



Seneca County General Health District
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August 18, 2022

Shannon Nabors
Chief, Northwest District
Ohio Environmental Protection Agency
347 N. Dunbridge Road
Bowling Green, Ohio 43402

Re: Concerns re: Sunny Farms Landfill, ID #P0125384, Permit To Install Application #1487337 for vertical and lateral expansion

Dear Ms. Nabors,

The Seneca County Board of Health respectfully submits this letter to express its concerns related to the Permit To Install (PTI) Application #1487337 submitted to Ohio EPA by Sunny Farms Landfill for vertical and lateral expansion of its facility in western Seneca County.

Sunny Farms Landfill is currently operating under a Partial Consent Order (issued in July 2019) due to alleged violations of air pollution control and solid waste laws of the state of Ohio under R.C. Chapters 3704, 3714, and 3734. Of note, this facility has been subject to an extraordinary number of Director's Final Findings and Orders and/or Judicial Orders over the past two decades (i.e., in 2019, 2013, 2008, 2003, and 2001). The Board of Health views these orders as enforcement actions taken by the State of Ohio due to Sunny Farms Landfill's failure to comply with EPA regulations intended to protect the residents of Fostoria and Seneca County.

The Board of Health acknowledges that Sunny Farms has complied with the terms of the current consent order for the past three years at this point in time; however, the enforcement actions referenced above suggest that the operators of the landfill have not demonstrated the ability to maintain long-term compliance with EPA regulations. A Consent Order is a negotiated settlement with an agency including a commitment for the regulated entity to achieve compliance with applicable laws and regulations within a negotiated timetable. Complying with the requirements of a Consent Order and its timetable is necessary, but in itself does not constitute compliance with the underlying laws and regulations. The current and prior orders were developed as a result of substantial non-compliance well outside of state and industry norms.

Further, Sunny Farms Landfill is likely to remain under the 2019 Partial Consent Order until December 2023, since it must "demonstrate compliance with the Control Technology and SO₂ emissions limits as required in the Permit" (Final Air Pollution Permit To Install #P0128797) within 180 days of commencing operation of the Control Technology (which must be put into operation by early June 2023). This Control Technology is being required under the Partial Consent Order as a result of serious Clean Air Act violations that resulted in the facility emitting, and continuing to emit, sulfur dioxide far in excess of its permit limits or what could be allowed under Clean Air Act Prevention of Significant Deterioration requirements. Compliance with a Consent Order that negotiated a resolution for ongoing

Clean Air Act violations is not compliance; it is non-compliance with an agreed ongoing path toward resolving the non-compliance.

As the governing entity of an approved health district, the Seneca County Board of Health intends to continue administering and enforcing Ohio's solid waste, infectious waste and C&DD laws and regulations at Sunny Farms Landfill on behalf of the Ohio EPA. The Board will issue operational licenses as required, perform frequent facility inspections, and initiate enforcement actions against Sunny Farms' owners and operators when they fail to comply with Ohio's environmental rules.

However, given Sunny Farms Landfill's history of non-compliance with Ohio air pollution control and solid waste laws even when under Judicial and/or Director's Orders, the Seneca County Board of Health does not believe its compliance record currently merits consideration of its applications for authorization to expand the capacity of the facility. The Board understands that Ohio law states that "[t]he owner and operator, at facilities they own or operate, are in substantial compliance with, or are **on a legally enforceable schedule through issuance of an administrative consent order or judicial consent order to attain compliance with Chapters 3704., 3714., 3734., 3745., and 6111. of the Revised Code.**" [emphasis added]. However, the Board advocates that it only makes sense to require Sunny Farms to actually **ATTAIN COMPLIANCE** consistent with the schedule in the 2019 Partial Consent Order and Final Judgment Entry in Seneca County Court of Common Pleas Case No. 19 CV 0224 prior to approving an expansion.

Thank you for your consideration of the Seneca County Board of Health's concerns and recommendations.

Sincerely,



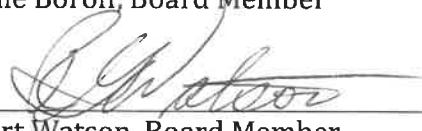
Edward Logsdon, Board Chairperson



Bonnie Boroff, Board Member



McKenzie Posey, MSN, RN, Board Member



Robert Watson, Board Member



Clay Wolph, DC, Board Member

cc: Joseph Durham, Esq, Eastman & Smith, Seneca County General Health District Legal Counsel
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Anne Goon, MS, RD, LD, Health Commissioner- Seneca County General Health District
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John Pasquarette, Manager, Air Pollution Control- Ohio EPA, NW District
Laura Wallrabenstein, MA, REHS, Environmental Health Director - Seneca County General Health District