

ENVIRONMENTAL QUALITY BOARD

H.A.M. SANITARY LANDFILL, LLC,

Appellant,

v.

Appeal No. 17-17-EQB

**DIVISION OF WATER AND WASTE
MANAGEMENT, WV DEPARTMENT
OF ENVIRONMENTAL PROTECTION,**

Appellee.



CLARIFICATION OF GROUNDS FOR APPEAL

Comes now the Appellant H.A.M. Sanitary Landfill, LLC (HAM), by counsel, Samuel F. Hanna, and hereby files this document as clarification for its grounds for appealing the December 4, 2017, letter from Christopher M. Gatens, Assessment Officer with the West Virginia Department of Environmental Protection. On September 12, 2017, HAM was assessed a Civil Administrative Penalty (CAP Case No. 180003) by the West Virginia DEP for an incident that occurred on May 24, 2017. An Informal Hearing for Civil Administrative Penalty was held on November 28, 2017. By letter dated December 4, 2017, the assessment had been reduced to \$1,755.00. It is from this decision that HAM appeals.

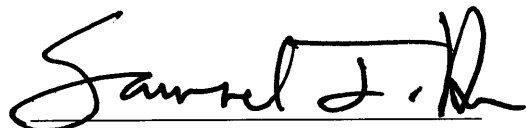
The penalty was assessed due to a breakout of leachate at the landfill cell. The landfill was under construction to add a new disposal cell. A pump was being utilized to temporarily divert leachate to the holding tanks until the lines could be connected. On May 23, 2017, the pump went out of commission and was taken to be repaired. During that time, about an inch of rain had fallen at the landfill. The pump was brought back to the landfill on the morning

of May 24, 2017. HAM was preparing for a scheduled inspection with DEP. The DEP staff discovered the breakout, which was caused by a third party contractor, at the same time as the HAM staff and the problem was corrected before the DEP staff left the landfill. The few hundred gallons of leachate had traveled across the cell access road to a ditch that flowed into HAM's largest sediment control pond.

HAM has a long history of compliance with environmental regulations and this incident resulted in no pollution that left the site. For these reasons, HAM's position is no violation occurred. In a meeting with the WV Department of Environmental Protection and its counsel, HAM's position as set forth herein had been conveyed to the WV Department of Environmental Protection.

Respectfully submitted;

H.A.M. SANITARY LANDFILL, LLC
By counsel



Samuel F. Hanna
State Bar #1580
HANNA LAW OFFICE
Post Office Box 2311
Charleston, West Virginia 25328
(304) 342-2137

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CERTIFICATE OF SERVICE

I, SAMUEL F. HANNA, counsel for the Appellant does hereby certify that service of the foregoing **CLARIFICATION OF GROUNDS FOR APPEAL** has been made upon the following parties by depositing the same in the regular course of the United States Mail, first class postage pre-paid on this the **29th day of April, 2019:**

Dr. Edward Snyder, Chairperson
Environmental Quality Board
601 57th Street, S.E.
Charleston, West Virginia 25304

Harold Ward, Acting Director
Division of Water and Waste Management
WV Department of Environmental Protection
601 57th Street, S.E.
Charleston, WV 25304

Charles S. Driver, Esquire
Office of Legal Services
WV Department of Environmental Protection
601 57th Street, S.E.
Charleston, WV 25304



SAMUEL F. HANNA