

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. R5-2005-0073

CEASE AND DESIST ORDER
REQUIRING
MA-RU HOLDING COMPANY, INC.

BONZI SANITATION LANDFILL, INC. PARTNERSHIP
BONZI SANITATION LANDFILL
STANISLAUS COUNTY

TO CEASE AND DESIST
FROM DISCHARGING CONTRARY TO REQUIREMENTS

The Regional Water Quality Control Board, Central Valley Region (hereafter referred to as “Regional Board”) finds that:

1. Waste Discharge Requirements (WDRs) Order No 98-093, adopted by the Regional Board on 17 April 1998, prescribes requirements for the Ma-Ru Holding Company, Inc. as owner and the Bonzi Sanitation Landfill Inc. Partnership as operator, (hereafter jointly referred to as “Discharger”) of the Bonzi Sanitation Landfill facility. The WDRs incorporate by reference the August 1997 Standard Provisions and Reporting Requirements for Waste Discharge Requirements for Discharges Regulated by Title 27 and/or Part 258 (Standard Provisions).
2. Due to the detection of volatile organic compounds (VOCs) and elevated inorganic constituents of concern, the Regional Board adopted Cleanup and Abatement (C&A) Order No. 89-185 on 22 September 1989. The C&A Order prescribed conditions for additional site assessment and construction and for operation of a groundwater remediation system.
3. The Discharger’s landfill is on a 128-acre parcel and is comprised of Assessor’s Parcel Numbers 17-41-36 and 17-41-11, which are three miles southwest of Modesto near the Tuolumne River in Section 12, T4S, R4E, MDB&M.
4. The facility includes four waste management units (WMUs) as described below:
 - **WMU I** is a 35 acre class III landfill closed pursuant to California Code of Regulations (CCR) Title 27, Division 2, Subdivision 1 (hereafter Title 27). WMU I has been capped with a two-foot thick foundation layer, a 30-mil PVC flexible membrane and an 18-inch vegetative layer. Approximately two million cubic yards of municipal refuse, agricultural wastes, industrial wastes and construction debris were landfilled from 1967 to 1978. WMU I was constructed without a bottom liner or a leachate collection and recovery system (LCRS).
 - **WMU II** is a class III waste management unit that covers 18 acres in the central eastern area of the facility. Wastes were accepted from 1978 to 1984. Approximately 750,000 cubic yards of municipal refuse, agricultural wastes, industrial wastes and construction wastes were landfilled. This landfill has reached capacity and is now covered with intermediate cover. There is no bottom liner or LCRS. No Final Closure plan has been submitted for this unit.

- **WMU III-A, III-B, and III-C** are class III waste management units covering about 11 acres in the central southern portion of the facility. Approximately 250,000 cubic yards of agricultural waste, industrial waste, and construction wastes were accepted from 1984 to March 1992. The landfill is currently being covered with intermediate daily cover. There is no bottom liner or LCRS. No Final Closure plan has been submitted for these units.
- **WMU III-D, WMU III-E, and WMU III-F** are three “unclassified” waste management units. The WDRs allowed only inert wastes, as defined in Section 20230 of Title 27, to be discharged to these units. These units have reached capacity and are now covered with intermediate cover. There is no bottom liner or LCRS. No Final Closure plan has been submitted for these units.
- **WMU IV** is an active inert waste management unit covering 20 acres in the northeastern portion of the facility and resides in a soil borrow pit that was created during construction of the other units. The WDRs allow only inert waste (as defined in Section 20230 of CCR Title 27) to be discharged to this unit. The waste is currently being covered with daily cover. The unit has no bottom liner or LCRS.

Groundwater Remedial System

5. On 1 October 1984, the Discharger submitted a report titled *Groundwater Study, Bonzi Landfill*. This report disclosed that in the winters of 1981-1982 and 1982-1983 the groundwaters rose and percolated through the landfilled refuse, and that the groundwater beneath the site had been polluted with VOCs, metals and total dissolved solids. Cease and Desist Order No. 84-153 was adopted on 28 November 1984, directing the Discharger to evaluate the extent of the plume. As a result of the Order, the following reports were prepared:
 - (a) Site Investigation Report, Bonzi Sanitary Landfill, dated 8 May 1987
 - (b) Design Reports/Operation and Closure Plans, dated 16 April 1987
 - (c) Feasibility Study, Bonzi Sanitary Landfill, dated 1 July 1987
 - (d) Soil Gas Tube Investigation, dated June 1989

The data in the above reports document that in 1989, ten groundwater-monitoring wells and three leachate monitoring-wells were contaminated by VOCs. The Board subsequently adopted C&A Order No. 89-185 and rescinded Cease and Desist Order No. 84-153. C&A Order No. 89-185 required the Discharger to implement groundwater remediation, and provide drinking water for downgradient municipal water well users.
6. Since the adoption of C&A Order No. 89-185, the Discharger has installed the required remediation system, yet monitoring data has consistently shown that the system is not adequately functioning. In October 1998, the Discharger submitted an “Evaluation of Corrective Action Program Performance and Effectiveness” report in response to VOCs being detected in the downgradient and off-site VFW Hall’s domestic well. The report stated “*since the basis of the treatment system design is develop a capture zone that will intercept and extract contaminated groundwater, continuous*

operation of the system is an integral factor in the overall effectiveness of the treatment program. Unless the system is operated continuously to sustain the required capture zone, the efficiency and ability of the system to control the migration is severely limited.” However, as observed by Board staff during several inspections and noted in correspondence since 1989, the system has not continuously operated. On 3 March 2005, staff was informed by the owner that the groundwater extraction system has not been operating for over a year, and that it was only turned on to collect samples for reporting purposes.

7. The Discharger is aware of the system failures and was notified of the extraction system problems by the Regional Board on numerous occasions. On 16 October 2003, a Notice of Violation (NOV) requested that the Discharger submit a revised engineering feasibility plan describing how the system would be modified such that it would comply with the corrective action program requirements of Section 20430(j) of Title 27 (i.e. that a sufficient groundwater depression will be maintained to capture the groundwater plume). This report was due by 30 November 2003. The Discharger has neither submitted the report nor has acknowledged the violation in the subsequent monitoring reports as required by the Standard Provisions, a component of WDRs Order No. 98-093. In addition, the Discharger has failed to implement the treatment system Operations and Maintenance Manual notification process, which states that the Regional Board would be notified in writing of a system shutdown. The Regional Board has not received any notifications of any system shut-down.
8. The data submitted by the Discharger supports that the remedial system has not been operating. During the fourth quarter 2004 groundwater-sampling event, VOCs were detected in nineteen monitoring wells. Eleven of those wells are downgradient and/or adjacent to one of the three non-operating groundwater extraction wells. The monitoring data indicates that an ongoing release is occurring. The October 1998 corrective action program analysis reported that the site hydraulic conductivity varies from 145 to 460 feet per day. With the continued detection of VOCs downgradient of the extraction system, the highly conductive aquifer material, and the Discharger’s failure to operate the system, the groundwater plume likely has expanded since the original offsite investigation. Consequently, the system’s original design may be inadequate to capture and remediate the current plume.

VIOLATIONS OF THE WASTE DISCHARGE REQUIREMENTS

Groundwater Monitoring Program

9. The Standard Provisions, Sampling and Analytical Methods, Provision No. 3 states: *“The methods of analysis and the detection limits used must be appropriate for the expected concentrations....”*
10. The Monitoring and Reporting Program of the WDRs require compliance with Section 20415 of Title 27. Section 20415(e)(4) states: *“The water quality monitoring program shall include consistent sampling and analytical procedures that are designed to ensure that monitoring results provide a reliable indication of water quality at all Monitoring Points and Background Monitoring Points.”*

11. The Discharger and its consultant have been unable to certify that the Quality Assurance/Quality Control (QA/QC) review for data and information submitted under WDRs Order No. 98-093 meet the standards of Section 20415 of Title 27. On 14 September 2004, a NOV was issued concerning the Discharger's laboratory protocols. Even after staff identified the deficiency in the NOV, the Discharger submitted its 2004 Annual Monitoring Report with invalid results. The Federal EPA mandated 5-year Appendix II Constituents of Concern laboratory analysis were not conducted at the required minimum detection limits. At this time, the monitoring program is not in compliance with WDRs Order No. 98-093, Section 20415(e)(4) of CCR Title 27, or Section 258 of the Code of Federal Regulations Title 40 Subtitle D.

Post Closure Maintenance of Waste Management Unit I

12. Waste Management Unit I closure began in December 1997. Construction of the foundation layer was completed in April 1998. Following acceptance of the foundation layer by the CQA officer, deployment of the geomembrane layer started in May 1998 and was completed in July 1998. Placement of the vegetative soil cover layer and final drainage channel installation was conducted concurrently with the geomembrane installation and was completed in October 1998. Hydro seeding was completed in January 1999. On page 32 of the "Bonzi Sanitation Landfill June 1996 WMU I Post Closure Maintenance Plan", the Discharger described specific maintenance procedures for maintaining the final cover's performance, including: "correcting differential settlement effects along drainage ways to provide proper runoff and run-on control" and "removing blockages from drainage ditches".
13. Discharge Specification B.12 of WDRs Order No. 98-093 states: "*Closed landfill units shall be graded to at least a three percent (3%) grade and maintained to prevent ponding.*"
14. Provision C.15 of WDRs Order No. 98-093 states: "*The Discharger shall comply with all applicable provisions of Title 27 that are not specifically referred to in this Order.*"
15. Section 21090(c)(1) of CCR Title 27 states: "*Throughout the post closure maintenance period, the discharger shall maintain the structural integrity and effectiveness of all containment structures, and maintain the final cover as necessary to correct the effects of settlement or other adverse factors.*"
16. On 16 October 2003, a NOV was sent to the Discharger stating that the cover on WMU I no longer met the performance standards of Title 27. The NOV specifically stated that runoff ditches were clogged with vegetation and the unit's hummocky surface is an indication that significant settling has occurred. The Discharger was asked to submit certification by a Registered Professional Engineer that the current final cover integrity complies with Section 21090 of Title 27. The Discharger has failed to submit the requested information or to acknowledge the violation in the subsequent monitoring reports as required by the Standard Provisions of WDRs No. 98-093.

17. Discharge Specification B.9 of WDRs Order No. 98-093 states: *“The closed landfill shall be provided with at least two permanent monuments, installed by a licensed land surveyor, from which the location and elevation of all wastes, containment structures, and monitoring facilities can be determined throughout the post-closure maintenance period.”*
18. Section 20950(a)(2)(A)(1) of CCR Title 27 states: *“For landfills and for waste piles and surface impoundments closed as landfills, the goal of closure, including but not limited to the installation of a final cover, is to minimize the infiltration of water into the waste, thereby minimizing the production of leachate and gas. For such Units, after closure, the final cover constitutes the Unit’s principal waste containment feature.”*
19. Section 20365(d) of CCR Title 27 states: *“Collection and holding facilities associated with precipitation and drainage control systems shall be emptied immediately following each storm or otherwise managed to maintain the design capacity of the system.”*
20. During a site inspection on 3 March 2005, staff observed significant ponding and settlement on the upper surface of WMU I. Staff asked the Discharger to locate the two surveyed monuments required by the WDRs. The Discharger stated they did not have monuments. Furthermore, the runoff/run-on ditches were still choked with vegetation. At this time the condition of the WMU I final cover does not comply with WDRs Order No. 89-093 nor with Section 20950(a)(2)(A)(1) of CCR Title 27. No improvements have been made since issuance of the 16 October 2003 NOV.

Waste Management Units II and III

21. Section 21090(b)(1)(D) of CCR Title 27 states: *“The RWQCB has approved, as part of the final closure plan, a waiting period (for installation of the final cover) not to exceed five years after the date a portion of the landfill reaches final elevation, in order to avoid subjecting the final cover to potential damage from the high rate of differential settlement that so often occurs during the first few years following the final receipt of waste. To the extent feasible, based on site-specific factors, the complete closure, including final grading and installation of the final cover, for each portion of the landfill shall be implemented as soon as possible after that portion reaches final elevation.”*
22. Section 21110(a) of CCR Title 27 states: *“Within thirty (30) days of receipt of the final shipment of waste to a discrete unit or if the entire disposal site has reached permitted capacity, the operator shall begin implementation of the closure schedule as specified in the approved closure plan.”*
23. Section 21110(b)(1) of CCR Title 27 states: *“If a solid waste landfill that has remaining permitted capacity is inactive for 12 consecutive months, the operator shall begin closure activities in accordance with the time frames specified in the closure plan unless granted an extension pursuant to (b)(3).”*
24. WMUs II, III-A, III-B, and III-C are class III landfill units and WMU III-D, WMU III-E, and WMU III-F are unclassified landfill units with no documented discharge over the last 12 months.

The Discharger informed staff that the last waste discharged to these units occurred in January 1999. The WDRs allow the Discharger to close WMU II, III and IV as one unit, however staff informed that Discharger that this does not comply with Section 21090(b)(1)(D) of CCR Title 27, and due to landfill gas, shallow depth to groundwater and groundwater contamination, the unit must be closed earlier. The Discharger has not initiated any closure activities at these waste management units and is therefore in violation of its WDRs and CCR Title 27. Based on Regional Board records, no extension has been granted by the California Integrated Waste Management Board under Section 21110(b)(3) of Title 27.

Waste Management Unit IV

25. Waste Management Unit IV is an active inert waste landfill covering 20 acres in the northeastern section of the facility. Waste is placed in a low-lying area that was created by over-excavation. The Discharger is placing inert waste into WMU IV to raise the foundation of the unit five-feet above the expected high groundwater elevation. Sections 20240(a) and (b) of CCR Title 27 describes the siting requirements of a new waste management unit, as well as the standards for the unit foundation. The current waste is not an engineered homogenous material and does not meet the foundation requirements of Title 27.
26. Discharge Specification No. 6 of WDRs Order No. 98-093 specifically identifies the allowable inert wastes for WMU IV as: *"...concrete, clean earth, rock, cured asphalt, mortar, tile, stucco, brick, glass, and porcelain fixtures such as sinks, toilets and tubs shall be discharged to areas below the highest anticipated groundwater elevation. The Discharger shall verify the age of the asphalt, composition, composition shingles, and mortar to be more than 10 years old. No additional excavation of unclassified WMU cells shall occur below the highest anticipated groundwater elevation."*
27. On 3 March 2005 and 1 April 2005, staff observed large amounts of paper, cardboard, significant amounts of plastic, furniture cushions, and carpet material being discharged to WMU IV. This discharge of non-permitted waste is a violation of WDRs No. 98-093.
28. Finding No. 20 of WDRs Order No. 98-093 states: *"Inert waste intake is about 2000 tons per month and continues to be relatively stable from historic calculations. At this rate and an assumed waste to soil cover ration of 4:1, WMU IV has about 426,000 cubic-yard capacity and is anticipated to be filled by February 2006."*
29. Section 21780(c)(3) of CCR Title 27 states: *"Final closure and postclosure maintenance plans for solid waste landfills shall be submitted two years prior to the anticipated date of closure. Within five years of the anticipated date of closure, the operator may submit the final closure and postclosure maintenance plans in lieu of submitting new or updated preliminary closure and postclosure maintenance plans."*

30. Waste Management Unit IV is within one year of the projected filled capacity as presented in the WDRs. No closure or post closure maintenance plans have been submitted as required by Section 21780(c)(3) of CCR Title 27.

REGULATORY CONSIDERATIONS

31. As a result of the events and activities described in this Order, the Regional Board finds that the Discharger has caused or permitted waste to be discharged in such a manner that it has created, and continues to threaten to create, a condition of pollution or nuisance. The Regional Board also finds that the Discharger has discharged, and has the potential to continue to discharge, waste in violation of WDRs Order No. 98-093 and C&A Order No. 89-185.
32. The Regional Board's Water Quality Control Plan for the Sacramento and San Joaquin River Basins (Basin Plan) designates beneficial uses, includes water quality objectives to protect the beneficial uses, and includes implementation plans to implement the water quality objectives.
33. Surface water runoff from this site is to the Tuolumne River, in the stretch between New Don Pedro Dam and the San Joaquin River.. The beneficial uses of the Tuolumne River are municipal and domestic supply; , agricultural supply; water contact recreation; non-contact water recreation; warm freshwater habitat; cold freshwater habitat; migration of aquatic organisms; spawning, reproduction and/or early development; and wildlife habitat.
34. The beneficial uses of groundwater are domestic, municipal, agricultural and industrial supply.
35. Section 22140 (a) and (b) of CCR Title 27 states:
- (a) If the RWQCB finds that early closure of a waste management unit (Unit) is necessary to prevent (or curtail) violation of waste discharge requirements [e.g., as a source control measure in corrective action, under Section 20430(c)], it shall adopt a Cease and Desist Order, pursuant to Section 13302 of the Water Code, which requires closure according to a closure and post closure maintenance plan approved by the RWQCB.
 - (b) Any time a Unit is subjected to early closure, under (a), the discharger shall, in accordance with a schedule of compliance issued by the RWQCB, submit to the RWQCB a report including an appropriate closure and post closure maintenance plan (under Section 21769), if such a plan applicable to the early-closed configuration of the Unit was not submitted with the report of waste discharge and including a revised schedule for immediate termination of operations and closure.
36. CWC Section 13301 provides that:

When a regional board finds that a discharge of waste is taking place, or threatening to take place, in violation of requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not

complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventive action.

37. CWC Section 13267(b) provides that:

In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste outside of its region that could affect the quality of waters of the state within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports.

38. The technical reports required by this Order are necessary to assure compliance with this Order and the waste discharge requirements, and to protect the waters of the state. Existing data and information about the site indicates that waste has been discharged or may continue to be discharged at the property, which is currently owned and operated by the discharger named in this Order.

39. The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act, pursuant to Section 15321(a)(2) of CCR Title 14. This Order specifically addresses remedial actions necessary to cease and desist the effects of material being discharged to waters of the State.

40. Any person adversely affected by this action of the Regional Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with Sections 2050-2068 of CCR Title 23. The State Board must receive the petition within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions may be found on the Internet at <http://www.waterboards.ca.gov/centralvalley> or will be provided upon request.

IT IS HEREBY ORDERED THAT, pursuant to Sections 13267 and 13301 of the California Water Code, Ma-Ru Holding Company Inc., the Bonzi Sanitation Landfill, Inc. Partnership, and the Bonzi Sanitation Landfill, their agents, successors, and assigns, shall comply with the following measures to ensure long-term compliance with Waste Discharge Requirements Order No. 98-093 or any subsequent Waste Discharge Requirements, Cleanup and Abatement Order No. 89-185, the California Water Code, and California Code of Regulations Title 27.

Any person signing a document submitted under this Order shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of

those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

Corrective Action – Groundwater Degradation and Monitoring

1. By **6 May 2005**, the Discharger shall submit a report showing that it is continuously operating extraction wells EW-2 and EW-3 of the existing groundwater and landfill gas extraction systems. During the initial start up the Discharger shall follow the reporting requirements outlined in Item 9 below.
2. By **30 June 2005** the Discharger shall submit a report showing that it is continuously operating extraction well EW-1.
3. By **31 May 2005**, the Discharger shall submit a report certifying that the groundwater detection monitoring system meets the requirements in Section 20385, Section 20415(b)(1)(B), Section 20415(e) and Section 20420 of CCR Title 27.
4. By **31 May 2005**, the Discharger shall submit a report certifying that all monitoring points identified in WDRs Order No. 98-093 meet the standards in Section 20415(b)(4) of CCR Title 27.
5. By **15 June 2005**, the Discharger shall resubmit the 2004 annual monitoring report, which includes the appendix II constituents of concern required by Section 258 of the Code of Federal Regulations Title 40 Subtitle D analyzed at the appropriate detection limits.
6. By **31 July 2005**, the Discharger shall provide financial assurance for all corrective action measures as required by Title 27 California Code of Regulations, Division 2, Chapter 6. Furthermore, the Discharger shall conduct an annual review of the financial assurance for initiating and completing corrective action, and submit a report for Executive Officer review and approval. This review shall be submitted on **30th of April** of each calendar year. The assurances of financial responsibility shall name the Regional Board as beneficiary and shall provide that funds for corrective action shall be available to the Regional Board upon the issuance of any order under California Water Code, Division 7, Chapter 5. The Discharger shall adjust the cost annually to account for inflation and any changes in facility design, construction, or operation.
7. By **1 August 2005**, the Discharger shall submit a report demonstrating that it has a complete and operational corrective action remediation and monitoring system capable of capturing all contaminants from passing the point of compliance, as well as removing VOCs, metals and other constituents of concern from the wells affected by the release from the facility. The report shall discuss how the system shall be operated continuously until all constituents of concern have achieved their water quality protection standard at the point of compliance.

8. By **1 August 2005**, the Discharger shall maintain a corrective action monitoring system, in compliance with Section 20415(b)(1)(D) of CCR Title 27 and approved by the Executive Officer, to evaluate the continuous operational performance of the corrective action remediation systems.
9. On **the first day of each month (beginning with the month of June 2005)**, the Discharger shall submit a progress report on the status of the corrective action measures during the previous month. The report shall include: total hours of operation of all remediation systems/per day; an evaluation of the performance of each individual extraction point (both landfill gas and groundwater); the volume of water discharged from the system; the amount of kilowatts used by both the gas extraction system and the groundwater extraction system; the mass of contaminants removed by the gas extraction system; and the location of discharge of the treated water.

Post Closure Maintenance – WMU I

10. By **31 July 2005**, the Discharger shall provide financial assurance for post closure maintenance as required by Title 27 California Code of Regulations, Division 2, Chapter 6 for WMU I. The Discharger shall conduct an annual review of the financial assurance for closure and post closure maintenance, and submit a report for Executive Officer review and approval. This review shall be submitted on **30th of April** of each calendar year. The assurances of financial responsibility shall provide that funds for closure and post closure maintenance shall name the Regional Board as beneficiary and shall be available to the Regional Board upon the issuance of any order under California Water Code, Division 7, Chapter 5. The Discharger shall adjust the cost annually to account for inflation and any changes in facility design, construction, or operation.
11. By **15 November 2005**, the Discharger shall submit a Final Construction Quality Assurance Report certified by a Licensed California Professional Engineer or a Licensed California Engineering Geologist stating that the final cover has been restored on the closed WMU I and meets the performance standards in Section 20950(a)(2)(A) and Section 21090 of CCR Title 27. This report shall comply with Section 20234 of CCR Title 27.

Waste Management Units II, III & IV

12. By **13 May 2005** the Discharger shall submit for Executive Officer approval a technical report showing how the Discharger will ensure the wastes accepted at Unit IV are “inert” as defined in the Waste Discharge Requirements. The report shall be immediately implemented.
13. By **30 July 2005**, the Discharger shall submit waste characterization report of the waste discharged into Unit IV and determine what percentage does not meet the Discharge Specification B.6 of WDRs Order No. 89-093.
14. By **30 August 2005**, the Discharger shall submit a soil and groundwater monitoring plan to determine if Unit IV had a release. At a minimum, samples shall be taken from the bottom of the waste, soil, and leachate.

15. By **30 November 2005**, the Discharger shall submit the results from the above investigation. The results shall include an evaluation of the data, a discussion of whether the monitoring evidence indicates current groundwater degradation; whether there is the potential for future groundwater degradation.
16. By **31 July 2005**, the Discharger shall provide financial assurance for corrective action, closure and post closure maintenance as required by Title 27 California Code of Regulations, Division 2, Chapter 6 for Waste Management Units II, III, and IV. The Discharger shall conduct an annual review of the financial assurance for closure and post closure maintenance, and submit a report for Executive Officer review and approval. This review shall be submitted on **30th of April** of each calendar year. The assurances of financial responsibility shall provide that funds for closure and post closure maintenance shall name the Regional Board as beneficiary and shall be available to the Regional Board upon the issuance of any order under California Water Code, Division 7, Chapter 5. The Discharger shall adjust the cost annually to account for inflation and any changes in facility design, construction, or operation.
17. By **1 September 2005**, the Discharger shall submit a topographic survey of the intermediate cover thickness in all areas mantling Waste Management Units II, III and IV. In addition, the report should include the calculated slope of the upper surface and an evaluation of the run-on/run-off structures of each unit.
18. By **15 October 2005**, the Discharger shall submit a closure plan for Waste Management Units II and III that complies with CCR Title 27. The plan shall propose a closure date, which shall be as soon as technically and economically feasible.
19. By **15 October 2005**, the Discharger shall submit a JTD to update the Waste Discharge Requirements to reflect current operations of the landfill and closure timelines.
20. **Beginning 1 August 2005**, and by the first day of the second month following each calendar quarter (**i.e., by 1 February, 1 May, 1 August, and 1 November each year**), the Discharger shall submit a progress report describing the work completed to date regarding each of the above requirements.

In accordance with California Business and Professions Code Sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain workplans for, that describe the conduct of investigations and studies, or that contain technical conclusions and recommendations concerning engineering and geology shall be prepared by or under the direction of appropriately qualified professional(s), even if not explicitly stated. Each technical report submitted by the Discharger shall contain a statement of qualifications of the responsible licensed professional(s) as well as the professional's signature and/or stamp of the seal.

CEASE AND DESIST ORDER NO. R5-2005-0073
MA-RU HOLDING COMPANY INC.
BONZI SANITATION LANDFILL, INC. PARTNERSHIP
BONZI SANITATION LANDFILL
STANISLAUS COUNTY

-12-

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 29 April 2005.

THOMAS R. PINKOS, Executive Officer

AMENDED

HDH/VJI/WSW: 29-Apr-05



California Regional Water Quality Control Board

Central Valley Region

Robert Schneider, Chair



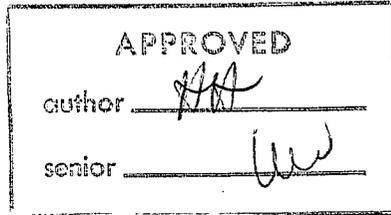
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Governor

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28 July 2005



FILE COPY

Mr. Steve Bonzi
President
Bonzi Sanitation Landfill
2650 West Hatch Road
Modesto, California 95358

CERTIFIED MAIL
7005 0390 0006 3973 1973

NOTICE OF CONTINUING VIOLATION OF CEASE AND DESIST ORDER, BONZI SANITATION LANDFILL, MODESTO, STANISLAUS COUNTY

On 15 June 2005, Bonzi Landfill was issued a *Notice of Violation* for failure to submit adequate technical reports as required by items No. 2 and 3 of Cease and Desist Order (CDO) No. R5-2005-0073. On 6 July 2005, Regional Water Board staff participated in a phone conference with you and your consultant (EBA Engineering) to discuss the information needed to complete the two outstanding reports. The two technical reports were re-submitted on 13 July 2005. After reviewing the reports, Regional Water Board staff finds that the reports do not contain the information required by CDO No. R5-2005-0073 and the reports are therefore unacceptable. The report fails to provide a certification from a qualified professional that the existing detection monitoring system complies with Section 20415 of Title 27. In addition, the technical report recently submitted per item No. 5 of the CDO is also unacceptable because this report does not contain the data specifically required by the CDO.

During the public comment period for the draft CDO, Bonzi submitted comments regarding the technical reports required by items No. 2 and 3. However, staff did not agree with those comments and did not incorporate them into the Order presented to the Regional Board. After discussions with staff the morning of the Board meeting, Bonzi chose not to contest the Order, and the Board adopted the CDO as an uncontested item. Therefore, your position that you had previously commented upon the content of the required reports is moot, and you are again reminded that all the reports must contain the information specifically required by the CDO. Because the reports do not contain this information, the reports are inadequate and Bonzi is subject to administrative penalties of up to \$1,000 per day for each inadequate report.

This letter is to notify you that (1) you must still submit the outstanding information, and (2) Regional Water Board staff has been in communication with the Stanislaus County District Attorney's Office regarding Bonzi Sanitation Landfill's compliance issues. A representative from the DA's Office will contact you shortly.

If you have any additional questions regarding this matter, please contact Victor Izzo at 916-464-4626 or Howard Hold at 916-464-4679.

WENDY WYELS, Supervisor
Title 27 and WDR Program Manager

cc: Ms. Frances McChesney, Office of Chief Counsel, State Water Board, Sacramento
Ms. Gloria Mas, California District Attorney's Association, Sacramento
Mr. David Otsubo, California Integrated Waste Management Board
Ms. Jami Aggers, San Joaquin Valley Air Pollution Control District, Modesto
Mr. Ron DeLong, Stanislaus County Solid Waste Management, Modesto
Mr. Denton Hoeh, Stanislaus County Environmental Health Department, Modesto
Ms. Jocelyn Reed, Solid Waste Program Manager City of Modesto, Modesto
RENEW - Riverdale Neighborhood Watch Group, Modesto

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1 **CAROL SHIPLEY**
2 **STANISLAUS COUNTY ASSISTANT DISTRICT ATTORNEY**
3 **Gloria M. Mas (SBN 132429)**
4 **Deputy District Attorney**
5 **11th and I Streets, Rom 200 2nd Floor**
6 **Modesto, California 95353**
7 **(209) 525-5530**

8 **Attorneys for the People**

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11 **THE PEOPLE OF THE STATE OF CALIFORNIA,**)

12 **Plaintiff,**)

13 **vs.**)

14 **MA-RU HOLDING COMPANY, INC. and**)
15 **BONZI SANITATION LANDFILL, (GP),**)

16 **Defendants.**)

CASE NO. 376882

**STIPULATED JUDGMENT
FOR INJUNCTION, CIVIL
PENALTIES, AND
RELIEF**

18 **Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA,** having filed their complaint
19 herein, **CAROL SHIPLEY,** Assistant District Attorney of Stanislaus County, by and through **GLORIA**
20 **M. MAS,** Deputy District Attorney of Stanislaus County, and defendants **MA-RU HOLDING**
21 **COMPANY, INC.,** and **BONZI SANITATION LANDFILL (GP),** hereby stipulate and consent to the
22 entry of the Permanent Injunction and Final Judgment Pursuant to Stipulation. This Stipulated
23 Judgment is entered into based in part on representations made and reaffirmed by these named
24 defendants herein, that certain payments will be made according to the terms of the Stipulated
25 Judgment.

26 **Upon the consent of the parties hereto, and it appearing to the court that there is good cause for**
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1 the entry of this Stipulated Judgment,

2 **IT IS ORDERED, ADJUDGED AND DECREED** as follows:

3 1. This court has jurisdiction of the subject matter of this action and each of the parties
4 hereto.

5 2. The injunctive provisions of this Stipulated Judgment are applicable to defendants, their
6 subsidiaries and divisions, and any agent, employee, representative and all persons, partners,
7 corporations, or other entities acting by, through, under, or on behalf of defendants and all persons in
8 concert with or participating with said defendants with actual or constructive knowledge of this
9 injunction, only insofar as they are doing business in the State of California and confined to defendants'
10 landfill operations in the County of STANISLAUS and throughout the state of California.

11 3. Pursuant to Business and Practice Code §17206, Defendants are hereby permanently
12 enjoined from:

- 13 a) Violating §17200 of the Business and Professions Code as detailed in the Complaint
- 14 b) Violating the Terms and Conditions of this Stipulated Judgment (Exhibit A)
- 15 c) Violating Penal Code Section 115.

16 4. Defendants shall pay the sum of **ONE MILLION FIVE HUNDRED THOUSAND**
17 **DOLLARS (\$1,500,000.00)** in civil penalties and cy pres restitution to be paid as follows:

18 a) If any violations occur pursuant to Section 3b, the amount of penalty is delineated in
19 Exhibit B. The penalties delineated in Exhibit B are payable to the State Water Resources
20 Control Board Cleanup and Abatement Account.

21 b) If any violations occur pursuant to Section 3c of this Stipulated Judgment, the penalty is
22 in the amount of \$100,000.00. The penalty is payable to Stanislaus County District Attorney
23 177A DA Enforce Consumer Protection Laws. Org# 23310.

24 c) These penalties discussed in this Section shall be **STAYED** for a period of three (3)
25 years, beginning on the filing of this Stipulated Judgment, on the condition that no further
26 violations occur pursuant to Sections 3b and 3c of this Stipulated Judgment. It is understood
27 that the stayed portion of the civil penalty for any item shall immediately be due and owed after
28

1 a finding of any violation of that item as described in 3b and 3c. A determination of a violation
 2 can only be made by Board Resolution or Order adopted after appropriate public notice giving
 3 the defendants an opportunity for a hearing, or by a Superior Court Judge. If no violations of
 4 Section 3b and 3c occur during the three year period, the stay will become permanent.

5
 6 5. Nothing in this Stipulated Judgment precludes any agency or department from imposing
 7 and assessing additional penalties, issuing new Orders, and filing subsequent actions for future
 8 violations of the law. The stayed amounts in Section 4 are in addition to any other actions either
 9 agency or department wishes to pursue. The Penalties in Exhibit B will be assessed through the due
 10 date of this Stipulated Judgment, and either agency or department may take additional enforcement
 11 actions after that date.

12
 13 6. In addition, defendants shall pay the sum of FOUR HUNDRED AND FIFTY
 14 THOUSAND DOLLARS (\$450,000.00) to a Supplemental Environmental Program, Recovery Costs,
 15 as follows:

16 a) Defendants shall pay the sum of TWO HUNDRED TWENTY FIVE THOUSAND
 17 DOLLARS (\$225,000.00), as partial recovery of costs in this matter. Said payment shall be
 18 made payable to the State Water Resources Control Board Cleanup and Abatement Account.

19 b) Defendant shall pay the sum of ONE HUNDRED TWENTY FIVE
 20 THOUSAND DOLLARS (\$125,000.00), to the Secretary of the California Environmental
 21 Protection Agency. This money shall be deposited into the Environmental Enforcement and
 22 Training Account under the authority of Penal Code Section 14301.

23 c) Defendant shall pay the sum of ONE HUNDRED THOUSAND DOLLARS
 24 (\$100,000.00) as partial recovery of costs in this matter. Said payment shall be made payable
 25 to the Stanislaus County District Attorneys 177A DA Enforce Consumer Protection Laws, Org
 26 # 23310, pursuant to Business and Professions Code §17200.

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1 7. Defendants shall pay the sum of EIGHT HUNDRED SIXTY-EIGHT DOLLARS AND
2 EIGHTY CENTS (\$868.80) payable to the Stanislaus County Superior Court.

3
4 8. Defendants waive all objections to employees from the Central Valley Regional Water
5 Quality Control Board entering upon their landfill operations at 2650 West Hatch, Modesto, CA, for
6 the purpose of inspection and enforcement of the terms of this Stipulated Judgment.

7
8 9. Matters Covered by This Stipulated Judgment.

9 a) Subject to the reservations set forth in this Section, final approval of this Stipulated
10 Judgment by the Court and defendants' performance of all the obligations set forth in this Stipulated
11 Judgment resolves all civil, criminal and administrative claims of the Plaintiff for the alleged violations
12 set forth in the complaint in this matter and for any other claims based on the underlying facts alleged in
13 the complaint that could have been asserted against defendants as of the date of entry of this Stipulated
14 Judgment.

15 b) Except as expressly provided in this Stipulated Judgment, nothing in this Stipulated
16 Judgment is intended nor shall it be construed to preclude any state or county agency from exercising
17 its authority under any law, statute or regulation. The signing of this Stipulated Judgment shall not be
18 used by any non governmental agency as an admission of wrongdoing by the defendants, the
19 defendants' successor in interest, the employees of the defendants, the owners/shareholders of the
20 defendants, the officers/directors of the defendants, or any assigns, in any third party claim/litigation.

21 c) Defendants by their signature attest that they have authority to enter into this Stipulated
22 Judgment.

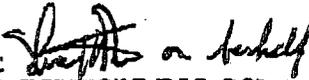
23 10. All checks shall be sent to the Stanislaus County District Attorney's Office, attention:
24 Donna Robinson, Stanislaus County Courthouse, P.O. Box 442, Modesto, CA 95353. All amounts
25 are due within two years of the filing of this Stipulated Judgment. The first installment of TWO
26 HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$225,000.00) as described in Sections 6b and
27 6c is due within one year (365 days) of the filing of this Stipulated Judgment. The balance as described

1 in 6a is due the following year.

2 11. This Stipulated Judgment shall go into effect immediately upon entry hereof. Entry is
3 authorized immediately upon filing.

4

5 Dated: December 15th, 2005

By: 
MA-RU HOLDING COMPANY, INC.
Authorized Representative

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7 Dated: Dec 16, 2005

By: 
Douglas Neibauer, Esquire
Attorney for
MA-RU HOLDING COMPANY, INC.

8

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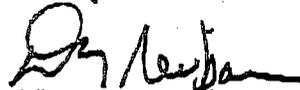
10 Dated: December 15th, 2005

By: 
BONZI LANDFILL, (GP)
Authorized Representative

11

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13 Dated: Dec 16th, 2005

By: 
Douglas Neibauer, Esquire
Attorney for
BONZI LANDFILL, (GP)

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IT IS ORDERED, ADJUDGED AND DECREED.

Dated: DEC 21 2005

CAROL SHIPLEY
ASSISTANT DISTRICT ATTORNEY

By: 
GLORIA M. MAS
DEPUTY DISTRICT ATTORNEY

ROGER M. BEAUCHESNE
JUDGE OF THE SUPERIOR COURT

EXHIBIT A

EXHIBIT A TERMS AND CONDITIONS

All of the following technical reports shall be prepared by, or under the direction of, a California Registered Engineer or Professional Geologist, and shall be signed and stamped by the professional. Each document shall be submitted for the Executive Officer's review and approval, and shall contain all information necessary to review as a stand-alone report.

Groundwater Monitoring System

1. By 15 December 2005, the Discharger shall submit a Groundwater Monitoring System Evaluation Report that shall include the following at a minimum:
 - a. A full evaluation of whether the present detection monitoring system complies with Title 27 Sections 20385, 20405, 20415(b)(1)(B), 20415(e) and 20420. This evaluation shall be based on current groundwater conditions as reported in the monitoring reports from Fall 2004 through the present. This requirement may be met by resubmitting the 12 July 2005 report to include all supporting data, documentation and analysis upon which the report and its conclusions are based (well completion logs, cross sections, well development logs, flow nets). If any monitoring well is determined to be unnecessary, then with Board staff concurrence, the monitoring well will be removed from the detection monitoring system and properly abandoned according to all applicable regulations.
 - b. A demonstration that all monitoring wells listed in Monitoring and Reporting Program No. 98-093 (or replacement wells) meet the performance standards described in Title 27 Section 20415(b)(4) and 40 CFR Part 258.51(c)(2). This report shall address each subsection of Section 20415(b)(4) and 40 CFR Part 258.51(c)(2) for every monitoring well associated with this facility. The report shall include all supporting data, documentation and analysis upon which the report and its conclusions are based (well completion logs, well development logs, etc.). The monitoring wells to be evaluated include wells both on the Discharger's property and off of the property.

If the Discharger or Board staff notes deficiencies, the Discharger will address these deficiencies such that the wells meet all performance standards in a report to be submitted 45 days after the deficiencies were identified. (For more detail see the 16 October 2003 Notice of Violation, the 15 June 2005 Notice of Violation, and Finding 4 of Cease and Desist Order R5-2005-0073.)
 - c. A list of all domestic, agricultural, irrigation and municipal wells within one mile of the facility (not to extend beyond the Tuolumne River). The location of each well shall be displayed on a map.
2. Beginning with the 4th Quarter 2005, all monitoring wells listed in Monitoring and Reporting Program No. 98-093 shall be sampled and reports submitted as described in that document. Wells 85-6R, 86-10R, 85-12, 85-13, and 85-14 (if necessary based on the evaluation required by No. 1a) shall be replaced within 90 days of staff approval of the 19 October 2005 workplan. Until replaced, these wells are not subject to this requirement. The Discharger

December 14, 2005

**Terms and Conditions
Bonzi Landfill**

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shall notify Regional Board staff at least seven days prior to the 4th Quarter 2005 sampling event.

3. **120 days after staff approval of the Groundwater Monitoring System Evaluation Report, the Discharger shall submit a Groundwater Monitoring System Upgrade Report that shall include the following at a minimum:**
 - a. **A full description of the actions taken to address all deficiencies of the detection monitoring system (including those described in the 15 June 2005 NOV and the above required report) and the actions taken to ensure that all monitoring wells meet the Title 27 performance standards. The report shall explain in detail how each deficiency has been resolved (i.e., wells replaced, wells redeveloped, etc). (For more detailed discussion on this issue, see the 15 June 2005 Notice of Violation, and Compliance Item #3 of Cease and Desist Order R5-2005-0073.)**
 - b. **Reasonably available information regarding well construction and pumping rates of the current domestic, agricultural, irrigation, and municipal wells listed in item 1c, above. The report shall include all supporting data, documentation and analysis upon which the report and its conclusions are based. (For more detail, see Finding 8 of Cease and Desist Order R5-2005-0073.)**

Groundwater Monitoring Program

4. **By 1 January 2006, the Discharger shall either resample and submit the results or submit a reevaluation of the previous analysis for the five-year 40 CFR Part 258 Appendix II sampling. The analysis shall report method detection limits and practical quantitation limits per the US EPA method listed in the 40 CFR Part 258 Appendix II or an approved method with lower limits. All peaks shall be reported, including those which cannot be quantified and/or specifically. Included with the submitted data shall be a complete evaluation of the 5-year data as outlined in the August 1997 Standard Provisions and Reporting Requirements. The report shall address all concerns detailed in the 12 September 2005 Regional Board letter.**

Corrective Action Program

5. **Immediately upon the adoption of the judgment, the Discharger shall operate, maintain and monitor the groundwater treatment system so that the groundwater plume will be contained at the point of compliance as described in Section 20164 of Title 27. The groundwater treatment system will be run 24 hours a day, seven days a week. This requirement includes the operation of extraction wells EW-1, 2 and 3 and any added wells needed as a result of the capture zone analysis. This operation period only can be changed by submitting a report showing that a 24/7 operation period is not necessary to fully contain the plume, and upon written concurrence from Executive Officer. (For more detail refer to Findings 5, 6, 7, 8 and Compliance Items 1 and 7 of Cease and Desist Order R5-2005-0073.)**

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**Terms and Conditions
Bonzi Landfill**

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6. Immediately upon the adoption of the judgment, the Discharger shall operate, maintain and monitor the existing landfill gas extraction system to contain the landfill gas within the property boundary.
7. By 1 February 2006, the Discharger shall submit a complete Soil Gas Monitoring Plan that complies with Title 27 Article 6 and establishes a soil gas monitoring system that monitors the landfill gas and shows whether the gas is contained within the property boundary. If the gas is not contained within the property boundary, then the plan shall include a proposed expansion of the system. The plan shall be implemented upon written approval.
8. If necessary, a final Soil Gas Monitoring System Construction Report shall be submitted 90 days after staff's approval of the Soil Gas Monitoring Plan.
9. This section has been deleted.
10. Beginning 15 January 2006, the Discharger must submit a Corrective Action Semi-annual Progress Report describing the effectiveness of the corrective action program pursuant to Title 27 Section 20430(h) until all constituents of concern (volatile and/or inorganic) listed in 40 CFR, part 258 Appendix I and II have been restored to levels below their water quality objectives. The reports shall include all supporting data, documentation and analysis upon which the report and its conclusions are based, and shall be submitted 15 January and 15 July of each year until the groundwater has been remediated. These Terms apply only to the 2006 Semi-Annual reports. Reports not submitted after that time will be subject to the Board's usual administrative enforcement actions.

Surface Impoundment/Groundwater Treatment System

11. By 1 January 2006, the Discharger shall inspect the detention pond liner system and remove any vegetation from the pond. All tears and holes shall be repaired within 60 days of completion of the electronic leak detection inspection. (For greater detail refer to the 9 August 2005 and 21 September 2005 Notice of Violations.)
12. Immediately upon adoption of the judgment, the Discharger must maintain at least the required freeboard in the applicable WDRs for the detention pond at all times.
13. Immediately upon adoption of the judgment, the Discharger shall discharge treated groundwater to the vineyard (APN 017-042-001) in accordance with WDRs Order No. 90-215 (Note that compliance is not required while work required by Item #11 is undertaken.) Compliance with WDRs Order No. 90-215 includes land applying the water only through a drip system such that ponding does not occur. Flood irrigation of the water contained in the surface impoundment is prohibited. The Discharger must also maintain the vineyard such that it is capable of achieving the greatest agronomic uptake. Direct effluent discharge of the groundwater treatment system to a location other than the surface impoundment is a violation of WDRs Order No. 90-215. (For more detail, refer to WDRs Order No. 90-215 discharge Prohibitions A, B and C.). This requirement shall remain in effect until the Regional Board

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**Terms and Conditions
Bonzi Landfill**

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adopts revised WDRs for the groundwater treatment/disposal system.

14. By 1 April 2006, the Discharger shall submit a **Treatment System Effluent Evaluation and Operations Report** that shall include the following at a minimum:
- a. Documentation of the inspections and repairs of the detention pond liner system. (For greater detail refer to the 9 August 2005 and 21 September 2005 Notice of Violations.)
 - b. A detention pond water balance evaluation to determine how much additional capacity is required to maintain the freeboard at 1.5 feet or greater throughout the entire year, including the rainy season. The freeboard requirement shall not be met by shutting off the groundwater treatment system. (For greater detail, refer to WDR Order No. 90-215.)
15. By 1 April 2006, the Discharger shall submit documentation that the vineyard's (APN 017-042-001) drip irrigation system is capable of operating within the discharge limits in WDRs Order No. 90-215. If upgrades were necessary to meet this requirement, the report shall contain details. (For more detail, refer to WDRs Order No. 90-215 finding 7.)
16. By 1 May 2006, the Discharger shall submit a **Report of Waste Discharge** to update WDRs Order No. 90-215. The RWD shall include a technical report evaluating the current groundwater treatment system and whether it is capable of removing all VOCs, metals, and salts to levels that will not degrade the groundwater when discharged. If the system is currently inadequate, then the RWD shall describe a modified system and propose a timeline for installation. The RWD shall include a Form 200, a water balance, and a technical report including the information listed in Attachment A to this document.

Financial Assurance

17. By 1 February 2006, the Discharger shall submit a **Financial Assurance Report**. This report will cover each of the comments in 3 October 2005 Notice of Violation regarding the previous financial assurance report, as well as the items described below. Note that the report due by 1 February 2006 is to cover items 1.a, 2.a, 2.b, 3.a, and 3.b. Item 1.b is to be submitted separately as described below.
- 1 **Treatment System Financial Assurances (Corrective Action)**
 - a. Evaluate the annual cost of running the entire groundwater and landfill gas extraction treatment systems, monitoring the corrective action wells, maintenance of both systems and monitoring wells, and all other cost (reports, etc.) associated with the Title 27/40 CFR corrective action program. Then considering inflation a total cost shall be evaluated to operate the system for 30 years. The report shall include all supporting data, documentation and analysis upon which the report and its conclusions are based. (For greater detail refer to compliance items #6, #10 & #16 of Cease And Desist Order RS-2005-0073 and the 3 October 2005 Notice of Violation.)

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**Terms and Conditions
Bonzi Landfill**

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- b. 90 days after staff approval of 1.b, above, the Discharger shall provide a mechanism and a funding source that complies with Title 27 and 40 CFR Part 258.73 for the annual cost of running the entire groundwater and landfill gas extraction treatment systems, monitoring, the corrective action wells, maintenance of both systems and monitoring wells, and all other cost (reports, etc.) associated with the Title 27/40 CFR corrective action program.

2 Post Closure Maintenance Financial Assurances

- a. Prepare a cost analysis report for maintaining the closed WMU I in compliance with Title 27, Division 2, Chapter 6 and 40 CFR Part 258.61. The Discharger shall also provide a mechanism and a funding source that complies with Title 27 and 40 CFR Part 258.72. The report shall provide all supporting data, documentation and analysis upon which the report and its conclusions are based. (For greater detail refer to compliance items #6, #10 & #16 of Cease And Desist Order R5-2005-0073 and the 3 October 2005 Notice of Violation.)
- b. Provide a mechanism and a funding source (or proof of an existing mechanism and funding source) for maintaining the closed WMU I in compliance with Title 27, Division 2, Chapter 6 and 40 CFR Part 258.61. The Discharger shall also provide a mechanism and a funding source that complies with Title 27 and 40 CFR Part 258.72.

3 Closure and Post Closure Financial Assurances for Units II, III and IV

- a. Evaluate the cost of post closure maintenance and closure of waste management units II, III and IV in compliance with Title 27, Division 2, Chapter 6 and 40 CFR Part 258.61 and 258.73. The report shall provide all supporting data, documentation and analysis upon which the report and its conclusions are based. (For greater detail refer to compliance items #6, #10 & #16 of Cease And Desist Order R5-2005-0073 and the 3 October 2005 Notice of Violation.)
- b. Provide a mechanism and a funding source (or proof of an existing mechanism and funding source) that complies with Title 27, Division 2, Chapter 6 and 40 CFR Part 258.61 and 258.73 for the corrective action, post closure maintenance and closure of waste management units II, III and IV.

Waste Characterization

18. 60 days after staff's approval of the WMU II and III Closure Plan, the Discharger shall submit a Waste Characterization Analysis Report describing the actual waste deposited in the WMU IV. This is to be determined by trenching and/or boring into the waste, as well as by facility records. An evaluation of the waste types and percentages shall be presented in the analysis. This analysis shall also include a characterization of the waste per Title 27 Section 20200. If the WMU II and III Closure Plan states that all waste from WMU IV will be moved onto WMUs II and III, then this report is not required. However,

December 14, 2005

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CO-DIST.ATTYS.ASSOC.

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**Terms and Conditions
Bonzi Landfill**

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if only a portion of the waste will be moved, then the waste remaining in WMU IV must be characterized.

Closure

19. **By 1 January 2006, the Discharger shall place on Units II and III a minimum of one foot of interim soil cover and compact it in accordance with Title 27 Section 20705. An Interim Soil Cover Report documenting the work shall be submitted by 15 January 2006. (For greater detail refer to the 9 August 2005 Notice of Violation.)**
20. **By 1 March 2006, the Discharger shall submit a Closure Plan for WMUs II and III that complies with CCR Title 27. The plan shall include a closure date, which shall be as soon as economically and technically feasible. If the Closure Plan states that waste will be removed from WMU IV for placement on WMU II and III, then removal must begin upon staff's approval of the plan.**
21. **By 1 March 2006, the Discharger shall submit a Joint Technical Document to update Waste Discharge Requirements Order No. 98-093 to reflect the current operations of the landfill and the closure timelines. The JTD shall meet the requirements of Title 27, Chapter 4, Subchapter 3, Article 2.**

Attachment A: Items to be included in a RWD

December 14, 2005

ATTACHMENT A

**ATTACHMENT A TO EXHIBIT A
ADDITIONAL INFORMATION REQUIREMENTS
FOR REPORT OF WASTE DISCHARGE
BONZI LANDFILL**

Please provide a technical report, prepared by, or under the direct supervision of a registered professional, that presents the following information:

1. A narrative description of all wastewater conveyance, treatment, and disposal systems currently existing at the facility.
2. A narrative description of all planned physical improvements, their purpose, and anticipated completion dates. If phased build out is planned provide scope and completion dates for each phase.
3. Provide a site map that shows property lines, buildings, treatment or storage ponds, land application areas, and surface water drainage courses within 1,000 feet of the site.
4. A process flow diagram, treatment plant site plan, and a scaled map showing the limits of all existing and proposed effluent disposal areas.
5. For each pond and any other waste containment structure, provide the following information and give any references used. Discuss both existing and proposed facilities:
 - a. Identification (name) and function of the pond;
 - b. Surface area, depth, and volumetric capacity at two feet of freeboard;
 - c. Height (relative to surrounding grade), crest width, interior slope, and exterior slope of each berm or levee;
 - d. Materials used to construct each berm or levee;
 - e. Description of engineered liner, if any;
 - f. Estimated steady state percolation rate;
 - g. Depth to shallow groundwater below the pond;
 - h. Overfilling/overflow prevention features; and
 - i. Operation and maintenance procedures.
6. A description of the sources and types of wastewater flowing into the system, design flow rates, and the design capacity of the system (existing and proposed). Include projected infiltration/inflow rates and peaking factors used in design calculations.
7. A description of emergency wastewater storage facilities or other means of preventing system bypass or failure during reasonably foreseeable overload conditions (e.g., power failure).
8. A description of the following for the both existing system and each phase of any proposed expansion:
 - a. Average dry weather flow;
 - b. Peak wet weather flow; and

Additional Information Requirements
Bonzi Landfill

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- c. Effluent quality at the point of discharge to the pond (BOD, nitrogenous compounds, electrical conductivity, total dissolved solids, VOCs, pH, and metals).
 - d. A description of the wastewater disposal area including: acreage, type of crop grown, loading rates for BOD (in lbs/acre/day), total nitrogen (in lbs/acre/year), and salts (in lbs/acre/year). Provide a description of the disposal area and the disposal technique. State the number of acres of land used for disposal and crops planned for application areas. Show field locations on a map. Describe harvesting and crop disposal procedures. Describe the mixing ratio of wastewater and supplemental irrigation water prior to application. Describe the irrigation system and tailwater control and return system or other measures to prevent irrigation tailwater from leaving the fields.
9. Provide a projected monthly water balance demonstrating adequate containment and disposal capacity for the 100-year return period total annual precipitation, including consideration of at least the following.
- a. A minimum of two feet of freeboard in all ponds at all times;
 - b. Historical local evaporation data (monthly average values);
 - c. Local precipitation data with the 100-year return period annual total distributed monthly in accordance with mean monthly precipitation patterns;
 - d. Proposed wastewater loading rates distributed monthly in accordance with expected seasonal variations;
 - e. Projected long-term percolation rates; and
 - f. Projected irrigation usage rates.
10. A narrative description of groundwater treatment plant operation and maintenance procedures to be employed, including those associated with effluent storage and disposal.
11. If known, describe the quality of the underlying groundwater and the depth below ground surface at which groundwater is first encountered. Provide any other information regarding how you will manage this waste discharge to prevent the underlying groundwater from being degraded.
12. A description of any policies or facility design features that reduce the potential for groundwater degradation (best practicable treatment and control or BPTC measures).

EXHIBIT B

EXHIBIT B**Bonzi Landfill: Terms and Conditions Summary and Stayed Penalties**

	Report	Due Date	Stayed/Stipulated Penalty
Groundwater Monitoring System			
1.	Groundwater Monitoring System Evaluation	20 December 2005	\$50,000
2.	Comply with MRP No. 98-093	Beginning 4 th Q 2005	\$100,000
3.	Groundwater Monitoring System Upgrade Report	120 days after staff approval of Report #1	\$50,000
Groundwater Monitoring Program			
4.	Five-year 40 CFR Part 258 Appendix II	1 January 2006	\$50,000
Corrective Action Program			
5.	Operate groundwater treatment system 24/7 (70)	Immediately	\$100,000
6.	Operate landfill gas system	Immediately	\$100,000
7.	Soil Gas Monitoring Plan	1 February 2006	\$50,000
8.	Soil Gas Monitoring System Construction Report (if necessary)	90 days after approval of Soil Gas Monitoring Plan	\$50,000
9.	Deleted		
10.	Corrective Action Semi-Annual Progress Reports	15 January 2006, 15 July 2006	\$50,000
Surface Impoundment/Groundwater Treatment System			
11.	Inspect pond liner	1 January 2006	\$50,000
12.	Maintain pond freeboard in compliance with WDRs	Immediately	\$50,000
13.	Discharge treated water in compliance with WDRs	Immediately	\$50,000
14.	Treatment System Effluent Evaluation and Operations Report	1 April 2006	\$50,000
15.	Document that vineyard discharge system meets WDRs	1 April 2006	\$50,000
16.	RWD to update WDRs No. 90-215	1 May 2006	\$50,000
Financial Assurance			
17.	Financial Assurance Report	1 February 2006	\$100,000
17a.	Mechanism for finding corrective action	90 days after approval of corrective action financial assurance report	\$50,000
Waste Characterization			
18.	Waste Characterization Analysis Report	60 days after approval of report #21	\$50,000
Closure			
19.	Interim Soil Cover Report	15 January 2006	\$100,000
20.	WMU II and III Closure Plan	1 March 2006	\$100,000
21.	Joint Technical Document to update WDR No. 98-093	1 March 2006	\$100,000

\$1,400,000

14-Dec-05

CAO-

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2006-0002

VIOLATION OF STIPULATED JUDGMENT BY
MA-RU HOLDING COMPANY AND THE
BONZI SANITATION LANDFILL
STANISLAUS COUNTY

WHEREAS, a Stipulated Judgment for injunction, civil penalties, and relief (Case. No. 376882) has been filed with the Superior Court of the State of California for the County of Stanislaus regarding the Ma-Ru Holding Company, Inc. and Bonzi Sanitation Landfill (hereafter Discharger); and

WHEREAS, the Discharger's landfill is on a 128-acre parcel comprised of Assessor's Parcel Numbers 17-41-36 and 17-41-11, and is found in Section 12, T4S, R4E, MDB&M; and

WHEREAS, the Stipulated Judgment includes Exhibit A (Terms and Conditions) and Exhibit B (Terms and Conditions Summary and Stayed Penalties). The Discharger must comply with the Terms and Conditions listed therein or be subject to the specified stayed penalty; and

WHEREAS, Item No. 11 of Exhibit A states that "By 1 January 2006, the Discharger shall inspect the detention pond liner system and remove any vegetation from the pond..."; and

WHEREAS, on 29 December 2005 the Discharger's attorney faxed a letter informing staff that the Discharger would not be able to comply with the 1 January 2006 date for the inspection of the detention pond liner system and the removal of vegetation; and

WHEREAS, the Stipulated Judgment states that failure to comply with the Terms and Conditions shall result in the immediate payment of penalties. Exhibit B defines the penalty for failing to inspect the pond liner and remove vegetation by 1 January 2006 as \$50,000; and, therefore, be it

RESOLVED that the Regional Board has determined the Discharger has violated Item No. 11 of the Stipulated Judgment and therefore shall immediately remit \$50,000 in the form of a check made payable to the *State Water Resources Control Board Cleanup and Abatement Account*.

I, Kenneth D. Landau, Acting Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region on 26 January 2006.

KENNETH D. LANDAU, Acting Executive Officer

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. R5-2005-0073

CEASE AND DESIST ORDER
REQUIRING
MA-RU HOLDING COMPANY, INC.

BONZI SANITATION LANDFILL, INC. PARTNERSHIP
BONZI SANITATION LANDFILL
STANISLAUS COUNTY

TO CEASE AND DESIST
FROM DISCHARGING CONTRARY TO REQUIREMENTS

The Regional Water Quality Control Board, Central Valley Region (hereafter referred to as “Regional Board”) finds that:

1. Waste Discharge Requirements (WDRs) Order No 98-093, adopted by the Regional Board on 17 April 1998, prescribes requirements for the Ma-Ru Holding Company, Inc. as owner and the Bonzi Sanitation Landfill Inc. Partnership as operator, (hereafter jointly referred to as “Discharger”) of the Bonzi Sanitation Landfill facility. The WDRs incorporate by reference the August 1997 Standard Provisions and Reporting Requirements for Waste Discharge Requirements for Discharges Regulated by Title 27 and/or Part 258 (Standard Provisions).
2. Due to the detection of volatile organic compounds (VOCs) and elevated inorganic constituents of concern, the Regional Board adopted Cleanup and Abatement (C&A) Order No. 89-185 on 22 September 1989. The C&A Order prescribed conditions for additional site assessment and construction and for operation of a groundwater remediation system.
3. The Discharger’s landfill is on a 128-acre parcel and is comprised of Assessor’s Parcel Numbers 17-41-36 and 17-41-11, which are three miles southwest of Modesto near the Tuolumne River in Section 12, T4S, R4E, MDB&M.
4. The facility includes four waste management units (WMUs) as described below:
 - **WMU I** is a 35 acre class III landfill closed pursuant to California Code of Regulations (CCR) Title 27, Division 2, Subdivision 1 (hereafter Title 27). WMU I has been capped with a two-foot thick foundation layer, a 30-mil PVC flexible membrane and an 18-inch vegetative layer. Approximately two million cubic yards of municipal refuse, agricultural wastes, industrial wastes and construction debris were landfilled from 1967 to 1978. WMU I was constructed without a bottom liner or a leachate collection and recovery system (LCRS).
 - **WMU II** is a class III waste management unit that covers 18 acres in the central eastern area of the facility. Wastes were accepted from 1978 to 1984. Approximately 750,000 cubic yards of municipal refuse, agricultural wastes, industrial wastes and construction wastes were landfilled. This landfill has reached capacity and is now covered with intermediate cover. There is no bottom liner or LCRS. No Final Closure plan has been submitted for this unit.

- **WMU III-A, III-B, and III-C** are class III waste management units covering about 11 acres in the central southern portion of the facility. Approximately 250,000 cubic yards of agricultural waste, industrial waste, and construction wastes were accepted from 1984 to March 1992. The landfill is currently being covered with intermediate daily cover. There is no bottom liner or LCRS. No Final Closure plan has been submitted for these units.
- **WMU III-D, WMU III-E, and WMU III-F** are three “unclassified” waste management units. The WDRs allowed only inert wastes, as defined in Section 20230 of Title 27, to be discharged to these units. These units have reached capacity and are now covered with intermediate cover. There is no bottom liner or LCRS. No Final Closure plan has been submitted for these units.
- **WMU IV** is an active inert waste management unit covering 20 acres in the northeastern portion of the facility and resides in a soil borrow pit that was created during construction of the other units. The WDRs allow only inert waste (as defined in Section 20230 of CCR Title 27) to be discharged to this unit. The waste is currently being covered with daily cover. The unit has no bottom liner or LCRS.

Groundwater Remedial System

5. On 1 October 1984, the Discharger submitted a report titled *Groundwater Study, Bonzi Landfill*. This report disclosed that in the winters of 1981-1982 and 1982-1983 the groundwaters rose and percolated through the landfilled refuse, and that the groundwater beneath the site had been polluted with VOCs, metals and total dissolved solids. Cease and Desist Order No. 84-153 was adopted on 28 November 1984, directing the Discharger to evaluate the extent of the plume. As a result of the Order, the following reports were prepared:
 - (a) Site Investigation Report, Bonzi Sanitary Landfill, dated 8 May 1987
 - (b) Design Reports/Operation and Closure Plans, dated 16 April 1987
 - (c) Feasibility Study, Bonzi Sanitary Landfill, dated 1 July 1987
 - (d) Soil Gas Tube Investigation, dated June 1989

The data in the above reports document that in 1989, ten groundwater-monitoring wells and three leachate monitoring-wells were contaminated by VOCs. The Board subsequently adopted C&A Order No. 89-185 and rescinded Cease and Desist Order No. 84-153. C&A Order No. 89-185 required the Discharger to implement groundwater remediation, and provide drinking water for downgradient municipal water well users.

6. Since the adoption of C&A Order No. 89-185, the Discharger has installed the required remediation system, yet monitoring data has consistently shown that the system is not adequately functioning. In October 1998, the Discharger submitted an “Evaluation of Corrective Action Program Performance and Effectiveness” report in response to VOCs being detected in the downgradient and off-site VFW Hall’s domestic well. The report stated “*since the basis of the treatment system design is develop a capture zone that will intercept and extract contaminated groundwater, continuous*

operation of the system is an integral factor in the overall effectiveness of the treatment program. Unless the system is operated continuously to sustain the required capture zone, the efficiency and ability of the system to control the migration is severely limited.” However, as observed by Board staff during several inspections and noted in correspondence since 1989, the system has not continuously operated. On 3 March 2005, staff was informed by the owner that the groundwater extraction system has not been operating for over a year, and that it was only turned on to collect samples for reporting purposes.

7. The Discharger is aware of the system failures and was notified of the extraction system problems by the Regional Board on numerous occasions. On 16 October 2003, a Notice of Violation (NOV) requested that the Discharger submit a revised engineering feasibility plan describing how the system would be modified such that it would comply with the corrective action program requirements of Section 20430(j) of Title 27 (i.e. that a sufficient groundwater depression will be maintained to capture the groundwater plume). This report was due by 30 November 2003. The Discharger has neither submitted the report nor has acknowledged the violation in the subsequent monitoring reports as required by the Standard Provisions, a component of WDRs Order No. 98-093. In addition, the Discharger has failed to implement the treatment system Operations and Maintenance Manual notification process, which states that the Regional Board would be notified in writing of a system shutdown. The Regional Board has not received any notifications of any system shut-down.
8. The data submitted by the Discharger supports that the remedial system has not been operating. During the fourth quarter 2004 groundwater-sampling event, VOCs were detected in nineteen monitoring wells. Eleven of those wells are downgradient and/or adjacent to one of the three non-operating groundwater extraction wells. The monitoring data indicates that an ongoing release is occurring. The October 1998 corrective action program analysis reported that the site hydraulic conductivity varies from 145 to 460 feet per day. With the continued detection of VOCs downgradient of the extraction system, the highly conductive aquifer material, and the Discharger’s failure to operate the system, the groundwater plume likely has expanded since the original offsite investigation. Consequently, the system’s original design may be inadequate to capture and remediate the current plume.

VIOLATIONS OF THE WASTE DISCHARGE REQUIREMENTS

Groundwater Monitoring Program

9. The Standard Provisions, Sampling and Analytical Methods, Provision No. 3 states: *“The methods of analysis and the detection limits used must be appropriate for the expected concentrations....”*
10. The Monitoring and Reporting Program of the WDRs require compliance with Section 20415 of Title 27. Section 20415(e)(4) states: *“The water quality monitoring program shall include consistent sampling and analytical procedures that are designed to ensure that monitoring results provide a reliable indication of water quality at all Monitoring Points and Background Monitoring Points.”*

11. The Discharger and its consultant have been unable to certify that the Quality Assurance/Quality Control (QA/QC) review for data and information submitted under WDRs Order No. 98-093 meet the standards of Section 20415 of Title 27. On 14 September 2004, a NOV was issued concerning the Discharger's laboratory protocols. Even after staff identified the deficiency in the NOV, the Discharger submitted its 2004 Annual Monitoring Report with invalid results. The Federal EPA mandated 5-year Appendix II Constituents of Concern laboratory analysis were not conducted at the required minimum detection limits. At this time, the monitoring program is not in compliance with WDRs Order No. 98-093, Section 20415(e)(4) of CCR Title 27, or Section 258 of the Code of Federal Regulations Title 40 Subtitle D.

Post Closure Maintenance of Waste Management Unit I

12. Waste Management Unit I closure began in December 1997. Construction of the foundation layer was completed in April 1998. Following acceptance of the foundation layer by the CQA officer, deployment of the geomembrane layer started in May 1998 and was completed in July 1998. Placement of the vegetative soil cover layer and final drainage channel installation was conducted concurrently with the geomembrane installation and was completed in October 1998. Hydro seeding was completed in January 1999. On page 32 of the "Bonzi Sanitation Landfill June 1996 WMU I Post Closure Maintenance Plan", the Discharger described specific maintenance procedures for maintaining the final cover's performance, including: "correcting differential settlement effects along drainage ways to provide proper runoff and run-on control" and "removing blockages from drainage ditches".
13. Discharge Specification B.12 of WDRs Order No. 98-093 states: "*Closed landfill units shall be graded to at least a three percent (3%) grade and maintained to prevent ponding.*"
14. Provision C.15 of WDRs Order No. 98-093 states: "*The Discharger shall comply with all applicable provisions of Title 27 that are not specifically referred to in this Order.*"
15. Section 21090(c)(1) of CCR Title 27 states: "*Throughout the post closure maintenance period, the discharger shall maintain the structural integrity and effectiveness of all containment structures, and maintain the final cover as necessary to correct the effects of settlement or other adverse factors.*"
16. On 16 October 2003, a NOV was sent to the Discharger stating that the cover on WMU I no longer met the performance standards of Title 27. The NOV specifically stated that runoff ditches were clogged with vegetation and the unit's hummocky surface is an indication that significant settling has occurred. The Discharger was asked to submit certification by a Registered Professional Engineer that the current final cover integrity complies with Section 21090 of Title 27. The Discharger has failed to submit the requested information or to acknowledge the violation in the subsequent monitoring reports as required by the Standard Provisions of WDRs No. 98-093.

17. Discharge Specification B.9 of WDRs Order No. 98-093 states: *“The closed landfill shall be provided with at least two permanent monuments, installed by a licensed land surveyor, from which the location and elevation of all wastes, containment structures, and monitoring facilities can be determined throughout the post-closure maintenance period.”*
18. Section 20950(a)(2)(A)(1) of CCR Title 27 states: *“For landfills and for waste piles and surface impoundments closed as landfills, the goal of closure, including but not limited to the installation of a final cover, is to minimize the infiltration of water into the waste, thereby minimizing the production of leachate and gas. For such Units, after closure, the final cover constitutes the Unit’s principal waste containment feature.”*
19. Section 20365(d) of CCR Title 27 states: *“Collection and holding facilities associated with precipitation and drainage control systems shall be emptied immediately following each storm or otherwise managed to maintain the design capacity of the system.”*
20. During a site inspection on 3 March 2005, staff observed significant ponding and settlement on the upper surface of WMU I. Staff asked the Discharger to locate the two surveyed monuments required by the WDRs. The Discharger stated they did not have monuments. Furthermore, the runoff/run-on ditches were still choked with vegetation. At this time the condition of the WMU I final cover does not comply with WDRs Order No. 89-093 nor with Section 20950(a)(2)(A)(1) of CCR Title 27. No improvements have been made since issuance of the 16 October 2003 NOV.

Waste Management Units II and III

21. Section 21090(b)(1)(D) of CCR Title 27 states: *“The RWQCB has approved, as part of the final closure plan, a waiting period (for installation of the final cover) not to exceed five years after the date a portion of the landfill reaches final elevation, in order to avoid subjecting the final cover to potential damage from the high rate of differential settlement that so often occurs during the first few years following the final receipt of waste. To the extent feasible, based on site-specific factors, the complete closure, including final grading and installation of the final cover, for each portion of the landfill shall be implemented as soon as possible after that portion reaches final elevation.”*
22. Section 21110(a) of CCR Title 27 states: *“Within thirty (30) days of receipt of the final shipment of waste to a discrete unit or if the entire disposal site has reached permitted capacity, the operator shall begin implementation of the closure schedule as specified in the approved closure plan.”*
23. Section 21110(b)(1) of CCR Title 27 states: *“If a solid waste landfill that has remaining permitted capacity is inactive for 12 consecutive months, the operator shall begin closure activities in accordance with the time frames specified in the closure plan unless granted an extension pursuant to (b)(3).”*
24. WMUs II, III-A, III-B, and III-C are class III landfill units and WMU III-D, WMU III-E, and WMU III-F are unclassified landfill units with no documented discharge over the last 12 months.

The Discharger informed staff that the last waste discharged to these units occurred in January 1999. The WDRs allow the Discharger to close WMU II, III and IV as one unit, however staff informed that Discharger that this does not comply with Section 21090(b)(1)(D) of CCR Title 27, and due to landfill gas, shallow depth to groundwater and groundwater contamination, the unit must be closed earlier. The Discharger has not initiated any closure activities at these waste management units and is therefore in violation of its WDRs and CCR Title 27. Based on Regional Board records, no extension has been granted by the California Integrated Waste Management Board under Section 21110(b)(3) of Title 27.

Waste Management Unit IV

25. Waste Management Unit IV is an active inert waste landfill covering 20 acres in the northeastern section of the facility. Waste is placed in a low-lying area that was created by over-excavation. The Discharger is placing inert waste into WMU IV to raise the foundation of the unit five-feet above the expected high groundwater elevation. Sections 20240(a) and (b) of CCR Title 27 describes the siting requirements of a new waste management unit, as well as the standards for the unit foundation. The current waste is not an engineered homogenous material and does not meet the foundation requirements of Title 27.
26. Discharge Specification No. 6 of WDRs Order No. 98-093 specifically identifies the allowable inert wastes for WMU IV as: *“...concrete, clean earth, rock, cured asphalt, mortar, tile, stucco, brick, glass, and porcelain fixtures such as sinks, toilets and tubs shall be discharged to areas below the highest anticipated groundwater elevation. The Discharger shall verify the age of the asphalt, composition, composition shingles, and mortar to be more than 10 years old. No additional excavation of unclassified WMU cells shall occur below the highest anticipated groundwater elevation.”*
27. On 3 March 2005 and 1 April 2005, staff observed large amounts of paper, cardboard, significant amounts of plastic, furniture cushions, and carpet material being discharged to WMU IV. This discharge of non-permitted waste is a violation of WDRs No. 98-093.
28. Finding No. 20 of WDRs Order No. 98-093 states: *“Inert waste intake is about 2000 tons per month and continues to be relatively stable from historic calculations. At this rate and an assumed waste to soil cover ration of 4:1, WMU IV has about 426,000 cubic-yard capacity and is anticipated to be filled by February 2006.”*
29. Section 21780(c)(3) of CCR Title 27 states: *“Final closure and postclosure maintenance plans for solid waste landfills shall be submitted two years prior to the anticipated date of closure. Within five years of the anticipated date of closure, the operator may submit the final closure and postclosure maintenance plans in lieu of submitting new or updated preliminary closure and postclosure maintenance plans.”*

30. Waste Management Unit IV is within one year of the projected filled capacity as presented in the WDRs. No closure or post closure maintenance plans have been submitted as required by Section 21780(c)(3) of CCR Title 27.

REGULATORY CONSIDERATIONS

31. As a result of the events and activities described in this Order, the Regional Board finds that the Discharger has caused or permitted waste to be discharged in such a manner that it has created, and continues to threaten to create, a condition of pollution or nuisance. The Regional Board also finds that the Discharger has discharged, and has the potential to continue to discharge, waste in violation of WDRs Order No. 98-093 and C&A Order No. 89-185.
32. The Regional Board's Water Quality Control Plan for the Sacramento and San Joaquin River Basins (Basin Plan) designates beneficial uses, includes water quality objectives to protect the beneficial uses, and includes implementation plans to implement the water quality objectives.
33. Surface water runoff from this site is to the Tuolumne River, in the stretch between New Don Pedro Dam and the San Joaquin River.. The beneficial uses of the Tuolumne River are municipal and domestic supply; , agricultural supply; water contact recreation; non-contact water recreation; warm freshwater habitat; cold freshwater habitat; migration of aquatic organisms; spawning, reproduction and/or early development; and wildlife habitat.
34. The beneficial uses of groundwater are domestic, municipal, agricultural and industrial supply.
35. Section 22140 (a) and (b) of CCR Title 27 states:
- (a) If the RWQCB finds that early closure of a waste management unit (Unit) is necessary to prevent (or curtail) violation of waste discharge requirements [e.g., as a source control measure in corrective action, under Section 20430(c)], it shall adopt a Cease and Desist Order, pursuant to Section 13302 of the Water Code, which requires closure according to a closure and post closure maintenance plan approved by the RWQCB.
 - (b) Any time a Unit is subjected to early closure, under (a), the discharger shall, in accordance with a schedule of compliance issued by the RWQCB, submit to the RWQCB a report including an appropriate closure and post closure maintenance plan (under Section 21769), if such a plan applicable to the early-closed configuration of the Unit was not submitted with the report of waste discharge and including a revised schedule for immediate termination of operations and closure.
36. CWC Section 13301 provides that:

When a regional board finds that a discharge of waste is taking place, or threatening to take place, in violation of requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not

complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventive action.

37. CWC Section 13267(b) provides that:

In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste outside of its region that could affect the quality of waters of the state within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports.

38. The technical reports required by this Order are necessary to assure compliance with this Order and the waste discharge requirements, and to protect the waters of the state. Existing data and information about the site indicates that waste has been discharged or may continue to be discharged at the property, which is currently owned and operated by the discharger named in this Order.

39. The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act, pursuant to Section 15321(a)(2) of CCR Title 14. This Order specifically addresses remedial actions necessary to cease and desist the effects of material being discharged to waters of the State.

40. Any person adversely affected by this action of the Regional Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with Sections 2050-2068 of CCR Title 23. The State Board must receive the petition within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions may be found on the Internet at <http://www.waterboards.ca.gov/centralvalley> or will be provided upon request.

IT IS HEREBY ORDERED THAT, pursuant to Sections 13267 and 13301 of the California Water Code, Ma-Ru Holding Company Inc., the Bonzi Sanitation Landfill, Inc. Partnership, and the Bonzi Sanitation Landfill, their agents, successors, and assigns, shall comply with the following measures to ensure long-term compliance with Waste Discharge Requirements Order No. 98-093 or any subsequent Waste Discharge Requirements, Cleanup and Abatement Order No. 89-185, the California Water Code, and California Code of Regulations Title 27.

Any person signing a document submitted under this Order shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of

those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

Corrective Action – Groundwater Degradation and Monitoring

1. By **6 May 2005**, the Discharger shall submit a report showing that it is continuously operating extraction wells EW-2 and EW-3 of the existing groundwater and landfill gas extraction systems. During the initial start up the Discharger shall follow the reporting requirements outlined in Item 9 below.
2. By **30 June 2005** the Discharger shall submit a report showing that it is continuously operating extraction well EW-1.
3. By **31 May 2005**, the Discharger shall submit a report certifying that the groundwater detection monitoring system meets the requirements in Section 20385, Section 20415(b)(1)(B), Section 20415(e) and Section 20420 of CCR Title 27.
4. By **31 May 2005**, the Discharger shall submit a report certifying that all monitoring points identified in WDRs Order No. 98-093 meet the standards in Section 20415(b)(4) of CCR Title 27.
5. By **15 June 2005**, the Discharger shall resubmit the 2004 annual monitoring report, which includes the appendix II constituents of concern required by Section 258 of the Code of Federal Regulations Title 40 Subtitle D analyzed at the appropriate detection limits.
6. By **31 July 2005**, the Discharger shall provide financial assurance for all corrective action measures as required by Title 27 California Code of Regulations, Division 2, Chapter 6. Furthermore, the Discharger shall conduct an annual review of the financial assurance for initiating and completing corrective action, and submit a report for Executive Officer review and approval. This review shall be submitted on **30th of April** of each calendar year. The assurances of financial responsibility shall name the Regional Board as beneficiary and shall provide that funds for corrective action shall be available to the Regional Board upon the issuance of any order under California Water Code, Division 7, Chapter 5. The Discharger shall adjust the cost annually to account for inflation and any changes in facility design, construction, or operation.
7. By **1 August 2005**, the Discharger shall submit a report demonstrating that it has a complete and operational corrective action remediation and monitoring system capable of capturing all contaminants from passing the point of compliance, as well as removing VOCs, metals and other constituents of concern from the wells affected by the release from the facility. The report shall discuss how the system shall be operated continuously until all constituents of concern have achieved their water quality protection standard at the point of compliance.

8. By **1 August 2005**, the Discharger shall maintain a corrective action monitoring system, in compliance with Section 20415(b)(1)(D) of CCR Title 27 and approved by the Executive Officer, to evaluate the continuous operational performance of the corrective action remediation systems.
9. On **the first day of each month (beginning with the month of June 2005)**, the Discharger shall submit a progress report on the status of the corrective action measures during the previous month. The report shall include: total hours of operation of all remediation systems/per day; an evaluation of the performance of each individual extraction point (both landfill gas and groundwater); the volume of water discharged from the system; the amount of kilowatts used by both the gas extraction system and the groundwater extraction system; the mass of contaminants removed by the gas extraction system; and the location of discharge of the treated water.

Post Closure Maintenance – WMU I

10. By **31 July 2005**, the Discharger shall provide financial assurance for post closure maintenance as required by Title 27 California Code of Regulations, Division 2, Chapter 6 for WMU I. The Discharger shall conduct an annual review of the financial assurance for closure and post closure maintenance, and submit a report for Executive Officer review and approval. This review shall be submitted on **30th of April** of each calendar year. The assurances of financial responsibility shall provide that funds for closure and post closure maintenance shall name the Regional Board as beneficiary and shall be available to the Regional Board upon the issuance of any order under California Water Code, Division 7, Chapter 5. The Discharger shall adjust the cost annually to account for inflation and any changes in facility design, construction, or operation.
11. By **15 November 2005**, the Discharger shall submit a Final Construction Quality Assurance Report certified by a Licensed California Professional Engineer or a Licensed California Engineering Geologist stating that the final cover has been restored on the closed WMU I and meets the performance standards in Section 20950(a)(2)(A) and Section 21090 of CCR Title 27. This report shall comply with Section 20234 of CCR Title 27.

Waste Management Units II, III & IV

12. By **13 May 2005** the Discharger shall submit for Executive Officer approval a technical report showing how the Discharger will ensure the wastes accepted at Unit IV are “inert” as defined in the Waste Discharge Requirements. The report shall be immediately implemented.
13. By **30 July 2005**, the Discharger shall submit waste characterization report of the waste discharged into Unit IV and determine what percentage does not meet the Discharge Specification B.6 of WDRs Order No. 89-093.
14. By **30 August 2005**, the Discharger shall submit a soil and groundwater monitoring plan to determine if Unit IV had a release. At a minimum, samples shall be taken from the bottom of the waste, soil, and leachate.

15. By **30 November 2005**, the Discharger shall submit the results from the above investigation. The results shall include an evaluation of the data, a discussion of whether the monitoring evidence indicates current groundwater degradation; whether there is the potential for future groundwater degradation.
16. By **31 July 2005**, the Discharger shall provide financial assurance for corrective action, closure and post closure maintenance as required by Title 27 California Code of Regulations, Division 2, Chapter 6 for Waste Management Units II, III, and IV. The Discharger shall conduct an annual review of the financial assurance for closure and post closure maintenance, and submit a report for Executive Officer review and approval. This review shall be submitted on **30th of April** of each calendar year. The assurances of financial responsibility shall provide that funds for closure and post closure maintenance shall name the Regional Board as beneficiary and shall be available to the Regional Board upon the issuance of any order under California Water Code, Division 7, Chapter 5. The Discharger shall adjust the cost annually to account for inflation and any changes in facility design, construction, or operation.
17. By **1 September 2005**, the Discharger shall submit a topographic survey of the intermediate cover thickness in all areas mantling Waste Management Units II, III and IV. In addition, the report should include the calculated slope of the upper surface and an evaluation of the run-on/run-off structures of each unit.
18. By **15 October 2005**, the Discharger shall submit a closure plan for Waste Management Units II and III that complies with CCR Title 27. The plan shall propose a closure date, which shall be as soon as technically and economically feasible.
19. By **15 October 2005**, the Discharger shall submit a JTD to update the Waste Discharge Requirements to reflect current operations of the landfill and closure timelines.
20. **Beginning 1 August 2005**, and by the first day of the second month following each calendar quarter (**i.e., by 1 February, 1 May, 1 August, and 1 November each year**), the Discharger shall submit a progress report describing the work completed to date regarding each of the above requirements.

In accordance with California Business and Professions Code Sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain workplans for, that describe the conduct of investigations and studies, or that contain technical conclusions and recommendations concerning engineering and geology shall be prepared by or under the direction of appropriately qualified professional(s), even if not explicitly stated. Each technical report submitted by the Discharger shall contain a statement of qualifications of the responsible licensed professional(s) as well as the professional's signature and/or stamp of the seal.

CEASE AND DESIST ORDER NO. R5-2005-0073
MA-RU HOLDING COMPANY INC.
BONZI SANITATION LANDFILL, INC. PARTNERSHIP
BONZI SANITATION LANDFILL
STANISLAUS COUNTY

-12-

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 29 April 2005.

THOMAS R. PINKOS, Executive Officer

AMENDED

HDH/VJI/WSW: 29-Apr-05

FILED
2005 DEC 23 AM 11:01

CAROL SHIPLEY
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Attorneys for the People

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF STANISLAUS**

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

**MA-RU HOLDING COMPANY, INC. and
BONZI SANITATION LANDFILL, (GP),**

Defendants.

CASE NO. 376882

**STIPULATED JUDGMENT
FOR INJUNCTION, CIVIL
PENALTIES, AND
RELIEF**

Plaintiff, **THE PEOPLE OF THE STATE OF CALIFORNIA**, having filed their complaint herein, **CAROL SHIPLEY**, Assistant District Attorney of Stanislaus County, by and through **GLORIA M. MAS**, Deputy District Attorney of Stanislaus County, and defendants **MA-RU HOLDING COMPANY, INC.**, and **BONZI SANITATION LANDFILL (GP)**, hereby stipulate and consent to the entry of the Permanent Injunction and Final Judgment Pursuant to Stipulation. This Stipulated Judgment is entered into based in part on representations made and reaffirmed by these named defendants herein, that certain payments will be made according to the terms of the Stipulated Judgment.

Upon the consent of the parties hereto, and it appearing to the court that there is good cause for

1 the entry of this Stipulated Judgment,

2 **IT IS ORDERED, ADJUDGED AND DECREED** as follows:

3 1. This court has jurisdiction of the subject matter of this action and each of the parties
4 hereto.

5 2. The injunctive provisions of this Stipulated Judgment are applicable to defendants, their
6 subsidiaries and divisions, and any agent, employee, representative and all persons, partners,
7 corporations, or other entities acting by, through, under, or on behalf of defendants and all persons in
8 concert with or participating with said defendants with actual or constructive knowledge of this
9 injunction, only insofar as they are doing business in the State of California and confined to defendants'
10 landfill operations in the County of STANISLAUS and throughout the state of California.

11 3. Pursuant to Business and Practice Code §17206, Defendants are hereby permanently
12 enjoined from:

13 a) Violating §17200 of the Business and Professions Code as detailed in the Complaint

14 b) Violating the Terms and Conditions of this Stipulated Judgment (Exhibit A)

15 c) Violating Penal Code Section 115.

16 4. Defendants shall pay the sum of ONE MILLION FIVE HUNDRED THOUSAND
17 DOLLARS (\$1,500,000.00) in civil penalties and cy pres restitution to be paid as follows:

18 a) If any violations occur pursuant to Section 3b, the amount of penalty is delineated in
19 Exhibit B. The penalties delineated in Exhibit B are payable to the State Water Resources
20 Control Board Cleanup and Abatement Account.

21 b) If any violations occur pursuant to Section 3c of this Stipulated Judgment, the penalty is
22 in the amount of \$100,000.00. The penalty is payable to Stanislaus County District Attorney
23 177A DA Enforce Consumer Protection Laws, Org# 23310.

24 c) These penalties discussed in this Section shall be **STAYED** for a period of three (3)
25 years, beginning on the filing of this Stipulated Judgment, on the condition that no further
26 violations occur pursuant to Sections 3b and 3c of this Stipulated Judgment. It is understood
27 that the stayed portion of the civil penalty for any item shall immediately be due and owed after
28

1 a finding of any violation of that item as described in 3b and 3c. A determination of a violation
 2 can only be made by Board Resolution or Order adopted after appropriate public notice giving
 3 the defendants an opportunity for a hearing, or by a Superior Court Judge. If no violations of
 4 Section 3b and 3c occur during the three year period, the stay will become permanent.

5
 6 5. Nothing in this Stipulated Judgment precludes any agency or department from imposing
 7 and assessing additional penalties, issuing new Orders, and filing subsequent actions for future
 8 violations of the law. The stayed amounts in Section 4 are in addition to any other actions either
 9 agency or department wishes to pursue. The Penalties in Exhibit B will be assessed through the due
 10 date of this Stipulated Judgment, and either agency or department may take additional enforcement
 11 actions after that date.

12
 13 6. In addition, defendants shall pay the sum of FOUR HUNDRED AND FIFTY
 14 THOUSAND DOLLARS (\$450,000.00) to a Supplemental Environmental Program, Recovery Costs,
 15 as follows:

16 a) Defendants shall pay the sum of TWO HUNDRED TWENTY FIVE THOUSAND
 17 DOLLARS (\$225,000.00), as partial recovery of costs in this matter. Said payment shall be
 18 made payable to the State Water Resources Control Board Cleanup and Abatement Account.

19 b) Defendant shall pay the sum of ONE HUNDRED TWENTY FIVE
 20 THOUSAND DOLLARS (\$125,000.00), to the Secretary of the California Environmental
 21 Protection Agency. This money shall be deposited into the Environmental Enforcement and
 22 Training Account under the authority of Penal Code Section 14301.

23 c) Defendant shall pay the sum of ONE HUNDRED THOUSAND DOLLARS
 24 (\$100,000.00) as partial recovery of costs in this matter. Said payment shall be made payable
 25 to the Stanislaus County District Attorneys 177A DA Enforce Consumer Protection Laws, Org
 26 # 23310, pursuant to Business and Professions Code §17200.

27
 28

1 7. Defendants shall pay the sum of **EIGHT HUNDRED SIXTY-EIGHT DOLLARS AND**
2 **EIGHTY CENTS (\$868.80)** payable to the Stanislaus County Superior Court.

3
4 8. Defendants waive all objections to employees from the Central Valley Regional Water
5 Quality Control Board entering upon their landfill operations at 2650 West Hatch, Modesto, CA , for
6 the purpose of inspection and enforcement of the terms of this Stipulated Judgment.

7
8 9. Matters Covered by This Stipulated Judgment.

9 a) Subject to the reservations set forth in this Section, final approval of this Stipulated
10 Judgment by the Court and defendants' performance of all the obligations set forth in this Stipulated
11 Judgment resolves all civil, criminal and administrative claims of the Plaintiff for the alleged violations
12 set forth in the complaint in this matter and for any other claims based on the underlying facts alleged in
13 the complaint that could have been asserted against defendants as of the date of entry of this Stipulated
14 Judgment.

15 b) Except as expressly provided in this Stipulated Judgment, nothing in this Stipulated
16 Judgment is intended nor shall it be construed to preclude any state or county agency from exercising
17 its authority under any law, statute or regulation. The signing of this Stipulated Judgment shall not be
18 used by any non governmental agency as an admission of wrongdoing by the defendants, the
19 defendants' successor in interest, the employees of the defendants, the owners/shareholders of the
20 defendants, the officers/directors of the defendants, or any assigns, in any third party claim/litigation.

21 c) Defendants by their signature attest that they have authority to enter into this Stipulated
22 Judgment.

23 10. All checks shall be sent to the Stanislaus County District Attorney's Office, attention:
24 Donna Robinson, Stanislaus County Courthouse, P.O. Box 442, Modesto, CA 95353. All amounts
25 are due within two years of the filing of this Stipulated Judgment. The first installment of **TWO**
26 **HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$225,000.00)** as described in Sections 6b and
27 **6c** is due within one year (365 days) of the filing of this Stipulated Judgment. The balance as described

EXHIBIT A

EXHIBIT A TERMS AND CONDITIONS

All of the following technical reports shall be prepared by, or under the direction of, a California Registered Engineer or Professional Geologist, and shall be signed and stamped by the professional. Each document shall be submitted for the Executive Officer's review and approval, and shall contain all information necessary to review as a stand-alone report.

Groundwater Monitoring System

1. **By 15 December 2005, the Discharger shall submit a Groundwater Monitoring System Evaluation Report that shall include the following at a minimum:**
 - a. A full evaluation of whether the present detection monitoring system complies with Title 27 Sections 20385, 20405, 20415(b)(1)(B), 20415(e) and 20420. This evaluation shall be based on current groundwater conditions as reported in the monitoring reports from Fall 2004 through the present. This requirement may be met by resubmitting the 12 July 2005 report to include all supporting data, documentation and analysis upon which the report and its conclusions are based (well completion logs, cross sections, well development logs, flow nets). If any monitoring well is determined to be unnecessary, then with Board staff concurrence, the monitoring well will be removed from the detection monitoring system and properly abandoned according to all applicable regulations.
 - b. A demonstration that all monitoring wells listed in Monitoring and Reporting Program No. 98-093 (or replacement wells) meet the performance standards described in Title 27 Section 20415(b)(4) and 40 CFR Part 258.51(c)(2). This report shall address each subsection of Section 20415(b)(4) and 40 CFR Part 258.51(c)(2) for every monitoring well associated with this facility. The report shall include all supporting data, documentation and analysis upon which the report and its conclusions are based (well completion logs, well development logs, etc.). The monitoring wells to be evaluated include wells both on the Discharger's property and off of the property.

If the Discharger or Board staff notes deficiencies, the Discharger will address these deficiencies such that the wells meet all performance standards in a report to be submitted 45 days after the deficiencies were identified. (For more detail see the 16 October 2003 Notice of Violation, the 15 June 2005 Notice of Violation, and Finding 4 of Cease and Desist Order R5-2005-0073.)
 - c. A list of all domestic, agricultural, irrigation and municipal wells within one mile of the facility (not to extend beyond the Tuolumne River). The location of each well shall be displayed on a map.
2. Beginning with the 4th Quarter 2005, all monitoring wells listed in Monitoring and Reporting Program No. 98-093 shall be sampled and reports submitted as described in that document. Wells 85-6R, 86-10R, 85-12, 85-13, and 85-14 (if necessary based on the evaluation required by No. 1a) shall be replaced within 90 days of staff approval of the 19 October 2005 workplan. Until replaced, these wells are not subject to this requirement. The Discharger

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shall notify Regional Board staff at least seven days prior to the 4th Quarter 2005 sampling event.

3. 120 days after staff approval of the Groundwater Monitoring System Evaluation Report, the Discharger shall submit a Groundwater Monitoring System Upgrade Report that shall include the following at a minimum:

- a. A full description of the actions taken to address all deficiencies of the detection monitoring system (including those described in the 15 June 2005 NOV and the above required report) and the actions taken to ensure that all monitoring wells meet the Title 27 performance standards. The report shall explain in detail how each deficiency has been resolved (i.e., wells replaced, wells redeveloped, etc). (For more detailed discussion on this issue, see the 15 June 2005 Notice of Violation, and Compliance Item #3 of Cease and Desist Order R5-2005-0073.)
- b. Reasonably available information regarding well construction and pumping rates of the current domestic, agricultural, irrigation, and municipal wells listed in item 1c, above. The report shall include all supporting data, documentation and analysis upon which the report and its conclusions are based. (For more detail, see Finding 8 of Cease and Desist Order R5-2005-0073.)

Groundwater Monitoring Program

4. By 1 January 2006, the Discharger shall either resample and submit the results or submit a reevaluation of the previous analysis for the five-year 40 CFR Part 258 Appendix II sampling. The analysis shall report method detection limits and practical quantitation limits per the US EPA method listed in the 40 CFR Part 258 Appendix II or an approved method with lower limits. All peaks shall be reported, including those which cannot be quantified and/or specifically. Included with the submitted data shall be a complete evaluation of the 5-year data as outlined in the August 1997 Standard Provisions and Reporting Requirements. The report shall address all concerns detailed in the 12 September 2005 Regional Board letter.

Corrective Action Program

5. Immediately upon the adoption of the judgment, the Discharger shall operate, maintain and monitor the groundwater treatment system so that the groundwater plume will be contained at the point of compliance as described in Section 20164 of Title 27. The groundwater treatment system will be run 24 hours a day, seven days a week. This requirement includes the operation of extraction wells EW-1, 2 and 3 and any added wells needed as a result of the capture zone analysis. This operation period only can be changed by submitting a report showing that a 24/7 operation period is not necessary to fully contain the plume, and upon written concurrence from Executive Officer. (For more detail refer to Findings 5, 6, 7, 8 and Compliance Items 1 and 7 of Cease and Desist Order R5-2005-0073.)

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6. **Immediately upon the adoption of the judgment, the Discharger shall operate, maintain and monitor the existing landfill gas extraction system to contain the landfill gas within the property boundary.**
7. **By 1 February 2006, the Discharger shall submit a complete Soil Gas Monitoring Plan that complies with Title 27 Article 6 and establishes a soil gas monitoring system that monitors the landfill gas and shows whether the gas is contained within the property boundary. If the gas is not contained within the property boundary, then the plan shall include a proposed expansion of the system. The plan shall be implemented upon written approval.**
8. **If necessary, a final Soil Gas Monitoring System Construction Report shall be submitted 90 days after staff's approval of the Soil Gas Monitoring Plan.**
9. **This section has been deleted.**
10. **Beginning 15 January 2006, the Discharger must submit a Corrective Action Semi-annual Progress Report describing the effectiveness of the corrective action program pursuant to Title 27 Section 20430(h) until all constituents of concern (volatile and/or inorganic) listed in 40 CFR part 258 Appendix I and II have been restored to levels below their water quality objectives. The reports shall include all supporting data, documentation and analysis upon which the report and its conclusions are based, and shall be submitted 15 January and 15 July of each year until the groundwater has been remediated. These Terms apply only to the 2006 Semi-Annual reports. Reports not submitted after that time will be subject to the Board's usual administrative enforcement actions.**

Surface Impoundment/Groundwater Treatment System

11. **By 1 January 2006, the Discharger shall inspect the detention pond liner system and remove any vegetation from the pond. All tears and holes shall be repaired within 60 days of completion of the electronic leak detection inspection. (For greater detail refer to the 9 August 2005 and 21 September 2005 Notice of Violations.)**
12. **Immediately upon adoption of the judgment, the Discharger must maintain at least the required freeboard in the applicable WDRs for the detention pond at all times.**
13. **Immediately upon adoption of the judgment, the Discharger shall discharge treated groundwater to the vineyard (APN 017-042-001) in accordance with WDRs Order No. 90-215 (Note that compliance is not required while work required by Item #11 is undertaken.) Compliance with WDRs Order No. 90-215 includes land applying the water only through a drip system such that ponding does not occur. Flood irrigation of the water contained in the surface impoundment is prohibited. The Discharger must also maintain the vineyard such that it is capable of achieving the greatest agronomic uptake. Direct effluent discharge of the groundwater treatment system to a location other than the surface impoundment is a violation of WDRs Order No. 90-215. (For more detail, refer to WDRs Order No. 90-215 discharge Prohibitions A, B and C.). This requirement shall remain in effect until the Regional Board**

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adopts revised WDRs for the groundwater treatment/disposal system.

14. **By 1 April 2006, the Discharger shall submit a Treatment System Effluent Evaluation and Operations Report that shall include the following at a minimum:**
 - a. **Documentation of the inspections and repairs of the detention pond liner system. (For greater detail refer to the 9 August 2005 and 21 September 2005 Notice of Violations.)**
 - b. **A detention pond water balance evaluation to determine how much additional capacity is required to maintain the freeboard at 1.5 feet or greater throughout the entire year, including the rainy season. The freeboard requirement shall not be met by shutting off the groundwater treatment system. (For greater detail, refer to WDR Order No. 90-215.)**
15. **By 1 April 2006, the Discharger shall submit documentation that the vineyard's (APN 017-042-001) drip irrigation system is capable of operating within the discharge limits in WDRs Order No. 90-215. If upgrades were necessary to meet this requirement, the report shall contain details. (For more detail, refer to WDRs Order No. 90-215 finding 7.)**
16. **By 1 May 2006, the Discharger shall submit a Report of Waste Discharge to update WDRs Order No. 90-215. The RWD shall include a technical report evaluating the current groundwater treatment system and whether it is capable of removing all VOCs, metals, and salts to levels that will not degrade the groundwater when discharged. If the system is currently inadequate, then the RWD shall describe a modified system and propose a timeline for installation. The RWD shall include a Form 200, a water balance, and a technical report including the information listed in Attachment A to this document.**

Financial Assurance

17. **By 1 February 2006, the Discharger shall submit a Financial Assurance Report. This report will cover each of the comments in 3 October 2005 Notice of Violation regarding the previous financial assurance report, as well as the items described below. Note that the report due by 1 February 2006 is to cover items 1.a, 2.a, 2.b, 3.a, and 3.b. Item 1.b is to be submitted separately as described below.**
 - 1 **Treatment System Financial Assurances (Corrective Action)**
 - a. **Evaluate the annual cost of running the entire groundwater and landfill gas extraction treatment systems, monitoring the corrective action wells, maintenance of both systems and monitoring wells, and all other cost (reports, etc.) associated with the Title 27/40 CFR corrective action program. Then considering inflation a total cost shall be evaluated to operate the system for 30 years. The report shall include all supporting data, documentation and analysis upon which the report and its conclusions are based. (For greater detail refer to compliance items #6, #10 & #16 of Cease And Desist Order RS-2005-0073 and the 3 October 2005 Notice of Violation.)**

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- b. **90 days after staff approval of 1.b, above, the Discharger shall provide a mechanism and a funding source that complies with Title 27 and 40 CFR Part 258.73 for the annual cost of running the entire groundwater and landfill gas extraction treatment systems, monitoring, the corrective action wells, maintenance of both systems and monitoring wells, and all other cost (reports, etc.) associated with the Title 27/40 CFR corrective action program.**

2 Post Closure Maintenance Financial Assurances

- a. **Prepare a cost analysis report for maintaining the closed WMU I in compliance with Title 27, Division 2, Chapter 6 and 40 CFR Part 258.61. The Discharger shall also provide a mechanism and a funding source that complies with Title 27 and 40 CFR Part 258.72. The report shall provide all supporting data, documentation and analysis upon which the report and its conclusions are based. (For greater detail refer to compliance items #6, #10 & #16 of Cease And Desist Order R5-2005-0073 and the 3 October 2005 Notice of Violation.)**
- b. **Provide a mechanism and a funding source (or proof of an existing mechanism and funding source) for maintaining the closed WMU I in compliance with Title 27, Division 2, Chapter 6 and 40 CFR Part 258.61. The Discharger shall also provide a mechanism and a funding source that complies with Title 27 and 40 CFR Part 258.72.**

3 Closure and Post Closure Financial Assurances for Units II, III and IV

- a. **Evaluate the cost of post closure maintenance and closure of waste management units II, III and IV in compliance with Title 27, Division 2, Chapter 6 and 40 CFR Part 258.61 and 258.73. The report shall provide all supporting data, documentation and analysis upon which the report and its conclusions are based. (For greater detail refer to compliance items #6, #10 & #16 of Cease And Desist Order R5-2005-0073 and the 3 October 2005 Notice of Violation.)**
- b. **Provide a mechanism and a funding source (or proof of an existing mechanism and funding source) that complies with Title 27, Division 2, Chapter 6 and 40 CFR Part 258.61 and 258.73 for the corrective action, post closure maintenance and closure of waste management units II, III and IV.**

Waste Characterization

18. **60 days after staff's approval of the WMU II and III Closure Plan, the Discharger shall submit a Waste Characterization Analysis Report describing the actual waste deposited in the WMU IV. This is to be determined by trenching and/or boring into the waste, as well as by facility records. An evaluation of the waste types and percentages shall be presented in the analysis. This analysis shall also include a characterization of the waste per Title 27 Section 20200. If the WMU II and III Closure Plan states that all waste from WMU IV will be moved onto WMUs II and III, then this report is not required. However,**

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if only a portion of the waste will be moved, then the waste remaining in WMU IV must be characterized.

Closure

19. **By 1 January 2006, the Discharger shall place on Units II and III a minimum of one foot of interim soil cover and compact it in accordance with Title 27 Section 20705. An Interim Soil Cover Report documenting the work shall be submitted by 15 January 2006. (For greater detail refer to the 9 August 2005 Notice of Violation.)**
20. **By 1 March 2006, the Discharger shall submit a Closure Plan for WMUs II and III that complies with CCR Title 27. The plan shall include a closure date, which shall be as soon as economically and technically feasible. If the Closure Plan states that waste will be removed from WMU IV for placement on WMU II and III, then removal must begin upon staff's approval of the plan.**
21. **By 1 March 2006, the Discharger shall submit a Joint Technical Document to update Waste Discharge Requirements Order No. 98-093 to reflect the current operations of the landfill and the closure timelines. The JTD shall meet the requirements of Title 27, Chapter 4, Subchapter 3, Article 2.**

Attachment A: Items to be included in a RWD

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ATTACHMENT A

**ATTACHMENT A TO EXHIBIT A
ADDITIONAL INFORMATION REQUIREMENTS
FOR REPORT OF WASTE DISCHARGE
BONZI LANDFILL**

Please provide a technical report, prepared by, or under the direct supervision of a registered professional, that presents the following information:

1. A narrative description of all wastewater conveyance, treatment, and disposal systems currently existing at the facility.
2. A narrative description of all planned physical improvements, their purpose, and anticipated completion dates. If phased build out is planned provide scope and completion dates for each phase.
3. Provide a site map that shows property lines, buildings, treatment or storage ponds, land application areas, and surface water drainage courses within 1,000 feet of the site.
4. A process flow diagram, treatment plant site plan, and a scaled map showing the limits of all existing and proposed effluent disposal areas.
5. For each pond and any other waste containment structure, provide the following information and give any references used. Discuss both existing and proposed facilities:
 - a. Identification (name) and function of the pond;
 - b. Surface area, depth, and volumetric capacity at two feet of freeboard;
 - c. Height (relative to surrounding grade), crest width, interior slope, and exterior slope of each berm or levee;
 - d. Materials used to construct each berm or levee;
 - e. Description of engineered liner, if any;
 - f. Estimated steady state percolation rate;
 - g. Depth to shallow groundwater below the pond;
 - h. Overfilling/overflow prevention features; and
 - i. Operation and maintenance procedures.
6. A description of the sources and types of wastewater flowing into the system, design flow rates, and the design capacity of the system (existing and proposed). Include projected infiltration/inflow rates and peaking factors used in design calculations.
7. A description of emergency wastewater storage facilities or other means of preventing system bypass or failure during reasonably foreseeable overload conditions (e.g., power failure).
8. A description of the following for the both existing system and each phase of any proposed expansion:
 - a. Average dry weather flow;
 - b. Peak wet weather flow; and

**Additional Information Requirements
Bonzi Landfill**

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- c. Effluent quality at the point of discharge to the pond (BOD, nitrogenous compounds, electrical conductivity, total dissolved solids, VOCs, pH, and metals).
 - d. A description of the wastewater disposal area including: acreage, type of crop grown, loading rates for BOD (in lbs/acre/day), total nitrogen (in lbs/acre/year), and salts (in lbs/acre/year). Provide a description of the disposal area and the disposal technique. State the number of acres of land used for disposal and crops planned for application areas. Show field locations on a map. Describe harvesting and crop disposal procedures. Describe the mixing ratio of wastewater and supplemental irrigation water prior to application. Describe the irrigation system and tailwater control and return system or other measures to prevent irrigation tailwater from leaving the fields.
9. Provide a projected monthly water balance demonstrating adequate containment and disposal capacity for the 100-year return period total annual precipitation, including consideration of at least the following.
- a. A minimum of two feet of freeboard in all ponds at all times;
 - b. Historical local evaporation data (monthly average values);
 - c. Local precipitation data with the 100-year return period annual total distributed monthly in accordance with mean monthly precipitation patterns;
 - d. Proposed wastewater loading rates distributed monthly in accordance with expected seasonal variations;
 - e. Projected long-term percolation rates; and
 - f. Projected irrigation usage rates.
10. A narrative description of groundwater treatment plant operation and maintenance procedures to be employed, including those associated with effluent storage and disposal.
11. If known, describe the quality of the underlying groundwater and the depth below ground surface at which groundwater is first encountered. Provide any other information regarding how you will manage this waste discharge to prevent the underlying groundwater from being degraded.
12. A description of any policies or facility design features that reduce the potential for groundwater degradation (best practicable treatment and control or BPTC measures).

EXHIBIT B

EXHIBIT B**Bonzi Landfill: Terms and Conditions Summary and Stayed Penalties**

	Report	Due Date	Stayed/Stipulated Penalty
Groundwater Monitoring System			
1.	Groundwater Monitoring System Evaluation	20 December 2005	\$50,000
2.	Comply with MRP No. 98-093	Beginning 4 th Q 2005	\$100,000
3.	Groundwater Monitoring System Upgrade Report	120 days after staff approval of Report #1	\$50,000
Groundwater Monitoring Program			
4.	Five-year 40 CFR Part 258 Appendix II	1 January 2006	\$50,000
Corrective Action Program			
5.	Operate groundwater treatment system 24/7	Immediately	\$100,000
6.	Operate landfill gas system	Immediately	\$100,000
7.	Soil Gas Monitoring Plan	1 February 2006	\$50,000
8.	Soil Gas Monitoring System Construction Report (if necessary)	90 days after approval of Soil Gas Monitoring Plan	\$50,000
9.	Deleted		
10.	Corrective Action Semi-Annual Progress Reports	15 January 2006, 15 July 2006	\$50,000
Surface Impoundment/Groundwater Treatment System			
11.	Inspect pond liner	1 January 2006	\$50,000
12.	Maintain pond freeboard in compliance with WDRs	Immediately	\$50,000
13.	Discharge treated water in compliance with WDRs	Immediately	\$50,000
14.	Treatment System Effluent Evaluation and Operations Report	1 April 2006	\$50,000
15.	Document that vineyard discharge system meets WDRs	1 April 2006	\$50,000
16.	RWD to update WDRs No. 90-215	1 May 2006	\$50,000
Financial Assurance			
17.	Financial Assurance Report	1 February 2006	\$100,000
17a.	Mechanism for funding corrective action	90 days after approval of corrective action financial assurance report	\$50,000
Waste Characterization			
18.	Waste Characterization Analysis Report	60 days after approval of report #21	\$50,000
Closure			
19.	Interim Soil Cover Report	15 January 2006	\$100,000
20.	WMU II and III Closure Plan	1 March 2006	\$100,000
21.	Joint Technical Document to update WDR No. 98-093	1 March 2006	\$100,000
			\$1,400,000

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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

LAW OFFICES OF
Strauss, Neibauer & Anderson

A PROFESSIONAL CORPORATION
620-12TH STREET
MODESTO, CALIFORNIA 95354-2499
TELEPHONE (209) 526-2211
FACSIMILE (209) 526-0244

DOUGLAS L. NEIBAUER
THOMAS L. ANDERSON
BRIAN P. MURRAY
CRYSTAL S. SWANSON
JEFF SIMIONE
JOHN P. CARTY III

OF COUNSEL
ALAN H. STRAUSS

December 29, 2005

Wendy Wyels via facsimile (916) 464-4780 and U.S. Mail
Supervisor, Title 27 and WDR Units
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114

Re: Bonzi Sanitation Landfill/Ma-Ru Holding Company

Dear Wendy:

The purpose of this letter is to provide you with a status report of the vegetation removal operations and inspection of the retention pond. As you observed during your site visit on December 22, 2005, significant progress has been made with the removal of vegetation from the retention pond. However, the overall progress has been slow due to the measures required to remove the vegetation without damaging the liner. The recent rains have also hindered progress. Based on these circumstances, Ma-Ru Holding Company, Inc. will not be able to complete the vegetation removal operations by the stipulated January 1, 2006 completion date. Our current projection for completion of this task is the week of January 9, 2006.

In regards to the electronic leak detection inspection, Leak Location Service, Inc. (LLSI) mobilized to the site on December 19, 2005 and inspected those portions of the pond not obstructed by the vegetation. It is estimated that LLSI was able to inspect approximately 80 percent of the pond. Based on the above projection for completion of the vegetation removal, LLSI has been scheduled to return to the site on January 12th and/or 13th to complete the inspection of the remaining portions of the pond.

Whereas the results of LLSI's inspection is not yet available, it should be noted that some holes and tears in the liner have been identified by Bonzi staff during the course of their work. In fact, some of the holes/tears were inadvertently caused by the vegetation removal operations. In light of these circumstances, an HPDE liner contractor has already been contacted to ensure their availability as soon as practical following the receipt of LLSI's inspection results.

In light of the circumstances presented herein, Ma-Ru Holding Company, Inc. respectfully requests an extension to the January 1, 2006 deadline to complete the work. Although we understand the importance of deadlines, failure to meet this deadline is not due to lack of effort or an unwillingness to cooperate on my Client's part. The cumbersome and tedious nature of removing the vegetation without damaging the liner, coupled with the recent weather conditions, is simply extending the time required to complete the work. However, as demonstrated by the

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STRAUSS NEIBAUER AND

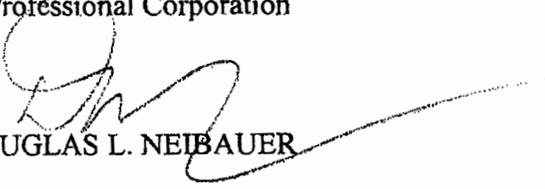
Page Two
Wendy Wyels
December 29, 2005

revised schedule presented herein, Ma-Ru Holding Company, Inc. will continue to make every effort to complete the work as soon as practical.

In closing, you indicate in your December 27, 2005 email that if the vegetation removal and inspection are not fully completed by the January 1, 2006 deadline, you intend to invoke the \$50,000 penalty since you must fully enforce the Judgment. It is my understanding that invocation of the penalty is not mandatory, but is at the staff's discretion. In light of the genuine efforts being made to comply with the Judgment, we respectfully request that you reconsider your position. In this regard, I would like to note that approximately two months (mid-September through mid-November) of good weather conditions were lost due to pond pumping constraints imposed by RWQCB staff. These constraints included the initial mandate to pump all pond water into tanks or truck to the POTW (these options were subsequently proven to be impractical), followed by the request to test and evaluate loading rates prior to pumping to the vineyard. These delays are now proving to be costly. We have stated all along our concerns regarding the uncertain of weather and its ability to influence the attainment of field-related deadlines, which is what we are confronting at this time. Based on these circumstances, it is our opinion that our request for an extension is not an unreasonable request.

Very truly yours,

STRAUSS, NEIBAUER & ANDERSON
A Professional Corporation



DOUGLAS L. NEIBAUER

DLN/bjm

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2006-0036
VIOLATION OF STIPULATED JUDGMENT BY
MA-RU HOLDING COMPANY AND THE
BONZI SANITATION LANDFILL
STANISLAUS COUNTY

WHEREAS, a Stipulated Judgment for injunction, civil penalties, and relief (Case. No. 376882) has been filed with the Superior Court of the State of California for the County of Stanislaus regarding the Ma-Ru Holding Company, Inc. and Bonzi Sanitation Landfill (hereafter Discharger); and

WHEREAS, the Discharger's landfill is on a 128-acre parcel comprised of Assessor's Parcel Numbers 17-41-36 and 17-41-11, and is found in Section 12, T4S, R4E, MDB&M; and

WHEREAS, the Stipulated Judgment includes Exhibit A (Terms and Conditions) and Exhibit B (Terms and Conditions Summary and Stayed Penalties). The Discharger must comply with the Terms and Conditions listed therein or be subject to the specified stayed penalty; and

WHEREAS, Item No. 4 of Exhibit A states that "By 1 January 2006, the Discharger shall either resample and submit the results or submit a reevaluation of the previous analysis for the five-year 40 CFR Part 258 Appendix II sampling. The analysis shall report method detection limits and practical quantitation limits per the US EPA method listed in the 40 CFR Part 258 Appendix II or an approved method with lower limits. All peaks shall be reported, including those that cannot be quantified and/or specified. Included with the submitted data shall be a complete evaluation of the 5-year data as outlined in the August 1997 Standard Provisions and Reporting Requirements. The report shall address all concerns detailed in the 12 September 2005 Regional Board letter, and

WHEREAS, as of 6 April 2006 the Discharger has not submitted the required report; and

WHEREAS, the Stipulated Judgment states that failure to comply with the Terms and Conditions shall result in the immediate payment of penalties. Exhibit B defines the penalty for failing to submit the report associated with five-year 40 CFR Part 258 Appendix II sampling by 1 January 2006 as \$50,000; and, therefore, be it

RESOLVED that the Regional Board has determined the Discharger has violated Item No. 4 of the Stipulated Judgment and therefore shall immediately remit \$50,000 in the form of a check made payable to the *State Water Resources Control Board Cleanup and Abatement Account*.

I, Pamela C. Creedon, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region on 5 May 2006.

PAMELA C. CREEDON, Executive Officer

VJI: 6 April 2006

FILED
2005 DEC 23 AM 11:01

CAROL SHIPLEY
STANISLAUS COUNTY ASSISTANT DISTRICT ATTORNEY
Gloria M. Mas (SBN 132429)
Deputy District Attorney
11th and I Streets, Rom 200 2nd Floor
Modesto, California 95353
(209) 525-5550

Attorneys for the People

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF STANISLAUS

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

MA-RU HOLDING COMPANY, INC. and
BONZI SANITATION LANDFILL, (GP),

Defendants.

CASE NO. 376882

STIPULATED JUDGMENT
FOR INJUNCTION, CIVIL
PENALTIES, AND
RELIEF

Plaintiff, **THE PEOPLE OF THE STATE OF CALIFORNIA**, having filed their complaint herein, **CAROL SHIPLEY**, Assistant District Attorney of Stanislaus County, by and through **GLORIA M. MAS**, Deputy District Attorney of Stanislaus County, and defendants **MA-RU HOLDING COMPANY, INC.**, and **BONZI SANITATION LANDFILL (GP)**, hereby stipulate and consent to the entry of the Permanent Injunction and Final Judgment Pursuant to Stipulation. This Stipulated Judgment is entered into based in part on representations made and reaffirmed by these named defendants herein, that certain payments will be made according to the terms of the Stipulated Judgment.

Upon the consent of the parties hereto, and it appearing to the court that there is good cause for

1 the entry of this Stipulated Judgment,

2 **IT IS ORDERED, ADJUDGED AND DECREED** as follows:

3 1. This court has jurisdiction of the subject matter of this action and each of the parties
4 hereto.

5 2. The injunctive provisions of this Stipulated Judgment are applicable to defendants, their
6 subsidiaries and divisions, and any agent, employee, representative and all persons, partners,
7 corporations, or other entities acting by, through, under, or on behalf of defendants and all persons in
8 concert with or participating with said defendants with actual or constructive knowledge of this
9 injunction, only insofar as they are doing business in the State of California and confined to defendants'
10 landfill operations in the County of STANISLAUS and throughout the state of California.

11 3. Pursuant to Business and Practice Code §17206, Defendants are hereby permanently
12 enjoined from:

13 a) Violating §17200 of the Business and Professions Code as detailed in the Complaint

14 b) Violating the Terms and Conditions of this Stipulated Judgment (Exhibit A)

15 c) Violating Penal Code Section 115.

16 4. Defendants shall pay the sum of ONE MILLION FIVE HUNDRED THOUSAND
17 DOLLARS (\$1,500,000.00) in civil penalties and cy pres restitution to be paid as follows:

18 a) If any violations occur pursuant to Section 3b, the amount of penalty is delineated in
19 Exhibit B. The penalties delineated in Exhibit B are payable to the State Water Resources
20 Control Board Cleanup and Abatement Account.

21 b) If any violations occur pursuant to Section 3c of this Stipulated Judgment, the penalty is
22 in the amount of \$100,000.00. The penalty is payable to Stanislaus County District Attorney
23 177A DA Enforce Consumer Protection Laws, Org# 23310.

24 c) These penalties discussed in this Section shall be **STAYED** for a period of three (3)
25 years, beginning on the filing of this Stipulated Judgment, on the condition that no further
26 violations occur pursuant to Sections 3b and 3c of this Stipulated Judgment. It is understood
27 that the stayed portion of the civil penalty for any item shall immediately be due and owed after
28

1 7. Defendants shall pay the sum of EIGHT HUNDRED SIXTY-EIGHT DOLLARS AND
2 EIGHTY CENTS (\$868.80) payable to the Stanislaus County Superior Court.

3
4 8. Defendants waive all objections to employees from the Central Valley Regional Water
5 Quality Control Board entering upon their landfill operations at 2650 West Hatch, Modesto, CA, for
6 the purpose of inspection and enforcement of the terms of this Stipulated Judgment.

7
8 9. Matters Covered by This Stipulated Judgment.

9 a) Subject to the reservations set forth in this Section, final approval of this Stipulated
10 Judgment by the Court and defendants' performance of all the obligations set forth in this Stipulated
11 Judgment resolves all civil, criminal and administrative claims of the Plaintiff for the alleged violations
12 set forth in the complaint in this matter and for any other claims based on the underlying facts alleged in
13 the complaint that could have been asserted against defendants as of the date of entry of this Stipulated
14 Judgment.

15 b) Except as expressly provided in this Stipulated Judgment, nothing in this Stipulated
16 Judgment is intended nor shall it be construed to preclude any state or county agency from exercising
17 its authority under any law, statute or regulation. The signing of this Stipulated Judgment shall not be
18 used by any non governmental agency as an admission of wrongdoing by the defendants, the
19 defendants' successor in interest, the employees of the defendants, the owners/shareholders of the
20 defendants, the officers/directors of the defendants, or any assigns, in any third party claim/litigation.

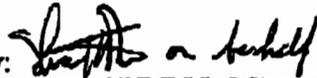
21 c) Defendants by their signature attest that they have authority to enter into this Stipulated
22 Judgment.

23 10. All checks shall be sent to the Stanislaus County District Attorney's Office, attention:
24 Donna Robinson, Stanislaus County Courthouse, P.O. Box 442, Modesto, CA 95353. All amounts
25 are due within two years of the filing of this Stipulated Judgment. The first installment of TWO
26 HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$225,000.00) as described in Sections 6b and
27 6c is due within one year (365 days) of the filing of this Stipulated Judgment. The balance as described

1 in 6a is due the following year.

2 11. This Stipulated Judgment shall go into effect immediately upon entry hereof. Entry is
3 authorized immediately upon filing.

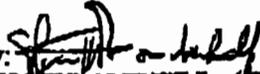
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5 Dated: December 15th, 2005

By: 
MA-RU HOLDING COMPANY, INC.
Authorized Representative

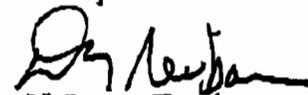
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7 Dated: Dec 16, 2005

By: 
Douglas Neibauer, Esquire
Attorney for
MA-RU HOLDING COMPANY, INC.

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10 Dated: December 15th, 2005

By: 
BONZI LANDFILL, (GP)
Authorized Representative

11
12
13 Dated: Dec 16th, 2005

By: 
Douglas Neibauer, Esquire
Attorney for
BONZI LANDFILL, (GP)

CAROL SHIPLEY
ASSISTANT DISTRICT ATTORNEY

14
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18
19 Dated: December 19, 2005

By: 
GLORIA M. MAS
DEPUTY DISTRICT ATTORNEY

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22 IT IS ORDERED, ADJUDGED AND DECREED.

23 Dated: DEC 21 2005

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EXHIBIT A

EXHIBIT A TERMS AND CONDITIONS

All of the following technical reports shall be prepared by, or under the direction of, a California Registered Engineer or Professional Geologist, and shall be signed and stamped by the professional. Each document shall be submitted for the Executive Officer's review and approval, and shall contain all information necessary to review as a stand-alone report.

Groundwater Monitoring System

1. **By 15 December 2005, the Discharger shall submit a Groundwater Monitoring System Evaluation Report that shall include the following at a minimum:**
 - a. A full evaluation of whether the present detection monitoring system complies with Title 27 Sections 20385, 20405, 20415(b)(1)(B), 20415(e) and 20420. This evaluation shall be based on current groundwater conditions as reported in the monitoring reports from Fall 2004 through the present. This requirement may be met by resubmitting the 12 July 2005 report to include all supporting data, documentation and analysis upon which the report and its conclusions are based (well completion logs, cross sections, well development logs, flow nets). If any monitoring well is determined to be unnecessary, then with Board staff concurrence, the monitoring well will be removed from the detection monitoring system and properly abandoned according to all applicable regulations.
 - b. A demonstration that all monitoring wells listed in Monitoring and Reporting Program No. 98-093 (or replacement wells) meet the performance standards described in Title 27 Section 20415(b)(4) and 40 CFR Part 258.51(c)(2). This report shall address each subsection of Section 20415(b)(4) and 40 CFR Part 258.51(c)(2) for every monitoring well associated with this facility. The report shall include all supporting data, documentation and analysis upon which the report and its conclusions are based (well completion logs, well development logs, etc.). The monitoring wells to be evaluated include wells both on the Discharger's property and off of the property.

If the Discharger or Board staff notes deficiencies, the Discharger will address these deficiencies such that the wells meet all performance standards in a report to be submitted 45 days after the deficiencies were identified. (For more detail see the 16 October 2003 Notice of Violation, the 15 June 2005 Notice of Violation, and Finding 4 of Cease and Desist Order R5-2005-0073.)
 - c. A list of all domestic, agricultural, irrigation and municipal wells within one mile of the facility (not to extend beyond the Tuolumne River). The location of each well shall be displayed on a map.
2. Beginning with the 4th Quarter 2005, all monitoring wells listed in Monitoring and Reporting Program No. 98-093 shall be sampled and reports submitted as described in that document. Wells 85-6R, 86-10R, 85-12, 85-13, and 85-14 (if necessary based on the evaluation required by No. 1a) shall be replaced within 90 days of staff approval of the 19 October 2005 workplan. Until replaced, these wells are not subject to this requirement. The Discharger

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**Terms and Conditions
Bonzi Landfill**

shall notify Regional Board staff at least seven days prior to the 4th Quarter 2005 sampling event.

3. 120 days after staff approval of the Groundwater Monitoring System Evaluation Report, the Discharger shall submit a Groundwater Monitoring System Upgrade Report that shall include the following at a minimum:

- a. A full description of the actions taken to address all deficiencies of the detection monitoring system (including those described in the 15 June 2005 NOV and the above required report) and the actions taken to ensure that all monitoring wells meet the Title 27 performance standards. The report shall explain in detail how each deficiency has been resolved (i.e., wells replaced, wells redeveloped, etc). (For more detailed discussion on this issue, see the 15 June 2005 Notice of Violation, and Compliance Item #3 of Cease and Desist Order R5-2005-0073.)
- b. Reasonably available information regarding well construction and pumping rates of the current domestic, agricultural, irrigation, and municipal wells listed in item 1c, above. The report shall include all supporting data, documentation and analysis upon which the report and its conclusions are based. (For more detail, see Finding 8 of Cease and Desist Order R5-2005-0073.)

Groundwater Monitoring Program

4. By 1 January 2006, the Discharger shall either resample and submit the results or submit a reevaluation of the previous analysis for the five-year 40 CFR Part 258 Appendix II sampling. The analysis shall report method detection limits and practical quantitation limits per the US EPA method listed in the 40 CFR Part 258 Appendix II or an approved method with lower limits. All peaks shall be reported, including those which cannot be quantified and/or specifically. Included with the submitted data shall be a complete evaluation of the 5-year data as outlined in the August 1997 Standard Provisions and Reporting Requirements. The report shall address all concerns detailed in the 12 September 2005 Regional Board letter.

Corrective Action Program

5. Immediately upon the adoption of the judgment, the Discharger shall operate, maintain and monitor the groundwater treatment system so that the groundwater plume will be contained at the point of compliance as described in Section 20164 of Title 27. The groundwater treatment system will be run 24 hours a day, seven days a week. This requirement includes the operation of extraction wells EW-1, 2 and 3 and any added wells needed as a result of the capture zone analysis. This operation period only can be changed by submitting a report showing that a 24/7 operation period is not necessary to fully contain the plume, and upon written concurrence from Executive Officer. (For more detail refer to Findings 5, 6, 7, 8 and Compliance Items 1 and 7 of Cease and Desist Order R5-2005-0073.)

December 14, 2005

**Terms and Conditions
Bonzi Landfill**

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6. **Immediately upon the adoption of the judgment, the Discharger shall operate, maintain and monitor the existing landfill gas extraction system to contain the landfill gas within the property boundary.**
7. **By 1 February 2006, the Discharger shall submit a complete Soil Gas Monitoring Plan that complies with Title 27 Article 6 and establishes a soil gas monitoring system that monitors the landfill gas and shows whether the gas is contained within the property boundary. If the gas is not contained within the property boundary, then the plan shall include a proposed expansion of the system. The plan shall be implemented upon written approval.**
8. **If necessary, a final Soil Gas Monitoring System Construction Report shall be submitted 90 days after staff's approval of the Soil Gas Monitoring Plan.**
9. **This section has been deleted.**
10. **Beginning 15 January 2006, the Discharger must submit a Corrective Action Semi-annual Progress Report describing the effectiveness of the corrective action program pursuant to Title 27 Section 20430(h) until all constituents of concern (volatile and/or inorganic) listed in 40 CFR part 258 Appendix I and II have been restored to levels below their water quality objectives. The reports shall include all supporting data, documentation and analysis upon which the report and its conclusions are based, and shall be submitted 15 January and 15 July of each year until the groundwater has been remediated. These Terms apply only to the 2006 Semi-Annual reports. Reports not submitted after that time will be subject to the Board's usual administrative enforcement actions.**

Surface Impoundment/Groundwater Treatment System

11. **By 1 January 2006, the Discharger shall inspect the detention pond liner system and remove any vegetation from the pond. All tears and holes shall be repaired within 60 days of completion of the electronic leak detection inspection. (For greater detail refer to the 9 August 2005 and 21 September 2005 Notice of Violations.)**
12. **Immediately upon adoption of the judgment, the Discharger must maintain at least the required freeboard in the applicable WDRs for the detention pond at all times.**
13. **Immediately upon adoption of the judgment, the Discharger shall discharge treated groundwater to the vineyard (APN 017-042-001) in accordance with WDRs Order No. 90-215 (Note that compliance is not required while work required by Item #11 is undertaken.) Compliance with WDRs Order No. 90-215 includes land applying the water only through a drip system such that ponding does not occur. Flood irrigation of the water contained in the surface impoundment is prohibited. The Discharger must also maintain the vineyard such that it is capable of achieving the greatest agronomic uptake. Direct effluent discharge of the groundwater treatment system to a location other than the surface impoundment is a violation of WDRs Order No. 90-215. (For more detail, refer to WDRs Order No. 90-215 discharge Prohibitions A, B and C.). This requirement shall remain in effect until the Regional Board**

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**Terms and Conditions
Bonzi Landfill**

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adopts revised WDRs for the groundwater treatment/disposal system.

14. **By 1 April 2006, the Discharger shall submit a Treatment System Effluent Evaluation and Operations Report that shall include the following at a minimum:**
 - a. Documentation of the inspections and repairs of the detention pond liner system. (For greater detail refer to the 9 August 2005 and 21 September 2005 Notice of Violations.)
 - b. A detention pond water balance evaluation to determine how much additional capacity is required to maintain the freeboard at 1.5 feet or greater throughout the entire year, including the rainy season. The freeboard requirement shall not be met by shutting off the groundwater treatment system. (For greater detail, refer to WDR Order No. 90-215.)
15. **By 1 April 2006, the Discharger shall submit documentation that the vineyard's (APN 017-042-001) drip irrigation system is capable of operating within the discharge limits in WDRs Order No. 90-215. If upgrades were necessary to meet this requirement, the report shall contain details. (For more detail, refer to WDRs Order No. 90-215 finding 7.)**
16. **By 1 May 2006, the Discharger shall submit a Report of Waste Discharge to update WDRs Order No. 90-215. The RWD shall include a technical report evaluating the current groundwater treatment system and whether it is capable of removing all VOCs, metals, and salts to levels that will not degrade the groundwater when discharged. If the system is currently inadequate, then the RWD shall describe a modified system and propose a timeline for installation. The RWD shall include a Form 200, a water balance, and a technical report including the information listed in Attachment A to this document.**

Financial Assurance

17. **By 1 February 2006, the Discharger shall submit a Financial Assurance Report. This report will cover each of the comments in 3 October 2005 Notice of Violation regarding the previous financial assurance report, as well as the items described below. Note that the report due by 1 February 2006 is to cover items 1.a, 2.a, 2.b, 3.a, and 3.b. Item 1.b is to be submitted separately as described below.**
 - 1 **Treatment System Financial Assurances (Corrective Action)**
 - a. Evaluate the annual cost of running the entire groundwater and landfill gas extraction treatment systems, monitoring the corrective action wells, maintenance of both systems and monitoring wells, and all other cost (reports, etc.) associated with the Title 27/40 CFR corrective action program. Then considering inflation a total cost shall be evaluated to operate the system for 30 years. The report shall include all supporting data, documentation and analysis upon which the report and its conclusions are based. (For greater detail refer to compliance items #6, #10 & #16 of Cease And Desist Order RS-2005-0073 and the 3 October 2005 Notice of Violation.)

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**Terms and Conditions
Bonzi Landfill**

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- b. **90 days after staff approval of 1.b, above, the Discharger shall provide a mechanism and a funding source that complies with Title 27 and 40 CFR Part 258.73 for the annual cost of running the entire groundwater and landfill gas extraction treatment systems, monitoring, the corrective action wells, maintenance of both systems and monitoring wells, and all other cost (reports, etc.) associated with the Title 27/40 CFR corrective action program.**

2 Post Closure Maintenance Financial Assurances

- a. **Prepare a cost analysis report for maintaining the closed WMU I in compliance with Title 27, Division 2, Chapter 6 and 40 CFR Part 258.61. The Discharger shall also provide a mechanism and a funding source that complies with Title 27 and 40 CFR Part 258.72. The report shall provide all supporting data, documentation and analysis upon which the report and its conclusions are based. (For greater detail refer to compliance items #6, #10 & #16 of Cease And Desist Order R5-2005-0073 and the 3 October 2005 Notice of Violation.)**
- b. **Provide a mechanism and a funding source (or proof of an existing mechanism and funding source) for maintaining the closed WMU I in compliance with Title 27, Division 2, Chapter 6 and 40 CFR Part 258.61. The Discharger shall also provide a mechanism and a funding source that complies with Title 27 and 40 CFR Part 258.72.**

3 Closure and Post Closure Financial Assurances for Units II, III and IV

- a. **Evaluate the cost of post closure maintenance and closure of waste management units II, III and IV in compliance with Title 27, Division 2, Chapter 6 and 40 CFR Part 258.61 and 258.73. The report shall provide all supporting data, documentation and analysis upon which the report and its conclusions are based. (For greater detail refer to compliance items #6, #10 & #16 of Cease And Desist Order R5-2005-0073 and the 3 October 2005 Notice of Violation.)**
- b. **Provide a mechanism and a funding source (or proof of an existing mechanism and funding source) that complies with Title 27, Division 2, Chapter 6 and 40 CFR Part 258.61 and 258.73 for the corrective action, post closure maintenance and closure of waste management units II, III and IV.**

Waste Characterization

18. **60 days after staff's approval of the WMU II and III Closure Plan, the Discharger shall submit a Waste Characterization Analysis Report describing the actual waste deposited in the WMU IV. This is to be determined by trenching and/or boring into the waste, as well as by facility records. An evaluation of the waste types and percentages shall be presented in the analysis. This analysis shall also include a characterization of the waste per Title 27 Section 20200. If the WMU II and III Closure Plan states that all waste from WMU IV will be moved onto WMUs II and III, then this report is not required. However,**

December 14, 2005

**Terms and Conditions
Bonzi Landfill**

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if only a portion of the waste will be moved, then the waste remaining in WMU IV must be characterized.

Closure

19. **By 1 January 2006, the Discharger shall place on Units II and III a minimum of one foot of interim soil cover and compact it in accordance with Title 27 Section 20705. An Interim Soil Cover Report documenting the work shall be submitted by 15 January 2006. (For greater detail refer to the 9 August 2005 Notice of Violation.)**
20. **By 1 March 2006, the Discharger shall submit a Closure Plan for WMUs II and III that complies with CCR Title 27. The plan shall include a closure date, which shall be as soon as economically and technically feasible. If the Closure Plan states that waste will be removed from WMU IV for placement on WMU II and III, then removal must begin upon staff's approval of the plan.**
21. **By 1 March 2006, the Discharger shall submit a Joint Technical Document to update Waste Discharge Requirements Order No. 98-093 to reflect the current operations of the landfill and the closure timelines. The JTD shall meet the requirements of Title 27, Chapter 4, Subchapter 3, Article 2.**

Attachment A: Items to be included in a RWD

December 14, 2005

ATTACHMENT A

**ATTACHMENT A TO EXHIBIT A
ADDITIONAL INFORMATION REQUIREMENTS
FOR REPORT OF WASTE DISCHARGE
BONZI LANDFILL**

Please provide a technical report, prepared by, or under the direct supervision of a registered professional, that presents the following information:

1. A narrative description of all wastewater conveyance, treatment, and disposal systems currently existing at the facility.
2. A narrative description of all planned physical improvements, their purpose, and anticipated completion dates. If phased build out is planned provide scope and completion dates for each phase.
3. Provide a site map that shows property lines, buildings, treatment or storage ponds, land application areas, and surface water drainage courses within 1,000 feet of the site.
4. A process flow diagram, treatment plant site plan, and a scaled map showing the limits of all existing and proposed effluent disposal areas.
5. For each pond and any other waste containment structure, provide the following information and give any references used. Discuss both existing and proposed facilities:
 - a. Identification (name) and function of the pond;
 - b. Surface area, depth, and volumetric capacity at two feet of freeboard;
 - c. Height (relative to surrounding grade), crest width, interior slope, and exterior slope of each berm or levee;
 - d. Materials used to construct each berm or levee;
 - e. Description of engineered liner, if any;
 - f. Estimated steady state percolation rate;
 - g. Depth to shallow groundwater below the pond;
 - h. Overfilling/overflow prevention features; and
 - i. Operation and maintenance procedures.
6. A description of the sources and types of wastewater flowing into the system, design flow rates, and the design capacity of the system (existing and proposed). Include projected infiltration/inflow rates and peaking factors used in design calculations.
7. A description of emergency wastewater storage facilities or other means of preventing system bypass or failure during reasonably foreseeable overload conditions (e.g., power failure).
8. A description of the following for the both existing system and each phase of any proposed expansion:
 - a. Average dry weather flow;
 - b. Peak wet weather flow; and

**Additional Information Requirements
Bonzi Landfill**

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- c. **Effluent quality at the point of discharge to the pond (BOD, nitrogenous compounds, electrical conductivity, total dissolved solids, VOCs, pH, and metals).**
 - d. **A description of the wastewater disposal area including: acreage, type of crop grown, loading rates for BOD (in lbs/acre/day), total nitrogen (in lbs/acre/year), and salts (in lbs/acre/year). Provide a description of the disposal area and the disposal technique. State the number of acres of land used for disposal and crops planned for application areas. Show field locations on a map. Describe harvesting and crop disposal procedures. Describe the mixing ratio of wastewater and supplemental irrigation water prior to application. Describe the irrigation system and tailwater control and return system or other measures to prevent irrigation tailwater from leaving the fields.**
9. **Provide a projected monthly water balance demonstrating adequate containment and disposal capacity for the 100-year return period total annual precipitation, including consideration of at least the following.**
- a. **A minimum of two feet of freeboard in all ponds at all times;**
 - b. **Historical local evaporation data (monthly average values);**
 - c. **Local precipitation data with the 100-year return period annual total distributed monthly in accordance with mean monthly precipitation patterns;**
 - d. **Proposed wastewater loading rates distributed monthly in accordance with expected seasonal variations;**
 - e. **Projected long-term percolation rates; and**
 - f. **Projected irrigation usage rates.**
10. **A narrative description of groundwater treatment plant operation and maintenance procedures to be employed, including those associated with effluent storage and disposal.**
11. **If known, describe the quality of the underlying groundwater and the depth below ground surface at which groundwater is first encountered. Provide any other information regarding how you will manage this waste discharge to prevent the underlying groundwater from being degraded.**
12. **A description of any policies or facility design features that reduce the potential for groundwater degradation (best practicable treatment and control or BPTC measures).**

EXHIBIT B

EXHIBIT B**Bonzi Landfill: Terms and Conditions Summary and Stayed Penalties**

	Report	Due Date	Stayed/Stipulated Penalty
Groundwater Monitoring System			
1.	Groundwater Monitoring System Evaluation	20 December 2005	\$50,000
2.	Comply with MRP No. 98-093	Beginning 4 th Q 2005	\$100,000
3.	Groundwater Monitoring System Upgrade Report	120 days after staff approval of Report #1	\$50,000
Groundwater Monitoring Program			
4.	Five-year 40 CFR Part 258 Appendix II	1 January 2006	\$50,000
Corrective Action Program			
5.	Operate groundwater treatment system 24/7	Immediately	\$100,000
6.	Operate landfill gas system	Immediately	\$100,000
7.	Soil Gas Monitoring Plan	1 February 2006	\$50,000
8.	Soil Gas Monitoring System Construction Report (if necessary)	90 days after approval of Soil Gas Monitoring Plan	\$50,000
9.	Deleted		
10.	Corrective Action Semi-Annual Progress Reports	15 January 2006, 15 July 2006	\$50,000
Surface Impoundment/Groundwater Treatment System			
11.	Inspect pond liner	1 January 2006	\$50,000
12.	Maintain pond freeboard in compliance with WDRs	Immediately	\$50,000
13.	Discharge treated water in compliance with WDRs	Immediately	\$50,000
14.	Treatment System Effluent Evaluation and Operations Report	1 April 2006	\$50,000
15.	Document that vineyard discharge system meets WDRs	1 April 2006	\$50,000
16.	RWD to update WDRs No. 90-215	1 May 2006	\$50,000
Financial Assurance			
17.	Financial Assurance Report	1 February 2006	\$100,000
17a.	Mechanism for funding corrective action	90 days after approval of corrective action financial assurance report	\$50,000
Waste Characterization			
18.	Waste Characterization Analysis Report	60 days after approval of report #21	\$50,000
Closure			
19.	Interim Soil Cover Report	15 January 2006	\$100,000
20.	WMU II and III Closure Plan	1 March 2006	\$100,000
21.	Joint Technical Document to update WDR No. 98-093	1 March 2006	\$100,000
			\$1,400,000

14-Dec-05

LAW OFFICES OF

Strauss, Neibauer & Anderson

A PROFESSIONAL CORPORATION
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MODESTO, CALIFORNIA 95354-2499
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DOUGLAS L. NEIBAUER
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CRYSTAL S. SWANSON

OF COUNSEL
ALAN H. STRAUSS

March 10, 2006

California Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, # 200
Rancho Cordova, CA 95670
Attn: Howard Hold

Re: Ma-Ru Holding Company, Inc. Bonzi Sanitation Landfill

Hearing Date: Hearing date March 17, 2006

Item # 18: Central Valley Regional Water Quality Control Board Agenda

Board action: Consideration of a resolution requiring payment of \$50,000 as described by the Stipulated Judgment

Dear Mr. Hold :

As you are aware, I represent Ma-Ru Holding Company, Inc. and Bonzi Sanitation Landfill. Please accept the following as the response of Ma-Ru Holding Company, Inc. and Bonzi Sanitation Landfill to the Regional Water Quality Control Board's (RWQCB) allegations regarding non-compliance as follows:

THE RWQCB'S REQUIREMENTS FOR COMPLIANCE WITH THE ANALYTICAL METHODS / TARGET LEVELS WERE IMPRECISE AND DID NOT CONFORM TO CURRENT EPA-APPROVED ANALYTICAL METHOD PROTOCOL

The stated objective of the RWQCB with regard to Ma-Ru Holding Company, Inc. and Bonzi Sanitation Landfill is to "ensure that staff and the discharger are aware of the entire scope of the groundwater impacts so that remedial systems can be appropriately designated." Ma-Ru Holding Company, Inc. and Bonzi Sanitation Landfill believe they have made good faith efforts to comply with the RWQCB's requests for compliance. However, the RWQCB has repeatedly found Bonzi Sanitation Landfill in non-compliance, and thereafter routinely and continually changed the requirements and/or acceptable analytical methods and projected levels for constituent contamination.

It is common practice for the EPA to periodically de-publish analytical methods or make proposals for de-publishing analytical methods. The current EPA document, SW-846, specifies those analytical and sampling methods that are presently deemed acceptable for different types of monitoring by dischargers.

The RWQCB has failed to keep current with either those lists of de-published methods or the proposed methods suggested for declassification. As such, Ma-Ru Holding Company, Inc. and Bonzi Sanitation

Landfill contend that the RWQCB's suggested list of the methods are outdated (i.e., laboratories that conduct such analyses no longer use those methods and have been de-listed or proposed for delisting by the EPA). In 2005, the most recent EPA-approved analytical and sampling methods were available to the RWQCB. Further, pursuant to both the California Environmental Protection Agency Bill of Rights (i.e., permit applicants have the right to access complete and clearly written guidance documents that explain the regulatory requirements) and California Water Code Section 13320, it is specifically stated that permit applicants and/or permit holders are entitled to responses from the RWQCB within a reasonable period of time.

Specifically, with regard to detection limits, there are minimum detection limits (MDL) and practical detection limits (PDL). With minimum detection limits, a single compound can be detected. In contrast, with practical detection limits, the results are more specific and can produce an actual number. Below this level, "trace amount" levels are common. The resulting measure is thus imprecise using the more stringent test.

No real numbers have been specified by the RWQCB for the detection limits. In that regard, Taber Consultants restated the previous number levels, the PDL's, and narrowed the numbers as specifically as possible. Those restated number were reported in the samples. After the more detailed testing, those numbers that had previously been reported were no different—even after using the more specific approach. Consequently, the RWQCB's contention that the numbers reported were not low enough is without merit, since the numbers did not change where more specific testing methods were used. The only plausible reason for such a result is that when Taber Consultants ran several compounds by a less specific lab method, some of the compounds could possibly have been masked by other compounds, and the resulting levels may raise the detection limits slightly. The resulting aggregate effect is that the compounds mask one another.

Further, Tom Skaug specifically requested (in correspondence dated June 27, 2005) the RWQCB to specify their requirements with greater clarity. The response from the RWQCB was not received until mid-September (i.e., 90 days later), and even then that response was not entirely clear. Tom Skaug was informed by the RWQCB that Bonzi Sanitation Landfill was in compliance, and that the metals were the only issue remaining. Thus, the RWQCB had the information, but changed the detection limits, and is now claiming Taber Consultants, on behalf of Bonzi Sanitation Landfill, failed to submit any of this information. In fact, the information had been emailed, mailed, and discussed on the phone. Tom Skaug was informed that the RWQCB lost that information, and then claimed that the information we submitted was inadequate. Bonzi Sanitation Landfill and its expert have repeatedly tried to receive clarification from the RWQCB. To date, that clarification has not been received. Rather, the RWQCB continues to quote data that did not specifically address Bonzi Sanitation Landfill's questions.

Lastly, Thomas E. Ballard, a senior geologist with Taber Consultants, is an interested party and responsible for conducting and overseeing the analyses run by Bonzi Sanitation Landfill discussed above. I anticipate calling him as an expert witness to testify as to the good faith efforts made by Ma-Ru Holding Company, Inc. and Bonzi Sanitation Landfill to comply with the RWQCB's requirements.

Very truly yours,

STRAUSS, NEIBAUER & ANDERSON
A Professional Corporation



DOUGLAS L. NEIBAUER, ESQ.

DLN/css

cc: Steve Bonzi
EBA Engineering
Edward Corey, Esq.

Declaration of Thomas E. Ballard in opposition to resolution requiring payment of \$50,000 as described by the Stipulated Judgment for Ma-Ru Holding Company, Inc., and Bonzi Sanitation Landfill – Stanislaus County

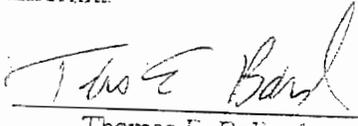
I, Thomas E. Ballard, declare under penalty of perjury as follows:

1. I am presently a Senior Geologist for Taber Consultants. A copy of my current curriculum vitae is attached hereto as Exhibit A to my declaration.
2. To the best of my knowledge and belief, Taber Consultants is an independent contractor for the Bonzi Sanitation Landfill in Stanislaus County. Taber Consultants is responsible for handling all sampling and reporting of constituents relating to water quality and effluent discharge on behalf of the Bonzi Sanitation Landfill in Stanislaus County. Copies of all correspondence, dating from 2004 to the present, between Taber Consultants and Bonzi Sanitation Landfill that specifically address the facts and circumstances surrounding the issues with the Bonzi Sanitation Landfill and the Regional Water Quality Control Board are attached hereto as Exhibit B to my declaration.
3. I am an expert in environmental geology, with over 24 years experience throughout Northern California in the assessment and evaluation of both soil and groundwater contamination resulting from natural environmental conditions and as a byproduct of commercial business activities.
4. As Senior Geologist for Taber Consultants, I am the person most familiar with the facts and circumstances surrounding issues with the Bonzi Sanitation Landfill and the Regional Water Quality Control Board.
5. To the best of my knowledge and belief, and based on my years of experience assessing and evaluating soil and groundwater contamination from various point sources, it is my opinion that, in the time I have been associated with the Bonzi Sanitation Landfill through my position with Taber Consultants, the Bonzi Sanitation Landfill has consistently made good faith efforts to comply with the various requests posed by the Regional Water Quality Control Board.
6. To the best of my knowledge and belief, and based on my past experience conducting analyses as an environmental geologist, the methodology, tests and/or ultimate levels required of the Bonzi Sanitation Landfill by the Central Valley Regional Water Quality Control Board are unrealistic because they do not conform to established protocol.
7. The RWQCB's requirements for compliance with the analytical methods / target levels were imprecise and did not conform to current EPA -approved analytical method protocol
8. The RWQCB required methods of analysis and/or levels do not conform with generally accepted protocol within the scientific community

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STANISLAUS
COUNTY CLERK'S
OFFICE

Executed this 10th day of March, 2006 at Sacramento, California.

By: 
Thomas E. Baliard

Executed this 10th day of March, 2006 at Sacramento, California.

By: _____
Thomas E. Ballard

Thomas E. Ballard, P.G.

Senior Geologist

Project Assignment:	Senior Geologist, Environmental Geology
Name of Firm with which Associated:	Taber Consultants
Years Experience:	With this Firm: 1 With other Firms: 23
Education:	Bachelor of Arts, 1978, Geology Master of Business Administration, 1989
Active Registration:	2002 - Professional Geologist, California #7299

Mr. Ballard has participated in environmental and geology projects at various professional levels and with increasing responsibility during his 23 year career. He has served as Project Manager for numerous UST removals, investigations and remediation sites, has performed over 100 Phase-I and Phase-II Assessments in northern and central California and has served as an expert witness on multiple environmental contamination cases involving environmental impacts to soil and groundwater from underground storage tanks and dry cleaning facilities.

Mr. Ballard's environmental due diligence background has involved the assessment and evaluation of the risks of potential soil and/or groundwater contamination associated with current and historical on and off-site environmental conditions and business activities for both commercial and industrial property transactions.

Mr. Ballard is currently project manager/geologist for environmental assessment of roadway projects in Butte, Sutter, San Joaquin and El Dorado Counties and for groundwater assessment and remediation projects in Placer, Madera, Sutter, Sacramento, Tehama and Shasta Counties. Recent projects for which Mr. Ballard has worked as manager of environmental geology include:

- Route 32 Widening Project ISA, Chico – Evaluation of potential hazardous materials elements for approximately two miles of road widening consisted of researching environmental database files for the project alignment, performing historic research to identify past environmental issues, physical site visits of locations of potential concern along the project alignment and preparation of an ISA report documenting study findings and making recommendations.
- Missouri Flat ADL Study, Placerville – Project hazardous materials assessment for roadway improvements, overpass replacement and bridge replacement consisted of evaluating potential aerially deposited lead impacts to soils within the right-of-way, assessment of lead-based paint on bridges, assessment of potential asbestos-containing materials on bridges and lead and chromium content of yellow roadway paint stripes. Total and soluble (WET and TCLP) lead concentrations for soil samples were statistically analyzed to classify waste soil in accordance with Hazardous Waste criteria for each of two construction phases.
- Tuolumne N-S Connector, Sonora – Hazardous materials evaluation for alternative roadway alignments to provide a highway by-pass for the City of Sonora. The assessment includes evaluation to identify current and past environmental issues including potential environmental impacts from prior mining activities, locations of environmental impacts to soil and groundwater and the evaluation of potential fatal flaws to roadway alternatives posed by any of the identified environmental conditions.



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FAX MEMO

TO:	Mr. Douglas Neibauer	DATE:	March 9, 2006
COMPANY:	Strauss, Neibauer and Anderson	JOB NO.:	2P3/391/07-21H
FROM:	Tom Ballard	FAX NO.:	(209) 526-0244
DOCUMENT:			
SUBJECT:	Bonzi Landfill		
COMMENTS:			

Attached is the September 12, 2005 letter from the Regional Board which was written in response to Taber Consultant's request for clarification dated June 27, 2005. Also, we have attached two emails that may help clarify the chronology for this particular issue.

If you have any questions, please call at the above number or email to tballard@taberconsultants.com

Thank you,

Tom Ballard
Taber Consultants

Neibauer Doug

From: Howard Hold [hhold@waterboards.ca.gov]
Sent: Friday, March 03, 2006 2:03 PM
To: Steve Bonzi
Cc: mdelmanowski@ebagroup.com; Neibauer Doug; tballard@taberconsultants.com; Kelly Briggs; Victor Izzo; Wendy Wyels; lgonzalez@weintraub.com
Subject: 16/17 March 2006 Regional Water Quality Control Board Meeting Agenda Item



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(61 KB)



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Resolution
Bonzi.doc (32 KB)

Steve,

My management has instructed me to inform you that on 16/17 March 2006, the Central Valley Regional Water Quality Control Board will consider a Resolution requiring payment of a \$50,000 penalty for the Ma-Ru Holding Company and the Bonzi Sanitation Landfill for noncompliance with a Court Ordered Stipulated Judgment. Attached for your review is the Proposed Resolution and the supporting documentation. A copy of this will also be sent to you by mail. If you have any questions please contact me at 916-464-4679. Thank You

Howard Hold, P.G #7466
Engineering Geologist
Central Valley Regional Water Quality Control Board 11020 Sun Center Drive #200 Rancho
Cordova, CA 95670-6114 Sacramento, California 95827
1-916-464-4679
hhold@waterboards.ca.gov



RECEIVED
FEB 09 2006

BY:

February 6, 2006

Mr. Howard Hold
California Regional Water Quality Control Board
Central Valley Region (RWQCB)
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114

**RE: Response to RWQCB February 3, 2006 Compliance Evaluation Letter
Bonzi Sanitation Landfill, 2650 West Hatch Road, Modesto, California
EBA Job No. 91-311 (Task 12)**

Dear Mr. Hold:

The purpose of this letter is to request clarification on one of the compliance deadlines recently outlined in your Compliance Evaluation letter dated February 3, 2006. In regards to the item identified as "Existing Monitoring Wells Meet Performance Standards" per Compliance Item #1 of the Stipulated Judgment, it is indicated that the due date for completing this task is March 20, 2006. However, EBA Engineering (EBA) submitted the required Groundwater Monitoring System Evaluation Report on December 14, 2005. Based on our review of Compliance Item #3 of the Stipulated Judgment, implementation of any recommended improvements must be completed within 120 days of the RWQCB's approval of the Groundwater Monitoring System Evaluation Report. To our knowledge, a written approval of the Groundwater Monitoring System Evaluation Report has not been issued by the RWQCB. Thus, please clarify the apparent conflict between the March 20, 2006 deadline and the deadline provisions outlined in Compliance Item #3 of the Stipulated Judgment.

Sincerely,
EBA ENGINEERING

Mike Delmanowski, C.E.G., C.Hg.
Senior Hydrogeologist

cc: Mr. Steve Bonzi, Ma-Ru Holding Company, Inc.
Mr. Victor Izzo, RWQCB
Mr. Douglas Neibauer, Strauss, Neibauer & Anderson

rwqcb0206ltr



RECEIVED
FEB 06 2006
BY:.....

February 2, 2006

Via facsimile
916.464.4645

Mr. Victor Izzo
California Regional Water Quality Control Board
Central Valley Region (RWQCB)
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114

**RE: Groundwater Treatment System (GTS) Retention Pond Liner Repairs
Bonzi Sanitation Landfill, 2650 West Hatch Road, Modesto, California
EBA Job No. 91-311 (Task 12)**

Dear Mr. Izzo:

On behalf of Ma-Ru Holding Company, Inc., this letter requests an extension to continue diverting GTS treated water from the retention pond directly to vineyard irrigation. Further we are requesting the use of 60-mil textured HDPE sheet, rather than the previously identified 60-mil smooth HDPE sheet, to effect repairs to the GTS pond liner.

We understand that RWQCB staff are drafting a letter to Ma-Ru Holding Company, Inc. indicating that repair of the GTS pond liner will need to be completed not later than March 14, 2006. Based on the results of the recently conducted electronic leak location survey it will be necessary to continue diverting GTS water from the pond in order to repair holes identified in the floor of the pond liner. While continued diversion through flood irrigation of the vineyard is preferred, we have been informed that it may be possible to modify the discharge piping configuration to allow for reinstatement of vineyard drip irrigation from the GTS system.

In addition, EBA personnel met with D&E construction at the Bonzi Sanitation Landfill to discuss repairs to the GTS pond liner and were told that procurement of 60-mil smooth HDPE sheet within the repair time frame would be problematic. However, 60-mil textured sheet is readily available. EBA shares the opinion of D&E Construction that seaming integrity will not be compromised by the use of textured HDPE sheet. We note that all seams are required to pass documented CQA inspection regardless if textured or not.

Based on these circumstances and pursuant to our conversation yesterday, we understand that the RWQCB will allow Ma-Ru Holding Company, Inc. to continue diverting GTS water from the retention pond until March 14, 2006, and allow the use of 60-mil textured HDPE sheet for pond repairs with the provision that the seams pass CQA inspection.

We appreciate your help with these matters. If you should have any questions please do not hesitate to contact our office at (707) 544-0784.

Sincerely,
EBA ENGINEERING


Damon Brown, C.E.C., C.Hg.
President

cc: Mr. Steve Bonzi, Ma-Ru Holding Company, Inc.
Mr. Howard Hold, RWQCB
Mr. Douglas Neibauer, Strauss, Neibauer & Anderson

DRAFT

January ?????????, 2006

California Regional Water Quality Control Board
Central Valley Region (RWQCB)
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114

**RE: Comments to Resolution for Stipulated Penalty
Bonzi Sanitation Landfill
2650 West Hatch Road, Modesto, California**

These written comments have been prepared in response to the RWQCB's consideration of a resolution requiring payment of a \$50,000 penalty for the Ma-Ru Holding Company and the Bonzi Sanitation Landfill for noncompliance with a court-ordered Stipulated Judgment. Specifically, the penalty is proposed for failure to complete the removal of vegetation and subsequent inspection of the groundwater treatment system's (GTS's) retention pond by the January 1, 2006 deadline as outlined in the Stipulated Judgment. Whereas my Client does not deny failing to meet the deadline, it was not due to any disregard for the importance of this or any other deadline included in the Stipulated Judgment. These comments are intended to clarify this issue. I am also taking the opportunity to clarify what has transpired since the start of the Cease and Desist Order (C&DO) process in April 2005. I am compelled to provide this information as it differs significantly from RWQCB staff's representation of my Client's commitment and cooperation and during this period.

Vegetation Removal / Pond Inspection Issue

As outlined above, my Client acknowledges the failure to comply with the vegetation removal/inspection deadline. The work was completed twelve days late on January 13, 2006. However, the delay in completing the required work cannot be characterized as the result of a lack of effort on the part of my client. Instead, it is simply a case of the work being more cumbersome and tedious than expected, coupled with wet weather conditions, which extended the time required to complete the work. This represents a misjudgment of timing, not an act of willful neglect. With regard to timing, I disagree with RWQCB staff's position that they did not play a significant role in delaying the completion of the work. As outlined in my request for extension letter dated December 29, 2005, constraints imposed by RWQCB staff delayed the vegetation removal process by approximately two months (mid-September through mid-November, 2005). RWQCB staff has clarified in their Staff Report that the pumping constraints were simply a part of the site's WDR permit and that the delay was necessitated by the standard practice of requiring the Discharger to demonstrate why it is infeasible to comply with the WDR discharge requirements. In this regard, I offer the following comments:

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- Based on the need to dewater 6,000,000 gallons from the retention pond and the ongoing influent discharge of 125 gallons per minute from the GTS, RWQCB staff should have been able to deduce upfront that their mandate to either containerize the water in aboveground storage tanks (ASTs) or truck the water off-site, as stipulated in their September 21, 2005 Continuing Notice of Violation (NOV), was both logistically and economically impractical. To require my Client to expend the time and effort to formally demonstrate this fact, only to have RWQCB staff ultimately agree with one of the original options proposed in a September 13, 2005 email, must be considered an unwarranted task that only served to delay the work by approximately six weeks.
- During a meeting on October 27, 2005, RWQCB staff issued verbal approval to temporarily increase the discharge to the vineyard in order to dewater the pond completely to allow for vegetation removal. However, RWQCB staff subsequently issued a new requirement on November 14, 2005 requesting that the pond water be tested and evaluated for loading issues prior to commencing with the increased discharge. Whereas RWQCB staff eventually rescinded this requirement based on responses submitted by my Client, this request resulted in another one-week delay.
- On November 28, 2005, a written request via email was submitted to RWQCB staff requesting permission to divert the GTS discharge directly to the vineyard as opposed to initially discharging to the pond. The GTS discharge into the pond was proving to be a hindrance in accessing the vegetation within the deepest portions of the pond. A second inquiry was made on December 7, 2005 after no response was received from RWQCB staff. Finally, authorization to do so was subsequently granted by RWQCB staff approximately 10 days after the initial request. This delayed response further delayed the overall work progress.

On a separate issue, RWQCB Staff Report contends that compliance with the deadline might have been achieved through the hiring of extra workers, as suggested in a December 27, 2005 email from RWQCB staff. This suggestion may seem practical at face value, however, costs notwithstanding, it fails to consider worker Training, liability and health and safety issues, as well as the standard of care of an untrained outside work force with respect to adequately protecting the pond liner. RWQCB staff has repeatedly stated that cost is not a factor when it comes to compliance. However, it is my understanding that economic feasibility is a major Board consideration. My Client has incurred over \$309,000 in costs since April 2005 in responding to the compliance mandates issued by RWQCB staff as part of the C&DO process. This represents a significant financial burden for a small, privately-owned landfill operator. The overall cost for responding to RWQCB staff concerns regarding the pond liner to date is estimated to be approximately \$34,000. Thus, to incur the additional cost of an outside work force is difficult to justify financially.

As demonstrated by the information presented herein, my Client has made a concerted effort to comply with the Stipulated Judgment deadline for completing the vegetation removal and pond inspection. In fact, the work was subsequently completed on January 13, 2006 in accordance with our December 29, 2005 request for extension. Failure to meet the deadline is not a simple case of disregarding the importance of RWQCB directives, but due to a number of delays beyond the control of my client. RWQCB staff argues that this problem could have been avoided if my

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Client would have started the work in the summer. I understand the basis of this viewpoint, however, the number of requirements mandated as part of the C&DO must be considered. As a result, the various mandated work was prioritized, with the intent of addressing the pond concerns in September. Unfortunately, the delays outlined herein regarding the pond dewatering activities eliminated the original scheduled cushion that otherwise would have compensated for the unforeseen difficulties associated with the vegetation removal process.

General Overview of Compliance Efforts

I would like to take this opportunity to clarify what I feel has been a misrepresentation by RWQCB staff of my Client's performance and compliance efforts. Since initiation of the C&DO process in April 2005, RWQCB staff has made numerous misstatements of fact and continuously characterized my Client as being uncooperative and recalcitrant. It is our position that this portrayal is irresponsible, and does not accurately reflect the level of cooperation that has taken place particularly given the significant effort and costs that have been invested over the last nine months. The following provides a synopsis of the work completed since April 2005 and the associated costs:

•	<i>GTS Repairs:</i>	\$ 8,200
•	<i>Landfill Gas (LFG) System Expansion:</i>	\$ 120,000
•	<i>WMUI Maintenance:</i>	\$ 17,000
•	<i>Interim Cover Repairs:</i>	\$ 34,500
•	<i>Pond Vegetation Removal:</i>	\$ 20,000
•	<i>Pond Inspection:</i>	\$ 14,000
•	<i>Engineering Consulting and C&DO Reporting:</i>	\$ 96,000
		\$ 309,700

The RWQCB Staff Report states that the Stipulated Judgment was pursued by RWQCB staff due to noncompliance with the majority of the C&DO requirements, as evidenced by the issuance of seven NOVs following adoption of the C&DO in April 2005. Once again, I feel this statement is misleading. Of the seven NOVs, all but one was issued based on RWQCB staff's subjective determination that the report submittals did not comply with the C&DO request. In each case, the reports, which ranged from monitoring well replacement work plans to more comprehensive reviews of monitoring systems and site characterization, were submitted on time and in our experts' opinion, were responsive to the C&DO request. RWQCB staff's disagreement with the interpretations and/or findings presented in the submittals, in our opinion, does not constitute a violation or represent an act of uncooperativeness on our part. On the contrary, our timely submittal of over 20 on-time reports since adoption of the C&DO clearly demonstrates my client's commitment and effort to comply with the C&DO and Stipulated Judgment.

It should be noted that there have been a number of inaccuracies in RWQCB correspondence throughout the C&DO and Stipulated Judgment process, including the Staff Report issued as part of this Resolution. For example, Page 2 of the Staff Report states that my Client has failed to post financial assurances for closure and postclosure maintenance activities. This statement is not true. My client established financial assurance mechanisms for both closure and postclosure maintenance (including operation and maintenance costs for the corrective action systems) in

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1995 and is currently fully funded. RWQCB staff has been informed of this fact in two separate written submittals since April 2005, as well as verbally during the Stipulated Judgment meetings. Regardless of these efforts, RWQCB staff continues to report that my Client is delinquent on this issue.

Finally, we would like to voice our objection to RWQCB staff reaching conclusions without basis or fact. Over the course of the C&DO process, there have been a number of instances where this has occurred in RWQCB staff's written correspondence. Most recently, it is stated on Page 5 of the Staff Report (Conclusions) that leakage from the pond is likely causing water quality impacts to the waste management unit and to underlying groundwater. To our knowledge, there is no data to support this conclusion. Based on review of historical groundwater contour maps by my client's consultant, there is no evidence of mounding effects associated with the retention pond that would indicate the inundation of waste by water from the retention pond. In addition, historical water chemistry data for the air stripper and retention pond indicates water quality characteristics comparable to background water quality. In fact, this is the same water that is allowed to be used for vineyard irrigation.

Closing

In light of the information presented herein, we respectfully request that the RWQCB staff's recommendation to adopt the proposed fine Resolution be reconsidered. Over the course of the last nine months, my Client has been required to implement a significant amount of work at a substantial cost. Although complying with the C&DO mandates have not been easy, all of the required deadlines have been met with exception to the recent vegetation removal task. In the case of the vegetation removal task, I believe we have demonstrated that a concerted effort was made to comply with the deadline and that factors outside my client's control contributed to the delay.

If the intent of the \$50,000 fine is to send a message to my Client, I believe the message was sent and clearly received through the issuance of the C&DO in April 2005. Since then, my Client has put forth considerable effort to comply with the C&DO and Stipulated Judgment and to cooperate with RWQCB staff. In my opinion, the \$50,000 would better serve if put towards implementing the remaining tasks outlined in the C&DO and Stipulated Judgment, which represents a considerable amount of work and expense.

November 23, 2005

Mr. Howard Hold
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, California 95670-6114

Subject: Transmittal of Revised Metals Analysis Data
Bonzi Sanitation Landfill
Modesto, California

2P3/391/07-20H

Dear Mr. Hold:

Attached please find a copy of Sparger Technology, Inc.'s revisions of the Five Year sampling metals analytical results for the Bonzi Sanitation Landfill. We believe the PQL's and MDL's should meet the Regional Water Quality Control Board's criteria for these analyses this should allow the proper acceptance of these sample results. Our understanding is that all other issues with the analytical results have previously been addressed and the PQL's and MDL's for the metals results were the only remaining issue in this matter.

* * * * *

Thank you for your patience in this matter. If you have any questions regarding this work plan, please do not hesitate to call.

Very truly yours,
TABER CONSULTANTS

Thomas E. Ballard, P.G. #7299
Senior Geologist

Cc: Steve Bonzi, Bonzi Landfill

November 10, 2005

Mr. Tom Ballard
Taber Consultants
3911 West Capitol Avenue
West Sacramento, CA95691-2116

Dear Mr. Ballard:

Attached you will find Sparger Technology's laboratory reports that includes the PQL's and MDL's for our metals analysis that were requested. Our original reports reflected our standard laboratory PQL's and depending on project needs or requirements we are able to provide lower PQL's if our MDL values are in the sub part-per-million (ppm) or parts-per-billion (ppb) range. Please be aware that most projects have established values that are reviewed by the laboratory before the samples are received. Finally, the PQL's and MDL's that were provided for the 8270 reports are highly matrix and analyte dependent and are well within the SW-846 guidelines (see attached document); therefore, with the number of analytes requested the values provided are the lowest achievable at this time. In the future if lower values are requested then alternative methods must be chosen. In conclusion, project MDL's and PQL's must be established before samples are received so the proper methods can be chosen depending on all factors involved.

Sincerely,

Ray James
Laboratory Director

Tom Ballard

From: Martin [mmcilroy@taberconsultants.com]
Sent: Tuesday, November 06, 2005 11:07 AM
To: 'Howard Hold'
Cc: Tballard@taberconsultants.com
Subject: RE: FW: From TMS

Hello Howard,

I forwarded the 2004 data to you as well.

I checked my sent items folder and I sent you three e-mails with the 2003, 2004 and the 2005 data that we have to date. Please check you e-mail inbox to see if you received them.

Let me know if you did not receive them and I can re-send. A CD will follow within the week.

Thanks.

Cheers,
Martin

-----Original Message-----

From: Howard Hold [mailto:hhold@waterboards.ca.gov]
Sent: Tuesday, November 08, 2005 10:04 AM
To: mmcilroy@taberconsultants.com
Subject: Re: FW: From TMS

Martin, thank you for your efforts to get me the 2003 data. However, I'm still going to need the 2004 data as soon as possible. Once you get the 2004 data plugged in, I'll need it submitted to our office on a CD. Once again thank you for your efforts.

Howard Hold, P.G.#7466
Associate Engineering Geologist
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive #200
Rancho Cordova, CA 95670-6114
Sacramento, California 95827
1-916-464-4679
hhold@waterboards.ca.gov

>>> "Martin" <mmcilroy@taberconsultants.com> 11/7/2005 10:37 AM >>>

From: Ron Loutzenhiser [mailto:rloutzenhiser@taberconsultants.com]
Sent: Sunday, November 06, 2005 1:41 PM
To: Martin McIlroy
Subject: From TMS

<<...>> <<...>> <<...>>

2005 data has not been entered into charts. That will be presented in 2005 annual report.
Attached are 2005 data to date.

--
No virus found in this incoming message.
Checked by AVG Free Edition.
Version: 7.1.362 / Virus Database: 267.12.8/162 - Release Date: 11/5/2005

Martin

From: sbonzi@neteze.com
Sent: Thursday, November 03, 2005 10:41 AM
To: tskaug@taberconsultants.com
Subject: Fwd: Bonzi: Exhibits A and B

Attachments: Exhibit A Bonzi Terms and Conditions.doc; Exhibit B Bonzi Stayed Penalties.doc; Exhibit A Attach A Bonzi.doc; _AVG certification_.txt



Exhibit A Bonzi
Terms and Cond...



Exhibit B Bonzi
Stayed Penalti...



Exhibit A Attach A
Bonzi.doc (...



_AVG
certification_.txt (217 k

Tom,

Please review the contents of the exhibit A in regards to our annual report. According to Wendy, they will accept data from previous samples as long as the information is still available from Sparger. Otherwise we will have to resample. Call me.

Steve

----- Original Message -----

From: Wendy Wyels [mailto:wwyels@waterboards.ca.gov]
Sent: 10/31/2005 10:25:26 AM
To: dbrown@ebagroup.com;mdelmanowski@ebagroup.com;gmascdaa@msn.com;sbonzi@neteze.com;dneibauer@snarlaw.com;ecorey@weintraub.com;lgonzalez@weintraub.com
Cc: hhold@waterboards.ca.gov;jdelconte@waterboards.ca.gov;kbriggs@waterboards.ca.gov;vizzo@waterboards.ca.gov
Subject: Bonzi: Exhibits A and B

- > Gloria,
- > Attached for your information are the final revisions to Exhibits A and B for the proposed settlement.
- >
- > Please contact me if you have any questions.
- >
- >
- >
- > Wendy Wyels
- > Supervisor, Title 27 and WDR Units
- > 11020 Sun Center Drive, Suite 200
- > Rancho Cordova, CA 95670-6114
- > phone (916) 464-4835
- > fax (916) 464-4780
- >
- > Please note that my e-mail address has changed to
- > wwyels@waterboards.ca.gov and that the Regional Board website is now
- > found at www.waterboards.ca.gov/centralvalley.
- >
- >
- >
- >

October , 2005

Mr. Howard Hold
California Regional Water Quality Control Board
Central Valley Region (RWQCB)
11020 Sun Center Drive, #200
Rancho Cordova, California 95670-6114

2P3/391/07-20H

Subject: Item #5 of Cease and Desist Order Number R5-2005-0073
Bonzi Sanitation Landfill
Modesto, California

Sir:

This letter is to respond to your letter of September 12, 2005 replying to our June 28, 2005 request for clarification regarding Item #5 of the Cease and Desist Order (CDO). We appreciate your clarification of RWQCB staff position regarding this issue.

In order to simplify the issues involved, it is important to note that MDLs for analyses by methods 8260 and 8270, although perhaps not conveniently placed, were included as Appendix E in the *Fourth Quarter 2004: Combined Detection, Corrective Action and Remediation System Monitoring Reports*. However, the April 28, 2005 addendum to that report, which re-submitted the analytical results with revised reporting limits for five compounds, inadvertently did not include the MDL reports. We regret this oversight. Revised laboratory reports, including MDL and PQL for all constituents, accompany this letter.

The analytical methods suggested for use in "*Chapter 15 Program Note #7...*" clarify that the analytical methods reported in the fourth quarter 2004 report are appropriate, with the exception of methods for a few metals. We note, however, that no previous metals analyses submitted by the Bonzi landfill used those methods, including the 1994 and 1999 Appendix II analyses, analyses that have been submitted annually for all wells for the past 15 years, and quarterly arsenic for six wells since the second quarter of 2001.

Comment [R1]: Which ones?

With the exception of metals analyses, the remaining issue (as we understand it) is contention by RWQCB staff that of semivolatile organic compounds listed in Appendix II were analyzed by the appropriate method (8270C) but that the reported PQLs and MDLs are not acceptable. We are not aware of any requirement that specifies

acceptable PQLs or MDLs for any analytical method, beyond those necessary for laboratory certification. RWQCB staff does indicate that MDLs reported third quarter 2004 report for methods 8260B and 8270C are acceptable.

As pointed out by RWQCB staff, method 8270C reporting limits from the third quarter are lower than those from the fourth quarter for most compounds. Comparison between third and fourth quarter results is complicated by the fact that many of the Appendix II compounds were not analyzed in the third quarter. However, for more than two-thirds those compounds analyzed both quarters by method 8260C, the MDLs and PQLs reported in the fourth quarter were lower, typically by about half an order of magnitude and for one compound (dichloromethane) by nearly an order of magnitude. It is also noteworthy that, for all but one compound, 8270C reporting limits in the fourth quarter were equal to or lower than those from the 1999 Appendix II analyses. Comparing VOC analyses, the results reported in 1999 (8260A) were higher than those reported in either third or fourth quarters of 2004.

Comment [R2]: Detection limits?

It is evident from the above that, for the same analytical method, different laboratories will report different PQLs and MDLs. It is not reasonable to expect a discharger to use separate laboratories for different analytical methods in order to obtain the lowest limits for each method.

xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

The quarterly reports state that the PQL is also the reporting limit.
How long have MDL and PQL reports been attached?

xxxxxxxxxxxxxxxx

With agreement that the analyses by methods listed in "Chapter 15 Program Note 7" are appropriate, the analytical methods reported in the 4q04 report, with the exception of methods for a few metals, are no longer in question. The issue resolves as to whether the PQLs and MDLs reported are appropriate.

xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

Mr. Douglas L. Neibauer, Attorney at Law
September 12, 2005
Page 2

2P3/391/07-20H

It is our opinion that the analytical methods used for the 5-year Appendix II Constituents of Concern laboratory analysis meet the cited requirements. However, we have noted that the submitted reports included method detection limits only for the analyses performed by methods 8260 and 8270. We regret this error.

With respect to Proposed Terms and Conditions Item #3, we agree that a reevaluation of the 5-year Appendix II analyses should be submitted. We propose that the reevaluation report should include the previously submitted analytical reports, reports of method detection limits not previously submitted, and a comparison of the report results with the previous (1999) 5-year sampling event. If it is the opinion of RWQCB staff that different analytical methods are required, we request that they identify the analytical method and detection limit for each constituent and specify the basis for selecting those methods and limits.

Very Truly Yours,
TABER CONSULTANTS

Thomas M. Skaug, C.E.G. 1996
Senior Engineering Geologist

cc: Steve Bonzi, Bonzi Sanitation Landfill
Mike Delmanowski, EBA Engineers

October , 2005

Mr. Howard Hold
California Regional Water Quality Control Board
Central Valley Region (RWQCB)
11020 Sun Center Drive, #200
Rancho Cordova, California 95670-6114

2P3/391/07-20H

Subject: Item #5 of Cease and Desist Order Number R5-2005-0073
Bonzi Sanitation Landfill
Modesto, California

Sir:

This letter is to respond to your letter of September 12, 2005 replying to our June 28, 2005 request for clarification regarding Item #5 of the Cease and Desist Order (CDO). We appreciate your clarification of RWQCB staff position regarding this issue. Following is a summary of outstanding issues and concerns, as we understand them, and our response.

The 2004 Appendix II analyses submitted

"The discharger and its consultant have been unable to certify that the Quality Assurance/Quality Control (QA/QC) review for data and information submitted under WDRs Order No. 98-093 meet the standards of Section 20415 of Title 27. On 14 September 2004, a NOV was issued concerning the Discharger's laboratory protocols. "

We are not aware of any correspondence from the RWQCB requesting or requiring "certification" of the data QA/QC. Item 2.m. of the September 15, 2004 NOV notes that the first and second quarter 2004 monitoring reports identify a reported VOC as a laboratory contaminant and states that "If the discharger is unable to correct the QA/QC problems with the monitoring program, staff will recommend to management that additional action be taken to enforce compliance."

Results of third quarter 2004 analyses again identified a VOC as a laboratory contaminant, but the analyses were performed in August 2004, before the NOV was prepared. After third quarter 2004, Bonzi Sanitation Landfill, Inc. retained a new

analytical laboratory and subsequent monitoring reports have not included any VOCs identified as laboratory contaminants. As such, it is our opinion that the concern expressed in the September 15, 2004 NOV has been appropriately resolved.

"Even after staff identified the deficiency in the NOV, the Discharger submitted its 2004 Annual Monitoring Report with invalid results."

Although this statement refers to the September 14, 2004 NOV, the issue of laboratory contaminants had been, in fact, resolved as evidenced by the fourth quarter 2004 and first quarter 2005 monitoring reports submitted before the Cease and Desist Order was prepared.

For clarity, note that the 2004 annual monitoring report referenced in the above statement was not submitted until after adoption of the Cease and Desist Order and we assume the above statement was intended to refer to the fourth quarter 2004 monitoring report. The issue of "invalid results" is discussed below.

"The Federal EPA mandated 5-year Appendix II Constituents of Concern laboratory analysis were not conducted at the required minimum detection limits."

The 7-1-04 edition of 40 CFR Part 258 Appendix II lists the constituents required to be analyzed. For each constituent, it also lists one or more "suggested" analytical methods and associated PQLs (i.e. detection limits). However, the appendix footnotes state explicitly that: 1) The regulatory requirements pertain only to the list of substances; 2) the methods and PQL are given for informational purposes only; 3) the PQL values in many cases are based only on a general estimate for the method and not on a determination for individual compounds; and 4) the PQLs are not part of the regulation.

We have reviewed the text of 40 CFR Part 258 and do not find a requirement for specific test methods or detection limits in any other portion of this regulation. Further, the 7-1-05 edition of 40 CFR Part 258 indicates that, effective July 14, 2005, the suggested analytical methods and PQLs have been deleted from Appendix II.

WDRs Order No. 98-093 prescribes the constituents to be analyzed (i.e. those listed in 40 CFR Part 258 Appendix I and II) but it does not contain any statements regarding analytical methods or reporting limits. The Standard Provisions and Reporting Requirements (August 1997) require that the methods of analysis and the detection limits "...be appropriate for the expected concentrations" and "...the analytical

method having the lowest method detection limit (MDL) shall be selected from among those methods which would provide valid results in light of any matrix effects or interferences" but there is no mention of specific methods to be used. Other than these three documents, we are not aware of any other regulations or orders that pertain to the required analytical testing.

The question of whether the 5-year Appendix II Constituents of Concern laboratory analysis were submitted with "invalid results" therefore appears to depend upon which analytical methods are considered appropriate for the expected concentrations (i.e. less than reporting limit) and to have the lowest method detection limit that provide valid results in light of any matrix effects or interferences.

Although not explicitly stated, it appears to be the opinion of RWQCB staff that the suggested analytical method in Appendix II with the lowest reporting limit is the "appropriate" analytical method. We base this on the examples of a volatile organic compound and a semi-volatile organic compound given in the June 15, 2005 NOV. However, as indicated in footnote number 5 of Appendix II, the suggested analytical methods are based on the 1987 version of SW-846. Many of the listed analytical methods (e.g. methods 8010, 8030, 8040, 8060, 8080, 8090, 8110, 8120, 8140, and 8150) have been deleted from more recent versions of SW-846 and are therefore no longer appropriate to use. Further, Sparger Technology, the laboratory that performed testing of the Appendix II compounds, has indicated that other listed test methods have been "noticed for removal" from SW-846 and that the State of California Environmental Laboratory Accreditation Program no longer provides certification for those tests and therefore they are also not appropriate to use.

Other listed analytical methods, such as 8021, are more affected by matrix interference and therefore less appropriate than the analytical methods used for the Bonzi 5-year COC analyses (e.g. 8260 and 8270). We also note that previous RWQCB staff appear to have interpreted selection of the "appropriate" method differently, as the previous (1994 and 1999) 5-year COC analyses also did not use Appendix II methods with the lowest reporting limit for all compounds (e.g. 8260 and 8270 were used for volatile and semi-volatile organic compounds).

Based on the above, it is our opinion that the "most appropriate" analytical methods are not those in Appendix II with the lowest reporting limit and that methods 8260 and 8270 are appropriate for analyses of volatile and semi-volatile organic compounds. This interpretation is further supported by the fact that more recent WDRs for other landfills (such as the Stanislaus County Fink Road Landfill) require that organics analyses be performed by methods 8260 and 8270 and that when RWQCB

Mr. Douglas L. Neibauer, Attorney at Law
September 12, 2005
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staff recently analyzed a sample from the "Parkdale" well to determine if it was affected by contaminants from the landfill the analysis was limited to methods 8260 and 8270.

At this time, the monitoring program is not in compliance with WDRs Order No. 98-093, Section 20415(e)(4) of CCR Title 27, or Section 258 of the Code of Federal Regulations Title 40 Subtitle D.

It is our opinion that the analytical methods used for the 5-year Appendix II Constituents of Concern laboratory analysis meet the cited requirements. However, we have noted that the submitted reports included method detection limits only for the analyses performed by methods 8260 and 8270. We regret this error.

With respect to Proposed Terms and Conditions Item #3, we agree that a reevaluation of the 5-year Appendix II analyses should be submitted. We propose that the reevaluation report should include the previously submitted analytical reports, reports of method detection limits not previously submitted, and a comparison of the report results with the previous (1999) 5-year sampling event. If it is the opinion of RWQCB staff that different analytical methods are required, we request that they identify the analytical method and detection limit for each constituent and specify the basis for selecting those methods and limits.

Very Truly Yours,
TABER CONSULTANTS

Thomas M. Skaug, C.E.G. 1996
Senior Engineering Geologist

cc: Steve Bonzi, Bonzi Sanitation Landfill
Mike Delmanowski, EBA Engineers

October , 2005

Mr. Howard Hold
California Regional Water Quality Control Board
Central Valley Region (RWQCB)
11020 Sun Center Drive, #200
Rancho Cordova, California 95670-6114

2P3/391/07-20H

Subject: Item #5 of Cease and Desist Order Number R5-2005-0073
Bonzi Sanitation Landfill
Modesto, California

Sir:

This letter is to respond to your letter of September 12, 2005 replying to our June 28, 2005 request for clarification regarding Item #5 of the Cease and Desist Order (CDO). We appreciate your clarification of RWQCB staff position regarding this issue. Following is a summary of outstanding issues and concerns presented in your letter, shown in bold font, followed by our response.

1. **"Monitoring and Reporting Program (MRP) No. 98-093 specifically states for volatile organics that 'Method detection limits and practical quantitation limits shall be reported.' Previous monitoring reports submitted by Bonzi Landfill have met this requirement."**

Although not specifically stated, we presume this statement is in reference to analytical results submitted in the *Fourth Quarter 2004 Combined Detection, Corrective Action and Remediation System Monitoring Reports* dated January 30, 2005. Method detection limits (MDLs) and practical quantitation limits (PQLs) for samples analyzed by methods 8260B and 8270C were presented in Appendix E of that report. However, the April 28, 2005 addendum to that report, which re-submitted the analytical results with revised reporting limits for five compounds, inadvertently did not include the MDL and PQL reports. We regret this oversight. Revised laboratory reports, including MDL and PQL for all constituents, are attached hereto.

2. **"We have assumed the RL is equivalent to the PQL in the past, but future reports need to clarify whether they are equivalent."**

Future reports will clarify that reporting limits are equivalent to the PQL.

- 3. "As required in the SPRRs, '... the analytical method having the lowest method detection limit (MDL) shall be selected from among those methods which would provide valid results in light of any matrix effects or interferences.' The submitted 2004 Appendix II analysis does not meet this requirement and likely requires resampling and lab reanalysis of groundwater.**

Several statements following that above appear to be the basis for RWQCB staff opinion that the submitted results do not meet the MDL requirement.

- 4. Attachment 2 from Fourth Quarter 2004: Combined Detection, Corrective Action and Remediation System Monitoring Reports only reports a RL and no MDL. This prevents the evaluation whether the lowest MDL was used."**

We assume that "Attachment 2" refers to Appendix B of the report. As stated above, MDLs for methods 8260B and 8270C were presented in Appendix E of the fourth quarter 2004 report.

It is important to note that this is the first instance in which RWQCB staff have indicated concern regarding the MDLs. Previous discussion has been limited to the analytical methods used and reporting limits.

Also comparing the RL between Attachments 1 and 2 indicates a problem with the Appendix II analysis (Attachment 2). This analysis results are nearly an order of magnitude higher than the Third Quarter 2004 results (Attachment 1)

The June 15, 2005 Notice of Violation states that

"The discharger and its consultant have been unable to certify that the Quality Assurance/Quality Control (QA/QC) review for data and information submitted under WDRs Order No. 98-093 meet the standards of Section 20415 of Title 27. On 14 September 2004, a NOV was issued concerning the Discharger's laboratory protocols. "

We are not aware of any correspondence from the RWQCB requesting or requiring "certification" of the data QA/QC. Item 2.m. of the September 15, 2004 NOV notes that the first and second quarter 2004 monitoring reports identify a reported VOC as a laboratory contaminant and states that "If the discharger is unable to correct the QA/QC problems with the monitoring program, staff will recommend to management that additional action be taken to enforce compliance."

Results of third quarter 2004 analyses again identified a VOC as a laboratory contaminant, but the analyses were performed in August 2004, before the NOV was prepared. After third quarter 2004, Bonzi Sanitation Landfill, Inc. retained a new analytical laboratory and subsequent monitoring reports have not included any VOCs identified as laboratory contaminants.

"Even after staff identified the deficiency in the NOV, the Discharger submitted its 2004 Annual Monitoring Report with invalid results."

Although this statement refers to the September 14, 2004 NOV, the issue of laboratory contaminants had been, in fact, resolved as evidenced by the fourth quarter 2004 and first quarter 2005 monitoring reports submitted before the Cease and Desist Order was prepared.

For clarity, note that the 2004 annual monitoring report referenced in the above statement was not submitted until after adoption of the Cease and Desist Order and we assume the above statement was intended to refer to the fourth quarter 2004 monitoring report. The issue of "invalid results" is discussed below.

"The Federal EPA mandated 5-year Appendix II Constituents of Concern laboratory analysis were not conducted at the required minimum detection limits."

The 7-1-04 edition of 40 CFR Part 258 Appendix II lists the constituents required to be analyzed. For each constituent, it also lists one or more "suggested" analytical methods and associated PQLs (i.e. detection limits). However, the appendix footnotes state explicitly that: 1) The regulatory requirements pertain only to the list of substances; 2) the methods and PQL are given for informational purposes only; 3) the PQL values in many cases are based only on a general estimate for the method and not on a determination for individual compounds; and 4) the PQLs are not part of the regulation.

We have reviewed the text of 40 CFR Part 258 and do not find a requirement for specific test methods or detection limits in any other portion of this regulation. Further, the 7-1-05 edition of 40 CFR Part 258 indicates that, effective July 14, 2005, the suggested analytical methods and PQLs have been deleted from Appendix II.

WDRs Order No. 98-093 prescribes the constituents to be analyzed (i.e. those listed in 40 CFR Part 258 Appendix I and II) but it does not contain any statements regarding analytical methods or reporting limits. The Standard Provisions and Reporting Requirements (August 1997) require that the methods of analysis and the detection limits "...be appropriate for the expected concentrations" and "...the analytical method having the lowest method detection limit (MDL) shall be selected from among those methods which would provide valid results in light of any matrix effects or interferences" but there is no mention of specific methods to be used. Other than these three documents, we are not aware of any other regulations or orders that pertain to the required analytical testing.

The question of whether the 5-year Appendix II Constituents of Concern laboratory analysis were submitted with "invalid results" therefore appears to depend upon which analytical methods are considered appropriate for the expected concentrations (i.e. less than reporting limit) and to have the lowest method detection limit that provide valid results in light of any matrix effects or interferences.

Although not explicitly stated, it appears to be the opinion of RWQCB staff that the suggested analytical method in Appendix II with the lowest reporting limit is the "appropriate" analytical method. We base this on the examples of a volatile organic compound and a semi-volatile organic compound given in the June 15, 2005 NOV. However, as indicated in footnote number 5 of Appendix II, the suggested analytical methods are based on the 1987 version of SW-846. Many of the listed analytical methods (e.g. methods 8010, 8030, 8040, 8060, 8080, 8090, 8110, 8120, 8140, and 8150) have been deleted from more recent versions of SW-846 and are therefore no

longer appropriate to use. Further, Sparger Technology, the laboratory that performed testing of the Appendix II compounds, has indicated that other listed test methods have been "noticed for removal" from SW-846 and that the State of California Environmental Laboratory Accreditation Program no longer provides certification for those tests and therefore they are also not appropriate to use.

Other listed analytical methods, such as 8021, are more affected by matrix interference and therefore less appropriate than the analytical methods used for the Bonzi 5-year COC analyses (e.g. 8260 and 8270). We also note that previous RWQCB staff appear to have interpreted selection of the "appropriate" method differently, as the previous (1994 and 1999) 5-year COC analyses also did not use Appendix II methods with the lowest reporting limit for all compounds (e.g. 8260 and 8270 were used for volatile and semi-volatile organic compounds).

Based on the above, it is our opinion that the "most appropriate" analytical methods are not those in Appendix II with the lowest reporting limit and that methods 8260 and 8270 are appropriate for analyses of volatile and semi-volatile organic compounds. This interpretation is further supported by the fact that more recent WDRs for other landfills (such as the Stanislaus County Fink Road Landfill) require that organics analyses be performed by methods 8260 and 8270 and that when RWQCB staff recently analyzed a sample from the "Parkdale" well to determine if it was affected by contaminants from the landfill the analysis was limited to methods 8260 and 8270.

At this time, the monitoring program is not in compliance with WDRs Order No. 98-093, Section 20415(e)(4) of CCR Title 27, or Section 258 of the Code of Federal Regulations Title 40 Subtitle D.

It is our opinion that the analytical methods used for the 5-year Appendix II Constituents of Concern laboratory analysis meet the cited requirements. However, we have noted that the submitted reports included method detection limits only for the analyses performed by methods 8260 and 8270. We regret this error.

With respect to Proposed Terms and Conditions Item #3, we agree that a reevaluation of the 5-year Appendix II analyses should be submitted. We propose that the reevaluation report should include the previously submitted analytical reports, reports of method detection limits not previously submitted, and a comparison of the report results with the previous (1999) 5-year sampling event. If it is the opinion of RWQCB staff that different analytical methods are required, we request that they

Mr. Douglas L. Neibauer, Attorney at Law
September 12, 2005
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identify the analytical method and detection limit for each constituent and specify the basis for selecting those methods and limits.

Very Truly Yours,
TABER CONSULTANTS

Thomas M. Skaug, C.E.G. 1996
Senior Engineering Geologist

cc: Steve Bonzi, Bonzi Sanitation Landfill
Mike Delmanowski, EBA Engineers



Alan C. Lloyd, Ph.D.
Agency Secretary

California Regional Water Quality Control Board

Central Valley Region

Robert Schneider, Chair



Arnold
Schwarzenegger
Governor

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11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
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<http://www.waterboards.ca.gov/centralvalley>

12 September 2005

Mr. Steve Bonzi
President
Bonzi Sanitation Landfill
Modesto, California 95358

BONZI LANDFILL, ITEM #5 OF CEASE AND DESIST ORDER NUMBER R5-2005-0073, San Joaquin County

We have reviewed 27 June 2005 letter from Thomas M. Skaug of Taber Consultants representing Bonzi Sanitation Landfill. As a response to this letter we will clarify our position on Item #5 of Cease and Desist Order (CDO) Number R5-2005-0073 which states "By 15 June 2005, the Discharger shall resubmit the 2004 annual monitoring report, which includes the appendix II constituents of concern required by Section 258 of the Code of Federal Regulations Title 40 Subtitle D analyzed at the appropriate detection limits." The following should clarify our position and needed information to respond to CDO Item #5:

1. As described in the 1997 Standard Provisions and Reporting Requirements (SPRRs), the Sampling and Analytical Methods Section, both the method detection limit (MDL) and quantitation limit (PQL) shall be reported for each analyzed constituent. Monitoring and Reporting Program (MRP) No. 98-093 specifically states for volatile organics that "Method detection limits and practical quantitation limits shall be reported." Previous monitoring reports submitted by Bonzi Landfill have met this requirement. Attachment 1 is a copy of a lab sheet from the *Third Quarter 2004: Combined Detection, Corrective Action and Remediation System Monitoring Reports*. This lab sheet show 8270C results for Monitoring Well 84-6 and both a reporting limit (RL) and MDL is reported. We have assumed the RL is equivalent to PQL in the past, but future reports need to clarify whether they are equivalent.
2. As required in the SPRRs, "... the analytical method having the lowest method detection limit (MDL) shall be selected from among those methods which would provide valid results in light of any matrix effects or interferences." The submitted 2004 Appendix II analysis does not meet this requirement and likely requires resampling and lab reanalysis of groundwater. Attachment 2 from *Fourth Quarter 2004: Combined Detection, Corrective Action and Remediation System Monitoring Reports* only reports a RL and no MDL. This prevents the evaluation whether the lowest MDL was used. Also comparing the RL between Attachments 1 and 2 indicates a problem with the Appendix II analysis (Attachment 2). This analysis results are nearly an order of magnitude higher than the Third Quarter 2004 results (Attachment 1). For example, Phenol in Attachment 2 has a RL of 10 ug/l while in Attachment 1 the RL is 2 ug/l.

California Environmental Protection Agency

Mr. Steve Bonzi

- 2 -

12 September 2005

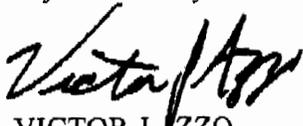
Another issue is that some of the Appendix II metals analyses RL exceed water quality goals and no MDL was reported as required. Both the Arsenic and Antimony RL in Appendix II results exceed their respective water quality goals. USEPA Method 7062 would give a lower MDL and PQL than USEPA Method 6010B. The following are other metal methods that would be appropriate for Appendix II sampling analysis:

Cadmium	USEPA Method 7131A
Lead	USEPA Method 7421
Nickel	USEPA Method 7521
Selenium	USEPA Method 7742
Thallium	USEPA Method 7841

Therefore, to meet the requirements of CDO Item #5 each constituent analysis must include the PQL (RL), MDL and the results. The method used should have the lowest MDL (Note that the MDLs for USEPA Method 8260B and 8270C reported in *Third Quarter 2004: Combined Detection, Corrective Action and Remediation System Monitoring Reports* are acceptable.). Attachment 3 is suggested laboratory methods for analyzing Appendix I and II constituents. The results shall be reported in a table format as well as on individual lab sheets. Also the results from this sampling shall be compared to the 1999 Appendix II sampling results and shall include an evaluation of any changes in water quality.

The re-submittal of Appendix II results is already late. This is a violation of the CDO and is accruing potential administrative civil liabilities (fines). Therefore, the wells shall be resampled and the Appendix II results should be submitted with the proper PQL and MDL as soon as possible.

If you have any additional questions regarding this matter, please contact Howard Hold at 916-464-4679.



VICTOR J. IZZO

Senior Engineering Geologist

Title 27 San Joaquin River

Watershed Unit

Attachment(s)

cc: Ms. Frances McChesney, Office of Chief Counsel, State Water Board, Sacramento
Ms. Gloria Mas, California District Attorney's Association, Sacramento
Mr. Douglas Neibauer, Straus, Neibauer & Anderson, Modesto
Mr. Edward Corey, Weintraub gesnshlea chediak sprout, Sacramento
Mr. Mike Delmanowski, EBA Engineering, Santa Rosa
Mr. Thomas Skaug, Taber Consultants, West Sacramento

Cease and Desist Order Item No. 11.

Following are restatements of each portion of Item No. 11 (in bold font) followed by our response.

"The discharger and its consultant have been unable to certify that the Quality Assurance/Quality Control (QA/QC) review for data and information submitted under WDRs Order No. 98-093 meet the standards of Section 20415 of Title 27."

We are not aware of any correspondence from the RWQCB requesting or requiring certification of the data QA/QC. Item 2.m. of the September 15, 2004 NOV notes that the first and second quarter 2004 monitoring reports identify a reported VOC as a laboratory contaminant and states that "If the discharger is unable to correct the QA/QC problems with the monitoring program, staff will recommend to management that additional action be taken to enforce compliance." Results of third quarter 2004 analyses again identified a VOC as a laboratory contaminant, but the analyses were performed in August 2005, before the NOV was prepared. After third quarter 2004, Rudy Bonzi, Inc. retained a new analytical laboratory (for reasons separate from this issue) and subsequent reports from Bonzi's consultant have not included any VOCs identified as laboratory contaminants.

"On 14 September 2004, a NOV was issued concerning the Discharger's laboratory protocols. Even after staff identified the deficiency in the NOV, the Discharger submitted its 2004 Annual Monitoring Report with invalid results."

Although this statement refers to the September NOV, the issue of laboratory contaminants had, in fact, been resolved as evidenced by the fourth quarter 2004 and first quarter 2005 monitoring reports submitted before the Cease and Desist Order was prepared.

For clarity, note that the 2004 annual monitoring report was not submitted until after adoption of the Cease and Desist Order and we assume the above statement was intended to refer to the fourth quarter 2004 monitoring report. The issue of "invalid results" is discussed below.

"The Federal EPA mandated 5-year Appendix II Constituents of Concern laboratory analysis were not conducted at the required minimum detection limits."

The "required minimum detection limits" were also the topic of Item #5 in the June 15, 2005 NOV. A June 27, 2005 letter from Taber Consultants to Howard Hold at the RWQCB requested clarification regarding the required detection limits. Taber Consultants indicates that they have not received a reply to that letter. However, the July 28, 2005 "Notice of Continuing Violation..." states that "...the technical report recently submitted per item No. 5 of the CDO is also unacceptable because this report does not contain the data specifically required by the CDO." It appears that the June

27 letter from Taber (that begins "This letter is to request clarification...") was mistaken for a technical report and was rejected because it did not contain the information about which clarification was requested!

The June 15 NOV states that the analyses are to "...be completed using certain analyses that have prescribed detection limits." 40 CFR Part 258 Appendix II lists analytical methods and includes associated reporting limits for each compound to be analyzed. However, the appendix footnotes state explicitly that: 1) The regulatory requirements pertain only to the list of substances; 2) the Methods and PQL are given for informational purposes only; 3) the PQL values in many cases are based only on a general estimate for the method and not on a determination for individual compounds; and 4) the PQLs are not part of the regulation. In addition, review of 40 CFR Part 258 does not indicate a requirement for specific test methods or detection limits in any other portion of this regulation.

It is also noteworthy that Appendix II is based on the 1987 version of SW-846. Requirement For Testing Per Sw-846? Many of the listed methods (e.g. methods 8010, 8030, 8040, 8060, 8080, 8090, 8110, 8120, 8140 and 8150) have been deleted from more recent versions of SW-846. Further, Sparger Technology, the laboratory that performed testing of the Appendix II compounds, has indicated that other listed test methods have been "noticed for removal" from SW-846 and that the State of California Environmental Laboratory Accreditation Program no longer provides laboratory certification for those tests.

WDRs Order No. 98-093 prescribes the constituents to be analyzed (i.e. those listed in 40 CFR Part 258 Appendix I and II) but it does not contain any statements regarding analytical methods or reporting limits. The Standard Provisions and Reporting Requirements (August 1997) require that the methods of analysis and the detection limits "...be appropriate for the expected concentrations" and "...the analytical method having the lowest method detection limit (MDL) shall be selected from among those methods which would provide valid results in light of any matrix effects or interferences" but there is no mention of specific methods to be used. Other than these three documents, Bonzi and its consultants are not aware of any other regulations or orders that indicate "required detection limits."

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Other listed methods, such as 8021, are more affected by matrix interference and therefore less appropriate than the analytical methods used for the Bonzi 5-year COC analyses (8260 and 8270). We also note that previous RWQCB staff appear to have interpreted selection of the "appropriate" method differently, as the previous (1999) 5-year COC analyses also did not use Appendix II methods with the lowest reporting limit.

It appears to be the interpretation of RWQCB staff that the Standard Provisions require use of the listed analytical method with the lowest reporting limit.

Based on the above, the "methods of analysis and the detection limits most appropriate for the expected concentrations" appear to be methods 8260 and 8270. This interpretation is supported by the fact that more recent WDRs for other landfills (such as the Stanislaus County Fink Road Landfill) require that organics analyses be performed by methods 8260 and 8270. These are the methods reported for the Bonzi 5-year COC analyses, except that pesticides and PCBs were analyzed using methods 8081 and 8082 which have lower reporting limits than 8270.

Regarding the specific analytes mentioned in the NOV:

- 1,2-Dichlorobenzene is included in the compounds analyzed by 8270, with a reporting limit of 10 µg/l, but is also listed with a reporting limit of 0.3 µg/l by method 8260, less than the NOV indicates as the required limit.
- Pentachlorobenze was analyzed by 8270 with a reporting limit of 10 µg/l, as stated in the NOV. 40 CFR Part 258 Appendix II lists method 8270 as the only suggested analytical method for this compound, with a corresponding reporting limit of 10 µg/l. We are unaware of any requirement of a reporting limit of 0.2 µg/l as stated in the NOV.

At this time, the monitoring program is not in compliance with WDRs Order No. 98-093, Section 20415(e)(4) of CCR Title 27, or Section 258 of the Code of Federal Regulations Title 40 Subtitle D.

Proposed Terms and Conditions Item #3.

We agree to submit a reevaluation of the previous analyses for the five-year Appendix II Sampling. The previously submitted reports

Mr. Howard Hold, Associate Engineering Geologist
Central Valley Regional Water Quality Control Board
June 28, 2005
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Before proceeding with preparing a report addendum presenting discussion of the 5-year COC data and comparison with the previous 5-year sampling event, we request clarification of the requirement for analytical methods to be used. Have we misinterpreted the meaning and intent of WDR 98-093 and the Standard Provisions and Reporting Requirements? Are there other considerations in selecting the most appropriate analytical methods that warrant organics analyses by 8260 and 8270 at other landfills but not at Bonzi? Due to the time limitation imposed by Cease and Desist Order No. R5-2005-0073, we will appreciate your earliest possible response to this letter.

Very Truly Yours,
TABER CONSULTANTS

Thomas M. Skaug, C.E.G. 1996
Senior Engineering Geologist

cc: Steve Bonzi, Bonzi Sanitation Landfill
Victor Izzo, CVRWQCB
Mike Delmanowski, EBA Consultants

June 27, 2005

Mr. Howard Hold, Associate Engineering Geologist
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive #200
Rancho Cordova, CA 95670-6114

Dear Mr. Hold,

This letter is to request clarification regarding Item #5 discussed in the June 15, 2005 Notice of Violation (NOV) for the Bonzi Landfill. The NOV states that "...sampling be completed using certain analyses that have prescribed detection limits." It is our reading of WDR No. 98-093 that it prescribes the constituents to be analyzed (i.e. those listed in 40 CFR Part 258 Appendix I and II) but not the analytical method or reporting limits. The Standard Provisions and Reporting Requirements (August 1997) require that the methods of analysis and the detection limits be "appropriate for the expected concentrations" but there is no mention of specific methods to be used.

For each compound to be analyzed, 40 CFR Part 258 Appendix II lists suggested analytical methods and associated reporting limits. It appears to be the interpretation of RWQCB staff that the Standard Provisions require use of the listed analytical method with the lowest reporting limit. However, this appendix is based on the 1987 version of SW-846. The reporting limits associated with many of the analytical methods are out of date and many of the methods listed therein (e.g. methods 8010, 8030, 8040, 8060, 8110, 8120 and 8140) have been deleted from more recent versions of SW-846. Other listed methods, such as 8021, are more affected by matrix interference and therefore less appropriate than the analytical methods used for the Bonzi 5-year COC analyses (8260 and 8270). We also note that previous RWQCB staff appear to have interpreted selection of the "appropriate" method differently, as the previous (1999) 5-year COC analyses also did not use Appendix II methods with the lowest reporting limit.

Based on the above, the "methods of analysis and the detection limits most appropriate for the expected concentrations" appear to be methods 8260 and 8270. This interpretation is supported by the fact that more recent WDRs for other landfills (such as the Stanislaus County Fink Road Landfill) require that organics analyses be performed by methods 8260 and 8270. These are the methods reported for the Bonzi 5-year COC analyses, except that pesticides and PCBs were analyzed using methods 8081 and 8082 which have lower reporting limits than 8270.

Mr. Howard Hold, Associate Engineering Geologist
Central Valley Regional Water Quality Control Board
June 28, 2005
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Regarding the specific analytes mentioned in the NOV:

- 1,2-Dichlorobenzene is included in the compounds analyzed by 8270, with a reporting limit of 10 µg/l, but is also listed with a reporting limit of 0.3 µg/l by method 8260, less than the NOV indicates as the required limit.
- Pentachlorobenze was analyzed by 8270 with a reporting limit of 10 µg/l, as stated in the NOV. 40 CFR Part 258 Appendix II lists method 8270 as the only suggested analytical method for this compound, with a corresponding reporting limit of 10 µg/l. We are unaware of any requirement of a reporting limit of 0.2 µg/l as stated in the NOV.

Before proceeding with preparing a report addendum presenting discussion of the 5-year COC data and comparison with the previous 5-year sampling event, we request clarification of the requirement for analytical methods to be used. Have we misinterpreted the meaning and intent of WDR 98-093 and the Standard Provisions and Reporting Requirements? Are there other considerations in selecting the most appropriate analytical methods that warrant organics analyses by 8260 and 8270 at other landfills but not at Bonzi? Due to the time limitation imposed by Cease and Desist Order No. R5-2005-0073, we will appreciate your earliest possible response to this letter.

Very Truly Yours,
TABER CONSULTANTS

Thomas M. Skaug, C.E.G. 1996
Senior Engineering Geologist

cc: Steve Bonzi, Bonzi Sanitation Landfill
Victor Izzo, CVRWQCB
Mike Delmanowski, EBA Consultants

Steve,

The RWQCB's belated response to my letter of June 28 (requesting clarification regarding what they were requiring) negates the need for much of the argument in my September 12 letter regarding the "Proposed Terms and Conditions." Because this issue has dragged on so long, with repeated correspondence back and forth, following is a summation of the history of this issue.

8/9/04 to 8/13/04 3rd Quarter 2004 Monitoring performed.

8/12/04 to 8/20/04 Analyses of 3rd Quarter samples; VOC analyses indicate lab contaminants.

9/15/04 Based on review of 1st & 2nd quarter 2004 monitoring reports, RWQCB issues NOV that states "...Discharger has repeatedly identified trace VOCs as a lab contaminant in the Groundwater samples" and "If the Discharger is unable to correct the QA/QC problems with the monitoring program, staff will recommend to management that additional action be taken to enforce compliance. (Note: Taber did not receive copy of NOV until after C&D Order issued)

10/27/04 Taber notified RWQCB that, due to problems with laboratory (analyses by 8260 and 8270 do not include many required constituents) 5-year sampling would be repeated in 4th quarter.

11/16/04 3rd Quarter 2004 monitoring report issued.

1/30/05 4th Quarter 2004 monitoring report issued. Includes analyses of all Appendix II constituents. No lab contaminants identified in VOC analyses.

4/8/05 RWQCB issues Tentative Cease & Desist Order. "Findings" Item 11 states "On 14 September 2004, a NOV was issued concerning the Discharger's laboratory protocols. Even after staff identified the deficiency in the NOV, the Discharger submitted its 2004 Annual Monitoring Report with invalid results." This comment appears directed at the 4th Quarter 2004 monitoring report as the annual monitoring report had not been submitted. Note, however, that No VOCs were identified as laboratory contaminants in the 4th quarter report.

Item 11 also stated "...Constituents of Concern laboratory analyses were not conducted at the required minimum detection limits." Note that this is the first mention of required minimum detection limits in any

communication from RWQCB. As Taber had not received a copy of 14 September NOV they assumed it had discussed detection limits.

- 4/15/05 1st Quarter 2004 monitoring report issued. No lab contaminants identified in VOC analyses.
- 4/28/05 In meeting at RWQCB offices, Board staff was informed verbally and in writing that 1) based on tentative C&D Order, the laboratory had reviewed their results and noted that 5 compounds should have had lower reporting limits, and 2) that revised laboratory reports would be provided the next day by overnight delivery. Note that, at the meeting, Board staff did not indicate that more than 5 constituents might be at issue; Bonzi and consultants therefore assumed this issue was resolved.
- 4/28/05 Addendum to 4th Quarter monitoring report, containing revised laboratory reports, sent to RWQCB staff by overnight delivery.
- 4/29/05 Board adopts C&D Order R5-2005-073. Language of Item 11 is unchanged, again references 14 September 2004 NOV even though no laboratory contaminants identified in 4th quarter report. Order #5 requires resubmission by June 15 of "2004 annual monitoring report (presumably meaning 4th quarter report) including Appendix II constituents "analyzed at the appropriate detection limits."
- 6/15/05 RWQCB issues NOV indicating the response to Item 5 (presumably 4/28/05 addendum) is unacceptable and that the item requires "sampling be completed using certain analyses that have prescribed detection limits." For clarification, the NOV states "For example, the laboratory used a detection limit of 10 ug/l for 1-2 Dichlorobenzene (a VOC) and 10 ug/l for Pentachlorobenzene (A semi-VOC) instead of the required limits of 0.5 ug/l and 0.2 ug/l, respectively."
- 6/28/05 Taber requests RWQCB requests clarification regarding 6/15/06 NOV, noting that they assume Board staff is requiring analyses using methods with lowest reporting limit listed in Appendix II, and providing explicit reasoning why that is not required and should not be required.
- 7/14/05 2nd Quarter 2005 monitoring report issued. No lab contaminants identified in VOC analyses.
- 7/28/05 RWQCB issues Notice of Continuing Violation stating "...the technical report recently submitted per item No. 5 of the CDO is also unacceptable because this report does not contain the data specifically required by the

CDO. It appears the referenced "technical report" refers to Taber's June 28, 2005 request for clarification.

Date? RWQCB responds to 6/28 letter, attachment indicates required analytical methods, no mention made of "prescribed detection limits."

Date same? RWQCB indicates GeoAnalytial detection limits OK



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April 22, 2005

Mr. Douglas L. Neibauer
620 12th Street
Modesto, California 95354-2404

Subject: Tentative Cease and Desist Order
Bonzi Sanitation Landfill
Modesto, California

2P3/391/07-20H

Sir:

As requested by Mr. Steve Bonzi, this letter is to provide you with information regarding items 9, 10 and 11 of a tentative Cease and Desist Order for the Bonzi Sanitation Landfill. A copy of the tentative order was provided to us by fax transmittal on April 12, 2005. Taber Consultants has performed quarterly groundwater monitoring and prepared quarterly and annual groundwater monitoring reports for the landfill since 1991.

It appears that items 9 and 10 relate to the discussion of laboratory data in item 11. Item 11 states: "On 14 September 2004, a NOV was issued concerning the Discharger's laboratory protocols. Even after staff identified the deficiency in the NOV, the Discharger submitted its 2004 Annual Monitoring Report with invalid results." Before receiving the tentative order, we were unaware an NOV had been issued and to date have not received a copy of the NOV. Samples for third quarter monitoring were submitted to GeoAnalytical Laboratories of Modesto. Upon review of the laboratory reports, we observed that a significant number of the requested analyses had not been performed. In a telephone call from Thomas Skaug (Taber Consultants) to Howard Hold (board staff), board staff was advised of the problem and it was agreed that the 5-year Constituents of Concern sampling and analyses would be repeated in the fourth quarter. The intent to repeat the sampling and analyses was confirmed by letter dated October 27, 2005 (copy attached).

Item 11 of the Tentative Order also states: "...Constituents of Concern laboratory analyses were not conducted at the required minimum detection limits." Before receiving the tentative order, we were unaware that any of the detection limits did not meet the requirements. Laboratory analyses for fourth quarter 2005 monitoring was performed by Sparger Technology of Sacramento. At our request, Sparger Technology reviewed their reports and the Appendix II Constituents of Concern. They have



Mr. Douglas L. Neibauer
April 22, 1005
Page 2

2P3/391/07-20H

indicated to us that, based upon their review, five compounds (of 212 reported) had reporting limits slightly above those listed in Appendix II and that revised reports with appropriate reporting limits will be provided. A copy of their letter (received by us on April 22, 2005) is attached. An addendum to fourth quarter 2005 monitoring report, presenting the revised laboratory reports, will be prepared before April 29, 2005.

* * * * *

Please call if you have any questions regarding the above. We appreciate this opportunity to be of continued service.

Very Truly Yours,
TABER CONSULTANTS

Thomas M. Skaug

Thomas M. Skaug
Senior Engineering Geologist
C.E.G. 1996





Analytical Laboratory Division
Mobile Laboratory Division
Scientific Division

Mr. Thomas M. Skaug
Taber Consultants
3911 West Capitol Avenue
West Sacramento, CA 95691-2115

Subject: Reporting Limits (RL) correction
Bonzi Sanitation Landfill
Modesto, California

Dear Mr. Skaug:

Sparger will re-issue reports for the following compounds:

4,4'-DDE	Method 8081A
Dieldrin	Method 8081A
Endosulfan II	Method 8081A
Toxaphene	Method 8081A
4-Nitroaniline	Method 8270C

The revisions are for RL's being slightly higher than requested. Since all data reported was based on method detection limits (mdl's) and reporting limits all results previously reported will remain the same.

We apologize for the inconvenience and the corrected reports will follow in the mail. If you require additional information please give me a call at (916) 369-7688.

Sincerely,

A handwritten signature in black ink, appearing to read "Raymond L. James", written over a horizontal line.

Raymond L. James
Laboratory Director

February 27, 2005

Mr. Steve Bonzi
Bonzi Sanitation Landfill
2650 Hatch Road West
Modesto, California 95358

2P3/391/07-21H

Subject: Summary – Stipulated Judgement Item #4
Bonzi Sanitation Landfill, Inc.
2650 Hatch Road
Modesto, California 95351

Dear Mr. Bonzi:

By your request, we have prepared a summary of Item #4 from the Stipulated Judgment having to do with the Five Year Appendix II Constituents of Concern analysis.

Analyses of the expanded list of Appendix II constituents of concern listed in Appendix II is required every five years. This sampling and analysis was conducted in the Third Quarter 2004, but the analytical laboratory did not analyze a number of the required constituents.

In order to resolve this issue, it was decided to repeat the five-year sampling in the Fourth Quarter 2004. The Regional Water Quality Control Board (RWQCB) has continued to claim the data is unacceptable for various, changing reasons and several attempts have been made to clarify their objections, including a formal letter to the RWQCB dated June 27, 2005.

The June 27, 2005 letter from Taber Consultants to Howard Hold at the RWQCB requested clarification regarding the required detection limits. Taber Consultants indicates that they have not received a reply to that letter. However, the July 28, 2005 "Notice of Continuing Violation..." states that "...the technical report recently submitted per item No. 5 of the CDO is also unacceptable because this report does not contain the data specifically required by the CDO." It appears that the June 27 letter from Taber (that begins "This letter is to request clarification...") was mistaken for a technical report and was rejected because it did not contain the information about which clarification was requested! Finally, on September 12, 2005, the RWQCB responded to Taber's request for clarification. In this clarification, the RWQCB indicates required analytical methods from Appendix II, many of which are out of date and have been de-listed from SW-846

Mr. Steve Bonzi
Bonzi Sanitary Landfill, Inc.
February 27, 2005
Page 2

2P3/391/07-21H

In order to simplify the issues involved, it is important to note that MDLs for analyses by methods 8260 and 8270, although perhaps not conveniently placed, were included as Appendix E in the *Fourth Quarter 2004: Combined Detection, Corrective Action and Remediation System Monitoring Reports*. However, the April 28, 2005 addendum to that report, which re-submitted the analytical results with revised reporting limits for five compounds, inadvertently did not include the MDL reports. Revised laboratory reports for the metals analyses, including MDLs and PQLs for all constituents, were submitted to the RWQCB on November 23, 2005 both by letter and email. Revised laboratory reports for other constituents were submitted in October 2005.

The November 23, 2005 letter that accompanied the submittal of the revised metals analytical data specifically noted that it was our understanding that the metals analytical report which included the revised PQL and MDL data was the sole remaining issue with the Five Year analytical data and that if there were any remaining issues to contact us so these issues could be addressed. No response was received to this submittal until the February 3, 2006 *Compliance Evaluation* letter from the RWQCB, indicating that the landfill was not in compliance with Item #4 of the Stipulated Judgement.

The analytical methods suggested for use in "*Chapter 15 Program Note #7...*" clarify that the analytical methods reported in the fourth quarter 2004 report are appropriate, with the exception of methods for a few metals. We note, however, that no previous metals analyses submitted by the Bonzi landfill used those methods, including the 1994 and 1999 Appendix II analyses, analyses that have been submitted annually for all wells for the past 15 years, and quarterly arsenic for six wells since the second quarter of 2001.

With the exception of metals analyses, the remaining issue (as we understand it) is contention by RWQCB staff that of semivolatile organic compounds listed in Appendix II were analyzed by the appropriate method (8270C) but that the reported PQLs and MDLs are not acceptable. We are not aware of any requirement that specifies acceptable PQLs or MDLs for any analytical method, beyond those necessary for laboratory certification. RWQCB staff does indicate that MDLs reported third quarter 2004 report for methods 8260B and 8270C are acceptable.

As pointed out by RWQCB staff, method 8270C reporting limits from the third quarter are lower than those from the fourth quarter for most compounds. Comparison between third and fourth quarter results is complicated by the fact that many of the Appendix II compounds were not analyzed in the third quarter. However, for more

Mr. Steve Bonzi
Bonzi Sanitary Landfill, Inc.
February 27, 2005
Page 3

2P3/391/07-21H

than two-thirds those compounds analyzed both quarters by method 8260C, the MDLs and PQLs reported in the fourth quarter were lower, typically by about half an order of magnitude and for one compound (dichloromethane) by nearly an order of magnitude. It is also noteworthy that, for all but one compound, 8270C reporting limits in the fourth quarter were equal to or lower than those from the 1999 Appendix II analyses. Comparing VOC analyses, the results reported in 1999 (8260A) were higher than those reported in either third or fourth quarters of 2004.

It is evident from the above that, for the same analytical method, different laboratories will report different PQLs and MDLs. It is not reasonable to expect a discharger to use separate laboratories for different analytical methods in order to obtain the lowest limits for each method.

With agreement that the analyses by methods listed in *Chapter 15 Program Note 7* are appropriate, the analytical methods reported in the 4q04 report, with the exception of methods for a few metals, should not be in question. The issue resolves as to whether the PQLs and MDLs reported are appropriate. It should also be noted that the assessment by Sparger Technology of the MDLs and PQLs for the Five Year Appendix II constituents did not result in any changes in the previously reported values for the analyzed constituents, as a further validation of the methodology used.

* * * * *

Please do not hesitate to contact us at the letterhead phone number or by email at tballard@taberconsultants.com.

Very truly yours,
TABER CONSULTANTS

Thomas E. Ballard
Senior Geologist

TEB/ns

ITEM:

SUBJECT: Ma-Ru Holding Company, Inc. and Bonzi Sanitation Landfill, Stanislaus County

BOARD ACTION: *Consideration of a Resolution Requiring Payment of \$50,000 as Described by the Stipulated Judgment*

BACKGROUND: The Bonzi Sanitation Landfill has a long history of failure to address noncompliance issues, failure to operate its groundwater extraction and treatment system, failure to submit adequate reports, and failure to comply with its April 2005 Cease and Desist Order.

On 21 December 2005, a Stipulated Judgment for the Ma-Ru Holding Company, Inc. and Bonzi Sanitation Landfill (hereafter Discharger) was filed with the Superior Court of the State of California for the County of Stanislaus (Case No. 376882). The Stanislaus County District Attorney's Office and the Regional Board Executive Officer jointly negotiated this \$1.95 million settlement for the Discharger's failure to comply with the waste discharge requirements and enforcement orders issued by the Regional Board.

Of the \$1.95 million, the Discharger must pay \$450,000 over a two-year period, while \$1.4 million has been stayed contingent upon the Discharger's satisfactory completion of 21 studies and improvements to the landfill. These tasks must be completed by the timelines listed in the Judgment. (An additional \$100,000 is payable if fraudulent reports are submitted.)

7 not found

This is the second resolution that staff has brought to the Regional Board because the Discharger has violated its Stipulated Judgment. On 27 January 2006, the Regional Board adopted a Resolution requiring the Discharger pay \$50,000 for failure to inspect the pond liner and remove vegetation by the 1 January 2006 deadline in the Stipulated Judgment. As of 21 February 2006, the Discharger has not paid the penalty.

7 on appeal

ISSUES:

*submittal
4/27/05*

This Resolution is in regard to the non-submittal of the five-year 40 CFR Part 258 Appendix II sampling ("five-year analysis") report. Item No. 4 of the Stipulated Judgment (attached) requires that the report be submitted by 1 January 2006, but to date, it has not been received.

As the name implies, the Discharger is required to complete the five-year analysis once every five years. Groundwater samples are to be analyzed for constituents beyond those normally required, to verify that additional constituents are not being released from the landfill. The objective is to ensure that staff and the discharger are aware of the entire scope of groundwater impacts so that remedial systems can be appropriately designed. Bonzi Sanitation Landfill and the Ma-Ru Holding Company are required to complete this sampling and evaluation by (a) Waste



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October 27, 2004

Howard Hold
Central Valley Regional Water Quality Control Board
3443 Routier Road
Sacramento, California 95827-3098

Subject: Third Quarter Monitoring
Bonzi Sanitary Landfill
Modesto, California

2P3/391/07-19

Dear Mr. Hold:

On behalf of Bonzi Sanitary Landfill, this letter is to inform you of the status of third quarter monitoring. The report was to be submitted by October 15, 2004. In addition to typical quarterly sampling and analyses, WDR Order No. 98-093 specifies 5-year sampling and analyses for the Expanded List of Constituents of Concern (COCs) be performed in the third quarter this year.

The sampling was performed the week of August 8, 2004. However, upon review of the laboratory reports, it was found that a significant number of the requested constituents had not been analyzed. When informed of the discrepancy, the laboratory indicated that all requested constituents except mercury, tin, sulfide and cyanide could be determined from the existing chromatograms and that they would provide revised reports.

On October 24, the laboratory informed us that concentrations for the unreported constituents could not be determined. As such, we will complete the third quarter report with the data in hand. We have scheduled fourth quarter sampling for the week of November 8, 2004 and propose to perform complete sampling and analyses for the Expanded List of Constituents of Concern at that time.

Please call if you have any questions regarding this matter or would like us to proceed other than as described.

Very truly yours,
TABER CONSULTANTS

Thomas M. Skaug
Senior Engineering Geologist

cc: Bonzi Sanitary landfill

Attachment 1**GeoAnalytical Laboratories, Inc.**

1405 Kansas Avenue Modesto, CA 95351 Phone (209) 572-0900 Fax (209) 572-0916

CERTIFICATE OF ANALYSIS
8270C

Date: 8/20/04

Report # Q225-18

Bonzi Industrial Waste
2650 W Hatch Rd
Modesto CA 95351

Project: Bonzi LF, 2P3/391/07-19C

PO#

Date Rec'd: 8/12/04
Date Started: 8/18/04
Date Completed: 8/18/04Sample ID: 84-6
Lab ID: Q305650Date Sampled: 8/12/04
Time: 11:10 am
Sampler: Eric Hilmer

Method	RL	MDL	Analyte	Results	Units	Flags
8270C	0.002	0.0002	Phenol	ND	mg/L	
	0.002	0.0002	Bis(2-chloroethyl) Ether	ND		
	0.002	0.0001	2-Chlorophenol	ND		
	0.002	0.0007	1,3-Dichlorobenzene	ND		
	0.002	0.0008	1,4-Dichlorobenzene	ND		
	0.004	0.0003	Benzyl Alcohol	ND		
	0.002	0.0007	1,2-Dichlorobenzene	ND		
	0.002	0.0002	2-Methylphenol	ND		
	0.002	0.0002	Bis(2-chloroisopropyl) Ether	ND		
	0.002	0.0003	4-Methylphenol	ND		
	0.002	0.0003	N-Nitroso-di-n-propylamine	ND		
	0.002	0.0008	Hexachloroethane	ND		
	0.002	0.0003	Nitrobenzene	ND		
	0.002	0.0002	Isophorone	ND		
	0.002	0.0003	2-Nitrophenol	ND		
	0.002	0.0002	2,4-Dimethylphenol	ND		
	0.010	0.0002	Benzoic Acid	ND		
	0.002	0.0002	Bis(2-chloroethoxy)methane	ND		
	0.002	0.0002	2,4-Dichlorophenol	ND		
	0.002	0.0005	1,2,4-Trichlorobenzene	ND		
	0.002	0.0004	Naphthalene	ND		
	0.004	0.0003	4-Chloroaniline	ND		
	0.002	0.0012	Hexachlorobutadiene	ND		
	0.004	0.0002	4-Chloro-3-methylphenol	ND		
	0.002	0.0002	2-Methylnaphthalene	ND		
	0.002	0.0001	Hexachlorocyclopentadiene	ND		
	0.002	0.0002	2,4,6-Trichlorophenol	ND		
	0.002	0.0002	2,4,5-Trichlorophenol	ND		
	0.002	0.0001	2-Chloronaphthalene	ND		
	0.010	0.0002	2-Nitroaniline	ND		
	0.002	0.0018	Dimethyl Phthalate	ND		
	0.002	0.0002	Acanaphthylene	ND		
	0.010	0.0012	3-Nitroaniline	ND		

Attachment 2

Analytical Laboratory Division
Mobile Laboratory Division
Scientific Division

Test Certificate of Analysis

Client ID Taber Consultants
Workorder # 16614
Laboratory ID 16614007
Sample ID 84-6
Matrix Water

Workorder ID Bonzi Landfill
Sampled 11/15/04
Received 11/15/04
Reported 12/23/04

GC/MS Semivolatiles - 8270C (continued)

Parameter	Prep Date	Analyzed	Result	RL Units	Diluti
Benzo(b) fluoranthene	11/22/04	11/26/04	ND	10 ug/L	1:1
Benzo(g,h,i)perylene	11/22/04	11/26/04	ND	10 ug/L	1:1
Benzo(k) fluoranthene	11/22/04	11/26/04	ND	10 ug/L	1:1
Benzyl alcohol	11/22/04	11/26/04	ND	10 ug/L	1:1
Bis(2-Chloroethoxymethane	11/22/04	11/26/04	ND	10 ug/L	1:1
Bis(2-Chloroethyl) ether	11/22/04	11/26/04	ND	10 ug/L	1:1
bis(2-chloroisopropylether	11/22/04	11/26/04	ND	10 ug/L	1:1
bis(2-ethylhexylphthalate	11/22/04	11/26/04	ND	10 ug/L	1:1
Butylbenzylphthalate	11/22/04	11/26/04	ND	10 ug/L	1:1
Chrysene	11/22/04	11/26/04	ND	10 ug/L	1:1
Di-n-butylphthalate	11/22/04	11/26/04	ND	10 ug/L	1:1
Di-n-octylphthalate	11/22/04	11/26/04	ND	10 ug/L	1:1
Dibenzo(a,h) anthracene	11/22/04	11/26/04	ND	10 ug/L	1:1
Dibenzofuran	11/22/04	11/26/04	ND	10 ug/L	1:1
Diethylphthalate	11/22/04	11/26/04	ND	10 ug/L	1:1
Dimethyl-phthalate	11/22/04	11/26/04	ND	10 ug/L	1:1
Fluoranthene	11/22/04	11/26/04	ND	10 ug/L	1:1
Fluorene	11/22/04	11/26/04	ND	10 ug/L	1:1
Hexachlorobenzene	11/22/04	11/26/04	ND	10 ug/L	1:1
Hexachlorocyclopentadiene	11/22/04	11/26/04	ND	10 ug/L	1:1
Hexachloroethane	11/22/04	11/26/04	ND	10 ug/L	1:1
Indeno(1,2,3-cd)pyrene	11/22/04	11/26/04	ND	10 ug/L	1:1
Isophorone	11/22/04	11/26/04	ND	10 ug/L	1:1
N-Nitroso-di-propylamine	11/22/04	11/26/04	ND	10 ug/L	1:1
N-Nitrosodiphenylamine	11/22/04	11/26/04	ND	10 ug/L	1:1
Naphthalene	11/22/04	11/26/04	ND	10 ug/L	1:1
Nitrobenzene	11/22/04	11/26/04	ND	10 ug/L	1:1
Pentachlorophenol	11/22/04	11/26/04	ND	50 ug/L	1:1
Phenanthrene	11/22/04	11/26/04	ND	10 ug/L	1:1
Phenol	11/22/04	11/26/04	ND	10 ug/L	1:1
Pyrene	11/22/04	11/26/04	ND	10 ug/L	1:1
Acetophenone	11/22/04	11/26/04	ND	10 ug/L	1:1

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO. R5-2006-0721

FOR

MA-RU HOLDING COMPANY, INC.
BONZI SANITATION LANDFILL, INC. PARTNERSHIP

BONZI SANITATION LANDFILL
STANISLAUS COUNTY

This Order is issued to the Bonzi Sanitation Landfill Inc. Partnership and Ma-Ru Holding Company, Inc. based on provisions of California Water Code Section 13304 and 13267 that authorizes the California Regional Water Quality Control Board, Central Valley Region (hereafter Regional Water Board) to issue a Cleanup and Abatement Order (Order).

The Regional Water Board finds, with respect to the Discharger's acts, or failure to act, the following:

1. Waste Discharge Requirements (WDRs) Order No 98-093, adopted by the Regional Water Board on 17 April 1998, prescribes requirements for the Ma-Ru Holding Company, Inc. (as owner) and the Bonzi Sanitation Landfill Inc. Partnership (as operator) (hereafter jointly referred to as "Discharger") for the Bonzi Sanitation Landfill facility. The WDRs incorporate by reference the August 1997 "Standard Provisions and Reporting Requirements for Waste Discharge Requirements for Discharges Regulated by Title 27 and/or Part 258" (Standard Provisions).
2. Bonzi Sanitation Landfill has, and continues to have, leachate and gas releases that have polluted groundwater. A groundwater monitoring system has been installed, as well as a groundwater extraction and treatment system. However, based on data provided by the Discharger, the groundwater extraction system likely is not capturing the entire present plume. Downgradient domestic wells have been polluted, and the Riverdale Community well is threatened by the Bonzi plume.
3. This Order requires the Discharger to evaluate the vertical and lateral extent of groundwater pollution and based on that evaluation, (a) submit a feasibility study with alternatives to cleanup groundwater in compliance with California Code of Regulations Title 27 (Title 27), (b) implement source control, and (c) restore the water quality of the polluted aquifer.

BACKGROUND

4. The Bonzi Sanitation Landfill is on a 128-acre parcel and is comprised of Assessor's Parcel Numbers 17-41-36 and 17-41-11. The site is three miles southwest of Modesto near the Tuolumne River in Section 12, T4S, R4E, MDB&M.

5. The facility includes four waste management units (WMUs), which total approximately 75-acres in area. None of the four WMUs have a leachate collection and recovery system, or a protective bottom liner. Only WMU I has an engineered cover. WMUs II and III have been covered only with interim cover and will be taking additional waste in the future to facilitate closure. WMU IV is still open and accepting waste. Attachment A (which is attached hereto and made part of this Order by reference) contains a site map.
6. The direction of groundwater flow fluctuates from the northwest to the north-northwest. The groundwater gradients, based on the Discharger's third quarter 2005 groundwater monitoring report's measurements, range from 0.0020 to 0.0030 ft/ft.
7. The Discharger's fourth quarter 2005 groundwater monitoring report contains the statement: *"Based upon groundwater elevations recorded this quarter and limited available refuse bottom elevations, groundwater appears to be inundating up to two feet of refuse in Unit I and appears to be below the bottom of refuse in Units II, III and IV"*.
8. As shown below, there are at least six known domestic, irrigation and municipal wells that are downgradient of the facility, which are or may be affected by the plume of groundwater pollution emanating from the Bonzi Landfill (as shown on Attachment B, which is attached hereto and made part of this Order by reference).

<u>Address</u>	<u>Use</u>
Bonzi Well – 2650 Hatch Road	Industrial
Riverdale Community Well	Municipal
Ace Well – 2736 Hatch Road	Domestic
VFW Well – 2801 Hatch Road	Domestic
Helmer Well – 2954 Hatch Road	Domestic
Waste Management Inc. - 2769 Hatch Road	Domestic and Industrial

9. The Riverdale Community municipal well is approximately 500-feet from the northern boundary of the landfill and directly downgradient of WMU I. This 14-inch diameter, 200-foot deep open bottom well provides drinking water for the adjacent Riverdale community.

GROUNDWATER POLLUTION

10. Waste Management Units I, II and III were filled without an underlying protective liner system. Although waste was last discharged to these units seven years ago, WMUs II and III do not have their engineered final cover installed. A protective final cover minimizes the infiltration of water, and reduces the production of landfill leachate and landfill gases. Without the protective liner, leachate may freely drain to the underlying groundwater. In addition, the Discharger has also reported that groundwater itself can percolate through the waste from below. Consequently, the existing condition of these WMUs promotes landfill gas generation, uncontrolled leachate drainage, and groundwater pollution.
11. On 1 October 1984, the Discharger submitted a report titled *Groundwater Study, Bonzi Landfill*. This report disclosed that in the winters of 1981-1982 and 1982-1983 the

groundwater rose and percolated through the landfilled refuse, and that the groundwater beneath the site has been polluted with volatile organic compounds (VOCs), metals and total dissolved solids. Cease and Desist (C&D) Order No. 84-153 was adopted on 28 November 1984, directing the Discharger to evaluate the extent of the groundwater plume. As a result of the Order, the following reports were prepared:

- a. Site Investigation Report, Bonzi Sanitary Landfill, dated 8 May 1987;
- b. Design Reports/Operation and Closure Plans, dated 16 April 1987;
- c. Feasibility Study, Bonzi Sanitary Landfill, dated 1 July 1987; and
- d. Soil Gas Tube Investigation, dated June 1989.

12. The data in the above reports document that as of 1989, ten groundwater monitoring wells and three leachate monitoring wells were contaminated by VOCs. The Regional Water Board subsequently adopted Cleanup and Abatement (C&A) Order No. 89-185 and rescinded C&D Order No. 84-153. C&A Order No. 89-185 required the Discharger to implement groundwater remediation and provide drinking water for downgradient municipal water well users.
13. Since the adoption of C&A Order No. 89-185, the Discharger has installed the required remediation system. The corrective system consists of three groundwater extraction wells, an air stripper, a lined pond to contain the effluent, a land application area, and a landfill gas collection system.
14. Provision No. 1 of the WDRs Standard Provisions states: *"The discharge shall neither cause nor contribute to the contamination, degradation, or pollution of ground water via the release of waste constituents in either liquid or gaseous phase."*
15. Provision No. 4 of the WDRs Standard Provisions states: *"The discharge shall not cause the release of pollutants, or waste constituents in a manner which could cause a condition of contamination, pollution, degradation, or nuisance to occur..."*
16. Since 2001, the Discharger's groundwater monitoring program has found detectable levels of VOCs in 27 of 31 monitoring wells shown on Attachment B. The detected VOCs include: 1,1 dichloroethene, 1,1 dichloroethane, 1,1,1 trichloroethane, 1,2 dichlorobenzene, 1,2 dichloroethane, 1,2 dichloropropane, 1,4 dichlorobenzene, benzene, bromomethane, chlorobenzene, chloroethane, chloroform, chloromethane, cis-1,2-dichloroethene, dibromochloromethane, dichlorodifluoromethane, ethylbenzene, tetrachloroethene, toluene, trans-1,2-dichloroethene, trichloroethylene, trichlorofluoromethane, vinyl chloride, and total xylenes.
17. During the first quarter 2006 sampling event, monitoring well 85-25 contained 1,1-dichloroethane at 2.2 ug/l. Based on time concentration plots, the concentration of 1,1-dichloroethane has declined in the last 5-years. This well, which is located offsite and downgradient of closed Waste Management Unit I, is the furthest known defined extent of the VOC plume. The presence of VOCs in groundwater is a violation of the Discharger's WDRs.

18. During the fourth quarter 2005 monitoring event, the highest levels of chloride and total dissolved solids were reported from leachate well 92-C1L (in the middle of WMU 1) at 2,110 mg/l and 6,450 mg/l, respectively. Elevated levels of chloride and total dissolved solids in groundwater are a common indicator of a release from a landfill.
19. The 2005 Annual Groundwater Monitoring Report shows that elevated levels of chloride and total dissolved solids were also present in wells downgradient of the facility. During the fourth quarter 2005 sampling event, background well 84-20 contained chloride and total dissolved solids at 11.2 mg/l and 370 mg/l, respectively. During the same monitoring event, monitoring well 85-7, which is directly downgradient of WMU I and extraction well EW1, contained chloride and total dissolved solids at 127 mg/l and 746 mg/l, respectively. The presence of these elevated levels of chlorides and total dissolved solids in groundwater downgradient of the facility is a violation of the Discharger's WDRs.

CHRONOLOGY OF GROUNDWATER CLEANUP

20. Following detections of volatile organic compounds in groundwater, an extraction system was installed as a requirement of Cleanup and Abatement Order 89-195. However, prior to installation the Discharger delayed design and installation of the groundwater treatment system. Consequently, on 23 March 1990, the Executive Officer signed Administrative Civil Liability (ACL) Complaint No. 90-093 in the amount of \$50,000. Finding No. 13 of the ACL states: *"The nature of the violation was such that there was a delay in the cleanup of polluted ground water which resulted from discharges from the Bonzi Sanitation Landfill. The circumstance was that the Discharger had adequate time to complete the required submittal and had agreed with the compliance date when the CAO Order No. 89-145 was adopted. The gravity of the violation is that delay in the initiation of cleanup of the groundwater allows the pollutants to spread farther from the landfill, increasing the threat to nearby domestic water supplies and complicating cleanup of the groundwater. The Discharger is able to pay the proposed liability without significantly impacting ongoing business activities. The Discharger previously violated Board compliance time schedules contained in Cease and Desist Order No. 84-153, and paid a \$3,500 Administrative Civil Liability for violations of Cease and Desist Order No. 84-153 time schedule. The Discharger realized economic savings by delaying the implementation of groundwater treatment."* The groundwater treatment system was installed in the summer of 1991 and began pumping on 1 November 1991. Since its original start up, this system has been plagued with operational problems causing poor performance.
21. As a result of staff's review of the Discharger's 1997 Annual Groundwater Monitoring Report, staff requested that the Discharger submit an evaluation of the corrective action system. In October 1998, the Discharger submitted the "Evaluation of Corrective Action Program Performance and Effectiveness Report" which states: *"...each time groundwater encroaches the base of the landfill, the potential exists for new releases of contaminants to groundwater. Based on the site's proximity to the Tuolumne River and its significant influence on local groundwater conditions, implementation of mitigation measures to abate this condition is not practical. As a result, it is reasonable to assume that the existing groundwater impacts observed to date will likely continue for the foreseeable future,*

regardless of the effectiveness of the pump-and-treat operations. In essence, the primary function of the pump-and-treat system in the long term will be to act as a hydraulic barrier and not as a realistic mechanism to achieve aquifer restoration". As early as 1998, the Discharger was aware that the groundwater system was incapable of restoring the beneficial uses of the aquifer, yet made no effort to upgrade their system. This is a violation of the WDRs.

22. On 24 June 1999, staff provided comments on the Discharger's October 1998 "Evaluation of Corrective Action Program Performance and Effectiveness Report." Staff stated: *"...the extent of the plume downgradient from the VFW well and from wells 85-12 and 85-13 must be determined. Since the actual capture zone of the groundwater extraction system is not known, it is uncertain if the plume has already migrated beyond the radius of influence of the extraction system..."* Currently these monitoring wells 85-12 and 85-13 are non-operational. C&D Order R5-2005-0073 required the re-installation of monitoring wells 85-12 and 85-13. As of June 1999, the Discharger has yet to comply with this requirement, which is necessary to aid in identifying the extent of the plume and the capture zone.
23. In November 1999, the Discharger submitted the ground water extraction system's Operation and Maintenance Manual. Staff noted in a 1 June 2000 comment letter on the Manual that *"...recent review of quarterly groundwater monitoring reports indicate that the extraction and treatment system was not operating as specified during several instances when the field sampler has visited the site. System shutdowns or malfunctions must be reported within seven days of the cessation of operation."* The Discharger failed to notify the Regional Water Board of the system shutdown, in violation of the WDRs.
24. On 6 September 2000, staff completed its review of the "2000 First Quarter Groundwater Monitoring Report" and again issued a letter that notified the Discharger that an ongoing release exists and that a revised corrective action program be submitted as an Amended Report of Waste Discharge. No Amended Report of Waste Discharge was submitted, in violation of Title 27.
25. On 27 September 2000, the Discharger's consultant and staff conducted a phone conference. The Discharger's consultant position, as recorded in staff's 10 October 2000 letter to the Discharger, was that elevated levels of total dissolved solids and chloride do not indicate a "new release" and therefore an Amended Report of Waste Discharge is not necessary. Regardless of the Discharger's position, failure to submit the required Amended Report of Waste Discharge is a violation of the WDRs.
26. On 30 November 2000, the Discharger submitted a letter indicating that the groundwater treatment system was not operating. The Discharger found that there were *"several burned out or malfunctioning electrical components within the system's control panel. In addition, the piping between the GTS's air stripper tower and HDPE discharge line was in bad condition due to scaling problems... extraction wells EW-1 and EW-2 appeared to operate as intended, whereas EW-3 was not functional..."* The system will be operational by 31 December 2000." These problems are typical with this system.

27. Following the review of the “2000 Combined Annual Report” and the “2001 First Quarter: Combined Detection, Corrective Action, and Remediation System Monitoring Report”, staff requested in a letter dated 3 May 2000, that the Discharger evaluate the effectiveness of the groundwater extraction and treatment unit. Specifically, staff directed the Discharger to indicate if the VOC releases located to the northwest and west of the landfill would be remediated by operating the groundwater extraction unit.
28. On 15 June 2001, the Discharger submitted its “Capture Zone Analysis” report which stated, *“In the meantime, the groundwater treatment system should be operated with the extraction wells pumping at full capacity”*. However, the Discharger did not follow the recommendations of this report.
29. On 17 September 2001 staff commented on the Capture Zone Analysis report as follows: *“...EBA Wastechнологies refers to the Dames & Moore analysis for the recommended radius of influence of the pump and treat system should be a minimum of 400 feet, determined in the design phase. This recommendation is based on the plume configuration in 1990, not the present configuration. The present radius of influence should be compared to the present plume... A capture zone analysis should be an on-going task as new data is accumulated. Information provided in this report does not support the conclusion by EBA Wastechнологies that the capture zone adequately contains the plume. There is no evidence that concentrations have diminished over time.”* The Discharger has failed to resubmit the requested information.
30. On 26 October 2001, the Discharger’s consultant responded to staff’s comments by concluding: *“as previously noted herein, the purpose of the investigation was not to determine if the plume is properly captured, but to establish whether the capture zone characteristics induced by the groundwater treatment system are sufficient to contain the plume. It is EBA’s opinion that the information and findings presented in the Report comply with this objective. Based on these circumstances, resubmittal of the Report does not appear warranted”*. The Discharger has not submitted a revised conclusion to this report.
31. The 2001 Annual Groundwater Monitoring report states that the groundwater extraction system was not operating, and provided no explanation as to the system failure. The period of non-operation allowed for pollutants to be released from the landfill units and allowed the existing plume to expand. The Discharger’s own consultants had stated (Finding No. 29) that the extraction system must be operated continuously. Failure to do so is a violation of the WDRs.
32. On 11 March 2002, following the review of the Discharger’s 2001 Third Quarter and Fourth Quarter Groundwater Monitoring reports, staff issued a Notice of Violation for the non-operation of the groundwater extraction system. Staff stated: *“It appears, based on the monitoring reports, extraction well EW-2 and the air-stripping tower were not operating for the third and fourth quarters, therefore the required monitoring results were not reported in the respective reports. Extraction wells EW-1 and EW-3 were not addressed in these Reports. The Reports did not address why the remediation system was not operating for these quarters and the Regional Board was not notified as to why the system was not*

operating during this time.” Failure to operate the Discharger’s groundwater remediation system is a violation of the WDRs.

33. On 16 October 2003, following a facility inspection, staff sent the Discharger another Notice of Violation which stated: *“Based on the groundwater gradient map submitted with the Second Quarter 2003 Groundwater Monitoring Report, there is no evidence that the groundwater flow has been affected by the current extraction system operation.”* As the September 2000 request (Finding No. 25) had not been addressed, staff again requested that the Discharger submit a revised engineering feasibility plan, describing how the corrective action program requirements will be met (i.e. that a sufficient groundwater depression will be maintained to capture the groundwater plume). The Discharger claims that they never received this letter.
34. On 23 January 2004, after the review of the Fourth Quarter 2003 Groundwater Monitoring Report, staff sent the Discharger a Notice of Violation which stated: *“The following wells had detectable levels of VOCs: MW1, MW2, MW3, MW6, 84-6, 84-10, 84-13R, 85-4, 85-4A, 85-7, 85-10, 85-25, 86-3, 86-5B, 86-6A, 86-6B, 88-1, 90-1, 90-2, P-1. A revised engineering feasibility study that complies with Title 27 must be submitted to update the corrective action program.”* Because of the continuing evidence of an uncontrolled release, the Discharger was again asked to upgrade its groundwater extraction system. This requirement is again no different than the requests made on 6 September 2000 and 16 October 2003, but again, the Discharger did not respond. Failure to submit the requested revised engineering feasibility plan is a violation of the WDRs.
35. On 15 September 2004, after the review of the 2004 First and Second Quarter Groundwater Monitoring Reports, staff again sent the Discharger a Notice of Violation that stated: *“VOC concentrations are still being detected in offsite wells. Consequently, the Discharger must provide an amended Report of Waste Discharge ...”* This requirement is again no different than the requests made on 6 September 2000 (see Finding 26), 16 October 2003 (see Finding 36), and 21 January 2004 (see Finding 37). The Discharger did not respond. Failure to submit the requested revised engineering feasibility plan is a violation of their WDRs. The Discharger failed to submit a response.
36. During the 3 March 2005 site inspection, staff was informed by the Discharger that the groundwater extraction system had not been operating for over a year, and that it was only turned on to collect samples for reporting purposes. Once again, the Discharger was violating its WDRs by not operating the system needed to contain and remediate the groundwater pollution caused by the landfill.
37. Following site inspections in March and April 2005 and review of the groundwater monitoring reports, the Regional Water Board adopted C&D Order R5-2005-0073. Among other items, this Order specifically addressed the nonperformance of the groundwater treatment system by requiring the following:
 - a. Submittal of a report showing that the existing groundwater and landfill gas extraction systems are continuously operating.

- b. By 1 August 2006, submittal of a "... *report demonstrating that [the Discharger] has a complete and operational corrective action remediation and monitoring system capable of capturing all contaminants from passing the point of compliance, as well as removing VOCs, metals and other constituents of concern from the wells affected by the release from the facility...*" The Discharger did not comply with this requirement, and therefore violated the C&D Order.
- c. Submittal of monthly progress report on the status of the corrective action measures during the previous month. These reports were not submitted prior to the signing of the Stipulated Judgment in late December 2005.

38. As required by the 2005 C&D Order, the Discharger submitted a report regarding the performance of the groundwater treatment system (item #5, above). The Discharger referred staff to the October 1998 "Evaluation of Corrective Action Program Performance and Effectiveness" report and the June 2001 "Capture Zone Analysis" even though staff had previously reviewed and rejected these reports (See Findings 23 and 30). Therefore, on 7 November 2005 a Notice of Violation was issued which again clarified staff's interpretation of the previously submitted data regarding the performance of the groundwater treatment system. The Notice of Violation stated, "*The data submitted in the earlier reports do not appear to support the contention that the groundwater treatment system is capable of containing the groundwater contaminants at the point of compliance...It appears that the Discharger is aware of the system's inadequacy and has not proposed any changes to comply with the Water Code, Title 27 or 40CFR.*" Failure to update the groundwater extraction system to capture the entire plume is a violation of the WDRs.
39. On 28 December 2005 the Discharger submitted a letter clarifying the capabilities of the groundwater treatment system. The Discharger stated: "*Based on the recent discussions with RWQCB staff, it became apparent that EBA and the RWQCB had a different understanding as to the focus of the requested capture zone analysis stipulated in Cease and Desist Order R5-2005-0073. It has been EBA's understanding all along that the focus of the analysis was to establish whether the GTS performed as designed and if the capture zone induced by the groundwater treatment system was sufficient to provide hydraulic control at the Point of Compliance along the Landfill's western and northwestern property boundary, which coincided with the area of concern for which the groundwater treatment system was originally designed by Dames and Moore*". As staff have continually stated, the intent of the C&D and previous staff correspondence was not to determine whether the extraction system "performed as designed" but to ensure that the entire groundwater plume is captured. Due to the continued non-operation of the extraction system, it is reasonable to conclude that the groundwater plume has expanded since the system was designed in 1990.
40. The Discharger's former consultant claims that the groundwater extraction system was operating as originally designed by Dames and Moore in 1990. They contend that the subsurface conditions have not changed since 1990 and therefore the original design is still adequate. However, the Discharger's former consultant has not taken into account the impact of unlined WMUs II and III. Each of these units now contain municipal solid waste

that had not been discharged when the system was designed. In addition, WMU IV has opened and accepted waste. WMUs II and III each received the last waste in 1999; however, they are still covered with interim cover. There is no protective cover installed to prevent rainfall percolation. The lack of a final cover ultimately promotes leachate and landfill gas generation and is likely the source of groundwater VOCs detected in monitoring wells MW3 and P-1. These detections of VOCs necessitates the need to upgrade the groundwater extraction system.

41. On 28 February 2006, after seven months of operation, the Discharger informed staff that the system was again shutdown for maintenance. Thirty days later, the Discharger informed staff that the groundwater extraction system is still not operational. During a site inspection on 13 April 2006, staff observed that the groundwater treatment system had been clogged by mineralization. It was evident that the Discharger has neglected to perform any preventive maintenance to mitigate mineral buildup in the system.
42. The groundwater monitoring data submitted by the Discharger supports the contention that the remedial system has not been operating. Since 2001, the Discharger's groundwater monitoring program has found detectable levels of VOCs in 27 of 31 monitoring wells. The monitoring data indicates that an ongoing release is occurring. Consequently, the system's original design is inadequate to capture and remediate the current plume and it is therefore reasonable to require the Discharger to determine the full extent of the plume and then design a system that will reliably extract and treat the entire plume.
43. In April 2006, the Discharger changed its approach to site compliance and is now working cooperatively with the Regional Water Board. The Discharger hired a new consultant and in May of 2006 successfully completed its 40 CFR Part 254 Appendix II sample collection from all wells in the Monitoring and Reporting Program. The Discharger has also committed to upgrading the groundwater monitoring system, which will include the installation of 10 new groundwater monitoring wells, abandonment of 16 old wells, redevelopment of several wells, and a complete well survey. The Discharger's new consultant is performing an engineering review of the groundwater extraction and treatment system and the consultant is taking over operation, monitoring, and reporting for the system. The closure plan and the Joint Technical Document for the site have been revised to meet comments submitted by Regional Water Board staff and staff of the California Integrated Waste Management Board. The Discharger has also implemented a number of new onsite housekeeping activities.

MODESTO DISPOSAL SERVICE GROUNDWATER ISSUES

44. Modesto Disposal Service/Waste Management Inc. (MDS) operates a facility located 300 feet northwest and downgradient of the site. In 1988, this company was directed to investigate the source of trichloroethane in monitoring well 83-3. During the investigation, MDS identified 46 crushed drums, which at one time contained adhesive compounds. As a result of the drum discovery, MDS removed the contamination by excavating approximately 850 cubic yards of contaminated soils, abandoned steel drums, and previously buried refuse. All of this material was shipped to a landfill for disposal. Following the removal of contamination, MDS implemented a groundwater-monitoring program, and in November

1992, submitted the final groundwater sampling report.

45. On 14 June 2000, the Discharger submitted a report identifying the MDS facility, instead of the Bonzi Landfill, as the probable source of the offsite groundwater contamination.
46. The 2001 "Capture Zone Analysis" contains statements regarding the groundwater flow direction that are not supported by the Discharger's own historical groundwater monitoring reports. Page 12 of the report states: *"As discussed in the "Evaluation" section of this Report, the Tuolumne River has a significant influence on local groundwater elevations and flows. This is clearly demonstrated by the data plots presented in Appendix C. This particular issue is emphasized herein because the groundwater flow reversals induced by the Tuolumne River provide a mechanism for potential volatile organic compound contaminants associated with the Modesto Disposal Service facility to migrate into the areas of the monitoring wells that are located north of Hatch Road (i.e. downgradient of the GTS)." Staff has reviewed the historical groundwater reports from 1999 through 2005, and finds no evidence of a groundwater flow direction reversal and no evidence that the VOC contamination at MDS moved upgradient into the Bonzi monitoring wells.*
47. In response to the April 2005 tentative C&D Order, staff received the following response regarding the need to characterize the offsite groundwater contamination *"be advised that the conclusions presented herein are not intended to relieve the Ma-Ru Holding Company, Inc. for taking responsibility for their portion of the groundwater impacts caused by the Bonzi Sanitation Landfill. However, before assuming financial responsibility for further offsite plume delineation and treatment, it's important that the questions raised regarding the Modesto Disposal Service/Waste Management Inc facility be addressed."*
48. On 20 June 2005, in an effort to resolve the contention that MDS is the source of offsite groundwater pollution, staff contacted MDS regarding the need for additional characterization of the site. On 18 November 2005, staff took duplicate groundwater samples in the company of both MDS and of Bonzi personnel. The samples from monitoring wells 90-1 and 90-2 were analyzed for VOCs, and no detectable concentrations were detected. The following table depicts the historical data for VOCs in MDS wells 90-1 and 90-2 (the locations of which are shown on Attachment B).

Modesto Disposal Service Historical Groundwater Data

	Modesto Disposal Service Monitoring Well 90-1					Modesto Disposal Service Monitoring Well 90-2				
	12/91	4/92	7/92	8/92	11/05	12/91	4/92	7/92	8/92	11/05
1,1,1- Trichloroethane	NS	2.3	7.1	48	ND	100	66	48	200	ND
1,1,2- Trichloroethane	NS	ND	ND	1.5	ND	11	14	14	38	ND
1,1- Dichloroethane	NS	ND	1.4	5.7	ND	49	29	20	120	ND
1,2- Dichloroethane	NS	ND	ND	1.7	ND	21	16	12	58	ND

	Modesto Disposal Service Monitoring Well 90-1					Modesto Disposal Service Monitoring Well 90-2				
1,1- Dichloroethene	NS	ND	1.6	18	ND	32	21	13	92	ND
Vinyl Chloride	NS	ND	ND	ND	ND	ND	ND	ND	ND	ND

49. The historical groundwater flow directions reported by the Discharger have been from Bonzi Landfill towards the MDS facility. By combining the physical evidence, the fact that MDS had removed the source of contamination in the late 1980's, and the clean groundwater analytical data in 2005, it is apparent that the Bonzi Sanitation Landfill is the source of the current offsite VOC pollution.

CLOSURE OF WMUS II AND III

50. Section 20430 of California Code of Regulations Title 27 states: *“The discharger shall implement corrective action measures that ensure that COCs achieve their respective concentration limits at all Monitoring Points and throughout the zone affected by the release, including any portions thereof that extend beyond the facility boundary, by removing the waste constituents or treating them in place. The discharger shall take other action approved by the RWQCB to prevent noncompliance with those limits due to a continued or subsequent release from the Unit, including but not limited to, source control. ...”*
51. Section 21110 of California Code of Regulations Title 27 states: *“(a) Within thirty (30) days of receipt of the final shipment of waste to a discrete unit or if the entire disposal site has reached permitted capacity, the operator shall begin implementation of the closure schedule as specified in the approved closure plan”*. WMUs II and III each received the last waste in 1999, however they are still covered with interim cover.
52. State Water Resources Control Board Resolution No. 93-62 states: *“... a Synthetic Liner at least 40-mils thick (or at least 60-mils thick if of high density polyethylene) that is installed in direct and uniform contact with the underlying compacted soil component described in paragraph III.A.1.a.ii.”*
53. Section 22206 of California Code of Regulations Title 27 states: *“(a) Except as otherwise noted in section 22228 of Article 1 of Subchapter 3 of this Chapter, the operator of each solid waste landfill shall demonstrate financial responsibility to the CIWMB for closure in at least the amount of the current closure cost estimate”*.
54. On 29 February 2006, the Discharger submitted its final closure plan for WMU II, III and IV. The Discharger has proposed an engineered alternative, which includes a two-foot compacted foundation layer; a 30-mil PVC low permeability layer; and an 18-inch vegetation layer. Upon review of the document, the following items are deficient:

- a. The Discharger has proposed a closure date of 30 October 2010, which does not comply with Federal Code of Regulations Subtitle D;
- b. The use of a 30-mil PVC barrier does not comply with State Water Board Resolution No. 93-62;
- c. The grading plan does not depict a landfill with the required three degrees of overall slope as required by Title 27 Section 21090(b);
- d. The Discharger states that the closure fund is under-funded by \$714,000 but does not provide a mechanism to fully fund the closure fund, in violation of Title 27;
- e. The stability analysis required by Title 27 Section 21750(f)(5) & (7) was incomplete; and
- f. The design did not include protective measures to prevent inundation of the landfill from the 100-year flood event.

55. In order to prevent a continuing source of groundwater pollution, WMUs II and III must be closed within an accelerated time period and in compliance with the regulations.

56. In May of 2006, the Discharger informed staff that the schedule for closure was being reassessed in order to provide sufficient time for the landfill to receive the minimum waste quantities needed to attain closure base foundation layer grades and to accrue the necessary funding. The closure plan has been revised to meet the comments of the Regional Water Board and CIWMB staff, and the new closure date is the year 2011.

REGULATORY CONSIDERATIONS

57. Groundwater quality data and the Discharger's flow direction measurements indicate that (a) historical neglect and nonoperation of the groundwater treatment system, (b) failure to close WMUs II and III, and (c) the inability to keep groundwater from inundation the waste may have caused the groundwater plume to expand beyond its originally defined boundary. Consequently, the groundwater downgradient of the Bonzi Landfill is polluted.

58. The Discharger has caused or permitted waste to be discharged or deposited where it has discharged to waters of the state and has created, and continues to threaten to create, a condition of pollution or nuisance.

59. The Water Quality Control Plan for the California Regional Water Quality Control Board, Central Valley Region, 4th Edition (hereafter Basin Plan), designates beneficial uses, establishes water quality objectives, and contains implementation plans and policies for all waters of the Basin.

60. The designated beneficial uses of underlying groundwater, as stated in the Basin Plan, are domestic and municipal supply, agricultural supply, and industrial supply.

61. Surface water runoff from this site is to the Tuolumne River. The beneficial uses of the Tuolumne River in the stretch between New Don Pedro Dam and the San Joaquin River are municipal and domestic supply; agricultural supply; water contact recreation; non-contact water recreation; warm freshwater habitat; cold freshwater habitat; migration of aquatic organisms; spawning, reproduction and/or early development; and wildlife habitat.
62. The State Water Resources Control Board (hereafter State Board) has adopted Resolution No. 92-49, the *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304*. This Policy sets forth the policies and procedures to be used during an investigation or cleanup of a polluted site and requires that cleanup levels be consistent with State Board Resolution NO. 68-16, the *Statement of Policy With Respect to Maintaining High Quality of Waters in California*. Resolution No. 92-49 and the Basin Plan establish the cleanup levels to be achieved. Resolution No. 92-49 requires the waste to be cleaned up to background, or if that is not reasonable, to an alternative level that is the most stringent level that is economically and technologically feasible in accordance with Title 23, California Code of Regulations (CCR) Section 2550.4. Any alternative cleanup level to background must (1) be consistent with the maximum benefit to the people of the state; (2) not unreasonably affect present and anticipated beneficial use of such water; and (3) not result in water quality less than that prescribed in the Basin Plan and applicable Water Quality Control Plans and Policies of the State Board.
63. Chapter IV of the Basin Plan contains the *Policy for Investigation and Cleanup of Contaminated Sites*, which describes the Regional Water Board's policy for managing contaminated sites. This policy is based on CWC Sections 13000 and 13304, the Title 27, Division 2, Subdivision 1 regulations, and State Board Resolution Nos. 68-16 and 92-49. The policy addresses site investigation, source removal or containment, information required to be submitted for consideration in establishing cleanup levels, and the bases for establishment of soil and groundwater cleanup levels.
64. The State Board's *Water Quality Enforcement Policy* states in part: "At a minimum, cleanup levels must be sufficiently stringent to fully support beneficial uses, unless the Regional Board allows a containment zone. In the interim, and if restoration of background water quality cannot be achieved, the Order should require the discharger(s) to abate the effects of the discharge. Abatement activities may include the provision of alternate water supplies." (Enforcement Policy, p. 19)
65. CWC Section 13304(c)(1) provides that: "*Any person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirements or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the Regional Board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including but not limited to, overseeing cleanup and abatement efforts... Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction*

requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.”

66. CWC Section 13267(b) provides that: *“In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste outside of its region that could affect the quality of waters of the state within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports”.*

67. The technical reports required by this Order are necessary to assure compliance with this Order and the WDRs, and to protect the waters of the state. Existing data and information about the site indicates that waste has been discharged or may continue to be discharged at the property, which is currently owned and operated by the Discharger named in this Order.

68. Applicable sections from Title 27, CCR are as follows:

Section 20425(i) states: “RWQCB-Initiated EMP Changes — Any time the RWQCB determines that the evaluation monitoring program does not satisfy the requirements of this section, the RWQCB shall send written notification of such determination to the discharger by certified mail, return receipt requested. The discharger shall, within 90 days of such notification by the RWQCB, submit an amended report of waste discharge to make appropriate changes to the program.”

Section 20430(b) states: “The discharger shall take corrective action to achieve the following goals: to remediate releases from the Unit; to ensure that the discharger achieves compliance with the Water Standard adopted under section 20390 for that Unit.”

Section 20430(c) states: “The discharger shall implement corrective action measures that ensure that COCs achieve their respective concentration limits at all Monitoring Points and throughout the zone affected by the release, including any portions thereof that extend beyond the facility boundary, by removing the waste constituents or treating them in place.”

Section 20430(j) states: “RWQCB-Initiated CAP Changes — Any time the RWQCB determines that the corrective action program does not satisfy the requirements of this section, the discharger shall, within 90 days of receiving written notification of such determination by the RWQCB, submit an amended report of waste discharge to make appropriate changes to the program.”

69. Applicable sections of the Federal Code of Regulations Title 40 are as follows:

Part 258.57 (a) states: *“Based on the results of the corrective measures assessment conducted under §258.56, the owner or operator must select a remedy that, at a minimum, meets the standards listed in paragraph (b) of this section.”*

Part 258.57(b)(3) states: *“Control the source(s) of releases so as to reduce or eliminate, to the maximum extent practicable, further releases of appendix II constituents into the environment that may pose a threat to human health or the environment.”*

70. The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), pursuant to Title 14 CCR Section 15321(a)(2). The implementation of this Order is also an action to assure the restoration of the environment and is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), in accordance with Title 14 CCR, Sections 15308 and 15330.
71. Any person adversely affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with Sections 2050-2068 of CCR Title 23. The State Board must receive the petition within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions may be found on the Internet at <http://www.waterboards.ca.gov/centralvalley> or will be provided upon request.

IT IS HEREBY ORDERED THAT, pursuant to Sections 13267 and 13304 of the California Water Code, the Ma-Ru Holding Company Inc., the Bonzi Sanitation Landfill, Inc. Partnership, and the Bonzi Sanitation Landfill, their agents, successors, and assigns, shall investigate the discharges of waste, clean up the waste, and abate the effects of the waste, forthwith, resulting from activities at the Bonzi Sanitation Landfill in conformance with State Board Resolution No. 92-49 *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304* and with the Regional Water Board’s *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins* (in particular the Policies and Plans listed within the Control Action Considerations portion of Chapter IV). “Forthwith” means as soon as is reasonably possible. Compliance with this requirement shall include, but not be limited to, completing the tasks listed below.

Each report submitted to the Regional Water Board shall be included in the Discharger’s Operating Record. Furthermore, any person signing a document submitted under this Order shall make the following certification:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

Health Risk Assessment

1. By **30 March 2007**, the Discharger shall submit a work plan and time schedule to prepare a *Health Risk Assessment* (HRA). The work plan for the HRA and the HRA shall be prepared in accordance with the Department of Toxic Substances Control and U.S. EPA guidance and contain the detail and clarity necessary for a lay person from the general public to follow the process and duplicate calculations. Inhalation of the volatile components of the waste (e.g., halogenated and aromatic solvents) must be considered an exposure pathway. The Discharger may elect to begin the process with a Tier I analysis. However, if the result show that it is warranted, then the Discharger must continue with an expanded health risk assessment.
2. Within **30 days** of Regional Water Board concurrence with the work plan for the HRA, but no later than **1 June 2007**, the Discharger shall implement the work plan and submit a draft HRA in accordance with the approved time schedule, which shall become part of this Order.
3. Within **45 days** of receiving comments from Regional Water Board staff on the draft HRA, the Discharger shall append agency comments and the Discharger's responses to these comments to a revised draft HRA, submit the document to the Regional Water Board and distribute to interested persons the *Draft for Public Comment HRA*. The public comment period shall extend for 45 days.
4. Within **30 days** of the end of the public comment period, the Discharger shall submit and distribute to interested parties a final HRA with an appendix that contains responses to all public comments.

Public Water Supply Concerns

5. The Discharger shall notify the owners of wells identified in Finding No. 8 whenever samples are taken from their wells.
6. During the third quarter 2006 groundwater-sampling event, the Discharger shall collect samples from the Bonzi Well, Ace Well, VFW Well Influent, and Waste Management Inc. well and analyze the samples for 40 CFR Part 254 Appendix II constituents of concern.
7. Within **45 days** of the sample collection the Discharger shall submit the sampling results report to Regional Water Board, the well owners, and Stanislaus County. This report shall include: an evaluation of each well's water chemistry, and documentation that the owners received the data for their well with an explanation of the results.
8. Based on an evaluation of the results from the Third Quarter 40 CFR Part 254 Appendix II sample collection, and in conjunction with an evaluation of historical results of sampling, the Discharger shall provide a written recommendation regarding which of the wells identified in Finding No. 8 should be included in the quarterly groundwater monitoring program. Upon concurrence of Regional Water Board staff, the Discharger shall

implement these recommendations as of the Fourth Quarter 2006 groundwater sampling round.

9. All water quality monitoring data collected in accordance with this Order, including actual values of constituents and parameters, shall be maintained in the facility Operating Record as well as distributed amongst the well owners listed in Finding 8.

Extent of Release

10. By **13 October 2006**, the Discharger shall submit a report that explains in detail how each deficiency identified in the groundwater monitoring system has been resolved (i.e., wells replaced, wells redeveloped, etc) (For more detail discussion on this issue see the 15 June 2005 Notice of Violation, and Compliance Item 3 of Cease and Desist Order No. R5-2005-0073.). The following list presents the modifications agreed to during the 15 May 2006 meeting with the Discharger's consultant.

Type of Work	Well Identification
Abandonment	84-8, 84-9, 84-12, 84-13, 84-14, 84-19, 84-21, 85-6, 85-11, 85-12, 85-13, 86-2, 86-8, 86-10, 86-11, 86-12, MW-3, MW-4, and MW-5
Replacement	84-6, 84-10, 84-11, 84-18, 84-20, 85-3AR, MW-1, and MW-2

11. Following four quarters of sampling the upgraded groundwater monitoring system, and no later than **1 November 2007**, the Discharger shall submit an evaluation monitoring work plan to collect and analyze all data necessary to assess the nature and extent of the release from WMUs I, II, III, and IV. Consistent with Title 27 Section 20425, this assessment shall include a determination of the spatial distribution and concentration of each constituent of concern throughout all zones (both vertically and horizontally) affected by the release. The Discharger shall comply with the additional notification and monitoring system requirements incorporated by reference into State Board Resolution No. 92-49, regarding notification and monitoring relative to offsite or potential off-site migration of waste constituents.
12. No later than **30 days** after concurrence with the evaluation monitoring investigation work plan the Discharger shall implement the investigation.
13. **Seven days** prior to initiating the investigation, the Discharger shall notify the Regional Water Board in writing regarding the date on which the fieldwork will begin.
14. Within **90 days** of initiating the evaluation monitoring investigation, the Discharger shall submit a revised engineering feasibility study in the form of a Report of Waste Discharge in compliance with Section 20425(d) that includes:
 - (A) A well installation completion report for any newly installed monitoring points.

- (B) A complete evaluation of the vertical and lateral extent of all detected 40CFR Part254 Appendix II constituents of concern. Such that each constituent of concern has been characterized to levels below its applicable water quality protection standard.
 - (C) A schedule for implementation of selected remedy from the engineering feasibility study. This schedule shall include milestones as well as the final completion date for capturing the entire groundwater plume and a date when groundwater pollution remediation will reach applicable water quality protection standard for all constituents of concern.
 - (D) A redesign of the corrective action treatment and monitoring system that meets the following performance criteria:
 - 1. Capture all groundwater contaminants from Bonzi Landfill at the point of compliance. After the Discharger has made a reasonable attempt to capture all groundwater contaminants and if the Discharger believes it is technically or economically infeasible to achieve this criteria, then the Discharger must provide a report to Regional Water Board demonstrating their conclusion. If the Regional Water Board does not concur with the report's conclusion, the Discharger must make further attempts to comply with the criteria.
 - 2. Prevent groundwater from inundating the bottom of the four waste management units. After the Discharger has made a reasonable attempt to prevent groundwater from inundating the bottom of the waste management units and if the Discharger believes it is technically or economically infeasible to achieve this criteria, then the Discharger must provide a report to Regional Water Board demonstrating their conclusion. If the Regional Water Board does not concur with the report's conclusion, the Discharger must make further attempts to comply with the criteria.
 - 3. Clean-up groundwater to background or a concentration limit greater than background (CLGBC) in compliance with Title 27 Section 20400(c). This includes the entire groundwater plume as described in Title 27 Section 20430(c).
 - 4. Be able to monitor the groundwater and leachate levels from three locations within the footprint of each landfill unit.
 - 5. Remove any leachate generated from with the unit.
 - 6. Continuous treatment system (24 hours a day, 365-days a year) operation until the groundwater plume is remediated to background or a concentration limit greater than background (CLGBC) in compliance with Section 20400(c).
 - 7. Corrective action monitoring program that meets the requirements in Title 27 Section 20430(d).
15. By **1 September 2008**, the Discharger shall maintain a corrective action monitoring system, in compliance with Section 20415(b)(1)(D) of Title 27 and approved by the Executive Officer, to evaluate the continuous operational performance of the entire corrective action remediation systems.

Closure of Waste Management Units

16. By **15 October 2011**, the Discharger shall close Waste Management Units II and III under an engineered cover that complies with California Code of Regulations Title 27 such that:
- (A) All containment structures shall be designed by, and construction shall be supervised by, a California registered civil engineer or a certified engineering geologist, and shall be certified by that individual as meeting the prescriptive standards, or approved engineered alternative design, in accordance with this Order.
 - (B) Materials used in the final cover shall have appropriate chemical and physical properties to ensure that such structures do not fail to contain waste because of pressure gradients, physical contact with waste or leachate, chemical reactions with soil or rock, climatic conditions, the stress of installation, or because of the stress of daily operations.
 - (C) Any report, or any amendment or revision of a report, that proposes a design or design change that might affect a WMU's containment features or monitoring systems shall be approved by a registered civil engineer or a certified engineering geologist [Title 27 Section 21710(d)].
 - (D) Any proposed engineered alternative cover for WMUs II and III must comply with State Water Board Resolution No. 93-62. Furthermore, the performance requirements of any geosynthetic membrane shall include, but are not limited to, a need to limit infiltration of water, to the greatest extent possible; a need to control any gas emissions; mechanical compatibility with stresses caused by equipment traffic, and for final covers the result of differential settlement over time and durability throughout the post-closure maintenance period [Title 27 Section 20324(i)(1)].
 - (E) WMU II and III final cover shall be designed and constructed to limit, to the greatest extent possible, ponding, infiltration, inundation, erosion, slope failure, washout, and overtopping [Title 27 Section 20365(a)]. Furthermore, the upper surface of the landfill shall be graded such that the overall slope is graded with an overall slope greater than three degrees as required by Title 27 Section 21090(b).
 - (F) WMUs II and III cover shall be designed to withstand the maximum probable earthquake without damage to the foundation or to the structures that control leachate, or surface drainage, or erosion, or gas [Title 27 Section 20370(a)]. In addition, any seismic analysis shall comply with Title 27 Section 21750(f)(5) & (7).
 - (G) WMUs II and III shall include protective barriers to prevent washout or inundation from the 100-year flood event.
 - (H) All construction of liner systems and final cover systems shall be performed in accordance with a Construction Quality Assurance Plan certified by a registered civil engineer or a certified engineering geologist [Title 27 Section 20323] and approved by

the Executive Officer.

- (I) The Construction Quality Assurance (CQA) program shall be supervised by a registered civil engineer or a certified engineering geologist who shall be designated the CQA officer [Title 27 Section 20324(b)(2)].
- (J) All Financial Assurance Funds (closure, post closure and foreseeable release) shall be fully funded and accepted by the California Integrated Waste Management Board no later than **15 October 2011**.

17. By **31 December 2011**, the Discharger shall submit the final Construction Quality Assurance Report for Waste Management Units II and III that contains all reports submitted concerning the placement of the final cover. This document shall provide evidence that the CQA plan was implemented as proposed and that the construction proceeded in accordance with design criteria, plans, and specifications. The discharger shall submit copies of the Final Documentation report to the RWQCB as prepared by the CQA officer.

In accordance with California Business and Professions Code Sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain workplans for, that describe the conduct of investigations and studies, or that contain technical conclusions and recommendations concerning engineering and geology shall be prepared by or under the direction of appropriately qualified professional(s), even if not explicitly stated. Each technical report submitted by the Discharger shall contain the professional's signature and/or stamp of the seal.

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability.

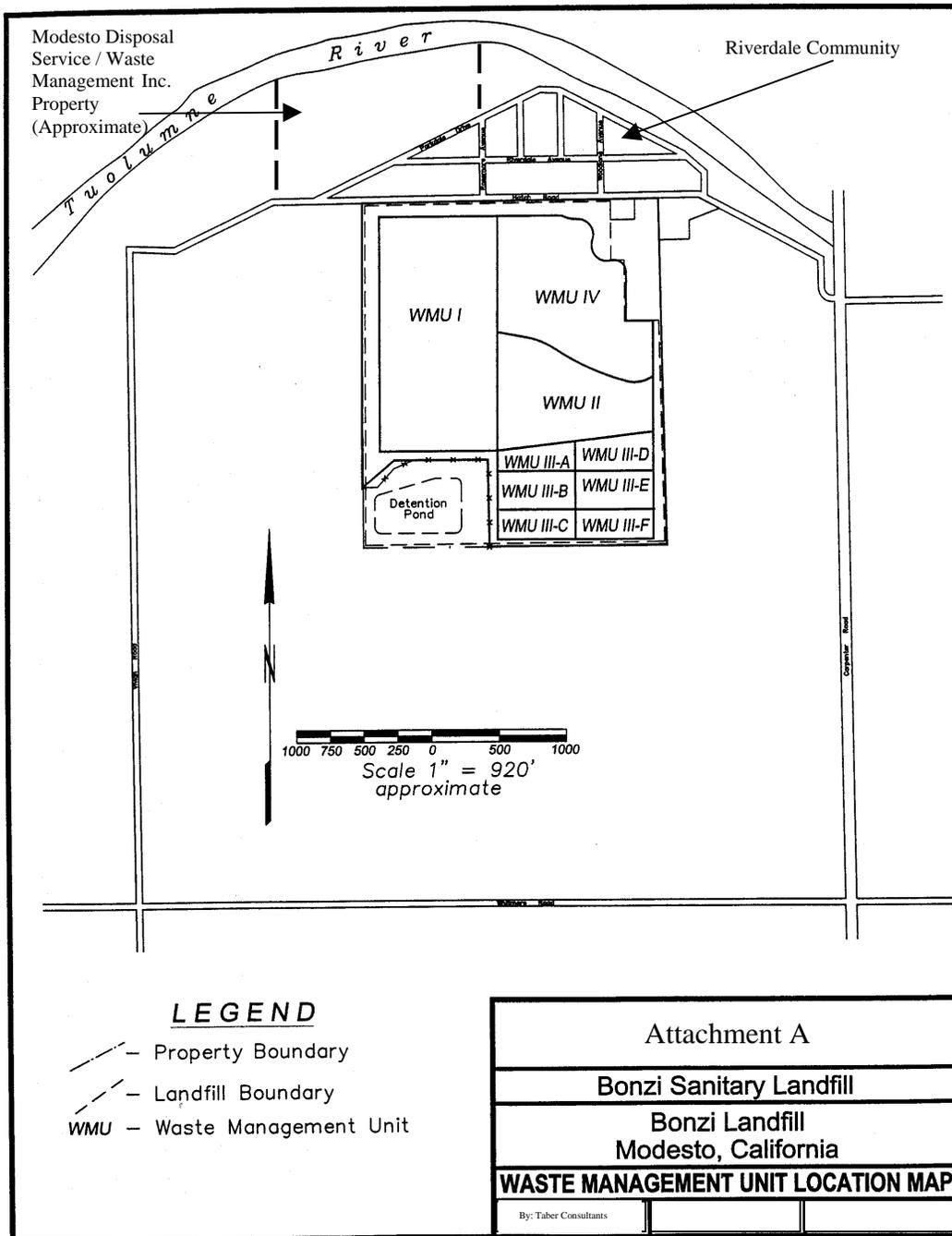
Failure to comply with this Order may result in the assessment of an Administrative Civil Liability up to \$1,000 per day or up to \$10,000 per day of violation, depending on the violation, pursuant to the California Water Code, including Sections 13268, 13271, and 13350. The Regional Water Board reserves its right to take any enforcement actions authorized by law.

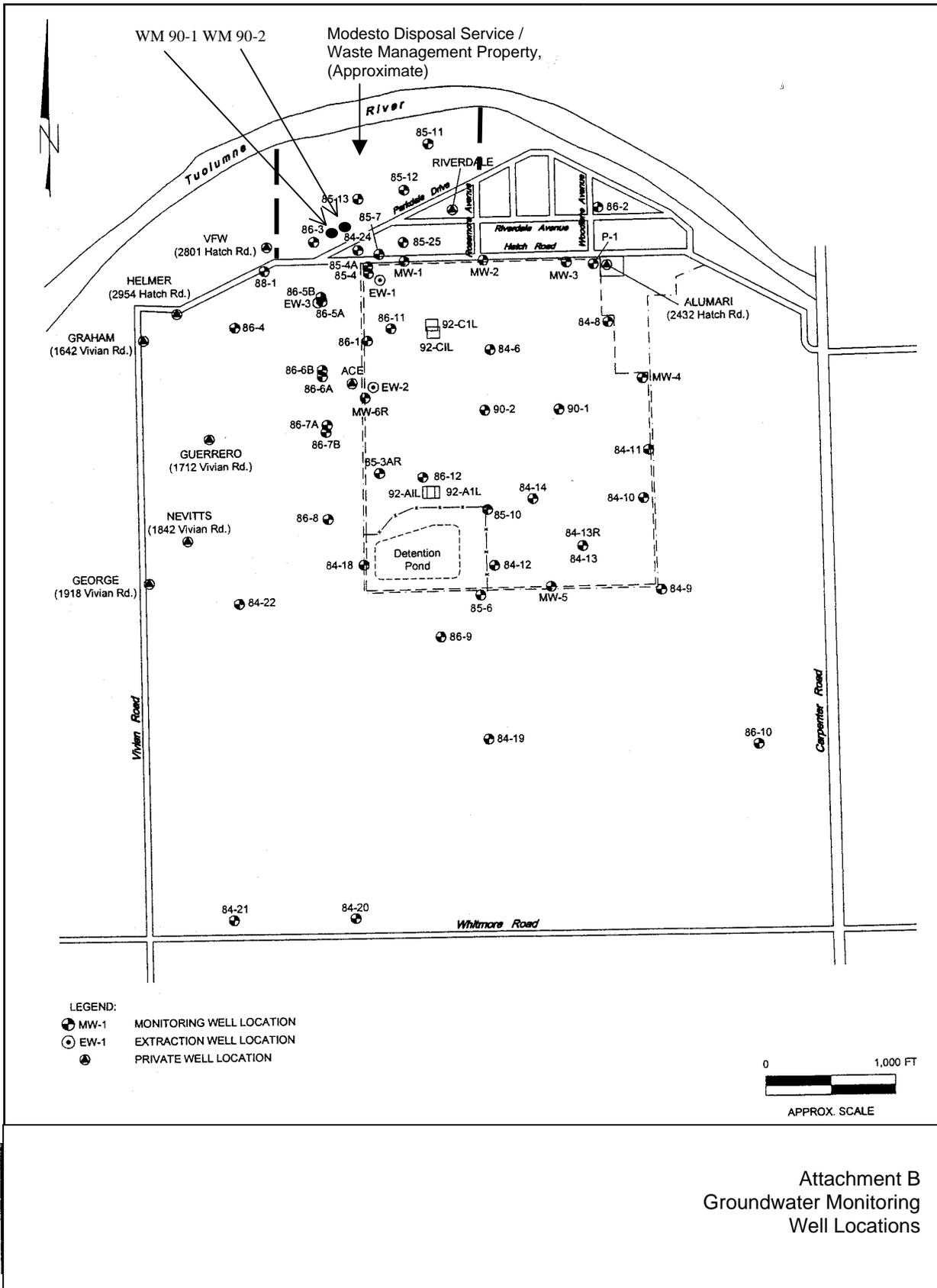
This Order is effective upon the date of signature.

PAMELA C. CREEDON, Executive Officer

August 2, 2006

(Date)





Attachment B
 Groundwater Monitoring
 Well Locations

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

AMENDMENT 1 TO CLEANUP AND ABATEMENT ORDER NO. R5-2006-0721

FOR
MA-RU HOLDING COMPANY, INC.
BONZI SANITATION LANDFILL, INC PARTNERSHIP

BONZI SANITATION LANDFILL
STANISLAUS COUNTY

This amendment to outstanding Cleanup and Abatement Order R5-2006-0721 (the "CAO") conditionally requires uninterrupted replacement water service and is issued to the Ma-Ru Holding Company, Inc., and to Bonzi Sanitation Landfill, Inc. ("Discharger") based on provisions of California Water Code (CWC) Section 13304, which authorizes the Executive Officer of the California Regional Water Quality Control Board, Central Valley Region ("Central Valley Water Board") to issue and/or amend Cleanup and Abatement Orders, and all applicable law.

The Executive Officer of the Central Valley Water Board finds¹ with respect to the Discharger's acts, or failure to act, the following:

1. Beginning 31 January 2008, or earlier, and until at least 2 November 2008, or later, the Discharger operated the Bonzi Sanitation Landfill (landfill) without complying with the CAO's monitoring and/or reporting requirements. During this time, the Discharger also failed to comply with the monitoring and/or reporting requirements imposed by Waste Discharge Requirements Order R5-2007-0148.
2. The Discharger's failure to comply with applicable monitoring and/or reporting requirements has prevented the Central Valley Water Board from evaluating site conditions and the migration of contaminants released from the landfill into groundwater. Because of the Discharger's failure to comply with the its monitoring requirements, no complete data set for the monitoring wells discussed below exists after the Third Quarter 2007 sampling event.
3. Based on data previously provided by the Discharger, the groundwater extraction system installed by the Discharger is likely not capturing the entirety of the existing plume of contaminants in groundwater. Downgradient domestic water supply wells near the landfill have been impacted by volatile organic compounds (VOCs), and the

¹ The Findings and Content of Cleanup and Abatement Order R5-2006-0721 are hereby incorporated into this Amendment by this reference as if set forth in full.

nearby Riverdale Community drinking water supply well² is threatened by the contaminant plume.

4. The direction of groundwater flow fluctuates from the northwest to the north-northwest, with gradients ranging from 0.0020 to 0.0030 ft/ft. The Riverdale Community water supply well is directly downgradient from Bonzi Waste Management Unit 1 and the leading edge of the Bonzi plume, approximately 500-feet from the northern boundary of the landfill.
5. VOCs associated with landfill waste are detected from the southern-most extent of the landfill northward to within 30 feet of the Riverdale well. Monitoring well 06-09 is adjacent to the unlined Waste Management Unit III at the southeastern boundary of the site (as shown on Attachment A of this Order). Monitoring well 06-09 is the furthest detection monitoring well from the Riverdale well (~3,000-feet upgradient). Data from this well indicates that groundwater contains a VOC, 1,1 – DCA, above its maximum contaminant level (MCL). In addition, byproducts produced by the breakdown of chlorinated VOCs are also present. Other VOCs that were detected below their respective MCLs include benzene, chloroform, dichlorodifluoromethane, methyl-tert-butyl ether (MTBE), and trichlorofluoromethane.

MONITORING WELL 06-09					
monitoring event	PCE ¹	TCE ²	1,1-DCA ₃	1,1-DCE ₄	cis -1,2 – DCE ⁵
3Q06		0.9 ug/l	38 ug/l	0.43 ug/l	0.92 ug/l
4Q06	0.61 ug/l	1.1 ug/l	29 ug/l	0.84 ug/l	1.1 ug/l
1Q07	0.49 ug/l	0.94 ug/l	30 ug/l	0.37 ug/l	1.0 ug/l
2Q07	0.48 ^J ug/l	0.58 ug/l	24 ug/l		0.77 ug/l
3Q07	0.35 ^J ug/l	0.59 ^J ug/l	23 ug/l	0.38 ^J ug/l	0.95 ^J ug/l

1. MCL= 5 ug/l, PHG = 0.06 ug/l
2. MCL "Goal" = 0.0 ug/l, PHG = 0.8 ug/l
3. MCL = 5 ug/l
4. MCL = 6 ug/l. Public Health Advisory = 0.06 ug/l
5. MCL = 6 ug/l

J value: detected above the method detection limit, yet value is below the practical quantitation limit.

6. Monitoring well 90-1 is located near the center of the landfill and is approximately 1,700 feet upgradient from the Riverdale well (as shown on Attachment A of this

² The well is 14-inches in diameter, 200 feet deep with an open bottom, and screened from 55 to 125 feet below ground surface.

Order). Monitoring well 90-1 is also impacted by 1,1 -DCA and cis -1,2 -DCE. All the compounds detected in Monitoring well 90-1 were also detected in monitoring well 06-09.

MONITORING WELL 90-1		
monitoring event	1,1-DCA ¹	cis -1,2 -DCE ²
3Q06	1.7 ug/l	ND
4Q06	2.0 ug/l	0.31 ug/l
1Q07	1.6 ug/l	0.81 ug/l
2Q07	1.7 ug/l	
3Q07	1.8 ug/l	0.44 ^J ug/l

1. MCL = 5 ug/l

2. MCL = 6 ug/l

J value: detected above the method detection limit, yet value is below the practical quantitation limit

- In September 2007, the Discharger conducted an investigation to characterize the material in the unlined Waste Management Unit IV. A grab groundwater sample from boring WMUIV7, located within the footprint of Waste Management Unit IV and approximately 1,200 feet upgradient of the Riverdale well, contained 1,1-DCA at 2.8 ug/l. The public health goal for 1,1-DCA is 3.0 ug/l.
- Monitoring well 92-CIL was installed to monitor the leachate that percolates freely through the waste in Waste Management Unit I directly into groundwater. Monitoring well 92-CIL is approximately 1,000 feet upgradient from the Riverdale well (as shown on Attachment A of this Order). Monitoring well 92-CIL was last sampled for VOCs in the Third Quarter 2007 and results are presented in the table below. Benzene was reported at 9 times the MCL of 1.0 ug/l. No other VOCs exceeded a water quality goal.

MONITORING WELL 92-CIL			
1,2,4 trimethylbenzene	0.28 ^J ug/l	n-polybenzene	0.34 ^J ug/l
1,4 dichlorobenzene	4.0 ug/l	o-xylene	0.55 ^J ug/l
benzene	9.1 ug/l	p/m-xylene	1.0 ug/l
carbon disulfide	0.54 ^J ug/l	toluene	0.45 ^J ug/l
chlorobenzene	0.56 ^J ug/l	napthalene	0.39 ^J ug/l
cis 1,2 dichloroethylene	0.39 ^J ug/l	isopropylbenzene	0.43 ^J ug/l
ehtylbenzene	0.36 ^J ug/l		

J value: detected above the method detection limit, yet value is below the practical quantitation limit

- Monitoring well 85-25 is approximately 250 feet downgradient of the landfill's point of compliance and 200 feet upgradient of the Riverdale well (as shown on Attachment

A of this Order). Like monitoring wells 06-09 and 90-1, monitoring well 85-25 is impacted by 1,1-DCA. All compounds detected in monitoring well 85-25 were also detected at higher concentrations in upgradient wells. The Discharger stated in its 2006 annual monitoring report that: "...concentrations of 1,1-DCA, located just beyond the boundary of the northwest corner of the Site, in wells 85-25 and 85-7, have been very consistent over the last 10 plus years with average concentrations of approximately 3 ug/l." The public health goal for 1,1-DCA is 3 ug/l.

MONITORING WELL 85-25	
monitoring event	1,1-DCA ¹
3Q06	3.2 ug/l
4Q06	1.5 ug/l
1Q07	1.1 ug/l
2Q07	1.8 ug/l
3Q07	2.0 ug/l

1. Applicable water quality goal. MCL = 5 ug/l

10. Monitoring well 06-01A monitors the water table 30 feet upgradient of the Riverdale well (as shown on Attachment A of this Order). Samples collected from monitoring well 06-01A indicate that contamination is present 500-feet downgradient from the landfill and in the immediate vicinity of the Riverdale well. This well was installed in the third quarter of 2006, and VOCs were first detected in November 2006. Ethylbenzene, toluene, and xylenes have been detected but have not exceeded any applicable water quality protection standard. The table below identifies the reported concentration for PCE and chloroform.

MONITORING WELL 06-01A		
monitoring event	PCE ¹	chloroform ²
3Q06		
4Q06	0.61 ug/l	
1Q07	0.49 ug/l	1.2 ug/l
2Q07	0.48 ^J ug/l	
3Q07		0.42 ^J ug/l
4Q07	0.35 ug/l	
3/Q08		0.56 ug/l

1. MCL= 5 ug/l, PHG = 0.06 ug/l

2. Cal/EPA Cancer Potency Factor = 1.1 ug/l

J value: detected above the method detection limit, yet value is below the practical quantitation limit.

11. Monitoring well 06-01B is also installed just 30 feet upgradient of the Riverdale well (as shown on Attachment A of this Order). Monitoring well 06-01B is screened from 80.5 to 90.5 feet below ground surface to monitor the same interval as the pumps in

the Riverdale well. Monitoring data from this well shows that contamination is detectable at depth in the aquifer. The table below identifies the reported concentration for constituents of concern that exceeded an applicable water quality protection standard. This well was installed in the third quarter of 2006, and VOCs were first detected in August 2006. The following VOCs were also detected at levels below the MCL: dichloromethane, 1,2,3, trichlorobenzene, and bromodichloromethane.

MONITORING WELL 06-01B: CONSTITUENTS THAT EXCEED WATER QUALITY STANDARDS			
monitoring event	TCE ¹	benzene ²	chloroform ³
3Q06			7.9 ug/l
4Q06			4.7 ug/l
1Q07		0.87 ug/l	2.3 ug/l
2Q07			
3Q07			
4Q07			
3/Q08	0.29 ug/l		

1. MCL Goal = 0.0 ug/l, PHG = 0.8 ug/l
2. MCL= 1 ug/l, PHG = 0.15 ug/l, Cal/EPA Cancer Potency Factor = 0.35 ug/l
3. Cal/EPA Cancer Potency Factor = 1.1 ug/l

12. The Riverdale Community drinking water supply well is located approximately 500 feet down gradient of the landfill's point of compliance (as shown on Attachment A of this Order). On 31 May 2006, this well was sampled for 40 CFR 258 Appendix I and II analytes. The following analyte groups had no detectable concentrations: polychlorinated biphenyls, chlorinated herbicides, semivolatile organic compounds, volatile organic compounds, organophosphorus pesticides, mercury, or total cyanide. The Riverdale well did contain nitrate at 7.9 mg/l, and TDS was reported at 380 mg/l. No metals exceeded their applicable water quality standard. On 3 November 2008, the Riverdale well was again sampled. Draft results submitted on 10 November 2008 show that no VOCs were detected. Furthermore, no metals exceeded any water quality limit.
13. Groundwater quality data and flow direction measurements provided by the Discharger indicate that the groundwater treatment system is undersized and unable to prevent the migration of the VOC plume.
14. The Discharger's failure to comply with its monitoring and/or reporting requirements has prevented the Central Valley Regional Board from evaluating whether the Bonzi plume can be ruled out as a threat to the Riverdale Community's drinking water supply.

15. To summarize, the Bonzi plume has polluted downgradient drinking water monitoring wells within the Riverdale Community. A groundwater extraction and treatment system and a landfill gas extraction system have been installed and are operating intermittently at the landfill. The third quarter 2008 groundwater monitoring data from the landfill's groundwater monitoring wells indicates that pollutants in groundwater are still present both on and off the site. Therefore, the groundwater extraction system has not contained the entire VOC plume.
16. This Amendment to the CAO requires the Discharger to: (1) prepare a water supply replacement plan and submit it to the Central Valley Regional Board for approval; and (2) immediately implement the plan and supply replacement water to any facility and or residence with a water supply that has been affected by the release of waste from the landfill.
17. CWC section 13304(c)(1) provides that: *“Any person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirements or other order or prohibition issued by a Regional Water Board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the Regional Water Board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including but not limited to, overseeing cleanup and abatement efforts. A cleanup and abatement order issued by the state board or a Regional Water Board may require the provision of, or payment for, uninterrupted replacement water service, which may include wellhead treatment, to each affected public water supplier or private well owner. [emphasis added] Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.”*
18. The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, section 21000 et seq.), pursuant to California Code of Regulations, title 14, section 15321(a)(2). The implementation of this Order is also an action to assure the restoration of the environment and is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, section 21000 et seq.), in accordance with California Code of Regulations, title 14 sections 15308 and 15330.
19. Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with CWC section 13320

and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

IT IS HEREBY ORDERED THAT, pursuant to CWC section 13304, and all applicable law, Cleanup and Abatement Order No. R5-2006-0721 is hereby amended to require that Ma-Ru Holding Company, Inc. and Bonzi Sanitation Landfill, Inc. Partnership, their agents, successors, and assigns, shall comply with the tasks below. Compliance with these requirements shall include, but not be limited to, completing the tasks listed below.

“Affected well” is defined to mean any water supply well in which water does not meet federal, state or local drinking water standards for applicable pollutants.

1. **By 1 January 2009**, the Discharger shall submit a plan to supply drinking water to the Riverdale Community without any cost to the Riverdale community. The plan must include a short-term remedy that could be implemented immediately, such as connection to the existing City of Modesto water supply line. A copy of the plan shall be provided to the Riverdale Community.
2. Any domestic or municipal drinking water well downgradient of the Bonzi Landfill that has been affected (as defined above) shall be immediately supplied with replacement water at no cost to the landowner. The Discharger shall supply the replacement water within 24 hours of its knowledge that the well has been affected.
3. Within 48 hours of providing water to the landowner of the affected domestic or municipal drinking water, the Discharger shall notify the Central Valley Water Board and Stanislaus County Environmental Health Department that it has implemented its water supply plan.
4. Once the Discharger begins supplying replacement drinking water, it shall continue to do so until notified that it may cease by the Executive Officer.

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of Amended Order No. R5-2006-0721, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability.

Failure to comply with this Order may result in the assessment of an Administrative Civil Liability of up to \$10,000 per violation per day, pursuant to the CWC sections 13350, and/or 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

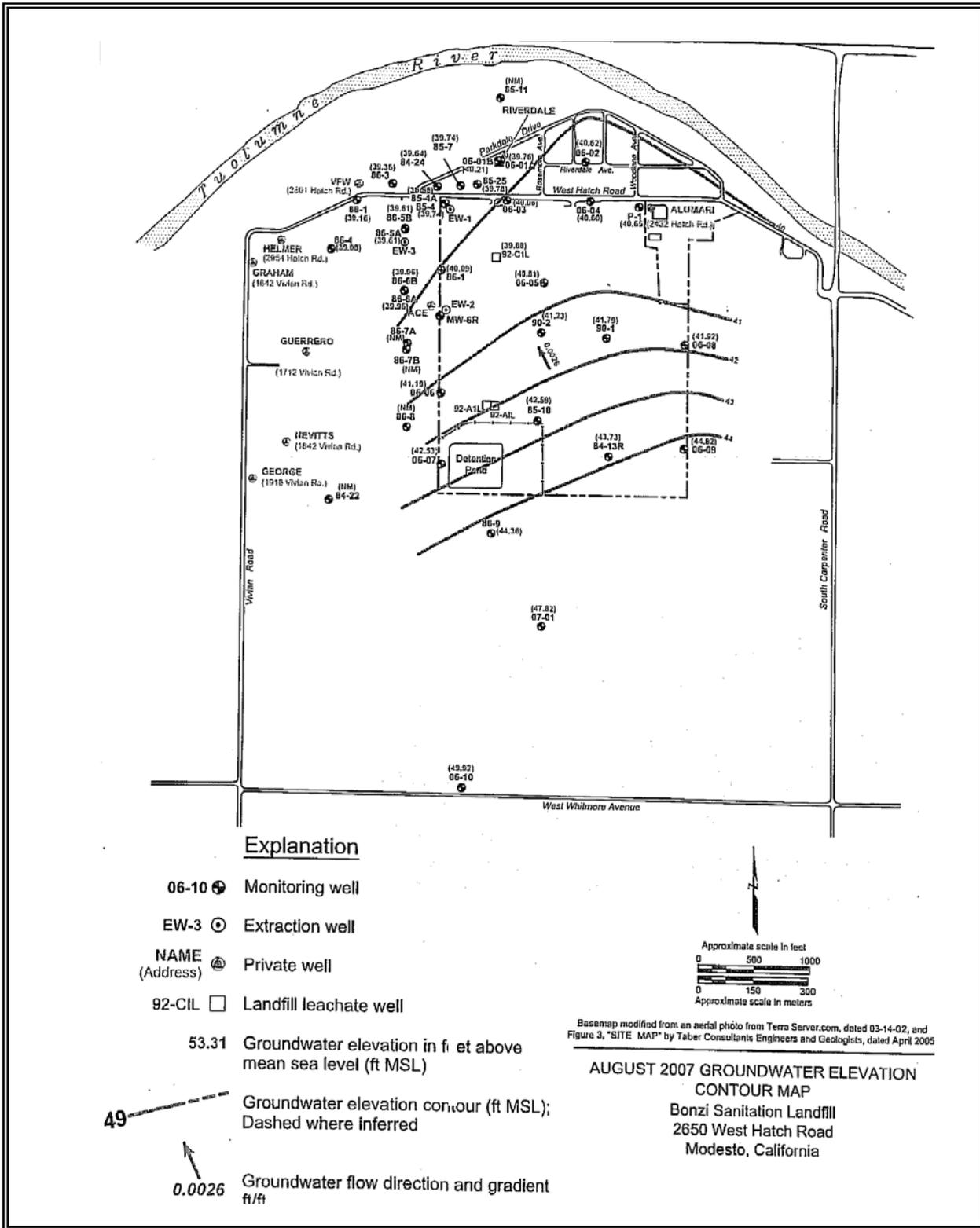
This Order is effective upon the date of signature.

PAMELA C. CREEDON, Executive Officer

3 December 2008

Date

Attachment A: map
CC/HDH/WSW:30Nov08



CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. R5-2009-0001

AMENDMENT NO.2 TO CLEANUP AND ABATEMENT ORDER NO. R5-2006-0721

FOR
MA-RU HOLDING COMPANY, INC.
BONZI SANITATION LANDFILL, INC PARTNERSHIP

BONZI SANITATION LANDFILL
STANISLAUS COUNTY

This amendment No. 2 to outstanding Cleanup and Abatement Order R5-2006-0721 (the "CAO") conditionally requires uninterrupted replacement water service and is issued to the Ma-Ru Holding Company, Inc., and to Bonzi Sanitation Landfill, Inc. ("Discharger") based on provisions of California Water Code (CWC) Section 13304, which authorizes the California Regional Water Quality Control Board, Central Valley Region ("Central Valley Water Board") to issue and/or amend Cleanup and Abatement Orders, and all applicable law.

The Central Valley Water Board finds¹ with respect to the Discharger's acts, or failure to act, the following:

1. Beginning 31 January 2008, or earlier, and until at least 2 November 2008, or later, the Discharger operated the Bonzi Sanitation Landfill (landfill) without complying with the CAO's monitoring and/or reporting requirements. During this time, the Discharger also failed to comply with the monitoring and/or reporting requirements imposed by Waste Discharge Requirements Order R5-2007-0148.
2. The Discharger's failure to comply with applicable monitoring and/or reporting requirements has prevented the Central Valley Water Board from evaluating site conditions and the migration of contaminants released from the landfill into groundwater. Because of the Discharger's failure to comply with the its monitoring requirements, no complete data set for the monitoring wells discussed below exists after the Third Quarter 2007 sampling event.
3. Based on data previously provided by the Discharger, the groundwater extraction system installed by the Discharger is not capturing the entirety of the existing plume of contaminants in groundwater. Downgradient domestic water supply wells near the landfill have been impacted by volatile organic compounds (VOCs), and the nearby

¹ The Findings and Content of Cleanup and Abatement Order R5-2006-0721 are hereby incorporated into this Amendment by this reference as if set forth in full.

Riverdale Community drinking water supply well² is threatened by landfill contaminants.

4. The direction of groundwater flow in the vicinity of the landfill fluctuates from the northwest to the north-northwest, with gradients ranging from 0.0020 to 0.0030 ft/ft. Historical data shows that the Riverdale community supply well is downgradient from Bonzi landfill and just east of the known leading edge of the groundwater plume from Waste Management Unit 1. The Riverdale well is approximately 500-feet from the northern boundary of the landfill. The localized influence of the Riverdale well on the groundwater gradient, and therefore the groundwater plume, has not been determined.
5. VOCs associated with landfill waste are detected from the southern-most extent of the landfill northward to within 30 feet of the Riverdale well. Monitoring well 06-09 is adjacent to the unlined Waste Management Unit III at the southeastern boundary of the site (as shown on Attachment A of this Order). Monitoring well 06-09 is the furthest detection monitoring well from the Riverdale well (~3,000-feet upgradient). Data from this well indicates that groundwater contains a VOC, 1,1-DCA, above its California Maximum Contaminant Level (MCL). In addition, other byproducts produced by the breakdown of chlorinated VOCs are also present. Other VOCs that were detected below their respective MCLs include benzene, chloroform, dichlorodifluoromethane, methyl-tert-butyl ether (MTBE), and trichlorofluoromethane.

Monitoring Well 06-09					
monitoring event	PCE ¹	TCE ²	1,1-DCA ₃	1,1-DCE ₄	cis -1,2 – DCE ⁵
3Q06		0.9 ug/l	38 ug/l	0.43 ug/l	0.92 ug/l
4Q06	0.61 ug/l	1.1 ug/l	29 ug/l	0.84 ug/l	1.1 ug/l
1Q07	0.49 ug/l	0.94 ug/l	30 ug/l	0.37 ug/l	1.0 ug/l
2Q07	0.48 ^J ug/l	0.58 ug/l	24 ug/l		0.77 ug/l
3Q07	0.35 ^J ug/l	0.59 ^J ug/l	23 ug/l	0.38 ^J ug/l	0.95 ^J ug/l

1. MCL= 5 ug/l, PHG = 0.06 ug/l
 2. MCL "Goal" = 0.0 ug/l, PHG = 0.8 ug/l
 3. MCL = 5 ug/l
 4. MCL = 6 ug/l. Public Health Advisory = 0.06 ug/l
 5. MCL = 6 ug/l
- J value: detected above the method detection limit, yet value is below the practical quantitation limit.

² The well is 14-inches in diameter, 200 feet deep with an open bottom, and screened from 55 to 125 feet below ground surface.

6. Monitoring well 90-1 is located near the center of the landfill and is approximately 1,700 feet upgradient from the Riverdale well (as shown on Attachment A of this Order). Monitoring well 90-1 is also impacted by 1,1 -DCA and cis -1,2-DCE. All the compounds detected in Monitoring well 90-1 were also detected in monitoring well 06-09.

Monitoring Well 90-1		
monitoring event	1,1-DCA ¹	cis -1,2-DCE ²
3Q06	1.7 ug/l	ND
4Q06	2.0 ug/l	0.31 ug/l
1Q07	1.6 ug/l	0.81 ug/l
2Q07	1.7 ug/l	
3Q07	1.8 ug/l	0.44 ^J ug/l

1. MCL = 5 ug/l

2. MCL = 6 ug/l

J value: detected above the method detection limit, yet value is below the practical quantitation limit

7. In September 2007, the Discharger conducted an investigation to characterize the material in the unlined Waste Management Unit IV. A grab groundwater sample from boring WMUIV7, located within the footprint of Waste Management Unit IV and approximately 1,200 feet upgradient of the Riverdale well, contained 1,1-DCA at 2.8 ug/l. The public health goal for 1,1-DCA is 3.0 ug/l.
8. Monitoring well 92-CIL was installed to monitor the leachate that percolates freely through the waste in Waste Management Unit I directly into groundwater. Monitoring well 92-CIL is approximately 1,000 feet upgradient from the Riverdale well (as shown on Attachment A of this Order). Monitoring well 92-CIL was last sampled for VOCs in the Third Quarter 2007 and results are presented in the table below. Benzene was reported at 9 times the MCL of 1.0 ug/l. No other VOCs exceeded a water quality goal.

Monitoring Well 92-CIL			
1,2,4 trimethylbenzene	0.28 ^J ug/l	n-polybenzene	0.34 ^J ug/l
1,4 dichlorobenzene	4.0 ug/l	o-xylene	0.55 ^J ug/l
benzene	9.1 ug/l	p/m-xylene	1.0 ug/l
carbon disulfide	0.54 ^J ug/l	toluene	0.45 ^J ug/l
chlorobenzene	0.56 ^J ug/l	naphthalene	0.39 ^J ug/l
cis 1,2 dichloroethylene	0.39 ^J ug/l	isopropylbenzene	0.43 ^J ug/l
ethylbenzene	0.36 ^J ug/l		

J value: detected above the method detection limit, yet value is below the practical quantitation limit

9. Monitoring well 85-25 is approximately 250 feet downgradient of the landfill's point of compliance and 200 feet upgradient of the Riverdale well (as shown on Attachment A of this Order). Like monitoring wells 06-09 and 90-1, monitoring well 85-25 is impacted by 1,1-DCA. All compounds detected in monitoring well 85-25 were also detected at higher concentrations in upgradient wells. The Discharger stated in its 2006 annual monitoring report that: "...concentrations of 1,1-DCA, located just beyond the boundary of the northwest corner of the Site, in wells 85-25 and 85-7, have been very consistent over the last 10 plus years with average concentrations of approximately 3 ug/l." The public health goal for 1,1-DCA is 3 ug/l.

Monitoring Well 85-25	
monitoring event	1,1-DCA ¹
3Q06	3.2 ug/l
4Q06	1.5 ug/l
1Q07	1.1 ug/l
2Q07	1.8 ug/l
3Q07	2.0 ug/l

1. Applicable water quality goal. MCL = 5 ug/l

10. Monitoring well 06-01A monitors the water table 30 feet upgradient of the Riverdale well (as shown on Attachment A of this Order). Samples collected from monitoring well 06-01A indicate that contamination is present 500-feet downgradient from the landfill and in the immediate vicinity of the Riverdale well. This well was installed in the third quarter of 2006, and VOCs were first detected in November 2006. Ethylbenzene, toluene, and xylenes have been detected but have not exceeded any applicable water quality protection standard. The table below identifies the reported concentration for PCE and chloroform.

Monitoring Well 06-01A		
monitoring event	PCE ¹	chloroform ²
3Q06		
4Q06	0.61 ug/l	
1Q07	0.49 ug/l	1.2 ug/l
2Q07	0.48 ^J ug/l	
3Q07		0.42 ^J ug/l
4Q07	0.35 ug/l	
3/Q08		0.56 ug/l

1. MCL= 5 ug/l, PHG = 0.06 ug/l
 2. Cal/EPA Cancer Potency Factor = 1.1 ug/l
- J value: detected above the method detection limit, yet value is below the practical quantitation limit.

11. Monitoring well 06-01B is also installed just 30 feet upgradient of the Riverdale well (as shown on Attachment A of this Order). Monitoring well 06-01B is screened from 80.5 to 90.5 feet below ground surface to monitor the same interval as the pumps in the Riverdale well. Monitoring data from this well shows that contamination is detectable at depth in the aquifer. The table below identifies the reported concentration for constituents of concern that exceeded an applicable water quality protection standard. This well was installed in the third quarter of 2006, and VOCs were first detected in August 2006. The following VOCs were also detected at levels below the MCL: dichloromethane, 1,2,3, trichlorobenzene, and bromodichloromethane.

Monitoring Well 06-01B: Constituents that exceed water quality standards			
monitoring event	TCE ¹	benzene ²	chloroform ³
3Q06			7.9 ug/l
4Q06			4.7 ug/l
1Q07		0.87 ug/l	2.3 ug/l
2Q07			
3Q07			
4Q07			
3/Q08	0.29 ug/l		

1. MCL Goal = 0.0 ug/l, PHG = 0.8 ug/l
2. MCL= 1 ug/l, PHG = 0.15 ug/l, Cal/EPA Cancer Potency Factor = 0.35 ug/l
3. Cal/EPA Cancer Potency Factor = 1.1 ug/l

12. The Riverdale Community drinking water supply well is located approximately 500 feet down gradient of the landfill's point of compliance (as shown on Attachment A of this Order). On 31 May 2006, this well was sampled for 40 CFR 258 Appendix I and

11 analytes. The following analyte groups had no detectable concentrations: polychlorinated biphenyls, chlorinated herbicides, semivolatile organic compounds, volatile organic compounds, organophosphorus pesticides, mercury, or total cyanide. The Riverdale well did contain nitrate at 7.9 mg/l, and TDS was reported at 380 mg/l. No metals exceeded their applicable water quality standard. On 3 November 2008, the Riverdale well was again sampled. Draft results submitted on 10 November 2008 show that no VOCs were detected. Furthermore, no metals exceeded any water quality limit.

13. The USEPA describes trihalomethanes as a group of four chemicals that are formed (along with other disinfection byproducts) when chlorine or other disinfectants used to control microbial contaminants in drinking water react with naturally occurring organic and inorganic matter in water. The trihalomethanes are chloroform, bromodichloromethane, dibromochloromethane, and bromoform. Water from the Riverdale well is chlorinated before it is supplied to the community. The community relies on septic systems for domestic sewage disposal. Therefore, trihalomethanes could be introduced into the aquifer and subsequently detected in the Riverdale well. Because trihalomethanes could come from a source other than the Bonzi landfill, these four trihalomethanes are excluded from the criteria to require replacement water supply.
14. Finding No. 8 of CAO R5-2006-0721 listed the six known domestic, municipal, and industrial wells that are downgradient of the Bonzi Landfill. The CAO required that the wells be sampled and that the Discharger provide a recommendation as to which wells should be added to a routine monitoring program. When the WDRs were updated in 2007, the monitoring program was updated to require that **four** wells (Riverdale, Ace, VFW, and Waste Management, as shown below) be sampled on a semi-annual basis. The monitoring program requires that the Helmer well be sampled quarterly only if upgradient well 86-4 contains any constituent above its Water Quality Protection Standard. The Discharger is required to provide the sample results to the Board, the well owners, and Stanislaus County.

Address	Use
Riverdale Community Well	Municipal
Ace Well – 2736 Hatch Road	Domestic
VFW Well – 2801 Hatch Road	Domestic
Helmer Well – 2954 Hatch Road	Domestic
Waste Management Inc. - 2769 Hatch Road	Domestic and Industrial

15. The Discharger has previously provided a treatment system for the VFW property well because landfill-related VOCs were found in that well. This wellhead treatment will continue under this Order. The Discharger also provides bottled water to the Ace property.
16. The third quarter 2008 groundwater monitoring data from the landfill's groundwater monitoring wells indicates that pollutants in groundwater are still present both on and off the site. Groundwater quality data and flow direction measurements provided by the Discharger indicate that the groundwater treatment system is undersized and unable to prevent the migration of the VOC plume.
17. The Discharger's failure to comply with its monitoring and/or reporting requirements has prevented the Central Valley Regional Board from evaluating whether the Bonzi plume can be ruled out as a threat to the Riverdale Community's drinking water supply.
18. To summarize, the Bonzi plume has polluted downgradient drinking water and monitoring wells near the Riverdale Community. A groundwater extraction and treatment system and a landfill gas extraction system have been installed and are operated intermittently at the landfill. However, the groundwater extraction system has not contained the entire VOC plume.
19. Amendment No. 1 to the CAO requires the Discharger to: (1) prepare a water supply replacement plan for the Riverdale well and submit it to the Central Valley Regional Board for approval; and (2) immediately implement the plan and supply replacement water to any facility and/or residence with a water supply that has been affected by the release of waste from the landfill. On 1 January 2009, the Discharger submitted the required plan. This Amendment (Amendment No. 2) incorporates relevant portions of the plan, clarifies certain points, and gives specific requirements and timelines for implementation of the remedy proposed by the Discharger.
20. CWC section 13304(c)(1) provides that: *"Any person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirements or other order or prohibition issued by a Regional Water Board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the Regional Water Board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including but not limited to, overseeing cleanup and abatement efforts. A cleanup and abatement order issued by the state board or a Regional Water Board may require the provision of, or payment for, uninterrupted replacement water service, which may include wellhead treatment, to each affected public water supplier or private well owner." [emphasis*

added] *Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.*"

21. The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, section 21000 et seq.), pursuant to California Code of Regulations, title 14, section 15321(a)(2). The implementation of this Order is also an action to assure the restoration of the environment and is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, section 21000 et seq.), in accordance with California Code of Regulations, title 14 sections 15308 and 15330.
22. Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with CWC section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

IT IS HEREBY ORDERED THAT Amendment No. 1, issued by the Executive Officer on 3 December 2008, is replaced by Amendment No. 2, and

IT IS HEREBY FURTHER ORDERED THAT, pursuant to CWC section 13304, and all applicable law, Cleanup and Abatement Order No. R5-2006-0721 is hereby amended to require that Ma-Ru Holding Company, Inc. and Bonzi Sanitation Landfill, Inc. Partnership, their agents, successors, and assigns, shall comply with the tasks below.

1. Replacement Water Service:

Within 24 hours of confirming, as defined in Task No. 2, that the Riverdale well contains volatile organic compound(s)³ (VOCs) at concentrations that exceed Title 22, California Code of Regulations (22 CCR), Maximum Contaminant Levels (MCLs) (found in Table 64444-A), the Discharger shall supply uninterrupted replacement water service to the well user(s). For the Riverdale community, the replacement water shall be obtained from the City of Modesto. The water user(s) shall not incur

³ Other than trihalomethanes, as described in Finding No. 13

any additional cost for the delivery or use of this replacement water, above the amount they currently pay.

For the Ace, Helmer (domestic use only), and Waste Management wells, bottled water shall be provided within 24 hours of confirming, as defined in Task No. 2, that the well(s) contains VOCs³ at concentrations that exceed the MCLs found in 22 CCR Table 64444-A. Within 14 days of confirmation, the Discharger shall provide uninterrupted replacement water service for all domestic water uses (i.e., cooking, showering, laundry, drinking, etc).

2. Confirmation Process:

- a. Within seven days of notification by the analytical laboratory that it has made an initial finding⁴ of one or more VOCs in the Riverdale, Ace, Helmer, or Waste Management well water samples at concentrations exceeding the detection limit for purposes of reporting as defined in 22 CCR section 64445.1 (the "reporting limit"), the Discharger may collect one or two additional samples from the affected well(s) to confirm the initial finding.
 - b. If the results from both additional samples do not show VOCs³ at concentrations exceeding the detection limit, then the initial finding shall be disregarded.
 - c. If either or both of the confirmation samples contain VOCs³, then the "detected level" shall be the average of the initial sample and the confirmation sample(s).
 - d. If the "detected level" exceeds the MCL, then the Discharger shall provide replacement water service in accordance with Task 1.
 - e. If the Discharger elects not to collect additional sample(s) from the well(s) within seven days to confirm the initial finding, then the "detected level" shall be the result of the initial test.
 - f. All water samples required under this Order shall be collected as close to the well head as possible, preferably from a spigot before the pressure tank."
3. By **1 March 2009**, the Discharger shall submit documentation that it has contacted the City of Modesto and has made arrangements to begin replacement water service to the Riverdale community with 24 hours notice. The documentation shall show that the City has agreed to provide the water to the Riverdale community upon the request by the Discharger, and to bill any charges for so doing directly to the Discharger.
4. The groundwater monitoring required by Monitoring and Reporting Program No. R5-2007-0148 shall continue to be implemented. Under this program, the Riverdale, Ace, VFW, and Waste Management wells are sampled semi-annually. However, if any sample contains VOCs³ at any concentration above the reporting limit (defined in Task 2.a), then the well shall be sampled on a quarterly basis. If VOCs are not

⁴ As defined in 22 CFR Section 64400.60, "initial finding" means the first laboratory test result from a water source showing the presence of an organic chemical.

detected in four consecutive quarterly samples, then the sampling frequency may return to semi-annual. The sampling protocol and frequency for the Helmer well shall continue as described on page 7 of Monitoring and Reporting Program R5-2007-0148.

5. Any replacement water service being provided as of 3 December 2008 to the VFW and Ace properties shall be continued by the Discharger.
6. The Discharger shall notify Central Valley Water Board staff immediately upon initiation of the confirmation process described in No. 2, above. If the Discharger elects not to follow the confirmation process, then the Discharger shall notify staff as if the initial result of any sample exceeds the MCL.
7. Within 48 hours of providing water to the users of the affected domestic or municipal drinking water, the Discharger shall notify the Central Valley Water Board and Stanislaus County Environmental Health Department that it has implemented its water supply plan.
8. Once the Discharger begins supplying replacement drinking water, it shall continue to do so until notified that it may cease by the Executive Officer.
9. The Executive Officer is authorized to revise this Amendment as appropriate.

Nothing in this Amendment shall be construed to (a) prohibit the Discharger from petitioning the Regional Water Board to reconsider this Amendment if or when new or additional facts and/or evidence are discovered or (b) prohibit the Regional Water Board from further amending this Order to add additional responsible parties should new and/or additional substantial evidence be discovered to support such an amendment.

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of Amendment No. 2 to Order No. R5-2006-0721, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability.

Failure to comply with this Order may result in the assessment of an Administrative Civil Liability of up to \$10,000 per violation per day, pursuant to the CWC sections 13350, and/or 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

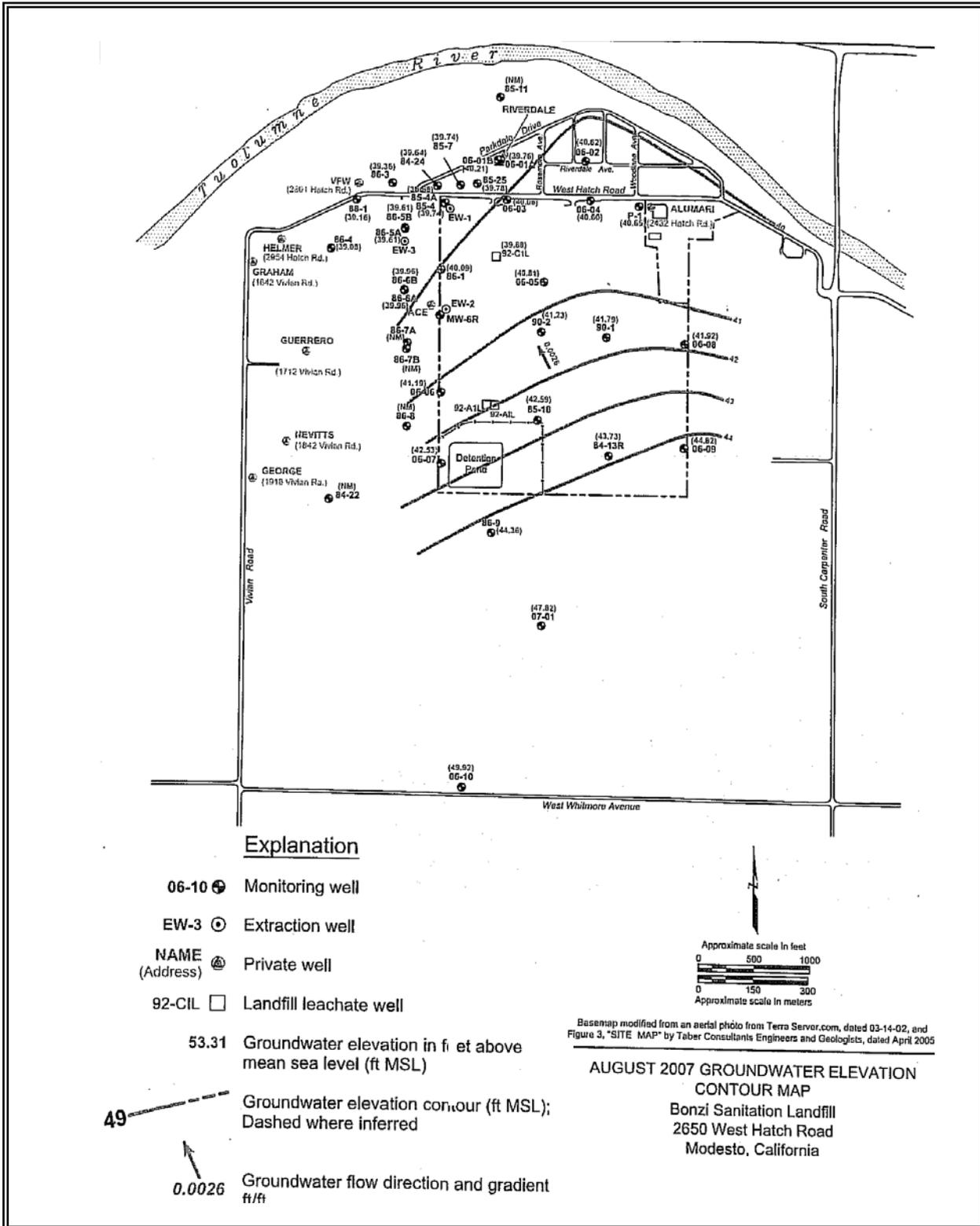
Order No. R5-2009-0001
Amendment No. 2 to CAO R5-2006-0721
Bonzi Sanitation Landfill
Stanislaus County

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I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 5 February 2009.

PAMELA C. CREEDON, Executive Officer

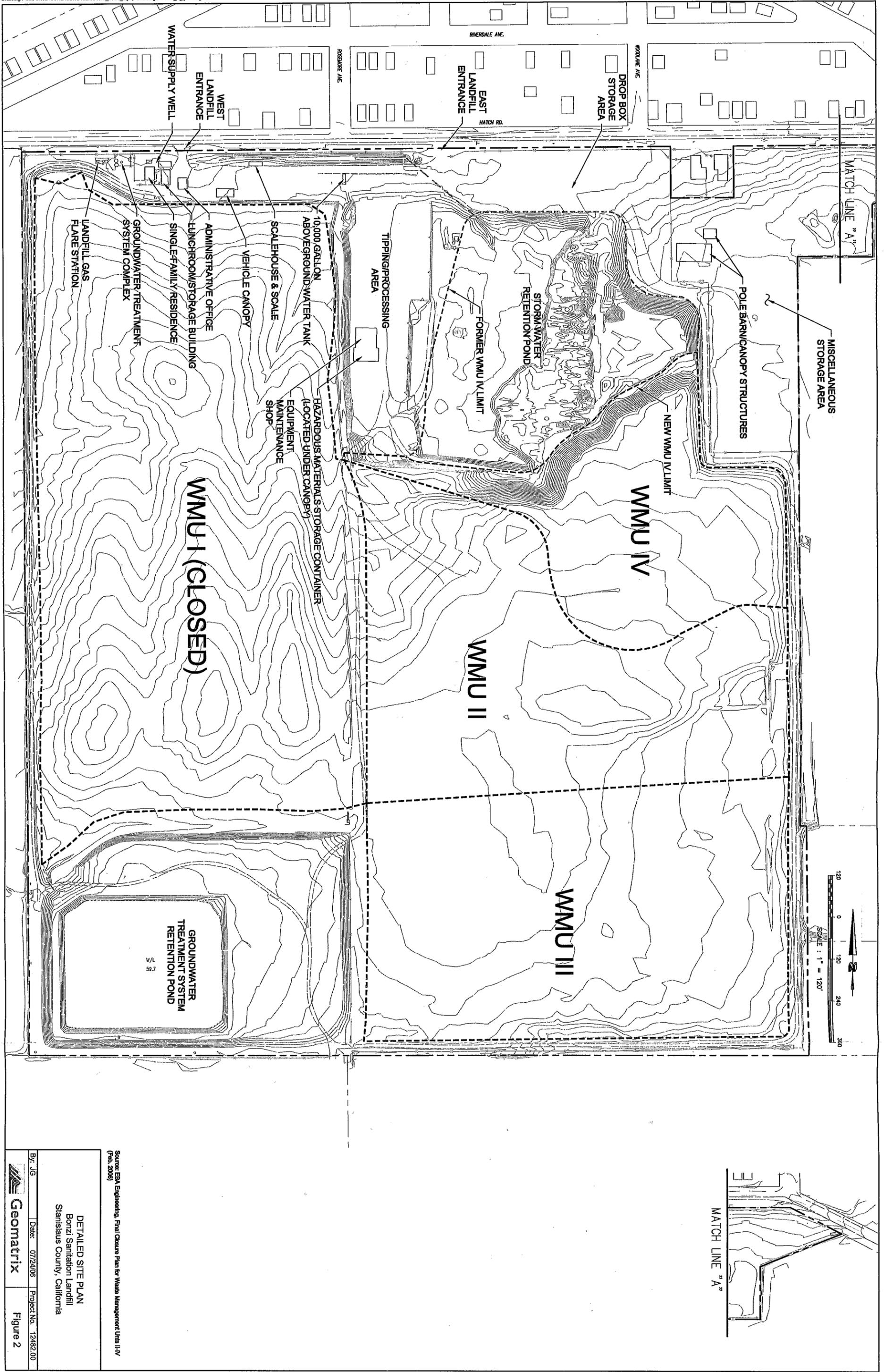
Attachment A: Map
HFH/WSW: 14 January 2009



Attachment A

Bonzi Landfill, Riverdale, Stanislaus County, <https://maps.google.com/maps>





Source: EBA Engineering, Final Closure Plan for Waste Management Unit 11-V
 (Rev. 2005)

DETAILED SITE PLAN
 Borzi Sanitation Landfill
 Stanislaus County, California

By: JG
 Date: 07/24/06
 Project No. 12482.00

Geomatrix
 Figure 2

















