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Attorneys for Petitioners
Ma-Ru Holding Company, Inc. and
Bonzi Sanitation Landfill, Inc. Partnership

BEFORE THE STATE WATER RESOURCES CONTROL BOARD

In Re: PETITION OF MA-RU HOLDING COMPANY, INC. AND BONZI SANITATION LANDFILL, INC. PARTNERSHIP FOR REVIEW OF AMENDMENT 1 TO CLEANUP AND ABATEMENT ORDER NO. R5-2006-0721

Amendment 1 to California Regional Water Quality Control Board, Central Valley Region, Order No. R5-2006-0721

PETITION FOR REVIEW OF AMENDMENT 1 TO CLEANUP AND ABATEMENT ORDER NO. R5-2006-0721

Request For Hearing
Request For Abeyance
Water Code section 13320;
23 C.C.R. section 2050 et seq.

Petitioners MA-RU HOLDING COMPANY, INC. AND BONZI SANITATION LANDFILL, INC. PARTNERSHIP ("Petitioners"), by and through their counsel of record, Herum Crabtree and Stoel Rives LLP, hereby request review by the State Water Resources Control Board ("State Water Board") of certain provisions of Amendment 1 to Cleanup and Abatement Order No. R5-2006-0721 (the "Order" or "Amendment 1"), issued by the Regional Water Quality Control Board, Central Valley Region ("Regional Board") staff, pursuant to Water Code section 13320 and 23 Cal. Code Regs. section 2050 et seq. Because the Regional Board Executive Officer issued the Amendment to the Order without first holding a public hearing, no
hearing transcript exists. Petitioners did, however, submit comments and a request for a hearing on and before the filing date of this Petition.

Because of their attempts to meet with Regional Board staff and Petitioners' additional requests for a public hearing both prior to, and concurrently with, the filing of this Petition, Petitioners request that the Petition be held in abeyance pursuant to 23 Cal. Code Regs. section 2050.5(d). Petitioners, however, reserve the right to supplement and/or augment the Petition and the Points and Authorities contained herein if the State Water Board does not grant Petitioners' request for abeyance, or should the Petition be removed from abeyance in the future.

I. NAME AND ADDRESS OF PETITIONERS

Ma-Ru Holding Company, Inc.
c/o Brian Terrell
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Email: bterrell@neteze.com

Bonzi Sanitation Landfill, Inc. Partnership
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By and through their attorneys of record:

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1 Subsequent to receiving the Order, Petitioners' requested a meeting with Regional Board staff to discuss the contents of the Order and to express their concerns, as well as requested a hearing before the Regional Board. See Section IX, infra, and Exhibit C attached hereto (and incorporated herein by reference).
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II. ACTIONS BY THE REGIONAL BOARD THAT PETITIONER REQUESTS THE STATE WATER BOARD REVIEW.

The Bonzi Sanitation Landfill is located on a 128-acre parcel, approximately three miles southwest of Modesto, comprised of Assessor Parcel Numbers 17-41-36 and 17-41-11.

Petitioners are herein requesting review of Amendment 1 to Cleanup and Abatement Order ("CAO") No. R5-2006-0721 (the "Order") issued (without hearing) by Regional Board staff (Executive Officer Pamela C. Creedon) on December 3, 2008, a true and correct copy of which is attached hereto as Exhibit A. The Order relates to the Bonzi Sanitation Landfill located at 2650 West Hatch Road in Modesto, California.

Although the Landfill has dealt with compliance problems in the past, a new management team, including new consultants, new site managers, and new attorneys, are now involved.

Pursuant to direction from this new management team, a new schedule for compliance was submitted to the Regional Board and agreed to between Petitioners and the Regional Board, including the submission of new data. Yet, shortly after such an agreement was made, the Executive Officer of the Regional Board – without prior notice – issued the Amendment.

III. THE DATE ON WHICH THE REGIONAL BOARD ACTED.

The Executive Officer of the Regional Board executed Amendment 1 to Order No. R5-2006-0721 on December 3, 2008, without the benefit of a public hearing. See Exhibit A attached hereto.

IV. STATEMENT OF REASONS WHY ACTION WAS IMPROPER.

Although actions taken by a regulatory agency must be based on substantial evidence in the record, a number of actions taken by Regional Board staff were not based on substantial evidence in the record and/or were contrary to law, which constitutes an abuse of discretion.
Moreover, portions of the Order and the process by which the Regional Board adopted the Order without benefit of a public hearing violate Petitioners’ due process rights. The Order is fundamentally unfair and not supported by substantial evidence, including but not limited to the fact that it requires Petitioners to provide a “Water Replacement Plan” to the Regional Board just 29 days after the issuance of the Order without any data or evidence to support such a request.

Petitioners have very limited funds and are currently in the process of having to spend money on two fronts: site investigation and site closure. On the one hand, the Regional Board is requiring that sufficient funds be expended on site investigation and to fully characterize the lateral and vertical extent of the groundwater plume, yet now are requiring - absent substantial evidence demonstrating any adverse affect on municipal or domestic wells - that water replacement be instituted. Further, it is not clear the that the groundwater extraction system is not functioning properly. Specifically, the Order is not based upon nor does it reference any substantial evidence that the Riverdale Community water supply well has been impacted with volatile organic compounds (“VOCs”) above the federal or state maximum contaminant level (“MCL”), nor does it contain substantial evidence supporting why these Petitioners should be the sole parties responsible for any such potential impacts to the Riverdale Community water supply even if such detections should occur in the future. Moreover, the Order requires Petitioners to immediately provide replacement water supplies to the Riverdale Community if any water supply wells are “affected wells” when, pursuant to the terms and language of the Order itself, no such wells exist. Finally, the Order was issued by the Executive Officer and under the circumstances may be an impermissible delegation of authority.2

A. The Order Is Not Supported by Substantial Evidence in the Record.

As noted above, the Order is not supported by substantial evidence. Petitioners believe that it is irresponsible of Regional Board staff to open a third front with Petitioners, who have already confronted financial difficulties and addressed such difficulties in detail with Board staff.

2 The original CAO does not contain any express references that the original CAO may be revised by the Regional Board through its Executive Officer, nor does the Amendment reference any authority for the Executive Officer’s issuance of the Amendment without prior notice and hearing by the Board.
In a similar manner, the Board did not consider Petitioners’ financial hardship or ability to pay before issuing the Order.

Specifically, page 7 of the Order currently provides as follows:

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.

(Order p. 7 (emphasis added).)

Based on the evidence, currently no Riverdale community water supply wells meet the definition of “affected well” as set forth in the Order. Moreover, the requirement that Petitioners provide a water replacement plan (and replacement water supplies) without data or facts to
support such a requirement is arbitrary and capricious. Ordering Petitioners to provide such a plan and replacement water without confirmed detections of VOCs in water supply wells is not based on substantial evidence in the record and lacks a legal basis. In fact, the record does not demonstrate that any water supply wells contain levels of "applicable pollutants" above federal or state drinking water levels. The lack of "affected wells" in the community also demonstrates that the procedures and requirements set forth in the Amendment could have first been addressed within the context of a public meeting and hearing since there is no immediate need for water replacement nor an immediate threat to water quality.

In addition, Petitioners due process rights are affected because the Amendment is vague and ambiguous given that the underlying data is missing. Due to the lack of data, an effective water replacement plan is not possible.

B. Regional Board Staff Adopted the Order Without First Holding a Public Hearing Before the Board, Denying Petitioners Their Right to Due Process.

As noted, Petitioners were not allowed to participate in the staff process before the Executive Officer issued the Amendment on December 3, 2008. Consequently, the Order contains deadlines that commenced less than one month after the effective date of the Order and which fall within Petitioners' statutorily-protected right to appeal the Order. Further, the Executive Officer of the Regional Board issued the Order without the Board first holding a hearing to evaluate its contents. Therefore, the Regional Board effectively precluded Petitioners from having sufficient time to publicly comment on the Order and effectively appeal its contents, which are constitutional and statutory rights that Petitioners enjoy.

C. The Order Contains a Time Schedule For Completion of Tasks that Falls Within Petitioners' Statutorily-Protected Time for Appeal.

As noted above, the first compliance date in the Order is January 1, 2009, is less than one month from the issuance date of the Order and which falls within the statutory-allotted time for Petitioners to appeal the contents of the Order pursuant to Water Code section 13320. By setting immediate inflexible deadlines, the Order prevents any public hearing before either the Regional or State Water Board from occurring before the Order's first compliance deadline, making it
difficult, unduly burdensome, and nearly impossible to comply, given the lack of substantial
evidence supporting the contents of the Order.

D. The Term “Affected Well” As Used in the Order is Overly Broad and
Ambiguous

As noted above, the Order defines an “affected well” as “any water supply well in which
water does not meet federal, state or local drinking water standards for applicable pollutants.”
(Order p. 7.) The Order fails, however, to define “applicable pollutants” or “local drinking water
standards.” To Petitioners’ knowledge, only federal and state drinking water standards exist, and
no water supply wells contain VOCs in excess of such standards. The Regional Board abused its
discretion in imposing such an overly broad and ambiguous “trigger” definition on Petitioners,
and such definition should be stricken from the Order.

E. The Regional Board Did Not Include All Possible Dischargers/Responsible
Parties in the Order.

Based on data in the Regional Board record, there are several other potential sources of
contamination to the Riverdale community water supply, including a waste management site,
agricultural sources, and a mechanic’s shop. Any of these additional potential sources may be a
more likely source of the contaminants of concern addressed in the Order issued solely to
Petitioners. The Regional Board did not provide any evidence as to why these sources should not
be included in the Order, nor any information as to why they were not included in the Order.
Petitioners believe that there is as much evidence or a lack thereof in the record for identifying
other responsible parties as there is regarding the identification of Petitioners in the Order.

V. THE MANNER IN WHICH PETITIONERS ARE AGGRIEVED.

Petitioners are required to comply with provisions in the Order that are contrary to law,
not based on substantial evidence in the record, and/or beyond the scope of the Regional Board’s
authority. Any non-compliance threatens Petitioner with daily fines for non-compliance. The
Order also contains overly burdensome and restrictive requirements that are not based on
substantial evidence or confirmed data in the record, and the Order was issued without first
allowing Petitioners an opportunity to publicly discuss the contents of the Order.
Even if the State Water Board were to determine that providing replacement water
supplies is within the authority of the Regional Board, the Regional Board acted improperly as
the decision is not based on substantial evidence. Attached as Exhibit B hereto and incorporated
herein by reference is an excerpt from a report prepared by Petitioners' consultant and submitted
to the Regional Board in November 2007 that identifies other potential responsible parties for the
contamination occurring in the Riverdale community.

VI. THE SPECIFIC ACTION BY THE STATE WATER BOARD OR REGIONAL
BOARD THAT PETITIONERS REQUEST.

Petitioners respectfully request that the State Water Board do the following:

1. Find that certain provisions of the Order are not supported by substantial evidence
   and rescind the Order;

2. Find that the Regional Board's approval of the Order in violation of Petitioners'
   due process rights is inappropriate and/or improper and rescind the Order;

3. Find that the Regional Board's findings are insufficient to support the Order and
   rescind the order;

4. Conduct or require that the Regional Board conduct a public hearing regarding the
   provisions of the Order;

5. In the alternative, add additional responsible parties to the Order as well as the
   Amendment; and

6. Place this Petition in abeyance.

VII. STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF LEGAL
ISSUES RAISED HEREIN.

Petitioners contend that the portions of the Order discussed in Part IV, supra, are not
based on substantial evidence in the record, are contrary to law, and constitute and abuse of
discretion by the Regional Board, as well as violate Petitioners' due process rights.

A. Standard of Review.

Pursuant to Water Code section 13320(c), the State Water Board may find that the actions
of the Regional Board were inappropriate or improper. (Water Code § 13320(c).) Upon finding
that the actions of the Regional Board were inappropriate or improper, the State Water Board may
direct that the appropriate action be taken by the Regional Board, refer the matter to any other
state agency having jurisdiction, take the appropriate action itself, or take any combination of
those actions. (Id.) In addition, Petitioners contend approval of the Order violates their
constitutional rights to due process, and such approval is an arbitrary and capricious act which
should be overturned. The Regional Board’s actions must be based on substantial evidence in the
record.

B. Actions Taken by the Regional Board Must Be Based on Substantial Evidence
in the Record.

In determining whether an action of the Regional Board was appropriate and/or proper,
the State Water Board must weigh whether there was substantial evidence in the record, taken as
a whole, to support the Regional Board’s action. (See, e.g., In re Ventura County Citizens to
Stop Towland Landfill, Order No. WQ 98-02 (Apr. 16, 1998).) Under the substantial evidence
standard of review, the reviewing entity regards the weight and sufficiency of evidence submitted
regarding matters of administrative discretion and will sustain an agency’s decision if substantial
evidence supports the decision. (Floresta, Inc. v. City Council of San Leandro, 190 Cal.App.2d
599, 608-09 (1961).)

C. Petitioners’ Right to Appeal is Constitutionally Protected.

Petitioners’ right to pursue administrative appeals is expressly allowed under California
law and is protected by the state Constitution. (See, e.g., De Anza Santa Cruz Mobile Estates
Homeowners Ass’n v. De Anza Santa Cruz Mobile Estates, 94 Cal. App. 4th 890 (2001);
Code Regs. § 2050.) The right to file an appeal implicates due process considerations, “to the
extent that tort damages are based on evidence that a defendant filed motions, appeals and other
legal proceedings during the course of litigation, or opposed motions filed by the other party.”
(De Anza, 94 Cal. App. 4th at 918 (internal citations omitted).) Moreover, “[t]he right to petition
for redress of grievances is a basic right guaranteed by the state and federal constitution [and a]
person’s right of access to judicial and quasi-judicial bodies to decide controversies is a
fundamental component of our society and cannot be impaired by the threat of punishment or retaliation.” (Id. at 919 (citing California Teachers Assn. v. State of California, 20 Cal. 4th 327, 339, 356 (1999)).)

Petitioners are acting fully within their protected rights in filing this Petition seeking review of the Order. The Regional Board's imposition of compliance deadlines that commence within a month of the effective date of the Order, and within the statutorily-allowed period that Petitioners have to file this appeal to the Order, is fundamentally unfair and violates Petitioners due process rights.

As noted above, Petitioners respectfully reserve the right to augment the Petition and the Points and Authorities contained herein if the State Water Board does not grant Petitioners' request for abeyance, or should it be removed from abeyance in the future at the request of Petitioners.

D. The Regional Board's Actions Were Not Based on Substantial Evidence in the Record, are Contrary to Law, and Violate Petitioners’ Due Process Rights

As quoted in Part IV, supra, page 7 of the Order provides as follows:

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.

(Order p. 7.) Such provisions violate Petitioners’ due process rights in that they require Petitioners to provide a replacement water supply without first allowing for a reasonable investigation to occur as to the cause or source of water supply contamination, and do not allow Petitioners to challenge such requirements. The requirement that Petitioners provide a water replacement plan without data or facts to support such a requirement is arbitrary and capricious, and ordering Petitioners to provide such a plan for replacement water to affected wells without confirmed detections of VOCs in water supply wells or opportunity to address such requirements before the Regional Board violates Petitioners’ due process rights.

The United States Supreme Court has enunciated three factors to consider before determining that due process rights have been violated:

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.


The private interest affected by the Order is clear: it unreasonably places the burden on Petitioners, without any data to support such requirements, to spend thousands of dollars coordinating a water replacement plan, and potentially hundreds of thousands of dollars to provide replacement water supplies, without the Regional Board having any data that confirms
any impacts to water supply. Moreover, the Board failed to determine that any possible water
supply impacts are solely the responsibility of Petitioners based on any substantial evidence in the
record. Lastly, the Board’s issuance of the Order occurred without allowing Petitioners the
ability to publicly comment on the Order’s strenuous and overly burdensome requirements, which
could have severe financial impacts.

Petitioners will have to spend thousands of dollars now, and possibly hundreds of
thousands of dollars in the future, to comply with the terms of the Amendment. Although
Amendment 1 is similar to the CAO at issue in Machado v. State Water Resources Control Board
et al. (2001) 90 Cal.App.4th3 in that it does not impose criminal or civil penalties, does not
prevent operation of the landfill nor affect the fundamental nature of Petitioners’ business, it does
involve a requirement that is not based on any data to support the financial and inequitable burden
on Petitioners; specifically, that the water supply wells are affected or that the landfill is the
source of any potential contamination. In Machado, the underlying CAO was issued to a dairy
after a Regional Board employee observed unlawful discharges from the dairy. Id. at 727. After
such observation, the dairy received a letter from the Regional Board, notifying it of the
discovery, and provided the dairy with the name and phone number of someone to contact should
the dairy wish to discuss the matter. This letter and the contact information provided the dairy
with an informal opportunity to dispute the Regional Board’s determination before the order
issued. Id.

Here, however, Petitioners’ counsel met with Regional Board staff prior to the issuance of
the Order, but the requirements of the Order were not discussed in detail nor were Petitioners
provided with an opportunity to dispute the contents of the Order before it was issued. The topic
of water replacement was barely discussed at such meeting.

Moreover, no release has occurred and affording Petitioners the right to a hearing would
not “delay remedial action and exacerbate a dangerous situation” as the Machado court
determined would in fact be the case with the facts before it. Id. Although the court in Machado

3 In Machado, the court held that the Regional Board’s issuance of a CAO without first
conducting a hearing on the terms thereof did not violate petioner’s due process rights.
and the State Water Board in *In the Matter of the Petition of BKK Corporation*, WQ 86-13 (Aug. 21, 1986) held that a hearing is not required before the issuance of a CAO, the facts herein are distinguishable. As noted above, discharges affecting water quality were actually observed by staff in *Machado*, and there the petitioners were provided an informal opportunity for comment and resolution of the issues prior to the Regional Board issuing the CAO. Similarly, in *BKK*, the State Water Board noted that the Water Code was silent regarding a hearing, and that the Water Code procedures allowed for a discharger to seek changes or comment on a CAO once it issued and if the regional board was not responsive to such comments, the discharger could petition the State Water Board for review. (Order No. WQ 86-13, p. 5.)

Hence, in a situation as this where there is no confirmed threat or release and no affect to the water supply has occurred, nor does the data confirm the source of any such possible affect, coupled with the first compliance date of the Order falling within the appeal period and without first allowing Petitioners any opportunity, informal or formal, to address the contents of the Order, demonstrates that Petitioners due process rights have been violated. Moreover, the Order is not based on substantial evidence in the record.

**VIII. STATEMENT OF TRANSMISSION OF PETITION TO REGIONAL BOARD.**

A copy of this Petition is being transmitted to the Executive Officer of each of the three branch offices of the Central Valley Regional Water Quality Control Board concurrently with the filing of this Petition.

**IX. STATEMENT REGARDING WHETHER THE SUBSTANTIVE ISSUES OR OBJECTIONS CONTAINED HEREIN WERE RAISED BEFORE THE REGIONAL BOARD.**

Petitioners were not given the opportunity to meet with Regional Board staff prior to the issuance of Amendment 1 to Order No. R5-2006-0721, and were unaware of the pending Order. Further, Petitioners provided a letter to the Regional Board on December 24, 2008 outlining Petitioners comments and position regarding Amendment 1 to Order No. R5-2006-0721, as well as requesting both a meeting with Regional Board staff and a hearing before the Regional Board regarding Amendment 1. A true and correct copy of Petitioners’ December 24, 2008 letter to Pamela Creedon, Executive Officer of the Regional Board, is attached hereto as Exhibit C, the
contents of which are incorporated herein by reference. Lastly, Petitioners’ provided detailed
comments related to the content of Amendment 1 to the Regional Board on December 31, 2008, a
true and correct copy of which is attached hereto as Exhibit D, and the contents of which are
incorporated herein by reference. Thus, all of the substantive issues contained herein were raised
before the Regional Board via both verbal comments and in correspondence.

X. INTERESTED PARTIES.

The attached Order (Exhibit A) contains a list of the names and addresses of interested
parties.

DATED: January 2, 2009.

Herum Crabtree

By:

KARNA E. HARRIGFIELD
Attorneys for Petitioners
MA-RU HOLDING COMPANY, INC.
AND BONZI SANITATION LANDFILL,
INC. PARTNERSHIP

Stoel Rives LLP

By:

LEE N. SMITH
Attorneys for Petitioners
MA-RU HOLDING COMPANY, INC.
AND BONZI SANITATION LANDFILL,
INC. PARTNERSHIP
EXHIBIT A

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD'S AMENDMENT 1 TO CLEANUP & ABATEMENT ORDER R5-2006-0721, BONZI SANITATION LANDFILL
3 December 2008

Certified Mail Number: 7008 1140 0002 8805 6992
Mr. Brian Terrell
Bonzi Sanitation Landfill
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Certified Mail Number: 7008 1140 0002 8805 6985
Mr. Jim Bonzi
Ma-Ru Holding Company
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Modesto, CA 95351

Certified Mail Number: 7008 1140 0002 8805 6978
Ms. Miliza Bonzi
c/o Mr. Tom O'Keefe
2717 West Coast Hwy
Newport Beach, CA 92663

AMENDMENT 1 TO CLEANUP AND ABATEMENT ORDER R5-2006-0721, BONZI SANITATION LANDFILL, STANISLAUS COUNTY

The enclosed Amendment 1 to Cleanup and Abatement Order (CAO) R5-2006-0721 for the Ma-Ru Holding Company and Bonzi Sanitation Landfill Inc. (jointly referred to as Discharger) has been prepared as a result of the continued detection of groundwater pollution downgradient of the Bonzi Sanitation Landfill. Amendment 1 to the CAO requires the Discharger to complete the following actions:

- By 1 January 2009, submit a plan to supply drinking water to the Riverdale Community without any cost to the Riverdale Community or other owners of impacted wells;
- Immediately supply replacement water to any downgradient domestic or municipal drinking water well that has been adversely affected by the Bonzi Sanitation Landfill; and
- Notify the Central Valley Water Board and the Stanislaus Environmental Health Department when the replacement water supply plan has been implemented.

Amendment 1 to Order R5-2006-0721 is effective upon the date of issuance by the Executive Officer. 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 the Amendment to this Order, except that if the thirtieth day following the date of the Amendment to 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. Should a petition for review of this Amendment to Order R5-2006-0721 be filed with the State Water Board, the subject matter of such a petition will be confined to this Amendment ordering uninterrupted replacement water service. The administrative record for this matter consists of Amendment 1 to Order R5-2006-0721 and its Attachment A, and the groundwater monitoring and sampling documents, data, reports and analyses referenced therein, which are contained in and can be obtained from the Central Valley Water Board's files. Merely filing a petition for review to the State Water Board does not stay the effectiveness of this Amendment to Order R5-2006-0721, nor excuse performance of the obligations set forth therein. In the event no petition for review is filed with the State Water Board within 30 days, this Amendment to Order R5-2006-0721 becomes final and unappealable.
If you have any questions or wish to arrange a meeting to discuss this matter, please do not hesitate to contact Christian Carrigan at (916) 322-3626.

WENDY WYELS, Supervisor
Compliance and Enforcement Section
Enclosure: Amendment 1 to Cleanup and Abatement Order R5-2006-0721

cc: Ms. Cecilia Dennis, State Attorney General’s Office, Sacramento
Mr. Russell Hildreth, State Attorney General’s Office, Sacramento
Mr. Cris Carrigan, State Water Resources Control Board, Sacramento
Mr. Patrick Pulupa, State Water Resources Control Board, Sacramento
Mr. David Otsubo, California Integrated Waste Management Board, Sacramento
Mr. Mike Mooney, The Modesto Bee, Modesto
Ms. Karna Harrigfield, Herum Crabtree Brown, Stockton
Mr. Tom O’Keefe, Newport Beach
RENEW - Riverdale Neighborhood Watch Group, Modesto
Mr. Kelley Murphy, Parkdale Community Water District, Modesto
Mr. Mario Jimenez, Parkdale Community Water District, Modesto
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 finds\(^1\) with respect to the Discharger's acts, or failure to act, the following:

1. Beginning January 31, 2008, or earlier, and until at least November 2, 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 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

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\(^1\) 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 well\(^2\) 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, dichlorodifluormethane, methyl-tert-butyl ether (MTBE), and trichlorofluoromethane.

<table>
<thead>
<tr>
<th>MONITORING WELL 06-09</th>
</tr>
</thead>
<tbody>
<tr>
<td>monitoring event</td>
</tr>
<tr>
<td>3Q06</td>
</tr>
<tr>
<td>4Q06</td>
</tr>
<tr>
<td>1Q07</td>
</tr>
<tr>
<td>2Q07</td>
</tr>
<tr>
<td>3Q07</td>
</tr>
</tbody>
</table>

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 report).

\(^2\) 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 05-09.

<table>
<thead>
<tr>
<th>MONITORING WELL 90-1</th>
</tr>
</thead>
<tbody>
<tr>
<td>monitoring event</td>
</tr>
<tr>
<td>3Q06</td>
</tr>
<tr>
<td>4Q06</td>
</tr>
<tr>
<td>1Q07</td>
</tr>
<tr>
<td>2Q07</td>
</tr>
<tr>
<td>3Q07</td>
</tr>
</tbody>
</table>

1. MCL = 5 ug/l
2. MCL = 6 ug/l
3. 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.

<table>
<thead>
<tr>
<th>MONITORING WELL 92-CIL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>1,4 dichlorobenzene</td>
</tr>
<tr>
<td>benzene</td>
</tr>
<tr>
<td>carbon disulfide</td>
</tr>
<tr>
<td>chlorobenzene</td>
</tr>
<tr>
<td>cis 1,2 dichloroethylene</td>
</tr>
<tr>
<td>ethylbenzene</td>
</tr>
</tbody>
</table>

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.

<table>
<thead>
<tr>
<th>MONITORING WELL 85-25</th>
</tr>
</thead>
<tbody>
<tr>
<td>monitoring event</td>
</tr>
<tr>
<td>3Q06</td>
</tr>
<tr>
<td>4Q06</td>
</tr>
<tr>
<td>1Q07</td>
</tr>
<tr>
<td>2Q07</td>
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<tr>
<td>3Q07</td>
</tr>
</tbody>
</table>

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.

<table>
<thead>
<tr>
<th>MONITORING WELL 06-01A</th>
</tr>
</thead>
<tbody>
<tr>
<td>monitoring event</td>
</tr>
<tr>
<td>3Q06</td>
</tr>
<tr>
<td>4Q06</td>
</tr>
<tr>
<td>1Q07</td>
</tr>
<tr>
<td>2Q07</td>
</tr>
</tbody>
</table>

1. MCL = 5 ug/l, PHG = 0.05 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.

<table>
<thead>
<tr>
<th>MONITORING WELL 06-01B:</th>
<th>CONSTITUENTS THAT EXCEED WATER QUALITY STANDARDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>monitoring event</td>
<td>TCE</td>
</tr>
<tr>
<td>3Q06</td>
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<tr>
<td>4Q06</td>
<td></td>
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<td>3Q07</td>
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<tr>
<td>4Q07</td>
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<tr>
<td>3/Q08</td>
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</tr>
</tbody>
</table>

1. MCL Goal = 0.0 ug/l, PHS = 0.0 ug/l
2. MCL = 1 ug/l, PHS = 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 360 mg/l. No metals exceeded their applicable water quality standard. On 3 November 2006, the Riverdale well was again sampled. Draft results submitted on 10 November 2006 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.
Amendment 1 to CAO R5-2006-0721
Bonzi Sanitation Landfill
Stanislaus County

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 13386. 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/MDH/WSW:30Nov08
Amendment 1 to CAO R5-2006-0721
Bontzi Sanitation Landfill
Stanislaus County

Explanation

08-10 Monitoring well
EW-1 Extraction well
HAME Private well
92-CL Landfill leachate well
53.31 Groundwater elevation in ft. at above mean sea level (ft MSL)

Groundwater elevation contour (ft MSL); Dashed where inferred

0.0026 Groundwater flow direction and gradient

Attachment A
EXHIBIT B

EVALUATION MONITORING WORK PLAN
BY GEOMATRIX CONSULTANTS, INC.
NOVEMBER 2007
Evaluation Monitoring Work Plan
Stanislaus County, California

Prepared for:
Ma-Ru
2650 West Hatch Road
Modesto, California 95358

Prepared by:
Geomatrix Consultants, Inc.
10870 White Rock Road, Suite 100
Rancho Cordova, California 95670
(916) 636-3200

November 2007

Project No: 12482.001

Geomatrix
November 7, 2007

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

Subject: Evaluation Monitoring Work Plan
Bonzi Sanitation Landfill
2650 West Hatch Road
Modesto, California 95351

Dear Mr. Hold:

In accordance with Item #11 of the August 2, 2006, Cleanup and Abatement Order No. R5-2006-0721, Bonzi Sanitation Landfill, Stanislaus County (CAO) and on behalf of Bonzi Sanitation Landfill, Inc. and Ma-Ru Holding Company, Geomatrix Consultants, Inc. (Geomatrix) has prepared this Evaluation Monitoring Work Plan (Work Plan) for the Bonzi Sanitation Landfill in Modesto, California (Landfill). This Work Plan describes our understanding of environmental conditions at and near the Landfill, identifies data gaps, and presents the scope and methodology to further assess the lateral and vertical distribution of chemicals of potential concern (COPC) in groundwater within and adjacent to the Landfill.

This Report was prepared under the direct supervision and authorization of the Bonzi Sanitation Landfill and Ma-Ru Holding Company, Inc., owner and operator of the landfills, respectively. If you have any questions regarding this Work Plan, please do not hesitate to call.

CERTIFICATION STATEMENT
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 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.

Sincerely,

Joseph J. Niland, P.G.
Principal Hydrogeologist

cc: Victor Izzo
    Brian Terrell
    Karna Harrigfeld

Charlie O'Neill, P.G.
Senior Geologist

071107_HH_ltr
EXHIBIT C
DECEMBER 24, 2008 CORRESPONDENCE FROM KARNA HARRIGFELD TO CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
December 24, 2008

VIA ELECTRONIC MAIL & FACSIMILE
Ms. Pamela C. Creedon
Executive Officer
California Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

Re: Amendment 1 To Cleanup and Abatement Order R5-2006-0721
    Bonzi Sanitation Landfill, Stanislaus County

Dear Ms. Creedon:

Ma-Ru Holding Company and Bonzi Sanitation Landfill (collectively "Bonzi") are in receipt of Amendment 1 to Cleanup and Abatement Order R5-2006-0721. Bonzi strenuously objects to the issuance of Amendment 1. There is no legal, factual or scientific justification for requiring Bonzi to provide a replacement water supply to the Riverdale Community. There have been no confirmed detections of Landfill volatile organic compounds reported in either the monitoring wells upgradient of the Riverdale well or in the Riverdale well itself. We will be providing a detailed response to Amendment 1 next week.

Bonzi herein requests a meeting with the Regional Board staff to review Amendment 1 and also requests that this matter be set for hearing at a future Regional Board meeting.

Please contact me at your earliest opportunity to schedule these meetings.

Very truly yours,

KARNA E. HARRIGFELD
Attorney-at-Law

cc: Wendy Wyels
     Cris Carrigan
     Lee Smith
EXHIBIT D

PETITIONERS' DETAILED COMMENTS TO AMENDMENT 1 TO CLEANUP & ABATEMENT ORDER R5-2006-0721
December 31, 2008

VIA ELECTRONIC MAIL AND HAND DELIVERY

Ms. Wendy Wyels, Supervisor
Compliance and Enforcement Section
Regional Water Quality Control Board - Central Valley Region.
11020 Sun Center Drive, Suite 200
Rancho Cordova, California 95670-6114

Re: Amendment 1 Cleanup and Abatement Order R5-2006-0721
Bonzi Sanitation Landfill, Stanislaus County

Dear Ms. Wyels:

Ma-Ru Holding Company and Bonzi Sanitation Landfill (collectively "Bonzi") submit the enclosed detailed comments to Amendment 1 to Cleanup and Abatement Order R5-2006-0721 prepared by AMEC Geomatrix, Inc. As a follow up to Bonzi's December 24, 2008 request, Bonzi once again herein requests a meeting with the Regional Board staff to review the very serious issues raised in the comment letter and also requests that this matter be set for hearing at a future Regional Board meeting.

Please contact me at your earliest opportunity to schedule these meetings.

Very truly yours,

Karna E. Harrigfeld
Attorney-at-Law

cc: Pamela Creedon
    Cris Carrigan
    Brian Terrell
    Lee N. Smith
December 31, 2008

VIA ELECTRONIC MAIL AND HAND DELIVERY

Ms. Wendy Wyels, Supervisor
Compliance and Enforcement Section
California Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, #200
Rancho Cordova, California 95670-6114

Subject: Amendment 1 Cleanup and Abatement Order R5-2006-0721
Bonzi Sanitation Landfill, Stanislaus County

Dear Ms. Wyels:

AMEC Geomatrix Inc. (AMEC) reviewed Amendment 1 to Cleanup and Abatement Order (CAO) R5-2006-0721 (Amendment) issued by the California Regional Water Quality Control Board (RWQCB) to Ma-Ru Holding Company and the Bonzi Sanitation Landfill Inc. (Landfill) dated December 3, 2008. The Amendment was issued "as a result of the continued detection of groundwater pollution downgradient of the Bonzi Sanitation Landfill" and contains the requirement to: 1) Submit a plan to supply drinking water to the Riverdale Community by January 1, 2009; 2) Immediately supply replacement water to any downgradient domestic or municipal well that has been adversely affected by the Landfill; and 3) Notify the RWQCB and Stanislaus County Environmental Health Department when the replacement water supply plan has been implemented. We disagree with many of the conclusions stated in the Amendment and offer the following both general and specific comments.

General

The plan to supply drinking water to the Riverdale community should be tied to confirmed detections of Landfill volatile organic compounds (VOCs) reported above the drinking water standard in samples collected from the water supply well. As described below, Landfill VOCs have not been reported in Monitoring wells 06-01A and 06-01B, 06-03 and 06-04 that are upgradient of the Riverdale supply well or the supply well itself. The plan to supply drinking water must also include a validation step and at least one confirmation groundwater sample collection event before an action is taken. The Landfill is not responsible for contamination caused by the Riverdale community’s use of its septic systems and any potential impacts to groundwater from the use of its septic systems should be investigated and be remediated by the Riverdale community.
The VFW well is the only supply well that may have been affected by the Landfill and the Landfill has fully mitigated this impact by installing a granulated activated carbon system on the VFW supply well. The granulated activated carbon system is maintained by the Landfill and there is no evidence that this system is not mitigating impacts to the VFW well.

**Specific**

Paragraph 1 – The Landfill continued groundwater monitoring required by the CAO and the Waste Discharge Requirements Order No. R5-2007-0148 (WDRs) in 2008. In a meeting with RWQCB staff on October 17, 2008 a commitment was made to provide the results of this monitoring to the RWQCB by December 1, 2008. AMEC validated and tabulated this data and the data collected between Fourth Quarter 2007 and the Third Quarter 2008 were submitted to the RWQCB on December 1, 2008.

Paragraph 2 – As indicated above, the Landfill continued monitoring required under the CAO and the WDRs from Third Quarter 2007 through Third Quarter 2008. These results were submitted to the RWQCB on December 1, 2008.

Paragraph 3 – There is no conclusive data indicating that the groundwater extraction system is not currently capturing the entirety of the existing plume of contaminants in groundwater. The groundwater extraction system was designed and installed in 1991 to capture Landfill impacts in groundwater at the site boundary. There have been residual low and decreasing concentrations of VOCs (mostly 1, 1-dichloroethane (1, 1-DCA) and 1, 2-dichloroethene (1, 2-DCE)) in groundwater just downgradient of the extraction systems for many years (Monitoring wells 85-7, 85-25, 86-5B and 86-6B shown on Figure 15 Third and Fourth Quarter 2006 1,1-DCA Isoconcentration Contour Map, Attachment 1). These impact areas are decreasing in concentration over time and there is no data suggesting that these impacts are migrating further downgradient. It is likely that these offsite areas continue to exist due to static flow conditions caused by very flat groundwater gradients and recharge and discharge seasonally from the Tuolumne River. These impacts do not appear to be indicative of a lack of capture by the current groundwater extraction system otherwise there would be greater variation and increases in VOC concentrations over time. This condition will be evaluated further in the upcoming investigation required by the CAO. The Riverdale supply well is cross-gradient from these areas and neither the monitoring wells near the supply well nor the supply well itself have shown the VOCs reported in these offsite areas or other VOCs from the Landfill to suggest this supply well is "threatened" by Landfill impacts (Attachment 1 showing the distribution of 1, 1-DCA, Attachment 2 showing groundwater gradients and Attachment 3 showing the monitoring results for the last four quarterly sampling events).

Paragraph 4 – As shown on the attached water level elevation maps (Attachment 2), between Fourth Quarter 2007 and Third Quarter of 2008, the groundwater flow direction for the majority of the year in the area of WMU-I is northwest. The Riverdale supply well is never “directly”
downgradient from WMU-1 and for the majority of the year it is not downgradient of WMU-1 at all.

Paragraph 5 and 6 – VOCs detected at the southern-most extent of the Landfill are not present in groundwater monitoring wells upgradient of the Riverdale supply well over 3000 feet away. The data presented in the Amendment shows this. Monitoring well 06-09 on the upgradient boundary of the Landfill near inert WMU-III has tetrachloroethylene (PCE), trichloroethylene (TCE), 1, 1-DCA, 1, 1-DCE and cis-1, 2-dichloroethene (cis-1, 2-DCE) reported in groundwater. Considering the location of this well these groundwater impacts may be coming from the storm water pond located on the trucking repair facility immediately upgradient of this well. Monitoring well 90-1 downgradient of monitoring well 06-09 has 1, 1-DCA and cis-1, 2-DCE but no PCE, TCE or 1, 1-DCE reported in groundwater. Monitoring wells 06-03 and 06-04 downgradient of monitoring well 90-1 and on the downgradient boundary of the Landfill have no VOCs reported in the last four quarters. Monitoring wells 06-01A and 06-01-B just upgradient of the Riverdale supply well and downgradient of monitoring wells 06-03 and 06-04, have had low levels of PCE, TCE, benzene and chloroform in groundwater as reported in the Amendment. The VOCs reported in the monitoring wells just upgradient of the Riverdale supply well do not appear to be associated with the Landfill based on a comparison between the groundwater data collected from these wells and wells located on the Landfill. If these VOCs were from the Landfill they would be reported in samples collected and analyzed from monitoring wells 06-03, 06-04 or 90-1. The VOC impacts reported in the monitoring wells near the Riverdale supply well are likely from discharges to septic system leachfields, supply well chlorination and past waste disposal practices in the Riverdale tract area.

Paragraph 7 – WMU-IV is an inert waste management unit. The 1, 1-DCA reported in the single groundwater sample was from location WMUIV7. WMUIV7 is very close to monitoring well 90-1 which also has 1, 1-DCA reported in groundwater. The 1, 1-DCA reported in this well likely originates from upgradient of WMU-IV. 1, 1-DCA has not been reported in groundwater monitoring wells 06-03 and 06-04 downgradient of the WMU-IV. See the attached tables presenting the results reported for the groundwater monitoring over the last four quarters (Attachment 3).

Paragraph 8 – 92-CIL is a leachate well located in closed/capped WMU-I, which was permitted as unlined. The well is completed above the groundwater table and the majority of the constituents reported in this well are not reported in groundwater monitoring wells downgradient of WMU-I. A direct comparison of the analytical results from this leachate well to water quality goals or maximum contaminant levels (MCLs) is inappropriate because the leachate well is above the water table, constituents reported in leachate will attenuate in the vadose zone and if these constituents are found in groundwater at all they will be at lower concentrations. The groundwater extraction and treatment system is located directly downgradient of WMU-I and the location of the leachate well. Based on groundwater contour maps the leachate well is not upgradient of the Riverdale supply well (see response to paragraph 4).
Paragraph 9 – Monitoring well 85-25 is located just north of Hatch Road and as shown on the groundwater elevation maps and described above this well is not located upgradient of the Riverdale supply well (see comment to Paragraph 4 above). The concentrations of 1, 1-DCA in monitoring well 85-25 have been declining over time and 1, 1-DCA was not reported above the laboratory reporting limit of 1 ug/l in any of the last four sample collection rounds (Attachment 3). Historical data collected in this area shows that the 1, 1-DCA in groundwater is limited in all directions, the “plume” is not expanding. Monitoring well 85-25 is also just over 300 feet laterally from groundwater extraction well EW-1 and this monitoring well is likely within the capture zone of this well. VOCs reported in monitoring well 85-25 are not reported in monitoring wells 06-01A and 06-01B located upgradient of the Riverdale supply and no Landfill VOCs have ever been reported in the Riverdale supply well itself.

Paragraph 10 – As described in the comment to paragraphs 5 and 6 above, the VOCs reported in monitoring well 06-01A are not reported in groundwater monitoring wells 06-03 and 06-04 downgradient of the Landfill and upgradient of this monitoring well and the Riverdale supply well. Chloroform has not been reported above the reporting limit in this well in the last four quarters. Chloroform is a typical water chlorination constituent found in groundwater. The Riverdale housing tract is on septic systems with leach-fields and the groundwater supply is chlorinated by the community. As shown in the Addendum, PCE is not reported in Landfill monitoring well 90-1 towards the center of the Landfill nor is it reported in monitoring wells 06-03 and 06-04 at the Landfill boundary. Based on these data the PCE and chloroform reported in monitoring well 06-01A do not appear to originate from the Landfill.

Paragraph 11 – Similar to the groundwater monitoring results from well 06-01A the VOCs reported in monitoring well 06-01B are not reported in groundwater monitoring wells upgradient of this well location or downgradient of the Landfill.

Paragraph 12 – The groundwater monitoring results from more recent sample collection from the Riverdale supply well continue to be non-detect for VOCs.

Paragraph 13 – It is not clear what data indicates that the treatments system is “undersized and unable to prevent migration of the VOC plume.” The treatment system is designed to treat up to 225 gallons per minute. The system is operating well below this capacity. The “VOC plume” at the Landfill as described above is very stable or decreasing over time. It does not appear to be migrating further downgradient of the Landfill. The CAO requires an analysis of groundwater extraction system capture. This analysis will include an aquifer pumping test, analysis of the results and development of an analytical model to optimize capture. Until this analysis is complete the conclusion cited in the paragraph is premature.

Paragraph 14 – See responses to paragraphs 1 through 6 above.

Paragraph 15 – As described above, the data collected to date do not support the conclusion that the “Bonzi plume has polluted downgradient drinking water monitoring wells within the
Ms. Wendy Wyels  
CRWQCB  
December 31, 2008  
Page 5

Riverdale Community." The VOCs reported in monitoring wells 06-01A and 06-01B are not found in wells upgradient of this location and do not appear to originate on the Landfill. The operational data collected under the WDRs and submitted to the RWQCB show that the operational efficiency of the groundwater extraction and treatment system and the Landfill gas extraction system are operating at very high efficiencies, "intermittently" is not an accurate characterization. Based on data collected it appears that the impacts in groundwater at and downgradient of the Landfill are stable or decreasing over time.

If you have any questions, please contact me at (916) 853-8900.

Sincerely yours,  
AMEC Geomatrix, Inc.

[Signature]

Joseph Niland  
Vice President and Principal Hydrologist

Attachments:

Attachment A – Third and Fourth Quarter 2006 1, 1-DCA Isoconcentration Contour Map  
Attachment B – Fourth Quarter 2007 through Third Quarter 2008 Groundwater Elevation Contour Maps  
Attachment C – Fourth Quarter 2007 through Third Quarter 2008 Analytical Results Volatile Organic Compounds

cc: Brian Terrell, via electronic  
    Karna Harrigfeld, via electronic  
    Lee Smith, via electronic  
    Pam Creedon, via electronic  
    Cris Carrigan, via electronic
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**Notes:**

- EPA = Environmental Protection Agency
- LL:LOCA = Low-Level: Lower Quantitation Limit
- MTBE = Methyl Tertiary Butyl Ether
- PCE = Perchloroethylene
- Freen II = Freen II Index

**Abbreviations:**

- LL:LOCA = Low-Level: Lower Quantitation Limit
- MTBE = Methyl Tertiary Butyl Ether
- PCE = Perchloroethylene
- Freen II = Freen II Index

**Rationale:**

- Analysis was performed for the detection of volatile organic compounds (VOCs) in groundwater samples collected from various wells in the study area. The data presented includes concentrations of various VOCs in parts per billion (ppb).

**Methodology:**

- The samples were analyzed using a gas chromatography-mass spectrometry (GC-MS) system. The GC-MS system was equipped with a capillary column and a mass spectrometer detector.

**Quality Control:**

- Quality control samples were analyzed along with the study samples to ensure the accuracy and precision of the results. The quality control samples included spiked samples and laboratory standards.

**Data Interpretation:**

- The results are presented in parts per billion (ppb) for each compound. Concentrations above the detection limit are reported as such. Concentrations below the detection limit are indicated as <1.

**Limitations:**

- The detection limits for the compounds shown in the table are approximately 1 ppb for MTBE and 100 ppb for PCE.

**Further Information:**

- For more detailed information on the analytical methods and quality assurance/quality control procedures, refer to the laboratory's method validation report or the technical report associated with this study.

**References:**

- The source of the data used in this study is the laboratory's internal database, which includes a comprehensive record of all analytical results generated by the laboratory.

**Contact Information:**

- For further questions or comments regarding the data presented in this table, please contact [Lab Contact Information].
| Sample | Date       | 1,1-DCA | 1,2-DCA | 1,3-DCA | 1,4-DCA | 1,5-DCA | 1,6-DCA | 1,2-DCE | 1,3-DCE | 1,4-DCE | TCE | Benzene | Toluene | Ethylbenzene | Mesityl | Styrene | EST | Chloroform | Carbon Disulfide | Chlorobenzene | Chloroform | Chlortetracycline | DMP | Chloroform | Chloroform | Estrone | 2,4-DNP | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chloroform | Chlorofo
January 2, 2009

VIA EMAIL AND HAND DELIVERY

Ms. Elizabeth Miller Jennings
Senior Staff Counsel
State Water Resources Control Board
Office of Chief Counsel
1001 I Street, 22nd Floor
Sacramento, California 95814

Re: Request For Abeyance: Petition for Review of Regional Board Order, Amendment 1 to Order No. R5-2006-0721

Dear Ms. Jennings:

Ma-Ru Holding Company, Inc. and Bonzi Sanitation Landfill, Inc. Partnership ("Petitioners") respectfully request that the Petition for Review of Amendment 1 to Order No. R5-2006-0721 ("Petition"), filed with the State Water Resources Control Board ("State Board") on January 2, 2009, be held in abeyance pursuant to 23 Cal. Code Regs. § 2050.5(d).

Petitioners' request that the Petition be held in abeyance is based on the continuing discussions with Regional Board staff regarding certain provisions contained in Amendment 1 to Order No. R5-2006-0721 that are the subject of the Petition.

Petitioners reserve the right to augment its Petition and provide a supplemental Statement of Points and Authorities in support of the Petition if the request for abeyance is not granted, or if the Petition is removed from abeyance in the future. Pursuant to 23 Cal. Code Regs. section 2050.5(d)(2), a copy of this abeyance request has been provided to Pamela Creedon, Executive Officer of the Regional Board.

Please advise us as soon as possible if Petitioners' request for abeyance is granted.

Very truly yours,

Lee N. Smith
STOEL RIVES LLP

Kama E. Harrigfeld
HERUM CRABTREE