

REPORT OF COMPLIANCE EVALUATION INSPECTION
(INDUSTRIAL STORMWATER)

BMaKK Corporation

1440 Red Street
Omaha, Nebraska 68112

Authorization Number: **ISW-202201233 (Expired)**

BY

U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION 7

ENFORCEMENT AND COMPLIANCE ASSURANCE DIVISION (ECAD)
WATER BRANCH/DRINKING WATER & INSPECTIONS SECTION (WB/DWIS)

ON

October 5, 2023

Introduction

At the request of the Water Branch (WB), Enforcement and Compliance Assurance Division (ECAD), a Compliance Evaluation Inspection (Industrial Stormwater) was conducted on October 5, 2023, at the BMaKK facility in Omaha, Nebraska. The inspection was conducted under the authority of Section 308 of the Clean Water Act, as amended. It was conducted in accordance with the U.S. Environmental Protection Agency (EPA) Region 7 Standard Operating Procedures for Compliance Inspections (ENST SOP No. 2332). This narrative report presents the findings of the inspection. Sam Fleagle with the Nebraska Department of Environment and Energy-NPDES Compliance Section was present during the inspection.

Participants

BMakk Corporation

- Bennett Achigbu, CEO/Owner bachigbu@bmakk.com
- Harold McCormick, Project Manager
- Bette Fipps, Admirative Assistant

Nebraska Department of Environment and Energy-NPDES Compliance Section

- Sam Fleagle, Environmental Specialist

U.S. Environmental Protection Agency (EPA), Region 7

- Naji J. Ahmad, Environmental Engineer, ECAD/WB/DWIS

Inspection Procedures

Mr. Sam Fleagle and I arrived at the site (the Facility) at approximately 9:45 A.M. on October 5, 2023. We met with Ms. Bette Fipps. We introduced ourselves, I presented my credentials, and I explained the purpose and procedures of the industrial stormwater compliance evaluation

inspection. These included completing the Region 7 Industrial Stormwater Worksheet (Attachment 1), completing the US EPA Confidentiality Notice, evaluating self-monitoring and stormwater management practices, and conducting a facility walk-through with photographs (Attachment 4).

Ms. Fipps indicated that she is aware of the Stormwater Pollution Prevention Plan (SWPPP), but that she had to call the site manager and the owner and inform them of our visit. Ms. Fipps was able to locate the SWPPP. While I was reviewing the SWPPP, Mr. Bennett Achigbu and Mr. Harold McCormick arrived at the site. We introduced ourselves, I presented my credentials, and I explained the purpose and procedures of the industrial stormwater compliance evaluation inspection.

I provided Mr. Achigbu with the U.S. EPA Small Business Resources Information Sheet and the U.S. EPA Confidentiality Notice. The Facility chose not to claim any confidential business information.

Mr. Achigbu informed us that, currently the Facility is in the process of renewing the GP. He added that the Notice of Intent (NOI) was rejected by the Nebraska Department of Environment and Energy (NDEE) on December 2, 2022 (Attachment 3) for inadequate Stormwater Pollution Prevention Plan (SWPPP) and a wrong list of pollutants. Records indicated that the Facility resubmitted the NOI on January 26, 2023, but it again was returned by the NDEE on September 21, 2023, for an incomplete SWPPP. After a brief description of the SWPPP and site operations, Mr. Achigbu and Mr. McCormick escorted us on a visual inspection of the site.

During our visual inspection of the main (north section) of the Facility we observed the concrete crushing and recycling operation, employee and equipment parking areas, above ground storage tanks, recycled concrete storage piles, outfall 04 and stormwater inlets on Read Street (outfalls 01, 02, 03, and 05). We also looked at the south section of the site where the raw material (concrete) is stored to be processed.

After the facility walkthrough, we held a formal exit meeting with Mr. Achigbu and Mr. McCormick. I discussed my preliminary observations, and I informed Mr. Achigbu that I will issue a Notice of Preliminary Findings (NOPF) and email it to him. I also asked him to contact the NDEE to get the SWPPP approved and renew the permit.

On October 5, 2023, I issued and sent, via an email, the NOPF with three observations (Attachment 2).

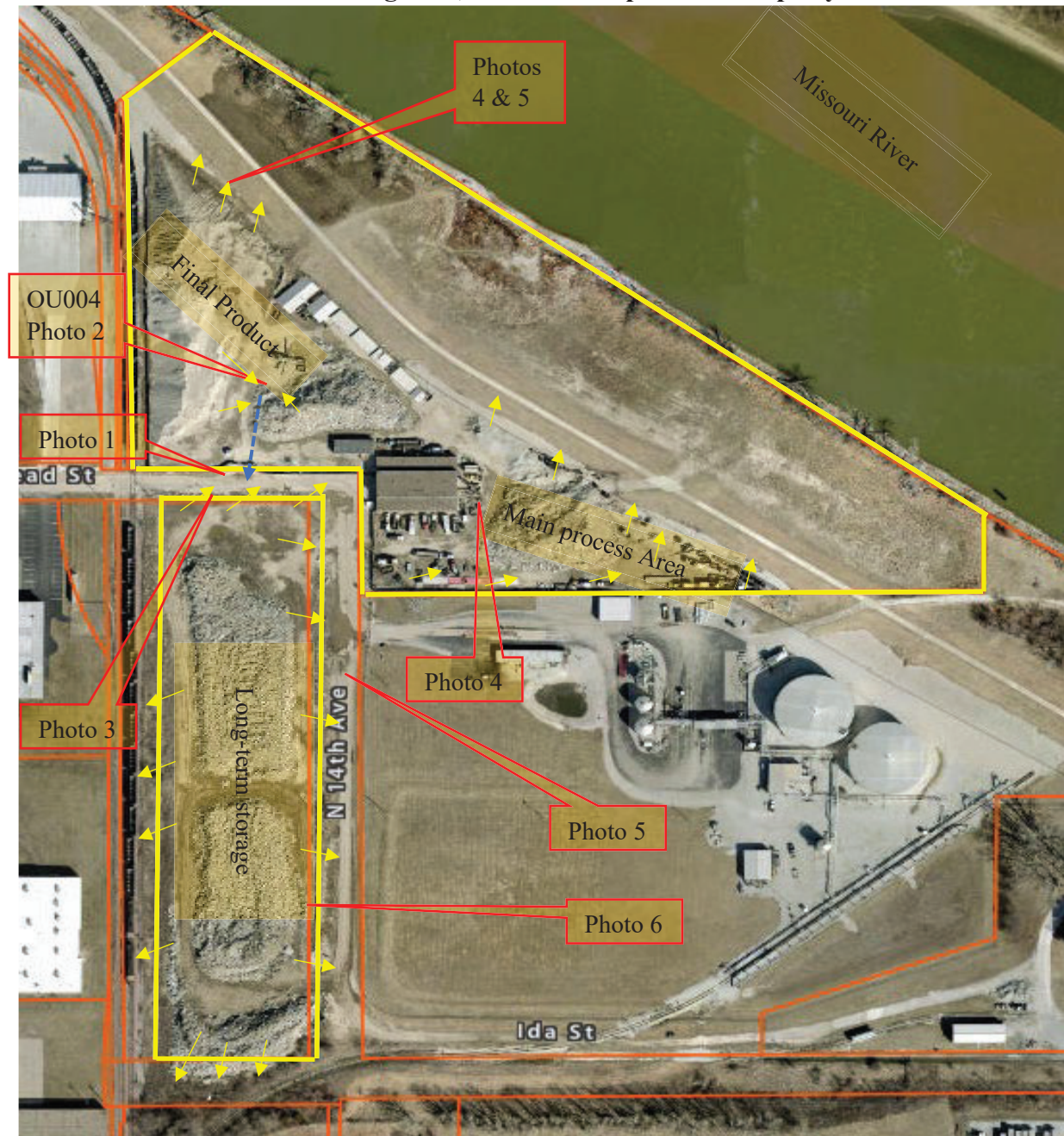
On October 21, 2023, I received the Facility response to the NOPF (Attachment 3) via an email from Mr. Achigbu that also included the signed NOPF, SWPPP certification, the 2017 SWPPP and NOI, and Section 1.2 of the 2017 SWPPP.

Facility Description

BMaKK Corporation is a concrete recycling facility that accepts waste concrete from the city of Omaha, construction contractors, and the general public for processing through crushing and storing for sale. The facility consists of two areas: (1) the main process area which includes the

east section where the waste concrete is received and processed, and the west section where processed and final material is stockpiled for sale. The long-term waste concrete storage pile area is located south of the main processing area along N 14th Street. This area is used to store large amounts of waste concrete waiting to be processed. Crusher and equipment operators are hired contractors. The Facility consists of an office, a maintenance building, a fueling area, waste material truck unloading and storage areas, and final product storage areas. The Facility operates 8 hours per day, five days a week and employs approximately 15 people.

Figure 1, BMaKK Corporation Property



Activities on site fall under Standard Industrial Classification (SIC) Code 1429 (Crushed and Broken Stone, Including Rip Rap). Therefore, the Facility is regulated under Sector J.2-crushing of stones (concrete) of the Nebraska Department of Environment and Energy (NDEE) General Permit under the National Pollutant Discharge Elimination System (NPDES). The Facility is required to sample its discharges for Total Suspended Solids (TSS) and the Benchmark Monitoring Concentration is 100 mg/L.

Potential pollutant sources include aggregate storage and fuels and chemical storage.

Stormwater Runoff Patterns

- Stormwater runoff from the upper west area where the final product stockpiles are located would flow in three directions:
 - The north section would flow north toward the Missouri River levee,
 - The middle section would flow toward Outfall O4 which drains to the Omaha Municipal Separate Storm Sewer System (MS4), and
 - The south section would flow south onto Read Street.
- Water would also puddle in several locations of the yard.
- Stormwater runoff from the upper east area where the waste material is received and processed would flow in two directions:
 - The north section would flow north toward the Missouri River levee,
 - The south section would flow south onto N 14th Street.
- Water would also puddle in several locations of the yard.
- Stormwater runoff from the south, where the long-term stockpiles are located would flow in several directions:
 - north onto Read Street.
 - east onto N 14th Street.
 - South and west into the railroad ditch

Storm water from Read Street would flow south approximately 2.3 miles via the Omaha MS4 through a Wet Well and into Carter Lake.

Findings and Observations

1. At the time of the inspection, I did not observe discharge from the Facility. However, evidence of discharge into Read Street and the ditch leading to the Missouri River Levee were visible.
2. My review of the Stormwater Pollution Prevention Plan (SWPPP) indicates that the SWPPP (Attachment 3) is outdated, not signed, and doesn't reflect current site operations.
3. Notice of Preliminary Finding number 1 (NOPF #1) was issued on October 5, 2023 because the Facility continues to operate without authorization and failed to follow up and reapply for the general permit in compliance with the provisions of the Clean Water Act as amended, (33 U.S.C. Secs. 1251 et. seq.), and the Nebraska Environmental Protection Act, as amended (Neb. Rev. Stat. Secs. 81-1501 et. seq.).

4. NOPF #2 was issued because the Facility failed to implement the requirements of the SWPPP and the GP. As mentioned above, the Facility is subject to Sub Sector J.2-crushing of stones (concrete) of the General NPDES Permit. Therefore, the Facility is required to collect a representative sample of its discharges and analyze it for Total Suspended Solids (TSS) at a Benchmark Monitoring Concentration of 100 mg/L. In addition, the permit requires Quarterly Routine Facility Inspections, Quarterly Visual Assessments of Stormwater Discharges, Comprehensive Site Inspections, and Employee Training. My review of records indicated:
 - a. The last monitoring activity was in 2017;
 - b. No records of quarterly routine facility inspection or monthly inspections as required by the SWPPP;
 - c. No records of quarterly visual assessment of stormwater discharges;
 - d. No records of annual comprehensive site inspections; and
 - e. No records of employee training.
5. During our visual inspection of the outfalls, I noticed the following:
 - a. Outfall 04 is located in the final product storage piles area. The outfall was buried under the storage piles and facility personnel had placed a dumpster (upside-down) on top of it as a BMP to prevent sediment and stored material from entering the outfall as demonstrated in Photo 2 below.

Photo 2, the Facility placed a dumpster on top of the outfall as BMP.



- b. Outfalls 01, 02, 03, and 05 are identified as Read Street curb inlets leading to the Omaha MS4. However, Mr. Achigbu indicated that during the last flood, the system was collapsed, and the City did not rebuild it. Therefore, he added, those outfalls were eliminated because surface runoff from the site would puddle on the street until water evaporates. When I returned to the office, I reviewed the Douglas County/Omaha City storm sewer map <https://www.dogis.org/Html5Viewer/?viewer=dogis>. The map indicates that there is a combined sanitary line and separate storm sewer lines on Read Street. The storm sewer line is an 18-inch line that runs west from the front of the main entrance of the facility to a manhole located at the intersection of Read St. and N 16Th Street.
 - c. Structural and nonstructural controls did not exist on site. But, overall, I did not observe significant number of debris or floatables.
6. While walking the Missouri River Levee after the inspection, we noticed that the Facility has a significant amount of material stored against the north fence line. The piles eroded and caused material to spill outside the fence into the levee ditch as demonstrated in Photo 8 below.

Photo 8, Process material spilled outside the north fence line.



7. NOPF #3 was issued because based on the aboveground storage capacity of aggregate

petroleum products stored on site which is more than 1,320 gallons, the Facility failed to develop and implement a Spill Control and Countermeasure Plan (SPCC) in accordance with [§112.7](#) and all other applicable sections of 40 CFR Part 112, §112.3.

8. The Facility response to the NOPF indicated that,
- a. (NOPF #1) On Friday December 2, 2022 BMaKK received a letter from NDEE that their application was being returned for revision. On January 26, 2023 BMaKK resubmitted their application for reconsideration. On September 21, 2023, BMaKK received another letter from NDEE stating that the requirements of the NPDES permit have changed. On September 29, 2023, BMaKK contacted Ms. Hannah Lionberger of NDEE to solicit her assistance with the application. On October 2, 2023 Ms. Lionberger responded to their request and suggested that they contact the Nebraska Games and Parks for further assistance. They have contacted the Nebraska Games and Parks Department and are waiting for their response.
 - b. (NOPF#2) Following EPA inspection of October 5, 2023, BMaKK revised and updated its SWPPP. Please see attachment #3.
 - c. (NOPF #3) BMaKK is currently developing and updating their SPCC plan and hope to have it ready for implementation by the end of the year.

NAJI AHMAD
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Naji J. Ahmad
Environmental Engineer, WB/DWIS

JODI BRUNO
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Jodi Bruno
Manager, ECAD/WB

Attachments

1. ISW Checklist
2. NOPF
3. NOPF response/SWPPP/NOI communication with NDEE
4. Photo Log