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ISGP ENFORCEMENTS & BEST PRACTICES

Ariel Mosbrucker

NEBC Managing Stormwater in Washington

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- Remember, your data is publicly available on PARIS!
- Remember, the public can request a copy of your SWPPP!

Common Initial Causes

Reasons for Ecology Enforcement Actions

- Missing samples
- Not submitting required reports
- Not implementing required corrective actions
- Findings from inspections
- Not having required ISGP coverage, or having an inaccurate CNE waiver

Reasons for Third-Party Lawsuits

- Repeat benchmark/limit exceedances
- Large exceedances
- Visible industry or location
  - Well-known entity, entity with public access, on a busy road, aerial imagery and street view
- Discharge to high profile waterbody
- Another facility with issues

Resolutions

Ecology Enforcement Actions

- Often given the opportunity to correct the violation (informal enforcement)
- Formal enforcement
- Often does not require legal representation

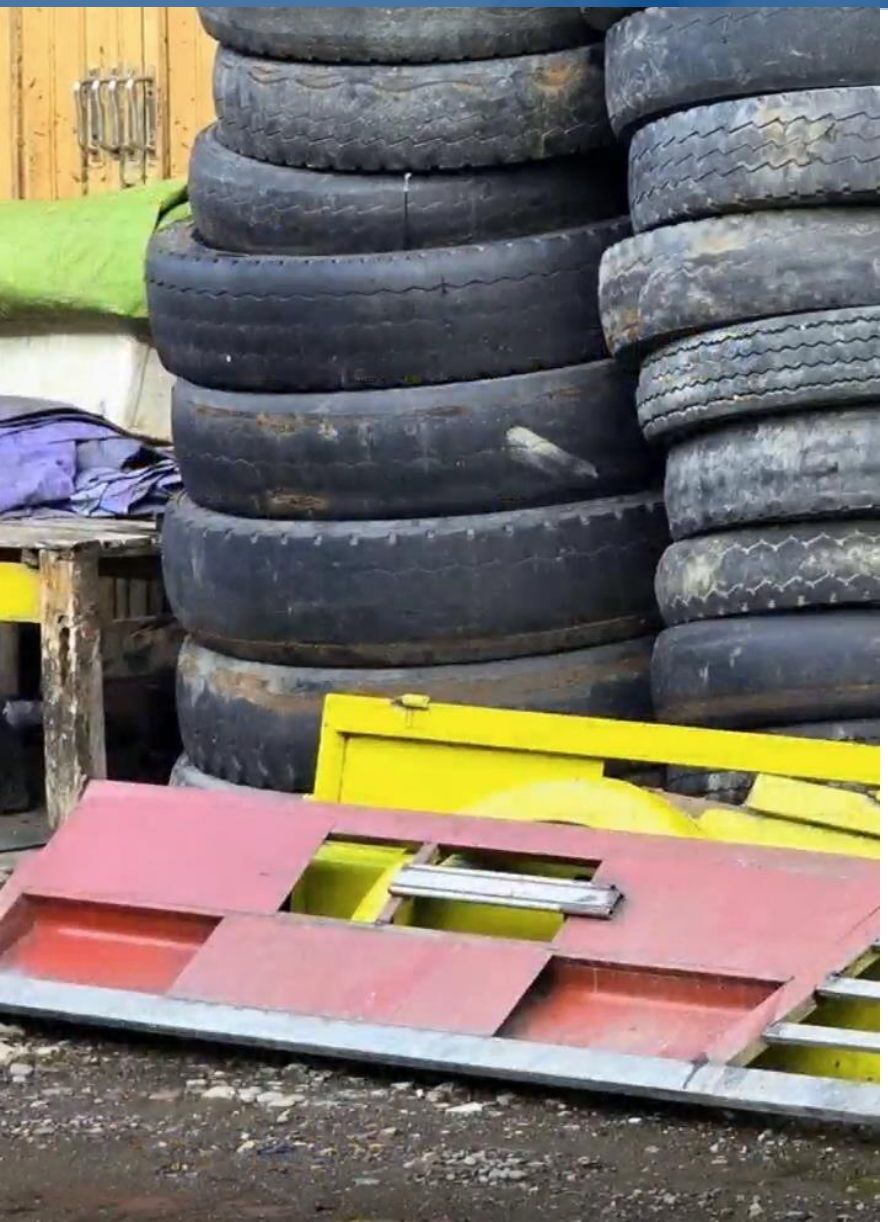
Third-Party Lawsuit Needs

- Legal representation typically necessary
- Often results in an agreement with implementation deadlines
- Often results in monetary compensation

Process for a Third-Party Lawsuit

- Receive notice of intent (NOI) to sue
  - Look into the issues identified in the NOI
  - Consult with legal counsel
  - Hire a qualified stormwater consultant, if you don’t have one
  - Respond to requests for documents
- Site visit(s)
  - Third-party will often request a site walk, which may include sampling
- Formal complaint filed

Process for a Third-Party Lawsuit



- Respond to formal complaint
  - Third-party will request documents related to your ISGP, including your SWPPP, corrective actions, training logs, document certifications, chain of custody forms, visual inspection forms, etc.
- Settlement presented
  - Negotiate requirements, deadlines, fines
  - Often a consent decree
- Settlement reached, or continue to trial

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Best Practices to Avoid an Enforcement or Lawsuit

How to avoid enforcements

- Read and implement your permit
  - Requirements change every time the permit is reissued
- Know and follow your deadlines
- Proactive communication
  - Request extensions when you need them
  - Communicate with Ecology when there are issues, and before you miss a deadline

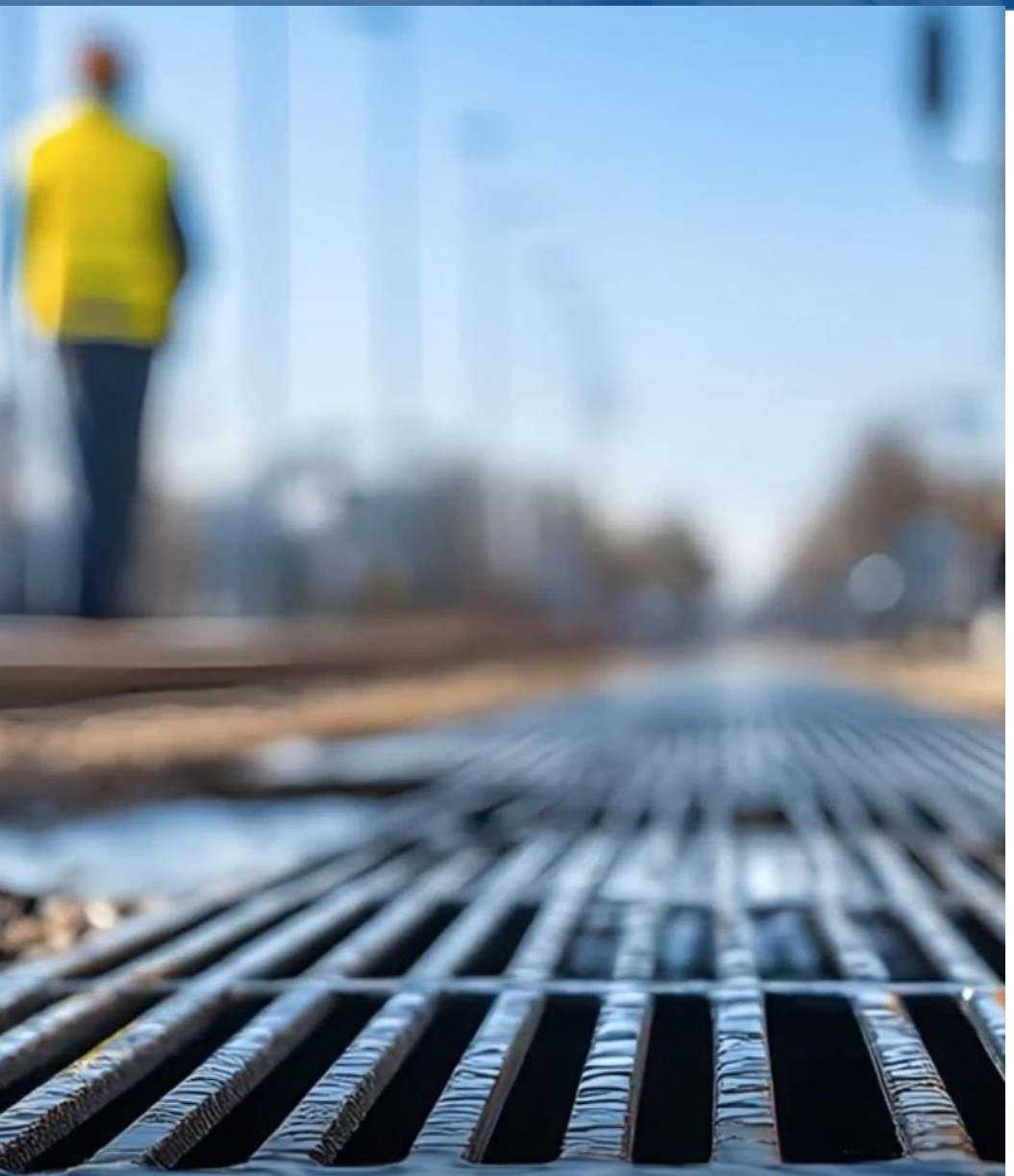
How to avoid enforcements

- Know and follow your SWPPP
  - Have you implemented all mandatory and applicable BMPs per the SWMM-WW or -EW?
- Verify your drainage map!
  - Open manholes and count pipes, tracer tests, CCTV
- Select representative sample locations
  - Are substantially identical outfalls necessary and advantageous?

How to avoid enforcements

- Ensure you're maintaining records that don't have to be submitted to Ecology
  - Monthly inspections, calibration logs, training logs, BMP maintenance records, documentation tying Level 1 actions to SWPPP revisions, periodic SWPPP updates
- Have your ISGP-related documents organized and accessible
  - You're required to retain documents for a minimum of 5 years
  - Organized file system? Consultant-maintained shared site? Admin help?
  - Review your facility's information on PARIS

How to avoid enforcements



- Have a plan for potential Ecology inspections
  - What if the environmental lead is on vacation or at a site on the other side of the state?
- Have SOPs, O&M manuals, etc., available to assist new hires
- Update training materials as needed

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Questions?

Ariel Mosbrucker
Senior Water Resources Engineer
amosbrucker@geosyntec.com