



Environmental
Protection Agency

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

April 8, 2011

RE: Trumbull County
American Organic-Plus, Inc.
NPDES Permit No: Unpermitted
Ohio EPA Permit No: Unpermitted
Industrial Storm Water Inspection

Mr. Thomas Yuhasz
American Organic-Plus, Inc.
8549 State Route 46 South
Orwell, OH 44076

NOTICE OF VIOLATION

Dear Mr. Yuhasz:

During a March 21, 2011 sewage sludge inspection, you had stated that you were in the process of evaluating sand from a sand pit to determine if it could be utilized in fracking processes associated with the development of the Marcellus shale gas reserve. On April 6, 2011 and April 7, 2011, Ohio EPA received complaints alleging that excavation of a sand mine, located north of York Street, east of Towline Road, west of Dodgeville, and south of the Ashtabula/Trumbull County line, Greene Township, Trumbull County (site), had been initiated and that a diversion channel had been constructed to dewater the sand mine to an adjacent stream. The complaints also alleged that the water discharging from the diversion channel was cream colored.

On April 7, 2011, I contacted the Ohio Department of Natural Resources' (ODNR) Division of Mineral Resources Management to inquire if an application had been submitted for a proposed sand and gravel surface mine. ODNR confirmed that an application was submitted on February 15, 2011 for a proposed 252.2 acre sand and gravel surface mine that will have an estimated depth of thirty (30) feet. ODNR also provided that eight (8) acres have been proposed to be mined in the first year of the sand and gravel surface mine's fifteen (15) year permit.

Complaint Inspection

On April 7, 2011, Ohio EPA performed an inspection at the site to determine the validity of the complaints received. Ohio EPA documented that grading and excavating activities associated with the exploration and/or construction phase of the sand and gravel mine have commenced (Figures 1 to 2). No best management practices have been installed to prevent the discharge of pollutants with storm water runoff. A diversion channel had been constructed to dewater the sand and gravel mine (Figure 3 to 4). Pollutant-laden storm water runoff was being discharged, via the diversion channel, directly into "surface waters of the state" (Figure 5). The diversion channel must be eliminated until the site has received an NPDES permit authorizing the discharge of pollutants to "surface waters of the state."

The unauthorized discharge of pollutants to "surface waters of the state" constitutes violations of Ohio Revised Code (ORC) Chapter 6111.04(A) and Ohio Administrative Code (OAC) Rule 3745-33-02(A). The failure to obtain NPDES permit coverage at least one hundred eighty days prior to commencement of the discharge constitutes violations of ORC 6111.07(A) and OAC Rule 3745-33-03(B).

Mr. Thomas Yuhasz
American Organic-Plus, Inc.
April 8, 2011
Page 2

NPDES Permit Coverage

Storm water runoff from the site appears to be subject to the National Pollutant Discharge Elimination System (NPDES) Permit program. According to the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA), it appears the industrial activities at the site are categorized by Standard Industrial Classification (SIC) Code 144: Sand and Gravel. For your convenience, OSHA's SIC website defining industrial activities can be located at the following internet address:

http://www.osha.gov/pls/imis/sic_manual.display?id=397&tab=description

Facilities with these operations must assure that storm water runoff from their property complies with the requirements of an individual NPDES permit. To obtain NPDES permit coverage, you must submit an application that includes the following:

- NPDES Form 1 Application;
- NPDES Form 2C Application;
- Ohio EPA Antidegradation Addendum; and
- Appropriate NPDES application fee

For your convenience, the NPDES application forms and instructions can be obtained from the following website:

<http://www.epa.ohio.gov/dsw/permits/npdesform.aspx>

An NPDES permit application, including the applicable application fee, must be submitted to Ohio EPA by May 8, 2011. If you feel that you have received this letter in error, please submit a letter of explanation no later than April 22, 2011. Should you have any questions regarding this matter, please contact me at your earliest convenience at (330) 963-1118 or via email chris.moody@epa.state.oh.us. Should you have any questions regarding the NPDES application forms, please contact Tomas Parry at (330) 963-1120 or via email at thomas.parry@epa.state.oh.us.

Sincerely,



Chris Moody
Environmental Specialist II
Division of Surface Water

CM/mt

ec: Fred Troppe, T. Environmental Consulting
Tomas Parry, Ohio EPA, NEDO, DSW

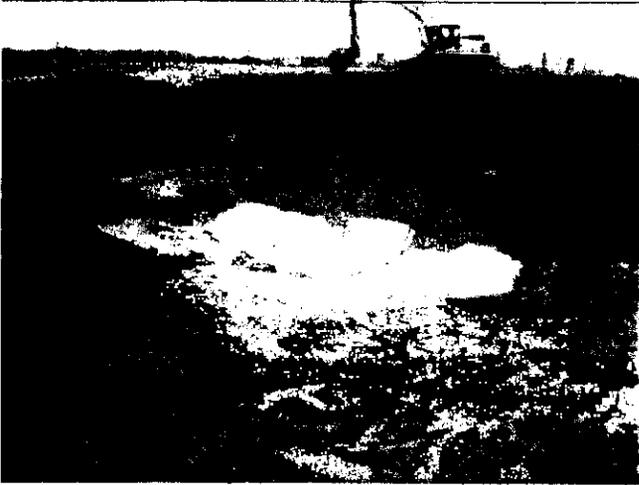


Figure 1 - Grading, and excavating activities of sand and gravel mine have commenced.



Figure 2 - Grading and excavating activities of sand and gravel mine have commenced.



Figure 3 - A diversion channel had been constructed to dewater the sand and gravel mine.



Figure 4 - A diversion channel had been constructed to dewater the sand and gravel mine.



Figure 5 - Pollutant-laden storm water runoff was being discharged directly into "surface waters of the state."

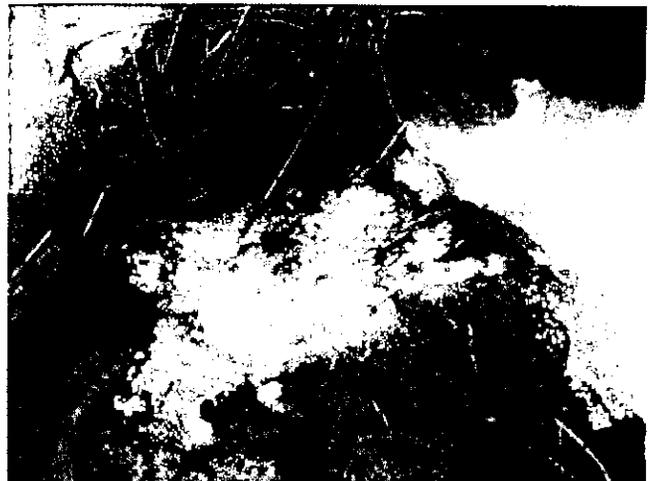


Figure 6 - Pollutant-laden storm water runoff was being discharged directly into "surface waters of the state."