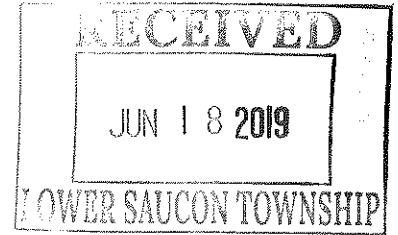




pennsylvania
DEPARTMENT OF ENVIRONMENTAL
PROTECTION



June 17, 2019

Mr. David Pannucci, Regional Engineer
Bethlehem Landfill Company
2335 Applebutter Road
Bethlehem, Pennsylvania 18015

Re: Consent Assessment of Civil Penalty
Bethlehem Landfill Company
Solid Waste Management Permit No. 100020
Lower Saucon Township, Northampton County

Dear Mr. Pannucci:

Enclosed is an executed copy of the Consent Assessment of Civil Penalty between the Pennsylvania Department of Environmental Protection and Bethlehem Landfill Company.

If you have any questions, please contact me at (570) 826-2434.

Sincerely,

Rachel Miller

Rachel Miller
Compliance Specialist
Waste Management Program

ROUTING Enclosure

- Council
- Manager *org.*
- Asst. Mgr.
- Zoning
- Finance
- Police
- P. Works
- P/C
- P & R
- EAC
- Engineer
- Solicitor
- Planner
- Landfill
- EMC
- Other

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In The Matter Of:

| | | |
|----------------------------|---|-------------------------------|
| Bethlehem Landfill Company | : | Violations of the Solid Waste |
| 2335 Applebutter Road | : | Management Act- |
| Bethlehem, PA 18015 | : | Municipal Waste Violations |

CONSENT ASSESSMENT OF CIVIL PENALTY

This Consent Assessment of Civil Penalty ("CACP") is entered into this 7th day of June 2019, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department") and Bethlehem Landfill Company ("Bethlehem 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 ("Solid Waste Act"), 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.
- B. Bethlehem Landfill is a Delaware corporation which maintains an address of 2335 Applebutter Road, Bethlehem, Pennsylvania 18015.
- C. On or about June 29, 1990, the Department issued Solid Waste Management Permit No. 100020, as amended, (hereinafter "Permit") to the City of Bethlehem for the operation of a solid waste disposal facility, to wit, a municipal waste landfill located in Lower Saucon Township, Northampton County, Pennsylvania ("Facility"). On July 17, 1998, the permit was reissued to Eastern Waste of Bethlehem, Inc., which has since changed company names, first to IESI PA Bethlehem Landfill Corporation ("IESI") and then to Bethlehem Landfill Company. At times relevant to this CACP, the Facility was operated under the name of IESI.
- D. 25 Pa. Code § 273.201(c)(2) provides that a person that operates a municipal waste landfill shall comply with the plans and specifications in the permit, the terms and conditions of the permit, the environmental protection acts, Title 25-Environmental Protection, and orders issued by the Department.
- E. 25 Pa. Code § 273.218(b)(2) provides that an operator shall perform regular, frequent and comprehensive site inspections to evaluate the effectiveness of cover, capping, gas collection and destruction, waste acceptance and all other waste management practices in reducing the potential for offsite odor creation.

F. 25 Pa. Code § 273.218(b)(3) provides that an operator shall promptly address and correct problems and deficiencies discovered in the course of inspections performed under 25 Pa. Code § 273.218(b)(2).

G. 25 Pa. Code § 273.218(c) provides that an operator shall implement the plan approved under § 273.136 (Nuisance Minimization and Control Plan) to minimize and control other conditions that are harmful to the environment or public health, or which create safety hazards, odors, dust, noise, unsightliness and other public nuisances.

H. 25 Pa. Code § 273.233(b)(1) provides that the composition of the intermediate cover material shall prevent vectors, odors, blowing litter and other nuisances.

I. 25 Pa. Code § 273.233(c)(1) provides that, unless alternative design requirements are approved as part of the permit, intermediate cover shall be at least 12 inches in thickness if using soil or soil-like material.

J. 25 Pa. Code § 273.292(a) provides that the operator shall implement the gas control and monitoring plan approved under 25 Pa. Code § 273.171.

K. Permit Part II Section II Condition 8.b provides that the operator shall prevent and eliminate conditions that are harmful to the environment or public health, or which create safety hazards, odors, dust, noise, unsightliness and other public nuisances.

L. Permit Part II Section III Condition 3.a provides that a uniform and compacted intermediate cover of at least 12 inches in thickness shall be placed within 7 days of waste disposal on the following:

1. Each partial lift for which the operator intends to place no additional waste for 6 months.
2. Each partial or completed lift that represents final permitted elevations for that part of the facility.
3. Each completed lift.

M. Permit Part II Section III Condition 3.b provides that the composition of the intermediate cover material shall meet requirements as stated in 25 Pa. Code § 273.233 (Intermediate Cover and Slopes).

N. Permit Part III Section I Condition VII-1 provides that the permittee shall monitor the gas collection and venting system for off-site gas migration, accumulation and nuisance potential, record the data and submit it to the Department on a quarterly basis. This data shall include an estimate of gas volumes collected by the gas management systems on site for that period.

O. On April 18, 2018, the Department conducted a routine inspection at the Facility. As documented in the Notice of Violation dated May 7, 2018, the Department determined the following:

1. IESI failed to perform regular, frequent and comprehensive site inspections to evaluate the effectiveness of cover, capping, gas collection and destruction, waste acceptance and all other waste management practices in reducing the potential for offsite odor creation, in violation of 25 Pa. Code §§ 273.201(c)(2) and 273.218(b)(2) and Permit Part II Section II Condition 8.b.
2. IESI failed to promptly address and correct problems and deficiencies discovered in the course of inspections performed under 25 Pa. Code § 273.218(b)(2), in violation of 25 Pa. Code §§ 273.201(c)(2) and 273.218(b)(3) and Permit Part II Section 8.b.
3. IESI failed to implement the Nuisance Minimization and Control Plan to minimize and control conditions that are harmful to the environment or public health, or which create safety hazards, odors, dust, noise, unsightliness and other public nuisances, in violation of 25 Pa. Code §§ 273.201(c)(2) and 273.218(c) and Permit Part II Section 8.b.
4. IESI failed to maintain a uniform intermediate cover that prevents odors, litter and other nuisances, in violation of 25 Pa. Code §§ 273.201(c)(2) and 273.233(b)(1) and Permit Part II Section III Condition 3.b.
5. IESI failed to maintain a uniform twelve (12) inch thick layer of intermediate cover, in violation of 25 Pa. Code §§ 273.201(c)(2) and 273.233(c)(1) and Permit Part II Section III Condition 3.a.
6. IESI failed to implement the gas control and monitoring plan approved under 25 Pa. Code § 273.171 (relating to the gas monitoring and control plan) and failed to effectively monitor gas collection for nuisance potential, in violation of 25 Pa. Code §§ 273.201(c)(2) and 273.292(a) and Permit Part III Section I Condition VII-1.

P. The violations were noted on the Municipal Waste Landfill Inspection Report, a copy of which was provided to IESI on April 26, 2018.

Q. On May 7, 2018, the Department issued a Notice of Violation to IESI that documented the violations in Paragraph O, above, and requested that IESI submit a proposed plan and schedule addressing the correction and prevention of the violations.

R. On May 18, 2018, the Department received a written response from IESI to the May 7, 2018 Notice of Violation.

S. During subsequent inspections of the Facility, the Department noted the progress being made to address the violations. Violations 1, 2, 3 and 5 in Paragraph O, above, were determined to be resolved as a result of a Waste Management Program inspection conducted on June 6, 2018. Violation 4 was determined to be resolved as a result of a Waste Management Program inspection conducted on June 11, 2018. Violation 6 was determined to be resolved as a result of the Air Quality Program's October 18, 2018 inspection and review of Bethlehem Landfill's September 27, 2018 Surface Emission Monitoring report.

T. The violations described in Paragraph O, above, constitute unlawful conduct under Section 610 of the Solid Waste Act, 35 P.S. § 6018.610 and subject Bethlehem Landfill to a claim for civil penalties under Section 605 of the Solid Waste Act, 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 Bethlehem Landfill 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 Act, 35 P.S. 6018.605 the Department hereby assesses a civil penalty of sixteen thousand dollars (\$16,000.00), which Bethlehem Landfill hereby agrees to pay.

2. Civil Penalty Settlement. Upon signing this CACP, Bethlehem Landfill 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 O, above, for the date set forth therein. The payment shall be by corporate check or the like, made payable to the Commonwealth of Pennsylvania - Solid Waste Abatement Fund, and sent to Pennsylvania Department of Environmental Protection, 2 Public Square, Wilkes-Barre, PA 18701-1915, Attn: Roger Bellas, Waste Management Program Manager.

3. Findings.

a. Bethlehem Landfill agrees that the findings in Paragraphs A through N and P through T are true and correct and, in any matter or proceeding involving Bethlehem Landfill and the Department, Bethlehem 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 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. Bethlehem Landfill 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 Bethlehem Landfill certify, under penalty of law, as provided by 18 Pa. C. S. § 4904, that they are authorized to execute this CACP on behalf of Bethlehem Landfill; that Bethlehem Landfill consents to the entry of this CACP as an ASSESSMENT of the Department; that Bethlehem Landfill hereby knowingly waives any right to a hearing under the statutes referenced in this CACP; and that Bethlehem Landfill 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. [Signature by Bethlehem Landfill's attorney certifies only that the agreement has been signed after consulting with counsel.]

FOR BETHLEHEM LANDFILL
COMPANY:

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:



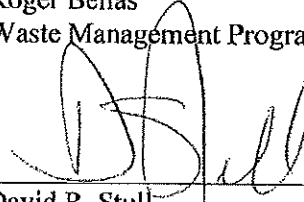
Name (print): PATRICK SHEA
Title (print): Senior Vice President,
General Counsel



Name (print): PATRICK SHEA
Attorney for Bethlehem Landfill Company



Roger Bellas
Waste Management Program Manager



David R. Stull
Assistant Counsel

bcc: WM File thru D. Ritter/R. Miller
BDO File thru A. Faulch w/Enc.
R. Miller
R. Bellas: e-mail PDF w/Enc.
D. Ritter: e-mail PDF w/Enc.
A. Faulch: e-mail PDF w/Enc.

RM:ms

WP: W2-726.doc

H/T: 6/17/19