

ATTACHMENT C

CHRONOLOGY OF THE DETENTION POND LINER INSPECTION AND VEGETATION REMOVAL EVENTS

16 October 2003 Notice of Violation states:

“The treatment system detention pond has trees and other vegetation growing within the footprint of the pond. In addition, the effluent discharge from the treatment system is currently discharged at the northwestern limit of the closed waste management unit. Section 20365 of CCR Title 27 requires that inundation from surface and groundwater flow be minimized around waste management units. Therefore, the Discharger must certify by a Professional Engineer that the liner does not leak. Furthermore, the treatment system effluent discharge must go directly into the detention pond. Compliance shall be met no later than 1 February 2004.”

The Discharger failed to respond to this Notice of Violation.

28 July 2005 Inspection:

Staff again observes that vegetation has not been removed from the pond.

9 August 2005 Notice of Violation

Following the 28 July 2005 inspection, the Discharger was notified of the ongoing violation regarding vegetation in the pond. The Notice of Violation states: “The liner system in the retention pond appears to have failed as indicated by the tree and shrubs growing in the pond....No later than 30 August 2005, the Discharger shall submit a plan providing a time schedule to evaluate the liner condition, repair and certify the integrity of the retention pond liner.”

31 August 2005 submittal by the Discharger states:

“The following timeline outlines the proposed schedule to address the GTS retention pond issue as it pertains to the removal of the tree and shrubs, as well as the evaluation of the underlying pond integrity and any associated repairs, as necessary”.

- Present to 9/12/05 Dewatering of the Pond
- 9/12/05 to 9/30/05 Removal of tree/shrubs and underlying sediment to expose liner
- 10/03/05 to 10/14/05 Inspect liner sections beneath former tree/shrubs
- 10/17/05 to 11/18/05 Implement repairs to liner, as necessary
- 11/21/05 to 12/16/05 Prepare certification report.

9 September 2005 Staff email to Discharger:

Staff was very concerned about the Discharger’s management of the impounded water (i.e. discharging above their WDRs allowed flow limit) and therefore, informed the Discharger by email of the options available to remain in compliance with their Waste Discharge Requirements. The email stated: “Steve, I have just completed my review of the 31 August 2005 submittal regarding the Groundwater Treatment System Pond. I wanted to bring this important information to your attention immediately. The provided schedule is dependent upon when the water is emptied from the surface impoundment. In Bonzi Sanitation Landfill’s Waste Discharge Requirements (WDRs) Order No. 90-215, the maximum discharge limit to the vineyard is 288,000 gal/day. With a volume of 12 million gallons in the pond and discharging at the maximum allowed discharge limit

and subtracting the inflow from the treatment system (180,000 gal/day), it will take approximately 111 days (December 29th) to drain the pond. This value does not account for evaporation or rainfall... Any change in the maximum volume discharged or adding additional land application sites will require an update to WDRs Order No. 90-215”.

13 September 2005 e-mail from the Discharger’s consultant proposed the following options for dewatering the pond:

- “Granting of a variance from WDR Order No. 90-215 to permit temporary exceedance of the maximum daily discharge to the vineyard to allow for dewatering of the pond until the inspection and repairs are completed
- Granting of a variance from Cease and Desist Order No. R5-2005-0073 to permit the temporary shutdown of the GTS to allow for dewatering of the pond until the inspection and repairs are completed.
- Temporary reduction in the groundwater treatment system pumping rates, as allowed by existing WDRs, to facilitate dewatering of the pond until the inspection and repairs are completed.
- Granting of a variance from the August 9, 2005 NOV to permit postponement of the pond inspection and repairs until the pond can be dewatered under the current pumping and discharge limitations.”

21 September 2005 Notice of Violation states:

“The provided schedule (31 August 2005) is dependent upon the surface impoundment being emptied by 12 September 2005. In Bonzi Sanitation Landfill’s Waste Discharge Requirements (WDRs) Order No. 90-215 limit the maximum discharge to the vineyard at 288,000 gal/day. With an existing volume of 12 million gallons, pumping at the maximum allowed discharge limit, and subtracting the inflow from the groundwater treatment system (180,000 gal/day), it will take approximately 111 days to drain the pond. This value does not account for evaporation or rainfall. ... Therefore, no later than 11 October 2005, the Discharger shall submit a plan for emptying the pond that includes the expected weekly freeboard levels and complies with WDRs Order No. 90-215”.

21 September 2005 Notice of Violation

Staff was very concerned about the Discharger’s management of the impounded water and therefore, informed the Discharger of the options available to remain in compliance with its WDRs and applicable regulations. The NOV stated: “...*Groundwater Treatment System* – As part of the treatment process, WDRs Order No. 90-215 requires that the groundwater treatment system effluent discharge go directly into the surface impoundment. Direct discharge to the vineyard is a violation of WDRs Order No. 90-215. However, there has been no discussion of how the 180,000 gallons/day from the treatment system will be managed during the pond repairs. Without modifying the treatment system to remove the remaining constituents of concern, the only allowable discharge is into above ground tank(s), or to a wastewater treatment plant. No later than 24 October 2005 the Discharger shall submit a plan for managing the effluent during the pond repair.”

13 October 2006 letter from Discharger states:

“This letter has been prepared to address the information requested in the RWQCB’s September 21, 2005 letter.

On September 9, 2005 EBA received an email from the RWQCB (Howard Hold) informing us of their discovery that the initial dewatering of the GTS retention pond, as presented in EBA’s August 30, 2005 letter submittal, would result in exceedances of the maximum discharge limit to the vineyard as outlined in Waste Discharge Requirements (WDR) Order No. 90-215. EBA promptly acknowledged this oversight and requested assistance from RWQCB staff on how to best deal with the situation in light of the constraints that have been imposed by the RWQCB; i.e., whereas the pond must be dewatered to implement the inspection and/or repairs, the GTS must remain operational on a continuous basis without exceeding the maximum daily discharge limit to the vineyard. In light of the temporary nature of the pond issue and in the interest of trying to comply with NOV request, we outlined (4) potential options in our September 13, 2005 email for consideration by Regional Board staff. These options are as follows

- Granting of a variance from WDR Order No. 90-215 to permit temporary exceedance of the maximum daily discharge to the vineyard to allow for dewatering of the pond until the inspection and repairs are completed
- Granting of a variance from Cease and Desist Order No. R5-2005-0073 to permit the temporary shutdown of the GTS to allow for dewatering of the pond until the inspection and repairs are completed.
- Temporary reduction in the groundwater treatment system pumping rates, as allowed by existing WDRs, to facilitate dewatering of the pond until the inspection and repairs are completed.
- Granting of a variance from the August 9, 2005 NOV to permit postponement of the pond inspection and repairs until the pond can be dewatered under the current pumping and discharge limitations.

Since submittal of the aforementioned email, the RWQCB has not issued a response or provided any insight specific to the potential options listed above. The only response received to date corresponds to the RWQCB’s September 21, 2005 letter, which does not reference our email correspondence. Instead, the letter states that the only allowable discharge is into aboveground storage tanks (ASTs) or to a wastewater treatment plant (WTO). In this regard, EBA offers the following assessment.

- Based on the GTS pumping rate of 125 Gallons per minute (GPM) and a standard portable tank with a 20,000-gallon capacity, nine (9) ASTs would be required per day to store the treated water...Since it would take approximately 21 days to pump the existing pond water to the vineyard (6 million gallons)...189 ASTs would be required to provide adequate storage capacity for the pond dewatering.

...Assuming an average 30-day rental period for each AST, the delivery and rental cost alone would be approximately \$340,000.

- The Landfill, as well as the north-adjacent residential development, are located outside the Modesto City limits and are reportedly not serviced by a public sanitary sewer system. Thus, disposal of the treated groundwater to a WTP would require trucking of the treated groundwater to the City of Modesto's WTP. ...the total extended cost for implementing this scenario would be approximately \$442,000.

...As demonstrated, neither the AST or WTP scenarios represent a practical option. In essence to invest over \$350,000 into the temporary management of essentially "clean" water is considered unreasonably burdensome and an ill-advised use of limited financial resources"

25, 27 and 28 October 2005 Stipulated Settlement Negotiations

Regional Board Staff, Regional Board Counsel, and Stanislaus County Deputy District Attorney met with the Discharger, their consultants and legal representation to discuss the stipulated judgment. The Discharger agrees to remove vegetation, conduct a leak test of the pond, and repair any leaks by 1 January 2006.

1 November 2005 Notice of Violation states:

"...Liner Inspection - The Discharger's 13 October 2005 response asked that the liner investigation address only the areas that have trees and shrub; that it is unnecessary to remove the sediments from the pond; and that the Pond be allowed to fill without an electronic leak check certification. This proposal is not acceptable. CCR Title 27 Section 20375(f) states: *If, during the active life of the impoundment, the wastes are removed and the bottom of the impoundment is cleaned down to the liner, an inspection shall be made of the bottom of the liner prior to refilling of the impoundment.* Also, the pond liner system is already beyond its designed life as described in section 3.3.3 of the October 1998 "Evaluation of Corrective Action Program Performance and Effectiveness" report and therefore an inspection of the entire liner system including an electronic leak detection is required to determine if the liner can contain the discharge now and in the future. Consequently, the Discharger must comply with the requirements for repairing the pond that were outlined in the 9 August 2005 NOV".

1 November 2005 Notice of Violation states:

"Below are staff's comments based on the 11 October 2005 response to 21 September 2005 NOV, 13 September 2005 e-mail considering discharge options, and meetings on 26, 27, and 28 October 2005":

"...Pond Discharge - Staff evaluated the four options in 13 September 2005 e-mail and concluded that they do not comply with the WDRs Order No. 90-215. However, based on circumstances of the cost to comply with the WDRs and the long-term benefit of keeping the groundwater treatment system operational, Board staff proposes not to take enforcement on a one-time discharge from the pond that exceeds WDRs flow limit".

8 November 2005 e-mail from the Discharger's consultant states:

“On November 4, 2005, the estimated volume of water in the pond was calculated to be approximately 6.7 million gallons. In order to dewater the pond in a reasonable time frame that will allow for implementation of the work scope prior to onset of the rainy season, a unit pumping rate of 400 to 500 gallons per minute (gpm) is proposed to the vineyard for a temporary period. The time required to dewater the pond to within 1 foot of the pond base at this pumping rate would be approximately 11 to 14 days, whereupon the 1-foot pond level could be maintained at a pumping rate of 125 gpm (i.e., discharge rate from the GTS).”

11 November 2005 e-mail from the Discharger's consultant states:

“The purpose of this email is to inform you that Ma-Ru Holding Company, Inc. will be entering into a contract with Leak Location Services, Inc. (LLSI) of San Antonio, Texas for the performance of the electronic leak detection survey for the groundwater treatment system's (GTS's) retention pond liner. The survey has been tentatively scheduled for the week of December 5, 2005, pending progress of the pond dewatering and vegetation removal operations. The RWQCB will be notified as soon as a firm start date has been confirmed. The survey will take approximately three (3) days to complete.”

14 November 2005 e-mail from staff states:

“Victor and I reviewed your email yesterday and we are concerned about the lack of water quality data from the water in the surface impoundment? While the 1 November 2005 NOV discusses a one time exceedence of only the flow limit, there are still water quality objectives that we need to evaluate. I've looked in the last electronic submittal provided by Taber and there isn't any water data from the pond. So, to better evaluate the effects of the one time discharge, and the loading issues, we need to establish the current concentration of TDS, all CAM 17 Metals, Ec, pH, Total Nitrogen, and Sulfate”.

14 November 2005 e-mail from the Discharger's consultant states:

“Under the existing request, the earliest we could obtain analytical results would be the end of this week (November 18, 2005). Since next week is a short week due to the Thanksgiving holiday, it is reasonable to assume that RWQCB staff would not be able to complete their review of the analytical data until the end of the following week (December 2, 2005). Provided authorization to proceed is granted immediately thereafter, it will take approximately 2 weeks to dewater the pond, followed by another week to complete the vegetation removal in preparation for the electronic leak detection test. This essentially leaves the week between Christmas and New Years Day to perform the testing, which will take approximately 3 days to complete, provided a contractor will be available during this holiday period.

Please be advised that the aforementioned schedule is very aggressive and leaves essentially no room for unforeseen delays. In fact, even if the RWQCB is able to complete their review and approval during Thanksgiving week, the likelihood of meeting the January 1, 2006 deadline would be questionable at best when considering the time of year and logistics. It should also be noted that the schedule assumes that no significant rainfall events occur, which could potentially increase the

required dewatering period and/or delay pond preparation and inspection, thereby resulting in noncompliance and a fine of \$50,000.”

18 November 2005 Site Inspection

In the company of the Discharger’s consultant, staff observed that the pond still contained significant amounts of vegetation. Progress toward emptying the pond was proceeding slowly.

28 November 2005 e-mail from the Discharger’s consultant states:

“The purpose of this email is twofold. First, I wanted to let you know that the electronic leak detection survey has been moved from December 5th to December 12th to provide additional time to remove the vegetation and earthen ramp from the retention pond. ...

Secondly, Ma-Ru Holding Company, Inc. would like to seek permission to temporarily bypass the retention pond and divert the groundwater treatment system (GTS) discharge directly to the vineyard. As of today, the retention pond has essentially been dewatered, with less than 1 foot of water reportedly remaining in the pond.

In support of the aforementioned request, we have attached a copy of the Certified Analytical Report (CAR) of the GTS discharge water sample collected by EBA on November 7, 2005. As presented in the CAR, no volatile organic compounds (VOCs) were detected in the water sample. ...”

28 November 2005 letter to the Discharger states:

“On 28 November 2005, staff received the Bonzi Sanitation Landfill’s request to take the groundwater treatment system effluent, bypassing the retention pond, and directly discharge the effluent to the land application area. Information included with this request was effluent analytical data. This data showed no constituents of concern that exceeded the current Water Quality Protection Standards in Waste Discharge Requirements (WDRs) Order No. 90-215. Based on this effluent analytical data and the need to keep the retention pond drained for repairs, Board staff will not take any action for the violation of WDRs Order No. 90-215 for the direct land application discharge of treatment system effluent for no more than sixty days. If at any time the discharge to the land application area creates a nuisance condition, then the discharge must terminate immediately”.

12 December 2005 Site Inspection

In response to the Discharger’s 28 November 2005 notification, staff arrived onsite to observe the electronic leak survey. In the company of the Discharger’s consultant, staff observed that the pond still contained significant amounts of vegetation. Progress toward emptying the pond was proceeding slowly. No survey was performed on this date.

15 December 2005: the Discharger signs the Stipulated Judgment, which includes the Term that the vegetation will be removed from the detention pond and the leak test will be completed by 1 January 2006.

21 December 2005 Site Inspection

Staff conducted an inspection of the facility to observe the condition of the pond. Staff interviewed the leak survey worker and asked him about the progress. He stated that most of the pond had been surveyed, and only the areas that had vegetation had not be tested. During the entire inspection, staff did not witness any landfill staff working to remove the vegetation from the pond.

27 December 2005 Regional Board Supervisor's email to the Discharger states:

"I just checked the Stipulated Judgment, and see that the by 1 January all vegetation must be removed and the leak detection test completed. Maybe I misunderstood you and this won't be an issue, but if not, you should be aware that we must fully enforce the Judgment. Rather than paying the \$50,000 penalty, it may be more cost effective for you to hire additional workers to remove the tulles so that the test can be finished this week".

27 December 2005 letter from the Discharger:

See Attachment D to this Staff Report