

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In The Matter Of:

Westmoreland Sanitary Landfill, LLC	:	
d/b/a Westmoreland Sanitary Landfill	:	
111 Conner Lane	:	
Belle Vernon, PA 15012	:	Solid Waste Management Act
	:	Clean Streams Law
Rostraver Township,	:	Air Pollution Control Act
Westmoreland County	:	
	:	
ENF. ID No. _____	:	

**CONSENT ORDER AND AGREEMENT**

This Consent Order and Agreement is entered into this 1st day of November, 2023, 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 Clean Streams Law, the Act of June 22, 1937, P.L. 1987, *as amended*, 35 P.S. §§ 691.1-691.1001 (Clean Streams Law); the Air Pollution Control Act of January 8, 1960, P.L. 2119 (1959), *as amended*, 35 P.S. §§ 4001-4015 (Air Pollution Control Act); Section 1917-A of the Administrative Code, the Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S. § 510-7 (Administrative Code); and the rules and regulations promulgated thereunder. Pursuant to a delegation from the United States Environmental Protection Agency, the Department also administers the National Pollutant Discharge Elimination System (“NPDES”) program of the Federal Water Pollution Control Act, 33 U.S.C. § 1342.

B. Sanitary Landfill is a Delaware limited liability company with a business address of 111 Conner Lane, Belle Vernon, PA 15012, and is a “person” as that term is defined in Section 103 of the Solid Waste Management Act, 35 P.S. § 6018.103, Section 1 of The Clean Streams Law, 35 P.S. § 691.1, and 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 No. TV-65-00767 (Air Permit).

E. All dischargers of industrial waste must first obtain a permit from the Department to discharge industrial waste in any manner, directly or indirectly, into waters of the Commonwealth pursuant to Sections 301 and 307 of The Clean Streams Law, 35 P.S. §§ 691.301 and 691.307.

F. Pursuant to Section 92a.1(b) of the Regulations, 25 Pa. Code § 92a.1(b), a person may not discharge pollutants from a point source into surface waters except as authorized under an NPDES permit.

G. Pursuant to Section 92a.9 of the Regulations, 25 Pa. Code § 92a.9, an NPDES permit is the discharge permit for purposes of Section 307 of The Clean Streams Law, 35 P.S. § 691.307.

H. On January 31, 2013, the Department issued NPDES permit PAR506110 (NPDES Permit) authorizing Sanitary Landfill to discharge stormwater associated with industrial activities from the Landfill to an Unnamed Tributary to Speers Run. The unnamed tributary to Speers Run

is a “water of the Commonwealth” as that term is defined by Section 1 of The Clean Streams Law, 35 P.S. § 691.1.

I. On December 20, 2019, Sanitary Landfill submitted an Application for a Minor Permit Modification to the Department presenting: (a) a revised Leachate Management Plan for the Landfill to identify leachate evaporation as the primary method of disposal and offsite trucking as an interim and backup method of disposal, and (b) a revised configuration of the future Landfill access road to facilitate leachate management equipment.

J. Pursuant to a request by the Department for Sanitary Landfill to withdraw the December 20, 2019 Application for Minor Permit Modification, on January 9, 2020, Sanitary Landfill submitted a request to withdraw the Minor Permit Modification submitted on December 20, 2019.

K. On February 13, 2020, the Department and Sanitary Landfill entered into a Consent Order and Agreement (February 2020 COA) setting forth, among other things, certain requirements of the Application for a Minor Permit Modification for a revised Leachate Management Plan.

L. On or about February 19, 2020, Sanitary Landfill submitted a revised Application for Minor Permit Modification (February 2020 Minor Permit Modification Application) proposing to install a leachate pre-treatment system and evaporator at the Landfill as its primary method of landfill leachate disposal and for the limited or intermittent use of vehicular transportation of leachate to an off-site treatment facility for disposal of any excess leachate.

M. In conjunction with and on a parallel trajectory to the February 2020 Minor Permit Modification Application, Sanitary Landfill submitted an Air Quality Plan Approval Application (PA-65-00767C) to the Department on October 9, 2019 addressing the emissions for the leachate

evaporation equipment proposed as part of the February 2020 Minor Permit Modification Application. On November 5, 2019, the Department deemed the application administratively complete but with certain technical deficiencies.

N. On May 12, May 13 and May 14 of 2020, Sanitary Landfill published a Notice of Intent to issue the Air Plan Approval in the Mon Valley Independent.

O. Following publication and during the 30-day public comment period, the Department received significant comments regarding the Air Quality Plan Approval Application.

P. On July 23, 2022, the Department published a Notice of Intent to Issue Air Quality Plan Approval (PA-65-00767C) and Notice of Public Hearing in the Pennsylvania Bulletin. Public hearings were held on August 31, 2022 in Rostraver Township, Pennsylvania and via Webex on September 1, 2022.

Q. The February 2020 COA required Sanitary Landfill, amongst other things, to:

1. Decrease the size of the working face of the Landfill to reduce leachate generation.

2. Submit agreements for the facilities authorized to accept leachate from the Landfill.

3. Submit an application to modify the Waste Permit (Solid Waste Permit Modification Application #1) to provide for the leachate treatment via evaporation and Hydrocarbon Recovery Technology (“HRT”) pre-treatment or other acceptable leachate management alternatives. The Solid Waste Permit Modification Application #1 was to include:

a. A revised leachate Management Plan including current and planned leachate storage, treatment and disposal options.

b. Design specifications for the proposed evaporator and HRT system

- c. Chemical composition and flow rate of leachate.
- d. A leachate flow schematic.
- e. A description of the quantity and composition of all solid waste to be generated by the proposed evaporator and HRT system.
- f. A plan for testing leachate pre and post HRT pre-treatment.
- g. A plan for interim vehicular transportation of leachate for off-site disposal.
- h. Updated bonding worksheets for current and planned leachate disposal options.
- i. A plan and schedule for inspection, maintenance and cleaning of the proposed leachate collection system.

4. Within 30 days of receiving approval, begin construction of the approved leachate conveyance and treatment systems approved under Solid Waste Permit Modification #1 and related plan approvals and permits, and complete construction within 120 calendar days of starting construction.

5. Within 270 days following start-up of the leachate conveyance and treatment systems approved under Solid Waste Permit Modification #1 and related plan approvals and permits, submit a report detailing the effectiveness of the system.

6. If the leachate conveyance and treatment systems approved under Solid Waste Permit Modification #1 are not sufficient to manage all leachate without off-site trucking, submit a permit modification application to implement other measures or treatment technology (Solid Waste Permit Modification #2).

R. Pursuant to the February 2020 COA, Sanitary landfill has:

1. Reduced the working face of the landfill.
2. Submitted agreements for the facilities authorized to accept leachate from the landfill.
3. Submitted Solid Waste Permit Modification #1 on February 19, 2020. The application remains under review by the Department.

S. The Department executed a Consent Order and Agreement with Sanitary Landfill on October 7, 2020 (“October 2020 COA”). The October 2020 COA required Sanitary Landfill, amongst other things to:

1. Comply with the Waste Permit regarding daily cover, off-site tracking of dirt, daily operation records, and equipment necessary for operations.
2. Submit and implement an Operations Improvement Plan to minimize the risk of future violations.
3. Submit and implement a Corrective Action Plan to address site runoff and storm water management, leachate seeps and erosion gullies, intermediate cover and slope requirements, vegetation on slopes, and access road maintenance.
4. Submit an updated Form 14 Operation Plan.

T. Pursuant to the October 2020 COA, Sanitary Landfill has:

1. On October 26, 2020, submitted an Operations Improvement Plan.
2. On November 6, 2020, submitted a Corrective Action Plan (“Nov 2020 CAP”) and on February 15, 2021, submitted a Revised Corrective Action Plan (“Feb 2021 CAP-R”). The Feb 2021CAP-R required Sanitary Landfill, amongst other things, to implement:

a. Certain Short-Term Improvements including roadside stormwater channels, sedimentation traps, Borrow Area entrances, Tyrol Boulevard sediment removal, and NPDES outfall improvements.

b. Certain Long-Term Improvements including Pond C improvements, Landfill Haul Road realignment, Preparedness, Prevention and Contingency Plan Update, New Entrance Road Evaluation, and Updated Form 14.

c. Certain ongoing monitoring and maintenance activities including daily and weekly inspections of stormwater controls, proper use of daily and intermediate cover and temporary benches, and daily and weekly inspections of slope requirements.

3. Sanitary Landfill has completed all the measures that were required under the Feb 2021 CAP-R except for the following:

a. Maintenance of the short-term improvements including inspection and maintenance of the roadside stormwater channels and temporary sediment traps, monitoring, and removal of sediment along Tyrol Boulevard and inspection and maintenance of the NPDES outfalls.

b. Pond C Improvements.

c. Intermediate cover and slope requirements; Recent Department inspections have noted insufficient cover of waste and waste outcropping on slopes The Department has received complaints of inadequate cover and odors.

4. On November 6, 2020, Sanitary Landfill submitted an updated Form 14 Operation Plan and on January 9, 2021, Sanitary Landfill submitted a revised Form 14 Operation Plan.

### Leachate Release

U. On or about May 21, 2019, Sanitary Landfill began using two 21,000-gallon Frac Tanks (Interim Leachate Tanks) for equalization of the leachate prior to being loaded into a tanker truck for off-site disposal. The Interim Leachate Tanks were placed in the secondary containment area in the leachate truck load-out area, that was constructed for the leachate pretreatment demonstration project that expired on April 28, 2019.

V. On March 3, 2020, Sanitary Landfill submitted calculations to the Department via email for the volumes for the Interim Leachate Tanks and secondary containment volume. Additionally, on March 7, 2020, as part of a response to an Industrial Waste Compliance Inspection Report, Sanitary Landfill informed the Department that one of the Interim Leachate Tanks was removed on March 5, 2020, leaving one Interim Leachate Tank for use.

W. On August 24, 2022, Sanitary Landfill personnel smelled an odor in which they determined to be a leaking leachate collection system cleanout pipe. Immediately after identifying the issue, the Sanitary Landfill personnel notified the proper SPCC coordinators of the situation. Sanitary Landfill personnel worked to stop the leaking cleanout pipe and to dam up and contain the leachate within on-site channels to stop the leachate from exiting the Landfill site.

X. On August 25, 2022, The Department conducted an inspection at the Landfill. On that date:

1. Upon arrival at the Landfill for the inspection, Sanitary Landfill informed the Department of the release of leachate had occurred on August 24, 2022 and provided specific details of the release and cleanup. The leachate was observed pooled around the clean-out pipe and then flowed along the storm water channel, under the entrance to the office parking lot via a culvert, onto a gravel lot. Sanitary Landfill did not immediately notify the Department regarding



the leachate release, in violation of Section 91.33 of the regulations, 25 Pa. Code § 91.33. On August 31, 2022, the Department requested Sanitary Landfill submit an incident report concerning the leachate release within 14 days of the date of the incident. Sanitary Landfill submitted the incident report on September 6, 2022.

2. At the leachate truck load-out area, the secondary containment held a small amount of liquid. The aggregate on the outer slope of the containment/leachate truck load-out area showed signs of erosion which could have led to a potential for leachate to leave the impoundment.

3. While onsite, at approximately 11:10AM, the Interim Leachate Tank began to overtop. The Interim Leachate Tank is a “frac” type tank which includes an access lid on the top of the tank. The Interim Leachate Tank is utilized for a working volume for trucks to loadout leachate and haul to an appropriately permitted treatment facility. The leak was observed, and the valve was immediately closed. All liquids which exited the access lid drained into the lined secondary containment area and were able to be pumped back into the Interim Leachate Tank once the liquids level was lowered via normal leachate hauling operations. The Department requested Sanitary Landfill submit an incident report within 14 days of the date of the incident. Sanitary Landfill submit the report on September 6, 2022.

Y. On August 26, 2022, the Department issued a Notice of Violation (“NOV”) to Sanitary Landfill for violations noted during the August 25, 2022 inspection.

Z. On October 13, 2022, Sanitary Landfill submitted to the Department a Corrective Action Plan for the leachate release (October 2022 Leachate CAP). On January 12, 2023, the Department provided comments on the October 2022 Leachate CAP and requested that Sanitary Landfill revise and resubmit the October 2022 Leachate CAP to the Department for review and

approval. On February 2, 2023, Sanitary Landfill submitted a revised Leachate CAP (2023 Leachate CAP).

AA. On May 19, 2022, Sanitary Landfill submitted an Application for a Minor Permit Modification to the Department proposing a new entrance road to the Landfill for purposes of addressing and alleviating potential offsite nuisances (May 2022 Minor Permit Modification Application). On June 1, 2022, the Department issued an Administrative Completeness Letter. The application remains under review by the Department.

AB. On January 26, 2023, the Department conducted an inspection at the Landfill. On that date:

1. Sanitary Landfill caused tracking of mud/dirt at the Landfill's entrance onto Tyrol Boulevard. On the outbound lanes of Tyrol Boulevard, from the Landfill to Johnson Avenue, mud was noted on the roadway and berm.

2. Sanitary Landfill caused sediment-laden water, originating from the stormwater discharged by the Landfill, to be discharged into an Unnamed Tributary of Speers Run.

3. The truck wheel wash was in operation during the inspection; However, several vehicles were observed leaving the Landfill without going through the truck wheel wash. The sedimentation basin at the truck wheel wash was full of sediment during the inspection.

4. The filter bag in the entrance drain, from the sediment basin, was observed to be just hanging inside the basin and not stretched across to capture sediment. Neither the Daily Activity Report nor the Weekly Inspection Report noted that the filter sock in the entrance drain needed to be repaired.

5. The Landfill was no longer utilizing the interim leachate tanks for equalization at the leachate truck load-out area. One of the tanks has been removed from the Site

and the other tank is being stored in this area but is not in use. The leachate truck load-out area now has two fill points that are directly plumbed into the leachate collection system within the secondary containment area. This configuration was outlined in a Revised Leachate CAP submitted to the Department on February 2, 2023.

6. Approximately 6-8" of standing liquid, which included stormwater and leachate, was observed in the secondary containment for the main leachate storage area.

7. The access road up the hill from the truck wheel wash had a light mud covering the rock base. The access road from the top of the hill to the working face within the existing landfill permitted disposal area was covered in 3-5" of mud.

8. Sanitary Landfill provided to the Department leachate readings for January 2023. During this month, the Landfill's leachate levels were consistently in excess of 80% of the total leachate storage capacity and went as high as 90%. Leachate levels were also in exceedance of 70% of the total available leachate storage capacity for 16 days in December 2022.

AC. On January 26, 2023, the Department issued a NOV to Sanitary Landfill for violations noted during the January 26, 2023 inspection.

AD. On February 3, 2023, the Department conducted an inspection at the Landfill. On that date:

1. A strong, constant landfill odor was detected at the intersection of History Lane and Lenity School Road at 14:37 hrs.

2. According to Landfill staff, the two leachate storage tanks were at 90% and 92.5% of total leachate storage capacity at the time of inspection.

3. Brown staining was present on leachate tank L2, the result of a leachate overflow event. Sanitary Landfill staff stated they were not aware of an overflow event. Standing

liquids, which includes leachate, remained in the secondary containment for the main leachate storage area.

AE. On February 9, 2023, the Department conducted an inspection at the Landfill. On that date:

1. A layer of wet mud was observed covering the entrance road. Off-site tracking of mud from the Landfill was present on Tyrol Blvd in both the northbound and southbound lanes.

2. The filter sock in the entrance stormwater drain remained in disrepair.

3. The east and northeast slopes of the landfill had areas of insufficient cover.

4. The litter fencing was observed to be in disrepair and waste from the Landfill had blown past the litter fencing. No offsite litter was observed.

AF. On February 19, 2023, the Department conducted an inspection at the Landfill. On that date:

1. A strong, constant landfill odor was detected at the intersection of History Lane and Lenity School Road at 12:03 hrs.

2. Waste on the east and northeast slopes of the Landfill was insufficiently covered.

3. A large amount of waste had blown down the east slope, past the litter fencing. The fencing was still in disrepair. No offsite litter was observed.

4. Tracking of mud from the entrance of the Landfill was observed on both the northbound and southbound lanes of Tyrol Blvd.

5. The secondary containment for the main leachate storage area was half full of standing liquids, which includes leachate.

6. Both leachate tanks were over 25% full.

AG. On February 24, 2023, the Department conducted an inspection at the Landfill. On that date:

1. A strong, constant landfill odor was detected at the intersection of History Lane and Lenity School Road at 10:45 hrs.

2. Waste on the east and northeast slopes of the Landfill was uncovered or insufficiently covered. There was also an area on the northwest slope of insufficiently covered waste.

3. Tracking of mud from the entrance of the Landfill was observed on Tyrol Blvd. There was still mud on the side of Tyrol Blvd south of the Landfill entrance.

4. The filter sock in the entrance drain is still in need of repair or replacement. Neither the Daily Activity Report nor the Weekly Inspection Report noted that the filter sock in the entrance drain needed to be repaired.

5. The secondary containment for the main leachate storage area was half full of standing liquids, which includes leachate.

6. The leachate storage level was at 86.25% of the total available leachate storage capacity.

7. Significant litter was present along the east slopes of the Landfill, where a crew was working on the permanent cap.

8. A strong landfill odor was observed in the area (onsite), at the time of inspection.

AH. On February 28, 2023, the Department conducted an inspection at the Landfill. Department observations during the inspection noted:

1. A strong, constant landfill odor was detected at the intersection of History Lane and Lenity School Road at 09:46 hrs.

2. A slight, constant odor was detected on Vance Dei Cas Highway at 09:57 hrs., east of the Landfill.

3. Slight tracking was present at the Landfill entrance onto Tyrol Blvd adjacent to the scale house.

4. The secondary containment for the main leachate storage area was half full of standing liquids, which includes leachate.

5. Both leachate tanks were over 25% full.

AI. The discharge of leachate at the Landfill from the ruptured pipe cap was not authorized by any permit issued by the Department.

AJ. Sanitary Landfill failed to notify the Department of the release of leachate.

AK. By failing to provide immediate notification to the Department, to report the release of leachate, Sanitary Landfill violated 25 Pa. Code § 273.303(b)(3) and 25 Pa. Code § 91.33(a).

AL. By failing to maintain equipment necessary to properly operate the Landfill, including the valves on the equalization tanks, and the cap on the clean-out pipe, Sanitary Landfill violated 25 Pa. Code § 273.215(a).

AM. By utilizing more than 25% of the total leachate storage capacity, on the dates set forth above, Sanitary Landfill violated 25 Pa. Code § 273.275(b).

AN. By failing to maintain access roads at the facility to prevent contributions of sediment to streams or runoff outside the site, to have an appropriate drainage system, and to control dust and to prevent or control the tracking of mud on and off the site Sanitary Landfill violated 25 Pa. Code § 273.213(a),(c) and (h).

AO. Between January 12, 2023 and February 24, 2023, on at least 6 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), (6), and (9) of the SWMA, 35 P.S. §§ 6018.610(4), (6), and (9). This is also a violation of Paragraph 3.a.(ii) of the October 7, 2020 Consent Order Agreement, executed with Sanitary Landfill.

AP. By failing to minimize and control public nuisances from odors leaving the Landfill, Sanitary Landfill violated 25 Pa Code § 273.218(b)(3).

AQ. By dumping, depositing, or allowing the dumping or depositing of leachate, a solid waste, onto the surface of the ground, and discharging industrial waste into the waters of the Commonwealth, without authorization of the rules and regulations of the Department, Sanitary Landfill violated Sections 610(1), (4), and (9) of SWMA, 35 P.S. §§ 6018.610(1), (4), and (9).

AR. On certain occasions between October 7, 2022 and February 28, 2023 (but not for the duration of such period), Sanitary Landfill failed to fully implement its approved Nuisance Odor Mitigation Plan (Form 14-4), by failing to fully implement the Corrective Actions identified within Section 6 of Form 14-4. Specifically, Sanitary Landfill failed to: evaluate operational BMPs employed to cover/minimize/neutralize nuisance odors from waste streams likely to present nuisance odors; evaluate the condition of cover; inspect for ruts, gaps, inadequate thickness, appropriate materials, application of greater thickness material, and evaluate the use of alternate daily cover material; identify any necessary corrective measures and evaluate feasibility; and implement corrective measures deemed necessary within 30 days or as soon as reasonably practicable. By failing to fully implement the Landfill's Nuisance Odor Mitigation Plan on certain dates between October 7, 2022 and February 28, 2023, Sanitary Landfill violated 25 Pa. Code § 273.218(b)(1).

AS. On numerous occasions between October 7, 2022 and February 28, 2023, the Department notified Sanitary Landfill of odors the Department observed from landfill operations on and beyond the boundaries of the Landfill. Sanitary Landfill itself observed the potential for offsite odor creation from the landfill. Yet, Sanitary Landfill did not effectively investigate and address this potential for offsite odors, which continued to occur. By failing to perform comprehensive site inspections to evaluate the effectiveness of landfill systems to reduce the potential for offsite odor creation, and failing to promptly address and correct problems and deficiencies discovered in the course of inspections that were conducted, Sanitary Landfill violated 25 Pa. Code § 273.218(b)(2) and (3).

AT. The violations described in Paragraphs AK through AS, constitute unlawful conduct under Sections 610(2),(4) and (9) of the SWMA, 35 P.S. §§ 6018.610(2), (4); constitute a public nuisance pursuant to Section 601 of the SWMA, 35 P.S. § 6018.601; constitute public nuisances 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.

AU. The violation described in Paragraph AK, constitutes unlawful conduct under Section 611 of The Clean Streams Law, 35 P.S. § 691.611; and subjects Sanitary Landfill to a claim for civil penalties under Section 605 of The Clean Streams Law, 35 P.S. § 691.605.

### **ORDER**

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



1. Authority. This Consent Order and Agreement (“COA”) is an Order of the Department authorized and issued pursuant to Section 602 of the SWMA, 35 P.S. § 6018.602; Sections 5, 316, 402 and 610 of The Clean Streams Law, 35 P.S. § 691.5, 691.316, 691.402 and 691.610; Section 4010.1 of the Air Pollution Control Act, 35 P.S. § 4010.1; and Section 1917-A of the Administrative Code, 71 P.S. § 510-17.

2. Findings.

a. Sanitary Landfill agrees that the findings in Paragraphs A through AU 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 COA in any matter or proceeding.

3. Corrective Actions Outstanding from February 2020 COA: Solid Waste Permit Modification #1.

Upon execution of this Consent Order and Agreement, the obligations but not the findings of the February 2020 COA are superseded and the provisions of this Consent Order and Agreement shall hereinafter govern and control.

a. Within thirty (30) calendar days of receiving final approval of all required plan approvals, permits and/or permit modifications related to Solid Waste Permit Modification #1, Sanitary Landfill shall begin construction of the approved leachate conveyance, leachate pre-treatment and leachate disposal systems approved as part of the plan approvals, permits and/or permit modifications. Sanitary Landfill shall provide construction notifications to the Department prior to construction. Within three hundred sixty-five (365) calendar days of starting construction, Sanitary Landfill shall complete construction of the approved leachate conveyance, leachate pre-treatment and leachate disposal systems approved.

b. Within fifteen (15) calendar days following substantial completion of installation of the leachate treatment units and appurtenances related to Solid Waste Permit Modification #1, Sanitary Landfill shall submit to the Department, in accordance with 25 Pa. Code § 273.203(a)(7), a Construction Certification Form 37 and associated documentation demonstrating that the approved leachate conveyance, leachate pre-treatment and leachate disposal systems approved were installed in conformance with the approved design permitted by the Department. Sanitary Landfill will initiate start-up of the system within three (3) business days after notification of the Department's approval of the certified system.

c. Within five (5) calendar days of the actual initiation of the leachate treatment units and appurtenances related to Solid Waste Permit Modification #1, Sanitary Landfill shall submit notification of the actual start-up. Following start-up, Sanitary Landfill shall utilize the leachate treatment units, tanks, and other appurtenances related to Solid Waste Permit Modification #1 to the maximum extent reasonably practicable, but in all cases in accordance with the manufacturers' operations manual and guidelines and not in any manner that would cause a void of the manufacturer's warranty, in order to minimize off-site disposal of leachate via trucking.

d. Within two hundred seventy (270) days following actual start-up of the leachate treatment units and appurtenances related to Solid Waste Permit Modification #1, Sanitary Landfill shall submit a report to the Department detailing the effectiveness of the leachate treatment units and appurtenances related to Solid Waste Permit Modification #1, including, but not limited to, the following:

- i) The quantity of leachate treated through the evaporator;
- ii) The quantity of leachate sent for off-site disposal and the locations of disposal;

- iii) The quantity of solid waste generated by the evaporator and the location of the disposal of this waste;
- iv) The quantity of solid waste generated by the HRT and the location of the disposal of this waste;
- v) All analytical results of the Pre-Treatment Testing Plan;
- vi) Quarterly comparisons of leachate generation, the amount treated off-site and amount treated on-site; and
- vii) Service agreements with any facilities that received landfill leachate and documentation that the facilities are authorized by their governmental regulatory authority agency to accept landfill leachate and documentation that Sanitary Landfill provided such facilities with laboratory analytics representative of the type and characteristics of Sanitary Landfill's leachate prior to entering into any such service agreements.

e. If the evaporative treatment and pre-treatment operated by Sanitary Landfill has not been sufficient to manage all of Sanitary Landfill's leachate without off-site trucking (except during emergency circumstances), such sufficiency or insufficiency, as the case may be, to be reasonably determined by the Department following the submittal of the report required under Paragraph 3.d. of this COA, then within ninety (90) days of notification by the Department, Sanitary Landfill shall submit to the Department a plan and schedule to implement other measures and/or technology sufficient to do so without the need for off-site trucking of leachate (referred to herein as Solid Waste Permit Modification Application # 2), and within one hundred eighty (180) days of such notification by the Department, Sanitary Landfill shall submit the necessary permit application documentation associated with such plan. Such measures may include one, or a

combination, of the following: treatment mechanisms sufficient to allow for the indirect discharge of leachate to a sanitary sewer system via dedicated piping, treatment mechanisms sufficient to allow for the direct discharge of leachate into the waters of the Commonwealth, installation of additional evaporative processing, installation of additional storage and equalization tanks to allow on-site treatment of additional leachate, and/or other treatment and/or disposal technologies.

f. Solid Waste Permit Modification Application #2 shall include, but not be limited to, the following:

i) Design specifications and a schedule for the installation of measures that will allow Sanitary Landfill to manage all leachate generated from the Landfill;

ii) A clearly identified treated leachate effluent point discharge if required by the selected treatment system;

iii) An updated set of Bonding Worksheets with supporting documentation related to the leachate treatment systems proposed as part of the permit modification estimating the additional cost to the Department to complete final closure of the facility associated with operation, maintenance and replacement of the leachate treatment system pursuant to 25 Pa. Code § 271.331; and

iv) A list of any other permits or authorizations required for the construction and operation of the treatment system, including but not limited to Water Quality Management, Air and NPDES permits; and a schedule for submitting the applications and a projected schedule for obtaining the permits or authorizations.

g. If Sanitary Landfill pursues Solid Waste Permit Modification Application #2, Sanitary Landfill will continue to contact and seek to negotiate with POTWs that have existing or economically reasonable potential sewer service connections available for use by the Landfill

using the HRT water treatment data and additionally any other commercially reasonable required parameters the POTW requires for discharge into its plant.

h. If Sanitary Landfill is required to submit Solid Waste Permit Modification Application #2, within thirty (30) calendar days of receiving final approval of all required plan approvals, permits and/or permit modifications related to Solid Waste Permit Modification Application #2, Sanitary Landfill shall begin construction of the systems approved as part of the plan approvals, permits and/or permit modifications, and shall use best commercial efforts to complete construction pursuant to the Department approved schedule, subject in all cases to events or circumstances and requirements of force majeure (as set forth in Paragraph 20, below). Sanitary Landfill shall provide construction notifications to the Department prior to construction.

i. Within thirty (30) calendar days following substantial completion of installation of the leachate treatment units and appurtenances related to Solid Waste Permit Modification Application #2, Sanitary Landfill shall submit to the Department, in accordance with 25 Pa. Code § 273.203(a)(7), a Construction Certification Form 37 and associated documentation demonstrating that the approved leachate treatment system was installed in conformance with the approved design permitted by the Department. Testing and commissioning of the leachate treatment system shall commence upon substantial completion and may take place simultaneously with the Department's review of the Construction Certification. Sanitary Landfill will initiate start-up of the system within three (3) business days upon notification of the Department's approval of the certified system.

j. Within five (5) calendar days of initiation of the operation of the system, Sanitary Landfill shall submit notification of start-up.

k. Sanitary Landfill shall fully address any permit modification application and plan approval deficiency letters issued by the Department within thirty (30) calendar days of the receipt of any such deficiency letter by Sanitary Landfill, or such other timeframe as agreed to or directed by the Department in writing (but not less than thirty (30) days).

4. Corrective Actions Outstanding from October 2020 COA: Operation Improvement Plan.

a. Upon execution of this Consent Order and Agreement, the obligations but not the findings of the October 2020 COA are superseded, and the provisions of this Consent Order and Agreement shall hereinafter govern and control.

b. Sanitary Landfill shall properly apply daily cover as required by 25 Pa. Code § 273.232.

5. February 2021 Corrective Action Plan. Upon execution of this Consent Order and Agreement, the obligations under the February 2021 Corrective Action Plan are superseded and the provisions of this Consent Order and Agreement shall hereinafter govern and control.

a. Sanitary Landfill shall inspect and maintain the short-term improvements of the roadside stormwater channels and temporary sediment traps, monitoring and removal of sediment along Tyrol Boulevard, and inspection and maintenance of the NPDES outfalls. Maintenance includes but is not limited to removal of sediment and installation of additional rock, if needed, and ensuring the filter bag required under the February 2021 Corrective Action Plan is in place and functioning. A report of the maintenance activities conducted shall be included in the quarterly progress reports required in Paragraph 13 of this COA.

b. Sanitary Landfill shall complete Pond C Improvements as described in the Feb 2021 CAP-R (Attachment #1) by December 31, 2023.

c. Sanitary Landfill shall within ten (10) days of the execution of this COA, notify the Department of the name of the landfill employee designated as the responsible official to complete the Daily Activity and Weekly Inspection Reports as described in the Feb. 2021 CAP-R, and submit copies of the completed reports with the quarterly progress report (see Paragraph 13) for a minimum of four (4) quarters. The Daily Activity Reports and Weekly Inspection Reports are to include the inspection of daily and intermediate cover; the presence of leachate seeps and erosion gullies; the condition of vegetation on the intermediate cover slopes, the final cover slopes and other vegetated areas outside of the waste disposal footprint; and inspection of the wheel wash, paved roads and unpaved roads. The reports should explain what steps were taken when issues were found during the inspections.

6. 2023 Leachate CAP. Sanitary Landfill shall fully implement the 2023 Leachate CAP, described in Paragraph Z, above, in accordance with the schedule contained therein. The Department-approved October 2023 Leachate CAP, or any revision thereof, shall become a part of this Consent Order and Agreement.

#### **Additional Corrective Actions**

7. Interim Leachate Tanks.

a. Within thirty (30) days of the execution of this COA, Sanitary Landfill shall submit a full and complete application to modify the Leachate Management Plan to include the Interim Leachate Tank that is staged in the leachate truck load-out area. The revised Leachate Management Plan shall list the name and location of all facilities to which Sanitary Landfill is transporting leachate via truck or piping.

b. Within thirty (30) days of the execution of this COA, Sanitary Landfill shall submit to the Department a revised PPC plan (Form L- Contingency Plan For Emergency Procedures) to include the interim leachate tank that is staged in the leachate truck load-out area.

8. Third-Party Environmental Audit (“EA”).

a. Within thirty (30) days of execution of this COA, Sanitary Landfill shall select and contract with a qualified Environmental Auditor, pursuant to the conditions outlined in Appendix A: *Requirements for Third-Party Consultants*, to conduct a Third-Party Environmental Audit at the Landfill to evaluate waste handling and operating systems, and air quality and surface water protective systems at the Landfill. The EA shall include assessments of the following:

i) All changes or improvements proposed and/or implemented in accordance with Solid Waste Permit Modification #1 and Solid Waste Permit Modification #2, if applicable.

ii) All changes or improvements proposed and/or implemented in accordance with the February 2021 Corrective Action Plan, including but not limited to, an evaluation of whether and to what extent all stormwater features and conveyances have been installed in accordance with the Erosion and Sedimentation Plan (“E&S Plan”) and are functioning properly; and whether and to what extent all stormwater best management practices (“BMPs”) have been implemented and maintained in accordance with the E&S Plan; and whether there are areas of erosion and sedimentation that require additional stormwater BMPs.

iii) All changes or improvements proposed and/or implemented in accordance with the October 2022 Corrective Action Plan, including but not limited to, the effectiveness of the leachate containment area; whether additional BMPs or secondary



containment are necessary in the leachate handling area; the effectiveness of the fail-safes implemented (*e.g.*, alarming, real-time video monitoring, valving redundancy, etc.); the effectiveness of leachate handling training for Sanitary Landfill's employees and third-party leachate haulers.

iv) The current status of and opportunities to optimize, enhance and address deficiencies in:

(a) Waste handling procedures and operating systems at the Landfill, including but not limited to prevention of off-site odors and tracking of dirt/mud/waste out of the Landfill (consistent with the SWMA, its regulations, and the Permit);

(b) Minimization of air contaminant emissions (criteria pollutants, hazardous air pollutants, and greenhouse gases) from the landfill [consistent with the Air Pollution Control Act, the Clean Air Act, and the Pennsylvania (25 PA Code) and Federal (NSPS of 40 CFR Part 60 and NESHAPs of 40 CFR Part 63 and/or 40 CFR Part 61) regulations applicable thereunder]; and

(c) Surface water protective systems (in accordance with the Clean Streams Law and its regulations).

b. Within sixty (60) days of execution of this COA, ensure that the Environmental Auditor submits an outline of issues to be addressed in the audit to the Department for approval, and responds to any deficiencies raised by the Department within fifteen (15) days of receipt of such deficiencies.

c. Within ninety (90) days of receipt of the Department's approval of the outline, Sanitary Landfill shall ensure that the Environmental Auditor prepares an Interim EA Report detailing the results of the Environmental Audit, including, at a minimum:

- i) The environmental audit process and protocols followed;
- ii) The sites and locations audited;
- iii) The files reviewed;
- iv) Any data or samples obtained; and
- v) Individuals interviewed;

d. All items that are not in compliance with law, regulation or permit requirements and items that have potential to violate law, regulation or the permit or cause environmental degradation;

e. recommendations to correct any non-compliance or area of concern identified.

f. Within one hundred twenty (120) days after Department approval of the Environmental Auditor's outline of issues, ensure that the Environmental Auditor provides both the Interim EA Report and a Final EA Report simultaneously to the Department, Rostraver Township and Sanitary Landfill. The Final EA Report shall describe any changes, progress, corrections and/or improvements to the issues raised in the Interim Report that Sanitary Landfill has initiated and/or completed since the Interim Report.

g. If the Department notifies Sanitary Landfill of any deficiencies in the Final EA Report, Sanitary Landfill shall amend and resubmit the Final EA Report, fully addressing the deficiencies, within fifteen (15) days of receiving the comments.

h. Within thirty (30) days of submittal of the Final EA Report, Sanitary Landfill shall submit to the Department, for its review and approval, a plan and schedule to correct any remaining non-compliance or area of concern identified in the Final EA Report. Sanitary Landfill shall fully address and correct any items that are not in compliance with law, regulation or permit requirements, and items that have potential to violate law, regulation, permit, or cause environmental degradation identified by the final EA Report as expeditiously as possible, in accordance with the schedule as approved or as modified and approved by the Department.

i. Nothing in this Consent Order and Agreement shall be interpreted to alter, modify, extend or excuse any requirement contained in any Department regulation, permit or plan approval pertaining to Sanitary Landfill's obligation to provide notification to the Department of conditions at or originating from the Landfill.

9. Environmental Management Systems ("EMS").

a. Within thirty (30) days of execution of this COA, Sanitary Landfill shall select and contract with a qualified EMS Consultant, pursuant to the conditions outlined in Appendix A: *Requirements for Third-Party Consultants*, to develop a facility-wide EMS, incorporated into an EMS Manual that describes and documents the integrated EMS developed pursuant to this COA.

b. Within sixty (60) days of execution of this COA, Sanitary Landfill shall develop an EMS for all environmental systems and procedures at the Landfill and submit the EMS for Department approval. The EMS must contain, at a minimum: a) a long-term plan for achieving and maintaining compliance with the SWMA, Clean Streams Law, Air Pollution Control Act/Clean Air Act, and other applicable permits, plan approvals and environmental regulations; b) Procedures for root-cause analysis of any non-compliance; c) Procedures for implementation of

regulatory, permit and COA requirements; d) an environmental record keeping procedure for the Landfill that includes all records of corrective actions taken to ensure compliance; and e) a procedure for amending and updating the EMS, as necessary, each year for three (3) years from the date of this Consent Order and Agreement. The EMS Manual shall contain a schedule for each of the described systems and subsystems and a final deadline to fully implement the EMS, no later than twelve (12) months from the date of this Consent Order and Agreement.

c. Within thirty (30) days of Department approval of the EMS Manual, Sanitary Landfill, assisted by the EMS Consultant, shall implement the EMS in accordance with the schedule contained in the EMS Manual, as approved or as modified and approved by the Department. Sanitary Landfill shall make a copy of the EMS Manual available to anyone with responsibilities at the Landfill.

d. Beginning one year after the approval of the EMS Manual, until termination of this COA, staff responsible for environmental compliance at the Landfill shall meet with the EMS Consultant every six months to ensure compliance with the approved EMS Manual. For any noncompliance, Sanitary Landfill shall submit, in an annual certification, an explanation of the cause of the noncompliance, remedial steps taken to address the noncompliance, and a date that compliance was achieved.

10. EMS Audit.

a. Within thirty (30) days of execution of this COA, Sanitary Landfill shall select and contract with a qualified EMS Auditor, pursuant to the conditions outlined in Appendix A: *Requirements for Third-Party Consultants*, to conduct an EMS Audit of the Landfill.

b. Sanitary Landfill shall ensure that the EMS Auditor conducts an EMS Audit for the Landfill no sooner than three (3) months and no later than nine (9) months after the

Department's approval of the EMS Manual. The EMS Audit shall evaluate the adequacy of EMS implementation relative to the EMS Manual and identify items that are not in compliance with law, regulation or permit requirements and items that have potential to violate law, regulation or the permit or cause environmental degradation, from top management down, throughout each major organizational unit with responsibilities that fall under the EMS Manual. The EMS Audit shall be conducted in accordance with ISO 19011 (First Edition, 2002-10-02) and shall determine, at a minimum, the following: a) to what extent the system, subsystem, program, or task has been implemented, and is being maintained; b) the adequacy of internal self-assessment procedures for programs and tasks; c) the adequacy of reporting methods to report environmental concerns to Landfill management and to the Department; d) whether Sanitary Landfill is effectively communicating environmental requirements, including the requirements of this COA, to staff working at the Landfill; e) whether Sanitary Landfill is ensuring that contractors and consultants are fully trained to comply with and are complying with any environmental obligations associated with their work for Sanitary Landfill; f) whether further improvements should be made to Sanitary Landfill's written requirements or procedures to better achieve compliance with the EMS Manual; and g) whether there are deviations from Sanitary Landfill's written requirements or procedures in practice.

c. Sanitary Landfill shall ensure that the EMS Auditor prepares an Initial EMS Audit Report within sixty (60) days of completion of the EMS Audit, and a Final EMS Audit Report within thirty (30) days thereafter. The Final EMS Audit Report shall contain, at a minimum: a) a summary of the audit process, including any obstacles encountered; b) identification of any areas of concern addressed during the audit; c) changes, progress and/or improvements to the issues raised in the Interim Audit Report that Sanitary Landfill has initiated and/or completed since

the Interim Audit Report, d) recommendations for resolving any areas of concern, and e) a copy of the Initial EMS Audit Report.

d. The EMS Auditor shall provide the Final EMS Audit Report simultaneously to Sanitary Landfill and the Department within seven (7) days of completion.

e. Within one hundred eighty (180) days of receiving the Final EMS Audit Report, or such other time period as the Department approves in writing, Sanitary Landfill shall complete full implementation of the recommendations provided in the EMS Audit report.

11. Civil Penalty Settlement. Upon execution of this Consent Assessment of Civil Penalty, Sanitary Landfill shall pay a civil penalty of **SIXTY-TWO THOUSAND FOUR HUNDRED SEVENTY-FIVE DOLLARS (\$62,475.00)** in settlement of the Department's claim for civil penalties for the violations and dates set forth in Paragraphs AK through AU above. The payments, made by corporate check or the like, shall be tendered as follows:

a. For Solid Waste Management Act violations set forth in Paragraphs AK - AS, submittal of a corporate check or the like made payable to "Commonwealth of Pennsylvania, Solid Waste Abatement Fund" in the amount of **FORTY-SEVEN THOUSAND FOUR HUNDRED SEVENTY-FIVE DOLLARS (\$47,475.00)**; these funds have been previously submitted to the Department by Sanitary Landfill.

b. For the Clean Streams Law violation set forth in Paragraph AK, submittal of a corporate check or the like made payable to "Commonwealth of Pennsylvania, Clean Water Fund" in the amount of **FIFTEEN THOUSAND DOLLARS (\$15,000.00)**, and sent to the attention of Compliance Specialist, Clean Water Program, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222.

12. Stipulated Civil Penalties.

a. In the event Sanitary Landfill fails to comply in a timely manner with any term or provisions of Paragraphs 3, 5(b) and (c), 6-10 and 13 of this Consent Order and Agreement, Sanitary Landfill shall be in violation of this Consent Order and Agreement and, in addition to other applicable remedies, shall pay a civil penalty in the amount of \$500 per day for each violation for the first month of noncompliance. After the first month of noncompliance, Sanitary Landfill shall pay a civil penalty of \$1,000 per day for each violation through the second month of noncompliance. After the first two months of noncompliance, Sanitary Landfill shall pay \$2,000 per day for each violation until the violation ceases.

b. Stipulated civil penalty payments shall be payable monthly on or before the fifteenth day of each succeeding month and shall be forwarded as described in Paragraph 11 (Civil Penalty Settlement) above.

c. Any payment under this paragraph shall neither waive Sanitary Landfill's duty to meet its obligations under this Consent Order and Agreement nor preclude the Department from commencing an action to compel Sanitary Landfill's compliance with the terms and conditions of this Consent Order and Agreement. The payment resolves only Sanitary Landfill's liability for civil penalties arising from the violations of this Consent Order and Agreement for which the payment is made.

d. The payment of stipulated civil penalties shall be due automatically and without notice.

e. The Department reserves its rights to assess an appropriate civil penalty for any other violation of this COA not referenced in Paragraph 12.a., above. Sanitary Landfill reserves its right to appeal any such assessment.

13. Progress Reports. Sanitary Landfill shall, beginning in the calendar quarter following the execution of this COA, submit calendar quarterly progress reports ("Progress Reports") to the Department documenting its efforts to comply with its obligations of this Consent Order and Agreement. The Progress Reports shall be submitted to the Department by the last day of April, July, October, and January. These reports shall be submitted to the Department's OnBase system at <https://www.dep.pa.gov/DataandTools/Pages/Application-Form-Upload.aspx>. The quarterly Progress Reports shall include, but are not limited to:

- a. A description of the actions that have been taken towards achieving compliance with this Consent Order and Agreement;
- b. A description of activities anticipated or scheduled for the next calendar quarter;
- c. A description of material problems or material delays encountered or reasonably anticipated regarding performance of the activities required by this Consent Order and Agreement;
- d. A summary of leachate disposal, including volumes and disposal locations for the previous calendar quarter; and
- e. A summary of marketing to POTWs including monthly testing results of leachate and feedback from POTWs.

14. Additional Remedies.

- a. In the event Sanitary Landfill fails to comply with any provision of this Consent Order and Agreement, the Department may, in addition to the remedies prescribed herein, pursue any remedy available for a violation of an order of the Department, including an action to enforce this Consent Order and Agreement.



b. The remedies provided by this paragraph and Paragraph 12 (Stipulated Civil Penalties) are cumulative and the exercise of one does not preclude the exercise of any other. The failure of the Department to pursue any remedy shall not be deemed to be a waiver of that remedy. The payment of a stipulated civil penalty, however, shall preclude any further assessment of civil penalties for the violation for which the stipulated penalty is paid.

15. Reservation of Rights. The Department reserves the right to require additional measures to achieve compliance with applicable law. Sanitary Landfill reserves the right to challenge any action which the Department may take to require those measures.

16. Liability of Operator. Sanitary Landfill shall be liable for any violations of the Consent Order and Agreement, including those caused by, contributed to, or allowed by its officers, agents, employees, or contractors. Sanitary Landfill also shall be liable for any violation of this Consent Order and Agreement caused by, contributed to, or allowed by its successors and assigns, except as set forth in Paragraph 17.c.

17. Transfer of Site.

a. The duties and obligations under this Consent Order and Agreement shall not be modified, diminished, terminated or otherwise altered by the transfer of any legal or equitable interest in Sanitary Landfill or any part thereof.

b. If Sanitary Landfill intends to transfer any legal or equitable interest in the facilities which are affected by this Consent Order and Agreement, Sanitary Landfill shall serve a copy of this Consent Order and Agreement upon the prospective transferee of the legal and equitable interest at least thirty (30) days prior to the contemplated transfer and shall simultaneously inform the Southwest Regional Office of the Department of such intent.

c. The Department in its sole discretion may agree to modify or terminate Sanitary Landfill's duties and obligations under this Consent Order and Agreement upon transfer of the Landfill permits. Sanitary Landfill waives any right that it may have to challenge the Department's decision in this regard.

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

Lauren Fike, Compliance Specialist  
Waste Management  
400 Waterfront Drive  
Pittsburgh, PA 15222  
412-442-4000

19. Correspondence with Sanitary Landfill. All correspondence with Sanitary Landfill 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

with a copy to:

Bernstein-Burkley, P.C.  
601 Grant Street – 9<sup>th</sup> Floor  
Pittsburgh, PA 15219  
Attn: Kit F. Pettit  
412-456-8115

Sanitary Landfill 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.

20. Force Majeure.

a. In the event that Sanitary Landfill is prevented from complying in a timely manner with any time limit imposed in this Consent Order and Agreement solely because of a strike, fire, flood, act of God, or other circumstance beyond Sanitary Landfill's control and which Sanitary Landfill, by the exercise of all reasonable diligence, is unable to prevent, then Sanitary Landfill may petition the Department for an extension of time. An increase in the cost of performing the obligations set forth in this Consent Order and Agreement shall not constitute circumstances beyond Sanitary Landfill's control. Sanitary Landfill's economic inability to comply with any of the obligations of this Consent Order and Agreement shall not be grounds for any extension of time.

b. Sanitary Landfill shall only be entitled to the benefits of this paragraph if it notifies the Department within five (5) working days by telephone and within ten (10) working days in writing of the date it becomes aware or reasonably should have become aware of the event impeding performance. The written submission shall include all necessary documentation, as well as a notarized affidavit from an authorized individual specifying the reasons for the delay, the expected duration of the delay, and the efforts which have been made and are being made by Sanitary Landfill to mitigate the effects of the event and to minimize the length of the delay. The initial written submission may be supplemented within ten working days of its submission. Sanitary Landfill's failure to comply with the requirements of this paragraph specifically and in a timely fashion shall render this paragraph null and of no effect as to the particular incident involved.

c. The Department will decide whether to grant all or part of the extension requested on the basis of all documentation submitted by Sanitary Landfill and other information

available to the Department. In any subsequent litigation, Sanitary Landfill shall have the burden of proving that the Department's refusal to grant the requested extension was an abuse of discretion based upon the information then available to it.

21. Severability. The paragraphs of this Consent Order and Agreement shall be severable and should any part hereof be declared invalid or unenforceable, the remainder shall continue in full force and effect between the parties.

22. 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.

23. 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.

24. 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.

25. Titles. A title used at the beginning of any paragraph of this Consent Order and Agreement may be used to aid in the construction of that paragraph, but shall not be treated as controlling

26. Termination. The obligations but not the findings of this Consent Order and Agreement terminate when the Department determines in writing that Sanitary Landfill has complied with all of the terms of the Consent Order and Agreement, including the payment of all

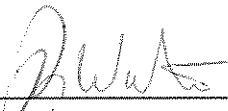
penalties, or such earlier time as the Department determines in writing that termination is in the best interests of human health and the environment.

27. Decisions Under Consent Order. Any decision which the Department makes under the provisions of this Consent Order and Agreement, including a notice that stipulated civil penalties are due, is intended to be neither a final action under 25 Pa. Code § 1021.2, nor an adjudication under 2 Pa. C.S. § 101. Any objection which Sanitary Landfill may have to the decision will be preserved until the Department enforces this Consent Order and Agreement.

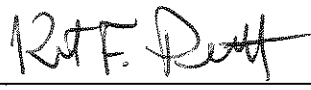
[REMAINDER OF PAGE INTENTIONALLY BLANK]

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 Landfill 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 Landfill; that Sanitary Landfill consents to the entry of this Consent Order and Agreement as a final ORDER of the Department; and that Sanitary Landfill hereby knowingly waives 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 Landfill's attorney certifies only that the agreement has been signed after consulting with counsel.]

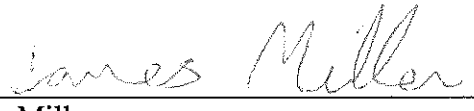

**FOR WESTMORELAND SANITARY  
LANDFILL, LLC:**

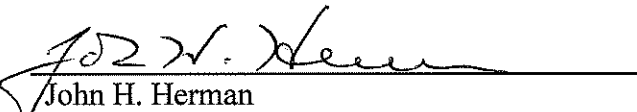
  
\_\_\_\_\_  
Signature  
Name (print) Richard Walton

\_\_\_\_\_  
Signature  
Name (print) \_\_\_\_\_

  
\_\_\_\_\_  
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:**

 By   
\_\_\_\_\_  
Jim Miller  
Regional Director

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

**APPENDIX A**  
**REQUIREMENTS FOR THIRD-PARTY CONSULTANTS**

1. Sanitary Landfill shall pay all costs of and cooperate fully with Third-Party Consultants. Sanitary Landfill shall provide each Third-Party Consultant access to all records, personnel, and parts of the Landfill during normal business operations to effectively perform its tasks under this 2023 COA.

2. The Third-Party Consultants must have adequate staff to perform the relevant requirements. The knowledge, skills, and abilities of the Third-Party Consultants and their staff must align with the criteria of the applicable 2023 COA requirements. In addition, the following criteria shall apply:

a. Environmental Auditor - The Environmental Auditor must be qualified to conduct an Environmental Audit (“EA”) and have experience in performing environmental audits. The team proposed to conduct the EA must have a working process knowledge of Solid Waste Landfill operations or similar operations; including expertise and competence in the generation and minimization of air emissions (criteria pollutants, hazardous air pollutants, and greenhouse gases) from Solid Waste Landfill operations or similar operations, and expertise and competence in the regulatory programs under Pennsylvania state environmental laws, including waste handling procedures and operating systems at landfills (consistent with the SWMA, its regulations and the Permit), air quality [in accordance with the Air Pollution Control Act, the Clean Air Act, and the Pennsylvania (25 PA Code) and Federal (NSPS of 40 CFR Part 60 and NESHAPs of 40 CFR Part 63 and/or 40 CFR Part 61) regulations applicable thereunder]; and surface water protective systems (in accordance with the Clean Streams Law and its regulations).

b. EMS Consultant - The EMS Consultant shall have experience in developing and implementing an EMS. The proposed team must have a working process knowledge of a solid waste landfill; including expertise and competence in the generation and minimization of air emissions (criteria pollutants, hazardous air pollutants, and greenhouse gases) from Solid Waste Landfill operations or similar operations; and the associated environmental regulations.

c. EMS Auditor - The EMS Auditor must meet the EMS Consultant qualification requirements in the preceding Paragraph. In addition, the EMS Auditor must meet the EMS auditor qualifications in ISO 19011 (First Edition, 2002-10-01). The EMS Auditor cannot be the same person or entity as the EMS Consultant but can be the same person or entity that completed the Environmental Audit.