

## PROSECUTION TEAM BUFF SHEET

ITEM: 20

SUBJECT: Winemucca Trading Company, Ltd., Former Shasta Paper Mill

BOARD ACTION: Consideration of an Administrative Civil Liability Order

BACKGROUND: Winemucca Trading Company, Ltd., owns the former Shasta Paper Mill (Site) in Anderson, Shasta County. The Site was used to manufacture paper products from 1964 until 2001 when Shasta Acquisition Inc., doing business as Plainwell Paper Shasta Paper Company, Inc., (Shasta Paper) filed for bankruptcy and the facility was closed and partially dismantled. In 2003, the *Order Approving Settlement Agreement and Mutual Release of Claims Between The Estate and Congress Financial Corporation* was issued in the United States Bankruptcy Court for the Eastern District of California, Sacramento Division. In May 2004, Congress Financial Corporation, the primary creditor of Shasta Paper, auctioned and sold the sixty-two Shasta Paper parcels to Winemucca Trading Company LTD (Discharger), a Tortola, British Virgin Islands Corporation.

In February 2004, prior to the sale, the Executive Officer issued Cleanup and Abatement Order R5-2004-0700 to Simpson and Congress Financial Corporation requiring cleanup and abatement of wastes stockpiled, stored, and discharged to the Site. The Discharger was aware of this order at the time of purchase. In October 2004, following the sale, Order R5-2004-0700 was rescinded and Cleanup and Abatement Order R5-2004-0717 (CAO) was issued to the Discharger. In part, the CAO required the Discharger to complete the following:

*By 1 April 2005, remove and properly dispose of petroleum coke and black liquor sludge stored at the Shasta Pulp and Paper Mill using a method approved by the Executive Officer.*

*by 1 April 2005, sample and characterize sludge from the wastewater treatment lagoons and the holding basins and clarifiers at the Shasta Pulp and Paper Mill and submit the results to the Regional Water Board.*

*By 1 April 2005, submit a plan to the Regional Board to properly dispose of the sludge in the wastewater treatment lagoons and the holding basins and clarifiers at the Shasta Pulp and Paper Mill and a plan to clean-close the holding basins and wastewater treatment lagoons pursuant to title 27 CCR Section 21400. The plans shall include an implementation schedule with a defined date of when the disposal of sludge and closure of the wastewater treatment lagoons and holding basins will be complete, but the final completion date shall be no later than 1 October 2006....*

In 2008, the Assistant Executive Officer issued ACL Complaint R5-2008-0518 to the Discharger, charging it with administrative civil liability in the amount of \$3,000,000 for failing to comply with the CAO.

Subsequent to issuance of the original complaint, the Board's Prosecution Team met repeatedly with the Discharger in order to reach a settlement that would result both in the cleanup of the Site, and would preserve the ability of the Discharger to re-develop the property. However, these talks have reached an impasse, and the head of the Board's Prosecution Team concluded that the ACL Complaint R5-2008-0518 should be prosecuted, and approved the re-issuance of the ACL Complaint.

Penalties being considered in his order are based on revisions and updates to the previously-issued ACL Complaint R5-2008-0518. Specifically, it updates the days of violation to the current date, and it incorporates the State Water Board Office of Enforcement's Penalty Calculation Methodology that is a part of the State Water Board's Water Quality Enforcement Policy, which was adopted subsequent to the issuance of the first ACL Complaint.

#### ISSUES:

The Discharger has failed to comply with the CAO by failing to remove residual paper mill substances from the Site; by failing to characterize sludge in the clarifiers and holding basins as required by the CAO; by failing to remove sludge and implement and complete clean closure of the 36-acre wastewater treatment lagoons as required by the CAO; and by not removing petroleum coke as required by the CAO. Failure to characterize and remove these wastes, and other wastes at the Site poses a potentially significant threat to human health and the environment.

The Site is polluted with wastewater residual solids and process chemicals. Wastewater that was generated from both the paper mill and the pulp mill contained chlorinated organic compounds such as guaiacols, catechols, and syringols, also known as adsorbable organic halides (AOX), as well as polychlorinated di-benzo dioxins and di-benzo furans. Hazardous materials utilized when the Site was in operation remain stored at the Site, and have not been properly disposed. These remain both in storage units and in the sludge contained in the wastewater treatment lagoons and clarifiers, and the release of these chemicals to groundwater poses a high risk to the groundwater's beneficial uses.

Per California Water Code section 13350, the Central Valley Water Board may impose liability for violations of the CAO. On 1 April 2011, the Executive Officer reissued Administrative Civil Liability Complaint R5-2008-0518-R, proposing that the Discharger be assessed liability in the amount of \$487,893 for violations specifically identified in the ACL Complaint. The ACL Complaint

was accompanied by Hearing Procedures which describe the process that must be followed if the matter proceeds to a hearing.

The Discharger subsequently waived its right to have a hearing conducted within 90 days after being served with the ACL Complaint. The Discharger has not provided any further communication regarding this hearing and has not responded to inquiries from Board staff or the Office of Chief Council. The Discharger did not submit any evidence that it wishes the Board to consider nor any policy statements by the 5 July 2011 deadline in the Hearing Procedures.

The Prosecution Team's review of the evidence substantiating the ACL Complaint indicates the record is correct and that there is no legal reason or recognized statutory defense or exemption to the subject penalties. Therefore, the Prosecution Team has brought this matter before the Board.

**RECOMMENDATION:** Prosecution Team recommends that the Board adopt the Administrative Civil Liability Order as proposed

Mgmt. Review: CES/BJS  
Legal Review: Patrick Pulupa\_\_\_\_\_

5 August 2011  
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