

OHIO E.P.A.

JUN 19 2008

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Roadway Services, Inc. :
fka Seaway Sand & Stone, Inc. :
9-072 U.S. Route 24E :
P.O. Box 607 :
Napoleon, Ohio 43545, :

Director's Final Findings
and Orders

Respondent

I certify this to be a true and accurate copy of the
official documents as filed in the records of the Ohio
Environmental Protection Agency.

PREAMBLE

It is agreed by the parties hereto as follows:

By: [Signature] Date: 6-19-08

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Roadway Services, Inc., fka Seaway Sand & Stone, Inc., ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03, 3745.01, and 3745.08.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and its successors in interest liable under Ohio law. No change in the ownership of the Site described in Finding No. 1 of these Orders shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 6111 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has made the following findings:

1. Respondent is the owner of a limestone quarry located on the north side of Airport Highway, Section 3, Swanton Township, Lucas County, Ohio ("Site"). Mining operations at the Site ceased on November 25, 2003, and Respondent is responsible for completing the mine reclamation activities, including stabilization of

the Site with vegetative cover, as required by the Ohio Department of Natural Resources ("ODNR"). The quarry is filled with water which constitutes waters of the state as defined in ORC § 6111.01.

2. The City of Toledo is a municipality located in Lucas County, Ohio, which operates a wastewater treatment plant located at Bayview Park, Toledo, Ohio ("Bayview WWTP") pursuant to National Pollutant Discharge Elimination System ("NPDES") permit no. 2PF00000*LD, that authorizes it to discharge from the Bayview WWTP to the Maumee River in accordance with the conditions in the permit. This permit also contains provisions and outfall tables for the disposal of sewage sludge from the Bayview WWTP.
3. N-Viro International Corporation is a Delaware corporation, with a principal business address of 3450 W. Central Avenue, Suite 328, Toledo, Lucas County, Ohio 43606, which operates a facility that dewateres and treats sludge from the Bayview WWTP to meet exceptional quality sludge standards.
4. The existing soil at the Site is a clay/silt mix with minimal nutrient and organic content. Respondent has proposed to incorporate N-Viro Soil with the existing soil to add nutrients and organic material in order to promote vegetative growth.
5. N-Viro Soil is a Class A Exceptional Quality Sludge ("EQS") product as defined in Ohio Administrative Code ("OAC") 3745-40-01. It is produced by combining dewatered Class B sewage sludge from the Bayview WWTP with waste alkaline materials, including cement kiln dust, lime kiln dust, fluidized bed ash, wood ash, and/or fly ash. The resulting exothermic reaction increases the pH. This and other chemical reactions, kill the pathogens and pasteurize the sludge, which then has a soil-like consistency.
6. An EQS product must meet all of the qualifications set out in the definition in OAC 3745-40-01(A) and in 40 CFR Part 503.
7. As required by its NPDES permit, the City of Toledo submitted a Sludge Management Plan for the Bayview WWTP on or about June 24, 1999 ("1999 SMP"). The 1999 SMP was approved by Ohio EPA on February 8, 2000.
8. One alternative included in the City of Toledo's approved 1999 SMP (p. 3, par. 2.7) is processing of the sludge "in conformance with the N-Viro International Corp. Management Plan." The 1999 SMP further states (p. 11, par. 6.1) that "[t]he N-Viro Soil production process shall conform to the N-Viro Soil Management Plan included

in Appendix D, N-Viro Soil Management Plan . . . " It is unclear from the 1999 SMP whether the City of Toledo intended that SMP requirements, including those in Sections 4.2 Sludge Analysis, 4.3 Site Information, 4.6 Method of Operation, and 4.8 Loading Rates, would govern the application of N-Viro Soil on third-party sites, or whether the provisions in the N-Viro Soil Management Plan such as Loading Rates, Management Practices, and Land Reclamation, were intended to control.

9. OAC 3745-40-04(B) exempts EQS from most requirements for land application of sewage sludge; however, OAC 3745-40-04(C) provides that the Director may apply such requirements to EQS on a case-by-case basis if he determines that the requirements are necessary to protect public health and the environment.
10. Between June and December 2006, approximately 19,000 tons of N-Viro Soil were deposited and stockpiled at the Site.
11. The reclamation plan for the Site which Respondent originally submitted to ODNR for approval on November 26, 2003 did not include the proposed application of N-Viro Soil, nor did several subsequent modifications of the reclamation plan. Finally, on December 4, 2006, Respondent submitted an addendum to the modified reclamation plan which proposed the use of N-Viro Soil as a soil amendment. The modified reclamation plan is awaiting approval by ODNR.
12. Ohio EPA inspected the Site on January 23, 2007, and observed approximately 19,000 tons of N-Viro Soil stockpiled at the Site. No runoff from the stockpile was visible and an ammonia odor was detected only near the stockpile. The stockpiled N-Viro Soil appeared to meet the applicable isolation distance in the N-Viro Management Plan of 100 feet from surface waters of the state. Ohio EPA recommended that the N-Viro Soil be spread and incorporated in accordance with the reclamation requirements in OAC 3745-40-07(A)(1) and (C).
13. Ohio EPA inspected the Site on June 20, 2007 and found that approximately 3,700 tons of N-Viro Soil had been blended and removed from the Site. The remainder of the 19,000 tons was still stockpiled on the Site. Runoff from the stockpile of N-Viro Soil appeared to have traveled up to fifty (50) feet from the stockpile, with the average distance being ten (10) feet from the stockpile. Slight ammonia odors were detected next to the stockpile. Ohio EPA recommended that the N-Viro Soil be spread and incorporated as soon as possible.
14. On May 16, 2007, the Board of Township Trustees of Swanton Township, Lucas County, Ohio ("Complainant") filed a Verified Complaint with Ohio EPA pursuant to

ORC § 3745.08 against the City of Toledo Bay View Wastewater Treatment Plant, N-Viro International Corporation, and Gerken Materials, Inc. d/b/a Seaway Sand & Stone.

15. The Verified Complaint alleged the following violations:
 - a. Failure to obtain approval of Ohio EPA of the Site for land application of sludge as required by paragraph 4.3.1. of the City of Toledo's approved 1999 SMP.
 - b. Storage of N-Viro Soil at a land application site longer than thirty (30) days, in violation of paragraph 4.6.1. of the City of Toledo's approved 1999 SMP.
 - c. Establishment of a regional sewage sludge storage facility without prior Ohio EPA approval in violation of OAC 3745-40-04(S) by storing N-Viro Soil on the Site and transferring N-Viro Soil from the stockpile at the Site to other sites for land application.
 - d. Application of sewage sludge in excess of the application rate in paragraph 4.8.1. of the City of Toledo's approved 1999 SMP.
 - e. Failure to comply with land application and storage and stockpile isolation distances in paragraphs 4.3. and 4.6. of the City of Toledo's approved 1999 SMP.
 - f. Creation of a public nuisance in violation of ORC § 6111.04(A) by placing N-Viro Soil in a location where it will cause pollution of waters of the state without a permit, and in violation of OAC 3745-15-07(A) by causing objectionable odors by the transportation, loading, storage, and proposed application of N-Viro Soil at the Site.
16. On February 5, 2007, and April 2, 2007, Ohio EPA representatives attended Complainant's meetings to discuss Complainant's concerns about the N-Viro Soil stockpiled at the Site. During the April 2, 2007 meeting, Complainant asked Ohio EPA whether the application of 65 dry tons/acre of N-Viro Soil near the open quarry pit posed a threat to human health. Ohio EPA consulted the United States Environmental Protection Agency ("U.S. EPA") for assistance in responding to this question. Dr. James E. Smith, Jr., Senior Environmental Engineer and Chair of U.S. EPA's Pathogen Equivalency Committee concluded: "Bottom line with this heavily limed material we have minimal pathogen, metal and nutrient contaminant

concerns. Regrowth [of fecal coliform] would only be a concern if the pH in the NVIRO soil were to drop, which is not likely."

17. ODNR informed Ohio EPA that, pursuant to a township zoning requirement, Respondent must construct an earthen berm around the perimeter of the quarry pit.
18. Pursuant to ORC § 6111.04(A), 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. Such an action is prohibited under ORC § 6111.04(A) and is declared to be a public nuisance unless 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 ORC §§ 6111.01 to 6111.08 or if the person's application for renewal of such a permit is pending.
19. The City of Toledo's approved 1999 SMP states that no site will be used for land application of sludge until it is approved by Ohio EPA. The N-Viro Soil Management Plan, Appendix D to the approved 1999 SMP, does not require Ohio EPA approval of a site prior to the use of N-Viro Soil as a soil amendment on such site. OAC 3745-40-03(J) provides that the "requirement for specific site authorization does not apply to the land application of exceptional quality sewage sludge."
20. OAC 3745-40-07(A)(1) provides that approval of a land reclamation plan by ODNR, division of mineral resources management, is required prior to the application of EQS to a land reclamation site under the jurisdiction of ODNR, division of mineral resources management.
21. Respondent has not received approval of its reclamation plan for the Site.
22. N-Viro Soil has been stockpiled at the Site since June 2006.
23. The City of Toledo's approved 1999 SMP provides (p. 6, par. 4.6.1): "Storage and stockpiling of sludge at the site shall not exceed thirty (30) days." The N-Viro Soil Management Plan provides: "N-Viro Soil shall be spread within 30 days of delivery to the distribution site. . . .The only exemptions to these time periods would be due to an 'act of God.'" The stockpiling of N-Viro Soil on the Site since June 2006 violates these provisions in the plans and is a violation of ORC §§ 6111.04 and 6111.07.

24. OAC 3745-40-01(A)(56) defines "[r]egional storage of sewage sludge" to mean "an area of land or constructed facility engineered for the storage of sewage sludge destined for land application on more than one site."
25. OAC 3745-40-04(S) prohibits any person from locating a regional storage of sewage sludge facility without prior authorization from Ohio EPA's Division of Surface Water. A permit to install ("PTI") approved by the Director is required prior to construction of a regional storage of sewage sludge facility.
26. Respondent has not submitted an application for a PTI for a regional storage of sewage sludge facility to Ohio EPA nor has it requested authorization from Ohio EPA's Division of Surface Water to locate a regional storage of sewage sludge facility at the Site. There is no evidence that Respondent stockpiled N-Viro Soil on the Site with the intent to establish a regional storage of sewage sludge facility or to land apply the N-Viro Soil on more than one site.
27. Respondent's Modification to Reclamation Plan, revised February 28, 2007, proposed application of N-Viro Soil to the Site at the rate of 200 tons per acre. A letter from Respondent to Ohio EPA, dated March 21, 2007, confirmed that it was requesting approval of an application rate of 200 tons /per acre.
28. The City of Toledo's approved 1999 SMP contains two provisions (p.7) concerning the application rate of sludge which are not necessarily consistent. Paragraph 4.8.1 provides: "Sludge shall not be applied at rates exceeding five dry tons per acre per year." Paragraph 4.8.2 provides in part: "Sludge shall be applied at agronomic rates for the crop to be grown. . . ." The N-Viro Soil Management Plan provides for Land Reclamation (p.7): "Prior to application, the Company may require that soil sampling and testing is done to determine the appropriate rate required for proper pH adjustment, nutrient additions, and permeability characteristics of the soil. The company suggests a rate that equals 100 dry tons/acre of N-Viro Soil."
29. OAC 3745-40-07(C) provides that the agronomic rate may be exceeded during land reclamation projects using sewage sludge, but the application rate may not exceed 65 dry tons per acre, or the cumulative pollutant loading rates of OAC 3745-40-05(F), whichever is less. Therefore, the application rate in Respondent's Modification to Reclamation Plan revised February 28, 2007, and the suggested application rate in the N-Viro Soil Management Plan exceeded the maximum application rate in OAC 3745-40-07(C). However, since no N-Viro Soil was applied at that rate, and because a May 7, 2007 Response to Request for Review and Analysis from an N-Viro employee to the Lucas County Board of Health

acknowledged that the applicable application rate is 65 dry tons per acre (which is equivalent to 100 wet tons per acre), no violation of OAC 3745-40-07(C) has occurred.

30. Complainant has alleged a failure to comply with the isolation distances in paragraphs 4.3 and 4.6 of Toledo's approved 1999 SMP. Complainant alleges that the stockpile of N-Viro Soil is located on the Site within 500 feet of the quarry pit, which Complainant asserts contains groundwater used for a drinking water supply. In response, Respondent claims that the quarry pit is a "private water impoundment" and therefore, the isolation distance requirements are not applicable. Neither contention is correct. The water in the quarry pit is evidently hydraulically connected to ground water and possibly to the aquifer used as a source of drinking water in the area. However, the water in the quarry pit itself is not directly used for drinking water. Therefore, the isolation distances cited by Complainant of 500 feet from the stockpile and 300 feet from the land application area to the quarry pit do not apply. However, even though the quarry pit may be a private water impoundment, because there is a hydraulic connection between the water in the quarry pit and the ground water, the water in the quarry pit constitutes waters of the state as defined in ORC § 6111.01. Accordingly, pursuant to OAC 3745-40-04(N) and (P), the 1999 SMP, and the N-Viro Soil Management Plan, the applicable isolation distances are 100 feet from the stockpile and 33 feet from the land application area to the quarry pit.
31. During an inspection of the Site on January 23, 2007, Ohio EPA observed that the stockpiles of N-Viro Soil appeared to meet the applicable isolation distance of 100 feet to surface waters of the state. In the Modification to Reclamation Plan, revised February 28, 2007, Respondent stated that it will use commercial fertilizer on the slopes around the pit and a strip thirty-three (33) feet wide along the north property line adjacent to the railroad ditch, thus complying with the applicable isolation distance of 33 feet from surface waters of the state.
32. Completion of a reclamation plan approved by ODNR and compliance with these Orders should prevent or mitigate the nuisance, if any, caused by the existing stockpile of N-Viro Soil at the Site. However, during performance of the reclamation activities, there may be unavoidable odors associated with the land application and incorporation of the N-Viro Soil, and the removal from the Site of the excess N-Viro Soil.
33. Because of the length of time the N-Viro Soil has been stockpiled at the Site, in order to ensure protection of public health and the environment, prior to spreading and incorporating the N-Viro Soil on the Site, the stockpile of N-Viro Soil must be

sampled and analyzed to determine if it still meets the qualifications of an EQS product set out in OAC 3745-40-01(A)(23).

34. Storm water from the Site discharges to the quarry pit.
35. Because reclamation activities at the Site are construction activities that will disturb more than one acre of land, Respondent is required to submit a Notice of Intent ("NOI") to obtain coverage under the Ohio EPA National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction Activity ("NPDES Storm Water General Permit") and to develop and implement a Storm Water Pollution Prevention Plan ("SWP3") specific to the Site prior to initiating construction or reclamation activity.
36. Respondent has not yet submitted an NOI for the Site nor, to Ohio EPA's knowledge, has Respondent developed an SWP3 for the reclamation activities at the Site.
37. Pursuant to ORC Section 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC Sections 6111.01 to 6111.08 or violate any order, rule, or term or condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections. Each day of violation is a separate offense.
38. The following Orders do not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system. Any such construction or modification is subject to the PTI requirements of Ohio Administrative Code ("OAC") Chapter 3745-42.
39. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
40. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

V. ORDERS

1. Respondent shall sample the stockpile of N-Viro Soil on the Site in accordance with Attachment 1 to these Orders. Attachment 1 is incorporated into these Orders as if fully set forth herein.
2. Respondent shall determine the pH and bacteria counts of the stockpile in accordance with Attachment 1 to these Orders.
3. Respondent shall analyze the samples collected from the stockpile of N-Viro Soil on the Site in accordance with Attachment 1.
4. Respondent shall calculate the application rate based on the results of the analyses and the nutrients needed to successfully meet the standards set forth in OAC 1501:14-3-10(A), (B) and (D) on the Site, and shall submit it to Ohio EPA's Northwest District Office ("NWDO") at the address in Section X. of these Orders for review, along with the results of all analyses, within thirty (30) days of the effective date of these Orders. The application rate shall not exceed 65 dry tons/acre.
5. Respondent shall provide additional information or corrections to address any deficiencies in the sampling, analyses, or calculation of the application rate within fourteen (14) days of written notification from Ohio EPA's NWDO of any needed information or of any deficiencies.
6. Portions of the stockpile with fecal coliform values greater than 1000 MPN/dry gram shall not be used on the Site and shall be removed from the Site for proper disposal or for further treatment at N-Viro International Corporation's treatment facility.
7. Upon receipt of written notification from Ohio EPA's NWDO that it agrees that the analyses confirm that the stockpiled N-Viro Soil still meets the Class A EQS requirements, including meeting the pollutant limits in OAC 3745-40-05(F)(3), the material may be land applied in accordance with the ODNR approved reclamation plan at the calculated application rate submitted to and found acceptable by Ohio EPA's NWDO.
8. Respondent shall land apply and incorporate the N-Viro Soil at the calculated application rate in accordance with the ODNR approved reclamation plan as soon as possible but no later than sixty (60) days after the effective date of these Orders.

9. In the event that Respondent is unable to comply with Order No. 8 within the required time period after the exercise of reasonable care and as a result of circumstances beyond its control, Respondent may request and the Chief of Ohio EPA's Division of Surface Water may grant an extension of the deadline if he determines that Respondent has shown good cause for such extension. Any extension request by Respondent shall be submitted, in accordance with Section X. of these Orders, in writing and include the cause for such an extension, documentation supporting the request and an acceptable schedule for completion.
10. Respondent shall not land apply N-Viro Soil on the slopes of the quarry pit and shall strictly adhere to a setback distance of 10 meters from the area where the N-Viro Soil is land applied to all surface waters, including but not limited to the top of the quarry pit, the ditch along the north side of the Site, and the private fishing club pond west of the Site.
11. Respondent shall utilize best management practices ("BMP's") to minimize any runoff that occurs between the spreading of the N-Viro Soil and the establishment of vegetation, and shall comply with OAC 1501:14-3-06.
12. As soon as possible but not later than one hundred (100) days after completing land application and incorporation of the N-Viro Soil, Respondent shall seed the area where the N-Viro Soil was applied with appropriate species in order to establish a diverse vegetative cover in accordance with OAC 1501:14-3-10(A), (B) and (D), and Respondent's ODNR approved reclamation plan.
13. Within sixty (60) days of the effective date of these Orders, Respondent shall begin removing all excess N-Viro Soil on the Site that cannot be land applied in accordance with the calculated application rate. All of the excess N-Viro Soil shall be removed from the Site by no later than November 1, 2008. If the excess material that meets Class A EQS requirements is to be distributed for use, it must be distributed for use in accordance with the Ohio EPA approved City of Toledo Sludge Management Plan.
14. If any requirement in these Orders appears to be inconsistent with a requirement in Respondent's ODNR approved reclamation plan or applicable ODNR regulations, Respondent shall comply with the more stringent requirement.

15. Respondent shall comply with the requirements in OAC 3745-40 for any N-Viro Soil that no longer meets the definition of exceptional quality sludge in OAC 3745-40-01(A).
16. Respondent shall not initiate or continue construction activities that disturb more than one acre of land without having first obtained an NPDES Storm Water General Permit and developed and implemented an SWP3 that satisfies all minimum criteria listed in Part III of the NPDES Storm Water General Permit.
17. At least 21 days prior to initiating reclamation activity at the Site, Respondent shall submit a complete and accurate NOI application, in accordance with OAC 3745-38-06, to Ohio EPA in accordance with Section X. of these Orders. Respondent shall develop an SWP3 prior to submitting the NOI.
18. Respondent shall comply with the terms and conditions of the NPDES Storm Water General Permit and the SWP3 when performing reclamation activities at the Site.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Surface Water acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of each Respondent. For purposes of these Orders, a responsible official is defined in OAC Rule 3745-33-03(D)(1) for a corporation, OAC Rule 3745-33-03(D)(2) for a partnership, OAC Rule 3745-33-03(D)(3) for a sole proprietorship, and OAC Rule 3745-33-03(D)(4) for a municipal, state, or other public facility.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to activities occurring on or at the Site.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

Unless otherwise specified herein, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Division of Surface Water
Attn: DSW Enforcement Unit Supervisor
347 North Dunbridge Road
Bowling Green, Ohio 43402

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Surface Water
Attn: Manager, Storm Water and Enforcement Section
50 West Town Street, Suite 700 [P.O. Box 1049]
Columbus, Ohio 43215 [43216-1049]

[For mailings use the post office box number and zip code in brackets.]

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

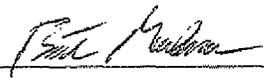
Ohio Environmental Protection Agency



Chris Korleski
Director

Date 6/18/08

**Roadway Services, Inc.
fka Seaway Sand & Stone, Inc.**



Signature

Date 5-21-08

BRENT GERKEN

Printed or Typed Name

PRESIDENT

Title

ATTACHMENT 1

Sampling Plan for NVIRO Soil Stockpile at Seaway Quarry

1. Determine Sample Locations

- A. Prepare a scale diagram of the NVIRO soil stockpile on an 8.5" x 11" sheet of paper.
- B. Divide the diagram into 100 equally sized squares. Consecutively assign a number (from 0 to 99) to each of the squares
- C. Using a random number table, select a minimum of N numbers from the random number table provided (remembering that N represents the number of samples required). Note that if your biosolids body does not fill the entire grid (e.g., a circular biosolids pile vs. square grid) more numbers are needed for areas without biosolids in the grid sections described in Step 2. A random number table is presented in Table 2.4-3, attached hereto. To select numbers from the random number table, pick a number anywhere on the random number table and move along a straight line in any direction (maintaining that direction) choosing numbers off the table consecutively while traveling along the straight line. Do not use duplicate numbers. If a duplicate number exists along the straight line, ignore it and choose additional numbers until non-duplicated N random numbers have been chosen. If the end of the table is reached, repeat the process until all the numbers have been chosen.
- D. Match all selected random numbers to the numbered squares on your grid pattern of the NVIRO soil stockpile. Samples should be taken from the middle of each identified square as it is laid out over the NVIRO soil stockpile scale diagram.

2. pH Monitoring and Bacteria Sampling Requirements

- A. Determine the pH of the stockpiled NVIRO soil at 84 different locations. The monitoring locations should be determined using the scale diagram and random number table.
- B. Ohio EPA recommends that this be done using a flat tip pH probe/meter that is commonly used to monitor soil pH.

- C. For all areas of the NVIRO stockpile that are determined to have a pH below 9.0 a grab sample should be taken and analyzed for fecal coliform.

3. Sampling and Monitoring Requirements for Pollutants

- A. The stockpile should be sampled and analyzed for the pollutants found in Ohio Administrative Code (OAC) 3745-40-05 (F)(3).
- B. The stockpiled material should also be analyzed for Percent Total Solids, Total Kjeldahl Nitrogen and Total Phosphorus.
- C. Based on the amount of material at the site twelve (12) composite samples should be submitted for analysis. A grab sample from each of the 84 locations identified on the grid should be combined in an appropriate container. The combined grab samples should be stirred well to ensure a complete mix, the mixed samples should then be coned and quartered to create the 12 composite samples.

(To cone and quarter, place all samples into a ring (like a doughnut) on a smooth surface (e.g., a smooth crack-free concrete surface or a large smooth synthetic material tarpaulin). Start at any point on the ring and move around the ring shoveling one scoop at a time to the center of the ring to form a pile. Each scoop should be placed on top of the center of the pile so as to allow the biosolids to fall on all sides of the pile. After all the biosolids have been placed in the pile, flatten the pile so as to level out the pile into a large wafer. Divide the wafer into quarters and discard two opposite quarters and keep one quarter for analysis and the second for a replicate sample.)

BIOSOLIDS REFERENCE SHEET



Table 2.4-3. Random Numbers (Blocked Merely for Convenience).
 (Source: Introductory Statistics, 4th Edition, John Wiley & Sons, New York, NY, 1985)

39 65 76 45 45	19 90 69 64 61	20 26 36 31 62	38 24 97 14 97	95 06 70 99 00
73 71 23 70 90	65 97 60 12 11	31 56 34 19 19	47 83 75 51 33	30 62 38 20 46
72 20 47 33 84	51 67 47 97 19	98 40 07 17 66	23 05 09 51 80	59 78 11 52 49
75 17 25 69 17	17 95 21 78 58	24 33 45 77 48	69 81 84 09 29	93 22 70 45 80
37 48 79 88 74	63 52 06 34 30	01 31 60 10 27	35 07 79 71 53	28 99 52 01 41
02 89 08 16 94	85 53 83 29 95	56 27 09 24 43	21 78 55 09 82	72 61 88 73 61
87 18 15 70 07	37 79 49 12 38	48 13 93 53 96	41 92 45 71 51	09 18 25 38 94
98 83 71 70 15	89 09 39 59 24	00 06 41 41 20	14 36 59 25 47	54 45 17 24 89
10 08 58 07 04	76 62 16 48 68	58 76 17 14 86	59 53 11 52 21	66 04 18 72 87
47 90 56 37 31	71 82 13 50 41	27 55 10 24 92	28 04 67 53 44	95 23 00 84 47
93 05 31 03 07	34 18 04 52 35	74 13 39 35 22	68 95 23 92 35	36 63 70 35 33
21 89 11 47 99	11 20 99 45 18	76 51 94 84 86	13 79 93 37 55	98 16 04 41 67
95 18 94 06 97	27 37 83 28 71	79 57 95 13 91	09 61 87 25 21	56 20 11 32 44
97 08 31 55 73	10 65 81 92 59	77 31 61 95 46	20 44 90 32 64	26 99 76 75 63
69 26 86 86 13	59 71 74 17 32	48 38 75 93 29	73 37 32 04 05	60 82 29 20 25
41 47 10 25 03	87 63 93 95 17	81 83 83 04 49	77 45 85 50 51	79 88 01 97 30
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78 47 23 53 90	79 93 96 38 63	34 85 52 05 09	85 43 01 72 73	14 93 87 81 40
87 68 62 15 43	97 48 72 66 48	53 16 71 13 81	59 97 50 99 52	24 62 20 42 31
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15 39 25 70 99	93 86 52 77 85	15 33 59 05 28	22 87 26 07 47	86 96 98 29 06
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78 76 58 54 74	92 38 70 96 92	52 06 79 79 45	82 63 18 27 44	69 66 92 19 09
61 81 31 96 82	00 57 25 60 59	46 72 60 18 77	55 66 12 62 11	08 99 55 64 57
42 88 07 10 05	24 98 65 63 21	47 21 61 88 32	27 80 30 21 60	10 92 35 36 12
77 94 30 05 39	28 10 99 00 27	12 73 73 99 12	49 99 57 94 82	96 88 57 17 91