



**Environmental
Protection Agency**

Ted Strickland, Governor
Lee Fisher, Lt. Governor
Chris Korleski, Director

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

December 29, 2010

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 September 29, 2010, I, representing the Ohio Environmental Protection Agency (Ohio EPA) Division of Solid and Infectious Waste Management (DSIWM) 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 Sue Hardy of Ohio EPA. The Facility was represented during the inspection by Brian Kammeyer. The weather at the time of the inspection was sunny and cool with a light wind. Approximately, 0.7 inches of rain had fallen at the Facility during the past 24 hour 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.

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Ponding/Regrading/Erosion – The south field is in the process of being regraded. No ponded water was noted on the south field and no erosion rills to Owl Creek were noted.

Pile I – Pile I contains compost feedstocks that have not been tested. Mr. Kammeyer indicated Pile I would be moved to the north field. Mr. Kammeyer also indicated it would require approximately two weeks to relocate Pile I. Please provide picture documentation to Ohio EPA to verify the relocation of Pile I.

Pile C – Pile C contains compost feedstocks that have been tested. Testing results are pending. Mr. Kammeyer indicated that Pile C was tested for all composting parameters except total petroleum hydrocarbons.

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.

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."

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

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(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 acceptance of N-Viro and Sauder wood waste is considered a new feedstock and 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.

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.

Ponding/Regrading/Erosion – The north field has been regraded. No ponded water was noted on the north field and all leachate is being directed to the on-site pond. One minor erosion rill was noted on the north field.

Fly Ash – Removal of all visible fly ash was confirmed during this inspection. Mr. Kammeyer stated that all fly ash was disposed of at a solid waste landfill. According to copies of disposal receipts received, via facsimile, on November 24, 2010, the fly ash was disposed of at the Vienna Junction Landfill, 6233 Hagman Road, Toledo, Ohio. The disposal took place between August 8, 2009, and September 3, 2009, and consisted of 369 tons.

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

Windrow 9 – Windrow 9 contained bulking agents and manure. A minimal amount of plastics were visible in this windrow. Please remove all visible plastics immediately and the remainder during final screening. No other issues were noted. As noted in the comment with OAC Rule 3745-27-45(C)(2)(d), Ohio EPA recognizes that incidental non-biodegradable material such as plastic, styrofoam, glass, metals, and rubber may inadvertently be commingled with authorized source-separated feedstocks, bulking agents, or additives. It is the intent of Ohio EPA that the owner or operator remove such material upon discovery and dispose of the prohibited material in an appropriate manner.

Windrow 10 – Windrow 10 contained bulking agents and manure. No issues were noted.

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Windrow 11 – Windrow 11 contained bulking agents and manure. 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 9, 10, 11, 25, and Pile H are all located within the Class III compost facility boundary. Verification could not be determined on this day because the area was not marked. OAC Rule 3745-27-40(E)(2) states Class III facilities 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 material 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.

Summary of Violations:

1. OAC Rule 3745-27-45(A)(4)(a) – Violation for accepting prohibited materials.
2. OAC Rule 3745-27-41(B)(3) – Violation for substantially changing the facility without notifying the director.
3. OAC Rule 3745-27-45(A)(2) – Violation for initiating composting operations on the south field prior to meeting the registration requirements.

Summary of Additional Issues – Please Provide the Following:

1. Documentation to verify that Pile I was relocated to the north field.
2. Testing results for Pile C.
3. Final disposal location for Pile G.
4. Picture documentation that the visible plastics were removed from Windrow 9.
5. Documentation to verify the materials placement area, on the north field, is equal to or less than 135,000 square feet.

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

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.

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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.

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
Environmental Supervisor
Division of Solid and Infectious Waste Management

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Attachment-Tracking Map #1, Tracking Map #2

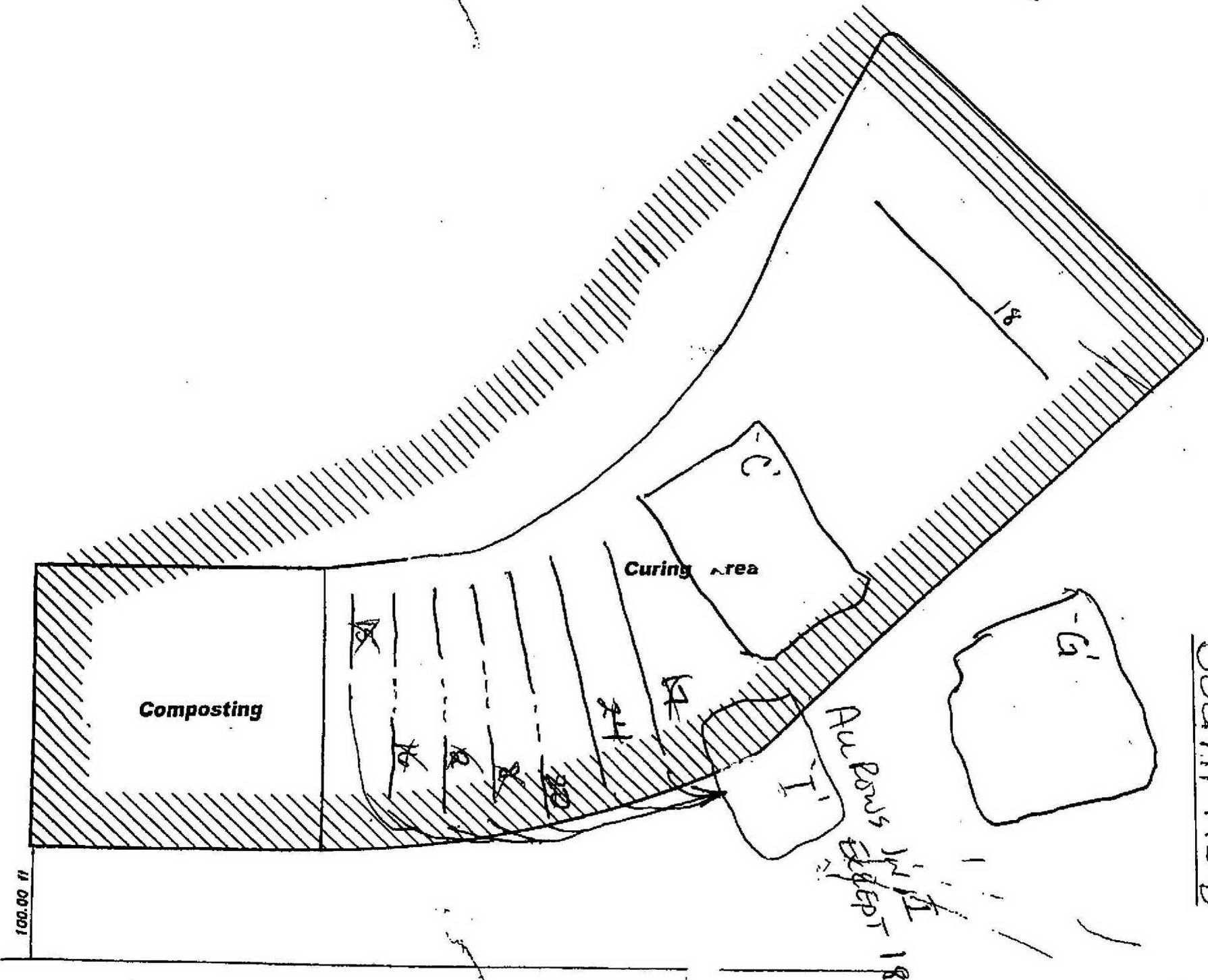
pc: Brian Kammeyer, Tri State
Jeff Andre, Tri State
Alison Shockley, Ohio EPA, DSIWM, CO
Carl Mussenden, Ohio EPA, DSIWM, CO
John Cayton, Assistant Attorney General
~~DSIWM-NWDO-File-Henry County; Gardenscape, Inspections~~
Certified Mail Receipt Number 7009 1410 0001 1839 9904

ec: Sue Hardy, Ohio EPA, DSIWM, NWDO
Michael Reiser, Ohio EPA, DSIWM, NWDO
Dana Martin-Hayden, Ohio DSW, NWDO

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Michael P. Johnston</i></p> <p>C. Date of Delivery <i>1-6-11</i></p>
<p>1. Article Addressed to:</p> <p><i>MR. DAVID KASMOCH JR.</i> <i>THE STATE Supply Company, INC</i> <i>GARDEN SCAPE, INC.</i> <i>P.O. BOX 184</i> <i>RT. 38 AND SANDY POINT ROAD</i> <i>EAU CLAIRE, PA 16030</i></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>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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<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

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Sent To <i>DAVID KASMOCH - THE STATE GARDEN Supply</i> Street, Apt. No. or PO Box No. <i>P.O. Box 184</i> City, State, ZIP+4 [®] <i>EAU CLAIRE, PA 16030</i>	
PS Form 3800, August 2006 See Reverse for Instructions	

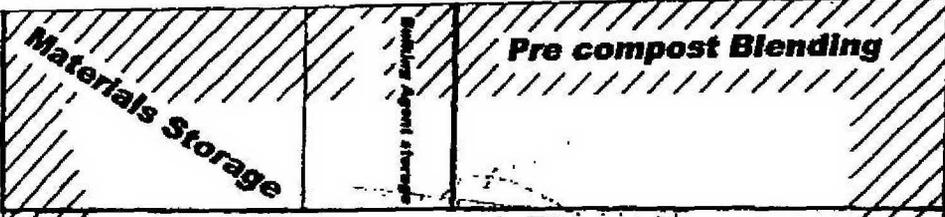
SOUTH FIELD





Driveway

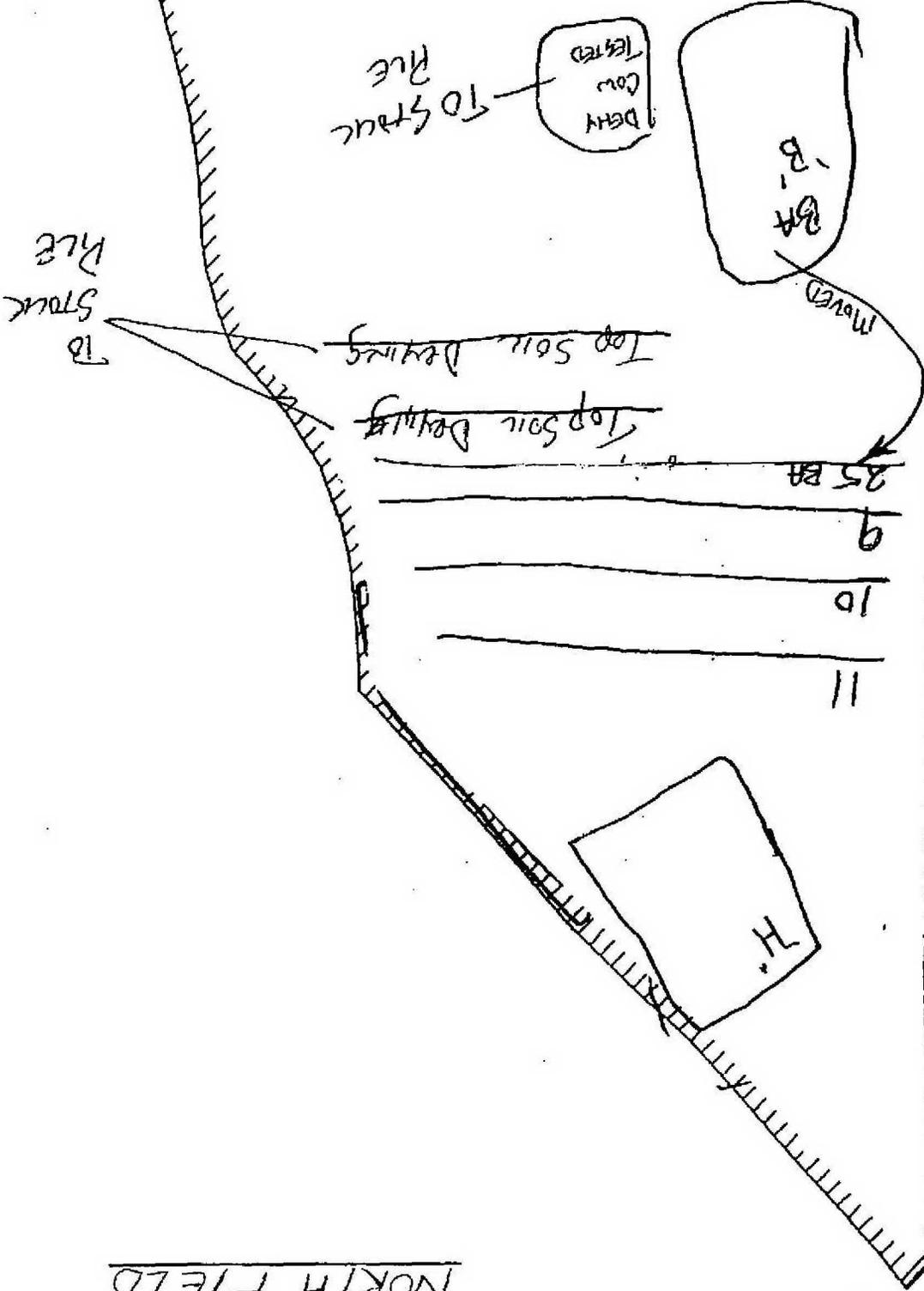
Driveway



100.00'

Henry County Road "V"

Property Line



NORTH FIELD

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TRACKING MAP #2