

**CERTIFIED MAIL**

January 23, 2013

Sunny Farms Landfill, LLC  
12500 W. Co. Rd. 18  
Fostoria, OH 44830

**Re: Director's Final Findings and Orders**  
Sunny Farms Landfill, LLC

Dear Sir/Madam:

Transmitted herewith is a Director's Final Findings and Orders concerning the matter indicated.

Enclosed is an invoice for the total civil penalty amount of \$30,000.00 required by the order, which is to be submitted as an official check.

If you have any questions, please contact Robin Nichols, (614) 644-3037.

Sincerely,

A handwritten signature in cursive script that reads "Georgia Frakes".

Georgia Frakes, Management Analyst  
Division of Materials & Waste Management

Enclosure

ec: Carl Mussenden, DMWM, CO  
Bruce McCoy, DMWM, CO  
Kelly Jeter, DMWM, CO  
Jeff Hurdley, DMWM, CO  
Robin Nichols, Legal  
Andy Drumm, DMWM, NWDO  
John Pasquarette, DMWM, NWDO  
Mike Reiser, DMWM, CO  
Susan Hardy, DMWM, CO  
Seneca Co. General Health District

OHIO E.P.A.

JAN 23 2013

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter Of:

Sunny Farms Landfill LLC	:	<u>Director's Final Findings</u>
12500 W Co Rd 18	:	<u>and Orders</u>
Fostoria, OH 44830	:	

**Respondent**

**PREAMBLE**

The parties having engaged in settlement discussions and desiring to avoid litigating disputed claims, have reached an agreement pursuant to Ohio Revised Code ("ORC") 3745.01 to resolve said claims through these Director's Final Findings and Orders ("Orders").

**I. JURISDICTION**

These Orders are issued to Sunny Farms Landfill LLC ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under ORC Sections 3734.13 and 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Facility as hereinafter defined shall in any way alter Respondent's obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734 and the rules promulgated thereunder. As used in these Orders, "Facility" includes the Sunny Farms Landfill as approved in PTI # 03-6324.

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: Donal Cassiter Date: 1-23-13

#### **IV. FINDINGS**

All of the findings necessary for the issuance of these Orders pursuant to ORC Sections 3734.13 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any issue of law or fact. The Director of Ohio EPA has made the following findings:

1. The Sunny Farms Landfill ("Facility") is located at 12500 W County Road 18, Fostoria, OH, Seneca County, Ohio.
2. Respondent is the "owner" of the Facility and "operator" of the Facility as those terms are defined in Ohio Administrative Code ("OAC") Rules 3745-27-01(O)(7) and (O)(5), respectively.
3. The Facility is a "sanitary landfill facility" as that term is defined under OAC Rule 3745-27-01(S)(4) and is authorized to accept "solid waste" as that term is defined under ORC Section 3734.01(E) and OAC Rule 3745-27-01(S)(23).
4. The Respondent is a person as that term is defined in ORC Section 3734.01(G) and in Ohio Administrative Code ("OAC") Rule 3745-27-01(P)(3).
5. The Seneca County General Health District (Health Department) is approved to administer Ohio's solid waste laws and regulations pursuant to OAC Rule 3745-37-08.
6. A Jerome meter is a portable device manufactured by Arizona Instrument, LLC that is used to monitor and quantify hydrogen sulfide in the air. A Jerome meter is capable of detecting hydrogen sulfide from 3 parts per billion (ppb) to 10 parts per million (ppm) concentrations and can be used for regular monitoring of hydrogen sulfide levels near landfills and other facilities.
7. OAC Rule 3745-27-19(B)(3) states in pertinent part, "The owner or operator shall operate the facility in such a manner that . . . odors are strictly controlled[.]"
8. During January and February 2012 Ohio EPA and the Health Department received approximately fifteen complaints from nearby residents regarding odors from the Facility.
9. In response to the complaints described in paragraph 8, above, and as part of routine comprehensive inspections of the Facility, during January and February 2012, Ohio EPA and the Health Department conducted odor surveillance inspections along public roads that surround the Facility. Ohio EPA and the Health Department determined that odors were present, in violation of OAC Rule

3745-27-19(B)(3), at the times and locations described set forth in the Table below. The odors were characterized as landfill gas with a clearly detectable hydrogen sulfide odor.

Date	Time	Location	Wind Conditions
1/24/12	6:30 PM	3284 S US 23	WSW 5-15 mph
1/26/12	5:30 PM	US 224, 3.5 miles West of County Line	ENE 5-15 mph
2/1/12	8:00 PM	3284 S US 23	West 15+ mph
2/8/12	1:27 PM	South side of the Facility	WNW 5-15 mph
2/9/12	2:32 PM	Radio station by 1504 S US 23	WSW 15+ mph
2/9/12	2:17 PM	1504 S US 23	WSW 15+ mph
2/20/12	7:00 AM	US 224, 1 mile west of US 23	East 5-15 mph

The results of these inspections were documented in a Notice of Violation letter from Ohio EPA to Respondent dated March 16, 2012.

10. During March 2012 Ohio EPA and the Health Department received approximately eight complaints from nearby residents regarding odors from the Facility.
11. In response to the complaints described in paragraph 10, above, and as part of routine comprehensive inspections of the Facility, during March 2012, Ohio EPA and the Health Department conducted odor surveillance inspections along public roads that surround the Facility. Ohio EPA and the Health Department determined that odors were present, in violation of OAC Rule 3745-27-19(B)(3), at the times and locations described set forth in the Table below.

Date	Time	Location	Wind Conditions
3/1/12	12:53 PM	1755 US 23	West, 18 mph
3/6/12	10:50 AM	East of RR Township Road 108	South, 25 mph
3/6/12	11:00 AM	12886 W CR 18	South, 25 mph
3/13/12	3:00 PM	1504 S US 23	West, 20 mph
3/16/12	1:35 PM	1504-1926 S US 23	WSW, 6 mph

The results of these inspections were documented in a Notice of Violation letter from the Health Department to Respondent dated April 4, 2012.

12. During April 2012 Ohio EPA and the Health Department received approximately eight complaints from nearby residents regarding odors from the Facility.
13. In response to the complaints described in paragraph 12, above, and as part of routine comprehensive inspections of the Facility, during April 2012, Ohio EPA and the Health Department conducted odor surveillance inspections along public roads that surround the Facility. Ohio EPA and the Health Department determined that odors were present, in violation of OAC Rule 3745-27-19(B)(3), at the times and locations described set forth in the Table below.

Date	Time	Location	Wind Conditions
4/3/12	10:45 AM	12917 W Township Road 108	SE, 8 mph
4/8/12	7:51 AM	1504 S US 23	WNW, 18 mph
4/9/12	11:40 AM	1760 S US 23	WSW, 15 mph
4/11/12	6:30 PM	Township Road 112 – US 224	North, 8 mph
4/12/12	11:57 AM	1504 S US 23	West 11 mph
4/18/12	11:00 AM	1504 S US 23	ESE, 11 mph
4/19/12	8:50 AM	685 S US 23	SSW, 7 mph
4/19/12	9:38 AM	US 23 south of County Road 18	SSW, 7 mph
4/26/12	11:16 AM	1766 S US 23	West, 9 mph

The results of these inspections were documented in a Notice of Violation letter from the Health Department to Respondent dated May 3, 2012.

14. During May 2012 Ohio EPA and the Health Department received approximately fifteen complaints from nearby residents regarding odors from the Facility.
15. In response to the complaints described in paragraph 14, above, and as part of routine comprehensive inspections of the Facility, during May 2012, Ohio EPA and the Health Department conducted odor surveillance inspections along public roads that surround the Facility. Ohio EPA and the Health Department determined that odors were present, in violation of OAC Rule 3745-27-19(B)(3), at the times and locations described set forth in the Table below.

Date	Time	Location	Wind Conditions
5/8/12	11:30 AM	12032 West Township Road 108	NW, 9 mph
5/8/12	11:56 AM	12032 West Township Road 108	NW, 8 mph
5/8/12	2:25 PM	1587 South Township Road 37	WNW, 5 mphj
5/16/12	3:45 PM	Township Road 108	ENE, 13 mph
5/22/12	9:17 AM	Township Road 108	North, 10 mph
5/22/12	9:18 AM	Township Road 108	North, 10 mph
5/22/12	9:25 AM	Township Road 108	North, 10 mph
5/22/12	9:27 AM	Township Road 108	North, 10 mph
5/22/12	9:28 AM	Township Road 108	North, 10 mph
5/22/12	9:41 AM	Township Road 108	North, 10 mph
5/22/12	9:43 AM	Township Road 108	North, 10 mph
5/22/12	9:48 AM	Township Road 108	North, 10 mph
5/31/12	8:42 AM	Township Road 108	NE, 12 mph

The results of these inspections were documented in a Notice of Violation letter from the Health Department to Respondent dated June 8, 2012.

16. During June 2012 the Health Department received approximately seven complaints from nearby residents regarding odors from the Facility.
17. In response to the complaints described in paragraph 16, above, and as part of routine comprehensive inspections, during June 2012 Ohio EPA and the Health Department conducted odor surveillance inspections along public roads that surround the Facility. Ohio EPA and the Health Department determined that

odors were present, in violation of OAC Rule 3745-27-19(B)(3), at the times and locations described set forth in the Table below.

Date	Time	Location	Wind Conditions
6/12/12	10:05 AM	12032 West Township Road 108	NW, 11 mph
6/14/12	10:44 AM	Township Road 108, west of the Facility	East, 3 mph
6/14/12	11:04 AM	Township Road 108 beside the Facility	East, 3 mph
6/20/12	1:55 PM	10868 West State Route 18	SW, 12 mph
6/25/12	11:07 AM	12917 West Township Road 108	NNE, 16 mph, gust 21 mph

The results of these inspections were documented in a Notice of Violation letter from the Health Department to Respondent dated July 3, 2012.

18. During July 2012 the Health Department received approximately five complaints from nearby residents regarding odors from the Facility.
19. In response to the complaints described in paragraph 18, above, during July 2012, Ohio EPA and the Health Department conducted odor surveillance inspections along public roads that surround the Facility. Ohio EPA and the Health Department determined that odors were present, in violation of OAC Rule 3745-27-19(B)(3), at the times and locations described set forth in the Table below:

Date	Time	Location	Wind Conditions
7/23/12	10:04 AM	1218-1504 S US Route 23	SW 6 mph
7/26/12	2:23 PM	1504 S US Route 23	W 15 mph
7/31/12	3:15 PM	1504 S US Route 23	SW 6 mph

The results of these inspections were documented in a Notice of Violation letter from the Health Department to Respondent dated August 2, 2012.

20. During August 2012 Ohio EPA and the Health Department received approximately nineteen complaints regarding odors from the Facility.
21. During September 2012 Ohio EPA and the Health Department received approximately twenty-four complaints regarding odors from the Facility.
22. During October 2012 Ohio EPA and the Health Department received approximately sixteen complaints regarding odors from the Facility.
23. Between November 1, 2012 and November 7, 2012, Ohio EPA and the Health Department received approximately four complaints regarding odors from the Facility.
24. In response to the complaints described in paragraph 23, above, and as part of the annual survey of the Health Department, on November 7, 2012 Ohio EPA and the Health Department conducted an odor surveillance inspection along public roads that surround the Facility. During that inspection, both Ohio EPA and the Health Department determined that odors were present. The odors were characterized as landfill gas with a clearly detectable hydrogen sulfide odor and were detected at 11:30 AM on Township Road 108 west of the landfill by the red barn.

By Notice of Violation letter dated November 27, 2012, Ohio EPA documented the results of this inspection, informing Respondent that the presence of the odors was a violation of OAC Rule 3745-27-19(B)(3).

25. Between November 8, 2012 and November 28, 2012, Ohio EPA and the Health Department received approximately twenty-nine complaints regarding odors from the Facility.
26. In response to the complaints described in paragraph 25, above, on November 28, 2012, Ohio EPA conducted an odor surveillance inspection along public roads that surround the Facility. During that inspection, Ohio EPA determined that odors were present, in violation of OAC Rule 3745-27-19(B)(3). The odors were characterized as landfill gas with a garbage and hydrogen sulfide odor and were detected at 10:30 AM at the Sheeler Cemetery on State Route 23.

The results of this inspection were documented in a Notice of Violation letter from Ohio EPA to Respondent dated December 11, 2012.

27. Between November 30, 2012 and December 26, 2012, Ohio EPA and the Health Department received approximately thirty-four complaints regarding odors from

the Facility.

28. In response to the complaints described in paragraph 27, above, on December 5, 2012, Ohio EPA conducted an odor surveillance inspection along public roads that surround the Facility. During that inspection, Ohio EPA determined that odors were present, in violation of OAC Rule 3745-27-19(B)(3). These odors were further observed through the use of a Jerome Meter; the Jerome Meter readings are set forth in the Table below.

Time	Location	Jerome Meter Reading
5:45 PM	Approximately 100 feet from the red barn southwest of the Facility, County Road 18	136 ppb
5:45 PM	Approximately 100 feet from the red barn southwest of the Facility, County Road 18	52.08 ppb

The results of this inspection were documented in a Notice of Violation letter from Ohio EPA to Respondent dated December 11, 2012.

29. In response to complaints described in paragraph 27, above, on December 12, 2012, Ohio EPA conducted an odor surveillance inspection along public roads that surround the Facility. During that inspection, Ohio EPA determined that odors were present, in violation of OAC Rule 3745-27-19(B)(3). These odors were further observed through the use of a Jerome Meter; the Jerome Meter readings are set forth in the Table below.

Time	Location	Jerome Meter Reading
3:58 PM	N 41° 08.061 / W 83° 24.103 – County Road 18	12.25 ppb
4:00 PM	N 41° 08.061 / W 83° 24.103 – County Road 18	15.78 ppb
5:10 PM	N 41° 07.080 / W 83° 24.503 – Township Road 18	13.51 ppb
5:17 PM	Directly north of the office – County Road 18	27.66 ppb

5:19 PM	N 41° 06.510 / W 83° 24.577 – County Road 18	30.30 ppb
5:20 PM	N 41° 06.510 / W 83° 24.577 – County Road 18	29.12 ppb
5:21 PM	N 41° 06.510 / W 83° 24.577 – County Road 18	22.86 ppb
5:25 PM	Directly north of the scale – County Road 18	24.76 ppb
5:27 PM	Directly north of the scale – County Road 18	26.74 ppb
5:37 PM	Directly north of the scale – County Road 18	23.53 ppb
5:42 PM	Directly north of the scale – County Road 18	23.58 ppb
5:44 PM	Directly north of the scale – County Road 18	26.68 ppb

The results of this inspection were documented in a Notice of Violation letter to Respondent dated December 18, 2012.

30. In response to the complaints described in paragraph 27, above, on December 13, 2012, Ohio EPA conducted an odor surveillance inspection along public roads that surround the Facility. During that inspection, Ohio EPA determined that distinct, definite, and clearly detectable odors were present, in violation of OAC Rule 3745-27-19(B)(3). These odors were further observed through the use of a Jerome Meter; the Jerome Meter readings are set forth in the Table below:

Time	Location	Jerome Meter Reading
7:10 AM	12553 Township Road 112	17.70 ppb
7:12 AM	12867 Township Road 112	20.62 ppb

7:13 AM	12873 Township Road 112	21.46 ppb
7:33 AM	12514 West County Road 18	26.05 ppb
7:57 AM	12448 West County Road 18	25.76 ppb
8:00 AM	12458 West County Road 18	45.83 ppb
8:02 AM	12458 West County Road 18	40.77 ppb

The results of this inspection were documented in a Notice of Violation letter to Respondent dated December 18, 2012.

31. In response to complaints described in paragraph 27, above, on December 14, 2012, Ohio EPA conducted an odor surveillance inspection along public roads that surround the Facility. During that inspection, Ohio EPA determined that distinct, definite, and clearly detectable odors were present, in violation of OAC Rule 3745-27-19(B)(3). These odors were further observed through the use of a Jerome Meter; the Jerome Meter readings are set forth in the Table below:

Time	Location	Jerome Meter Reading
4:39 PM	12885 County Road 18	43.71 ppb
4:44 PM	12885 County Road 18	46.73 ppb
4:49 PM	12885 County Road 18	23.40 ppb

The results of this inspection were documented in a Notice of Violation letter to Respondent dated January 2, 2013.

32. In response to the complaints described in paragraph 27, above, on December 15, 2012, Ohio EPA conducted an odor surveillance inspection along public roads that surround the Facility. During that inspection, Ohio EPA determined that distinct, definite, and clearly detectable odors were present, in violation of OAC Rule 3745-27-19(B)(3). These odors were further observed through the use of a Jerome Meter; the Jerome Meter readings are set forth in the Table below:

Time	Location	Jerome Meter Reading
4:10 PM	County Road 18 at the county line	18.04 ppb

The results of this inspection were documented in a Notice of Violation letter to Respondent dated January 2, 2013.

33. In response to complaints described in paragraph 27, above, on December 17, 2012, Ohio EPA conducted an odor surveillance inspection along public roads that surround the Facility. During that inspection, Ohio EPA determined that distinct, definite, and clearly detectable odors were present, in violation of OAC Rule 3745-27-19(B)(3). These odors were further observed through the use of a Jerome Meter; the Jerome Meter readings are set forth in the Table below:

Time	Location	Jerome Meter Reading
5:19 PM	Township Road 108 parallel to rail waste drive meets main drive	63.35 ppb
5:22 PM	Township Road 108 parallel to rail waste drive meets main drive	78.96 ppb
5:39 PM	Township Road 108 parallel to rail waste drive meets main drive	23.48 ppb
5:41 PM	Township Road 108 parallel to rail waste drive meets main drive	20.17 ppb

The results of this inspection were documented in a Notice of Violation letter to Respondent dated January 2, 2013.

34. In response to the complaints described in paragraph 27, above, on December 20, 2012, Ohio EPA conducted an odor surveillance inspection along public roads that surround the Facility. During that inspection, Ohio EPA determined that distinct, definite, and clearly detectable odors were present, in violation of OAC Rule 3745-27-19(B)(3). These odors were further observed through the use of a Jerome Meter; the Jerome Meter readings are set forth in the Table below:

Time	Location	Jerome Meter Reading
7:30 AM	4787 Hancock Township Road 23	57.56 ppb
7:32 AM	4787 Hancock Township Road 23	54.15 ppb
7:33 AM	4787 Hancock Township Road 23	45.95 ppb
7:37 AM	4787 Hancock Township Road 23	39.10 ppb
7:45 AM	4502 Hancock County Road 330	21.36 ppb
7:46 AM	4502 Hancock County Road 330	22.61 ppb
7:47 AM	4502 Hancock County Road 330	23.87 ppb
7:55 AM	4787 Hancock Township Road 23	23.39 ppb
7:57 AM	4787 Hancock Township Road 23	27.71 ppb
8:00 AM	4787 Hancock Township Road 23	16.77 ppb
8:14 AM	100 feet north of 4787 Hancock Township Road 23	37.32 ppb
8:15 AM	100 feet north of 4787 Hancock Township Road 23	36.11 ppb
8:16 AM	100 feet north of 4787 Hancock Township Road 23	36.11 ppb
8:17 AM	100 feet north of 4787 Hancock Township Road 23	47.37 ppb
8:18 AM	100 feet north of 4787 Hancock Township Road 23	40.87 ppb
8:20 AM	100 feet north of 4787 Hancock Township Road 23	50.39 ppb
8:21 AM	100 feet north of 4787 Hancock Township Road 23	44.87 ppb

The results of this inspection were documented in a Notice of Violation letter to

Respondent dated January 2, 2013.

35. In response to complaints described in paragraph 27, above, on December 24, 2012, Ohio EPA conducted an odor surveillance inspection along public roads that surround the Facility. During that inspection, Ohio EPA determined that distinct, definite, and clearly detectable odors were present, in violation of OAC Rule 3745-27-19(B)(3). These odors were further observed through the use of a Jerome Meter; the Jerome Meter readings are set forth in the Table below:

Time	Location	Jerome Meter Reading
9:31 AM	Corner of Hancock CR 23 and Washington Township Road 214	25.31 ppb
9:32 AM	Corner of Hancock CR 23 and Washington Township Road 214	23.07 ppb
10:10 AM	Corner of Hancock CR 23 and Washington Township Road 214	27.11 ppb

The results of this inspection were documented in a Notice of Violation letter to Respondent dated January 2, 2013.

36. In response to complaints described in paragraph 27, above, on December 27, 2012, Ohio EPA conducted an odor surveillance inspection along public roads that surround the Facility. During that inspection, Ohio EPA determined that distinct, definite, and clearly detectable odors were present, in violation of OAC Rule 3745-27-19(B)(3). These odors were further authenticated through the use of a Jerome Meter; the Jerome Meter readings are set forth in the Table below:

Time	Location	Jerome Meter Reading	Wind Direction/Speed
2:44 PM	11847 Township Road 108	16.91 ppb	W 5.0 mph
3:19 PM	1746 US Route 23	17.51 ppb	W 2.0 mph
3:21 PM	12091 Township Road 108	24.19 ppb	W 2.0 mph

The results of this inspection were documented in a Notice of Violation letter to Respondent dated January 3, 2013.

37. Respondent has failed to strictly control odors in violation of OAC Rule 3745-27-19(B)(3).
38. Respondent indicates that it has performed the following actions in an effort to comply with OAC Rule 3745-27-19(B)(3):

Dates	Summary of Event
December 2010	Start-up of Initial Voluntary GCCS System - passive vent retrofit
January through April 2012	<p>Respondent submits GCCS expansion plans to NWDO/DMWM for existing disposal area and 1st 2012 GCCS expansion alteration for Cells 5A, 5B, and 6A</p> <p>Respondent initiates 1<sup>st</sup> 2012 GCCS expansion construction and installation</p> <p>Respondent begins operation of 1<sup>st</sup> 2012 GCCS expansion, including collectors</p>
July through September 2012	<p>Respondent begins operation of 2<sup>nd</sup> 2012 GCCS expansion – 3 collectors</p> <p>Respondent begins installation of 3<sup>rd</sup> 2012 GCCS expansion</p> <p>Respondent begins operation of 3<sup>rd</sup> 2012 GCCS expansion, including collectors</p>
November through December 2012	<p>Respondent completes Surface Emission Scan to determine where landfill gas is escaping</p> <p>Respondent places additional clay in areas where Respondent determined landfill gas was escaping</p> <p>Respondent completes 2nd Surface Emission Scan to determine where gas is escaping</p>
January 2013	<p>Respondent places additional clay in areas where Respondent determined landfill gas was escaping</p>

#### **V. ORDERS**

Respondent shall achieve compliance with ORC Chapter 3734 and the rules promulgated thereunder according to the following compliance schedule:

## **Flare System**

1. Not later than thirty (30) days after the effective date of these Orders, Respondent shall submit to Ohio EPA for approval a written plan to install an additional utility flare and maintain a revised flare configuration system that, at a minimum, provides for the following:
  - Two properly sized utility flares, each capable of receiving gas from the entire gas collection system;
  - The operation and maintenance of the existing utility flare during the installation of the additional utility flare, and a plan for the additional utility flare to function in concert with the existing utility flare;
  - A plan for responding when one or more utility flare is off-line;
  - The connection of the leachate riser pipes from the sumps in Phases 6B and 7 into the gas extraction system in accordance with PTI #03-6324;
  - Procedures for minimizing odors during construction.
  
2. Not later than thirty (30) days after Ohio EPA's approval of the plan submitted pursuant to Order #1, above, Respondent shall apply for any air permit, alterations to the air permit issued for the Facility, or other authorizations that are necessary to implement the provisions of the approved plan. Not later than ninety (90) days after receiving the required authorizations, Respondent shall complete the installation of the revised flare configuration system, pursuant to Ohio EPA's approval.

If no additional authorizations are required to implement the provisions of the approved plan, not later than ninety (90) days after approval of the plan, Respondent shall complete the installation of the revised flare configuration system, pursuant to Ohio EPA's approval.
  
3. Not later than thirty (30) days after the installation of the additional utility flare pursuant to Order #1 and monthly on the 20<sup>th</sup> of the following month thereafter, Respondent shall submit to Ohio EPA and the Health Department a written report that at a minimum includes the following information for each flare:
  - flare runtime percentages monthly, and
  - inlet concentrations of H<sub>2</sub>S monthly (QRAE tube).
  
4. Not later than sixty (60) days after the installation of the additional utility flare pursuant to the plan approved by Ohio EPA, Respondent shall perform laboratory analysis of the inlet concentrations of H<sub>2</sub>S in accordance with 40 C.F.R. Part 60, Appendix A, Test Method 15/16 or ASTM D-5504 for each flare at the Facility to confirm the QRAE tube analysis. Respondent shall conduct

laboratory analysis of the inlet concentrations of H<sub>2</sub>S semi-annually thereafter.

Respondent shall submit a written report to Ohio EPA and the Health Department not later than thirty (30) days after each analysis is completed pursuant to this Order.

### ***Gas Extraction System***

5. Not later than sixty (60) days after the effective date of these Orders, Respondent shall re-evaluate whether the number and spacing of gas wells installed in the final capped areas, intermediate cover areas, and transitional cover areas in the existing unit are operating at optimal efficiency and that provides overlapping coverage such that the gas extraction system is sized properly and ensures compliance with OAC Rule 3745-27-19(B).
6. Not later than ninety (90) days after the effective date of these Orders, Respondent shall submit a written report outlining the evaluation conducted pursuant to Order #5. If the evaluation reveals that the gas extraction system is not sized properly, not later than thirty (30) days after submission of the written report, Respondent shall submit to Ohio EPA for concurrence a plan to revise the gas extraction system such that it is sized properly. Upon Ohio EPA's concurrence with the written plan, Respondent shall implement the written plan.

### ***Gas Well Vacuum***

7. Beginning February 4, 2013 and continuing weekly until January 1, 2014, Respondent shall:
  - A. Determine if there is appropriate vacuum being pulled on the gas extraction system to ensure optimal odor control at the Facility, and adjust the vacuum accordingly, while taking steps necessary to avoid a fire at the Facility and ensure compliance with OAC Rule 3745-27-19(B);
  - B. Record the concentration of gases at each gas well at the Facility that was adjusted.

Beginning January 1, 2014, Respondent shall perform the obligations set forth in paragraphs A and B above monthly.
8. Beginning February 4, 2013 and monthly thereafter, Respondent shall record the concentration of methane, carbon dioxide, oxygen and balance gases and pressure (inches of water column) at each gas collector at the Facility, and submit a report by the 20<sup>th</sup> day of the following month to Ohio EPA and the Health Department. The report shall also include all information recorded in accordance with Order #7.

### ***Odor Control Blanket Contingency Plan***

9. Not later than thirty (30) days after the effective date of these Orders, Respondent shall submit to Ohio EPA for written concurrence an odor control blanket contingency plan including drawings that describes how a 40 mil LLDPE, PVC liner, or equivalent would be used over filled areas of the Facility not yet to final grade in order to control odors. If Respondent is required to install an odor control blanket pursuant to Order #11, Respondent shall install the odor control blanket as depicted in the plan as concurred with by Ohio EPA.

### ***Surface Emissions Monitoring***

10. Beginning February 4, 2013 and monthly thereafter, Respondent shall perform surface emission monitoring of all areas at the Facility where waste is disposed but upon which final cap has not been constructed with the exception of the working face and haul roads.

Respondent shall conduct surface emission monitoring pursuant to 40 C.F.R. 60.755 (c) with the following exceptions:

- The exceedance methane concentration threshold shall be 250 parts per million (ppm) rather than 500 ppm; and
- The serpentine pattern shall be conducted at approximate 50-foot spacing rather than a 100-foot spacing.

Until January 1, 2014, Respondent shall notify Ohio EPA and the Health Department not less than 24-hours before conducting surface emission monitoring pursuant to this Order.

11. For the purpose of this Order, exceedance means a methane concentration of 250 ppm or a H<sub>2</sub>S concentration greater than or equal to 1 ppm obtained by Ohio EPA, the Health Department or Respondent during surface emission monitoring using a Jerome meter capable of accurately measuring H<sub>2</sub>S at 5 ppb.

Not later than fourteen (14) days after performing surface emission monitoring pursuant to Order #10, Respondent shall submit to Ohio EPA the results on a plan drawing showing the approximate location of each monitoring location and methane concentration. If any exceedance occurs, Respondent shall complete corrective actions within the timeframes prescribed within 40 C.F.R. 60.755 (c) with the following modifications:

- A. Not later than seven (7) calendar days after detecting the exceedance, perform cap maintenance and/or make adjustments to the vacuum of the adjacent wells to increase gas collection in the vicinity of each

exceedance and the location shall be re-monitored.

- B. If the re-monitoring of the location shows a second exceedance, additional corrective action (i.e. re-adjust the vacuum, perform additional cap maintenance, etc) shall be taken and the location shall be monitored again not later than seven (7) days after the second exceedance.
- C. If re-monitoring shows a third exceedance for the same location, Respondent shall not later than seven (7) days after the third exceedance, identify and delineate the portion of the Facility in which the exceedances are located. Not later than forty five (45) days after the identification and delineation, Respondent shall do either of the following:
  - i. Install a new well or other collection device;
  - ii. Install an odor control blanket that covers the delineated area and that extends fifty feet beyond the delineated area in each direction, in accordance with the odor control blanket contingency plan as concurred with by Ohio EPA.

Not later than three (3) days after the third exceedance, Respondent may request an alternative remedy, such as upgrading the blower, header pipes or control device, and a corresponding timeline for installation by submitting a written request to Ohio EPA for written concurrence. Upon written concurrence from Ohio EPA, Respondent shall implement the alternative remedy and corresponding timeline in accordance with the concurrence.

### ***Odor Monitoring Systems***

12. Not later than seven (7) days after the effective date of these Orders, Respondent shall implement a self-monitoring odor system at the Facility. The self-monitoring odor system shall include, but not be limited to, the following:
  - The odor monitoring must be conducted two times daily, seven days a week, at dusk (5:00 pm to 11:00 pm) and at dawn (5:00 am to 8:00 am) for a period of three (3) months. Readings shall be taken at the monitoring locations outlined below. If an initial reading at a location is less than 15 ppb, no additional readings must be taken. If an initial reading at a location exceeds 15 ppb, Respondent may take two additional readings, at subsequent five-minute intervals, and record the average of the three readings. If no odor detections have exceeded 15 ppb (or an average of 15 ppb if three readings are taken) for a three month period, the inspection frequency may be decreased to five days per seven day period, twice daily. If detections once again exceed 15 ppb (or an average of 15 ppb if three readings are taken), seven day a week monitoring shall return for a three month cycle as stated above.
  - The monitoring locations shall be as follows: a location at the property line downwind of the Facility, two community locations at the first public right of

way downwind of the Facility, and three community locations at a public right of way further downwind of the Facility. All locations must include longitude and latitude coordinates.

- A reading using a Jerome meter model capable of accurately measuring H<sub>2</sub>S at 5 ppb must be taken and recorded at the time of each monitoring event. Respondent shall maintain, calibrate, and operate the Jerome meter in accordance with the manufacturer's specifications.
- Monitoring records that include the date, time, and location of odor monitoring and calibration records shall be submitted to Ohio EPA and the Health Department monthly, by the 20<sup>th</sup> day of the following month.

### ***Continuous Meteorological (MET) Station***

13. Not later than sixty (60) days after the effective date of these Orders, Respondent shall install a minimum of one (1) MET station. The station(s) shall be located such that data is representative of conditions affecting the transport of emissions from the sources of H<sub>2</sub>S at the Facility. Each MET station shall meet the following criteria: accurately measuring temperature, wind speed, wind direction, and barometric pressure on a continuous basis; record wind direction in one degree increments; be equipped with a data recording device capable of recording each reading; record measurements at least 360 times per hour; and generate hourly average data for all parameters. Real-time and all historical data shall be available to Ohio EPA and the Health Department electronically on Respondent's website.

### ***Enhanced Cover Requirement***

14. Immediately upon issuance of the Orders and continuously thereafter, Respondent shall initiate the installation of intermediate cover in all areas of the Facility for which a final cap has not been constructed in accordance with OAC Rule 3745-27-19(G), except that the intermediate cover shall be at least twenty-four inches thick.

### ***Odor Complaint Response***

15. Not later than thirty (30) days after the effective date of these Orders, Respondent shall establish a 24-hour, 7 days per week odor complaint telephone hotline that is operated by a third-party. Respondent shall ensure the following:
  - A. Upon receipt of any odor complaint, the third-party records information including, but not limited to, the date & time, complainant name, location of the odor, and description and intensity of the odor, and notifies Respondent, the Health Department, and Ohio EPA by electronic mail promptly upon receipt of each odor complaint, and

- B. At the end of each month, the third-party provides a report to Respondent, the Health Department, and Ohio EPA that compiles all complaints received during the month period. The report must be submitted electronically to email addresses provided by Respondent, the Health Department, and Ohio EPA.
16. Not later than thirty (30) days after the effective date of these Orders, Respondent shall establish and maintain an odor complaint log that documents Respondent's actions taken to address odor complaints received. Respondent shall make the log available to Ohio EPA and the Health Department upon request.

### ***Additional Measures***

17. Respondent shall re-assess all potential sources of odors at the Facility, including the flare configuration system and its operating parameters, and submit a report to Ohio EPA not later than thirty (30) days after either of the following occur:
- If during any consecutive thirty-day period following the installation of the additional utility flare pursuant to Order #1 but prior to completion of the cap system, Respondent, Ohio EPA, or the Health Department detect H<sub>2</sub>S off-site in excess of 25 ppb on five (5) days using a Jerome meter. If an initial reading at a location is less than 25 ppb, no additional readings must be taken. If an initial reading at a location exceeds 25 ppb, Respondent may take two additional readings, at subsequent five-minute intervals, and record the average of the three readings; or
  - If after completion of the cap system Respondent, Ohio EPA, or the Health Department detect H<sub>2</sub>S off-site in excess of 15 ppb on five (5) days using a Jerome meter. If an initial reading at a location is less than 15 ppb, no additional readings must be taken. If an initial reading at a location exceeds 15 ppb, Respondent may take two additional readings, at subsequent five-minute intervals, and record the average of the three readings.

The report shall also include a corrective measures plan that evaluates all practicable remediation measures, including the installation of an H<sub>2</sub>S remediation system, that are available to strictly control odors such that the Facility does not cause a nuisance or health hazard. Ohio EPA may require the evaluation of additional remediation measures.

### ***Capping***

18. Not later than January 1, 2014, Respondent shall install all gas extraction wells at the Facility as approved in PTI # 03-6324, and shall construct the final cap on not less than 14 acres of the Facility. Not later than January 1, 2015, Respondent shall construct final cap on the remaining areas of the Facility where waste has

been placed as authorized in PTI #03-6324.

### ***Civil Penalty***

19. Not later than sixty (60) days after the effective date of these Orders, Respondent shall pay the amount of thirty thousand dollars (\$30,000.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 3734 and which will be deposited into the Environmental Remediation Fund established pursuant to ORC Section 3734.281. Payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for thirty thousand dollars (\$30,000.00). The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the Facility. A copy of the check shall be sent to Ohio EPA, Division of Materials and Waste Management, Supervisor P.O. Box 1049, Columbus, Ohio 43216-1049.

In lieu of payment of a portion of the civil penalty identified in the paragraph above, Respondent may choose to either purchase a Jerome Meter model J605 for the Health Department, or reimburse the Health Department for its purchase of a Jerome meter model J605, provided that the Health Department is willing and can legally accept the Jerome Meter model J605 or reimbursement under applicable Ohio ethics laws. If Respondent can lawfully purchase a Jerome Meter for the Health Department or reimburse the Health Department for its purchase of a Jerome Meter as described in this paragraph, not later than sixty (60) days after the effective date of these Orders, Respondent shall submit to Ohio EPA the following: a receipt showing the purchase or reimbursement for the Jerome meter model J605; a letter from the Health Department acknowledging receipt of the Jerome meter or the reimbursement; and an official check payable to "Treasurer, State of Ohio" in the amount of the difference between \$30,000.00 and the cost of the Jerome meter or reimbursement. The documents shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the Facility. A copy of the check shall be sent to Ohio EPA, Division of Materials and Waste Management, Supervisor P.O. Box 1049, Columbus, Ohio 43216-1049.

## **VI. REVIEW OF SUBMITTALS**

Ohio EPA may review any plan, report, or other item required to be submitted pursuant to these Orders in accordance with this Section. Upon review, Ohio EPA may in its sole discretion: (a) approve the submission in whole or in part; (b) disapprove the submission in whole or in part, notifying Respondent of deficiencies; or (c) a combination of the above. The results of Ohio EPA's review shall be in writing and provided to Respondent.

In the event of approval as is, Respondent shall proceed to take any action required by the submission as approved by Ohio EPA.

In the event that Ohio EPA initially disapproves a submission, in whole or in part, and notifies Respondent in writing of the deficiencies, Respondent shall within 14 days, or such longer period of time as specified by Ohio EPA in writing, address the deficiencies and submit a revised submission to Ohio EPA for approval. The revised submission shall address all of the deficiencies specified by Ohio EPA in its notice of disapproval. Revised submissions shall be accompanied by a letter indicating how and where each Ohio EPA comment was addressed in the submission. Any other changes made to the submission by Respondent shall also be identified in the letter.

In the event of approval of a revised submission, Respondent shall proceed to take any action required by the revised submission as approved by Ohio EPA.

If Respondent fails to submit a revised submission addressing the deficiencies noted by Ohio EPA within 14 days, or such alternate period of time specified by Ohio EPA in writing, Respondent shall be considered in breach and/or violation of these Orders. If Respondent is in breach and/or violation of these Orders, Ohio EPA retains all rights it may have to enforce the terms of these Orders or any rule or statute and/or take any action it deems appropriate to protect human health or safety or the environment.

## **VII. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Materials and Waste Management acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "Sunny Farms Landfill LLC certifies that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by the Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is the principal executive officer, the ranking elected official, or other duly authorized employee.

### **VIII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's Facility.

### **IX. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

### **X. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

### **XI. NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Northwest District Office  
Division of Materials and Waste Management  
347 North Dunbridge Road  
Bowling Green, Ohio 43402

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

Correspondence with Respondent related to these Orders will be sent to:

Christopher M. Valerian  
Sunny Farms Landfill LLC  
12500 West County Road 18  
Fostoria, Ohio 44830

with a copy to:

Shane A. Farolino  
Roetzel & Andress

222 South Main Street – Suite 400  
Akron, Ohio 44308

or to such persons and addresses as may hereafter be otherwise be specified in writing by Respondent.

## **XII. RESERVATION OF RIGHTS**

Ohio EPA reserves all rights, privileges, causes of action, and defenses. Ohio EPA specifically reserves the right to issue notices of violation for violations of OAC Rule 3745-27-19(B)(3) and/or 3745-27-19(B)(5) notwithstanding any other provisions of these Orders.

Except as otherwise provided herein, Respondent reserves all rights, privileges, causes of action, and defenses.

## **XIII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

## **XIV. EFFECTIVE DATE**

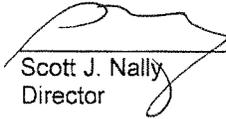
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

## **XV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

  
\_\_\_\_\_  
Scott J. Nally  
Director

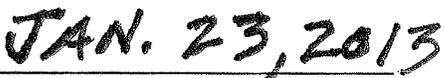
IT IS SO AGREED:

Sunny Farms Landfill LLC

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Printed or Typed Name

  
\_\_\_\_\_  
Title

  
\_\_\_\_\_  
Date