



**Environmental
Protection Agency**

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

March 7, 2012

Re: Pike County
Southern Ohio Sand
Industrial Storm Water
Notice of Violation
Construction Permit 0GC01515*AG

Mr. Ron Vaughn
P.O. Box 748
Willoughby, Ohio 44096
Certified: 70101060000178961283

Mr. David Zappa
Zappa Engineering, LLC
1255 N. Hamilton Road, #122
Gahanna, Ohio 43230

Mr. John Paglio
P.O. Box 748
Willoughby, Ohio 44096
Certified: 70101060000178961276

Mr. Frank DeMilta
P.O. Box 748
Willoughby, Ohio 44096

Gentlemen:

On February 16, 2012, I inspected your facility in Pike County. John Paglio was present and assisted me during the inspection. The purpose of my visit was to determine if your facility was in compliance with the Ohio Water Pollution Control Act, Revised Code Chapter 6111. I have the following comments:

Construction Permit #0GC01515*AG related Violations:

- 1. Stabilization

TABLE 1: PERMANENT STABILIZATION

Area requiring permanent stabilization	Time frame to apply erosion controls
Any areas that will lie dormant for one year or more	Within seven days of the most recent disturbance
Any areas within 50 feet of a surface water of the State and at final grade	Within two days of reaching final grade
Any other areas at final grade	Within seven days of reaching final grade within that area

TABLE 2 – TEMPORARY STABILIZATION

Area requiring temporary stabilization	Time frame to apply erosion controls
Any disturbed areas within 50 feet of a surface water of the State and not at final grade	Within two days of the most recent disturbance if the area will remain idle for more than 21 days
For all construction activities, any disturbed areas that will be dormant for more than 21 days but less than one year, and not within 50 feet of a surface water of the State	Within seven days of the most recent disturbance within the area For residential subdivisions, disturbed areas must be stabilized at least seven days prior to transfer of permit coverage for the individual lot(s).
Disturbed areas that will be idle over winter	Prior to the onset of winter weather

Where vegetative stabilization techniques may cause structural instability or are otherwise unobtainable, alternative stabilization techniques must be employed.

Some areas around the facility do not meet the above requirements. Assess all disturbed areas and stabilize areas that do not meet the above requirement immediately.

2. Part III.G.2.b.ii of the permit states Operators shall undertake special measures to stabilize channels and outfalls and prevent erosive flows. Measures may include seeding, dormant seeding (as defined in the current edition of the Rainwater and Land Development manual), mulching, erosion control matting, sodding, riprap, natural channel design with bioengineering techniques or rock check dams.

Many eroded channels exist at the facility. These channels must be stabilized per the above requirements. Assess all areas and stabilize areas that do not meet the above requirement immediately.

3. Part III.G.2.d.iii of the permit states sheet flow runoff from denuded areas shall be intercepted by silt fence or diversions to protect adjacent properties and water resources from sediment transported via sheet flow. Where intended to provide sediment control, silt fence shall be placed on a level contour downslope of the disturbed area. This permit does not preclude the use of other sediment barriers designed to control sheet flow runoff.

Install silt fence as needed per the requirement above.

4. Part III.G.2.i. of the permit states at a minimum, procedures in an SWP3 shall provide that all controls on the site are inspected at least once every seven calendar days and within 24 hours after any storm event greater than one-half inch of rain per 24 hour period. The inspection frequency may be reduced to at least once every month if the entire site is temporarily stabilized or runoff is unlikely due to weather conditions (e.g., site is covered with snow, ice, or the ground is frozen). A waiver of inspection requirements is available until one month before thawing conditions are expected to result in a discharge if all of the following conditions are met: The project is located in an area where frozen conditions are anticipated to continue for extended periods of time (i.e., more than one month); land disturbance activities have been suspended; and the beginning and ending dates of the waiver period are documented in the SWP3. Once a definable area has been finally stabilized, you may mark this on your SWP3 and no further inspection requirements apply to that portion of the site. The permittee shall assign "qualified inspection personnel" to conduct these inspections to ensure that the control practices are functional and to evaluate whether the SWP3 is adequate and properly implemented in accordance with the schedule proposed in Part III.G.1.g of this permit or whether additional control measures are required.

Following each inspection, a checklist must be completed and signed by the qualified inspection personnel representative. At a minimum, the inspection report must include:

- i. the inspection date;
- ii. names, titles, and qualifications of personnel making the inspection;
- iii. weather information for the period since the last inspection (or since commencement of construction activity if the first inspection) including a best estimate of the beginning of each storm event, duration of each storm event, approximate amount of rainfall for each storm event (in inches), and whether any discharges occurred;
- iv. weather information and a description of any discharges occurring at the time of the inspection;
- iv. location(s) of discharges of sediment or other pollutants from the site;
- v. location(s) of BMPs that need to be maintained;
- vi. location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location;
- vii. location(s) where additional BMPs are needed that did not exist at the time of inspection; and
- viii. corrective action required including any changes to the SWP3 necessary and implementation dates.

Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of or the potential for pollutants entering the drainage system. Erosion and sediment control measures identified in the SWP3 shall be observed to ensure that those are operating correctly. Discharge locations shall be inspected to ascertain whether erosion and sediment control measures are effective in preventing significant impacts to the receiving waters. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site vehicle tracking. The permittee shall maintain for three years following the submittal of a notice of termination form, a record summarizing the results of the inspection, names(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the SWP3 and a certification as to whether the facility is in compliance with the SWP3 and the permit and identify any incidents of non-compliance. The record and certification shall be signed in accordance with Part V.G. of this permit.

Submit inspection sheets from the last three months.

Individual NPDES permit related violations:

1. By failing to obtain an individual NPDES Permit for the discharge of industrial waste water Southern Ohio Sand has violated ORC 6111.04 (general provisions of the Water Pollution Control Law).

ORC 6111.04 (A)(1) states that, No person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state.

ORC 6111.04 (A)(2) states that, Such an action prohibited under division (A)(1) of ORC 6111.04 is hereby declared to be a public nuisance.

Divisions (A)(1) and (2) of this section do not apply if the person causing pollution or placing or causing to be placed wastes in a location in which they cause pollution of any waters of the state holds a valid, unexpired permit, or renewal of a permit, governing the causing or placement as provided in sections 6111.01 to 6111.08 of the Revised Code, or if the person's application for renewal of such a permit is pending.

Revised Code 6111.01 defines "waters of the state" as:

all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and other bodies or accumulations of water, surface and underground, natural or artificial, regardless of the depth of the strata in which underground water is located, that are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface or underground waters.

Sand, silts, sediments, and "dredged or fill material," as that term is defined in OAC 3745-32-01, constitute "other wastes," as that term is defined in R.C. 6111.01. Sand, silts, sediments, and dredged or fill material entering waters of the state as a result of human activities, including but not limited to construction, are "suspended solids or other substances" that will adversely affect aquatic life, in violation of OAC 3745-1-04.

Placing "other wastes" into "waters of the state" constitutes "pollution" as that term is defined in ORC Section 6111.01(A).

Ohio Administrative Code 3745-1-04 states that:

To every extent practical and possible as determined by the director, [surface waters of the state] shall be ... free from suspended solids or other substances that enter the waters as a result of human activity and that will affect aquatic life.

By not having proper storm water controls in place at your mine site and generating process flows while testing the new classifier system Southern Ohio Sand has violated the above requirements. Mr. Paglio stated that the last operational run of the classifier system was during the first week of November 2011. Please note that you must not discharge process water from the classifier until your Individual NPDES permit becomes effective on April 1, 2012. Your PTI has been approved and you must install all treatment controls per the PTI before April 1, 2012.

In all, the site must be stabilized to the point that the gross contamination of waters of the state ceases. Topsoil may have to be brought in for the stabilization of some areas. I urge you to assess the amount of open "barren sand" throughout your facility and determine how much barren open area you need to operate and stabilize the remaining portions of the site. The pictures of the creek just downstream of your operation show the amount of sediment migrating into the stream from your operation. This is not acceptable.

Within fourteen (14) days of receipt of this letter, submit to me at this office a written notification as to actions taken or proposed to eliminate violations. Your actions must include submittal of the required permit applications and plans. Your response should include the dates, either actual or proposed, for the completion of the actions. Be advised that the violations at your site subject you to significant monetary penalties that can be assessed daily as provided by ORC 6111.09.

If you have any questions, please feel free to contact me at (740) 380-5277.

Sincerely,



Aaron Wolfe
Storm Water Coordinator
Division of Surface Water

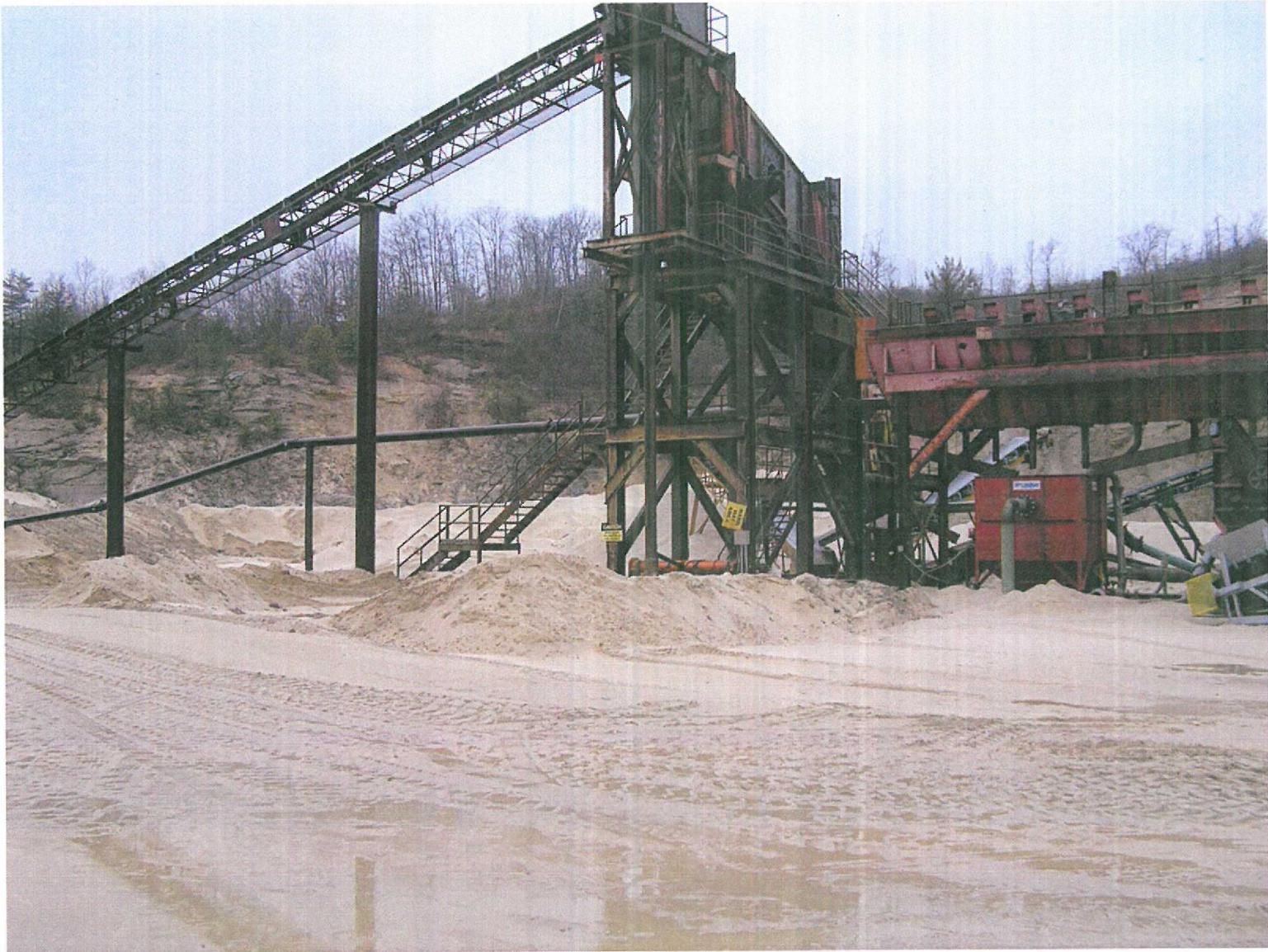
AW/dh

Enclosure

c: Jack Knapp, SEDO, DSW
c: Martha Horvitz, CO, legal
c: Rachel DeMuth, CO, DSW



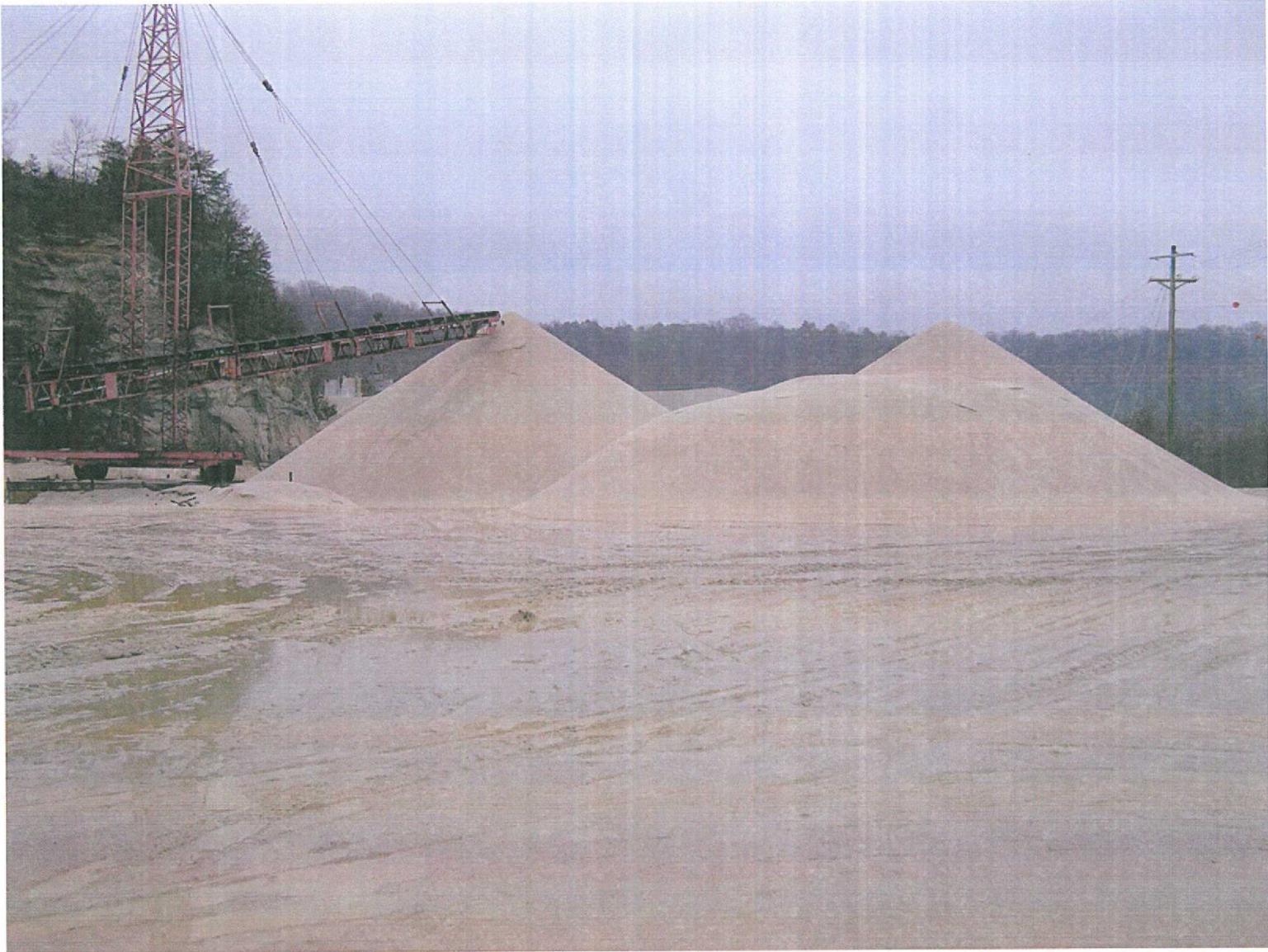
Southern Ohio Sand 2-16-12 Taken by AMW Operation Area



Southern Ohio Sand 2-16-12 Taken by AMW Operations Area



Southern Ohio Sand 2-16-12 Taken by AMW Operations Area



Southern Ohio Sand 2-16-12 Taken by AMW Operations Area



Southern Ohio Sand 2-16-12 Taken by AMW Proposed Treatment Pond Area



Southern Ohio Sand 2-16-12 Taken by AMW Proposed Treatment Pond Area



Southern Ohio Sand 2-16-12 Taken by AMW Storm water BMP



Southern Ohio Sand 2-16-12 Taken by AMW Existing Pond Area in "waters of the state"



Southern Ohio Sand 2-16-12 Taken by AMW Dryer area



Southern Ohio Sand 2-16-12 Taken by AMW Waters of the State



Southern Ohio Sand 2-16-12 Taken by AMW Existing Pond Dredge Work Area



Southern Ohio Sand 2-16-12 Taken by AMW Existing Pond Dredge Work Area



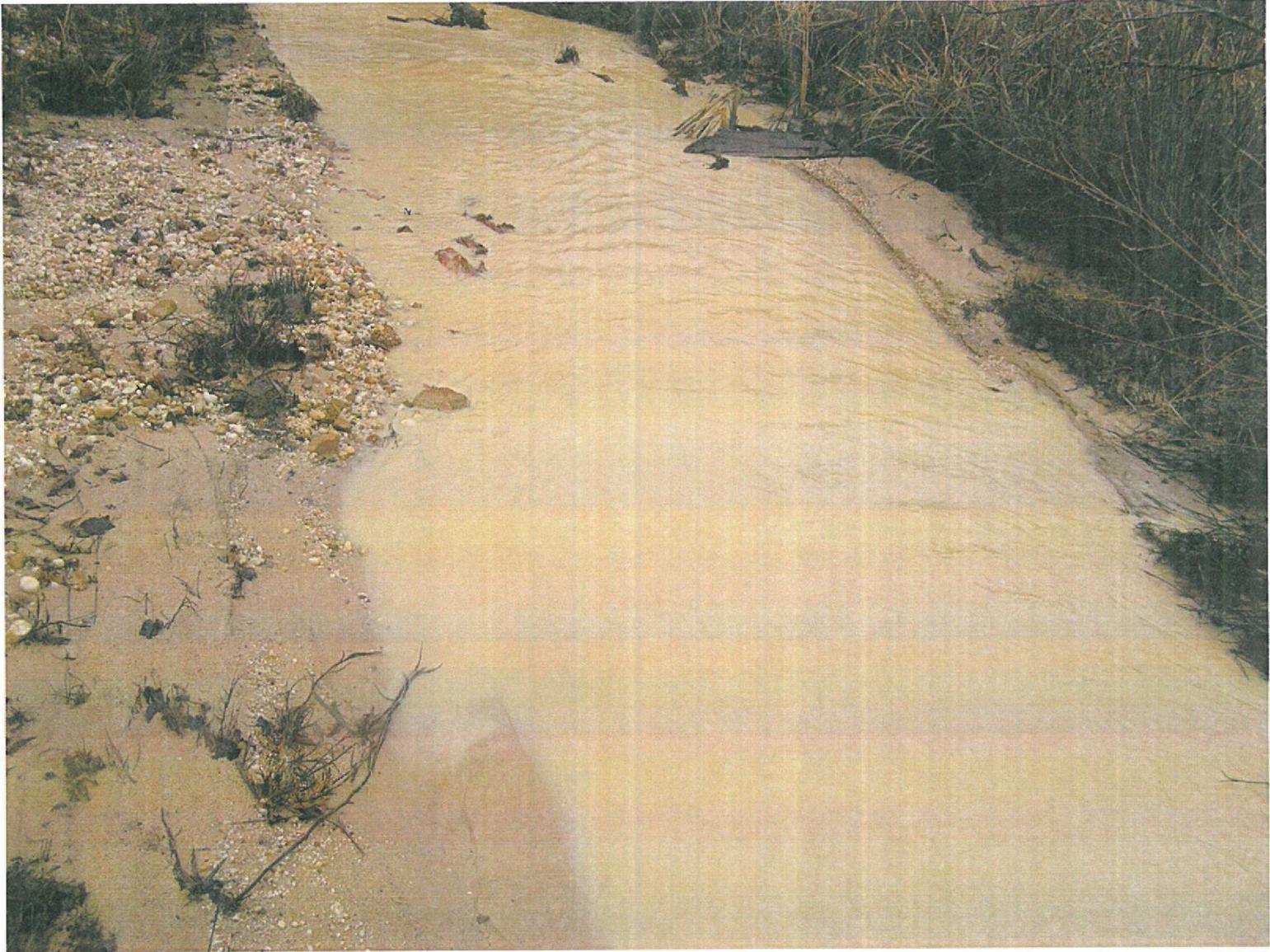
Southern Ohio Sand 2-16-12 Taken by AMW Existing Pond Dredge Work Area / Water intake area



Southern Ohio Sand 2-16-12 Taken by AMW Existing Pond Dredge Work Area



Southern Ohio Sand 2-16-12 Taken by AMW Just downstream from mine / waters of the state.



Southern Ohio Sand 2-16-12 Taken by AMW Just downstream from mine / waters of the state.

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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.

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Ron Vaughn
P.O. Box 748
Willoughby, OH 44096

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 Diana Vuicich Agent
 Addressee

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Diana Vuicich

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1. Article Addressed to:

John Paglio
PO Box 748
Willoughby, OH 44096

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 Diana Vuicich Agent
 Addressee

B. Received by (Printed Name)
Diana Vuicich

C. Date of Delivery
3-13-12

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PS Form 3800, August 2006 See Reverse for Instructions

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