

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,  
NORTH COAST REGION**

**STIPULATED CEASE AND DESIST ORDER R1-2021-0027  
FOR**

**DEAN SOILAND DOING BUSINESS AS BODEAN CO., INC.  
SANTA ROSA HOT PLANT  
SONOMA COUNTY**

The California Regional Water Quality Control Board, North Coast Region (Regional Water Board) finds that:

1. California Water Code (Water Code) section 13301 authorizes the Regional Water Board to issue a Cease and Desist Order, requiring Dean Soiland doing business as BoDean Company, Inc. (Discharger) to cease and desist an ongoing and/or threatened, violation of State Water Resources Control Board Order No. 2014-0057 DWQ, NPDES Order No. CAS00001, General Permit for Storm Water Discharges Associated with Industrial Activities (Industrial General Permit or Permit)<sup>1</sup>.
2. The Discharger operates the Santa Rosa Hot Plant, a 6-acre asphalt batch and material plant located at 1060 Maxwell Drive, in Santa Rosa, on the west side of Highway 101 (Facility). The Discharger's Facility is an industrial facility regulated by the Industrial General Permit.<sup>2</sup>
3. Storm water runoff from the Facility discharges to the Russian River from a single discharge point which captures all of the storm water from the Facility's single drainage area.<sup>3</sup> The Facility's discharge outfalls to College Creek, which then discharges to Santa Rosa Creek, and, thence, to the Laguna de Santa Rosa, which is a tributary to the Russian River, a water of the United States.<sup>4</sup> As shown in the City of Santa Rosa's GIS mapping, runoff conveyed in manhole (MH) 12562, accessible via the public right of way, is exclusively made up of discharges from the Facility.<sup>5</sup>

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<sup>1</sup> The Industrial General Permit is available online:

[https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/igp\\_20140057dwq.html](https://www.waterboards.ca.gov/water_issues/programs/stormwater/igp_20140057dwq.html).

<sup>2</sup> Notice of Intent submitted by Dean Soiland on June 19, 2015.

<sup>3</sup> Notice of Intent submitted by Dean Soiland on June 19, 2015 and Storm Water Pollution Prevention Plan submitted by BoDean Co., Inc. Santa Rosa Hot Plant date December 1, 2017.

<sup>4</sup> Regional Water Board e-mail correspondence with the City of Santa Rosa dated April 22, 2021.

<sup>5</sup> The City GIS data is publicly available:

<http://maps.srcity.org/Html5Viewer/Index.html?viewer=SewerWaterStorm>.

4. As required by the Industrial General Permit, the Discharger must utilize and maintain Best Management Practices (BMPs) “to reduce or prevent pollutants in industrial storm water discharges.”<sup>6</sup> The Discharger has identified minimum and advanced BMPs, in its Storm Water Pollution Prevention Plan (SWPPP), as required by the Permit, which are necessary to reduce or prevent pollutants from coming into contact with storm water and being discharged from the Facility. Minimum BMPs utilized at the Facility include fiber rolls and inlet protection as sediment control.<sup>7</sup> Advanced BMPs employed at the Facility consist of a settling pond, bioswale, and small settling tanks.<sup>8</sup>
5. During Regional Water Board inspections of the Facility conducted on December 5, 2019, August 12, 2019, and March 18, 2021, Regional Water Board staff observed multiple stockpiles of aggregate and asphalt material stored outside.<sup>9</sup> The Facility does not utilize BMPs, such as roofs or covered storage areas, to cover these exposed industrial materials during rain events. Because these industrial materials are continually exposed to storm water, they contribute to pollution, including sediment and metals, in the Facility’s discharge. The uncovered industrial materials pose a relatively low risk to water quality during dry weather, however, in wet weather conditions, these exposed piles of aggregate and asphalt material present a significant risk to water quality because they contribute to contamination of storm water at the Facility and ultimately to the discharge of polluted storm water to the Russian River.
6. On December 5, 2019 and March 18, 2021, while inspecting the Facility during Qualifying Storm Events (QSE)<sup>10</sup>, Regional Water Board staff observed sediment-laden storm water discharging from the Facility. These observations are consistent with inadequate BMPs which results in the exposure of industrial pollutants to storm water. Regional Water Board staff collected samples of the turbid runoff from the Facility’s discharge point, which is accessible via the public right of way, during the March 18, 2021 inspection.
7. During these same inspections, on December 5, 2019 and March 18, 2021, Regional Water Board staff observed that the advanced BMPs were overwhelmed by the runoff flows and volume they were receiving.

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<sup>6</sup> Industrial General Permit, Section X.H.1.

<sup>7</sup> Regional Water Board Inspection Reports for inspections conducted on December 5, 2019; August 12, 2020; and March 18, 2021.

<sup>8</sup> Regional Water Board Inspection Reports for inspections conducted on December 5, 2019; August 12, 2020; and March 18, 2021.

<sup>9</sup> Regional Water Board Inspection Reports for inspections conducted on December 5, 2019; August 12, 2020; and March 18, 2021.

<sup>10</sup> The Industrial General Permit (Attachment C) defines a Qualifying Storm Event, as follows: “A precipitation event that: (a) produces a discharge for at least one drainage area; and (b) is preceded by 48 hours with no discharge from any drainage area.”

Specifically, the settling pond was observed to be overflowing and allowing turbid water to enter the on-site inlet which is ultimately discharged to surface waters through the Facility's single discharge point.<sup>11</sup>

8. Per Section X.G.2 of the Industrial General Permit, the Discharger conducted a Potential Pollutant Source Assessment in developing its SWPPP. The Discharger's SWPPP indicates that TSS, Oil and Gas (O&G), and pH are indicator pollutants present at the Facility, and did not identify any additional pollutants beyond these three mandatory parameters.<sup>12</sup> The Facility's SWPPP did not identify aluminum, iron, or magnesium as potential pollutants associated with the Discharger's industrial activities. Analytical results for these samples taken during the March 18, 2021 inspection indicated high levels of TSS, aluminum, iron, and magnesium in Facility's runoff.<sup>13</sup> The Discharger's SWPPP should have identified aluminum, iron, and magnesium as additional indicator pollutants. Moreover, upon identification of these parameters by Regional Water Board staff, the Discharger should have updated its SWPPP to address the pollutants and identify them as constituents which should be sampled for.
9. The Discharger is required to sample four QSEs during each reporting year and submit those samples to SMARTS within 30 days of obtaining all results for the sampling event.<sup>14</sup> The Discharger is also required to submit any other monitoring data if it collects additional samples.<sup>15</sup> As indicated in the Discharger's 2018-2019 Annual Report and Level 2 Exceedance Response Action (ERA) Technical Report, the Discharger collected two additional samples during the reporting year but did not submit those additional results to SMARTS.
10. This Facility is Level 2<sup>16</sup> for Total Suspended Solids (TSS). Annual Numeric Action Level (NAL) exceedances have occurred at the Facility for TSS during every reporting year since 2015.<sup>17</sup>

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<sup>11</sup> Regional Water Board Inspection Reports for inspections conducted on December 5, 2019 and March 18, 2021.

<sup>12</sup> Storm Water Pollution Prevention Plan submitted by BoDean Co., Inc. Santa Rosa Hot Plant date December 1, 2017, Table 4.

<sup>13</sup> Regional Water Board Inspection Report for inspection conducted on March 18, 2021.

<sup>14</sup> Industrial General Permit, Sections XI.B.2. and XI.B.11.

<sup>15</sup> Industrial General Permit, Section XXI.J.2.

<sup>16</sup> Industrial General Permit Sections XII.C. and XII. D provide that a discharger shall be placed in Level 1 status if sampling results indicate a Numeric Action Level (NAL) exceedance; dischargers move into Level 2 status if sampling results indicate an NAL exceedance for the same parameter.

<sup>17</sup> Annual Reports submitted by Discharger for reporting years 2015-2016, 2016-2017, 2017-2018, 2018-2019, and 2019-2020.

11. Regional Water Board staff issued a Notice of Violation (NOV) on June 15, 2020, indicating that the Facility failed to comply with Industrial General Permit's requirement to implement and maintain minimum and advanced BMPs. The NOV also directed the Discharger to address the BMP deficiencies and maintain the existing BMPs.<sup>18</sup>
12. Regional Water Board staff issued a second NOV on May 18, 2021, noting that the Discharger remained out of compliance with the Industrial General Permit's discharge prohibitions, minimum and advanced BMP requirements, and identifying new violations of the Permit's monitoring and reporting provisions. The May 18, 2021 NOV also documented violations of the Industrial General Permit's sampling, monitoring, and reporting provisions including the Discharger's failure to develop an adequate SWPPP, including a pollutant source assessment.<sup>19</sup>
13. As documented in the December 5, 2019 and March 18, 2021 Inspection Reports the discharger continues to violate the Industrial General Permit. To date, the Discharger has discharged and threatens to discharge waste to surface waters without complying with its applicable waste discharge requirements.

### **Alleged Violations**

14. On December 5, 2019 and March 18, 2021, the Discharger violated Discharge Prohibition III.C of the Industrial General Permit by discharging pollutant-laden storm water runoff from the Facility without adequate sediment control BMPs.
15. On or about and between December 5, 2019 to March 18, 2021, the Discharger violated Section V.A of the Industrial General Permit by failing to implement BMPs that comply with appropriate Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT) to reduce pollutants in the Facility's storm water discharge. Advanced BMPs, including the bioswale, settling tanks, and settling pond, were overflowing with turbid water into the public storm drain at the sampling point on December 5, 2019. On March 18, 2021, these same controls were full of turbid water. Stockpiles of aggregate and asphalt remained uncovered and exposed to storm water. Fiber rolls had been installed incorrectly.
16. On or about and between December 5, 2019 to March 18, 2021, the Discharger violated Section X.H.1.a.v of the Industrial General Permit by failing to cover all stored industrial materials that can be readily mobilized by contact with storm

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<sup>18</sup> Regional Water Board Notice of Violation dated June 15, 2020.

<sup>19</sup> Regional Water Board Notice of Violation dated May 18, 2021.

water. The Discharger has consistently failed, since at least December 5, 2019, to cover the stockpiles of aggregate and asphalt materials that can be readily mobilized by contact with storm water as required by the Industrial General Permit.

17. On December 5, 2019 and March 18, 2021, the Discharger violated Section X.H.1.d.i of the Industrial General Permit by failing to prevent or minimize handling materials or wastes that can be readily mobilized by contact with storm water during a storm event. Both of these dates constituted QSEs when the Discharger failed to cover and berm the asphalt, asphalt waste, and aggregate stockpiles that can be readily mobilized by contact with storm water.
18. During the 2019-2020 reporting year, the Discharger violated Sections XI.B.2 and XI.B.5 of the Industrial General Permit by failing to collect and report required samples during QSEs.
  - a. Section XI.B.2. requires dischargers to collect and analyze two storm water samples from QSEs during both the first and second halves of the reporting year. The Discharger failed to collect two of the required four samples during the 2019-2020 reporting year.
  - b. Section XI.B.5. requires dischargers to sample within four hours of the start of a discharge or, if the facility is closed when the QSE starts, to sample at the start of facility operations. Based on a review of the National Oceanic and Atmospheric Administration (NOAA) database, Regional Water Board staff have determined that additional rain events that meet the Industrial General Permit's definition of a QSE occurred during this reporting year for which the Discharger failed to collect samples, though the Discharger only collected two of the required four samples.
19. The Discharger violated Section XII.J.2 of the Permit by failing to submit during the 2018-2019 reporting year, two additional sample sets it should have collected. All samples are required to be submitted to SMARTS as ad hoc monitoring reports during the reporting year. According to the Discharger's Annual Report and Level 2 ERA Technical Report, the Discharger sampled two additional discharge events, aside from what is required to sample, but did not certify and submit these data results to SMARTS.
20. On or about June 20, 2015 the Discharger violated Section XI.B.6.c of the Permit by failing to complete its potential pollutant source assessment to include an analysis for additional analytical parameters. Though the Discharger did develop a Potential Pollutant Sources and General Assessment the Discharger failed to identify the Facility-specific parameters, including Aluminum (Al), Iron (Fe), and Magnesium (Mg). These parameters were present in the Facility's discharge the Regional Water Board staff sampled.

### Regulatory Considerations

21. The beneficial uses for surface water impacted by the Facility's discharge are defined in the Water Quality Control Plan for the California Regional Water Quality Control Board, North Coast Region (Basin Plan).<sup>20</sup> The beneficial uses in the Russian River are Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Service Supply (IND), Groundwater Recharge (GWR), Navigation (NAV), Water Contact Recreation (REC1), Non-Contact Water Recreation (REC2), Commercial and Sport Fishing (COMM), Warm Freshwater Habitat (WARM), Cold Freshwater Habitat (COLD), Wildlife Habitat (WILD), Rare, threatened or Endangered Species (RARE), Migration of Aquatic Organisms (MIGR), and Spawning, Reproduction, and/or Early Development (SPWN).
22. Metals including iron, manganese, and aluminum, are poorly soluble in water and therefore often enter surface water as a result of human activities predominantly adsorbed to suspended sediment particles. The Basin Plan's Sediment Implementation Policy states that the Regional Water Board shall control sediment pollution by using existing permitting and enforcement tools. The goals of the Policy are to control sediment waste discharges to impaired water bodies so that sediment water quality objectives are attained, and beneficial uses are no longer adversely affected by sediment.
23. The Russian River is identified on the Clean Water Act 303 (d) list as impaired for sediment, temperature, pathogens, mercury, phosphorus, and dissolved oxygen.
24. Water Code section 13301 states: "When a regional board finds that a discharge of waste is taking place or threatening to take place in violation of requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventive action."
25. The Regional Water Board finds that a discharge of waste is taking place or threatening to take place in violation of the requirements and discharge prohibitions of the Industrial General Permit, as described herein. This Order requires the Discharger to take appropriate remedial action and to comply in accordance with the time schedule set forth below.

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[https://www.waterboards.ca.gov/northcoast/water\\_issues/programs/basin\\_plan/basin\\_plan\\_documents/](https://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/basin_plan_documents/).

26. Water Code section 13267, subdivision (b), states, in part: “In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”
27. Water Code section 13383, subdivision (a), states: “The state board or a regional board may establish monitoring, inspection, entry, reporting, and recordkeeping requirements, as authorized by Section 13160 , 13376 , or 13377 or by subdivisions (b) and (c) of this section, for any person who discharges, or proposes to discharge, to navigable waters.” Subdivision (b) goes on to state: “The state board or the regional boards may require any person subject to this section to establish and maintain monitoring equipment or methods, including, where appropriate, biological monitoring methods, sample effluent as prescribed, and provide other information as may be reasonably required.”
28. The technical and monitoring reports required by this Order are necessary to determine the Discharger’s compliance with the requirements of the Industrial General Permit and this Order. The technical and monitoring reports are required pursuant to Water Code sections 13267 and 13383. These reports will enable Regional Water Board staff to understand the impact that the Facility has on water quality and to ensure that its future operation does not continue to degrade water quality. Generally, the benefits to be obtained from these reports is assurance that the Facility is operating in compliance with the regulatory program and to ensure that industrial pollutants are appropriately managed in compliance with the Industrial General Permit. The cost to produce the reports required by this Order is estimated to cost between \$7,930 and \$10,980 This cost range is based on typical costs for professional services and Regional Water Board staff’s estimate of the hours required to complete the required reports.
29. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code §21000 et seq.) pursuant to Water Code section 13389 since the adoption or modification of an NPDES permit for an existing source is statutorily exempt and this Order serves only to

implement an NPDES permit. (*Pacific Water Conditioning Ass'n, Inc. v. City Council of City of Riverside* (1977) 73 Cal.App.3d 546, 555-556.). Issuance of this Order is also exempt from CEQA pursuant to sections 15301, 15306 and 15321 of title 14 of the California Code of Regulations.

30. On August 19, 2021, after due notice to the Discharger, the Regional Water Board conducted a public hearing and received evidence regarding this Order.

31. This Cease and Desist Order is effective upon adoption by the Regional Water Board.

**THEREFORE, IT IS HEREBY ORDERED**, that, pursuant to Water Code sections 13301, 13267, and 13383, Dean Soiland doing business as BoDean Co., Inc. shall cease and desist from discharging and threatening to discharge waste in violation of the Industrial General Permit by complying with the following requirements and schedules of actions to achieve compliance at the earliest possible date:

**Improvements to Best Management Practices:**

1. By **October 15, 2021**, and prior to all subsequent QSEs, the Discharger shall, in compliance with the Industrial General Permit, cover all industrial materials that can be readily mobilized by contact with storm water runoff through the installation of additional minimum and/or advanced BMPs. These industrial materials include stockpiles of aggregate and asphalt material that are stored throughout the Facility. If the sampling results submitted to comply with the Industrial General Permit and/or this Order indicate that the Discharger is still exceeding the NAL for TSS and/or metals, then additional BMPs must be installed to comply with the Permit and/or this Order and the SWPPP must be updated accordingly to include this information in detail.
2. **BMP Evaluation and Installation Report: By October 15, 2021**, the Discharger shall submit a BMP Evaluation and Installation Report to the Regional Water Board. The BMP Evaluation and Installation Report shall demonstrate that all selected and installed minimum and advanced BMPs, including structural control measures and/or treatment control BMPs, are sized appropriately to control the industrial pollutants present in the discharge, and maintained to ensure their effectiveness. The BMP Evaluation and Installation Report shall comply with Section X.H.6 of the Industrial General Permit and shall demonstrate that flows and/or volumes in excess of the design storm are properly addressed such that they do not result in the discharge of polluted storm water and/or threaten to cause adverse impacts to beneficial uses. The BMP Evaluation and Installation Report shall include all calculations, maps, installation details, inspection and maintenance plans, and records relied upon to demonstrate that the BMPs are in compliance with the Permit's requirements. The BMP Evaluation and Installation Report must be certified by a licensed



professional engineer. Specifically, the BMP Evaluation and Installation Report must:

- a. Identify any necessary improvements to adequately divert, infiltrate, treat, reuse, contain, retain, or reduce the volume of storm water runoff from the Facility and a proposed schedule of implementation such that future discharges during QSEs will not result in the discharge of storm water in violation of the Permit; and,
  - b. Describe the engineering methods and assumptions used and provide all calculations to comply with Provision 3.a including, the following:
    - i. Design, capacity and calculated and/or estimated efficiency of all existing advanced BMPs including the settling pond, settling tanks and bioswale, including an explanation of the storm event size such structures are designed to treat.
    - ii. Design, capacity and calculated and/or estimated efficiency of all proposed advanced BMPs including any changes or modifications to existing advanced BMPs and any new advanced BMPs, such as any treatment system, including an explanation of the storm event size such structured are designed to treat.
    - iii. Rainfall data used for calculations.
    - iv. On-site tributary area and any run-on directed to each advanced BMP and the associated runoff flows and/or volumes.
3. **Updated SWPPP: By October 15, 2021**, and as required by the Permit, the Discharger shall update and submit the Facility's SWPPP to the Regional Water Board for review and approval by the Executive Officer. The updated SWPPP shall include the following information:
- a. Site map showing the type(s) and location(s) of minimum and advanced BMPs that are installed to eliminate or reduce the pollutants in Facility's run-off and all identified pollutant sources.
  - b. Update the Facility's pollutant source assessment to identify all potential industrial sources of pollutants including, at a minimum; Aluminum (Al), Iron (Fe), and Magnesium (Mg). If the Discharger determines that it is not an industrial source of these pollutants, then the Discharger must submit a Natural Background Pollutant Source Demonstration consistent with Industrial General Permit Section XII.D.2.c.i; ii; and iii; a Site Map showing where all samples were collected; and, all field sampling records and laboratory analyses.
  - c. Type(s) and location(s) of minimum and/or advanced BMPs that are installed to eliminate or reduce pollutants of concern, including at a minimum Aluminum (Al), Iron (Fe), and Magnesium (Mg), unless the Discharger is able to submit an adequate Natural Background Pollutant Source Demonstration for the applicable parameter.

- d. Type(s) and location(s) of minimum and/or advanced BMPs necessary to prevent the unauthorized discharge of sediment from the Facility to waters of the United States.

**Enhanced Sampling, Monitoring, and Reporting:**

4. **Enhanced Sampling and Monitoring Report**<sup>21</sup>: Immediately upon adoption of this Order, the Discharger shall conduct sampling and monitoring during every QSE and submit an Enhanced Sampling and Monitoring Report within 30 days of the QSE, or rain event, to SMARTS as an ad hoc report. The Discharger shall continue to comply with this provision until: (1) it returns to baseline status for TSS<sup>22</sup> and (2) if it has no annual NAL exceedances for metals or other parameters identified in its updated SWPPP.
  - a. If the Discharger does not collect samples during a rain event, the Discharger must submit a written explanation and supporting documentation, including, photographs, demonstrating that the rain event did not result in a discharge from the Facility or otherwise does not fall within the definition of a QSE as defined by the Industrial General Permit.
  - b. The Discharger shall take and submit to the Regional Water Board photographs during all QSEs which demonstrate that all stockpiled industrial materials are covered and bermed as required by the Industrial General Permit.
  - c. The Discharger must sample for all pollutants identified in its updated SWPPP during each QSE.
5. **Alternative Sampling and Monitoring**: In the event that the Discharger installs a water treatment system, the Discharger shall conduct the following monitoring in addition to sampling during QSEs as required by this order and the Industrial General Permit:
  - a. Flow shall be continuously monitored and recorded for total volume treated and discharged.
  - b. Influent and effluent pH must be continuously monitored and recorded.

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<sup>21</sup> The Discharger is required to submit monitoring data, including sampling taken during four QSEs each reporting year, pursuant Industrial General Permit, Section XI. This Order imposes additional reporting requirements on the Discharger pursuant to Water Code sections 13267 and 13383; these additional requirements constitute the Enhanced Sampling and Monitoring Report and are required to ensure compliance with this Order and the Industrial General Permit's Discharge Prohibitions.

<sup>22</sup> The Industrial General Permit discusses baseline status in its Fact Sheet: "A Discharger demonstrating compliance with all NALs/TNALs will remain at Baseline status and is not required to complete Level 1 status and Level 2 status ERA requirements."

- c. Influent and effluent turbidity (expressed in NTU) must be continuously monitored and recorded at not greater than 15-minutes intervals.
- d. The type and amount of chemicals used for pH adjustment, if any.
- e. Dose rate of all chemicals, such as flocculants, used in the Treatment System, and any residuals present in the effluent (expressed in mg/L) shall be monitored and recorded 15-minutes after startup every 8 hours of operation.

The forgoing data shall be retained at the Facility and made available upon request.

6. **Enhanced Annual Report**<sup>23</sup>: Beginning on July 15, 2022, and annually on July 15 of each reporting year while this Order remains in effect, the Discharger shall submit an Enhanced Annual Report documenting its compliance with the Industrial General Permit's sampling provisions:
- a. If the Discharger determined that the rain event was a QSE, but was unable to collect samples, the Discharger must submit a written explanation, and supporting documentation, as to why samples were not collected.
  - b. The Discharger shall also include a summary of rain events and precipitation amount using NOAA data from the Santa Rosa Airport and/or any additional data collected by the Discharger.
7. All reports and submissions required by this Order must be submitted electronically via SMARTS and cc [Farzad.Kasmaei@waterboards.ca.gov](mailto:Farzad.Kasmaei@waterboards.ca.gov) and [NorthCoast@waterboards.ca.gov](mailto:NorthCoast@waterboards.ca.gov).
8. Any person signing a document submitted under this Order shall make the following certification:

*"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*

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<sup>23</sup> The Discharger is required to submit an Annual Report pursuant to the Industrial General Permit, Section XVI. This Order imposes additional reporting requirements on the Discharger pursuant to Water Code sections 13267 and 13383; these additional requirements constitute the Enhanced Annual Report and are required to ensure compliance with this Order and the Industrial General Permit's Discharge Prohibitions.

9. In accordance with California Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain workplans for investigations and studies, that describe the conduct of investigations and studies, or that contain technical conclusions and recommendations concerning engineering and geology shall be prepared by or under the direction of appropriately qualified professional(s), even if not explicitly stated. Each technical report submitted by the Discharger shall bear the professional's signature and stamp.
10. **Delayed Compliance:** If for any reason, the Discharger is unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the approving officer, the Discharger may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as a delay is recognized and prior to the compliance date. An extension may be granted by letter from the Executive Officer.
11. **Potential Liability:** If the Discharger fails to comply with the requirements of this Order, this matter may be referred to the Attorney General for judicial enforcement or a complaint for administrative civil liability may be issued by the Regional Water Board. Failure to comply with this Order may result in the assessment of an administrative civil liability of up to \$10,000 per day of violation and \$10 per gallon of waste discharged but not cleaned up over 1,000 gallons, pursuant to Water Code sections 13268, 13350, and/or 13385. The Regional Water Board reserves its right to take any enforcement actions authorized by law.
12. **No Limitation of Water Board Authority:** This Order in no way limits the authority of the Regional Water Board to institute additional enforcement actions or to require additional investigation and/or cleanup of the Facility consistent with the Water Code. This Order may be revised as additional information becomes available.
13. **Compliance with Other Regulatory Requirements:** Nothing in this Order shall excuse the Discharger from meeting any additional regulatory requirement that may be imposed by other local, state or federal regulatory entities for corrective actions taken by the Discharger to comply with this Order.
14. **Modifications:** Any modification to this Order shall be in writing and approved by the Regional Water Board.

**15. Requesting Review by the State Water Board:** Any person aggrieved by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050. The State Water Board must receive the petition no later than 5:00 p.m., 30 days following the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

I, Matthias St. John, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order issued by the California Regional Water Quality Control Board, North Coast Region, on August 19, 2021.

Sincerely,

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Matthias St. John  
Executive Officer

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