North Coast Regional Water Quality Control Board

June 15, 2020

Certified Mail No. 7016 2710 0000 2653 4095

Mr. Dean Soiland, President
BoDean Company, Inc.
1060 N. Dutton Avenue
Santa Rosa, CA 95401
dsoiland@bodeanco.com

Dear Mr. Soiland:

Subject: **Notice of Violation** of State Water Resources Control Board Order No. 2014-0057 DWQ General Permit for Storm Water Discharges Associated with Industrial Activities (Industrial General Permit) for the BoDean Co., Inc. Santa Rosa Hot Plant

File: BoDean Co., Inc. Santa Rosa Hot Plant, 1060 Maxwell Drive, Santa Rosa, Sonoma County, WDID No. 1 49I017446

As the operator of the BoDean Co., Inc. Santa Rosa Hot Plant, you are hereby given notice that you have violated the following provision(s) of the California Water Code (Water Code) and the Industrial General Permit regarding Best Management (BMP) implementation and maintenance:

- Industrial General Permit, Section X., subsections H.1.a, H.1.b, H.1.c, H.1.d, and H.1.e; and
- Water Code section 13263.3(g).

These provisions are included in detail in Attachment A.

Background

Dean Soiland operates the Santa Rosa Hot Plant (Facility) located at the above referenced location. The Facility is an asphalt batch and materials processing plant, producing asphalt concrete and concrete aggregates.

Storm water runoff from the Facility drains to onsite drop inlets and is ultimately conveyed to a single discharge point on the west side of the Facility where an 18-inch pipe leads to the municipal curbside drain. This drain discharges into the City of Santa Rosa's public storm drain system, which discharges to Santa Rosa

Creek and is tributary to the Russian River. According to the Storm Water Pollution Prevention Plan (SWPPP) for the Facility, samples are collected from the Facility just upstream of the curbside drain, using a dipper pole.

On December 4, 2019, staff at the City of Santa Rosa (City) notified Regional Water Board staff of sediment track-out from the Facility onto adjacent Maxwell Drive.

On December 5, 2019, the City and the Regional Water Board conducted an unannounced joint inspection of the Facility to assess compliance with the Industrial General Permit and City's Municipal Separate Storm Sewer System (MS4) Permit. During the inspection, Regional Water Board staff observed various conditions that posed a threat to the quality and beneficial uses of receiving waters. These site conditions included poor housekeeping, inadequate or ineffective erosion/sediment control features, and insufficient or ineffective provisions for preventive maintenance and spill response, as well as the discharge of turbid runoff violating requirements of the Industrial General Permit.

Alleged Violations

Staff observed inadequate housekeeping practices, preventative maintenance, spill and leak prevention and response, material handling and waste management, erosion and sediment controls as well as inadequate maintenance of the advanced BMPs.

Attachment A provides references to the water quality requirements and regulations violated in addition to details of the staff observations to support our findings.

Enforcement Authority

The violations alleged in Attachment A are subject to enforcement actions by the Regional Water Board. We encourage you to take steps to correct the violations as soon as possible. Please note that this Notice of Violation is based on the Facility condition as observed and documented in the inspection report. Penalties may be assessed for each day of violation beginning with the first day of violation.

Correcting the conditions of non-compliance at the Facility and correcting deficiencies in Facility plans and reports does not preclude enforcement for the violations alleged in this notice. The Regional Water Board reserves its right to fully enforce the law by taking enforcement actions such as issuing a cleanup and abatement order, time schedule order, seeking administrative civil liabilities, and/or referral to the California Attorney General's office for civil enforcement. Administrative civil liabilities may be assessed by the Regional Water Board on a daily basis in the amount up to $10,000 for each day the violation occurs, including up to $10 per gallon of waste discharged, pursuant to Water Code section 13385.

If you have questions about this Notice of Violation (NOV) letter, please contact Regional Water Board Staff Farzad Kasmaei at Farzad.Kasmaei@waterboards.ca.gov or by telephone at (707) 576-2609.

You may also contact me at Heaven.Moore@waterboards.ca.gov or by telephone at (707) 576-2753. Additionally, we are available to meet with you if you wish to discuss this letter or the facility permit requirements in further detail.

Sincerely,

Heaven Moore

Digitally signed by Heaven Moore
Date: 2020.06.15 11:33:40 -07'00'

Water Boards

Heaven Moore, P.E.
Senior Water Resources Control Engineer - NPDES Unit

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Enclosures
Attachment A – Regulatory Citations
Attachment B – December 5, 2019 Facility Stormwater Inspection Report

cc: **North Coast Regional Water Quality Control Board**
Claudia Villacorta, Claudia.Villacorta@waterboards.ca.gov
Charles Reed, Charles.Reed@Waterboards.ca.gov
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Nick Sudano, Santa Rosa City Storm Water and Creeks, NSudano@srcity.org

Attachment A – Regulatory Citations

Regulatory Section	Citation
Industrial General Permit Section X. Good Housekeeping, Subsection H.1.a	States that the Discharger shall: i. Observe all outdoor areas associated with industrial activity; including storm water discharge locations, drainage areas, conveyance systems, waste handling/disposal areas, and perimeter areas impacted by off-facility materials or storm water run-on to determine housekeeping needs. Any identified debris, waste, spills, tracked materials, or leaked materials shall be cleaned and disposed of properly; v. Cover all stored industrial materials that can be readily mobilized by contact with storm water
Industrial General Permit Section X: Preventative Maintenance, Subsection H.1.b	States that the Discharger shall: i. Identify all equipment and systems used outdoors that may spill or leak pollutants; ii. Observe the identified equipment and systems to detect leaks, or identify conditions that may result in the development of leaks; iii. Establish an appropriate schedule for maintenance of identified equipment and systems; and, iv. Establish procedures for prompt maintenance and repair of equipment, and maintenance of systems when conditions exist that may result in the development of spills or leaks.
Industrial General Permit Section X. Spill and Leak Prevention and Response, Subsection H.1.c	States that the Discharger shall: ii. Develop and implement spill and leak response procedures to prevent industrial materials from discharging through the storm water conveyance system. Spilled or leaked industrial materials shall be cleaned promptly and disposed of properly; iii. Identify and describe all necessary and appropriate spill and leak response equipment, location(s) of spill and leak response equipment, and spill or leak response equipment maintenance procedures; and,
Industrial General Permit Section X. Material Handling and Waste Management, Subsection H.1.d	States that the Discharger shall: i. Prevent or minimize handling of industrial materials or wastes that can be readily mobilized by contact with storm water during a storm event;

Regulatory Section	Citation
Industrial General Permit Section X. Erosion and Sediment Controls, Subsection H.1.e	States that for each erodible surface facility location identified in the SWPPP (Section X.G.1.f), the Discharger shall: iii. Maintain effective perimeter controls and stabilize all site entrances and exits to sufficiently control discharges of erodible materials from discharging or being tracked off the site; v. If sediment basins are implemented, ensure compliance with the design storm standards in Section X.H.6.
Industrial General Permit Section X. Design Storm Standards for Treatment Control BMPs, Subsection H.6	All new treatment control BMPs employed by the Discharger to comply with Section X.H.2 Advanced BMPs and new sediment basins installed after the effective date of this order shall be designed to comply with design storm standards in this Section, except as provided in an Industrial Activity BMP Demonstration (Section XII.D.2.a). A Factor of Safety shall be incorporated into the design of all treatment control BMPs to ensure that storm water is sufficiently treated throughout the life of the treatment control BMPs. The design storm standards for treatment control BMPs are as follows: a. Volume-based BMPs: The Discharger, at a minimum, shall calculate the volume to be treated using one of the following methods: i. The volume of runoff produced from an 85th percentile 24-hour storm event, as determined from local, historical rainfall records; ii. The volume of runoff produced by the 85th percentile 24-hour storm event, determined as the maximized capture runoff volume for the facility, from the formula recommended in the Water Environment Federation's Manual of Practice; or, iii. The volume of annual runoff required to achieve 80% or more treatment, determined in accordance with the methodology set forth in the latest edition of California Stormwater Best Management Practices Handbook, using local, historical rainfall records. b. Flow-based BMPs: The Discharger shall calculate the flow needed to be treated using one of the following methods: i. The maximum flow rate of runoff produced from a rainfall intensity of at least 0.2 inches per hour for each hour of a storm event;

Regulatory Section	Citation
	ii. The maximum flow rate of runoff produced by the 85th percentile hourly rainfall intensity, as determined from local historical rainfall records, multiplied by a factor of two; or, iii. The maximum flow rate of runoff, as determined using local historical rainfall records, that achieves approximately the same reduction in total pollutant loads as would be achieved by treatment of the 85th percentile hourly rainfall intensity multiplied by a factor of two.
Industrial General Permit, Section XXI. Standard Conditions, subsection F (Proper operation & maintenance)	Dischargers shall at all times properly operate and maintain any facilities and systems of treatment and control (and related equipment and apparatuses) which are installed or used by the Discharger to achieve compliance with the conditions of this General Permit. Proper operation and maintenance also include adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance may require the operation of backup or auxiliary facilities or similar systems installed by a Discharger when necessary to achieve compliance with the conditions of this General Permit.
California Water Code Section § 13263.3 (g)	The state board or regional board may assess civil liability pursuant to paragraph (1) of subdivision (c) of Section 13385 against a discharger for failure to complete a pollution prevention plan required by the state board or a regional board, for submitting a plan that does not comply with the act, or for not implementing a plan, unless the POTW has assessed penalties for the same action.

Attachment B

December 5, 2019

Facility Stormwater Inspection Report

North Coast Regional Water Quality Control Board

Industrial Stormwater Inspection Review Checklist

FACILITY INFORMATION
Facility Name: BoDean Co Inc. Santa Rosa Hot Plant
Facility WDID: 1 49I017446
Facility Address: 1060 Maxwell Dr Santa Rosa CA 95401
SIC Codes and Type of Industrial Activities: 2951 – Asphalt Paving Mixtures
Legally Responsible Party: Charles Young
Operator: Dean Soiland
Facility Status: Level 2 for TSS
Compliance Group: N/A
History of Compliance: N/A
INSPECTION INFORMATION
Inspection Date: December 5, 2019 Start time: 13:00 End time: 15:00
Inspector Name: Farzad Kasmaei
Weather: Dry weather following rain
Type of Inspection: B Type compliance
Purpose of Inspection: Complaint response
Parties Present During Inspection: Masele Poueu (BoDean), Art Deicke (Consultant for BoDean), Ken Hutchins (City of Santa Rosa), Mark Maystrovich (City of Santa Rosa), Farzad Kasmaei (Regional Water Board)
Was Consent Provided for: **Inspection:** Yes, by Masele Poueu **Photos:** Yes, by Masele Poueu

Document Review in SMARTs

Permit Requirements	Are Permit Requirements Met	Comments	Permit Reference
Submitted Annual Reports for all reporting years	Yes		Sections XVI & X
Develop and/or promptly update site map	Yes		Section X.E
Perform monthly visual storm water discharge observations	Not Determined	On-site documents were not reviewed	Sections XI.A.1 & 3
Sampling & Analysis (4 samples within a reporting year)	Yes		Sections XI.B XI.A.2 & 3
Identify and update pollution prevention team	Yes		Section X.D
NAL exceedances	Yes	Annual exceedances for TSS occurred during 2015-16, 2016-17, 2017-18 & 2018-19 reporting years.	Section XII
Level 1 ERA submitted (if applicable)	Yes	Submitted	Section XII.C
Level 2 ERA submitted (if applicable)	Yes	Submitted	Section XII.D.1-2

Inspection Findings:
The table below helps assess the facility's compliance with the requirements of the Industrial General Permit. Please reference the Industrial General Permit and monitor the facility regularly, the entire facility is in compliance during all weather conditions. All photos referenced in this section can be found in the photos section of this report.

- Yes = Facility is in compliance with permit condition.
- No = Facility is in violation of permit condition.
- Not Determined = Compliance with permit requirement was not assessed.
- Not Applicable = The permit requirement does not currently apply to the facility.

SWPPP & BMPS (On-site observation)	Compliance Status	Comments	Permit Reference	Photos
Develop and Retain Updated SWPPP On-Site (including the required reports)	Not Determined	On-site documents were not reviewed	Sections I.I, X.B, & X.C.2	
Good Housekeeping	No	Numerous aggregate and recycling material stockpiles located upstream of the settling pond. Stockpiles either have no BMPs installed, or BMPs inadequate to prevent discharge. Tracking observed on paved surface and onto roadway.	Section X.H.1.a	4, 5, 6
Preventative Maintenance	No	Lack of onsite spill kits and evidence of oily material under equipment indicates inadequate procedures from prompt maintenance and repairs.	Section X.H.1.b	7

SWPPP & BMPS (On-site observation)	Compliance Status	Comments	Permit Reference	Photos
Spill Prevention & Response	No	Evidence of spills observed from the industrial equipment with no spill response. Spill kits and drip pans shall be available on-site.	Section X.H.1.c	7
Material Handling and Waste Management	No	Handling of industrial materials or wastes that can be readily mobilized by contact with storm water shall be minimized.	Section X.H.1.d	5, 6
Erosion & Sediment Control	No	No stockpile management and/or source control implemented. Inlets are not protected properly. Tracking control issue observed. Ponded water in sediment tanks and pond was muddy and sediment was accumulated on the bottom.	Section X.H.1.e	6, 9, 10a, 10b
Structural (advanced) BMPs Installed and Maintained	No	Existing bioswale and the settling pond and tanks are not maintained.	Section X.H.2	1, 2, 4
Employee Training Program	Not Determined		Section X.H.1.f	

Attachment(s):

1. Photos
2. Site map

Photos:

Picture 1- View of muddy settling tanks at the end of the bio swale. Significant sediment accumulation observed, and the inlet is not protected. Oil sheen observed in some areas.

Picture 2 – View of bioswale along the southwest of the facility. Sediments trapped behind the check dams have not been removed. Significant sediment accumulation observed.

Pictures 3a, 3b – View of storm drain inlets with visible sediment accumulation and evidence of discharge of sediment into drainage system.

Picture 4 – View of the settling tanks and a settling pond adjacent to an asphalt recycling material stockpile – no measures in place to manage the stockpile or serve as source control. The permittee is required to ensure all minimum and advance BMPs for sediment and erosion control are implemented/ installed and maintained appropriately to eliminate or reduce the sediment that is discharged through the inlets.

Picture 5 – View of a very large unprotected material stockpile located a few feet away from the existing muddy settling pond.

Picture 6 – View of unprotected asphalt recycling material and aggregate stockpiles located upstream of the settling tanks and ponds. No stockpile protection or perimeter control BMP installed.

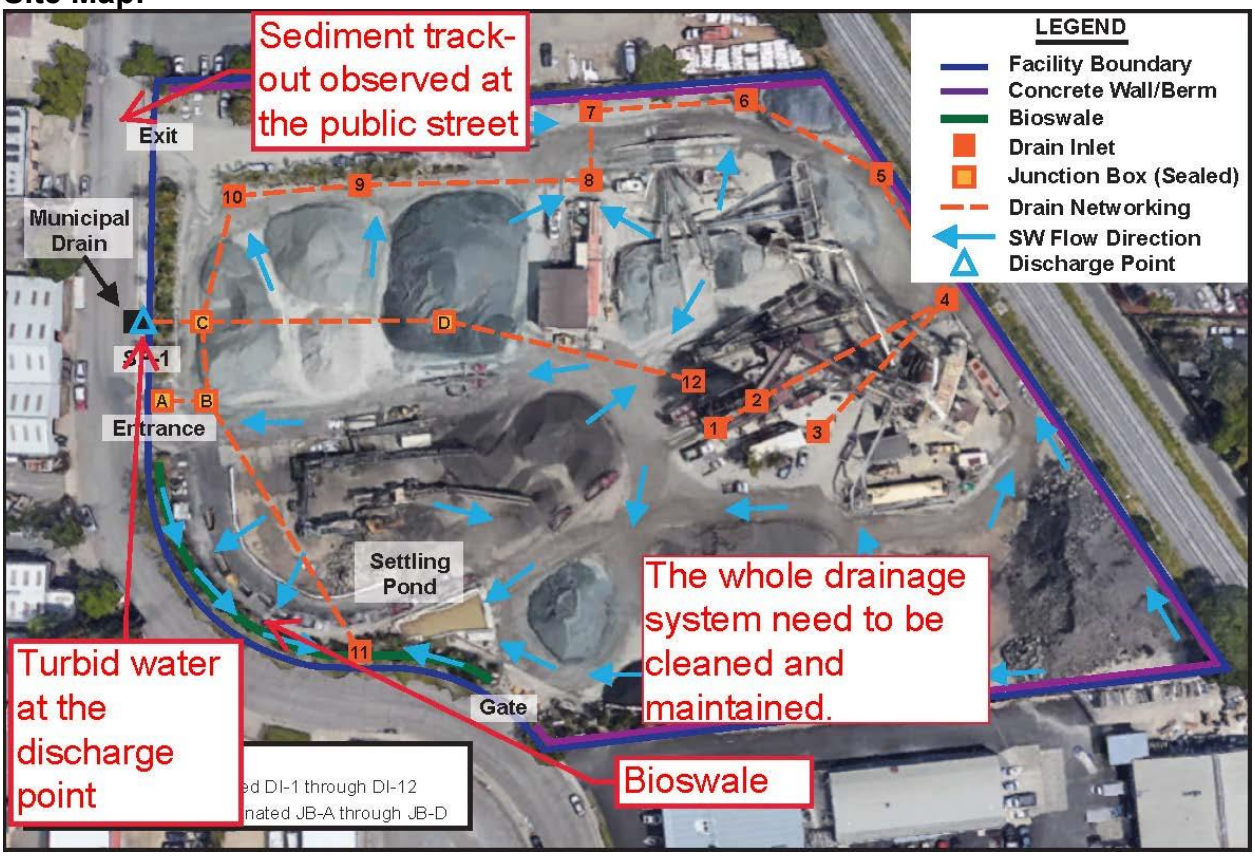
Picture 7 – View of industrial equipment in processing area. Oily material was observed in this area under the equipment. Spill prevention kits were not available on-site during the inspection. No containment controls BMPs were installed.

Picture 8 – View inside the public storm drain system of the discharge leaving the facility. This location the sampling point for the facility. The entire facility drains to this location and is the only source of the discharge. The discharged water is turbid. (Refer to the attached site map for location)

Picture 9 – Observed sediment track out from the facility to Maxwell Court which is a public street.

Pictures 10a, 10b – Views of unprotected drop inlet and the accumulated sediment discharged through the inlet.

Site Map:



Picture 9 – Site Map showing the locations of the discharge sampling point as well as the existing bioswale and settling pond. Base site map dated November 8, 2017 as submitted by EPS on behalf of Dean Soiland, via SMARTS. Red text boxes added for clarity by Farzad Kasmaei.

Conclusion: Staff observed poor housekeeping practices throughout the facility. Practices to minimize exposure, provide source control, and to manage stockpiles are not effectively implemented. The exit area is not adequately swept. Spill prevention procedures are not being implemented, and spill prevention kits are not present on-site.

Storm drain inlets are not adequately protected; inlet protection BMPs are not adequately installed and/or maintained in a manner to prevent the discharge of sediment. Advanced BMPs on the site, including bioswale(s) and settling pond(s), are not maintained.

Based on a review Ad Hoc reports submitted to SMARTs by between the year 2015 to 2019, Several NAL annual exceedances have occurred,

Muddy discharged water observed at the sampling point indicates that BMPs are inadequate. (refer to the picture No. 7).

Based on Regional Water Board staff's observation, site controls are inadequate. Portions of the site have no installed BMPs. Other BMPs are in need of maintenance or may be undersized. Additionally, as a result of past and ongoing discharge to the storm drain system and accumulation of sediment in the pipes and structures, the drainage system will also need to be cleaned.

The permittee is not currently in compliance with the Industrial General Permit (Permit No. CAS000001) requirements associated with maintaining BMPs and implementing minimum BMPs. Staff recommend that the QISP reevaluate the site to determine whether additional advanced BMPs are needed to prevent discharge.

During the inspection, staff communicated to Masele Poueu (site representative) and Art Deicke (facility's consultant) all noted concerns and the need for immediate corrective actions to ensure that the adequate and effective BMPs are in place prior to upcoming Qualifying Rain Events (QSEs). These corrective actions include cleaning the drainage system throughout the facility, maintaining the storm drains and reinstalling the inlet protections as needed, sweeping the paved area to remove the residue and sediments from all drainage areas, maintaining the existing advanced BMPs such as settling pond and tanks as well as the bioswale. Also, Regional Water Board staff suggested to reassess the facility to determine whether additional BMPs need to be installed/implemented to address the sedimentation issues.

Staff will conduct follow-up inspection(s) to assess corrective actions taken by the permittee to ensure that the site meets all applicable Industrial General Permit requirements.