



Environmental
Protection Agency

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

Re: Notice of Violation
Tri State Garden Supply Company
Henry County

June 23, 2011

CERTIFIED MAIL

Mr. David Kasmoch Jr.
Tri State Garden Supply Company, Inc.
Gardenscape, Inc.
P. O. Box 184
Route 38 and Sandy Point Road
Eau Claire, Pennsylvania 16030

Dear Mr. Kasmoch:

On April 28, 2011, I, representing the Ohio Environmental Protection Agency (Ohio EPA) Division of Materials and Waste Management (DMWM) conducted an inspection of the Tri State Garden Supply Company Class III compost facility (Facility) located in Ridgeville Township, Henry County, Ohio. This inspection was conducted to verify compliance with Ohio Administrative Code (OAC) Chapter 3745-27. Also present for the inspection was Larry Reeder and Dana Martin-Hayden of Ohio EPA's Division of Surface Water (DSW). The results from DSW's inspection will follow under separate cover. The Facility was represented during the inspection by Brian Kammeyer. The weather at the time of the inspection was cool with a light wind. Approximately three inches of rain had fallen at the Facility during the past eight day period.

Inspection Observations – South Field (South of Owl Creek) – Tracking Map #1

The compost feedstocks noted on the south field, as depicted on tracking map #1, are outside of the boundary of a registered Class III compost facility. OAC Rule 3745-27-45(A)(2) states, "The owner or operator of a Class II, III, or IV composting facility shall meet the registration requirements prior to initiating operations at the facility and shall maintain status as a "registered compost facility," in accordance with rule 3745-27-41 of the Administrative Code, in order to continue operations at the facility."

The owner/operator is in violation of OAC Rule 3745-27-45(A)(2) for initiating composting operations on the south field prior to meeting the registration requirements.

Pile I – Pile I no longer exists on the south field as it was incorporated into Pile H on the north field. Pile I contained compost feedstocks that were moved to the north field on October 5, 2010. This activity was verified by picture documentation submitted by Mr. Kammeyer via e-mail on January 7, 2011, and field verified during this inspection.

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Pile C – Pile C contains compost feedstocks that have been tested. Testing is complete and a copy of the results was provided by Mr. Kammeyer on the day of the inspection. Pile C should be moved to the north field.

Pile G – Pile G contains N-Viro and Sauder wood waste both of which are classified as prohibited materials. Mr. Kammeyer indicated that Pile G contains all the remaining N-Viro Soil/Sauder wood waste on-site. In 2008, approximately 2760 cubic yards of Pile G was taken to a Gardenscape site in the state of Pennsylvania. The owner/operator's management of the prohibited material must comply with OAC Rule 3745-27-45(C)(2), which requires prohibited material to be removed, logged in the daily log, and properly disposed. To comply with this rule, all prohibited material must be removed from the Facility and taken to a facility that is allowed to accept it, i.e. in Ohio, a licensed solid waste landfill or a Class I or II composting facility that has obtained approval from the director to accept the specific material. Please notify Ohio EPA as to the final disposal location. Mr. Kammeyer's January 6, 2011, e-mail indicated that the disposal location of Pile G was being worked on by his "supervision".

OAC Rule 3745-27-45(A)(4)(a) states, "The owner or operator shall not accept any prohibited material at the facility. Prohibited material includes the following:

- (a) Any feedstock, bulking agent, or additive other than those feedstock types, bulking agents, or additives authorized by rule 3745-27-40 of the Administrative Code."

The owner/operator remains in violation of OAC Rule 3745-27-45(A)(4)(a) for accepting a prohibited material. Pile G containing N-Viro and Sauder wood waste is classified as a prohibited material.

OAC Rule 3745-27-41(B)(3) states, "No person shall substantially change a currently registered composting facility without first submitting the notification required by paragraph (D) or (E) of this rule.

- (3) A change in the type of feedstock, bulking agent, or additive received when the acceptance of the new feedstock type, bulking agent, or additive requires a change in the class of the facility."

The owner/operator remains in violation of OAC Rule 3745-27-41(B)(3) for substantially changing the facility without notifying the director. The acceptance of N-Viro and Sauder wood waste is considered a new feedstock and requires a change in the class of the facility.

These violations can be resolved by properly managing and removing Pile G from the Facility.

Inspection Observations – North Field (North of Owl Creek) – Tracking Map #2

The north field, as depicted on tracking map #2, is the site of the registered Class III compost facility.

Windrow 18 – Windrow 18 contained animal waste and bulking agents. No issues were noted.

Windrow 25 – Windrow 25 contained only bulking agents. No issues were noted.

Windrow 32 - Windrow 32 contained animal waste and bulking agents. No issues were noted.

Windrow 11 - Windrow 11 contained animal waste and bulking agents. No issues were noted.

Windrow 10 - Windrow 10 contained animal waste and bulking agents. No issues were noted.

Windrow 9 - Windrow 9 contained animal waste and bulking agents. Plastics were visible in this windrow during the September 2010 inspection. The plastics were removed from this windrow on September 29, 2010, verified by picture documentation on January 7, 2011, and field verified during this inspection. Picture documentation was submitted by Mr. Kammeyer via e-mail. In the future, it is the expectation of Ohio EPA that the owner/operator remove such material upon discovery and dispose of the prohibited material in an appropriate manner.

Windrow 8 - Windrow 8 contained animal waste and bulking agents. No issues were noted.

Pile H - Pile H contains curing compost that has not been tested. No issues were noted. According to Mr. Kammeyer, windrow 18, 25, 32, 11, 10, 9, 8 and Pile H are all located within the Class III compost facility boundary. Verification could not be determined during this inspection because the materials placement area was not marked. OAC Rule 3745-27-40(E)(2) states Class III facilities must have a material placement area of less than one hundred and thirty-five thousand square feet of total area. One hundred and thirty-five thousand square feet is approximately 3.1 acres. Please verify the materials placement area in the north field is equal to or less than 3.1 acres by providing documentation to Ohio EPA. Please mark the corners of your 3.1 acre area with permanent markers so that compliance determinations can be made in the future while in the field. Mr. Kammeyer's January 6, 2011, e-mail indicated that the actual marking of the compost site was being worked on by his "supervision".

The owner/operator is in violation of OAC Rule 3745-27-40(E)(2) for the failure to demonstrate the materials placement area is one hundred and thirty-five thousand square feet or less. Nearly seven months have passed since the September 2010, inspection and the material placement area still cannot be field verified. The owner/operator must immediately install temporary markers at the corners of the materials placement area until permanent makers can be surveyed and installed.

Two dump truck loads of manure were received in the pre-compost blending area (as labeled on tracking map #2) which is outside of the Facility's Class III materials placement area. Mr. Kammeyer indicated the manure was placed in this area due to the wet ground conditions in the designated receiving area.

OAC Rule 3745-27-45(C)(4) states, "The owner or operator of a composting facility shall conduct operation at the composting facility in such a manner that:

- (4) The owner or operator shall maintain access roads at the facility to allow for passage of loaded vehicles during inclement weather conditions".

The owner/operator is in violation of OAC Rule 3745-27-45(C)(4) for the failure to maintain access roads. Access roads must allow for the delivery of feedstocks during inclement weather. Access roads must be maintained so that feedstocks can be placed within the boundaries of the Class III facility.

OAC Rule 3745-27-05(C) states, in part, "No person shall conduct, permit, or allow open dumping."

The owner/operator is in violation of OAC Rule 3745-27-05(C) for the failure to place incoming feedstocks within the Class III materials placement area. Please relocate the feedstocks to the materials placement area immediately.

Surface water had ponded along Owl Creek on the north field. OAC Rule 3745-27-45(G)(1) states, "Surface water management. The owner or operator of a composting facility shall control surface water runoff and run-on, prevent ponding and erosion, and minimize the impact to surface and ground waters. For the purpose of this rule runoff includes precipitation that has fallen onto the composting facility and has not come in contact with any compost products, or solid wastes including feedstocks, bulking agents, or additives. At a minimum, the owner or operator shall do the following:

- (1) Manage surface water in compliance with the requirements of Chapter 6111. Of the Revised Code.

The owner/operator is in violation of OAC Rule 3745-27-45(G)(1) for the failure to control surface water runoff and run-on.

Leachate was present on the north field along Owl Creek. Leachate was discharging to water of the state at several locations. OAC Rule 3745-27-45(H)(3)(a) and (b) states, "The owner or operator of a class I, II, III or IV composting facility shall do the following:

- (a) Manage leachate in accordance with Chapter 6111. of the Revised Code.
- (b) Take action to minimize the production of leachate and control, or eliminate ponding of leachate and the conditions that contribute to the discharge of leachate from the facility."

OAC Rule 3745-27-45(H)(4)(b) states, "The owner or operator of a class I, II, or III composting facility shall do the following:

- (b) Collect and contain leachate within the boundary of the composting facility and prevent leachate from discharging to water of the state. Leachate may be collected and contained for re-introduction into the composting process."

The owner or operator is in violation of OAC Rule 3745-27-45(H)(3)(a) and (b) and OAC Rule 3745-27-45(H)(4)(b) for the failure to properly manage leachate and prevent leachate from discharging to water of the state.

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Summary of Violations:

1. OAC Rule 3745-27-45(A)(2) – Violation for initiating composting operations on the south field prior to meeting the registration requirements.
2. OAC Rule 3745-27-45(A)(4)(a) – Violation for accepting prohibited materials (N-Viro and Sauder's wood waste).
3. OAC Rule 3745-27-41(B)(3) – Violation for substantially changing the facility without notifying the director.
4. OAC Rule 3745-27-40(E)(2) – Violation for failure to verify the materials placement area is 3.1 acres or less.
5. OAC Rule 3745-27-45(C)(4) – Violation for failure to maintain access roads.
6. OAC Rule 3745-27-05(C) - Violation for failure to place incoming feedstocks in the materials placement area.
7. OAC Rule 3745-27-45(G)(1) – Violation for failure to control surface water runoff and run-on.
8. OAC Rule 3745-27-45(H)(3)(a), OAC Rule 3745-27-45(H)(3)(b) and OAC Rule 3745-27-45(H)(4)(b) – Violation for failure to manage leachate and prevent leachate from discharging to waters of the state.

Please respond to this correspondence in writing, within 14 days, indicating how the owner/operator plans to address the aforementioned violations.

This correspondence addresses specific observations only for the areas of the Tri State Garden Supply Company composting facility that were inspected. Nothing present in, nor absent from this correspondence is intended to mean that no other violations existed at the facility at the time of inspection.

Compliance with the requirements outlined in this letter, or the solid and infectious waste provisions contained in the Ohio Revised Code Chapter 3734. and the rules promulgated thereunder, does not relieve the owner/operator Tri State Garden Supply Company from their obligations to comply with other applicable state and federal laws and regulations.

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If you have any questions, please have your attorney contact John Cayton of the Ohio Attorney General's Office at (419) 245-2553 to coordinate our discussion.

Sincerely,

Michael A. Reiser

Michael A. Reiser, R.S.
Environmental Supervisor
Division of Materials and Waste Management

/lr

Attachment
Tracking Map #1, Tracking Map #2

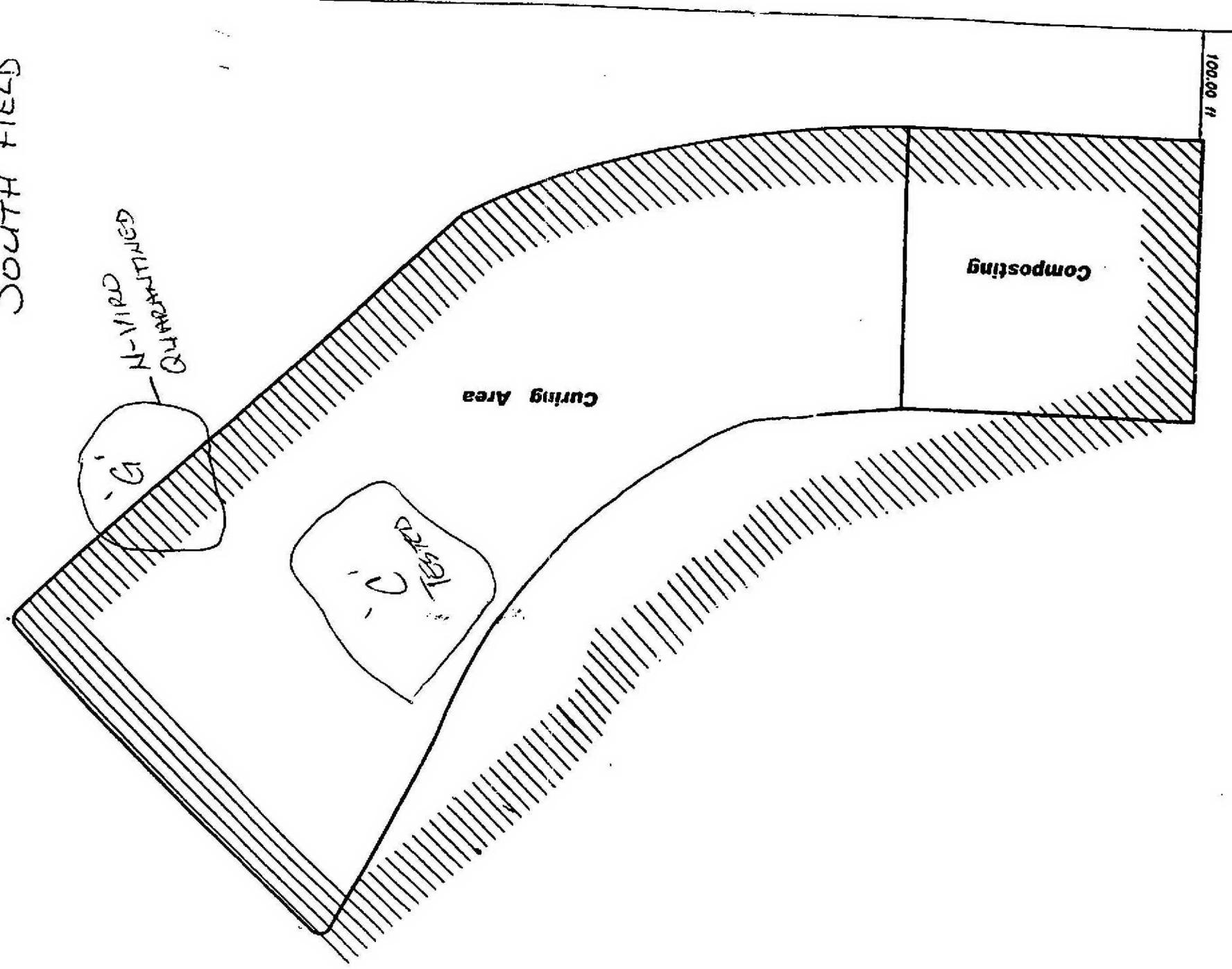
pc: Brian Kammeyer, Tri State
Jeff Andre, Tri State
Carl Mussenden, Ohio EPA, DMWM, CO
John Cayton, Assistant Attorney General
~~E:\E\DMWM-SW, Henry County, Gardenscape, Inspections...~~ 7

ec: Sue Hardy, Ohio EPA, DMWM, NWDO
Michael Reiser, Ohio EPA, DMWM, NWDO
Dana Martin-Hayden, Ohio DSW, NWDO
Larry Reeder, Ohio DSW, CO

TRACKING MAP #1

4/28/11

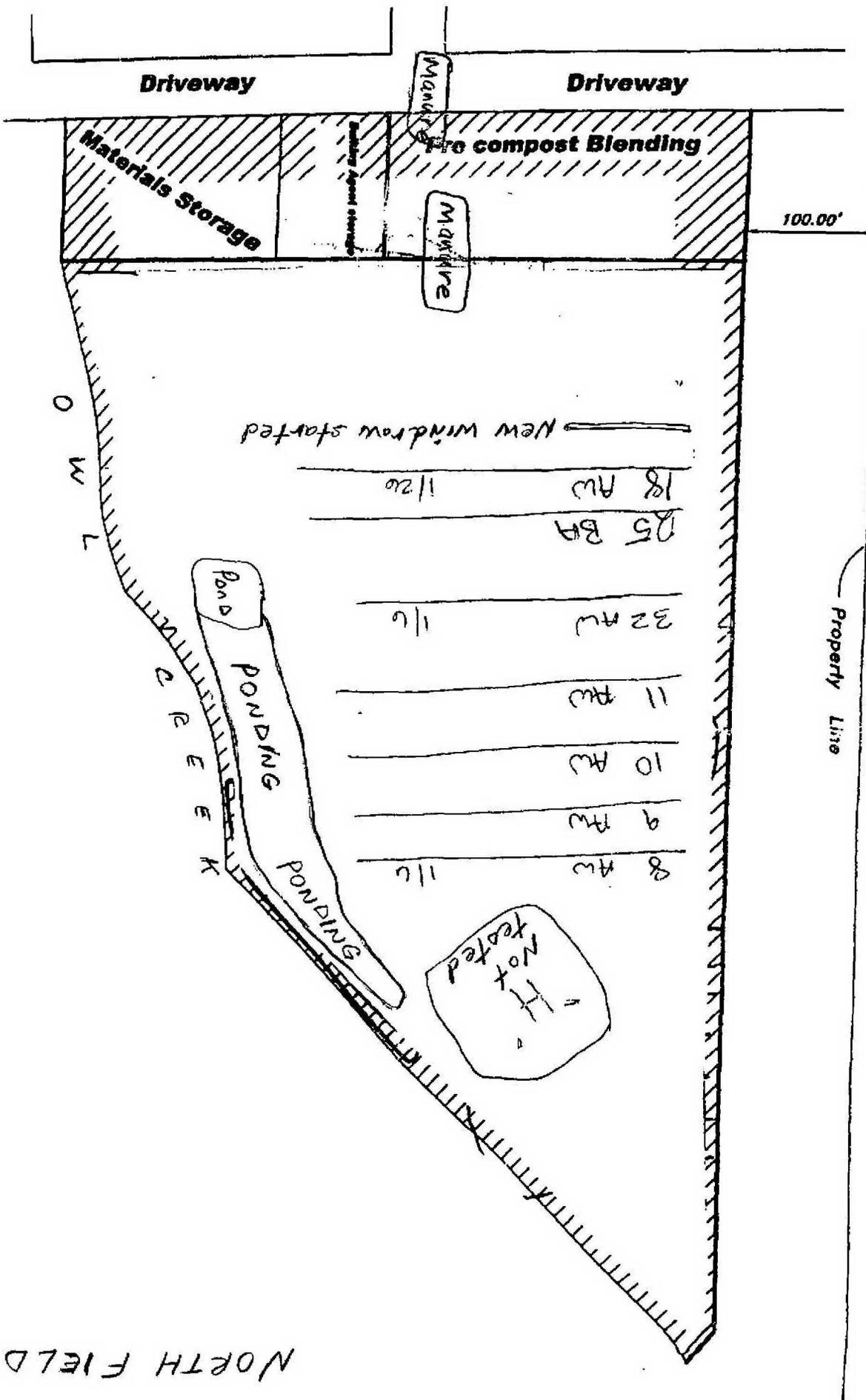
SOUTH FIELD



TRACKING MAP # 2

4/28/11

NORTH FIELD



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 DAVID KASMOCH JR - GARDENSCAPE, INC
 Street, Apt. No. or PO Box No. P.O. BOX 184
 City, State, ZIP+4 EAU CLAIRE, PA 16030

PS Form 3800, August 2006. See Reverse for Instructions

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 MR DAVID KASMOCH JR.
 TRI STATE GARDEN SUPPLY CO.
 GARDENSCAPE, INC.
 P.O. BOX 184
 Rt. 38 + SANDY POINT ROAD
 EAU CLAIRE, PA 16030

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<p>1. Article Addressed to: MR DAVID KASNOCH JR TRI STATE GARDEN SUPPLY CO. GARDENSCAPE, INC. P.O. Box 184 Rt. 38 + SANDY POINT ROAD EAU CLAIRE, PA 16030</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>PO 184</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
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PS Form 3800, August 2006 See Reverse for Instructions	

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