



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

SOUTHEAST REGIONAL OFFICE

April 9, 2014

NOTICE OF VIOLATION

Mr. Michael Losito
Nutra Soils, Inc.
324 East Baltimore Pike
Toughkenamon, PA 19374

Re: Noncompliance, Residual Waste Activity
731 State Road
West Grove, PA 19390
Penn Township
Chester County

Dear Mr. Losito:

As a result of an inspection conducted by the Department of Environmental Protection's Southeast Regional Office, Waste Management Program (DEP) on March 31, 2014, at your property located at 731 State Road, Penn Township, Chester County, DEP has determined that you are in violation of the Solid Waste Management Act, Act of July 7, 1980, P.L. 380, as amended, No. 97, 35 P.S. Sections 6018.101 *et seq.* (SWMA), the Residual Waste Management Rules and Regulations found at 25 Pa. Code Chapters 287 to 299, and the Clean Streams Law, the Act of June 22, 1937, P.L. 1987, as amended, 35 P.S. Sections 691.1-691.1001 (Clean Streams Law), as follows:

- A. On March 31, 2014, run off from mushroom compost (MC) was observed coming from MC Storage Areas 2 and 3 and flowing down gullies through the field and into the woods. The run off is conveyed by a trail through the woods to a stream. The stream was coffee colored. This stream is an unnamed tributary to Middle Branch White Clay Creek. The failure to use such methods and facilities as are necessary to control leachate, run off, and discharges from residual waste is contrary to Sections 302(a) and (b) of the SWMA.
- B. The Mushroom Farm Environmental Management Plan (MFBMP) for the property at 731 State Road specifies: "BMPs must be in place to ensure that contaminated stormwater is managed so that no discharge occurs to the surface or groundwater." The Best Management Practices (BMPs) implemented at this site are not sufficient to prevent contaminated run off from leaving the property. The failure of Nutra Soils, Inc., to implement BMPs in the management of mushroom waste constitutes a violation of 25 Pa. Code 287.101.

Mr. Michael Losito

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April 9, 2014

The activities and conditions listed in paragraphs A and B, above, constitute violations of the SWMA under Sections 302(a) and (b); constitute unlawful conduct pursuant to Sections 302(a) and (b) of the SWMA; constitute a public nuisance pursuant to Section 601 of the SWMA; and may subject the offender to civil penalty liability pursuant to Section 605 of the SWMA.

An unpermitted discharge to waters of the Commonwealth constitutes a violation of Sections 301 and 307 of the Clean Streams Law. Such violations also constitute unlawful conduct under Section 611 of the Clean Streams Law and are subject to the enforcement provisions of Section 605 of the Clean Streams Law, which includes the assessment of civil penalties.

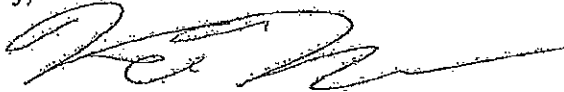
You are hereby notified of both the existence of the violations as well as the need to provide prompt correction. Failure to correct the violations may result in legal proceedings under the SWMA. Under the SWMA, each day of the violation is considered a distinct and separate offense and will be handled accordingly.

Within 7 days of receipt of this notice, please submit a plan and a schedule detailing the actions you will take to correct these violations and prevent their recurrence.

This Notice of Violation is neither an order nor any other final action of DEP. It neither imposes nor waives any enforcement action available to DEP under any of its statutes. If DEP determines that an enforcement action is appropriate, you will be notified of the action.

If you have any questions regarding this matter, please contact me at 484.250.5763.

Sincerely,



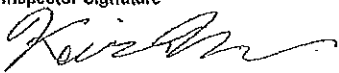
~~Kevin Maskol~~
Solid Waste Specialist
Waste Management

cc: Mr. France
Mr. Borner
Mr. Mowery -- CCED, via e-mail
Penn Township
Re 30 (eh14wm)099-9

Department of Environmental Protection		GENERAL INSPECTION REPORT		Bureau of Land Recycling and Waste Management	
Type of Inspection	WM Identification Number	Entry Time/Date	Inspection ID		
Complaint		03/31/2014			
Facility/Incident Name and Location			Municipality		
Nutra Soils, Inc.			Penn Twp.		
731 State Rd. West Grove, PA 19390			County Chester		
Name, Address of Responsible Official		Title			
Mike Losito		Owner			
324 E. Baltimore Pike Toughkenamon, PA 19374		Telephone	Interviewed		
		610-637-0982	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		

On March 31, 2014, I (Kevin Maskol) investigated a discolored stream in the woods near Hipkins Road in Penn Township, Chester County. Anil Patel, Environmental Engineer, was also present from the Department. An unnamed tributary (UNT) of the Middle Branch White Clay Creek flows east through the wooded area. The small stream was observed as it came out of a culvert. The stream was coffee colored. We followed the creek upstream through the wooded area. The stream became smaller and nearer to the southern edge of the woods as we walked west. Long fingers of dark colored runoff were observed coming down a trail that runs through the woods. This runoff appeared darker and more concentrated as we walked up the trail. We followed the trail to a field where mushroom compost (MC) is being stored.

This field is on a property owned by Mike Losito. The property has a current MFEMP and the MC is managed by Nutra Soils, Inc. MC runoff was observed coming from MC Storage Areas 2 and 3 and flowing down gullies through the field and into the woods. The runoff is conveyed through the woods to the stream by the trail. Page 11 of the MFEMP specifies: "BMPs must be in place to ensure that contaminated stormwater is managed so that no discharge occurs to the surface or ground water." The best management practices implemented at this site are not sufficient to prevent contaminated runoff from leaving the property. **The failure to implement best management practices when managing mushroom waste is contrary to 25 Pa. Code 287.101. The failure to use such methods and facilities as are necessary to control leachate, runoff, and discharges from residual waste is contrary to Section 302(b) of The Solid Waste Management Act. An unpermitted discharge to the waters of the Commonwealth is contrary to Sections 301 and 307 of the Clean Streams Law.**

Inspector Name	Inspector Signature	Headquarters	Date
Kevin Maskol		SERO 2 E. Main St.	04/08/2014
		Norristown, PA 19401	Telephone 484-250-5763
Person Interviewed Name	Signature of Person Interviewed	Title	Telephone
Mike Losito	Copy mailed to facility.	Owner	610-637-0982

This inspection report is notice of the findings of an inspection conducted by a representative of the Department. This report is formal notification of any violations observed during the inspection. Additional notification of violations may be issued concerning either violations noted herein, or other violations identified as a result of review of laboratory analyses or Department records.

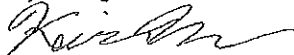
This report does not constitute an order or other appealable action of the Department. Nothing contained herein shall be deemed to grant or imply immunity from legal action for any violation noted herein.

Signature by the person interviewed does not necessarily imply concurrence with the findings on this report, but does acknowledge that the person was shown the report or that a copy was left with the person.

Department of Environmental Protection	GENERAL INSPECTION REPORT	Bureau of Land Recycling and Waste Management
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Facility/Incident Name and Location	Municipality
Nutra Soils, Inc.	Penn Twp.
731 State Rd. West Grove, PA 19390	County
	Chester

Within 7 days of the receipt of this report Nutra Soils, Inc. should submit to the Department a written plan and schedule outlining the actions it intends to take to correct and prevent the recurrence of the above violations.

Inspector Name	Inspector Signature	Date
Kevin Maskol		04/08/2014

**STORAGE SYSTEM REPORT FORM
DIGITAL PHOTOS**

Pennsylvania Department of Environmental Protection
Southeast Regional Office – Waste Management Program

Facility ID Number	Facility Name Nutra Solls, Inc. State Road	Date Photos Taken 03/31/2014
Facility Address 731 State Road West Grove, PA 19390	Municipality Penn Twp.	County Chester

Image 01: Coffee colored stream



Image 02: Discolored runoff entering the stream



**STORAGE SYSTEM REPORT FORM
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Pennsylvania Department of Environmental Protection
Southeast Regional Office - Waste Management Program

Facility ID
Number

Facility
Name Nutra Soils, Inc. State Road

Date Photos
Taken 03/31/2014

Image 03: Discolored runoff flowing down the trail through the woods

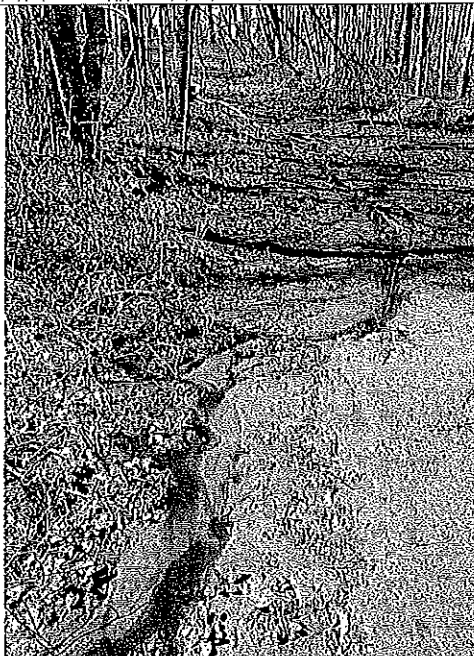


Image 04: Two rivulets of dark runoff coming together in the woods



DEP Photographer
Kevin Maskol

Signature
Kevin Maskol

Phone # 484-250-5763
Date Signed: 04/09/14

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DIGITAL PHOTOS**

Pennsylvania Department of Environmental Protection
Southeast Regional Office – Waste Management Program

**Facility ID
Number**

**Facility
Name**

Nutra Soils, Inc. State Road

**Date Photos
Taken**

03/31/14

Image 05: Dark runoff flowing through a gully in the trail



Image 06: Runoff from mushroom compost flowing through a gully in the field



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DIGITAL PHOTOS**

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Image 07: Another gully carrying runoff from MC Storage Area 2



Image 08: Runoff from MC Storage Area 3



STORAGE SYSTEM REPORT FORM
DIGITAL PHOTOS

Pennsylvania Department of Environmental Protection
Southeast Regional Office – Waste Management Program

**Facility ID
Number**

**Facility
Name** Nutra Soils, Inc. State Road

**Date Photos
Taken** 03/31/14

Image 09; Concentrated runoff from mushroom compost

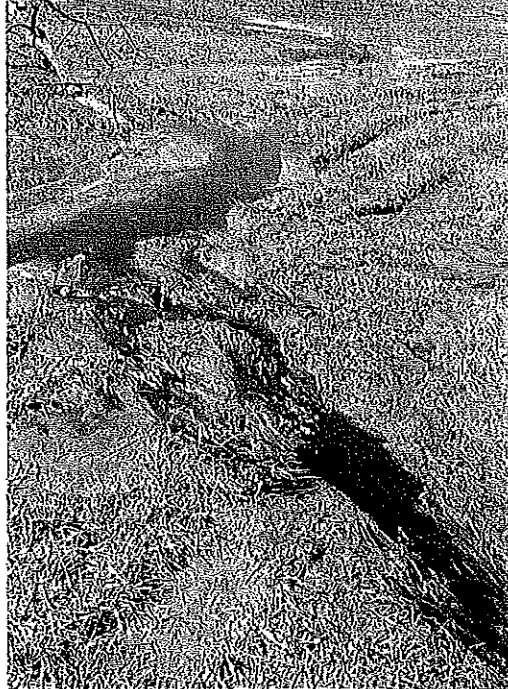


Image 10: Concentrated runoff from mushroom compost leaving the field and entering the woods

