



Lawsuits, Jail, and Fines: A Plant Manager's Guide to Stormwater Permits

Presented by



October 23, 2017



Ryan Janoch, PE

Founder of Mapistry

State of VA BMP Committee (appointed)

Led NJDEP BMP testing reg. development

National Committee for Stormwater BMPs w/ EPA

100+ webinars (6,000+ stormwater geeks)



BACKGROUND

WHAT IS **STORMWATER**?

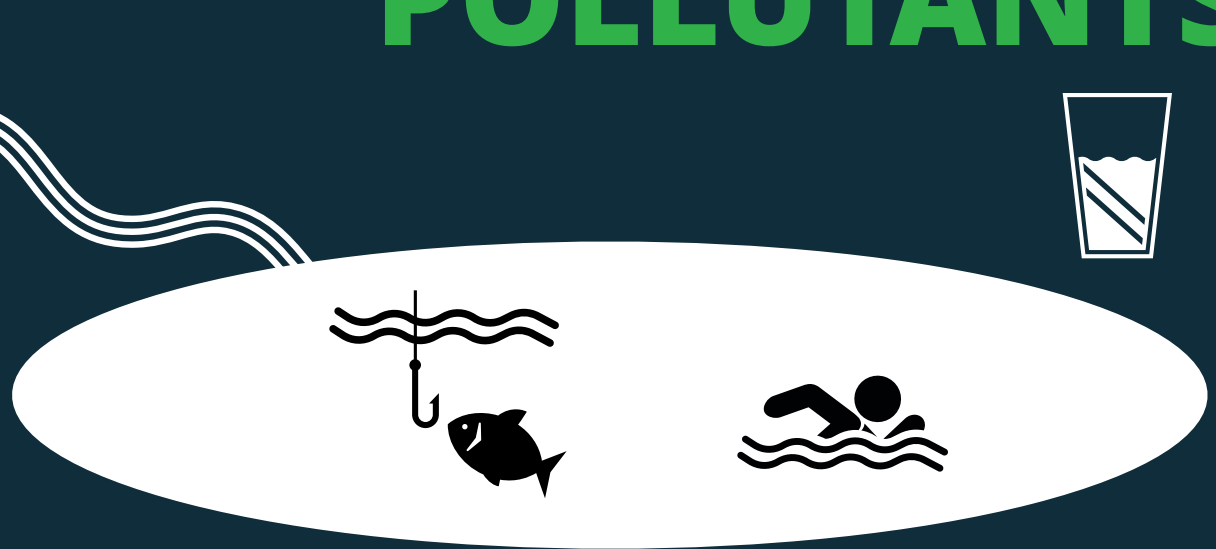
WHY SHOULD I CARE?



STORMWATER¹

CARRIES

POLLUTANTS²



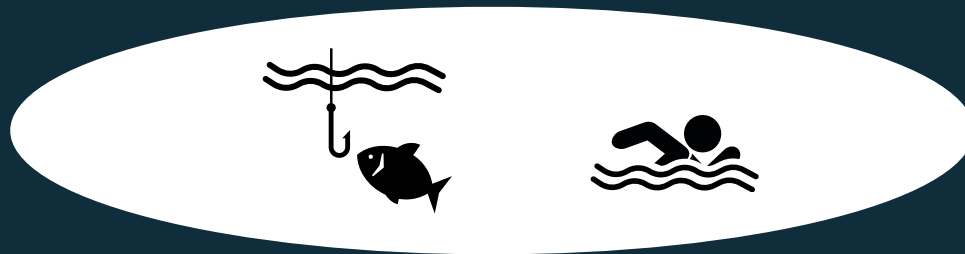
1. Rain water
2. Sediments, metals, etc.

HOW IS **STORMWATER** DIFFERENT FROM **WASTEWATER**



Stormwater
is typically
untreated

Wastewater
is treated



DUMP NO WASTE



DRAINS TO STREAM



Permit Basics

- **SWPPP and maps**
- BMPs
- inspections
- sampling
- reporting

Industrial General Permit

Multi-Sector General Permit

Industrial Stormwater General Permit

- ✓ Specific activities covered
- ✓ NPDES authority delegated by EPA
- ✓ Based on SIC code

APPLICABILITY

- ✓ Based on 9 categories
 - Facilities w/ subchapter N effluent standards (refineries/fertilizer manufacturing)
 - Manufacturing facilities
 - Oil & gas/mining facilities
 - Hazardous waste treatment sites
 - Landfills
 - Recycling facilities
 - Electric power plants
 - Transportation companies
 - Sewage treatment plants





1. Fulfill **Legal** Requirements
2. **Protect** the Environment
3. Maintain Brand **Reputation**
4. Mitigate **Financial Implications**

WHAT FINANCIAL IMPLICATIONS ?



1. **Fines/Lawsuits**
2. Insurance **Premiums**
3. Environmental Department
Time & Costs
4. Production **Workers' Time**

**\$32.5M
SETTLEMENT**
(seafood processor)⁵

**#1 EPA
Enforcement
Priority**⁹

\$1.5M FINE
(transportation
company)¹³

2 11 LAWSUITS/WEEK
in California⁸

DECEMBER 2016
EPA electronic
reporting deadline¹²

\$4.9M FINE
(power generator)⁶

\$4.1M FINE
(chemical manufacturer)³

**\$200K
SETTLEMENT**
(building materials
producer)¹⁴

WHY NOW?

~\$35K/YEAR
cost to facility¹⁰

**46 DIFFERENT
PERMITS**
in 50 states¹⁵

46 CRIMINAL CHARGES
(petroleum distributor)⁷

\$11.7M SETTLEMENT
(ready-mix plants)²

**\$7.5M
SETTLEMENT**
(cement quarry)¹

ONLY 13% of
companies use software
for stormwater¹¹

\$2.75M FINE
(construction materials
producer)⁴

2 11 LAWSUITS/WEEK
in California

\$11.7M SETTLEMENT
(ready-mix plants)

**#1 EPA
Enforcement
Priority**

46 CRIMINAL CHARGES
(petroleum distributor)

DECEMBER 2016
EPA electronic
reporting deadline



Why do companies get sued/fined?

- **sampling data**
- incomplete site maps
- no SWPPP



LAW SUITS

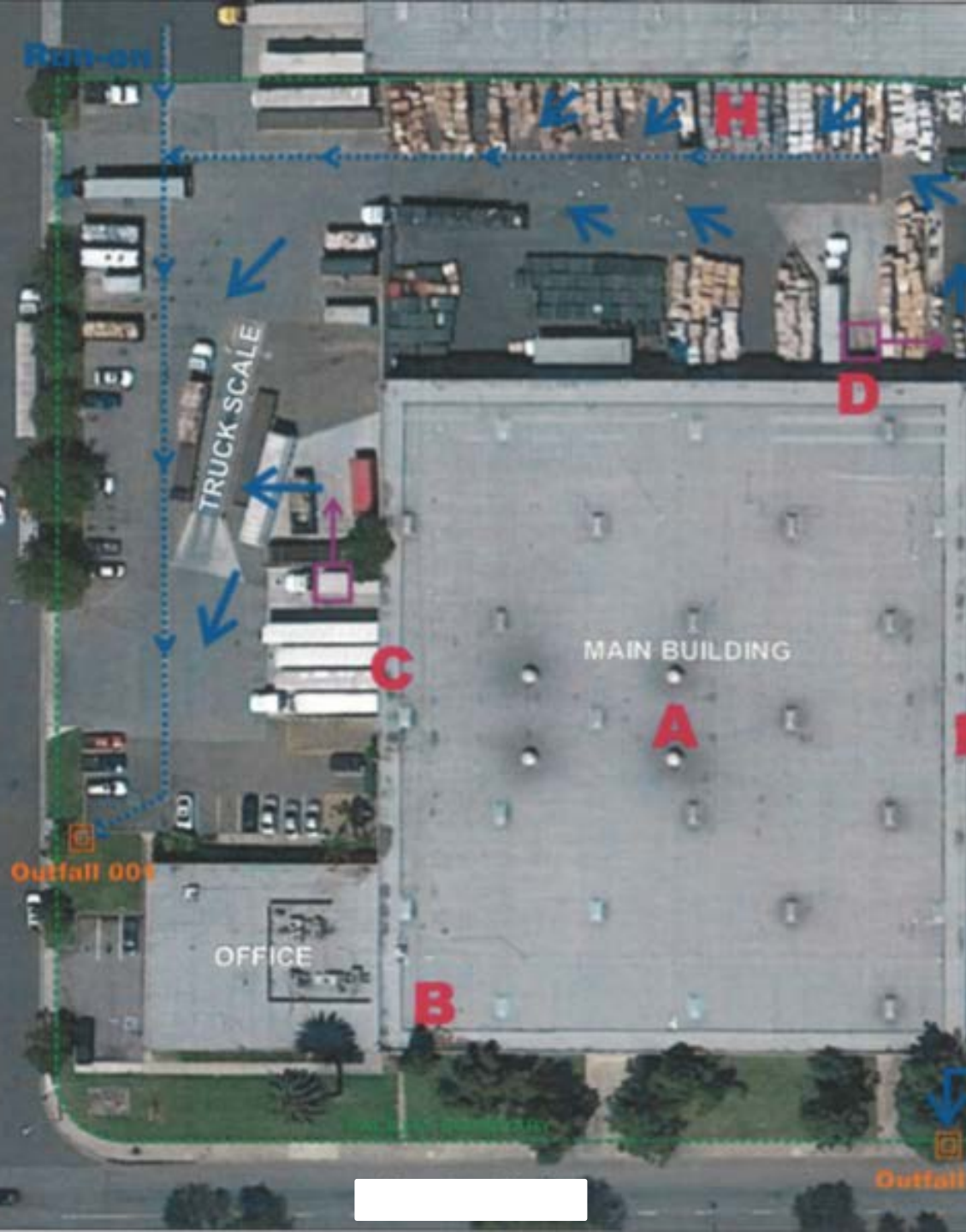


COMPOST FACILITY

- ✓ \$60,000 settlement
- ✓ 6 other facilities audited
(on their dime)

They **did not**...

- ✓ maintain **records**
- ✓ conduct site **inspections**
- ✓ submit annual **reports**



PAPER FACILITY

\$37,500 settlement

Pollutants of concern:

- ✓ Metals
- ✓ TSS

They **have to**...

- ✓ clean stormwater system
- ✓ sweep monthly

SAMPLING PROBLEMS?

Sampling Point 1 - Outfall 001



Obtain a stormwater sample as it falls into the storm drain (not from a puddle or stagnant water) after passing through the berm filters in front of the storm drain.



CONTAINER FACILITY

- ✓ Sued 2014
- ✓ California
- ✓ Two facilities

Allegations...

- ✓ Not sampling
- ✓ TSS over limits
- ✓ Deficient SWPPP
- ✓ Incorrect annual reports

SAMPLING

November 2015

✓ TSS <100 mg/L

April 2016

✓ TSS >300 mg/L

✓ One @ 1,500 mg/L





LUMBER FACILITY

Notice of Intent to Sue
(2016)

Pollutants of concern:

- ✓ COD
- ✓ TSS
- ✓ pH



LUMBER FACILITY

REGULATOR INSPECTION

June 2015

Findings:

- ✓ Clean out OWS
- ✓ Chips by inlet
- ✓ Incorrect sampling
- ✓ Mixing WW and SW
- ✓ Outdated SWPPP





COMMON INSPECTOR FINDINGS

- ✓ Sediment **track out**
- ✓ Dumpsters **not covered**
- ✓ Late **reports**



LAWSUIT PROCESS

Water Boards Storm Water Multiple Application & Report Tracking System



- >> Cal/EPA
- >> State and Regional Water Boards' Map
- >> Laws/Regulations
- >> Plans/Policies
- >> Programs
- >> Decisions Pending and Opportunities for Public Participation


Welcome to Storm Water Multiple Application and Report Tracking System

SMARTS

SMARTS was developed as an online database for dischargers to electronically file their storm water permit documents. The system allows the Region and State Board staff, as well as the public, to access storm water data through submitted documents.

Need to sign up for a SMARTS account? All SMARTS users must have their own account. Click the "Get Started" button below for instructions.

[Get Started](#)

 **Web Browser Requirements:** SMARTS runs on Internet Explorer 11. You must use Internet Explorer 11.

SMARTS LOGIN

User ID:

Password:

[Login](#)

Forgot User ID or Password?
[Click here](#)

PUBLIC ACCESS

Public Access to NOI, SWPPPs & Annual Reports data

[View SW Data](#)

EVERYTHING PUBLIC CALIFORNIA (SMARTS)

- ✓ SWPPP
- ✓ Site maps
- ✓ Analytical data
- ✓ Annual reports

CITIZEN ACT LAWSUITS - TARGET

- ✓ **Incomplete**/inaccurate SWPPP
- ✓ **Inaccurate** monitoring plans
- ✓ Records indicating **high levels** of certain constituents

WHY?

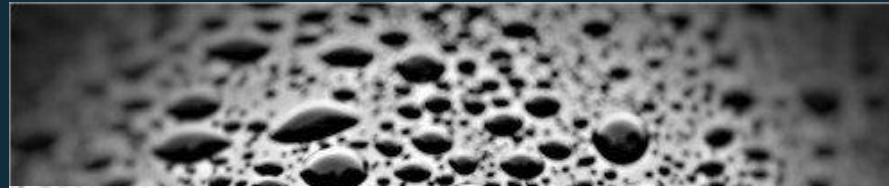
Environmental Stewardship



Recover Attorney Fees



PROCESS



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

**Re: Sixty-day Notice of Violation of the Clean Water Act,
Molalla STP NPDES Permit No. 101514**

Mayor Rogge, President Pottle, Mr. Huff, and Mr. Howatt,

Bear Creek Recovery and Susan Hansen (collectively “BCR”) hereby give you this notice, pursuant to Section 505 of the Federal Water Pollution Control Act (“Clean Water Act” or “CWA”), 33 U.S.C. § 1365, of the intent to initiate an enforcement action against the City of Molalla, an Oregon municipal corporation (the “City” or “City”) to enforce the Clean Water Act, 33 U.S.C. §§ 1311, 1312. The City’s wastewater treatment facility, located at 12424 Toliver Road, Molalla, OR 97038, is covered under the Oregon Department of Environmental Quality (“DEQ”) issued National Pollutant Discharge Elimination System (“NPDES”) Waste Discharge Permit (“Permit”). The City of Molalla has continued to violate the express terms of the CWA and the NPDES Permit.



STORMWATER COMPLAINT

60-day notice

Typical **Allegations**

- ✓ Discharges of Contaminated Stormwater
- ✓ Inadequate SWPPP
- ✓ Inadequate BMPs
- ✓ Inadequate Monitoring and Reporting Program
- ✓ False **Certification of Compliance**



LITIGATE OR SETTLE?

Litigation is **expensive** and time consuming!

VS.

Cost of BMPs that the citizen group requires?



TYPICAL SETTLEMENT TERMS

- ✓ Update SWPPP
- ✓ Install additional BMPs
- ✓ Analyze more constituents
- ✓ Monetary contribution to environmental effort
- ✓ Pay citizen attorneys' fees



Lawsuit defense

- negotiate
- good records (e.g. rain logs)
- fix deficiencies ASAP



WHAT CAN BE DONE

PROGRAM KEY TENANTS

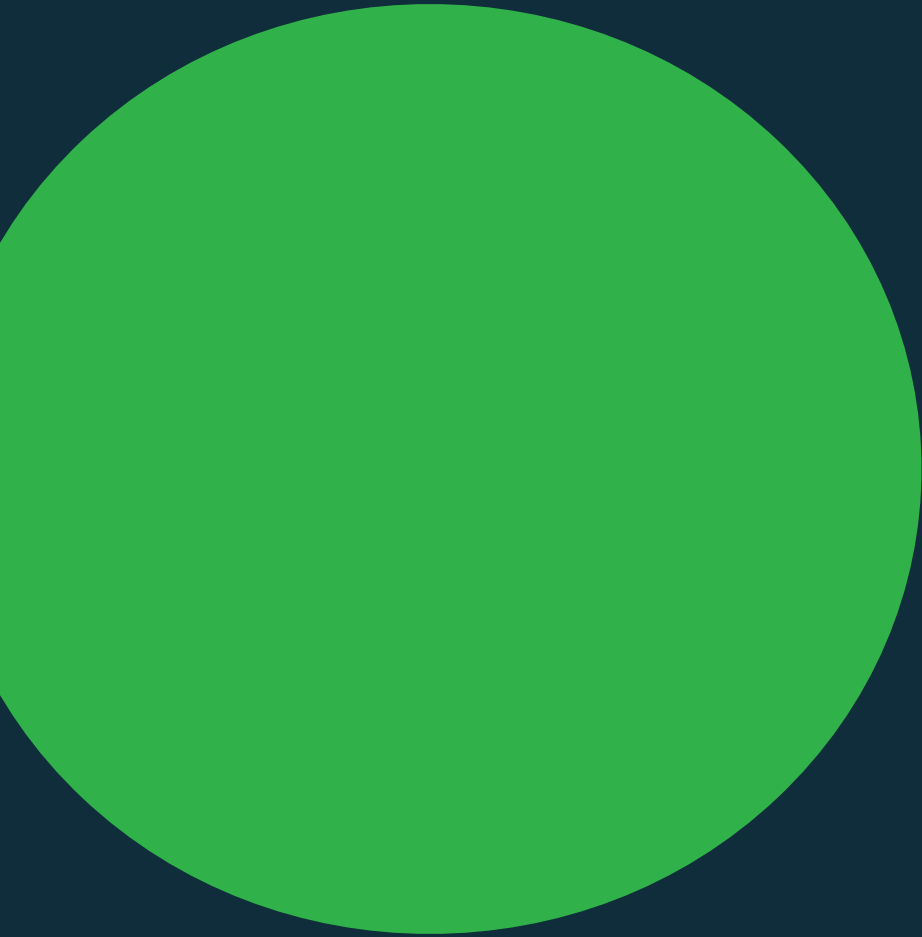
- ✓ Educate
- ✓ Simplify
- ✓ Comply





Lawsuit prevention

- **compliance** with permit
- **train** staff
- **oversee** process
- current and **useful** SWPPP
- react immediately to **60-Day**
Notice Letter



BMPS



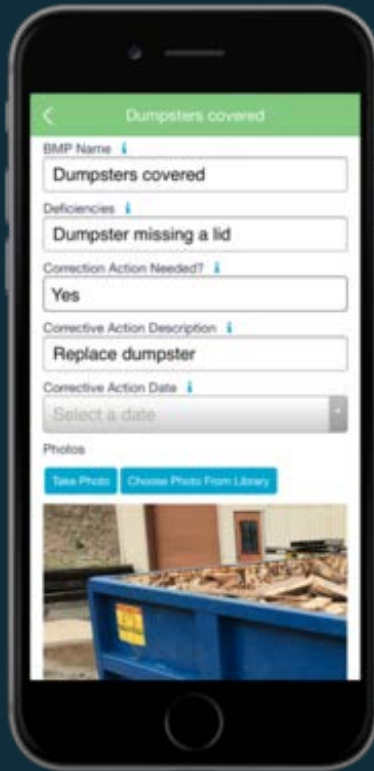
Maintenance Matters



Housekeeping Matters

STAYING IN COMPLIANCE

- ✓ Weather alerts
- ✓ Inspection tracking
- ✓ Corrective action logging
- ✓ Sample calculations
- ✓ Record keeping
- ✓ Reminders



INSPECTION COMPLETION

Automatic Email to Team

Inspection Completed for CA - Berkeley, 6 corrective action(s)

2 messages

Mapistry <info@mapistry.com>
Reply-To: accounts@mapistry.com
To: support@mapistry.com

Tue, Aug 15, 2017 at 1:53 PM

Hello John Smith!

A [routine inspection](#) was completed for [CA - Berkeley](#).

The following corrective actions were noted:

Wattle

Deficiencies: Wattle is falling apart
Corrective Action: Replace wattle
Assigned To: John Smith

CLOSE THE LOOP

Automatic Email of Deficiencies

Hello John Smith!

A routine inspection was completed for CA - Berkeley. As a result of the inspection, corrective actions were identified.

The following corrective actions were assigned you:

Wattle

Deficiencies: Wattle is falling apart
Corrective Action: Replace wattle

Fueling Area

Deficiencies: Spill Kits are empty
Corrective Action: Refill spill kits

Storm Drain Inserts

Deficiencies: Insert is torn
Corrective Action: Replace insert



Upcoming QSE for your projects

Mapistry <info@mapistry.com>
Reply-To: accounts@mapistry.com
To: info@mapistry.com



Hello Ryan Janoch!

The National Oceanic and Atmospheric Administration (NOAA) weather forecast indicates the following project(s) may have a qualified storm event in the next 48-72 hours:

- CA - San Ramon

If you decide to sample during this potential qualified storm event, the Sampling Observation Form can be found on the project dashboard.

You should refer to the Monitoring Implementation Plan within your SWPPP for your sampling requirements and procedures. Additional requirements can be found in Attachment H of the [General Permit](#)

Feel free to ask us any additional questions.

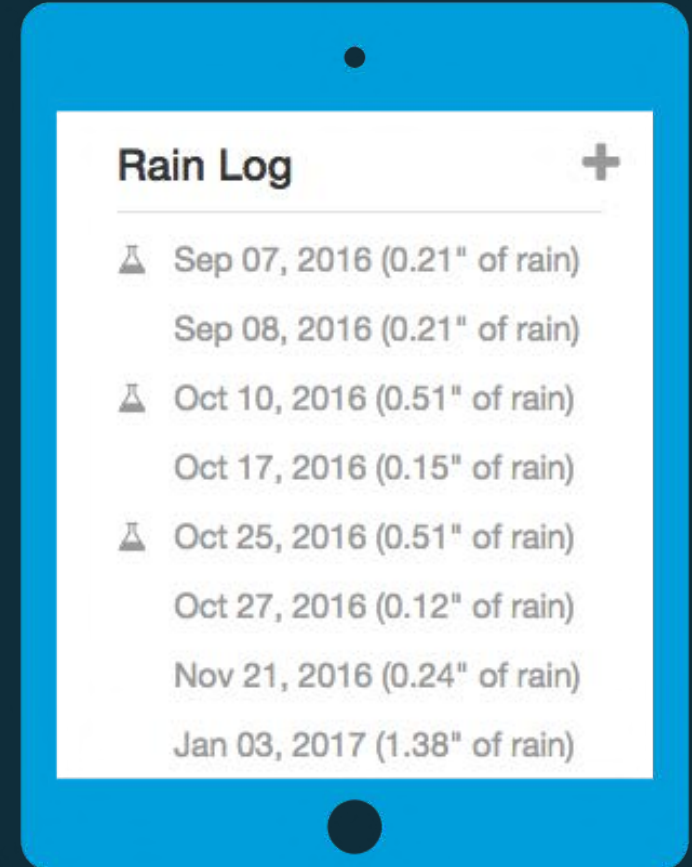
Happy sampling,
-The Mapistry Team

WEATHER ALERTS

Automatic Email 24 Hours Ahead

RAIN LOGGING

Automatic With Photos and Notes



SAMPLING DATA

Analyte:	Oil & Grease (HEM)	Batch#:	230348
Field ID:		Sampled:	12/03/15 13:30
Matrix:	Water	Received:	12/03/15
Units:	mg/L	Analyzed:	12/14/15 16:00
Diln Fac:	1.000		

Type	Lab ID	Result	RL	MDL
SAMPLE	272147-001	34.3	4.81	1.70
BLANK	QC816539		5.00	1.70

ANALYSIS OF RESULTS

Automatic Calculations and Alerts





Steps to Take

- review SWPPP
- train team
- track deficiencies and corrective actions
- centralize records
- fix BMPs ASAP

WHY BUY MAPISTRY?



Centralize and standardize data

- reporting
- performance accountability
- data analysis



Beyond data management

- compliance assurance
- fix broken processes
- domain expertise

INDUSTRIAL STORMWATER IS

ALL WE DO.....





Review Data

**Stay
Organized**

KEYS TO SUCCESS

**Don't Ignore
Letters**

WHAT DOES MAPISTRY SOFTWARE DO?

AUTOMATES
COMMUNICATION

SIMPLIFIES
COMPLIANCE

STANDARDIZES AND
CENTRALIZES



QUESTIONS

ryan@mapistry.com

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