



State of Ohio Environmental Protection Agency

**Northwest District Office**

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Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korleski, Director

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

November 2, 2007

CERTIFIED MAIL

Mr. Brian Kammeyer  
Tri State Garden Supply Company  
P.O. Box 451  
Archbold, Ohio 43502

Mr. Timothy R. Kasmoch  
Tri State Garden Supply Company  
P.O. Box 451  
Archbold, Ohio 43502

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. Kammeyer, Mr. Kasmoch, and Mr. Kasmoch:

On October 4, 2007, I, representing the Ohio Environmental Protection Agency (Ohio EPA) conducted an inspection of the Tri State Garden Supply Company Class III composting facility (Facility) located in Ridgeville Township, Archbold, Ohio. This inspection was conducted to verify compliance with Ohio Administrative Code (OAC) Chapter 3745-27. Also present for the inspection were Mike Reiser, Alison Shockley, and Angel Arroyo-Rodriguez of Ohio EPA. The Facility was represented during the site portion of the inspection by Brian Kammeyer and Ada Shaver and during the daily log review by Ms. Shaver. The weather at the time of the inspection was sunny and warm with very little wind.

**Violations of the following rules and laws were observed:**

1. **OAC Rule 3745-27-45(A)(4)**, which states:  
(4) *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. . .*
- (h) *Any other material that the facility is otherwise prohibited to accept under federal, state or local laws, regulations and ordinances.*

OAC Rule 3745-27-40(E)(1) states: *"(E) Class III composting facilities are: (1) Facilities where the owner or operator may accept only type A, type B, and type C feedstocks, bulking agents, and additives."* Type A feedstocks are source-separated yard wastes. Type B feedstocks are source-separated plant materials, including stems, leaves, vines, or roots, from an agricultural process. Type C feedstocks are source-separated animal wastes: animal excreta, bedding, wash waters, waste feed, and silage drainage.

OAC Rule 3745-27-01(B)(8) defines a bulking agent as: *" . . . a material added to a composting system to provide structural support, improve aeration, or absorb moisture from the decomposing waste and includes only the following source-separated materials: wood chips, straw, shredded newspaper, shredded cardboard, sawdust, shredded brush, biodegradable containers, stover, and materials otherwise authorized in accordance with rule 3745-27-40 of the Administrative Code. Bulking agent does not include any wood that has been treated with preservatives containing arsenic or chromium."*

Several windrows and at least one pile containing mixed N-Viro soil, animal manure, and wood waste from Sauder Woodworking were located at the Facility, including, but not limited to, Pile #32 and Windrows #12, 15, and 33 on the north side of the Facility, and Windrows # 1, 4, 5, 7, 8, 9, 10, and 11 on the south side of Owl Creek. Please refer to Photos A1, A2, and A3 in Appendix A and the tracking map in Appendix B.

- A. The ground particle board from Sauder Woodworking in Archbold ("wood waste") that had been mixed with the N-Viro Soil and manure results from the sanding, sawing, drilling, and edge banding of fiber board and particle board furniture components and contains foreign material such as paper and plastic edge banding and paper laminate. See Photo A4 .This material is not a Type A, Type B, or Type C feedstock and does not meet the definition of bulking agent. The Sauder wood waste is therefore a prohibited material.
- B. The N-Viro International website states: *"N-Viro Soil produced according to the N-Viro Process specifications is an "exceptional quality" sludge product under the Part 503 Regulations."* [<http://www.nviro.com/soil.html>, October 17, 2007.] US EPA's "A Plain English Guide to the EPA Part 503 Biosolids Rule" states: *"Sewage sludge includes . . . any material derived*

*from sewage sludge (e.g., a blended sewage sludge/fertilizer product . . ."*  
[[http://www.epa.gov/owm/mtb/biosolids/503pe/503pe\\_1.pdf](http://www.epa.gov/owm/mtb/biosolids/503pe/503pe_1.pdf), page 4,  
October 17, 2007.] This material meets the definition of a Type I  
feedstock, which are ". . . *source-separated organic wastes, excluding  
wastes listed for any other feedstock type, that have resulted from  
industrial or commercial manufacturing processes or treatment works  
treating domestic sewage.*" Class III compost facilities shall not accept  
Type I feedstocks. N-Viro Soil is therefore a prohibited material. This use  
of N-Viro Soil is further discussed in Violation #3B.

In addition, the pile of blended river dredge material and cow manure observed during the July 16, 2007, inspection remains on site as Pile E. See Photo A5.

- C. River dredge materials are not a Type A, Type B, or Type C feedstock and do not meet the definition of bulking agent. The river dredge materials are therefore a prohibited material. Mr. Kammeyer stated that 26 loads of river dredge materials had been received. He also stated that one load of blended river dredge materials and cow manure had been removed from the site and taken to a facility in Pennsylvania.

Fly ash, as discussed in detail in a September 4, 2007, letter from Alison Shockley, also remains on site. Fly ash was observed in the north portion of the Facility, and appears to have been used to change the facility grade and construct roads and composting pads. See Photo A6. Fly ash was also observed mixed into some of the compost piles and windrows on site. See Photo A7, A8, and A9.

- D. Ohio EPA has reviewed all information provided regarding the fly ash and maintains that it is a residual solid waste pursuant to OAC Rule 3745-30-01(B)(1). Residual solid wastes are subject to the disposal requirements of OAC Rule 3745-27-05(A):

- (A) *Disposal of solid waste under Chapter 3734. of the Revised Code shall only be by the following methods or combination thereof:*
- (1) *Disposal at a sanitary landfill facility licensed in accordance with section 3734.05 of the Revised Code.*
  - (2) *Incinerating at an incinerator licensed in accordance with section 3734.05 of the Revised Code.*
  - (3) *Composting at a composting facility licensed or registered in accordance with section 3734.05 of the Revised Code.*

- (4) *Alternative disposal methods either as engineered fill or land application, provided that the applicant has received prior authorization from the director that use as engineered fill or land application of the solid wastes will not create a nuisance or harm human health or the environment and is capable of complying with other applicable laws.*

The Tri State facility is not a sanitary landfill facility or an incinerator. The fly ash is not a Type A, Type B, or Type C feedstock and does not meet the definition of bulking agent. The owner/operator has not requested or received authorization from the director for an alternative disposal method. Use, disposal, and composting of this fly ash at the Tri State Facility are therefore prohibited and the fly ash is a prohibited material. The fly ash must be removed from the Facility and properly disposed.

**The owner/operator is in violation of OAC Rule 3745-27-45(A)(4) for accepting prohibited materials. Each acceptance of prohibited material is a separate and distinct recurring violation of this rule.**

The owner/operator's management of the prohibited materials must comply with OAC Rule 3745-27-45(C)(2), which states:

- (2) *All reasonable measures shall be employed to prevent acceptance of prohibited material at the facility. If prohibited material is detected:*
- (a) *All reasonable measures shall be employed to control and remove the prohibited material from the materials placement area, including but not limited to, windrows, piles, or in-vessel composting systems.*
  - (b) *All incidents concerning the prohibited material shall be noted in the daily log.*
  - (c) *With any incoming feedstock, bulking agent, or additive, the owner or operator shall refuse acceptance of the prohibited material.*
  - (d) *The owner or operator shall properly manage the prohibited material in accordance with all applicable laws and regulations.*

All prohibited materials - the N-Viro Soil/manure/wood waste blend, the blended river dredge materials and cow manure, and the fly ash - must be removed from the Facility and taken to a facility that is allowed to accept them, 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. The owner/operator's management of the prohibited material is further discussed in Violations #4 and #6.

2. **OAC Rule 3745-27-45(E)(1)**, which states in pertinent part:

(E) *Methods of composting utilized at a class I, II, or III composting facility include the following:*

- (a) *Windrow composting. The windrow construction and turning frequency shall enable controlled biological decomposition under primarily aerobic conditions to be maintained throughout the composting process.*
- (b) *In-vessel composting. The construction and turning frequency shall enable controlled biological decomposition under primarily aerobic conditions to be maintained throughout the composting process.*
- (c) *Aerated static pile composting. The construction, including the aeration system, shall enable controlled biological decomposition under primarily aerobic conditions to be maintained throughout the composting process.*
- (d) *Any combination of composting methods that includes one or more methods identified in this paragraph . . .*
- (e) *Other methods of composting may be utilized after approval by the director. . . .*

Three large unaerated static piles are located at the Facility: Pile #17, Pile D (formerly #28), and pile #32. See the tracking map in Appendix B. Un-aerated static piles are not included in the approved methods of composting described above. The director has not approved this method. Materials to be composted must be managed utilizing an approved composting method.

**The owner/operator is in violation of OAC 3745-27-45(E)(1) for utilizing an unapproved composting method.**

The N-Viro Soil/manure/wood waste blend formerly located in Pile #33 has been placed in windrows, specifically Windrows #1, 3, 4, 7, 8, 9, 10, 11, 12, 15, and 33.

3. **OAC Rule 3745-27-41(B)**, which states (**emphasis added**):
- (B) *No person shall substantially change a currently registered composting facility without first submitting the notification required by paragraph (D) or (E) of this rule. Thirty days after the receipt of a **completed** notification by Ohio EPA, the owner or operator may commence operations in accordance with the proposed change provided that applicable requirements of Chapter 3745-27 of the Administrative Code and Chapters 3704. and 6111. of the Revised Code have been met. A written explanation describing the nature of the substantial change shall be submitted with the notification. For the purposes of this rule, a substantial change includes, **but is not limited to**, the following:*
    - (1) *A change in the physical location of the entire facility.*
    - (2) *For a class II composting facility, a change in the total capacity or in the authorized maximum daily waste receipt established for the facility resulting in an increase of the facility's financial assurance cost estimate.*

- (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.*
- (4) *A change in ownership of the facility.*

and **OAC Rule 3745-27-45(A)(1)**, which states in pertinent part:

*General operational requirements. The owner or operator of a composting facility shall operate the facility in accordance with the following:*

- (1) *The owner or operator of a composting facility shall operate the facility in compliance with the applicable authorizing document(s). Such authorizing documents may include . . . information submitted for the registration in accordance with rule 3745-27-41 of the Administrative Code.*

- A. The Facility's layout is substantially changed from that depicted in the site plan drawing (Drawing) submitted with the original February 17, 1993 registration application. The Drawing submitted with the registration application is dated November 5, 1992. The Drawing depicts a "concrete area for raw material receiving" just south of County Road V (CR V) and east of State Route 66 (SR 66). An entrance is shown from CR V to the materials receiving pad. An area labeled "windrow composting and storage of curing compost" is drawn just south of the materials receiving pad. Just south of the composting/storage area is a square labeled "concrete area for storing cured compost." Also depicted on the Drawing are the office, warehouse, and maintenance and utility buildings, two ponds, Owl Creek, and surrounding property owners' names and addresses.

Currently, materials for the composting facility are received through the main gate on SR 66, along with other materials utilized in Tri State's top soil blending and bagging operation. The raw manure is placed east of the warehouse building, in the area depicted on the Drawing as "concrete area for storing cured compost." Although some material in windrows and piles is located on the north side of Owl Creek as depicted on the Drawing, eleven windrows containing animal waste (eight of which also contain N-Viro Soil) are located on the south side of the creek. The Drawing does not depict any composting or storage on the south side of the creek.

**The owner/operator is in violation of OAC Rule 3745-27-41(B) for substantially changing the layout of a currently registered Class III composting facility without first submitting the notification required by OAC Rule 3745-27-41(D) and of OAC Rule 3745-27-45(A)(1) for failing to operate the facility in compliance with information submitted for the registration.**

- B. As detailed in Violation #1, above, several piles containing mixed N-Viro Soil, animal manure, and wood waste from Sauder Woodworking were located at the Facility.

N-Viro Soil is an "exceptional quality sludge" (EQS) and is a Type I feedstock. Sauder wood waste is not included in the definition of bulking agent. It is therefore an alternate bulking agent.

On February 17, 1993, the owner/operator requested registration as a Class III compost facility. Class III compost facilities shall not accept Type I feedstocks and may not request approval to accept alternate bulking agents. OAC Rule 3745-27-40(D)(1)(b) states that Class II composting facilities may accept Type I feedstocks and/or alternate bulking agents with the prior approval of the director of Ohio EPA. Therefore, the acceptance of N-Viro Soil and Sauder wood waste requires a change in the class of the facility.

**The owner/operator is in violation of OAC Rule 3745-27-41(B)(3) for changing the feedstocks accepted, and accepting an alternate bulking agent, resulting in a required change in the class of the Facility, without first submitting the required notification and obtaining the required approvals.**

Should the owner/operator desire to continue the use of N-Viro Soil as a feedstock, or utilize alternative bulking agents, the owner/operator must complete the following before accepting N-Viro Soil or alternate bulking agents:

- Provide the notification required for a Class II composting facility as described below, and
- Obtain an operating license from the licensing authority, and
- Obtain approval from the director to use the Type I feedstock and each alternate bulking agent.

- C. The size of the Facility is significantly greater than that depicted on the Drawing. OAC Rule 3745-27-40(E)(2) states:
- (E) *Class III composting facilities are: . . .*
- (2) *Facilities where the limits of materials placement is 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. It is estimated that the Facility's current materials placement area covers nearly 15 acres. The Facility no longer meets the definition of a Class III composting facility.

**The owner/operator is in violation of OAC Rule 3745-27-41(B) for failing to submit the notification required by OAC Rule 3745-27-41(D) despite having increased the size of the Facility such that it no longer meets the definition of a Class III composting facility.**

On July 30, 2007, Ohio EPA received a Class II composting facility registration form from Tri State Garden Supply Company, Inc. of Eau Claire, Pennsylvania, (Tri State, PA) for this location. This registration notification form was returned to Tri State, PA under cover of a letter dated August 10, 2007. The letter detailed the deficiencies in the plan view drawing submitted as part of the notification. To address the above violations, the owner/operator must correct the deficiencies in the plan view drawing and submit it to Ohio EPA, along with a completed notification form and unexecuted draft of the financial assurance instrument. To correct Violation #3B, the owner/operator must also obtain approval from the director to utilize the Type I feedstock and alternative bulking agent.

4. **OAC Rule 3745-27-45(l)(3)(d)**, which states:

- (3) *If cross-contamination occurs, the owner or operator shall do one of the following: . . .*
- (d) *Remove and properly manage the contaminated feedstock, cured compost, bulking agent, or additive if the cross contamination is from a prohibited material.*

The July 12, 2005, inspection report from the Henry County Health Department regarding the March 31 and April 4, 2005, inspections requested a detailed written description of how the owner/operator managed the two cross contamination events described in detail in that report. To date, no such reply has been received from the owner/operator.

In addition, cross contamination was observed during the Henry County Health Department's March 17, 2006, inspection. The large "half and half" pile then located east of the warehouse was comprised of animal manure in one half and a mixture of N-Viro Soil/manure/wood waste in the other. Mr. Kammeyer stated that this pile has been distributed by the Facility.

**The owner/operator is in violation of OAC Rule 3745-27-45(l)(3)(d) for failing to properly manage the cross-contaminated materials identified during the March 31 and April 4, 2005 and March 17, 2006 inspections.**

In addition, the piles and windrows containing:

- Mixed N-Viro Soil, animal manure, and wood waste from Sauder Woodworking,
- Blended river dredge materials and cow manure, and

- Hardened fly ash chips and chunks that have been mixed into the windrows and piles as they are turned, combined, relocated, etc. have been cross contaminated as detailed below:

OAC Rule 3745-27-45(I)(1)(d) states:

- (1) *For the purposes of this rule, "cross contamination" means any of the following: . . .*
- (d) *The intentional or unintentional mixing of a prohibited material, as specified in paragraph (A)(4) of this rule, with an authorized feedstock, bulking agent, or additive.*

This cross contaminated material must be removed and properly managed, i.e. taken to a municipal solid waste landfill or a Class I or II composting facility that has obtained prior approval to accept it. Failure to properly manage this cross contaminated material will result in violation of OAC Rule 3745-27-45(I)(3)(d).

5. **OAC Rule 3745-27-46(I)**, which states:

- (I) *Frequency of sampling and testing, sampling methods/sample collection and preservation. Sample collection and preservation shall ensure valid and representative results. The owner or operator shall sample the cured compost in accordance with the following: . .*
- (3) *All samples collected for testing in accordance with table 3 of this rule shall be prepared and analysis started within eight hours of the collection of the sample.*

The Material Management and Distribution log for June 22, 2007, documents the sampling of Windrows 4 – 12 and 19 – 24 on that date. Ohio EPA requested and received analytical results for the sample during the inspection. The "Compost Analysis Report," from A & L Great Lakes Laboratory, Inc., documents receipt of the sample at the laboratory on June 25, 2007, three days after collection of the sample. This sample was not analyzed within eight hours of the collection of the sample. The results are therefore not acceptable for use to demonstrate compliance with the compost quality standards of OAC Rule 3745-27-46.

**The owner/operator is in violation of OAC Rule 3745-27-46(I)(3) for failing to have samples collected for analysis for bacteriological parameters prepared and analyzed within eight hours of sample collection.**

OAC Rule 3745-27-46(B) states:

- (B) *No owner or operator of a composting facility shall sell or offer for sale at retail or wholesale, use, distribute for use, or give away any compost product for the use for which the product is being sold, offered for sale, distributed, or given away or for which the product is being used by the owner or operator unless one of the following occurs:*

- (1) *The owner or operator has demonstrated in accordance with paragraph (C) of this rule that the compost product complies with the applicable compost quality standards.*
- (2) *The owner or operator has obtained and is in compliance with a director's approval for an alternative use in accordance with paragraph (M) of this rule.*

The material from these windrows, which was later combined into Pile B, was located in the bagging area during the inspection. See Photo A10. The material from Windrows 4 – 12 and 19 – 24 and Pile B MAY NOT be distributed. Distribution of this material will result in a violation of OAC Rule 3745-27-46(B). The material must be removed from the bagging area, placed in the compost facility, and re-sampled and analyzed in accordance with OAC Rule 3745-27-46.

In addition to the sample preparation and analysis timing violation, Ohio EPA is unable to evaluate the owner/operator's compliance with the compost quality standards of OAC Rule 3745-27-46 for many parameters. Ohio EPA's compost quality standards mandate the preparation and analytical methods that must be used for each parameter. Ohio EPA has identified the following issues with the data included in the "Compost Analysis Report":

- Table 1 – Metals
  - The "Compost Analysis Report" lists SW846-6020 04.06-X (where "X" is the analyzed parameter's chemical symbol) analytical methods. Ohio EPA's mandated methods include only AOAC and U.S. EPA methods.
- Table 4 - Foreign Matter
  - The required analytical method for the foreign matter test is detailed in Table 4. The "Compost Analysis Report" lists TMECC 03.08-A as the analytical method.
- Table 5 – Compost Parameters
  - For seven of the eight parameters required by Table 5, the "Compost Analysis Report" lists TMECC test methods for the analytical method.
    - For boron, salinity, total nitrogen, total phosphorus, and total potassium, Ohio EPA's mandated methods include AOAC and U.S. EPA methods.
    - For pH, the mandated methods include NCR, U.S. EPA, or ASTM methods.
    - For maturity, Ohio EPA mandates use of the Dewar-flask method test, Solvita test, phytotoxicity and seedling-growth response, or O<sub>2</sub>/CO<sub>2</sub> respirometry.
  - For the eighth parameter, total organic carbon, the "Compost Analysis Report" lists the method as "estimated." Ohio EPA's mandated method is U.S. EPA 9060.

In order to use preparation and/or analytical methods other than those stated in OAC Rule 3745-27-46, the owner/operator must demonstrate that the alternate methods are equivalent to those required by rule. These issues were originally discussed in a June 15, 2007, letter from Alison Shockley to Mr. Timothy Kasmoch regarding previously submitted analytical reports. As the owner/operator prepares to re-sample and analyze Pile B and/or other materials on-site, Ohio EPA strongly urges the owner/operator to review the July 15, 2007, correspondence and ensure that the sample collection, preparation, and analysis is conducted in accordance with the requirements of OAC Rule 3745-27-46.

Sampling of windrows was also discussed with Mr. Kammeyer during the inspection. Each windrow must be sampled and analyzed individually and meet the compost quality standards before combination of windrows OR the windrows may be combined into a pile and the resultant pile sampled and analyzed. It is not acceptable to composite (mix) samples from different windrows into a single sample.

6. **OAC Rule 3745-27-45(C)(2), which states:**

- (2) *All reasonable measures shall be employed to prevent acceptance of prohibited material at the facility. If prohibited material is detected:*
- (a) *All reasonable measures shall be employed to control and remove the prohibited material from the materials placement area, including but not limited to, windrows, piles, or in-vessel composting systems.*
  - (b) *All incidents concerning the prohibited material shall be noted in the daily log.*
  - (c) *With any incoming feedstock, bulking agent, or additive, the owner or operator shall refuse acceptance of the prohibited material.*
  - (d) *The owner or operator shall properly manage the prohibited material in accordance with all applicable laws and regulations.*

As discussed in detail in Violation #1, N-Viro Soil and Sauder wood waste are prohibited materials. The piles containing these materials should have been removed from the Facility and taken to a facility that can accept them, i.e. a licensed solid waste landfill or a Class I or II composting facility that has obtained approval from the director to accept the material.

Instead, the vast majority of the materials containing N-Viro Soil and Sauder wood waste have been distributed for sale. Only about 15% of the original amount of material remains on site.

The owner/operator is in violation of OAC Rule 3745-27-45(C)(2) for failing to:

- **Control and remove the N-Viro Soil and Sauder wood waste from the materials placement area;**

- **Note all incidents concerning N-Viro Soil and Sauder wood waste in the daily log;**
- **Refuse acceptance of N-Viro Soil and Sauder wood waste; and**
- **Properly manage the N-Viro Soil and Sauder wood waste in accordance with all applicable laws and regulations.**

The river dredge materials and fly ash currently located at the Facility (and anything mixed with them) must also be managed in accordance with OAC Rule 3745-27-45(C)(2). To avoid a future violation of OAC Rule 3745-27-45(C)(2), remove them from the Facility and take them to a facility that can accept them, i.e. a licensed solid waste landfill or a Class I or II composting facility that has obtained approval from the director to accept them.

7. **OAC Rule 3745-27-45(M)(4)**, which states in pertinent part:  
(4) *For a class II, III, or IV composting facility, ... A facility registered prior to the effective date of rule 3745-27-41 of the Administrative Code shall be located at least one hundred feet from any surface waters of the state . . .*

The distances between the meander line of the creek and the ends of several windrows were measured and can be found in the table below.

| ID # | Distance to creek (feet) | Violation? |
|------|--------------------------|------------|
| 19   | 90                       | Yes        |
| 20   | 93                       | Yes        |
| 22   | 100                      | No         |
| 23   | 100                      | No         |
| 24   | 110                      | No         |
| B    | 83                       | Yes        |
| 1    | >100                     | No         |
| 11   | >100                     | No         |
| 2    | >100                     | No         |
| 3    | >100                     | No         |
| 4    | >100                     | No         |
| 6    | >100                     | No         |
| 7    | >100                     | No         |
| 8    | >100                     | No         |
| 9    | >100                     | No         |
| 10   | >100                     | No         |

Two windrows and one pile were located within 100 feet of Owl Creek.

**The owner/operator is in violation of OAC Rule 3745-27-(M)(4) for failing to maintain the required setbacks.**

8. **OAC Rule 3745-27-45(H)(3)(b)**, which states:

- (3) *The owner or operator of a class I, II, III or IV composting facility shall do the following: . . .*
  - (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.*

Several area of ponded leachate were observed: on the north side of Pile Q, north of Windrows 19 and 20, between windrows 20 and 22, along the north side of Owl Creek, and north of the windrows on the south side of Owl Creek. See Photo A11.

**The owner/operator is in violation of OAC Rule 3745-27-45(H)(3)(b) for failing to take action to eliminate the ponding of leachate at the Facility.**

9. **OAC Rule 3745-27-46(K)(1) and (3)**, which state:

- (K) *Product information and availability of test results. The owner or operator shall provide product information for the compost product in accordance with the following requirements. The owner or operator shall also have available the results of testing that demonstrate that the distributed compost product meets the applicable requirements specified in paragraphs (E), (F), and (J) of this rule:*
  - (1) *All compost product that is distributed in a bag or packaged form shall be labeled with product information. The label shall be prominently visible and shall contain, at a minimum, the following information in a readable and conspicuous form:*
    - (a) *Name and address of the composting facility.*
    - (b) *General type of feedstocks used, including but not limited to: yard waste, source separated vegetative wastes, sewage sludge, paper pulp sludge, manure, dead animals, or any other feedstock authorized by the director.*
    - (c) *Any bulking agents or additives used, including those authorized by the director as alternative bulking agents or additives.*
    - (d) *Recommended uses for the compost product.*
    - (e) *Any owner or operator recommended restrictions on the use of the compost product. . . .*
  - (3) *The owner or operator of a composting facility who distributes compost product subsequently combined with any other materials shall include the following information on the label in a readable and conspicuous form for bagged or packaged compost product or in written form for unpackaged or bulk compost product, available upon request by any recipient of the compost product:*

*"Other materials have been combined with this compost product after required testing was completed."*

As requested in Ohio EPA's June 29, 2007, inspection letter, an August 2, 2007, submittal from Mr. Kevin Braig (received August 17, 2007) included an unused bag of the type that the material the containing N-Viro Soil/cow manure/wood waste was distributed in. The bag, labeled "Top Soil," did not include the types of feedstocks, bulking agents, and additives used to produce its contents and did not contain the required *"Other materials have been combined with this compost product after required testing was completed."* statement.

**The owner/operator is in violation of OAC Rule 3745-27-46(K)(1) and (3) for failing to appropriately label bagged distributed materials.**

**The following items were also noted during the inspection:**

- The daily operations forms were reviewed during the inspection:
  - Form 2: Incoming Materials.
    - The incoming materials log documented receipt of only animal waste (AW) from June 14, 2007 through October 3, 2007.
  - Form 3: Material Management and Distribution.
    - Temperatures, turning, construction of new windrows, combination of windrows, and stage of piles/windrows had been recorded.
    - A sample was collected from Pile B on July 27, 2007. Please provide a copy of these test results upon receipt.
  - Form 4: Daily Inspection.
    - Although more detail has been included on recent inspection reports, e.g. the weather conditions, several entries have been pre-completed on the photocopied form. While it is appropriate to pre-complete items that do not apply to the site, the daily inspection is intended to check for each of the other items each day. Examples of items that may not apply to this Facility include:
      - If the Facility does not accept materials that arrive in biodegradable containers, OAC Rule 3745-27-45(C)(9);
      - OAC Rule 3745-27-45(E)(1)(b), in-vessel composting method, if the Facility does not use a vessel to compost;
      - OAC Rule 3745-27-45(H)(5)(b), which applies only to Class I facilities;
      - If the Facility does not accept Type D feedstocks, OAC Rule 3745-27-45(L).

It would be acceptable to pre-complete with "N/A" those items that do not apply. However, it is the intent of the rule and Ohio EPA's expectation that the owner/operator will inspect the other items each time an inspection is conducted.

For example, after inspecting the site and determining that no batteries had been accepted, it would be appropriate to place a check on the line next to OAC Rule 3745-27-45(A)(4)(e). It would not be appropriate to pre-complete this entry. This issue was discussed with Ms. Shaver at the time of the inspection.

- Ohio EPA has recently revised the composting facility daily log of operations forms. Ms. Shaver downloaded and printed a copy at the time of the inspection. It may also be found on our website at:  
[http://www.epa.state.oh.us/dsiwm/document/guidance/gd\\_010.pdf](http://www.epa.state.oh.us/dsiwm/document/guidance/gd_010.pdf).
- Ohio EPA's June 29, 2007, inspection report regarding the June 14<sup>th</sup> and 28<sup>th</sup> inspections included a request that the owner/operator provide Ohio EPA with "copies of all daily log of operations forms from January 1, 2005, through the present." Mr. Braig's August 2, 2007, submittal included Material Management and Distribution (Form 3) logs for the requested time period. The packet did not include any Form 1, Form 2, Form 4, or Form 5 logs. Upon receipt of this letter, forward ALL daily log of operations from January 1, 2005, through the present to my attention at the letterhead address, as required by OAC Rule 3745-27-45(K)(3)(c) which states:
  - (3) *The owner or operator of a composting facility shall record the facility operations on a daily log. The daily log information shall: . . .*
  - (c) *Be submitted, upon request, to the approved health department or Ohio EPA. . . .*
- The tracking system required by OAC Rule 3745-27-45(K)(4) was reviewed:
  - Ms. Shaver provided copies of the site tracking map for June 21 – October 3, 2007. The October 3, 2007, tracking map appeared to reflect the conditions of the site at the time of the inspection. In addition, all piles and windrows at the Facility were labeled with signs that reflected the number or letter on the tracking map. The tracking maps, in combination with the completed daily log of operations forms, allowed Ohio EPA to easily track material flow on the site since the last inspection.
  - The October 3, 2007, tracking map included a notation on Pile B: "AW/OSW." "OSW" stands for "other solid waste." When questioned, Mr. Kammeyer and Ms. Shaver stated that the "OSW" designation was in error and that Pile B contains only animal waste. The map also included an "AW" label on Pile A, which was identified during the site portion of the inspection as sewage sludge from Fort Wayne, IN. Please ensure that content labels on the tracking maps, when used, are accurate.
  - Ohio EPA's June 29, 2007, inspection report regarding the June 14<sup>th</sup> and 28<sup>th</sup> inspections included a request that the owner/operator provide Ohio EPA with copies of any "outdated" tracking maps on file. Mr. Braig's August 2, 2007, submittal included tracking maps for June 21 – July 26, 2007.

Ohio EPA understands that the owner/operator did not maintain copies of the "outdated" tracking maps prior to receipt of our June 29, 2007, letter. Ms. Shaver stated that the "outdated" tracking maps would be kept in the daily log binder and copies made for Ohio EPA's use each time they are updated. Ohio EPA appreciates the owner/operator's efforts to track material flow clearly at the Facility. Violations previously cited on this issue have been satisfactorily resolved.

- The contingency plan required by OAC Rule 3745-27-45(A)(6) was located in the daily log binder and had been provided in Mr. Braig's August 2, 2007, submittal as requested. Ohio EPA reviewed the plan and has the following comments:
  - OAC Rule 3745-27-45(A)(6) requires the ". . . contingency plan to address discovery of prohibited material, fire, explosion, spills, and equipment failure. . . ." The plan provided includes details on maintenance and inspection of equipment but does not address how the owner/operator will address equipment failure. Please revise the contingency plan to address the owner/operator's planned response to equipment failure and provide a copy to Ohio EPA.
  - Section 6.0 regarding training states that all employees will be trained "on YSI's contingency plan." YSI/ appears to be a typographical error.
  - The plan includes a blank "Prohibited Material/Incident Investigation Report" form prepared by the owner/operator. Please be advised that Ohio EPA's required daily log of operations forms includes Form 5, which is an "Unauthorized Material Incident / Yardwaste Load Refusal Form." The owner/operator may use their form in addition to, but not instead of, Ohio EPA's prescribed form.
- The pile of material located near the west end of Windrow 13, observed during the last inspection, remained. Mr. Braig's August 2, 2007, submittal identified the pile as "pure N-Viro Soil that Gardenscape intends to use as fertilizer in crop production on the fields owned by Gardenscape that are located on the same property as the Gardenscape composting facility. This N-Viro Soil has never been used in any composting operations or mixed with any feedstocks." Ohio EPA requests that the owner/operator ensure that N-Viro Soil or other fertilizer intended for use on farm fields be stored outside the composting facility footprint. As the owner/operator revises the plan view drawing that will be submitted as part of a Class II composting facility registration notification, it would be prudent to delineate the facility boundary accordingly to allow for storage of fertilizer.
- A large pile identified as sewage sludge from Fort Wayne, IN, was located in the mixing/bagging area. Ensure that this pile remains outside of the Class III composting facility boundary. Please keep in mind that if the owner/operator would like to use this material as a feedstock, the steps outlined in Violation #3B need to be followed before doing so.

Mr. Brian Kammeyer  
Mr. Timothy R. Kasmoch  
Mr. David Kasmoch, Jr.  
November 2, 2007  
Page 17

**Please provide the following (items marked with \* are discussed in more detail above):**

- Revise the plan view drawing to address the deficiencies identified in Ohio EPA's August 10, 2007, letter and resubmit the class II composting facility notification required by OAC Rule 3745-27-41(D). \*
- Please provide a copy of the test results from the July 27, 2007, sampling of Pile B. \*
- Submit copies of ALL daily log of operations forms from January 1, 2005, through the present. \*
- Submit a copy of the revised contingency plan.

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.

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

Sincerely,



Kimberly K. Burnham, R.S.  
Environmental Specialist  
Division of Solid and Infectious Waste Management

/llr

**Attachments**

pc: Kimberly Burnham, Ohio EPA, DSIWM, NWDO  
Alison Shockley, Ohio EPA, DSIWM, CO  
Carl Mussenden, Ohio EPA, DSIWM, CO  
John Cayton, Assistant Attorney General (and via fax 866-890-6654)  
(File: Henry County, Gardenscape, Inspections (w/Attachments))  
ec: Dana Martin-Hayden, Ohio EPA, DSW, NWDO  
Jennifer Jolliff, Ohio EPA, DAPC, NWDO

**SENDER: COMPLETE THIS SECTION**

- 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.

1. Article Addressed to:

*PS Form Kim B*  
 MR. DAVID KASMOCH, JR.  
 THE STATE GARDEN SUPPLY CO. INC.  
 GAROLD SHAPE, INC.  
 P.O. Box 184  
 ROUTE 35 AND SANDY POINT ROAD  
 EAU CLAIRE PA 16030

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 *David Kasnoch*  Addressee

B. Received by (Printed Name) C. Date of Delivery  
*David Kasnoch* 10-5-07

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

7006 3450 0001 0667 4964

PS Form 3811, February 2004

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102595-02-M-1540

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- 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.

1. Article Addressed to:

*PS Form Kim B*  
 MR. BRIAN KAMMEYER  
 THE STATE GARDEN Supply Co  
 P.O. Box 451  
 ARONBOLD OH 43562

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 *Susan L. Page*  Addressee

B. Received by (Printed Name) C. Date of Delivery  
*SUSAN L. PAGE* 11-5-07

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

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PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

**SENDER: COMPLETE THIS SECTION**

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- 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.

1. Article Addressed to:

*PS Form Kim B*  
 MR. TIMOTHY P. KASMOCH  
 THE STATE GARDEN Supply Co  
 P.O. Box 451  
 ARONBOLD, OHIO 43562

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 *Susan L. Page*  Addressee

B. Received by (Printed Name) C. Date of Delivery  
*Susan L. Page* 11-5-07

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

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PS Form 3811, February 2004

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|---|------|
| Postage   | \$   |
| Certified Fee                                     | 2.65 |
| Return Receipt Fee<br>(Endorsement Required)      | 2.15 |
| Restricted Delivery Fee<br>(Endorsement Required) |      |
| Total Postage & Fees                              | \$   |

Ohio EPA



Sent To  
DAVID KASMAN, JR. GARDEN SHAPE, INC.  
Street, Apt. No.,  
or PO Box No. P.O. Box 184 - Rt. 35 + SANDY POINT ROAD  
City, State, ZIP+4  
EAU CLAIRE PA 16030

PS Form 3800, August 2006 See Reverse for Instructions

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|---|---------|
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| Certified Fee                                     | 2.65    |
| Return Receipt Fee<br>(Endorsement Required)      | 2.15    |
| Restricted Delivery Fee<br>(Endorsement Required) |         |
| Total Postage & Fees                              | \$ 5.72 |

Ohio EPA



Sent To  
BRIAN KAMMETER - TRI STATE GARDEN SUPPLY CO.  
Street, Apt. No.,  
or PO Box No. P.O. Box 451  
City, State, ZIP+4  
ARCHBOLD OH 43002

PS Form 3800, August 2006 See Reverse for Instructions

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| Postage   | \$   |
| Certified Fee                                     | 2.65 |
| Return Receipt Fee<br>(Endorsement Required)      | 2.15 |
| Restricted Delivery Fee<br>(Endorsement Required) |      |
| Total Postage & Fees                              | \$   |

Ohio EPA



Sent To  
TIM KASMOCH - TRI STATE GARDEN SUPPLY CO.  
Street, Apt. No.,  
or PO Box No. P.O. Box 451  
City, State, ZIP+4  
Archbold Oh 43002

PS Form 3800, August 2006 See Reverse for Instructions

Appendix A



A1



A4



A2



A5



A3



A6

Appendix A



A7



A10



A8



A11



A9

10/3/07

Appendix B

- 2 AW
- 7 AW ENV.
- 3 AW
- 4 AW ENV.
- 5 AW ENV.
- 7 AW ENV.
- 8 AW ENV.
- 9 AW ENV.
- 10 AW ENV.

13 AW

FARMERS PERI. SOUND

Pile 16 MC

→ Combined w/ 19 on 10/3

34 AW

19 AW

20 AW

Pile 17 AW

22 AW

23 AW

24 AW

Pile 18 MC

26 AW

29 AW

30 AW

31

Pile D AW

Pile E O. DO NOT DIST.

Pond

32 #1 Reject.

#2 Rejects

12 AW/ENVRO

15 AW/ENVRO

33 AW/ENVRO

Fresh Cow manure

Unloading Area for incoming SUPPLIES

C

SAND

Rejects

Pile A AW Ft. Wagon Sludge

Pile 36 TS

Pile B AW (OSW)

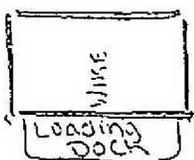
No OSW per Buiamr Ada

Key

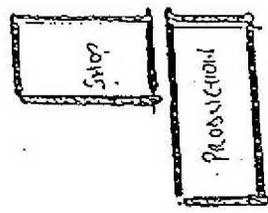
 Ponding

N.T.S.

Product Storage



Parking Lot



Product Storage

DRIVE WAY