

LAW OFFICES OF

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DOUGLAS L. NEIBAUER
THOMAS L. ANDERSON
BRIAN P. MURRAY
CRYSTAL S. SWANSON

OF COUNSEL
ALAN H. STRAUSS

March 10, 2006

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

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

Hearing Date: Hearing date March 17, 2006

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

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

Dear Mr. Hold :

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

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

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

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

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

Landfill contend that the RWQCB's suggested list of the methods are outdated (i.e., laboratories that conduct such analyses no longer use those methods and have been de-listed or proposed for delisting by the EPA).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

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

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

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

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

Very truly yours,

STRAUSS, NEIBAUER & ANDERSON
A Professional Corporation



DOUGLAS L. NEIBAUER, ESQ.

DLN/css

cc: Steve Bonzi
EBA Engineering
Edward Corey, Esq.

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

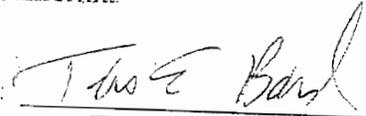
I, Thomas E. Ballard, declare under penalty of perjury as follows:

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

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INDEXED
FILED

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

By: 
Thomas E. Baliard

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

By: _____
Thomas E. Ballard

Thomas E. Ballard, P.G.

Senior Geologist

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

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

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

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

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



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FAX MEMO

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

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

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

Thank you,

Tom Ballard
Taber Consultants

Neibauer Doug

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



Bonzi agenda
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(61 KB)



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Resolution
Bonzi.doc (32 KB)

Steve,

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

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



RECEIVED
FEB 09 2006

BY:

February 6, 2006

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

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

Dear Mr. Hold:

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

Sincerely,
EBA ENGINEERING


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

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

rwqcb0206ltr



RECEIVED
FEB 06 2006
BY:.....

February 2, 2006

Via facsimile
916.464.4645

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

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

Dear Mr. Izzo:

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

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

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

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

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

Sincerely,
EBA ENGINEERING


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

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

DRAFT

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

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

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

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

Vegetation Removal / Pond Inspection Issue

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

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

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

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

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

General Overview of Compliance Efforts

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

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

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

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

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

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

Closing

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

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

November 23, 2005

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

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

2P3/391/07-20H

Dear Mr. Hold:

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

* * * * *

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

Very truly yours,
TABER CONSULTANTS

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

Cc: Steve Bonzi, Bonzi Landfill

November 10, 2005

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

Dear Mr. Ballard:

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

Sincerely,

Ray James
Laboratory Director

Tom Ballard

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

Hello Howard,

I forwarded the 2004 data to you as well.

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

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

Thanks.

Cheers,
Martin

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

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

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

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

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

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

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

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

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

Martin

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

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



Exhibit A Bonzi
Terms and Cond...



Exhibit B Bonzi
Stayed Penalti...



Exhibit A Attach A
Bonzi.doc (...



_AVG
certification_.txt (217 k)

Tom,

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

Steve

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

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

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

October , 2005

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

2P3/391/07-20H

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

Sir:

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

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

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

Comment [R1]: Which ones?

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

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

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

Comment [R2]: Detection limits?

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

xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

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

xxxxxxxxxxxxxxxx

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

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

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

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

Very Truly Yours,
TABER CONSULTANTS

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

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

October , 2005

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

2P3/391/07-20H

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

Sir:

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

The 2004 Appendix II analyses submitted

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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staff recently analyzed a sample from the "Parkdale" well to determine if it was affected by contaminants from the landfill the analysis was limited to methods 8260 and 8270.

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

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

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

Very Truly Yours,
TABER CONSULTANTS

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

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

October , 2005

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

2P3/391/07-20H

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

Sir:

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

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

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

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

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

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

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

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

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

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

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

The June 15, 2005 Notice of Violation states that

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2P3/391/07-20H

identify the analytical method and detection limit for each constituent and specify the basis for selecting those methods and limits.

Very Truly Yours,
TABER CONSULTANTS

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

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



Alan C. Lloyd, Ph.D.
Agency Secretary

California Regional Water Quality Control Board

Central Valley Region

Robert Schneider, Chair



Arnold
Schwarzenegger
Governor

Sacramento Main Office

11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
Phone (916) 464-3291 • FAX (916) 464-4645
<http://www.waterboards.ca.gov/centralvalley>

12 September 2005

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

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

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

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

California Environmental Protection Agency

Mr. Steve Bonzi

- 2 -

12 September 2005

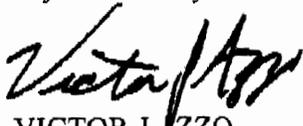
Another issue is that some of the Appendix II metals analyses RL exceed water quality goals and no MDL was reported as required. Both the Arsenic and Antimony RL in Appendix II results exceed their respective water quality goals. USEPA Method 7062 would give a lower MDL and PQL than USEPA Method 6010B.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

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

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

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

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



VICTOR J. IZZO

Senior Engineering Geologist

Title 27 San Joaquin River

Watershed Unit

Attachment(s)

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

Cease and Desist Order Item No. 11.

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

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

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

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

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

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

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

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

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

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

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

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

xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

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

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

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

Regarding the specific analytes mentioned in the NOV:

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

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

Proposed Terms and Conditions Item #3.

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

Mr. Howard Hold, Associate Engineering Geologist
Central Valley Regional Water Quality Control Board
June 28, 2005
Page 2

2P3/391/07-20H

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

Very Truly Yours,
TABER CONSULTANTS

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

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

June 27, 2005

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

Dear Mr. Hold,

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

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

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

Mr. Howard Hold, Associate Engineering Geologist
Central Valley Regional Water Quality Control Board
June 28, 2005
Page 2

2P3/391/07-20H

Regarding the specific analytes mentioned in the NOV:

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

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

Very Truly Yours,
TABER CONSULTANTS

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

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

Steve,

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

- 8/9/04 to 8/13/04 3rd Quarter 2004 Monitoring performed.
- 8/12/04 to 8/20/04 Analyses of 3rd Quarter samples; VOC analyses indicate lab contaminants.
- 9/15/04 Based on review of 1st & 2nd quarter 2004 monitoring reports, RWQCB issues NOV that states "...Discharger has repeatedly identified trace VOCs as a lab contaminant in the Groundwater samples" and "If the Discharger is unable to correct the QA/QC problems with the monitoring program, staff will recommend to management that additional action be taken to enforce compliance. (Note: Taber did not receive copy of NOV until after C&D Order issued)
- 10/27/04 Taber notified RWQCB that, due to problems with laboratory (analyses by 8260 and 8270 do not include many required constituents) 5-year sampling would be repeated in 4th quarter.
- 11/16/04 3rd Quarter 2004 monitoring report issued.
- 1/30/05 4th Quarter 2004 monitoring report issued. Includes analyses of all Appendix II constituents. No lab contaminants identified in VOC analyses.
- 4/8/05 RWQCB issues Tentative Cease & Desist Order. "Findings" Item 11 states "On 14 September 2004, a NOV was issued concerning the Discharger's laboratory protocols. Even after staff identified the deficiency in the NOV, the Discharger submitted its 2004 Annual Monitoring Report with invalid results." This comment appears directed at the 4th Quarter 2004 monitoring report as the annual monitoring report had not been submitted. Note, however, that No VOCs were identified as laboratory contaminants in the 4th quarter report.

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

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

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

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

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

Date same? RWQCB indicates GeoAnalytial detection limits OK



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April 22, 2005

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

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

2P3/391/07-20H

Sir:

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

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

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



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

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

* * * * *

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

Very Truly Yours,
TABER CONSULTANTS

Thomas M. Skaug

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





Analytical Laboratory Division
Mobile Laboratory Division
Scientific Division

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

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

Dear Mr. Skaug:

Sparger will re-issue reports for the following compounds:

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

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

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

Sincerely,

Raymond L. James
Laboratory Director

February 27, 2005

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

2P3/391/07-21H

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

Dear Mr. Bonzi:

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

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

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

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

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

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

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

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

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

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

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

2P3/391/07-21H

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

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

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

* * * * *

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

Very truly yours,
TABER CONSULTANTS

Thomas E. Ballard
Senior Geologist

TEB/ns

ITEM:

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

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

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

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

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

not found

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

on appeal

ISSUES:

submitted 4/27/05

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

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



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October 27, 2004

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

Subject: Third Quarter Monitoring
Bonzi Sanitary Landfill
Modesto, California

2P3/391/07-19

Dear Mr. Hold:

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

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

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

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

Very truly yours,
TABER CONSULTANTS

Thomas M. Skaug
Senior Engineering Geologist

cc: Bonzi Sanitary landfill

Attachment 1**GeoAnalytical Laboratories, Inc.**

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

CERTIFICATE OF ANALYSIS
8270C

Date: 8/20/04

Report # Q225-18

Bonzi Industrial Waste
2650 W Hatch Rd
Modesto CA 95351

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

Date Rec'd: 8/12/04
Date Started: 8/18/04
Date Completed: 8/18/04

PO#

Sample ID: 84-6
Lab ID: Q305650Date Sampled: 8/12/04
Time: 11:10 am
Sampler: Eric Hilmer

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

Attachment 2

Analytical Laboratory Division
Mobile Laboratory Division
Scientific Division

Test Certificate of Analysis

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

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

GC/MS Semivolatiles - 8270C (continued)

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