

This case has been assigned to Judge WILLIAM A. MAYHEW
Department 21, for all purposes including Trial.

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California Regional Water Quality Control Board,
Central Valley Region*

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CLERK OF THE SUPERIOR COURT
COUNTY OF STANISLAUS
BY CHRISTY FERREIRA
DEPUTY

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

PEOPLE OF THE STATE OF CALIFORNIA, ^{vs} CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, CENTRAL VALLEY REGION,

Plaintiff,

v.

MA-RU HOLDING COMPANY, a corporation, BONZI SANITATION LANDFILL, a partnership, STEVEN BONZI, as executor of the will of Rudy Bonzi, MILIZA BONZI, as executory of the will of Mary Bonzi, and DOES 1 through 20, inclusive,

Defendants.

Case No. 643721⁴⁰

COMPLAINT FOR INJUNCTION, PENALTIES, AND COSTS

- 1. Breach of Stipulated Judgment
- 2. Water Code Violations
- 3. Statutory Costs

Plaintiff People of the State of California ex rel. California Regional Water Quality Control Board, Central Valley Region (the "Central Valley Water Board") is informed, believes and thereon alleges as follows:

SUMMARY OF ACTION

1. This action is brought by the California Attorney General at the request of the Central Valley Water Board on behalf of the People of the State of California against the defendant

1 owners and operators of the Bonzi Sanitary Landfill facility ("Bonzi Landfill") in Stanislaus
2 County.

3 2. Defendants have caused the pollution of groundwater at concentrations exceeding the
4 Maximum Contaminant Levels ("MCL") for safe drinking water, as set by the California
5 Department of Health Services. Concentrations of contaminants in excess of the MCL pose a
6 significant health risk when consumed for a lifetime, based on current risk assessment principles,
7 practices and methods. Defendants have also released waste into non-permitted areas, where the
8 waste discharges, and/or poses a threat, to waters of the state. In addition, defendants failed to
9 provide adequate financial assurances and monitoring reports for their Bonzi Landfill to the
10 Central Valley Water Board. Finally, defendants have violated administrative cleanup and
11 abatement orders, cease and desist orders, waste discharge requirements, and a stipulated
12 judgment entered by this Court in case number 376882 on December 23, 2005.

13 3. Plaintiff sues for injunctive relief compelling defendants to fund their financial
14 assurances, supply the missing reports and evaluations, clean up and abate their pollution, and
15 comply with the other terms of the stipulated judgment and orders alleged herein. Plaintiff also
16 seeks civil penalties and costs of suit.

17 JURISDICTION AND VENUE

18 4. This Court has jurisdiction pursuant to California Water Code sections 13304 et seq.

19 5. Venue is appropriate in the Superior Court in Stanislaus County because the Bonzi
20 Landfill is located, and the acts alleged in this complaint occurred, within Stanislaus County. The
21 Bonzi Landfill is located three miles southwest of Modesto near the Tuolumne River. The
22 address is 2650 West Hatch Road, in Modesto, California. This property is described as Assessor
23 Parcel Numbers 17-41-36 and 17-41-11 in section 12, Township 4 South, Range 4 East,
24 MBD&M.

25 THE PARTIES

26 6. The Central Valley Water Board is a state agency within the California
27 Environmental Protection Agency. (Water Code, §§ 175, 13200.) It was established and
28 authorized by the Porter-Cologne Water Quality Control Act ("Porter-Cologne Act"), Water Code

1 sections 13000 through 13999.16. The Central Valley Water Board enforces water quality
2 control plans, policies, and regulations to ensure the protection of beneficial uses of waters of the
3 State within its designated geographical region. (Water Code, §§ 13200, 13201, 13240 et seq.)

4 7. The Central Valley Region “comprises all basins . . . draining into the Sacramento
5 and San Joaquin Rivers to the easterly boundary of the San Francisco Bay region near
6 Collinsville.” (Water Code, § 13200.) Within the Central Valley Region, which includes
7 Stanislaus County, the Central Valley Water Board is responsible for ensuring the prevention and
8 abatement of water pollution and nuisance, and is authorized to issue orders and request the filing
9 of civil actions to carry out this responsibility. (Water Code §§ 13225, 13300 et seq.)

10 8. Water Code section 13361, subdivision (a), authorizes the Attorney General to bring a
11 civil action in the name of the People of the State of California under the provisions of the Porter-
12 Cologne Act at the request of a regional board. The Attorney General brings this action under the
13 provisions of the Porter-Cologne Act.

14 9. Defendant Ma-Ru Holding Company, Inc. (“Ma-Ru”), is a California Corporation
15 with its principal place of business in Modesto, Stanislaus County, California.

16 10. Defendant Bonzi Sanitation Landfill (GP) (“Bonzi GP”) is a California general
17 partnership.

18 11. Defendant Steven Bonzi is the executor for the will of Rudy Bonzi, and, as such, a
19 general partner in the defendant Bonzi GP.

20 12. Defendant Miliza Bonzi is the executrix for the will of Mary Bonzi, and, as such, a
21 general partner in the defendant Bonzi GP.

22 13. The true names and capacities of defendants Does 1 through 20, inclusive, whether
23 corporate, individual, or otherwise, are unknown to Plaintiff, who therefore sues such Defendants
24 by fictitious names. Plaintiff will seek leave of court to amend this complaint to show
25 Defendants’ true names and capacities when they have been ascertained.

26 14. Plaintiff is informed and believes and on that basis alleges that at all relevant times
27 herein, each of the defendants was the agent and employee of each of the remaining defendants,
28 and in doing the acts alleged herein, was acting within the scope of such agency.

GENERAL ALLEGATIONS

15. Defendants Ma-Ru and Bonzi GP own and operate the Bonzi Landfill. They have been accepting waste at the Bonzi Landfill since at least 1967. The waste includes municipal refuse, agricultural waste, industrial waste, and construction debris.

16. The Bonzi Landfill contains four waste management units spread over 128 acres. None of these units were constructed with a bottom liner or a leachate collection and recovery system, as is required of modern landfills. Unit I is closed, Unit IV is at capacity, and Units II and III remain in operation.

17. Over the years and continuing through the present, defendants have caused the Bonzi Landfill to pollute the groundwater and create a plume of groundwater pollution (Bonzi Plume) that has expanded beyond the Bonzi Landfill to adjacent property.

18. Chemicals in the Bonzi Plume include the following volatile organic compounds: 1,1 dichloroethane at concentrations up to 39 ug/l, nearly eight times higher than the MCL of 5 ug/l; 1,1 dichloroethene, present up to 24 ug/l, four times higher than the MCL of 6 ug/l; benzene at 9.1 ug/l, over nine times the MCL of 1 ug/l, and; vinyl chloride at 3.2 ug/l, over six times higher than the MCL of 0.5 ug/l.

19. The chemicals escaping from the Bonzi Landfill are harmful to humans. For example, volatile organic compounds damage the liver, kidneys, and the central nervous system, as well as cause cancer.

20. Underground flow of groundwater from the Bonzi Landfill trends predominantly toward the north-northwest, in the direction of the Riverdale Community residential subdivision (Riverdale) and, beyond that, toward the Tuolumne River. Surface water flows generally from a high point in the center of the Bonzi Landfill toward detention basins in the north-northwest direction, and off the back of the Bonzi Landfill to adjacent properties in a south-southeast direction.

21. The approximately 300 residents of Riverdale currently depend on well water for domestic consumption. The Bonzi Plume has already contaminated certain domestic wells; the next well in its path is the one that provides water to Riverdale's residents.

1 22. As early as 1984, the Central Valley Water Board ordered defendants to evaluate and
2 determine the lateral and vertical extent of the Bonzi Plume. Five years later, defendants were
3 ordered to implement a groundwater remediation system. A series of administrative proceedings
4 followed that were directed at having defendants identify, monitor, and extract the pollutants they
5 had discharged into the underground aquifer.

6 23. On April 29, 2005, Central Valley Water Board issued Cease and Desist Order No.
7 R5-2005-0073 (the "2005 Cease and Desist Order"), a copy of which is attached hereto as Exhibit
8 A. The 2005 Cease and Desist Order included findings that defendants had failed to comply with
9 earlier orders of the Central Valley Water Board requiring defendants to identify the nature and
10 extent of their groundwater pollution. The Central Valley Water Board ordered defendants to
11 remedy their pollution of the groundwater and document the remediation. Defendants were also
12 ordered to provide financial assurances to cover the cost of the corrective action, as well as the
13 cost of closure and post-closure maintenance of the Bonzi Landfill. The 2005 Cease and Desist
14 Order further provides that the financial assurances must be updated "annually to account for
15 inflation, and any changes in facility design, construction or operation."

16 24. On December 23, 2005, this Court entered a stipulated judgment against defendants
17 for an injunction, civil penalties and other relief in case number 376882 (the "Stipulated
18 Judgment"). A copy is attached hereto as Exhibit B. The Stipulated Judgment obligated
19 defendants to determine whether their existing monitoring system complied with regulatory
20 standards, to conduct a groundwater monitoring program, to contain the underground pollutants
21 through groundwater treatment systems, to contain and treat surface water contamination, to
22 determine the funding required to correct the contamination, to close defendants' waste
23 management units, to provide a source for this funding, to identify the material in waste-
24 management unit IV, and to prepare closure reports for the Bonzi Landfill.

25 25. On August 2, 2006, the Central Valley Water Board issued Cleanup and Abatement
26 Order No. R5-2006-0721 (the "2006 Cleanup and Abatement Order"), a copy of which is
27 attached hereto as Exhibit C. The 2006 Cleanup and Abatement Order included findings that
28 defendants were continuing to pollute the groundwater with leachate and gases from the Bonzi

1 Landfill. The Central Valley Water Board ordered defendants to “investigate the discharge of
2 waste, clean up the waste, and abate the effects of the waste, forthwith” Defendants were
3 also ordered to provide a revised evaluation of their investigative monitoring program and install
4 an approved corrective action monitoring system. The 2006 Cleanup and Abatement Order
5 further required defendants to monitor the Riverdale drinking water supply well, and to close the
6 Bonzi Landfill.

7 26. On October 26, 2007, the Central Valley Water Board issued Waste Discharge
8 Requirements Order No. R5-2007-0148, establishing updated waste discharge requirements and
9 providing for the removal of pollutants and closure of the Bonzi Landfill (the “2007 Waste
10 Discharge Requirements Order”). A copy of the Order is attached hereto as Exhibit D. The
11 findings in the 2007 Waste Discharge Requirements Order included a description of the
12 continuing contamination at the Bonzi Landfill and a determination that it was unlikely
13 defendants’ groundwater extraction system was capturing the entirety of the Bonzi Plume.

14 27. The 2007 Waste Discharge Requirements Order required, among other things, that
15 defendants (1) provide continuous operation of a groundwater treatment system, (2) immediately
16 obtain and maintain financial assurances for completing corrective action and closing the Bonzi
17 Landfill, (3) propose water-quality protection standards, (4) submit reports on water quality
18 standards for the land application area and disposal of the wastewater from the groundwater
19 treatment, (5) submit manuals for operating and maintaining the groundwater and landfill gas
20 extraction systems, (6) provide automatic notification to the Central Valley Water Board and
21 Riverdale when treatment system failures occurred, and (7) annually update grading plans for
22 waste management units II and III.

23 28. On October 26, 2007, the Central Valley Water Board also issued Monitoring and
24 Reporting Program Order No. R5-2007-0148, establishing a monitoring and reporting program
25 for the operation, closure and corrective action on the Bonzi Landfill (the “2007 Reporting
26 Program Order”). A copy of the Order is attached hereto as Exhibit E. The Central Valley Water
27 Board ordered defendants to, among other things, provide annual and quarterly reports on
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1 groundwater monitoring, monthly monitoring reports for the groundwater treatment system, and
2 quarterly evaluations of the corrective action program for the groundwater treatment system.

3 **FIRST CAUSE OF ACTION**

4 **[Breach of Stipulated Judgment]**

5 29. Plaintiff incorporates the allegations in paragraphs 1 through 28 by reference.

6 30. Pursuant to paragraph 3 of the Stipulated Judgment, defendants are permanently
7 enjoined from violating any of the terms and conditions sets forth in Exhibit A of the Stipulated
8 Judgment.

9 31. Pursuant to paragraph 4 of the Stipulated Judgment, defendants are obligated to pay
10 the penalties specified in Exhibit B of the Stipulated Judgment to the State Water Resources
11 Control Board Cleanup and Abatement Fund in the event they violate any of the terms and
12 conditions set forth in Exhibit A of the Stipulated Judgment.

13 32. Defendants have violated the Stipulated Judgment by, inter alia, failing to perform the
14 actions and provide the reports and evaluations prescribed in sections 2 -6, 10, 11, 13, and 15-18
15 of Exhibit A to the Stipulated Judgment.

16 33. Plaintiff is entitled to injunctive relief and penalties as set forth in the Stipulated
17 Judgment, and interest on the penalties stipulated in Exhibit B from the date defendants
18 committed the violations identified in paragraph 32 above.

19 **SECOND CAUSE OF ACTION**

20 **[Water Code Violations]**

21 34. Plaintiff incorporates the allegations in paragraphs 1 through 33 by reference.

22 35. California Water Code section 13350 imposes civil liability for the violation of orders
23 of a regional board.

24 36. California Water Code section 13304 subdivision (a) authorizes the court to issue a
25 preliminary or permanent injunction upon a petition filed by the Attorney General at the request
26 of a regional board to compel compliance with a cleanup and abatement order.
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1 37. The Central Valley Water Board has requested that the Attorney General file this
2 action.

3 38. California Water Code section 13361(c) provides that it is unnecessary to allege or
4 prove that irreparable damage will occur, or that the remedy at law is inadequate, in order to
5 obtain a preliminary or permanent injunction under this division of the Code.

6 39. Defendants have failed to comply with the 2005 Cease and Desist Order by, among
7 other things, failing to provide annually updated financial assurances to cover the cost of the
8 corrective action, as well as the cost of closure and post-closure maintenance of the Bonzi
9 Landfill, and failing to continuously operate their groundwater treatment and landfill gas
10 extraction systems.

11 40. Defendants have failed to comply with the 2006 Cleanup and Abatement Order by,
12 among other things, failing to initiate the evaluation monitoring program necessary to define the
13 extent of the groundwater plume, along with upgrading the groundwater extraction system such
14 that it is capable of capturing and monitoring the plume.

15 41. Defendants have failed to comply with the 2007 Waste Discharge Requirements
16 Order by, among other things, failing to (1) provide continuous operation of a groundwater
17 treatment system, (2) immediately obtain and maintain financial assurances for completing
18 corrective action and closing the Bonzi Landfill, (3) propose water-quality protection standards,
19 (4) submit reports on water quality standards for the land application area and disposal of the
20 wastewater from the groundwater treatment, (4) provide for automatic notification to the Central
21 Valley Regional Board and Riverdale when the pollution treatment system is inoperative, and (5)
22 apply wastewater to the land application area by the method approved in the Waste Discharge
23 Requirements. Defendants' non-compliance also includes discharging and staging waste in the
24 low-lying area identified as a stormwater retention area in the approved closure plan and
25 discharging prohibited material into their waste management units II and III.

26 42. Defendants have failed to comply with the 2007 Reporting Program Order by, among
27 other things, (1) failing to submit accurate monitoring reports, failing to implement monitoring of
28 the land application area, (2) failing to conduct field VOC screening of the landfill gas monitoring

1 probes, and (3) failing to provide annual, quarterly and monthly reports for groundwater
2 monitoring, the groundwater treatment system, and the corrective action program for the
3 groundwater treatment system.

4 43. Although Plaintiff does not need to show irreparable harm to obtain relief,
5 defendants' violations are causing, and will continue to cause, irreparable damage to the waters of
6 the State of California and to Plaintiff.

7 44. Plaintiff is entitled to injunctive relief to compel compliance with the orders of the
8 Central Valley Water Board alleged herein.

9 45. Plaintiff is entitled to an award of civil penalties from defendants pursuant to Water
10 Code sections 13350, 13351 and 13268.

11 **THIRD CAUSE OF ACTION**

12 **[Statutory Costs]**

13 46. Plaintiff incorporates the allegations in paragraphs 1 through 45 by reference.

14 47. The Central Valley Water Board has incurred and will continue to incur investigative
15 costs in connection with the Bonzi Landfill, as well as oversight costs for supervising past and
16 future cleanup and abatement activities at the site. Plaintiff is entitled to recover such costs from
17 defendants pursuant to Water Code section 13304, subdivision (c).

18 **PRAYER**

19 WHEREFORE, Plaintiff prays that the court:

20 1. Issue a preliminary and permanent injunction ordering defendants to comply with the
21 terms of the Stipulated Judgment and Central Valley Water Board Orders alleged herein;

22 2. Award penalties and interest from defendants, jointly and severally, under the
23 Stipulated Judgment alleged in the first cause of action;

24 3. Award penalties, jointly and severally, for violation of the Central Valley Water
25 Board Orders alleged in the second cause of action according to proof at trial;

26 4. Award costs for the investigation, oversight and supervision by the Central Valley
27 Water Board;

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5. Award Plaintiff such other and further relief as the nature of the case may require, in a manner that the Court deems proper to fully remedy the effects of the Defendants' unlawful acts complained of herein; and

6. Grant the Plaintiff its costs of suit herein.

Dated: July 21, 2009

Respectfully Submitted,

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