CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

REISSUED ACL COMPLAINT R5-2008-0518-R

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
IN THE MATTER OF

WINEMUCCA TRADING COMPANY LIMITED

FORMER SHASTA PAPER COMPANY FACILTIES AND PROPERTIES:
SHASTA PULP AND PAPER MILL
WASTEWATER TREATMENT LAGOONS
SHASTA COUNTY

This complaint is issued to Winemucca Trading Company Limited[1] ("Discharger") pursuant to Water Code section 13350, which authorizes the imposition of Administrative Civil Liability, Water Code section 13323, which authorizes the Executive Officer to issue this complaint, and Water Code section 7, which authorizes the delegation of the Executive Officer's authority to a deputy, in this case the Assistant Executive Officer. This complaint is based on findings that the Discharger failed to comply with Cleanup and Abatement Order R5-2004-0717 (hereafter referred to as the "CAO"), issued by the Regional Water Quality Control Board, Central Valley Region ("Central Valley Water Board" or "Board") under the authority of Water Code section 13304.

The Assistant Executive Officer of the Central Valley Water Board finds, with respect to the Discharger's acts, or failure to act, the following:

History

1. Simpson Paper Company ("Simpson") was the former landowner and operator of a paper manufacturing facility (the "Site") in Anderson, Shasta County. Wastewater generated at the Site was treated as follows: wastewater was first treated in two clarifiers for primary solids removal. The clarifier solids were dewatered with a screw press and then taken to the Twin Bridges Landfill. Four holding basins were used to even out the solids loading to the clarifiers. After clarification, the wastewater was discharged to two treatment lagoons equipped with mechanical aerators. Effluent from the wastewater treatment lagoons was applied to land at the Shasta Ranch and discharged to the Sacramento River in accordance with Waste Discharge Requirements ("WDR") Order R5-93-198 (NPDES No. CA0004065), issued by the Central Valley Water Board on 17 September 1993.

2. On 11 January 1999, Shasta Acquisition Inc., doing business as Plainwell Paper Shasta Paper Company, Inc., ("Shasta Paper"), purchased the Simpson land and began operating the Paper Mill. On 28 April 2000, the Board rescinded WDR Order 93-198 and prescribed requirements for the Shasta Pulp and Paper Mill waste discharges in WDR

[1] In various correspondences, this entity has referred to itself as "Winnemucca Trading Company, LTD", however, the spelling recited in the 20 October 1995 Articles of Association contains only one 'n'.

Order R5-00-082, (the "Permit"). On 31 October 2001, Shasta Paper filed for bankruptcy and the facility was closed, partially dismantled, and the discharge line to the Sacramento River was sealed. On 27 January 2005, the Board rescinded the Permit because the facility would no longer reopen as a pulp and paper mill.

3. The Shasta Paper wastes that were stockpiled on land and stored in containers, holding basins, clarifiers, and wastewater treatment lagoons, were not removed and properly disposed of when, on 17 September 2003, the *Order Approving Settlement Agreement and Mutual Release of Claims Between The Estate and Congress Financial Corporation* (Bankruptcy Case No. 01-32653-B-7) was issued in the United States Bankruptcy Court for the Eastern District of California, Sacramento Division.

4. On 20 May 2004, Congress Financial Corporation, the primary creditor of Shasta Paper, auctioned and sold the sixty-two Shasta Paper parcels to Michael Sommers, Secretary of Winemucca Trading Company LTD, a Tortola, British Virgin Islands Corporation.

5. Subsequent to the issuance of various cleanup orders, the Discharger divested itself of the following properties named in those orders:

Parcel No.	Current Owner - County Recorder	Sell Date	Prior Owner	Recording Date
090-090-008	CORTEZ FISHIERS INC	1/20/2005	WINEMUCCA TRADING COMPANY LTD	2/10/2005
090-100-004	CORTEZ FISHIERS INC	1/20/2005	WINEMUCCA TRADING COMPANY LTD	2/10/2005
090-140-007	NEW DAWN DEVELOPMENT LLC	9/29/2005	WINEMUCCA TRADING COMPANY LTD	9/30/2005

By divesting itself from these properties, the Discharger has not divested itself of the environmental liability that attaches to an owner of a contaminated Site, and has also not divested itself of the responsibility to abide by the terms of the cleanup orders.

The Cleanup and Abatement Orders

6. On 9 February 2004, the Executive Officer issued Cleanup and Abatement Order R5-2004-0700 to Simpson and Congress Financial Corporation requiring cleanup and abatement of wastes stockpiled, stored, and discharged to the Site.

7. On 29 October 2004, the Executive Officer rescinded Cleanup and Abatement Order R5-2004-0700 and issued Cleanup and Abatement Order R5-2004-0717 (the "CAO") to the Discharger. The CAO required cleanup and abatement of wastes stockpiled, stored, and discharged at the Former Shasta Paper Company Facilities and Properties (Assessors Parcel Numbers 090-090-008, 090-100-004, 090-140-007, 090-140-008, 090-150-001, 090-150-008, 090-150-009, 090-150-010, 090-150-011, 090-150-012, 090-160-010, 090-170-001, 090-170-004, 090-170-005, 090-170-007, and 090-170-008).

8. The CAO required the Discharger, in part, to:

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Action 9. *By 1 April 2005, remove and properly dispose of petroleum coke and black liquor sludge stored at the Shasta Pulp and Paper Mill using a method approved by the Executive Officer.*

Action 10. *By 1 April 2005, sample and characterize the sludge from the wastewater treatment lagoons and the holding basins and clarifiers at the Shasta Pulp and Paper Mill and submit the results to the Regional Water Board.*

Action 11. *By 1 April 2005, submit a plan to the Regional Board to properly dispose of the sludge in the wastewater treatment lagoons and the holding basins and clarifiers at the Shasta Pulp and Paper Mill and a plan to clean-close the holding basins and wastewater treatment lagoons pursuant to Title 27 California Code of Regulations Section 21400. The plans shall include an implementation schedule with a defined date of when the disposal of sludge and closure of the wastewater treatment to lagoons and holding basins will be complete, but the final completion date shall be no later than 1 October 2006. The closure plan and disposal method must be approved by the Executive Officer.*

Action 12. *Within 30 days of approval of the closure plan by the Executive Officer, implement the plan.*

Issuance of the Administrative Civil Liability Complaint

9. The Discharger is charged with violating the CAO. The Central Valley Water Board may impose liability under Water Code section 13350 for violations of the CAO.

10. On 21 March 2008, Assistant Executive Officer Mr. Jim Pedri issued ACL Complaint R5-2008-0518 to the Discharger, charging it with administrative civil liability in the amount of $3,000,000 for failing to comply with the CAO.

11. Subsequent to issuance of the original complaint, the Board's Prosecution Team met repeatedly with the Discharger in order to reach a settlement that would result both in the cleanup of the Site, and would preserve the ability of the Discharger to re-develop the property. However, these talks have reached an impasse, and the head of the Board's Prosecution Team has concluded that the ACL Complaint R5-2008-0518 should be prosecuted, and has approved the re-issuance of the ACL Complaint.

12. This Complaint revises and updates the previously-issued ACL Complaint R5-2008-0518. This re-issued ACL Complaint, while it contains many clarifications, contains only two substantive differences: it updates the days of violation to the current date, and it incorporates the State Water Board Office of Enforcement's Penalty Calculation Methodology that is a part of the State Water Board's Water Quality Enforcement Policy, which was adopted subsequent to the issuance of the first ACL Complaint.

Violations Herein Charged

13. Pursuant to Water Code section 13350, civil liability may be imposed for the following violations of the CAO:

Failure to Properly Dispose of Black Liquor Sludge and Petroleum Coke

i. In a 6 April 2005 letter to the Discharger, Board staff provided notice that failure to remove the black liquor sludge and other residual paper mill substances is a violation of the CAO. Staff encouraged immediate action, and requested the Discharger submit a technical report, by 15 June 2005, describing removal and disposal activities. The Discharger failed to submit the report.

ii. On 19 December 2006 and 2 January 2007, staff inspected the Shasta Pulp and Paper Mill and determined that a storage tank, labeled 35% liquor, still contained a tar-like substance. The staff inspections confirm that the Discharger failed to properly dispose of the black liquor. Failure to remove this material is a violation of the Action Item #9 of the CAO, which requires that the Discharger, "remove and properly dispose of petroleum coke and black liquor sludge stored at the Shasta Pulp and Paper Mill using a method approved by the Executive Officer" by April 1, 2005.

iii. Though the Discharger has taken steps to remove some dangerous chemicals from the Site, submitting a completion report for removal of the black liquor sludge on 12 December 2008, cleanup of the chemicals stockpiled at the Site, including petroleum coke, has not been completed.

iv. On 2 March 2011, Board staff inspected the Shasta Pulp and Paper Mill and determined that petroleum coke remained onsite. The Discharger's failure to remove this material is a violation of the Action Item #9 of the CAO, which requires that the Discharger, "remove and properly dispose of petroleum coke and black liquor sludge stored at the Shasta Pulp and Paper Mill using a method approved by the Executive Officer" by April 1, 2005.

Failure to Characterize Sludge in the Holding Basins

v. On 7 March 2005, the Discharger submitted the initial *Sludge Characterization* report for the wastewater treatment lagoons. The two composite samples discovered the presence of dioxin in the sludge. On 20 May 2005, the Discharger submitted the *Treatment Lagoon and Clarifier Sediment Sampling Results* and reported the following:

Location	Area	Sediment Volume (cubic yards)
Clarifier 1	300 square feet	10
Clarifier 2	3,000 square feet	160
Lagoon Pond 1	5.5 acres	34,000
Lagoon Pond 2	30 acres	195,000

These reports are substantially incomplete. The Discharger failed to sample and characterize the sludge in the four holding basins, resulting in a violation of the Action Item #10 of the CAO which requires that the Discharger, "sample and characterize the sludge from the following areas - the wastewater treatment lagoons and the holding basins and clarifiers at the Shasta Pulp and Paper Mill - and submit the results to the Regional Board" by 1 April 2005.

vi. On 16 April 2008, the Discharger submitted a *Clarifiers, Holding Basins, and Wastewater Treatment Lagoons Characterization and Volume Estimates* report. This report was comprehensive in nature and addressed the clarifiers, holding basins and wastewater treatment lagoons. Bathymetric surveys concluded a total of 120,000 cubic yards combined sediment was present in the subject features. Dioxins concentrations in sediment exceed Industrial PRGs in clarifier 2, holding basins 3 and 4, and wastewater treatment lagoons 1 and 2. This waste remains onsite.

Failure to Remove Sludge and Implement Closure

vii. On 5 October 2006, the Assistant Executive Officer issued the Discharger an Order pursuant to Water Code section 13267 requiring, by 10 October 2006, submittal of a technical report describing the results of the sludge characterization performed at the wastewater treatment lagoons, holding basins, and clarifiers; a Feasibility Study addressing disposal of residual sludge in the wastewater treatment lagoons, holding basins and clarifiers and final closure of these containment structures in accordance with California Code of Regulations, title 27, sections 20005 et seq.; parcel information; and cost estimates for closure and post-closure maintenance associated with capping and closing the paper pulp sludge wastes in-place at the wastewater treatment lagoons.

viii. On 10 October 2006, over a year after the initial 1 April 2005 deadline to submit a plan to the Central Valley Water Board to dispose of the sludge in the lagoons and the holding basins and to clean-close them, the Discharger submitted the *Feasibility Study, Wastewater Treatment Facility*. The Feasibility Study included results of sludge characterization at the wastewater treatment lagoons and clarifiers, but did not include sludge characterization at the holding basins. Five cleanup options were evaluated for protection of human health and environment, compliance, reduction of toxicity through treatment, effectiveness, ability to implement, and cost; Alternative 1, no action; Alternative 2, close-in place; Alternative 3, consolidate and cap; Alternative 4, clean closure; and Alternative 5, sludge or pond reuse.

ix. In a 17 October 2006 letter, the Discharger requested a 6-month extension to evaluate Alternative 5. This request was denied by the Assistant Executive Officer on 17 November 2006.

x. On 8 December 2006, the Discharger selected Alternative 3, Consolidate and Cap-In-Place and provided the following schedule to implement the proposed alternative:

Activity	Proposed Due Date
Revised SWPPP/Divert Water from lagoons	By 31 March 2007
Complete CEQA process	By 30 November 2007
RAP/RDP/CQA Plan	By 31 March 2008
Dewater Ponds	By 30 June 2008
Windrow and dry sludge	By 1 October 2009
Consolidate and CAP Footprint	By 1 October 2010
Cap Sludge/Rehabilitate Lagoon area	By 1 October 2011
Submit Completion Report	By 31 January 2012

xi. On 16 June 2008, the Discharger submitted a clean-closure work Plan for Clarifiers and Holding Basins, Former Shasta Paper Mill, Anderson California, Cleanup and Abatement Order No. R5-2004-0717, which proposed to clean-close the clarifiers and holding basins by 1 October 2008.

xii. On 12 October 2009, the Central Valley Water Board sent an NOV to the Discharger for failing to complete clean closure by 1 October 2008, which was the date proposed by the Discharger in its June 2008 clean-closure plan.

xiii. The discharger has thus far failed to meet the initial step in the selected Alternative by failing to Revise SWPPP/Divert Water from Lagoons. Therefore, at a minimum, the discharger has been in violation of Action Item #12 of the CAO, which requires the discharger to implement an approved closure plan according to the deadlines accepted by the Central Valley Water Board, since 31 March 2007.

14. To summarize, the Discharger has failed to comply with the CAO by failing to remove residual paper mill substances from the Former Shasta Paper Facilities (including petroleum coke that remains onsite); by failing to characterize sludge in clarifier 3 and the holding ponds as required by the CAO; and by failing to remove sludge and implement and complete closure at the Site, including closure of the waste lagoons.

Penalty Calculation

15. Water Code section 13350 states, in part:

> (a) Any person who (1) violates any ... cleanup and abatement order hereafter issued, reissued, or amended by a regional board ...shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e).
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> ********
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> (e) The state board or a regional board may impose civil liability administratively pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 either on a daily basis or on a per gallon basis, but not both.
>
> (1) The civil liability on a daily basis may not exceed five thousand dollars ($5,000) for each day the violation occurs.
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> ********

(B) When there is no discharge, but an order issued by the regional board is violated, except as provided in subdivision (f), the civil liability shall not be less than one hundred dollars ($100) for each day in which the discharge occurs.

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(f) A regional board may not administratively impose civil liability in accordance with paragraph (1) of subdivision (e) in an amount less than the minimum amount specified, unless the regional board makes express findings setting forth the reasons for its action based upon the specific factors required to be considered pursuant to Section 13327.

16. Water Code section 13327 states:

In determining the amount of civil liability, the regional board ... shall take into consideration the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require.

17. The Discharger has violated numerous terms of the CAO for a significant period of time, as illustrated below.

Violation	Initial Due Date	Violation Through	# of Days in Violation
Failure to Properly Dispose of Black Liquor Sludge/Petroleum Coke	1 April 2005	Current Date	2191 days as of 1 April 2011
Failure to Characterize Sludge in the Holding Basins/Clarifier/Lagoons	1 April 2005	Current Date (has not yet been received by the Central Valley Water Board)	2191 days as of 1 April 2011
Failure to Remove Sludge and Implement Closure	31 March 2007, at the latest	Current Date	1461 days

18. The State Water Board adopted a Water Quality Enforcement Policy (the "Enforcement Policy") by Resolution adopted on November 17, 2009, with an effective date 20 May 2010. The Enforcement Policy contains a methodology to be used by the regional water boards to arrive at monetary assessments in administrative civil liability actions. The following applies this methodology to the violations charged in this re-issued complaint.

a. Per-Day Assessment for Non-Discharge Violations: The violations charged in this re-issued ACL Complaint are not considered discharge violations, although "passive migration" of waste constituents in groundwater may be occurring at the Site due to the Discharger's failure to comply with the CAO. For non-discharge violations, the Enforcement Policy instructs the Prosecution Team to derive a Per-Day Factor that shall be used to determine the initial penalty factor. The Per-Day Factor is calculated based on a matrix that takes the following two factors into account:

i. Potential for Harm: The Prosecution Team proposes that the Potential for Harm is ***major***. The CAO was issued to compel the Discharger to clean up the Site, which is polluted with wastewater residual solids and process chemicals. The wastewater that was generated from both the paper mill and the pulp mill contained chlorinated organic compounds such as guaiacols, catechols, and syringols, also known as adsorbable organic halides (AOX), as well as polychlorinated di-benzo dioxins and di-benzo furans. Hazardous materials utilized when the Site was in operation remain stored at the Site, and have not been properly disposed. These remain both in storage units and in the sludge contained in the wastewater treatment lagoons and clarifiers, and the release of these chemicals to groundwater poses a high risk to the groundwater's beneficial uses.

ii. Deviation from Requirement: The Discharger is years behind both the schedule proscribed in the CAO and the schedule that it provided to the Board in 2006. The Prosecution Team proposes that the Deviation from Requirement be considered ***high***.

iii. It is appropriate to assign a ***Per-Day Factor of 1*** to the violations, as proscribed under Table 3 in the Enforcement Policy.

b. Adjustment Factors

i. Conduct Factors

1. *Culpability*: The Discharger is ranked with a higher than average culpability, because it entered into ownership of the Site with knowledge of the existing environmental obligations, but has thoroughly failed to conduct remediation commensurate with the magnitude of environmental harm posed by the waste still present at the Site. ***A culpability factor of 1.2*** is appropriate.

2. *Cleanup and Cooperation*: cleanup cooperation has been minimal. The Discharger has stalled on taking necessary actions at the Site. ***A cleanup and cooperation factor of 1.2*** is appropriate.

3. *History of Violations*: the only history that the Discharger has with the Board is with this Site. ***A History of Violations factor of 1*** is appropriate.

ii. Multiple Day Violations: For violations that last more than thirty days, the daily assessment can be less than the calculated daily assessment, provided that it is no less than the economic benefit resulting from the violation. In order to make this calculation, the Board must be able to make a finding that the violation either 1) is not causing daily detrimental impacts to the environment or the regulatory program, 2) the violation results in no economic benefit that can be measured on a daily basis, or 3) the violation occurs without the knowledge or control of the violator. As the Discharger has knowledge of the violations, and as the Discharger benefits economically every day that it does not expend resources on solving the environmental problems at the Site, the first of the three options is the only option available. The Prosecution Team finds that the violations, which relate to the Discharger's overall failure to

remediate the Site, are not causing daily detrimental impacts to the environment. Instead, the failure to remediate the Site is causing cumulative impacts to the environment. Therefore, thought the Discharger has been in non-compliance from at least April 1, 2007 (1461 days), the number of days are calculated as 7 (the first day of violation plus an assessment for each five day period until the 30th day) + 47 (an assessment for each 30-day period of violation after the 30th day), leading to a total assessment for ***54 days***. Based on the evidence before the Board, the Board also may choose to consider the full total of ***1,461 days*** of violations.

c. Ability to Pay and Ability to Continue in Business: The Discharger understood the risks and obligations associated with purchasing this environmentally-distressed property, but it has not demonstrated that it has the willingness to expend the resources necessary to complete the remediation obligations that it assumed when it took title to the Site. The Board's Prosecution Team has conducted lengthy negotiations with the Discharger in an attempt to allow the Discharger to continue to maintain its business, but the Discharger has failed to either expend the amount of money necessary to bring the Site into compliance or proffer a viable plan to bring the Site into compliance while maintaining a viable business. The Board's Prosecution Team has lost faith in the Discharger's ability and willingness to complete remediation at the Site, and, based on the Discharger's continuing non-compliance, does not see any benefit gained by making efforts to preserve the Discharger's ability to continue in business.

d. Other Factors as Justice May Require: Board staff has spent an estimated 200 hours preparing this Complaint. The total cost for staff time is $30,000 based on a rate of $150 per hour. This amount has been added to the overall penalty.

e. Economic Benefit: The Discharger's 2006 Feasibility Study estimated two alternatives, one involving the clean-closure of the facility, and another involving the consolidation and capping of the wastes at the Site. The costs associated with these two cleanup options were $2.8 million and $2.05 million, respectively. A conservative estimate for the disposal of the black liquor sludge is $50,000. Therefore, the Discharger has, at a minimum, experienced an economic benefit of $2.1 million in deferred costs over the past 4 years. Using conservative numbers that assume that Winnemucca will not pay any taxes (as it is an oversees corporation), that its cleanup expenditures will be limited to a one-time non-depreciable expenditure, and that compliance will be achieved on the date this Complaint is re-issued, and using a Discount/Compound rate of 6.1%, the USEPA BEN Model returns a final economic benefit of **$416,267** at a penalty payment date of 1 April 2011 (BEN readout is contained in Attachment A, a part of this Complaint).

Using the State Water Board's penalty calculation methodology, the recommended penalty amount, after consolidating the days of violation from 1,461 days to 54 days results in a penalty of: three hundred eighty eight thousand, eight hundred dollars ($388,800) [equal to $5,000 (max per-day under 13350) x 1 (Per-Day Assessment Factor) x 1.2 (Culpability Factor) x 1.2 (Cleanup and Cooperation Factor) x 1 (History of Violations Factor) x 54 (Number of Days)], excluding Board costs. Without consolidating the days of violations, the penalty would be estimated to be

$10,519,200 [equal to $5,000 (max per-day under 13350) x 1 (Per-Day Assessment Factor) x 1.2 (Culpability Factor) x 1.2 (Cleanup and Cooperation Factor) x 1 (History of Violations Factor) x 1,461 (Number of Days)], excluding Board costs. The State Water Board's Enforcement Policy states that the total base liability amount shall be at least 10% higher than the Economic Benefit Amount. With a calculated economic benefit amount of $416,267, this would result in penalty of $457,893. After adding the Board's costs, this figure becomes the Prosecution Team's proposed liability: **four hundred eighty-seven, eight hundred and ninety-three dollars ($487,893).**

The Board's Prosecution Team arrived at the above penalty calculation based on the economic benefit that inured to the Discharger by failing to implement closure of the Site in a timely manner. The calculation using the State Water Board's penalty calculation methodology includes several conservative assumptions that the Central Valley Water Board may not necessarily choose to follow in assessing a penalty against the Discharger. These assumptions include:

- The Prosecution Team has pushed back the date of compliance for the purposes of calculating the number of days that the Discharger is in violation of the CAO. This Complaint uses dates proposed by the Discharger, not the original dates contained in the CAO. The CAO required that the Discharger complete cleanup of the Site by 1 October 2006; the number of days of penalties are herein calculated based on a 1 April 2007 proposal put forth by the Discharger. As the Central Valley Water Board never revised the dates contained in the CAO, the Board may find that the 1 October 2006 is the proper starting point for calculating the number of days that the Discharger is in violation of the CAO.
- The Prosecution Team herein charges the Discharger for one single violation per day for its failure to comply with the CAO. At the hearing, the Board may choose to charge the Discharger with several discrete violations per day (e.g. failing to complete closure of the lagoons is a separate violation from failing to complete characterization of the clarifiers), which would multiply the Discharger's total potential liability.
- The Prosecution Team, in its analysis, consolidated the days of violation using the per-day consolidation methodology contained in the State Water Board's Enforcement Policy. At the hearing, the Board may choose not to find that such a consolidation is reasonable, and may calculate a penalty based on the full number of days the Discharger is in violation of the CAO.

While the Prosecution Team acknowledges that cleanup of the Site is a complex and costly undertaking, Winemucca has exhibited a pattern of behavior whereby it routinely misses its own proposed cleanup dates by failing to expend the necessary resources to properly execute its workplans. This continuing pattern of behavior continues to pose a serious threat to groundwater resources, justifying the re-issuance and prosecution of this Administrative Civil Liability Complaint.

19. Issuance of this Administrative Civil Liability Complaint is an enforcement action undertaken by a regulatory agency, and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.) pursuant to the California Code of Regulations, title 14, section 15321(a)(2).

WINEMUCCA TRADING COMPANY LIMITED, INC. IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **four hundred eighty-seven, eight hundred and ninety-three dollars ($487,893)**, which includes $30,000 in staff cost and is greater than the economic benefit derived from the acts that constitute the violations. The amount of the proposed liability is based on a review of the factors cited in Water Code section 13327, and the State Water Resources Control Board's Water Quality Enforcement Policy.

2. A hearing on this matter will be conducted at the Central Valley Water Board meeting scheduled for **8/9/10 June 2011**. At the Hearing, the Central Valley Water Board will consider whether to affirm, reject or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability. The Assistant Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to, increasing the proposed amount to account for the costs of enforcement (including staff, legal and expert witness costs) incurred after the date of the issuance of this Complaint through completion of the hearing.

for

ROBERT A. CRANDALL, Assistant Executive Officer

4-1-2011

(Date)

Attachments

Attachment A: USEPA BEN Model Run for Winemucca

Attachment A: U.S. Environmental Protection Agency BEN Model v4.6, Winemucca Case Analysis

Run Name =	Run 1
Present Values as of Noncompliance Date (NCD),	01-Apr-2007
A) On-Time Capital & One-Time Costs	$2,100,000
B) Delay Capital & One-Time Costs	$1,771,572
C) Avoided Annually Recurring Costs	$0
D) Initial Economic Benefit (A-B+C)	$328,428
E) Final Econ. Ben. at Penalty Payment Date,	
01-Apr-2011	**$416,267**
Not-for-Profit, which pays no taxes	
Discount/Compound Rate	6.1%
Discount/Compound Rate Calculated By:	BEN
Compliance Date	01-Apr-2011
Capital Investment:	
Cost Estimate	$0
Cost Estimate Date	N/A
Cost Index for Inflation	N/A
Consider Future Replacement (Useful Life)	N/A (N/A)
One-Time, Nondepreciable Expenditure:	
Cost Estimate	$2,100,000
Cost Estimate Date	01-Apr-2007
Cost Index for Inflation	PCI
Tax Deductible?	N
Annually Recurring Costs:	
Cost Estimate	$0
Cost Estimate Date	N/A
Cost Index for Inflation	N/A
User-Customized Specific Cost Estimates:	N/A
On-Time Capital Investment	
Delay Capital Investment	
On-Time Nondepreciable Expenditure	
Delay Nondepreciable Expenditure	