
North Coast Regional Water Quality Control Board

September 22, 2020

Certified Mail No. 7016 0750 0001 0048 7174

Mr. Tim Burgess
Mr. Larry Solomon
Klein Foods Inc.
11455 Old Redwood Hwy
Healdsburg, CA 95448
lsolomon@rodneystrong.com

Dear Mr. Burgess & Mr. Solomon:

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), Waste Discharge Requirements (WDRs) Order No. 88-54 , and the Federal Clean Water Act Section 301.

File: Klein Foods, Inc. – Rodney Strong Vineyards, 11455 Old Redwood Hwy. Healdsburg CA 95448, Sonoma County, WDID No. 1 49I004524;

As the operator (Klein Foods, Inc.) of the Rodney Strong Vineyards (Facility), you are hereby given notice that the unauthorized discharge to Reiman Creek from the Facility violated discharge prohibitions in the Industrial General Permit, your Waste Discharge Requirements Order, and the federal Clean Water Act (33 USCA § 1251 et al.).

A. Background

Rodney Strong Vineyards (Facility) is located on a 35-acre property at 11455 Old Redwood Highway, approximately one-half mile east of the Russian River. The latitude and longitude are 38.5732° N and 122.8440° W. The receiving water body is Reiman Creek, a tributary to Russian River, which is identified as impaired on the Clean Water Act Section 303(d) list for sediment and temperature.

The Klein Foods, Inc. (Discharger) applied for coverage under Waste Discharge Requirements (WDRs) Order No. 88-54, on February 23, 1988, which are required for facilities that are not connected to sewer systems. At this Facility these requirements apply to a pond wastewater treatment system that consist of five onsite treatment ponds which provide treatment, solids settling, and percolation. The resulting treated wastewater is then used for on-site for irrigation or percolates into the ground under the percolation pond.

In addition, Klein Foods Inc. enrolled for coverage under State Water Resources Control Board Order No. 2014-0057 DWQ General Permit for Storm Water

Discharges Associated with Industrial Activities (Industrial General Permit). The Industrial General Permit requires the Discharger to manage and control all storm water and non-storm water discharges that come into contact with pollutant sources related to the industrial activities on site.

At the Facility, storm water flows are generated from areas where industrial activities occur and are directed to either storm water drains or process wastewater drains. Process wastewater is collected into a sump and is pumped to treatment ponds located on the northwest corner of the property. There are five ponds at the Facility, including three process wastewater ponds (Nos. 1-3), a settling pond (No. 4) and a percolation pond (No. 5).

On January 22, 2020, the racking door on a large wine storage tank (approximately 100,000-gallon) in the blending building at the Facility catastrophically failed, bursting open with such force that it damaged an adjacent stainless-steel wine tank. This resulted in the rapid release of approximately 97,000¹ gallons of wine. The wine flooded the blending building, overwhelmed the small French drain system in the building designed to convey small spills to the onsite process wastewater ponds, flowed out the rollup doors on both ends of the building, flowed across approximately 180 feet of soil on one end, and approximately 20 feet of concrete and soil at the other end, and entered nearby Reiman Creek. When Regional Water Board staff visited the site on the following day (as discussed further below), they observed wine staining approximately 4 feet high on the outside of the tanks (See picture # 3 of inspection report for the inspection conducted on January 23, 2020).

On January 23, 2020, Regional Water Board staff visited the Facility to inspect site conditions in the vicinity of the release. (The final inspection report is available in SMARTS). In the company of Discharger representatives and a warden from the California Department of Fish and Wildlife (CDFW), staff viewed the racking tank in the blending building, the path of the released wine, portions of Reiman Creek and downstream receiving waters, and portions of the wastewater collection and treatment system. Staff observed several dead earthworms in Reiman Creek, just upstream of Sotoyome Creek. Staff observed wine staining throughout the segment of Reiman Creek from the point where the wine spilled into the creek to where it meets Sotoyome Creek (approximately 700 feet), and for a short distance (approximately 600 feet) in Sotoyome Creek downstream of the confluence. Staff estimated the length of impact using Google Earth.

During the January 23, 2020 inspection, Discharger representative Larry Solomon described the incident and discussed the efforts made by Facility staff to respond to the release. These efforts, included constructing a makeshift dam in Reiman Creek, setting up a trash pump to capture and convey released wine into a manhole leading to a lift station to the wastewater treatment system, and engaging a local wastewater maintenance and repair company to bring out vacor trucks to assist with pumping wine from both sides of the dam and conveying wine to one of the wastewater process ponds(Pond No. 1).

¹ Supplemental spill incident report uploaded in SMARTS.

The initial volume estimate reported by the Discharger to CalOES approximately 2 hours after the spill was 97,000 gallons released with 20-25 percent recovered by the Discharger's efforts. The Discharger continued to recover spilled wine after notifying CalOES. During the January 23 inspection, Mr. Solomon stated that they had recovered approximately 20-50 percent of the total spill.

Discharger staff did not collect samples on January 22, but collected samples on January 23, after the inspection, per request by Regional Water Board staff. The Discharger collected samples in Reiman Creek from both up- and downstream of the location where the spill entered the creek but did not report the exact sampling locations. Analytical results showed slightly higher levels of total dissolved solids, total suspended solids, oil & grease, and biochemical oxygen demand in the downstream sample, consistent with residual impacts from the spill. Analytical results for downstream water quality sampling do not show exceedances of water quality standards set forth in the Water Quality Control Plan for the North Coast Region (Basin Plan). However, since the samples were collected more than 24 hours after the discharge occurred, the sample results do not reflect the full magnitude of the possible exceedances of water quality standards due to the spill.

B. Relevant Requirements

During the January 23, 2020 site inspection, Regional Water Board staff investigated and confirmed an unauthorized non-storm water discharge into a water of the United States, resulting from the wine release. This discharge violates permit requirements. Attachment A – Regulatory Citations, provides references to these requirements and regulations.

C. Alleged Violations

The January 22, 2020 release of wine into Reiman Creek violated the following provisions of the Industrial General Permit, Waste Discharge Requirements Order No. 88-54, and the federal Clean Water Act:

- Waste Discharge Requirements (WDRs): Order 88-54, Section A. 1, Discharge Prohibitions: The discharge of waste to the Russian River or its tributaries is prohibited.
- Industrial General Permit: Section III. B, Discharge Prohibitions: Prohibits non-storm water discharges not in compliance with the permit.
- Clean Water Act Section 301 (33 U.S.C. 1311): Prohibits the discharge of any pollutant into waters of the United States without a permit.

D. Future Enforcement Action

Please note that 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

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abatement order or time schedule order, seeking administrative civil liabilities, and/or making a referral to the California Attorney General's office for civil enforcement. Administrative civil liabilities may be assessed by the Regional Water Board in the amount up to \$10,000 for each day the violation occurs, and up to \$10 per gallon of waste discharged beyond the first 1,000 gallons not cleaned up, 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 phone at (707) 576-2609.

You may also contact me at Heaven.Moore@waterboards.ca.gov or by phone 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, P.E.
Senior Water Resource Control Engineer - NPDES Unit

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Attachment Attachment A – Regulatory Citations

cc: **North Coast Regional Water Quality Control Board**
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Sonoma County Permit and Resource Management Department
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Attachment A – Regulatory Citations

Regulatory Section	Citation
Waste Discharge Requirement (WDRs) Order No. 88-54, Section A.1	The discharge of waste to the Russian River or its tributaries is prohibited.
IGP - Section III. Discharge Prohibitions, Subsection B	Except for non-storm water discharges authorized in Section IV, discharges of liquids or materials other than storm water, either directly or indirectly to waters of the United States, are prohibited unless authorized by another National Pollutant Discharge Elimination System (NPDES) permit. Unauthorized non-storm water discharges must be either eliminated or authorized by a separate NPDES permit.
Federal Clean Water Act Section 301 (33 U.S.C. 1311)	Prohibits the discharge of any pollutant into waters of the United States without a permit.
IGP - Section X. Stormwater Pollution Prevention Plan (SWPPP), Subsections H.c	<p>Spill and Leak Prevention and Response</p> <p>The Discharger shall:</p> <ul style="list-style-type: none"> i. Establish procedures and/or controls to minimize spills and leaks; 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, iv. Identify and train appropriate spill and leak response personnel