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JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

North Coast Regional Water Quality Control Board

May 18, 2021

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

Certified Mail No. 7016 2070 0000 6486

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 sections of the Industrial General Permit regarding stormwater discharges to the City of Santa Rosa's storm drain system:

- Section III. Discharge Prohibitions, Subsection C
- Section V. Effluent Limitations, Subsection A
- Section VI. Receiving Water Limitations, Subsections A, B, and C
- Section X. SWPPP, Subsection H.1.a.v
- Section X. SWPPP, Subsection H.1.d.i
- Section XI. Monitoring, Subsection B.2
- Section XI. Monitoring, subsection B.5
- Section XI. Monitoring, subsection B.6.c
- Section XXI. Standard Conditions, Subsection J.2

These unauthorized discharges also violate the federal Clean Water Act and may be subject to administrative liability pursuant to California Water Code section 13385, subdivision (c).

GREGORY A. GIUSTI , CHAIR | MATTHIAS ST. JOHN, EXECUTIVE OFFICER

These provisions are included in detail in Attachment A.

Background

Dean Soiland (Permittee) operates the Santa Rosa Hot Plant (Facility) located at the above- referenced location.¹ 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 City of Santa Rosa's public storm drain. This drain system 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 U.S. According to the Storm Water Pollution Prevention Plan (SWPPP) for the Facility, the stormwater sampling point for the facility is a discharge pipe located inside a manhole in Maxwell Court.

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, staff from the City and the Regional Water Board conducted an unannounced joint inspection of the Facility to assess compliance with the Industrial General Permit (IGP) 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 and violated the IGP. These site conditions included poor housekeeping, inadequate or ineffective erosion/sediment control features, and result in turbid water discharges into the City's storm drain.

On June 15, 2020, Regional Water Board staff issued a Notice of Violation, documenting the violations observed by staff during the December 5, 2019 inspection. In response to the June 15, 2020 NOV letter, on August 4, 2020, the Permittee submitted a report showing that the BMP deficiencies had been addressed.

On August 12, 2020, Regional Water Board staff re-inspected the facility during dry weather conditions, and observed that the minimum BMPs and advanced BMPs present on the site had been maintained, but that the BMPs were not significantly different in type or quantity from the previous inspection. The site still lacked sufficient source control measures.

¹ Dean Soiland is identified as the operator of BoDean, Inc. Santa Rosa Hot Plant in the Facility's Notice of Intent (NOI) to obtain coverage under the IGP.

During the inspection, Mr. Farzad Kasmaei of my staff advised Facility staff, Anthony Boyle, that source control is critical for this facility, due to the multiple uncovered aggregate and asphalt stockpiles that are stored throughout the Facility. Anthony Boyle stated that it is infeasible to cover the stockpiles, including the aggregate and a large asphalt waste stockpiles, and he indicated that he would install adequate BMPs during the wet season.

On March 18, 2021, Regional Water Board conducted an unannounced follow-up inspection during a rain event. During that inspection, staff observed that other than two covered asphalt stockpiles, the remaining stockpiles including aggregate and a large asphalt waste stockpiles were not covered. Other BMPs, such as wattles and gravel bags, were extremely sparse, in poor condition, and/or improperly installed rendering them ineffective. Further, staff observed that the small settling tanks on the site were submerged, and turbid water was overflowing from the existing bioswale and settling pond into an inlet that drains the water to the discharge point via the underground storm drainage system. Regional Water Board Staff with Santa Rosa City staff assistance collected samples from the 18-inch discharge pipe within the public right of way; Field measurement of 488 NTU and an analytical test result of 200 mg/L for Total Suspended Solids (TSS) confirmed a high concentration of sedimentation in the Facility's run-off. Please refer to the attached inspection report for further details on sample results.

Alleged Violations

- 1) The Permittee violated Provision III.C of the IGP by discharging storm water runoff from the Facility without adequate sediment control BMPs, which resulted in a turbid discharge to the City's storm drain system, tributary to Waters of the United States.
- 2) The Permittee violated Provision V.A by failing to implement appropriate Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT), which resulted in a turbid discharge to the City's storm drain system, tributary to Waters of the United States.
- 3) Per Section X.H.1.a.v of the IGP, and Regional Water Board staff observations during the inspection, it is critical at this site to implement housekeeping practices and source control effectively by covering the stockpiles prior to Qualifying Storm Events (QSEs). The Permittee has failed to cover the stockpiles of material that can be readily mobilized through contact with storm water to the extent feasible.
- 4) The Permittee violated Provision X.H.1.d.i of the IGP, material handling and waste management, by failing to cover and berm the asphalt, asphalt waste, and aggregate material stockpiles that can be readily mobilized through contact with storm water during a storm event.

- 5) The Permittee violated Provisions XI.B.2 and XI.B.5 of the IGP for failing to collect two samples during the first half and two samples during the second half of the 2019-20 reporting year. Per the attached inspection report and National Oceanic and Atmospheric Administration (NOAA) database, the Permittee has collected two samples in total during this reporting year; however, QSEs had occurred during normal operational hours within this reporting year for which the Permittee failed to collect samples.
- 6) The Permittee violated Provision XI.B.6.c of the IGP for failing to conduct a potential pollutant source assessment accurately and analyze the samples for additional analytical parameters including Aluminum (Al), Iron (Fe), and Magnesium (Mg) which are present in the discharge as demonstrated by the samples collected by Regional Water Board Staff.
- 7) In addition, the Permittee violated Provision XII.J.2 of the IGP for failure to submit the additional sample reports during the 2018-19 reporting year. Per 2018-19 annual report and level 2 ERA technical report uploaded to SMARTS, two additional sample sets were collected during this reporting year but only four sample reports have been certified and submitted by Permittee.

Potential Liabilities

The Regional Water Board is considering whether the violations of the IGP warrant further enforcement. We encourage you to take steps to correct the violations as soon as possible. Please note that the existing conditions, as observed and documented in the Inspection Report, may represent continuing violations, and are subject to administrative liabilities assessed for each day of violation beginning with the first day of violation.

Correcting the conditions of non-compliance at the Facility does not preclude enforcement for the violations alleged in this notice. As noted above, the Regional Water Board reserves its right to fully enforce the law against any violation and threatened violation by taking enforcement actions such as a cleanup and abatement order, time schedule order, administrative civil liabilities, and referral to the California Attorney General's office.

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 a 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.

You may also contact Heaven Moore at Heaven.Moore@waterboards.ca.gov . Additionally, we are available to meet with you if you wish to discuss this letter or the facility permit requirements in further detail.

Sincerely,

Claudia E. Villacorta, P.E.
Assistant Executive Officer

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Enclosures

Attachment A – Regulatory Citations

Attachment B – March 18, 2021 Facility Stormwater Inspection Report

cc: North Coast Regional Water Quality Control Board

Charles Reed, Charles.Reed@waterboards.ca.gov

Heaven Moore, Heaven.Moore@waterboards.ca.gov

Diana Henriouille, Diana.Henriouille@waterboards.ca.gov

Farzad Kasmaei, Farzad.Kasmaei@waterboards.ca.gov

Catherine Hawe, Catherine.Hawe@waterboards.ca.gov

Laura Drabandt, Laura.Drabandt@waterboards.ca.gov

Nick Sudano, Santa Rosa City Storm Water and Creeks, NSudano@srcity.org

Attachment A – Regulatory Citations

Regulatory Section	Citation
Industrial General Permit Provision III (Discharge Prohibition), subsection C	States that: Industrial storm water discharges and authorized NSWDs that contain pollutants that cause or threaten to cause pollution, contamination, or nuisance as defined in section 13050 of the Water Code, are prohibited.
Industrial General Permit Provision V (Effluent Limitation), subsection A	States that the Discharger shall: Implement BMPs that comply with the BAT/BCT requirements of this General Permit to reduce or prevent discharges of pollutants in their storm water discharge in a manner that reflects best industry practice considering technological availability and economic practicability and achievability.
Industrial General Permit Provision VI (Receiving Water Limitation), subsections A, B, and C	Subsection A: Dischargers shall ensure that industrial storm water discharges and authorized [non-storm water discharges] do not cause or contribute to an exceedance of any applicable water quality standards in any affected receiving water. Subsection B: Dischargers shall ensure that industrial storm water discharges and authorized non-storm water discharges (NSWDs) do not adversely affect human health or the environment. Subsection C: Dischargers shall ensure that industrial storm water discharges and authorized NSWDs do not contain pollutants in quantities that threaten to cause pollution or a public nuisance.
Clean Water Act (CWA) section 301 (33 U.S.C. Sec. 1311)	Prohibits the discharge of any pollutant into waters of the United States except in compliance with the CWA.

Regulatory Section	Citation
Industrial General Permit Section X. SWPPP, Subsection H.1.a.v	Housekeeping Practices: Cover all stored industrial materials that can be readily mobilized by contact with storm water
Industrial General Permit Section X. SWPPP, Subsection H.1.d.i	Material Handling and Waste Management: Prevent or minimize handling of industrial materials or wastes that can be readily mobilized by contact with storm water during a storm event
Industrial General Permit Provision XI (Monitoring), subsection B.2	Sampling and Analysis: The Discharger shall collect and analyze storm water samples from two (2) QSEs within the first half of each reporting year (July 1 to December 31), and two (2) QSEs within the second half of each reporting year (January 1 to June 30).
Industrial General Permit Provision XI (Monitoring), subsection B. 5	Sampling and Analysis: Samples from each discharge location shall be collected within four (4) hours of: <ul style="list-style-type: none"> a. The start of the discharge; or, b. The start of facility operations if the QSE occurs within the previous 12-hour period (e.g., for storms with discharges that begin during the night for facilities with day-time operating hours). Sample collection is required during scheduled facility operating hours and when sampling conditions are safe in accordance with Section XI.C.6.a.ii.
Industrial General Permit Provision XI (Monitoring), subsection B. 6. c	The Discharger shall analyze all collected samples for the following parameters: Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2). These additional parameters may be modified (added or removed) in accordance with any updated SWPPP pollutant source assessment.

Regulatory Section	Citation
Industrial General Permit Section XXI. Standard Conditions, Subsection J.2	Monitoring and Records: If Dischargers monitor any pollutant more frequently than required, the results of such monitoring shall be included in the calculation and reporting of the data submitted.