



State of Ohio Environmental Protection Agency

Northwest District Office

347 North Dunbridge Road
Bowling Green, OH 43402-9398

TELE: (419) 352-8461 FAX: (419) 352-8468
www.epa.state.oh.us

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

Re: Notice of Violation
Garden Ridge Nursery
Defiance County

October 8, 2008

Certified Mail 7006 0100 0004 1318 2654
Return Receipt Requested

Mr. Jerry Richter, General Manager
Garden Ridge Nursery
28115 Leach Road; Suite B
Defiance Ohio 43512

Dear Mr. Richter:

This letter documents the ongoing violations at Garden Ridge Nursery Composting Facility which were observed on the six most recent inspections at the facility. This letter includes documentation of the condition of the site and violations during inspections on March 6, 2007; August 21, 2007; October 25, 2007; November 26, 2007; and February 7, 2008, for which you have already received Notices of Violation, and during the last inspection which occurred July 9, 2008 for which a Notice of Violation had not previously been sent to you. Since many of the site conditions and issues related to the site have not been resolved, and the associated violations appear chronic, we have constructed a table under **INSPECTION RESULTS** to simplify the documentation of these site conditions. This table references the May 23, 2007 inspection letter which enumerates in detail the issues and conditions on the site. A copy of the May 23, 2007 letter was attached for your convenience to the July 2, 2008 Notice of Violation Letter. Attached is a copy of the site map. We have also constructed a table, which is found under **VIOLATION SUMMARY**, to simplify the documentation of violations at the site.

Concerns regarding the potential for pollution of waters of the state resulting from the presence of fly ash in a flooded area which discharges off site and the large amount of industrial wastewater in the ponds resulted in the Ohio EPA's issuance of the August 17, 2007 Director's Final Findings and Orders to which you agreed. The orders focused on preventing pollution of waters of the state by the removal of fly ash from the site and the land application of industrial wastewater from Pond 1 and the Final Pond. To our knowledge, as of this date, the fly ash has not been removed from the site. Since there is very limited land for land application of wastewater on the site, and most of the site is collecting and storing excessive volumes of wastewater, discharges of wastewater from this site to waters of the state are chronic.

As the August 17, 2007 orders reflect, the Ohio EPA is very concerned that the pollutant sources, which include fly ash, grass and uncured compost, be removed from the site. Over time the site has been graded to collect and store large volumes of water. Until the pollutant sources are removed from the site the generation of large volumes of contaminated wastewater will not end. Given the types of wastes on site, the wastewater discharging from the site may be contaminated with metals, fecal coliform, ammonia and very low dissolved oxygen. It is also very probable that odors will be present in the summer months.

Until the sources of contamination are removed from the site, and the generation of contaminated wastewater ceases, wastewater should be disposed of in accordance with the methods outlined in your NPDES permit. Prevention of wastewater discharges from the site is critical to achieving compliance with your NPDES permit and Ohio Revised Code Chapter 6111 and regulations adopted thereunder.

INSPECTION RESULTS						
Insp. Letter Date	5/23/2007	9/14/2007				
Day of Insp.	3/6/2007	8/21/2007	10/25/07	11/26/07	2/7/08	7/9/08
Issue/Observed Conditions	Reference this letter					
Regulatory Representatives in Attendance	Dana Martin-Hayden OEPA, DSW, Mike Reiser, OEPA, DSIWM	Dana Martin-Hayden OEPA, DSW, Mike Reiser, OEPA, DSIWM	Dana Martin-Hayden OEPA, DSW, Mike Reiser, OEPA, DSIWM	Dana Martin-Hayden, OEPA, DSW, Rahel Babb, OEPA, DSW, Paul Wetzel, US Army Corps of Engineers	Dana Martin-Hayden, OEPA, DSW, Brandon Scott, OEPA, DSW	Dana Martin-Hayden, OEPA, DSW, Tim Faulks, OEPA, DSW
Facility Representatives in attendance	Jerry Richter, Marty Richter of Garden Ridge	Jerry Richter, Garden Ridge, William Meyer, Wm. Meyer & Assoc.	None present	None present	None present	Marty Richter and two other workers were busy moving plants from her truck, labeled Marty's Prescription Soils, to under the trellis in the parking area
Weather	Cloudy and in the high teens - No precipitation	Cloudy and in the low 70's - No precipitation.	Partly Cloudy and in the high 50's - No precipitation	Cloudy and in the high 30's - Surface of Ponds not frozen - Light rain with heavy rain the day before	Cloudy and in the low 30's - Surface of ponds frozen - Light rain with heavy rains the day before	Clear and Sunny, in the 80's - the day before Defiance WWTP recorded 0.68" inches of rainfall

INSPECTION RESULTS (CONT.)						
Insp. Letter Date	5/23/2007	9/14/2007				
Day of Insp.	3/6/2007	8/21/2007	10/25/07	11/26/07	2/7/08	7/9/08
Issue/Observed Conditions	Reference this letter					
Other		- Sampling conducted by Garden Ridge for the Orders - Mr. Richter advised not to alter wetland w/o assuring compliance with wetland regulations and statues.	-Fire truck now on site -Vegetation in wetland flattened by application of wastewater - Extensive piping all over site for land application with ponding	Unable to inspect entire site due to hunters firing repeated gun shots in close proximity	-Final Pond and enlarged pond discharging reported to OEPA spill hotline by facility - Southeast Pond/ Wetland was not inspected during this inspection	- Marty was unloading plants from her truck, labeled Marty's Prescription Soils, to underneath the trellis in the parking area. The grass pile on site is producing the darkest colored leachate. We saw one new or freshly moved pile of organic materials with out vegetation growing on it in the path of the wastewater that drains from compost area 1 to the parking area wet wells
Ponds 2 & 3 Filled In	1	Yes	Yes	Yes	Yes	Yes
Ponds 4 Almost Filled	2	Yes	Yes – Completely	Yes – Completely	Yes – Completely	Yes-Completely
Pond 1 Expansion into Compost Area 2	3	Yes	Yes	Yes	Yes	Yes
Leachate in Pond 1	4	Yes	Yes	Yes	Yes	Yes
Submerged Compost in Compost Area 2	5	Yes	Yes	Yes	Yes	Yes – duckweed present
Compost Area 1 flooded	6	Yes	Yes	Yes	Yes	Yes – duckweed present

INSPECTION RESULTS (CONT.)						
Insp. Letter Date	5/23/2007	9/14/2007				
Day of Insp.	3/6/2007	8/21/2007	10/25/07	11/26/07	2/7/08	7/9/08
Issue/Observed Conditions	Reference this letter					
Submerged Compost in Compost Area 1	7	Yes	Yes	Yes	Yes	Yes – duckweed present
Leachate from Fly Ash Draining into and Flooding Compost Area 1	8	Yes	Yes	Yes	Yes	Yes
Potential to discharge from compost areas	9	Yes	Yes	Yes	Yes	Yes
Leachate from fly ash drains to wet wells A & B	10	Yes	Yes	Yes	Yes	Yes
Wet wells pipe bedding not properly sealed	11	Yes	Yes	Yes	Removed Piping	See previous inspection
Southeast Pond contains water	12 – Yes	Yes, During Dry Weather and limited land appl.	Yes	Yes		Yes
Wetland Biota Present	12A	Yes, contains water during dry weather & vegetative area expanding	Yes, Biota has been compressed by land appl. w/ fire hose	Yes		Yes in pond and expanding over to entire site – including the Northeast Land application fields
Ponds 2 & 3 Filled In	1	Yes	Yes	Yes	Yes	Yes
Pond 4 Almost Filled	2	Yes	Yes – Completely	Yes – Completely	Yes – Completely	Yes-Completely

INSPECTION RESULTS (CONT.)						
Insp. Letter Date	5/23/2007	9/14/2007				
Day of Insp.	3/6/2007	8/21/2007	10/25/07	11/26/07	2/7/08	7/9/08
Issue/Observed Conditions	Reference this letter					
Pond 1 Expansion into Compost Area 2	3	Yes	Yes	Yes	Yes	Yes
Leachate in Pond 1	4	Yes	Yes	Yes	Yes	Yes
Submerged Compost in Compost Area 2	5	Yes	Yes	Yes	Yes	Yes – duckweed present
Compost Area 1 flooded	6	Yes	Yes	Yes	Yes	Yes – duckweed present
Submerged Compost in Compost Area 1	7	Yes	Yes	Yes	Yes	Yes – duckweed present
Leachate from Fly Ash Draining into and Flooding Compost Area 1	8	Yes	Yes	Yes	Yes	Yes
Potential to discharge from compost areas	9	Yes	Yes	Yes	Yes	Yes
Leachate from fly ash drains to wet wells A & B	10	Yes	Yes	Yes	Yes	Yes
Wet wells pipe bedding not properly sealed	11	Yes	Yes	Yes	Removed Piping	See previous inspection
Southeast Pond contains water	12 – Yes	Yes, During Dry Weather and limited land appl.	Yes	Yes		Yes

Mr. Jerry Richter
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INSPECTION RESULTS (CONT.)						
Insp. Letter Date	5/23/2007	9/14/2007				
Day of Insp.	3/6/2007	8/21/2007	10/25/07	11/26/07	2/7/08	7/9/08
Issue/Observed Conditions	Reference this letter					
Wetland Biota Present	12A	Yes, contains water during dry weather & vegetative area expanding	Yes, Biota has been compressed by land appl. w/ fire hose	Yes		Yes in pond and expanding over to entire site – including the Northeast Land application fields
Color of water	12B – Frozen/ Snow covered	Clear and colorless – land application limited due to fly ash in leachate	Brown	Brown		Clear and in some places Brown – 10 ducks flew away when we approached – they may have stirred up the water in the SE wetland area
Missing Plans for freeboard measurement devices	13	Yes	Yes	Yes	Yes	Yes
Freeboard Missing data & no plans	13	Yes	Yes	Yes	Yes	Yes
Final Pond – water level approx. measurements 59.75 max	13A – 58.85	59.55	57.75	58.00	Overflowing at 59.75	Overflowing at 59.7.01 Above the black tape I
Ponds 2 and 3	13B	Filled In	Filled In	Filled In	Filled In	Filled In
Pond 4	13C	Almost Filled	Filled In	Filled In	Filled In	Filled In
Ponds 2 and 3	13B	Filled In	Filled In	Filled In	Filled In	Filled In
Pond 4	13C	Almost Filled	Filled In	Filled In	Filled In	Filled In

INSPECTION RESULTS (CONT.)						
Insp. Letter Date	5/23/2007	9/14/2007				
Day of Insp.	3/6/2007	8/21/2007	10/25/07	11/26/07	2/7/08	7/9/08
Issue/Observed Conditions	Reference this letter					
Pond 1	13D	Pond Enlarged – Device Covered	Pond Enlarged – Device Covered	Pond Enlarged – Device Covered	Pond Enlarged – Device Covered	Pond Enlarged – Device Covered
Pumping network improperly abandoned	14	Yes	Yes	Yes	Yes	Yes
Pumping above ground	14A – Yes pumping Piping above ground	Yes pumping Piping above ground	Yes pumping Piping above ground	No observed pumping Piping above ground	No observed pumping Piping above ground	Pumping from wet wells in the parking area into the final pond which was discharging to South Behrens' Ditch
Improper land application not appropriate nor timely	15	* Yes	Yes – Hoses found in NW section of site, ponding present – Fire truck sprayed into wetland area	Yes	Yes	Yes
Nutrient documentation inadequate for land appl.	16	* Yes	Yes	Yes	Yes	Yes
Leachate mister in Pond	17	* Yes	Yes	Yes	Yes	Yes

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INSPECTION RESULTS (CONT.)						
Insp. Letter Date	5/23/2007	9/14/2007				
Day of Insp.	3/6/2007	8/21/2007	10/25/07	11/26/07	2/7/08	7/9/08
Issue/Observed Conditions	Reference this letter					
Road to Southeast Pond	18	*Part done	Part done	Part done	Part done	Partly done and did not look recently used – large plants growing on the partial road – The main road back had less vegetation
No PTI submitted for Site Modifications	19	*Yes	Yes	Yes	Yes	Yes
No emergency spillway(s)	20	None	None	None	None	None
Additional Site Conditions Descriptions						
Discharge(s) off Site	** 21	Yes	Yes	Yes	Yes	Yes
From Wet Well A or B	** 21A – No	No	Yes – through pipe bedding	Yes	Piping to stream removed – induced severe ponding	Directly no, but indirectly yes. Wastewater was being pumped into the final pond, which was discharging into S. Behrens Ditch, from wet well A.
From Enlarged Pond 1/Compost Area 2	** 21B - No	No	Yes – Facility reported to Emergency Spill Hotline	No	Yes	Yes – Discharging into tributary to South Behrens Ditch on the Northwest side of the bridge –N 41 21' 40" & W 84 21' 30"

INSPECTION RESULTS (CONT.)						
Insp. Letter Date	5/23/2007	9/14/2007				
Day of Insp.	3/6/2007	8/21/2007	10/25/07	11/26/07	2/7/08	7/9/08
Issue/Observed Conditions	Reference this letter					
From Final Pond	** 21C - No	No	No	No	Yes	Yes - Discharging by overflowing the embankment near the water level measuring device and into South Behrens Ditch -N 40 52' 79" & W 83 09' 98"
Into Southeast Pond/ Wetland area	** 21D	Clear	Brown, Land application area - Vegetation compressed by Fire truck hose	Brown, Land application area		Unclear if land application into this area has occurred recently. Given the clarity of the water and no vegetative disruption on the road we assume no land application into this area has occurred recently.
Other	** 21E	Yes - Leaky above ground piping next to stream discharging to waters of the state				Looking at ponding near the compost piles bordering compost area 1, it appears that the pile located due north of the bridge across South Behren's Ditch has been draining into stream on the NE corner of the bridge over Behren's Ditch N 41 21' 40" & W 84 21' 30"

*Note that Nos. 17-19 are not listed in the 9/14/07 letter and Nos. 15 and 16 in the 9/14/07 letter are different from Nos. 15 and 16 in the 5/23/07 letter. All of these conditions and/or violations were observed on 8/21/2007 even though they were not included in the September 14, 2007 letter.

** 21 has been added to clearly document where discharges have occurred.

VIOLATION SUMMARY

An X is placed under the 5/23/07 letter column to indicate the violations that were documented in this letter. For the subsequent inspections, an X is placed to indicate that the violations observed during the inspected date are due to the same issues observed during the 5/23/07 letter. For violations supported by different or additional observations, the observed condition number(s) from the Inspection Results Table is(are) included.

VIOLATION SUMMARY TABLE						
Insp. Letter Date	5/23/2007	9/14/2007				
Day of Insp.	3/6/2007	8/21/2007	10/25/07	11/26/07	2/7/08	7/9/08
Violations						
NPDES Permit						
Part I, A	X	X	X	X	X	X
Part I, C (2)(a)	X	X	X	X	X	X
Part I, C (2)(b)	X	X	X	X	X	X
Part I, C (2)(c)	X	X	X	X	X	X
Part I, C (2)(d)	X	X	X	X	X	X
Part I, C (2)(e)	X	X	X	X	X	X
Part I, C (3)(a)	X	X	X	X	X	X
Part I, C (3)(b)	X	X	X	X	X	X
Part I, C (3)(c)	X	X	X	X	X	X
Part I, C (3)(d)	X	X	X	X	X	X
Part I, C (3)(e)	X	X	X	X	X	X
Part I, C (4)(a)	X	X	X	X	X	X
Part I, C (4)(b)	X	X	X	X	X	X
Part I, C (4)(c)	X	X	X	X	X	X
Part I, C (4)(d)	X	X	X	X	X	X
Part I, C (4)(e)	X	X	X	X	X	X
Part I, C (5)(a)	X	X	X	X	X	X
Part I, C (5)(b)	X	X	X	X	X	X
Part I, C (5)(c)	X	X	X	X	X	X
Part I, C (5)(d)	X	X	X	X	X	X
Part II, E(1) Land appl. sites need OEPA approval			Wetland area not approved as per 9/14/07 letter	Wetland area not approved as per 9/14/07 letter	Wetland area not approved as per 9/14/07 letter. Wetland area not inspected.	Wetland area not approved as per 9/14/07 letter. Unclear if land application has occurred in this area recently.
Part II, E(3) No ponding or runoff from land appl.			15, 21D	21D		
Part II, E(9) – Land appl. rate based on N and P test results	X	X			X	X

VIOLATION SUMMARY TABLE (CONT.)						
Insp. Letter Date	5/23/2007	9/14/2007				
Day of Insp.	3/6/2007	8/21/2007	10/25/07	11/26/07	2/7/08	7/9/08
Part II, I(1) No land appl. w/in 33 feet of waters of the state			15, 21D	21D		
ORC Section 6111	X	X	X	X	X	X
ORC Sec. 6111.04	X	21(E), 16	21(A,B & D)	21(A & D)	21(A,B & C)	21(B & C)
ORC Sec. 6111.07	X	X	X	X	X	X
ORC Sec. 6111.45	X	X	X	X	X	X
OAC 3745	X	X	X	X	X	X
OAC 3745-42-02(A)(1)	X	X	X	X	X	X

ORDERS VIOLATED FROM THE AUGUST 17, 2007 DIRECTOR'S FINAL FINDINGS AND ORDERS

Order Number 4 of the August 17, 2007 findings and orders required you to submit a plan for fly ash removal by September 7, 2007. In our letter to you dated November 9, 2007, we detailed the problems with the plan you submitted on November 2, 2007, including that it did not provide for removal of the fly ash from the site. To our knowledge, the fly ash has not been removed from the site in accordance with the conditions detailed in the findings and orders. Please see the table below for documentation of the violations of the August 17, 2007 findings and orders.

This Table details the orders that we have determined were violated from our site observations during the inspections documented above. Additional violations may be added once a records review is completed.

VIOLATION SUMMARY – AUGUST 17, 2007 DFFOs			
Order Number	Description	Violated	Comments
1	Within 21 days submit for OEPA approval fly ash removal or utilization plan	Partially Violated	Plan was submitted but it was late and incomplete
2	Respondent will revise submitted plan within 14 days of written OEPA comments	Violated	A revised plan was not submitted
4	Fly ash must be removed from site within 90 days of effective date of Orders.	Violated	Fly ash remains on site
7	Land application of wastewater will take place in accordance with NPDES permit and the Orders	Violated	Land application and pumping of leachate resulted in discharges to waters of the state (wetland area)
8	Prevent discharge, overflow or spill from land application	Violated	Land application and pumping of leachate resulted in discharges to waters of the state

VIOLATION SUMMARY – AUGUST 17, 2007 DFFOs			
8a	No discharges of wastewater to waters of the state except due to storm water and snow melt	Violated	Leachate was land applied to the wetland area
8b	Releases shall be documented and sampled	Violated	Discharges were not sampled in accordance with orders
8c	Sampling data reported to OEPA within 14 days of occurrence	Violated	Discharges were not sampled in accordance with orders
8d	Notify OEPA when discharge is occurring	Partially Violated	The OEPA was notified of a release on only 10/25/07
9a	Land appl. only on sites approved by OEPA	Violated	Land appl. occurred in unapproved wetland area (waters of the state – see 9/14/07 Letter)
9c	No ponding or runoff from land appl.	Violated	Ponding observed in land application areas (See 15 & 21D)
11a	Land Application Site Setbacks - 33 feet of waters of the state	Violated	Land application occurred in the wetland area (waters of the state – see 9/14/07 letter)

CONCLUSION

Ohio EPA has documented a consistent history of noncompliance for your facility. Since 2004 you have violated almost every condition of the December 17, 2003 Preliminary Injunction Consent Order, the March 2, 2005 NPDES permit and, most recently, the August 17, 2007 Findings and Orders. It appears from my inspections that you continue to be unable to properly manage the wastewater you generate on your site. Over time the site has been graded to collect and store large volumes of water. You do not have enough land application sites to manage the amount of wastewater you generate nor have you pursued other methods to properly dispose of the wastewater. You continue to have discharges of contaminated wastewater to waters of the state.

You must remove the fly ash from your site, as soon as possible, to prevent further storm water contamination. All wastes on this site should be removed or managed to minimize the production of wastewater. Proper management of your site's waste and product streams will prevent production of wastewater that you are unable to dispose of.

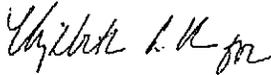
Compliance with the requirements outlined in this letter, or the specified provisions of ORC Chapter 6111 and the rules promulgated thereunder, does not relieve the owner/operator of his/her obligation to comply with other State and Federal laws and regulations.

This correspondence addresses observations only for the areas of Garden Ridge Nursery that were inspected and only for compliance issues observed by Ohio EPA's Division of Surface Water. Compliance issues related to regulations of Ohio EPA's Division of Solid and Infectious Waste Management are not included in this Notice of Violation. Nothing present in, nor absent from this correspondence is intended to mean or imply that no other violations existed at the facility at the time of inspection.

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October 8, 2008
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Please send us an update on the status of your site and your operations within fourteen (14) days of receipt of this letter. Within fourteen (14) days of receipt of this letter, please also submit copies of records required to be maintained by Orders 10.b. and 12 in the August 17, 2007 Findings and Orders, and condition II.J. of your NPDES permit.

Sincerely,



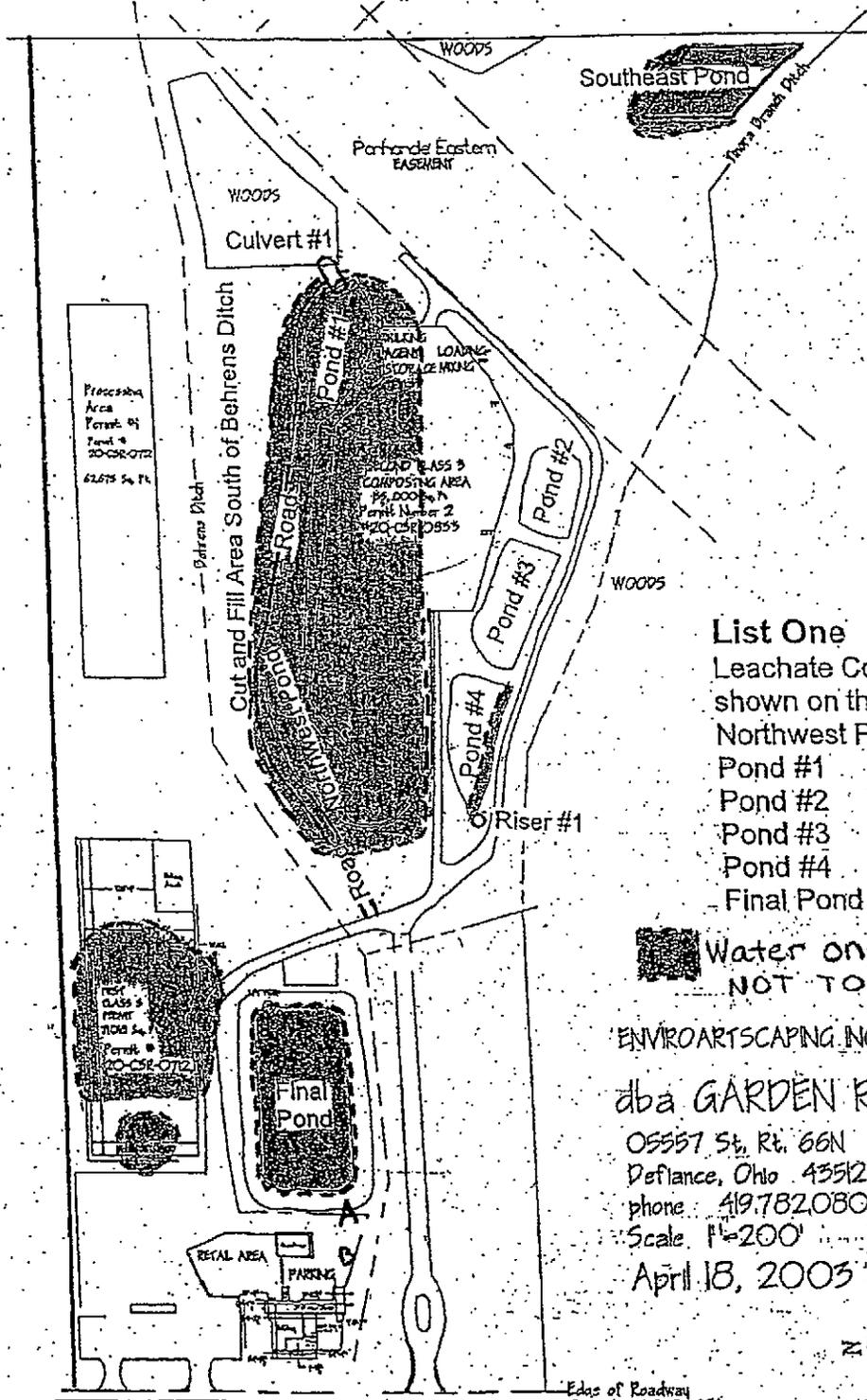
Dana Martin-Hayden
Division of Surface Water

/cs

pc: Kim Moss, Defiance County Health Department
John Cayton, AGO, Toledo
Gregg Bachmann, AGO, Columbus
Larry Reeder, OEPA, DSW, CO
Martha Horvitz, OEPA Legal, CO
Bill Fischbein, OEPA Legal, CO
Alison Shockley, OEPA, DSIWM, Composting Unit, CO
Mike Reiser, OEPA, DSIWM, NWDO
Carl Mussenden, OEPA, DSIWM, CMEU, CO
Mark Mann, OEPA, DSW, CO
Chris Bowman, OEPA, DSW, CO
Jack Van Kley, Van Kley & Walker LLD
William Meyer, Wm. Meyer and Associates
File: Defiance County, Garden Ridge Nursery, Composting, DSIWM
File: Defiance County, Garden Ridge Nursery, Composting, DSW

ec: Martha Horvitz, Legal, CO
Dana Martin-Hayden, DSW, NWDO

EXHIBIT A1



List One

- Leachate Collection Structures shown on the 10/7/03 PTI application:
- Northwest Pond
- Pond #1
- Pond #2
- Pond #3
- Pond #4
- Final Pond

 Water on site 3/6/07
NOT TO SCALE

ENVIROARTSCAPING INC.

dba GARDEN RIDGE ORGANICS

05557 St. Rt. 66N

Defiance, Ohio 43512

phone 419.782.0807

fax 419.782.0712

Scale 1"=200'

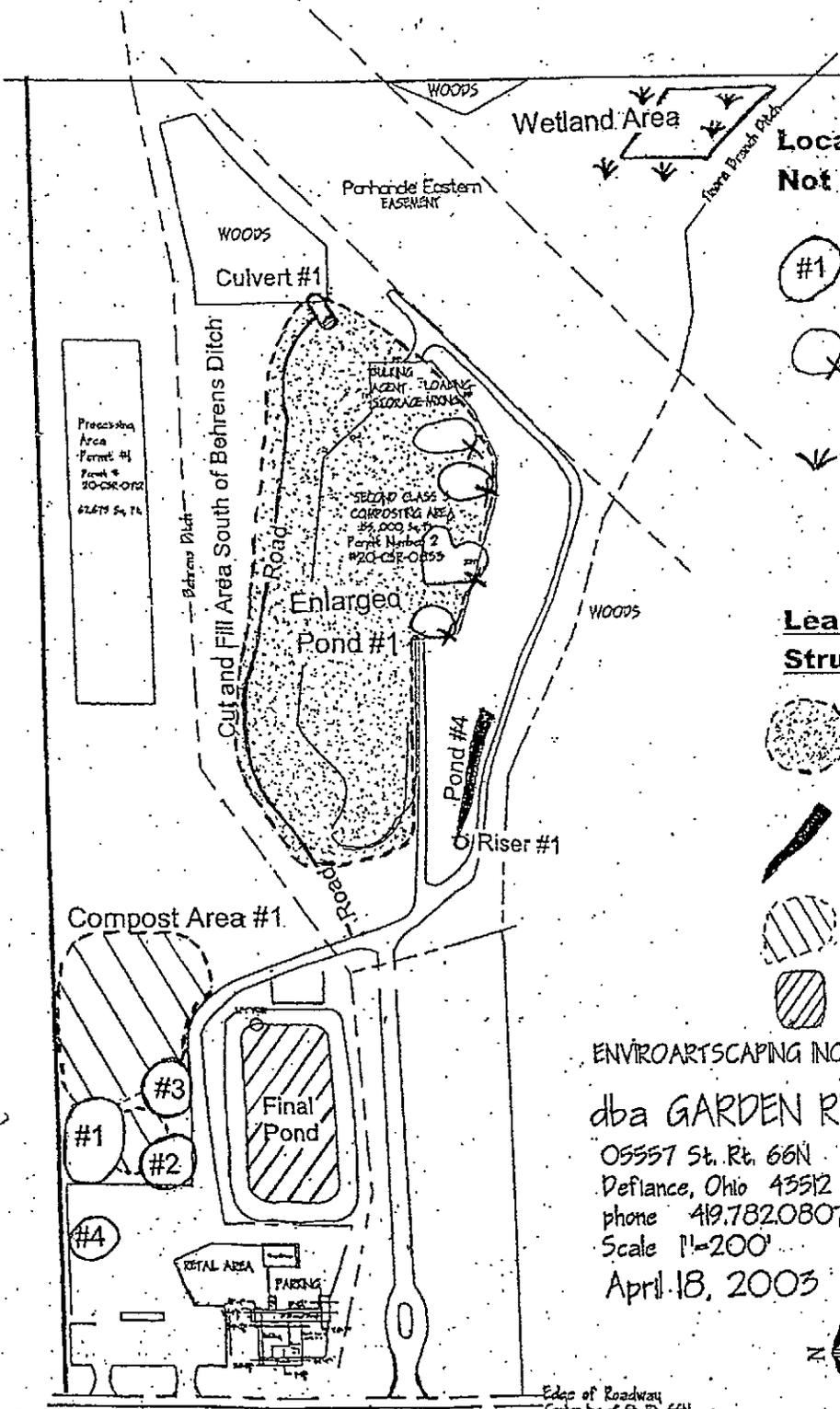
April 18, 2003

Edges of Roadway
Center line of St. Rt. 66N

OHIO STATE ROUTE 66

- A - Pump to Final Pond and B
- B - Wet well collecting storm water from parking lot and leachate from fly ash

EXHIBIT A2



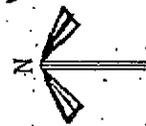
**Locations Approximate
Not to Scale**

-  **#1 Fly Ash Piles #1-4**
-  **Compost Piles & Sampling Area**
-  **Cattails in Wetland**

**Leachate Collection
Structures/Areas**

-  **Enlarged Pond #1
(Compost Area #2)**
-  **Pond #4**
-  **New Wastewater Collection Area
(including west portion
of Compost Area #1)**
-  **Final Pond**

ENVIROARTSCAPING INC.
 dba GARDEN RIDGE ORGANICS
 05557 St. Rt. 66N
 Defiance, Ohio 43512
 phone 419.782.0807 fax 419.782.0712
 Scale 1"=200'
 April 18, 2003



OHIO STATE ROUTE 66

Edge of Roadway
Center line of St. Rt. 66N