

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

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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

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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.

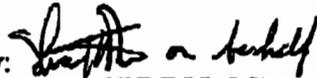
21 c) Defendants by their signature attest that they have authority to enter into this Stipulated
22 Judgment.

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

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.

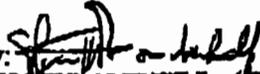
4
5 Dated: December 15th, 2005

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

6
7 Dated: Dec 16, 2005

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

8
9
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)

14
15
16
17 CAROL SHIPLEY
ASSISTANT DISTRICT ATTORNEY

18
19 Dated: December 19, 2005

By: 
GLORIA M. MAS
DEPUTY DISTRICT ATTORNEY

20
21 IT IS ORDERED, ADJUDGED AND DECREED.

22
23 Dated: DEC 21 2005

24
25 ROGER M. BEAUCHESNE
26 JUDGE OF THE SUPERIOR COURT
27
28

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.)**

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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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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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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,**

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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**

- 2 -

- 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

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

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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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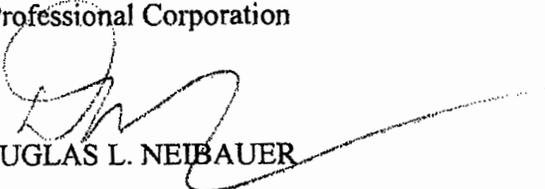
Page Two
Wendy Wyels
December 29, 2005

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