



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

June 29, 2007

CERTIFIED MAIL

7006 0100 0003 7708 5398

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

Dear Mr. Kasmoch:

27, KMB 6/29/07

On June 14, 2007 and June 26, 2007, I, representing the Ohio Environmental Protection Agency (Ohio EPA) conducted inspections of your Class III solid waste composting facility (Facility) located in Ridgeville Township, Archbold, Ohio. These inspections were conducted to verify compliance with Ohio Administrative Code (OAC) Chapter 3745-27.

June 14, 2007 Inspection:

Also present for the inspection were Mike Reiser, Dana Martin-Hayden and Nush Courlas of Ohio EPA and Jon Lindsay of the Henry County Health Department. The Facility was represented during the site portion of the inspection by Brian Kammeyer and during the daily log review by Ada Shaver. The weather at the time of the inspection was sunny and warm (approximately 80°F) with very little wind.

The following violations were identified:

1. **OAC Rule 3745-27-45(A)(4)(a)**, 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.*

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 piles 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 Pile #33 on the north side of the Facility, the pile of recently shredded material located near the shredder southeast of Pile #33, the pile of material located in the mixing area east of the shop building, and the unnumbered screening rejects piles located on the north side of Owl Creek near the bridge and along the creek east of the bridge. Please refer to Pictures 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. 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>, June 27, 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, page 4, June 27, 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.

The owner/operator is in violation of OAC Rule 3745-27-45(A)(4)(a) 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.*

The N-Viro Soil/manure/wood waste blend must be removed from the facility and taken to a facility that is allowed to accept it, 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. The owner/operator's management of the prohibited material is further discussed in Violations #4, #5, 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. . . .*

Four large unaerated static piles are located at the Facility: pile #17, pile #28, pile #32, and pile #33. 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.

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.*

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The owner/operator is in violation of 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 Gardenscape'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, fourteen windrows containing animal waste and one pile of unknown material 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.

To address these violations, the owner/operator must submit the notification required by OAC Rule 3745-27-41(D) in accordance with OAC Rule 3745-27-41(C):

(C)

- (1) *The owner or operator of a composting facility that was registered prior to the effective date of this rule is not required to submit the notification required by paragraph (D) or (E) of this rule unless either of the following apply:*
 - (a) *The facility has been substantially changed. A written explanation, describing the nature of the substantial change must be submitted with the notification.*
 - (b) *The owner or operator receives a request in writing from Ohio EPA to update its operational status by submitting the notification required by paragraph (D) or (E) of this rule.*

[Comment: The owner or operator of a composting facility, registered prior to the effective date of this rule, may continue operations at the composting facility provided that the facility is a "registered composting facility."]

OAC Rule 3745-27-41(D) details the class II and class III notification requirements. A copy is enclosed for your convenience.

- 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.

Should the owner/operator desire to continue use the 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, including obtaining financial assurance, and**
- **Obtain an operating license from the licensing authority, and**
- **Obtain approval from the director to use the alternate bulking agent and Type I feedstock.**

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.

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(I)(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 containing mixed N-Viro Soil, animal manure, and wood waste from Sauder Woodworking described in detail in Violation #1, above, 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.

5. **OAC Rule 3745-27-46(B)**, which 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.*

During the inspection, I observed the shredding of the N-Viro Soil/manure/Sauder wood waste mixture in the north portion of the facility, near Pile #33. In addition, a pile of material Mr. Kammeyer identified as containing the N-Viro Soil/manure/Sauder wood waste mixture was located in the mixing/bagging area near a screen. When questioned, Mr. Kammeyer stated that the material was being mixed into Gardenscape's topsoil product, bagged, and distributed. Near the end of the inspection, we observed an operator in a front end loader mixing materials into this pile. Mr. Kammeyer stated that the Facility has been mixing, bagging, and distributing the N-Viro Soil/manure/Sauder wood waste mixture for approximately thirty days. Mr. Kammeyer stated that the very large pile identified in previous inspections as the "50/50" pile, which consisted of half cow manure and half N-Viro Soil/manure/Sauder wood waste mixture, has already been distributed.

The owner/operator did not demonstrate that the N-Viro Soil/manure/Sauder wood waste mixture complies with the applicable compost quality standards and has not requested or received approval from the director for an alternative use. Although the owner/operator provided sampling data to Ohio EPA on March 30, 2007, Ohio EPA's review of the data found numerous deficiencies that result in the N-Viro Soil/manure/Sauder wood waste mixture failing to meet the compost quality standards. The details of these deficiencies were provided to the owner/operator in a letter from Alison Shockley dated June 15, 2007.

The owner/operator is in violation of OAC Rule 3745-27-46(B) for distributing material that failed to meet the compost quality standards.

Please be advised that if the N-Viro Soil/manure/Sauder wood waste mixture had met the compost quality standards, it is and remains a prohibited material that must be managed in accordance with OAC Rule 3745-27-45(C)(2). Distribution of the material does not meet the requirements of OAC Rule 3745-27-45(C)(2).

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.**

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.

Windrow #	Distance to creek (feet)	Violation?
2	138	No
3	130	No
4	98	Yes
5	67	Yes
6	86	Yes
7	56	Yes
8	42	Yes
9	33	Yes
10	31	Yes
11	22	Yes
12	26	Yes
19	69	Yes
20	113	No
21	57	Yes
22	54	Yes
23	122	No
24	111	No
34	118	No

Twelve windrows were located within 100 feet of Owl Creek. In addition, eight truckloads of screening rejects that contained N-Viro Soil were located very close to the creek. Mr. Kammeyer stated that they were intended for use in construction of a berm. As detailed in Violation #5, the material that contains N-Viro Soil does not meet the compost quality standards. Therefore, it must also be kept at least 100 feet from the creek.

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

The following items were also noted during the inspection:

- The daily operations forms were reviewed during the inspection:
 - Form 1: Cover Sheet.
 - The annual cover sheet had been completed for 2007.
 - Form 2: Incoming Materials.
 - The incoming materials log documented receipt of 1280 cubic yards of animal waste (AW) from March 5, 2007 through June 13, 2007.
 - Form 3: Material Management and Distribution:
 - Temperatures, turning, construction of new windrows, shredding of materials, and stage of piles/windrows had been recorded.
 - Sampling of pile "WP1" was recorded on March 28, 2007. Please forward copies of these test results to my attention upon receipt of this letter.
 - Entries were made in the Distribution Column that documented the distribution of 180 cubic yards from Pile #4, 1500 cubic yards from Pile #WP1, and 2400 cubic yards from Pile #33. Upon receipt of this letter, please provide any sampling results you have on file for Pile #4. Distribution of material from Pile #33 is discussed in detail in Violations #4, #5, and #6.
 - Form 4: Daily Inspection.
 - Inspections were documented for 32 dates from January 2 through June 13, 2007. Inspections were documented at least weekly in this time period and, with the exception of June 4, 2007, were documented on each day that incoming materials were documented as received. Please ensure inspections are completed on each day that feedstocks, bulking agents, or additives are received.
 - 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 the 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.

Within 30 days of the receipt of this letter, please forward copies of all daily log of operations forms 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:
 - A copy of the tracking map was photocopied from the log book. The 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 on the tracking map, with the exception of the piles being worked with at the time of the inspection (the pile being shredded near Pile #33 and the pile in the mixing/bagging area) and the rejects pile near the bridge. Ohio EPA recommends that the rejects pile near the bridge be reflected on the tracking map and be given a label.
 - Previous versions of the tracking map did not appear to be located in the daily log binder with the current version. Previous versions can be valuable for reference when determining disposition of piles that have been combined or removed from the site. Please maintain "outdated" tracking maps in your daily log binder. Ohio EPA recommends that the outdated maps be labeled with the dates for which they were accurate.

Please submit copies of any "outdated" tracking maps on file.

- Fly ash is being used to construct a road and surface for placement of windrows. See Pictures A4 and A5 in Appendix A. This practice is of concern to Ohio EPA for the following reasons:
 - OAC Rule 3745-27-01(S)(24) specifically excludes only "non-toxic fly ash" from the definition of "solid waste." Upon receipt of this letter, please provide testing results so that the toxicity of the material can be evaluated.
 - The fly ash appeared to have the consistency of talcum powder. Significant dust was noted when trucks or other equipment drove over the fly ash. In addition to the requirement in OAC Rule 3745-27-45(C)(1)(a) to conduct operations at the facility in such a way as to control noise, dust, and odors, Ohio EPA's Division of Air Pollution Control (DAPC) likely has rules that apply. Please contact Jennifer Joliff of DAPC at (419) 373-4112 to discuss DAPC's requirements.
 - Significant problems with mud and ponded leachate and surface water have been identified on past inspections conducted by the Henry County Health Department. Ohio EPA has concerns that the fly ash may add to mud and road maintenance issues and therefore may not be an appropriate material for road and composting surface construction.
 - A grey material that appeared to be fly ash was observed in windrow #13 on the south side of Owl Creek. Please see Picture A6 in Appendix A. When questioned, Mr. Kammeyer stated that the fly ash had likely been inadvertently mixed into the animal waste when it was removed from the receiving area and placed in the windrow. Please be advised that fly ash is not a Type A, Type B, or Type C feedstock, bulking agent, or additive, and therefore may not be introduced into the composting process at a Class III composting facility. If it is determined that the material is acceptable for use in road and composting surface construction, measures to prevent it from mixing with the materials being composted will need to be taken.

Please be advised that if the material's testing data indicated that it is not "non-toxic," additional notices of violation may be forthcoming from Ohio EPA.

- Past inspections conducted by the Henry County Health Department have identified recurrent violations of 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.*

Although no significant ponding of leachate was identified during this inspection, please be aware that that the months of May and June 2007 have been extraordinarily dry. There were several areas of the Facility that appeared as though they would allow ponding of water or leachate.

Specifically, water will likely back up on the north side of the fly ash road despite the culvert beneath the road. The area south of the fly ash road west of windrow #27 will probably also hold water. The area noted on the tracking map as "Holes need fixed" will also hold ponded water or leachate. The low area on the south side of the creek near the ends of the westernmost windrows has had ponded water in the past; the area does not appear to have been regraded. As the site is regraded, please bear in mind the requirements of OAC Rule 3745-27-45(G)(2): . . . *The land surface of the waste handling, composting, compost curing, and cured compost areas of the facility shall be greater than or equal to one per cent in slope and less than or equal to six per cent in slope so as to direct surface water to collection points or otherwise control the surface water drainage to minimize erosion.*

- Solid waste, such as plastic bags and beverage containers, was noted in the "rejects" piles, in some of the compost piles, and around the pond. It is Ohio EPA's expectation that solid waste will be removed as it is exposed through weathering or decomposition and properly disposed. At a minimum, the owner/operator should look for solid waste and remove it during the daily inspection that is conducted to obtain information to complete daily log of operations Form 3.
- Mr. Kammeyer did not know the identity of the pile of material located near the west end of windrows 13 and 14. He stated that it belongs to the farmer that farms the field south of the windrows. Please respond in writing with the identity of this pile.

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

- Submit the notification required by OAC Rule 3745-27-41(D) as the Facility has been substantially changed and the change requires a change in the classification of the facility. *
- Submit any test results obtained from testing conducted on March 28, 2007, including those for testing of pile "WP1." *
- Submit any results obtained from testing pile #4. *
- Submit copies of all daily log of operations forms from January 1, 2005 through the present. *
- Submit copies of any outdated tracking maps on file at the Facility. *
- Submit all test results obtained from testing of the fly ash.* Provide information about the origin of the ash.
- Please respond in writing with the identity of the pile of material located west of windrows 13 and 14. *

- Please submit a copy of the contingency plan required by OAC Rule 3745-27-45(A)(6):
 - (6) *The owner or operator shall prepare, maintain and implement a contingency plan to address discovery of prohibited material, fire, explosion, spills, and equipment failure. The owner or operator shall have a copy of the contingency plan available for inspection by Ohio EPA or the approved health department during normal operating hours.*
- Please provide an unused bag of the type that the material containing the N-Viro Soil/cow manure/wood waste was distributed in.

June 27, 2007 Inspection:

Thomas Menke of Menke Consulting conducted sampling of Pile #33. Alison Shockley, Joe Goicochea, and I, all representatives of Ohio EPA, observed the sampling. Tim Kasmoch, Brian Kammeyer, and Ada Shaver represented the Facility. Any comments Ohio EPA may have regarding the sampling event will be forwarded under separate cover.

The following were noted:

- All violations described above continue.
- A rope strung on rebar was observed along the south side of Pile #33.
- The following piles containing the N-Viro Soil/manure/Sauder wood waste mixture, observed during the June 14, 2007 inspection, had been relocated:
 - the piles of shredded N-Viro Soil/manure/Sauder wood waste mixture in the north portion of the facility, near Pile #33; and
 - the pile of material containing the N-Viro Soil/manure/Sauder wood waste mixture in the mixing/bagging area.

Mr. Kammeyer and Mr. Kasmoch stated that these piles had been placed in Pile #33.

- Mr. Kammeyer stated that none of the bagged material containing the N-Viro Soil/manure/Sauder wood waste mixture remained on site.
- A berm had been constructed along the north side of Owl Creek. See Picture C1 in Appendix C. Mr. Kammeyer stated that the berm was constructed from clay from a stockpile in the northeast corner of the Facility. He also stated that the eight truckloads of screening rejects that contained N-Viro Soil observed in this area on June 14, 2007 had been removed and placed in Pile #32.
- The low area observed near the bridge on June 14, 2007 and noted on the tracking map as "Holes need fixed" had been filled.
- The solid waste on the banks of the pond had been removed.
- Several piles identified by Mr. Kammeyer as sewage sludge that had been composted with yard waste, from Fort Wayne, IN, were located in the mixing/bagging area. Mr. Kammeyer stated that none of this material had been introduced into the composting process. Please be aware that if the owner/operator would like to use this material as a feedstock, the steps outlined in Violation #3B would need to be followed before doing so.

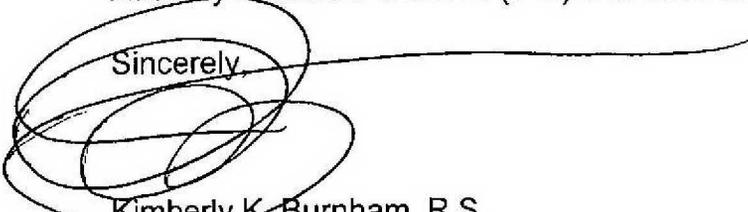
- Mr. Kasmoch stated that all incoming materials utilized in the composting facility are transported to the Facility by Gardenscape trucks. I reminded Mr. Kasmoch of the signage requirements if materials are accepted from the public. Any persons not employed by Gardenscape would be considered "the public." The signage requirements are found in OAC Rule 3745-27-45(C)(8).
- Some areas of the fly ash composting surface were observed to be very hard and resemble concrete. However, dust was observed in areas that had not hardened. A water truck sprayed some portions of the Facility for dust control near the end of the inspection.

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

/csl

CC: Kimberly Burnham, Ohio EPA, DSIWM, NWDO
Alison Shockley, Ohio EPA, DSIWM, CO
Carl Mussenden, Ohio EPA, DSIWM, CO
Dana Martin-Hayden, Ohio EPA, DSW, NWDO
Jennifer Jolliff, Ohio EPA, DAPC, NWDO
John Cayton, Assistant Attorney General
File: Henry County, Gardenscape, Inspections

Enclosures

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. 	A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> <i>Susan L. Page</i> <input type="checkbox"/> Addressee B. Received by (Printed Name) C. Date of Delivery
1. Article Addressed to: MR TIM KASMOCH TRI STATE GARDEN SUPPLY CO PO BOX 451 ARCHBOLD OH 43502 DSIWM/Kim B./csl	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No 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. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes
2. Article Number (Transfer from service label)	7006 0100 0003 7708 5398
PS Form 3811, February 2004	Domestic Return Receipt 102595-02-M-1540

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
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Postage	\$ 1.48
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Return Receipt Fee (Endorsement Required)	2.15
Restricted Delivery Fee (Endorsement Required)	\$ 6.28
Total Postage & Fees	\$ 6.28
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TRI STATE GARDEN SUPPLY CO.	
Street, Apt. No., or PO Box No. PO BOX 451	
City, State, ZIP+4® ARCHBOLD OH 43502	
PS Form 3800, June 2002	See Reverse for Instructions

7006 0100 0003 7708 5398

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Appendix A



A1



A4



A2



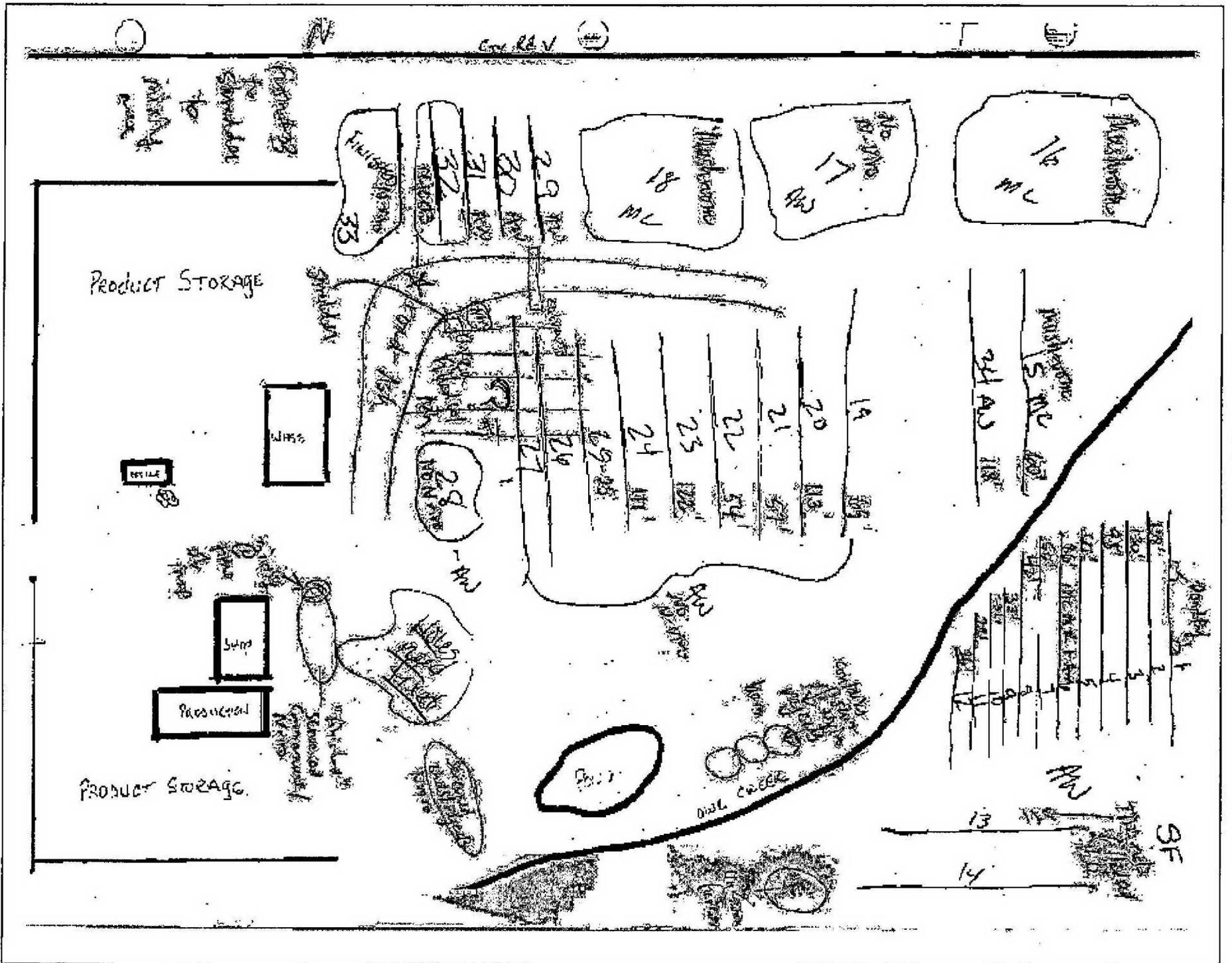
A5



A3



A6



Appendix B

Appendix C



C1

(D) Notification of class II or class III composting facilities.

- (1) Not less than thirty days prior to the date on which the class II or class III composting facility will accept authorized feedstocks, bulking agents, or additives, the owner or operator of a class II or class III composting facility shall submit to the director and to the approved health district having jurisdiction a complete notification on forms prescribed by the director to register the composting facility which shall consist of the following:
 - (a) A plan view drawing, using a scale of one inch equals no greater than one hundred feet, showing the following information inside the facility boundaries and within five hundred feet beyond the facility boundaries:
 - (i) The property lines of all land owned or leased for the composting facility.
 - (ii) All public roads, railroads, and occupied structures.
 - (iii) Existing topography showing streams, wetlands, lakes, springs, and other surface waters of the state as defined in Chapter 3745-1 of the Administrative Code, with a contour interval no greater than five feet.
 - (iv) The north arrow.
 - (v) Location of the on-site materials placement areas for the following:
 - (a) Composting operations.
 - (b) Storage of feedstocks, bulking agents, or additives.
 - (c) Storage of curing compost.
 - (d) Storage of cured compost.
 - (e) Storage of compost product.
 - (vi) All existing domiciles.
 - (vii) The limits of the regulatory flood plain.
 - (viii) National park or national recreation areas, candidate areas for potential inclusion into the national park system, and any state park or established state park purchase areas.

(ix) State nature preserves, state wildlife areas, national and state scenic rivers, and national wildlife refuge, special interest areas and research natural areas in the Wayne national forest, state resource waters, outstanding national resource waters, category 3 wetlands, outstanding high quality waters, coldwater habitats, and exceptional warmwater habitats as classified in accordance with Chapter 3745-1 of the Administrative Code.

(x) All existing public water supply wells, developed springs or private potable water supply wells.

(b) A notarized statement certifying that the information presented in the notification of registration and the plan drawing is true and accurate, and that on the date the notification is received by Ohio EPA the limits of materials placement meet the applicable location restrictions specified in paragraph (M) of rule 3745-27-45 of the Administrative Code.

(c) The following Class specific information:

(i) For class II composting facilities:

(a) The authorized "maximum daily waste receipt" as defined in rule 3745-27-01 of the Administrative Code.

[Comment: The information provided for the "authorized maximum daily waste receipt" is the basis for the determination of the appropriate license fee in accordance with section 3734.06 of the Revised Code.]

(b) The maximum land surface area in square feet which will be utilized at the facility for the following:

(i) Composting operations.

(ii) Storage of feedstocks, bulking agents, or additives.

(iii) Storage of curing compost.

(iv) Storage of cured compost.

(c) The maximum capacity in cubic yards available at the facility for each of the following:

(i) Composting operations.

- (ii) Storage of feedstocks, bulking agents, or additives.
- (iii) Storage of curing compost.
- (iv) Storage of cured compost.

[Comment: The total maximum land surface area of the facility, excluding that area used for the storage of compost product, and the total maximum capacity of the facility, excluding that area used for the storage of compost product, is the basis for the itemized written estimate for financial assurance provided in accordance with paragraph (D) (4) of this rule.]

- (d) The maximum land surface area in square feet and maximum capacity in cubic yards that will be utilized at the facility for the storage of compost product.
 - (e) Facility information including facility name, location, class of composting facility, contact person, and phone number.
 - (f) Owner and operator information including name, address, and phone number.
 - (g) Financial assurance information including the following:
 - (i) An itemized written estimate, in current dollars, of the cost for a third party to complete final closure of the facility in accordance with rule 3745-27-47 of the Administrative Code. The itemized written estimate shall be in accordance with rule 3745-27-15 of the Administrative Code and shall be based on the costs necessary to dispose or transfer a quantity of materials equal to the maximum facility capacity for solid wastes, including cured compost, feedstocks, bulking agents, and additives as documented in the facility notification of registration except that the quantity of compost product which will be stored at the facility shall not be considered when estimating these costs. For the purposes of this rule, disposal costs per ton shall be based upon current rates at the time the final closure costs are estimated, at a solid waste facility in the vicinity.
 - (ii) An unexecuted draft of the financial assurance instrument, in accordance with rule 3745-27-15 of the Administrative Code.
- (ii) For class III composting facilities:

- (a) The maximum land surface area in square feet which will be utilized at the facility for materials placement as defined in rule 3745-27-01 of the Administrative Code.
- (b) The maximum capacity in cubic yards available at the facility for composting operations and storing of bulking agents, curing compost, cured compost, and compost product.
- (c) Facility information including facility name, location, class of composting facility, contact person, and contact person's phone number.
- (d) Owner and operator information including name, address, and phone number.

(2) A notification shall be deemed incomplete if either of the following apply:

- (a) All information required by paragraphs (D)(1)(a) and (D)(1)(c) of this rule is not included.
- (b) The notarized signature required by paragraph (D)(1)(b) of this rule is not included.

Ohio EPA will review the notification for completeness and notify the owner or operator regarding the completeness of the notification.

(E) Notification of class IV composting facility.

- (1) Not less than thirty days prior to the date on which the owner or operator will accept authorized feedstocks, bulking agents, or additives, the owner or operator of a class IV composting facility shall submit to the director and to the approved health district having jurisdiction a complete notification on forms prescribed by the director to register the composting facility which shall consist of the following:
 - (a) Facility information including facility name, location, class of composting facility, contact person, and contact person's phone number.
 - (b) The owner and operator's name, address, and phone number.
 - (c) A notarized statement certifying that the information presented in the notification of registration is true and accurate, and except for facilities which exclusively compost wastes generated within state or national parks, or national recreation areas, that on the date the notification is