



North Coast Regional Water Quality Control Board

February 8, 2021

John Farrow, CEO and Founder
Farrow Ready Mix, Inc.
5055 Montecito Avenue
Santa Rosa, CA 95404

Certified No. 7016 2710 0000 2653 3623

Ronald Cupp, General Manager
Farrow Ready Mix, Inc.
3660 Copperhill Lane
Santa Rosa, CA 95403

Certified No. 7016 2710 0000 2653 3630

Dear Mr. Farrow and Mr. Cupp:

Subject: Notice of Violation for Farrow Ready Mix

File: Storm Water, Industrial, Sonoma County, Farrow Ready Mix, Inc.

This Letter is to notify Farrow Ready Mix, Inc. (hereinafter “Discharger” or “you”) of violations of the requirements listed below, associated with your continued failure to obtain coverage under and comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 2014-0057- DWQ NPDES NO. CAS000001 (Industrial General Permit or Permit). Farrow Ready Mix is in violation of the following provisions of law:

- California Water Code (Water Code) sections 13260, 13264, and 13376
- Clean Water Act section 301

The Industrial General Permit requires manufacturing facilities, including those that manufacture concrete ready-mix (Standard Industrial Classification (SIC) Code 3273) to enroll and comply with its requirements.¹

¹ The Industrial General Permit is available at the State Water Resources Control Board website at: https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/industrial/2014indgenpermit/wqo2014_0057_dwq_revmar2015.pdf

The North Coast Regional Water Quality Control Board (Regional Water Board) has determined, and previously notified you several times, that based on the nature of the industrial activities associated with your facility, you must obtain coverage under the Industrial General Permit.

BACKGROUND

On April 27, 2019, Mr. Davis (the previous facility owner) filed a Notice of Termination (NOT), terminating the Facility's coverage under the Industrial General Permit, and indicating that effective November 15, 2018, the site had been transferred to new owner/operator, John Farrow, under the business name of Farrow Ready Mix.

On June 5, 2019, Regional Water Board staff informed operations manager, Scott Enger, by telephone, that Farrow Ready Mix, Inc. must enroll and comply with the requirements of the Permit, due to the nature of the industrial activities conducted on-site. Ms. Tammy Enger, office manager, requested information regarding the Permit, and, in response, Regional Water Board staff emailed guidelines and references for Permit registration.

On June 14, 2019, Ms. Enger notified Regional Water Board staff that a consultant, engaged on behalf of the Discharger, would be inspecting the facility and developing a Storm Water Pollution Prevention Plan (SWPPP) in preparation for enrollment under the Permit. Subsequently, Ms. Enger contacted Regional Water Board staff requesting that staff visit the facility to review site conditions, Permit requirements, and Permit registration documentation (PRDs). On July 25, 2019, Regional Water Board staff inspected the facility, in the company of Mr. Scott Enger, and consultant, George Goobanoff, of George Goobanoff Associates. During the inspection, Regional Water Board staff confirmed the need for facility permit coverage and enrollment with the operator and consultant.

In November 2019, Regional Water Board staff corresponded by email numerous times with the Discharger's representatives Scott and Tammy Enger and the consultant, George Goobanoff, requesting updates on the status of Permit enrollment. Mr. Goobanoff advised staff via email that a Notice of Intent (NOI) and check had been submitted to the State Water Resources Control Board. However, to date, the PRDs have not been uploaded to SMARTS (Water Board database) and payment has not processed. Therefore, the Facility has not been assigned a WDID (Waste Discharge Identification) number and is considered to be operating without permit coverage.

Due to the Discharger's continued failure to enroll the facility for permit coverage, the Regional Water Board issued two Notice of Non-Compliance (NNC) letters to the Discharger, on January 28, 2020 and April 6, 2020. The NNCs stated that "failing to submit the required documents by March 28, 2020, 60 days from the date of the initial Notice of Non-Compliance (January 28, 2020), is a violation of section 13399.30 of the Water Code."

On September 30, 2020, the Regional Water Board received a letter from Farrow Ready Mix, Inc., stating that the SWPPP preparation was in progress and requesting that the Regional Water Board confirm whether the facility is eligible for a Notice of Non-Applicability (NONA).

On January 14, 2021, State Water Board attorney (Ms. Catherine Hawe) informed the new facility General Manager (Mr. Ronald Cupp) via phone that a Notice of Intent (NOI) must be submitted immediately. In response, Mr. Cupp stated that a no-discharge technical report in support of a NONA has been submitted. However, upon further review of the case file, staff have been unable to find any records in SMARTS demonstrating that the Discharger has filed a NONA.

While a NONA is an appropriate form of Permit coverage for certain industrial facilities that are able to ensure and demonstrate through detailed and complete technical reports and physical site controls that no runoff is able to leave the site, Site conditions observed by Regional Water Board staff and the documents submitted to date by the Discharger indicate that Farrow Ready Mix does not meet the requirements necessary to qualify for a NONA and therefore needs to submit a Notice of Intent (NOI) to enroll under the Permit and fully comply with all requirements.

Until the Facility submits an NOI and is enrolled in the Permit and issued a WDID by the State and Regional Water Boards Farrow Ready Mix, Inc., is considered to be operating without permit coverage.

In summary, since at least July 2019, Regional Water Board staff have communicated with you numerous times regarding the requirement to enroll Farrow Ready Mix, Inc. for coverage under the Permit. In addition, you and/or your agents have advised the Regional Water Board numerous times by telephone or email, and you have agreed, in writing, that you will obtain coverage under the Permit. Despite this, to date, Farrow Ready Mix, has not obtained appropriate regulatory coverage and continues to operate and conduct industrial activities.

RELEVANT REQUIREMENTS

Water Code section 13260 requires, in part, that a person discharging waste or proposing to discharge waste, within any region that could affect the quality of waters of the state, other than into a community sewer system shall file with the appropriate regional board a report of the discharge.

Water Code section 13264 states, in part that “[n]o person shall initiate any new discharge of waste or make any material changes in any discharge, or initiate a discharge to, make any material changes in a discharge to, or construct, an injection well, prior to the filing of the report required by Section 13260 and no person shall take any of these actions after filing the report but before whichever of the following occurs first:

- (1) The issuance of waste discharge requirements pursuant to Section 13263.
- (2) The expiration of 140 days after compliance with Section 13260 if the waste to be discharged does not create or threaten to create a condition of pollution or nuisance..."

Water Code section 13376 states, in part, that "[a] person who discharges pollutants or proposes to discharge pollutants to the navigable waters of the United States within the jurisdiction of this state or a person who discharges dredged or fill material or proposes to discharge dredged or fill material into the navigable waters of the United States within the jurisdiction of this state shall file a report of the discharge in compliance with the procedures set forth in Section 13260."

Clean Water Act section 301 provides that except in compliance with sections 301, 1342, and 1344 of the Clean Water Act, "the discharge of any pollutant by any person shall be unlawful." Clean Water section 1342 allows for the discharge of pollutants pursuant only to National Pollutant Discharge Elimination System (NPDES) permits. The Industrial General Permit is the relevant NPDES permit for discharges from facilities such as yours.

Water Code sections 13261, 13265, and 13385 provide for the assessment of administrative civil liability, of up to \$10,000 per day, for failure to comply with applicable provisions of Water Code sections 13260, 13264, and 13376, and Clean Water Act section 301.

STATUTORY LIABILITY

Beginning with June 14, 2019, it has been 581 days since Regional Water Board staff first directed you to enroll for coverage under the Industrial General Permit. Pursuant to Water Code section 13385, you are liable for penalties of up to \$10,000 for each day you fail to enroll for coverage under the Permit.

It is in your best interest to enroll **immediately**. Enforcement staff at the Regional Water Board will consider your timeliness in taking appropriate action in making our recommendation to the Regional Water Board regarding the imposition of additional administrative civil liability for your ongoing violation of the Water Code and Clean Water Act.

Please provide my staff with confirmation of your enrollment under the Permit by February 23, 2021. If you have any questions regarding this matter, please contact Farzad Kasmaei of my staff at farzad.kasmaei@waterboards.ca.gov.

Sincerely,

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

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