flow discharged to an Unnamed Tributary to Kreutz Creek (“UNT”) and Kreutz Creek, waters of the Commonwealth.

J. On January 3, 2018, the Department conducted a follow-up inspection at Modern to observe the progress of Republic’s cleanup and remediation activities in response to the January 2, 2018, leachate discharge from the Plant to waters of the Commonwealth. During its inspection, the Department observed the following:

- i. A temporary dam was installed in Kreutz Creek for containment of spilled leachate. Republic was in communication with the Department for the installation and operation of the temporary dam and for streambank access along the UNT and in Kreutz Creek.
- ii. Removal of leachate contaminated soil was complete.
- iii. The spilled leachate was allowed to freeze in stormwater pond “G,” the UNT, and Kreutz Creek. Manual removal of the frozen leachate and existing ice was underway.

K. On January 9, 2018, the Department conducted a second follow-up inspection at Modern to observe the progress of Republic's cleanup and remediation activities in response to the January 2, 2018 leachate discharge from the Plant. During its inspection, the Department observed that Republic and its subcontractors had removed the accumulated frozen leachate from the UNT to Kreutz Creek and Stormwater Basin and a peat moss filter was installed along the UNT.

L. On January 16, 2018, the Department received a summary of the cleanup activities for the January 2, 2018 leachate spill from Emergency Response and Training Solutions ("ERTS"), Republic's emergency response contractor. The cleanup summary from ERTS stated that weather conditions were advantageous for allowing the spilled leachate to freeze in place in stormwater pond "G," the UNT, and in Kreutz Creek for manual removal and disposal.

M. On January 25, 2018, the Department received an incident summary and cleanup report from Republic. Republic's summary report stated that of the estimated 47,000 gallons of leachate released, approximately 12,000 gallons of leachate escaped the Plant and up to 4,000 gallons of leachate were discharged to stormwater sedimentation pond "G," the UNT, and to Kreutz Creek. Additionally, Republic's summary report outlined the cleanup, removal and disposal of contaminated soil and leachate (as ice) and included a summary of the installation of new uninterrupted main power control systems and upgraded alarm systems at the Plant.

N. On January 31, 2018, the Department mailed a Notice of Violation ("NOV") for DMR violations of NPDES Permit final effluent limits reported for the months of April, May, June, September, October, and December 2017, and for violations of the Clean Streams Law associated with the January 2, 2018, leachate spill.

O. The violations, as described in Paragraph G, above, were not authorized by permit or regulation and thereby constitutes violations of Republic's NPDES Permit and Sections 401 and

site from operation of the facility.

U. In accordance with 25 Pa. Code §271.411(c)(4), “The Department will assess a civil penalty if a person or municipality operates a municipal waste disposal or processing facility in the following manner: (4) causes or allows surface water or ground water pollution.”

V. The actions and conduct described in Paragraphs H, I and J, above constitute unlawful conduct pursuant to Section 610(1), (2), and (9) of the Solid Waste Management Act, 35 P.S. § 6018.610(1), (2), and (9); constitute a public nuisance pursuant to Section 601 of the SWMA, 35 P.S. § 6018.601; and subject Modern to civil penalty liability pursuant to 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 Republic 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 Solid Waste Management Act, 35 P.S. §6018.605, and Section 605 of The Clean Streams Law, 35 P.S. §691.605, the Department hereby assesses a total civil penalty of \$11,176.00 which Republic hereby agrees to pay.

2. Civil Penalty Settlement. Republic consents to the assessment of the civil penalty assessed in Paragraph 1, above, which shall be paid in full upon signing this CACP. This payment is in settlement of the Department's claim for civil penalties for the violations and dates set forth in Paragraphs G, H, I, and J, above. The payment shall be in the form of two corporate checks, bank checks, certified checks, money orders or the like, with one check in the amount of \$2,500.00, made payable to the Commonwealth of Pennsylvania with a notation of "Solid Waste

Abatement Fund," c/o Carrie A. Fleming, Operations Chief, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, and the second check in the amount of \$8,676.00, made payable to "Commonwealth of Pennsylvania," with a notation of "Clean Water Fund," made payable to Erick M. Ammon, Environmental Protection Compliance Specialist, DEP Clean Water Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.

3. Findings.

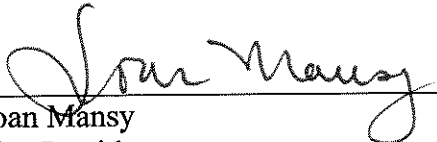
- a. Republic agrees that the findings in Paragraphs A through V are true and correct and, in any matter or proceeding involving Republic and the Department, Republic shall not challenge the accuracy or validity of these findings.
- b. The parties do not authorize any other persons to use the findings 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. Republic 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 Republic certify, under penalty of law, as provided by 18 Pa. C. S. § 4904, that they are authorized to execute this CACP on behalf of Republic, that Republic consents to the entry of this CACP as an ASSESSMENT of the Department; that Republic hereby knowingly waives any right to a hearing under the statutes referenced in this CACP; and that Republic knowingly waives its right to appeal this CACP, 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 provision of law.

FOR REPUBLIC SERVICES  
OF PENNSYLVANIA, LLC:

FOR THE COMMONWEALTH OF  
PENNSYLVANIA, DEPARTMENT OF  
ENVIRONMENTAL PROTECTION:

  
\_\_\_\_\_  
Loan Mansy  
Vice President

\_\_\_\_\_  
Maria D. Bebenek P.E.  
Program Manager  
Clean Water Program

\_\_\_\_\_  
Name  
Secretary or Treasurer

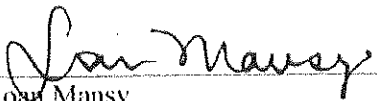
\_\_\_\_\_  
Anthony L. Rathfon  
Program Manager  
Waste Management Program


\_\_\_\_\_  
Name  
Attorney for Republic Services

\_\_\_\_\_  
Beth Liss Shuman  
Supervisory Counsel

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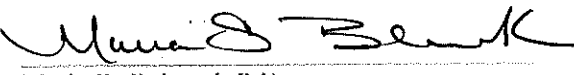
FOR REPUBLIC SERVICES  
OF PENNSYLVANIA, LLC:

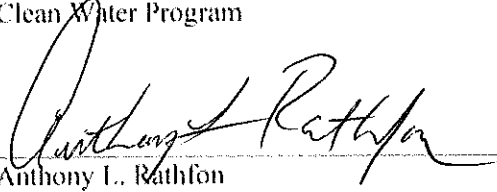
  
Loan Mansy  
Vice President

  
Name: Eileen B. Schuler  
Secretary or Treasurer

\_\_\_\_\_  
Name  
Attorney for Republic Services

FOR THE COMMONWEALTH OF  
PENNSYLVANIA, DEPARTMENT OF  
ENVIRONMENTAL PROTECTION:

  
Maria D. Bebenek P.E.  
Program Manager  
Clean Water Program

  
Anthony L. Rathfon  
Program Manager  
Waste Management Program

  
Beth Liss Shuman  
Supervisory Counsel



**Exhibit 1  
 Modern Landfill  
 PA0046680  
 Windsor and Lower Windsor Townships  
 York County  
 Effluent Limit Violations**

DMR Month	Outfall	Parameter		DMR Result	Permit Limit
May-15	555	Ammonia-Nitrogen	Daily Max	2.39 mg/L	2.0 mg/L
January-16	555	Zinc, Total	Daily Max	0.077 mg/L	0.067 mg/L
February-16	555	Zinc, Total	Ave. Mo.	0.075 mg/L	0.046 mg/L
February-16	555	Zinc, Total	Daily Max	0.11 mg/L	0.067 mg/L
April-17	1	Zinc, Total	Daily Max	0.18 mg/L	0.0998 mg/L
May-17	1	Zinc, Total	Daily Max	0.12 mg/L	0.0998 mg/L
June-17	1	Zinc, Total	Daily Max	0.1 mg/L	0.0998 mg/L
September-17	1	Zinc, Total	Daily Max	0.13 mg/L	0.0998 mg/L
October-17	1	Ammonia-Nitrogen	Daily Max	2.18 mg/L	2.0 mg/L
October-17	1	Osmotic Pressure	Daily Max	450 mOs/kg	183 mOs/kg
October-17	1	Zinc, Total	Ave. Mo.	< 0.1000 mg/L	0.0825 mg/L
October-17	1	Zinc, Total	Daily Max	0.3 mg/L	0.0998 mg/L
December-17	1	Total Phosphorus	Ave. Mo.	2.5 mg/L	2.0 mg/L
January-18	1	Ammonia-Nitrogen	Daily Max	9.8 mg/L	6.0 mg/L
January-18	1	Osmotic Pressure	Ave. Mo.	269 mOs/kg	129 mOs/kg
January-18	1	Osmotic Pressure	Daily Max	283 mOs/kg	183 mOs/kg
January-18	1	p-Cresol	Ave. Mo.	< 0.00279 mg/L	0.00269 mg/L
January-18	1	Total Suspended Solids	Daily Max	23 mg/L	20 mg/L
January-18	1	Total Suspended Solids	Ave. Mo.	17.8 mg/L	10 mg/L
February-18	1	Total Suspended Solids	Ave. Mo.	13.8 mg/L	10 mg/L
February-18	1	Total Suspended Solids	Daily Max	24 mg/L	20 mg/L
February-18	1	Osmotic Pressure	Daily Max	219 mOs/kg	183 mOs/kg
March-18	1	Osmotic Pressure	Daily Max	191 mOs/kg	183 mOs/kg
March-18	1	pH	Maximum	9.31 S.U.	9.0 S.U.

REPUBLIC SERVICES, INC.

BANK OF AMERICA

Check Date

Number

C/O AWIN MGMT INC  
C/O ALLIED WASTE SERVICES  
18500 N. ALLIED WAY  
PHOENIX, AZ 85054

52-153-112

05/08/2018

7294610

PAY *Eight Thousand Six Hundred Seventy Six and 00/100 Dollars*

Amount  
\$ \*\*\*\*\*8,676.00

Void After 180 Days

PAY TO THE ORDER OF COMMONWEALTH OF PENNSYLVANIA  
909 ELMERTON AVE  
HARRISBURG PA 17110-8200

*CL P Bond*  
Authorizing Signature

cc ops

Clean Water Program  
Compliance Check Distribution Form

Name: Republic Services Inc.  
County: York Municipality: Windsor and Lower Windsor Twp.  
Permit No. PA0046680 Efacts Id: EFD: 364667  
Action: CACP (Joint Penalty with Waste Mgmt)  
Date Rcv'd: 5-31-2018 Amount: \$8,676.<sup>00</sup>

GL	COST CENTER	FUND	SHORT DESCRIPTION	AMOUNT
4425012	3544360000	6007200001	Fines & Penalties Clean Water Fund	\$ 8,676 <sup>00</sup>
Total Check Amount				\$ 8,676 <sup>00</sup>

From: *Erick M. Ammon* (Compliance Specialist)



Modern Landfill  
4400 Mt. Pisgah Road  
York, PA 17406

RECEIVED

May 30, 2018

MAY 31 2018

Mr. Erick M. Ammon  
Environmental Protection Compliance Specialist  
Pennsylvania Department of Environmental Protection  
Clean Water Program  
Southcentral Regional Office  
909 Elmerton Avenue  
Harrisburg, PA 17110-8200

DEP SOUTHCENTRAL OFFICE  
CLEAN WATER PROGRAM

RE: Consent Assessment of Civil Penalty Settlement  
Modern Landfill  
NPDES Permit No. PA0046680  
Windsor and Lower Windsor Townships, York County

Dear Mr. Ammon:

On behalf of Republic Services of Pennsylvania, LLC (Republic Services), this letter responds to the Department's offer of settlement outlined in your letter dated April 6, 2018. The Department proposed a civil penalty in the amount of \$11,176.00 and based the proposed penalty on the factors set forth in 35 P.S. §6018.605 (Solid Waste Management Act) and §691.605 (Clean Streams Law). They include willfulness of the violations, damage to Commonwealth waters, compliance history and Department costs.

In order to settle the violations presented in the Department's Consent Assessment of Civil Penalty, dated April 6, 2018, and in an effort to avoid litigation, Republic Services agrees to pay the civil penalty assessed by the Department in the amount of \$11,176.00. Two checks totaling the amount are enclosed with this letter.

Republic Services appreciates the continued cooperation that the Department provides for Modern Landfill. We continue to strive to make the site an environmentally focused facility that complies with all applicable Department rules and regulations.

If you have any questions or comments, please feel free to contact me at (610) 223-0922 or at [kschmit@republicservices.com](mailto:kschmit@republicservices.com).

Sincerely,

A handwritten signature in black ink that reads "Karl Schmit".

Karl Schmit, PE  
Engineering and Environmental Manager  
Northeast Area

cc: Tim O'Donnell (Republic)  
Judith George (Republic)