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12 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
13 BEFORE THE
14 ENVIRONMENTAL APPEALS BOARD

15 COUNTY OF AMADOR,) NDPEs Permit No. CA 0049675 –
16 Petitioners,) Buena Vista Rancheria (Casino)
17 vs.)
18 UNITED STATES ENVIRONMENTAL)
19 PROTECTION AGENCY,)
20 Respondent.)
21)

22 EXHIBITS TO COUNTY OF AMADOR'S
23 PETITION TO THE ENVIRONMENTAL APPEALS BOARD TO
24 REVIEW THE CONDITIONS OF NPDES PERMIT NO. CA 0049675;
25 AND STATEMENT OF REASONS SUPPORTING PETITION FOR REVIEW
26
27
28

EXHIBIT 1

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March 17, 2006

Mr. John Tinger
U.S. Environmental Protection Agency, Region IX
CWA Office of Permits and Standards, WTR-5
75 Hawthorne Street
San Francisco, CA 94105

Re: County of Amador Comments Concerning Issuance of an NPDES Permit for the
Buena Vista Rancheria

Dear Mr. Tinger:

On behalf of our client, the County of Amador, we appreciate the opportunity to submit the following additional comments on the notice of proposed action to issue a new National Pollutant Discharge Elimination System (NPDES) Permit for the Wastewater Treatment Plant at the Buena Vista Rancheria (BVR) for the proposed Flying Cloud Casino. This letter addresses two issues. First, the County questions the jurisdiction of the U.S. Environmental Protection Agency (EPA) over the NPDES permit because the BVR land is not a reservation, is not allotted lands, and is not Indian country. Second, the County notes that the proposed wastewater treatment plant is not a Publicly Owned Treatment Works because it is not operated on a reservation. Thus, the BVR wastewater treatment plant is subject to the terms of the National Environmental Policy Act.

The EPA does not have jurisdiction over the proposed BVR wastewater treatment plant because the Buena Vista Rancheria is not a reservation, is not allotted lands and is not Indian country. During an all-agency meeting held on March 1, 2006, we were informed by the regional counsel staff of the EPA that EPA had jurisdiction over the NPDES permit. In response to the County's question about the scope of EPA jurisdiction, staff counsel advised us that even though the Buena Vista Rancheria is not federal land because it is owned in fee by the tribe, it was nevertheless "Indian country" as that term is used in the federal criminal code. Counsel then stated that it was EPA "policy" (no regulation or statutory authority was cited) to assert jurisdiction over wastewater discharge permits in "Indian country."

The County has not been provided with any policy document from the EPA concerning its jurisdiction in "Indian country" and has not uncovered any regulatory or statutory basis for this assertion. In subsequent discussions with the Office of Regional Counsel, we have been informed that the policy basis for the EPA's jurisdiction is based

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on the fact that the Clean Water Act specifically precludes states from exercising jurisdiction in "Indian country." Thus, the EPA will step into the void and assert jurisdiction over Indian country wastewater discharge issues.

Even if the EPA generally has jurisdiction over the issuance of NPDES permits in Indian country, the County notes that the Buena Vista Rancheria land does not meet the statutory definition of Indian country. The Regional Counsel's office has advised the County that the term Indian country for EPA purposes is the same as that found in Title 18. Section 1151 of Title 18 of the United States Code is the section of the federal criminal code dealing with Indians. It provides as follows:

"Except as otherwise provided in sections 1154 and 1156 of this title, the term 'Indian country,' as used in this chapter, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same."

BVR is plainly not a reservation or an Indian allotment which would require that the land be controlled and titled by the United States. Nor is it a "dependent Indian community."

The term 'dependent Indian community' is a codification of a line of Supreme Court cases beginning with one in which the Court considered the New Mexico Pueblos, which held their land in fee simple under Spanish grants and were not formally designated as reservations. The court held that the New Mexico Pueblos were 'wards dependent upon the federal government's guardianship' and therefore were located in Indian country even though their lands were not within a recognized reservation. See *United States v. Sandoval*, 231 U.S. 28 (1913). In *Sandoval*, the U.S. Supreme Court upheld a prohibition against the introduction of liquor on the Pueblo lands, even though the lands were held in fee by the New Mexico Pueblos.

"It also is said that such legislation cannot be made to include the lands of the Pueblos, because the Indians have a fee simple title. It is true that the Indians of each pueblo do have such a title to all the lands connected therewith, excepting such as are occupied under executive orders, but it is a communal title, no individual

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owning any separate tract. In other words, the lands are public lands of the pueblo, and so the situation is essentially the same as it was with the Five Civilized Tribes, whose lands, although owned in fee under patents from the United States, were adjudged subject to the legislation of Congress enacted in the exercise of the Government's guardianship over those tribes and their affairs. *Stephens v. Cherokee Nation*, 174 U.S. 445, 488; *Cherokee Nation v. Hitchcock*, *supra*; *Heckman v. United States*, 224 U.S. 413; *Gritts v. Fisher*, *id.* 640; *United States v. Wright*, *supra*. Considering the reasons which underlie the authority of Congress to prohibit the introduction of liquor into the Indian country at all, it seems plain that this authority is sufficiently comprehensive to enable Congress to apply the prohibition to the lands of the Pueblos." (*United States v. Sandoval*, *supra*, at p. 48.)

The Supreme Court much more recently, however, clarified the meaning of "dependent Indian communities." In *Alaska v. Native Village of Venetie Tribal Gov't*, 522 U.S. 520 (1998), the Court held that land that lost its reservation status pursuant to the Alaska Native Claims Settlement Act ("ANCSA") and was transferred to state chartered businesses wholly owned by Native Alaskans could no longer be deemed a dependent Indian community because the land didn't meet a two-part test specified by the Court beginning with *Sandoval* and subsequently codified in 18 U.S.C. section 1151.

"Because ANCSA revoked the Venetie Reservation, and because no Indian allotments are at issue, whether the Tribe's land is Indian country depends on whether it falls within the 'dependent Indian communities' prong of the statute, § 1151(b). (Footnote omitted.) Since 18 U.S.C. § 1151 was enacted in 1948, we have not had an occasion to interpret the term 'dependent Indian communities.' We now hold that it refers to a limited category of Indian lands that are neither reservations nor allotments, and that satisfy two requirements--first, they must have been set aside by the Federal Government for the use of the Indians as Indian land; second, they must be under federal superintendence. Our holding is based on our conclusion that in enacting § 1151, Congress codified these two requirements, which previously we had held necessary for a finding of 'Indian country' generally." (*Id.*, at p. 527.)

The Buena Vista Rancheria does not meet either prong of the *Venetie* test.

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First, the federal set-aside requirement is not met because the Buena Vista Rancheria was terminated pursuant to the California Rancheria Act (1958) (Public Law 85-671) and the land has since that date either been held in fee by individual Indians or by the tribe.¹ The former rancheria lands were not offered to the United States to be placed into trust until 1996, when the trust application was denied. Under these facts, the land plainly has not been set aside by the federal government. As the Supreme Court noted in the *Venitie* decision:

“The Tribe argues . . . that the ANCSA lands were set apart for the use of the Neets’aii Gwich’in, ‘as such,’ because the [lands were] acquired pursuant to an ANCSA provision allowing Natives to take title to former reservation lands in return for forgoing all other ANCSA transfers. [Citation omitted.] The difficulty with this contention is that ANCSA transferred to private, state-chartered Native corporations, without any restraints on alienation or significant use restrictions, and with the goal of avoiding ‘any permanent racially defined institutions, rights, privileges, or obligations,’ [citations omitted]. . . . Because Congress contemplated that non-Natives could own the former Venetie Reservation, and because the Tribe is free to use it for non-Indian purposes, we must conclude that the federal set-aside requirement is not met.” (*Alaska v. Native Village of Venetie Tribal Gov’t, supra*, 522 U.S. 520, 532-533.

See also *United States v. McGowan*, 302 U.S. 535, 539 (1938), which the *Venitie* court distinguished, stating that one of the deciding criteria for determining the federal

¹ The federal government’s compliance with the terms of the California Rancheria Act was challenged in *Tillie Hardwick v. United States*, No. C-79-1710 SW (N.D. Cal.). Arguing that the federal government’s failure to comply invalidated the Rancheria Act, the plaintiff tribal members also challenged the ability of county governments to collect real property taxes on the former rancheria lands.

In 1987, a stipulation for entry of judgment was filed in the Hardwick case, in which the Amador County Tax Collector, Assessor, and the Board of Supervisors agreed to resolve the property tax dispute with the Buena Vista Rancheria. These county entities also agreed to treat the original boundaries of the rancheria as “restored”, “to be treated” as any other reservation, and to declare the land within the boundaries to be “Indian Country.” However the United States never signed the 1987 stipulation, and the legal significance of this stipulation by the County tax collector and assessor and Board of Supervisors is problematic. It is certainly not tenable that the County and the individual Indian plaintiffs, without the consent and approval of the tribe and the federal government, could transform fee land into reservation land or Indian country. Four years earlier, in 1983, the United States agreed to the entry of stipulated judgment, but that stipulation provided for restoration of the individual plaintiffs to their status as Indians entitled to certain federal benefits and services and exempted them from payment of taxes on property distributed to them under the Rancheria Act; it made no provision for the status of the rancheria land.

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set-aside question is that the United States retained titled to the land which it permitted the Indians to occupy and has the authority to enact regulations and protective laws respecting the territory.

Although the facts of the transfer differ, the same principle applies to the Buena Vista Rancheria. Thus, the land fails to meet the first prong of the “Indian country” test because the land was not set aside by the federal government and the Tribe is free to sell it or otherwise dispose of the property – the land is held in fee by the Tribe.

Second, it cannot be said that there is federal superintendence over the Tribe’s property. As noted above, the United States has never accepted the Buena Vista Rancheria into trust. (See February 22, 2006 NPDES comment letter from John Hahn to John Tinger attaching correspondence from the Bureau of Indian Affairs (BIA) confirming that the land is not in trust.) Indeed, the BIA has advised the County that it will not act as the lead agency concerning the NPDES permit application because the land is not in trust. As you will recall, at the March 1, 2006 meeting of federal agencies, the representative from the Army Corps of Engineers noted the need for a lead agency and assumed that the BIA would fill that role. The BIA’s decision to decline that role due to the fact that the land is not in trust is further evidence that there is no federal superintendence over the land.

Nor does the fact that tribal members may be receiving federal services establish that the rancheria is a dependent Indian community. The *Venetie* court noted that the Alaska Native Claims Settlement Act had revoked all but one Alaska reservation and allowed the Alaska natives sole control over the land. In rejecting the notion that there was nonetheless federal superintendence over the land, the court stated

“The Tribe contends that the requisite federal superintendence is present because the Federal Government provides ‘desperately needed health, social, welfare, and economic programs’ to the Tribe. [Citation omitted.] . . . Our Indian country precedents, however, do not suggest that the mere provision of ‘desperately needed’ social programs can support a finding of Indian country. Such health, education, and welfare benefits are merely forms of general federal aid, . . . [and] are not indicia of active federal control over the Tribe’s land sufficient to support a finding of federal superintendence.” (*Alaska v. Native Village of Venetie Tribal Gov’t*, *supra*, 522 U.S. 520, 532-533.)

The *Venetie* court held that the federal government must actively control the land in question. (*Id.*, at p. 533.) Given that the BIA rejects any role in the use of the land, and

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that the federal government has no ownership of the land, it seems clear that the federal superintendence requirement is not met.²

The Buena Vista Rancheria's proposed wastewater treatment plant is not a Publicly Owned Treatment Works. During the all-agency meeting held on March 1, 2006, we were also informed by the EPA staff that the issuance of the NPDES permit would not be subject to the National Environmental Policy Act (NEPA) because the project included a Publicly Owned Treatment Works (POTW). EPA staff stated that POTW's are exempt from NEPA compliance because they are not considered new sources of waste discharge. However, the County disputes the assertion that the Wastewater Treatment Plant proposed at the Flying Cloud Casino would be a POTW.

A POTW is defined in 40 CFR Section 403.3(o) as a treatment works that is owned by a State or municipality. The term "municipality" is defined in the Federal Clean Water Act (CWA) as including an Indian Tribe or an authorized Indian tribal organization (Section 502[4]). The term "Indian Tribe" is defined in CWA Section 518(f)(2) as any Indian tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation. "Federal Indian reservation" is defined in CWA Section 518(f)(1) as all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation.

The Buena Vista Rancheria does not meet the Clean Water Act definition of a Federal Indian Reservation. The land is not a reservation: According to records held by Amador County (and acknowledged by the Tribe) the land is owned in fee by the Tribe; there is no ownership by or trust relationship with the United States government. Congress has not recognized the land as a reservation. Therefore, the Buena Vista Tribe does not meet the CWA definition of an "Indian Tribe" and cannot be considered a "municipality".

² See also *Blunk v. Arizona Department of Transportation*, 177 F.3d 879, 883-884 (9th Cir. 1999) in which the Ninth Circuit, following the *Venetie* decision, held that:

"The Navajo Fee Land is not a dependent Indian community because the land was purchased in fee by the Navajo Nation rather than set aside by the Federal Government. The Federal Government does not 'actively control[] the land[] in question, effectively acting as a guardian for the Indians,' nor does the Government exercise any lesser level of superintendence over the Navajo Fee Land. [Citation omitted.] The Navajo Fee Land does not become Indian country simply because of its tribal ownership or because of its proximity or importance to the Navajo Reservation."

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Because the proposed wastewater treatment plant at the casino would not be operated by a municipality, it would not be considered a publicly owned treatment works. Therefore, the proposed wastewater treatment plant would be considered a new source of waste discharge and the issuance of the NPDES permit would be required to comply with NEPA. Accordingly, based on the facts, laws, and applicable regulations, it is beyond serious dispute that full NEPA compliance must be completed for this project prior to any decision on the NPDES permit by EPA in order to provide the public and interested local, state and federal agencies with the information necessary to understand the full range of environmental impacts that could occur with project implementation.

In conclusion, the County's position is: (1) EPA has no jurisdiction over the proposed wastewater treatment plant; and (2) in the event EPA were to assert such jurisdiction, full NEPA compliance is required.

Given the importance to the County and its residents, we request that you provide us with a written response setting forth your position on these two important issues.

If you have any questions regarding this letter or our concerns, please do not hesitate to contact me at (916) 446-6752.

Cordially,


Cathy Christian
Counsel for Amador County

CAC/mc

cc: Members, Amador County Board of Supervisors
Andrea Hoch, Legal Affairs Secretary to Governor Arnold Schwarzenegger
Sara Drake and Robert Mukai, California Attorney General's Office
Richard McHenry, California Regional Water Quality Control Board
Frances McChesney, Senior Staff Counsel, Water Resources Control Board
Chris Nagano, U.S. Fish & Wildlife Service
Tom Hoover, Jackson Valley Irrigation District
Joe Spano, California Department of Health Services
Patrick Blacklock, County Administrative Officer, Amador County
John Hahn, County Counsel, Amador County
Rhonda Morningstar Pope, Buena Vista Rancheria
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EXHIBIT 2



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September 4, 2009

Via email and U.S. First Class Mail

Mr. John Tinger
U.S.EPA
75 Hawthorne Street (WTR-5)
San Francisco, CA 94105

SUBJECT: Proposed National Pollutant Discharge Elimination System (NPDES) Permit, Buena Vista Rancheria, Buena Vista Casino, Buena Vista, CA

Dear Mr. Tinger,

I am writing on behalf of my client, the County of Amador (County). The County appreciates the opportunity to submit the following comments on the proposed issuance of a National Pollutant Discharge Elimination System (NPDES) Permit (Proposed Permit) for a new discharge of treated effluent to waters of the United States from the wastewater treatment plant at the proposed Buena Vista Casino, to be located on the Buena Vista Rancheria.

The County requests that a public hearing be held on the Proposed Permit. A public hearing is appropriate considering the significant deficiencies in the Proposed Permit. The Proposed Permit is essentially identical to the Proposed Permit noticed in 2005. The 2005 permit received comments from the County as well as the Central Valley Regional Water Quality Control Board and other stakeholders. It is surprising to see the comments on the previous posting not acted upon in the current Proposed Permit, with the notice simply indicating all comments will be considered in formulation of the final Permit decision. The

comments on proposed permit

County requests the opportunity to review the EPA evaluation of comments and subsequent changes to the Proposed Permit before the issuance of a final permit.

Jurisdiction of the USEPA:

The record indicates that the land sited for the proposed project, Buena Vista Rancheria, has never been held in trust. As such, the State has jurisdiction over the NPDES permitting, and the Central Valley Regional Water Quality Control Board should issue the permit.

Proposed Permit Fails to Ensure Compliance with Applicable Water Quality Standards:

The federal Clean Water Act (CWA) requires states to adopt, with EPA approval, water quality standards applicable to all its intrastate waters (33 U.S.C. §1313). The CWA also requires that any applicant for a federal license or permit that may result in a discharge to a water of the United States provide to the permitting agency a certification from the applicable state that the proposed discharge complies with state water quality standards (33 U.S.C. §1341). In California, state water quality standards include an antidegradation policy to protect beneficial uses and prevent further degradation of high quality waters. The Regional Water Quality Control Boards in California have developed Water Quality Control Plans (Basin Plans) listing the water quality standards and describing the water quality objectives set to provide reasonable protection of beneficial uses. Additionally, the state antidegradation policy is stated in State Water Resources Control Board Resolution 68-16 (Resolution 68-16). California's antidegradation policy complies with the federal antidegradation policy and the requirements set forth in federal regulations. The state antidegradation policy embodied in Resolution 68-16 complies with the federal regulatory requirements and applies to the discharge from the Buena Vista Rancheria in the same manner as water quality standards. The CWA requires the NPDES permit to contain effluent limitations that are necessary to meet and maintain water quality standards. In the present case, the state cannot certify that the proposed discharge complies with state water quality standards because there has been no assessment of antidegradation in the Proposed Permit.

Before permitting a new discharge, EPA must determine if the new discharge complies with the federal antidegradation policy. The federal antidegradation policy is designed to protect existing uses and the level of water quality necessary to protect existing beneficial uses and provide protection to higher quality and outstanding national water resources. A proposed new discharge to a surface water is typically considered a trigger for the application of the federal antidegradation policy. The federal antidegradation policy is based on the water quality of the receiving water in relation to the water quality standards.

Waterbodies are classified as Tier 1 if the water quality is not significantly better than or worse than required to support beneficial uses; Tier 2 indicates that the water quality is significantly better than required to support beneficial uses; and Tier 3 indicates outstanding waterbodies of national significance. In California, only Lake Tahoe and Mono Lake are designated as Tier 3 waterbodies. The receiving water for the proposed discharge is either Tier 1 or Tier 2; however, the lack of receiving water data precludes the federal antidegradation analysis.

Before permitting a new discharge, EPA must determine if the new discharge complies with the state antidegradation policy as well as the federal antidegradation policy. Resolution 68-16 requires that where the existing water quality is better than water quality standards, the quality is to be maintained until it is demonstrated that the change will be consistent with maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial uses, and will not result in water quality failing to meet water quality standards. Similar to the federal antidegradation policy, the state policy requires evaluation of the water quality for the receiving water. The proposed new discharge will affect the water quality of the receiving water, if only the salinity added to the water through normal domestic use. Additionally, the restaurant and ancillary services in the proposed casino project will contribute to the treatment plant influent. The industrial strength cleaning and disinfection products used in the restaurants and lounges will generate significant quantities of priority pollutants discharged to the treatment plant. Drainage from the parking garage will undoubtedly contain oil, grease, gasoline and other compounds associated with automobiles that are or contain priority pollutants. If in the future the ancillary services include dry cleaners, there may be potential for the discharge of carcinogenic compounds to the treatment plant. Without receiving water data on water quality, the state antidegradation analysis cannot be completed.

With the available information, neither the federal nor the state antidegradation analyses can be performed. EPA cannot issue the Proposed Permit until the antidegradation analyses are complete and the discharge is found to comply with the policy. The State of California cannot certify the Proposed Permit for the new discharge without an antidegradation analysis in compliance with Resolution 68-16.

Specific Comments on Effluent Limitations and Monitoring Requirements:

In addition to the above, our review of the Proposed Permit leaves us with concerns over the requirements that have been included, as well as the apparent lack of requirements in important areas. Specific comments are listed below:

- The Proposed Permit does not contain effluent limitations for effluent flowrate. The primary purpose of a NPDES permit is to authorize the discharge of pollutants into waters of the state. The Fact Sheet points out that the annual average flow is

anticipated to be 100,000 gallons per day (GPD) with peak average weekend flow (peak two-day average) of 160,000 GPD. Additionally, the Fact Sheet states the facility capacity is 200,000 GPD. At a minimum, the Proposed Permit should specify a limitation of 200,000 GPD to assure the facility is not hydraulically overloaded. To reflect the anticipated discharge the Proposed Permit should include the annual average flow limitation of 100,000 GPD. Antidegradation considerations are based on a level of discharge. If the discharge is not limited in the permit, future reconsiderations for antidegradation will not have any basis. Even worse, without flow-based limitations the volume and mass of pollutant discharges may easily exceed the anticipated levels without the ability to restrict the discharge to protect the environment.

- The Proposed Permit does not contain effluent limitations for salinity as measured by either total dissolved solids (TDS) or electrical conductivity (EC). Salinity issues are of high concern in the Central Valley, which borders the proposed casino location and will be affected by the discharge.
- The Proposed Permit contains ammonia effluent limitations based on the U.S. EPA criteria calculated from pH and temperature as detailed in attachments to the Proposed Permit. There is no specification in the Proposed Permit as to whether the pH and temperature are to be measured in the effluent, upstream of the discharge, or downstream of the discharge. Monitoring for temperature is not required in Proposed Permit, so the monitoring requirements are not sufficient to calculate the limits for ammonia.
- Effluent limitations for total suspended solids (TSS) and biochemical oxygen demand (BOD) in the Proposed Permit are reflective of secondary treatment systems. The proposed treatment facility is a tertiary plant with microfiltration; the TSS and BOD limitations must reflect the level of treatment proposed for the project. The effluent will travel for ½ mile in a constructed channel along the property boundary before being transferred through the reverse siphon to the unnamed tributary, where flow will continue for several miles to Jackson Creek. There will be considerable periods of the year during which these miles of channels will be composed entirely of the discharged effluent. Over these miles of travel the BOD and ammonia present in the effluent will undergo natural degradation, creating algal growth and depleting oxygen. The record contains no analysis of the potential extent of algal growth or oxygen depletion. EPA should conclude that there is reasonable potential for excessive algal growth and oxygen depletion, both of which would cause nuisance conditions in the channels requiring more stringent BOD limitations in the permit.

- The Proposed Permit specifies a monitoring schedule of once per week for Total Coliform Bacteria in the effluent discharged to the environment. The proposed monitoring frequency is too infrequent to assess compliance with the weekly median limit of 2.2 MPN/100 mL and the daily maximum of 23 MPN/100 mL, as these numbers require a constant high level of performance from the disinfection system. Given that the effluent will flow in an open channel along the property, the disinfection system should be assessed daily.
- Turbidity requirements for the effluent discharged to the open channel are proposed to be monitored once per week, similar to the Total Coliform Bacteria monitoring. Monitoring once per week is insufficient to assure the effluent is receiving the intended level of treatment. The turbidity of the recycled water is specified as continuous monitoring. The same continuous monitoring requirement for turbidity should be applied to the discharged effluent as to the recycled water.
- The Proposed Permit specifies whole effluent toxicity measurements once per year. Considering the fact that the Proposed Permit allows a new discharge that will not have been directly assessed before release to the environment, the effluent should receive accelerated monitoring. Additionally, there is no specification for acute toxicity testing of the effluent.
- The Proposed Permit requires collection and analysis of samples to follow a quality assurance manual to be developed by the permittee. However, there is no time frame for development or requirement to submit for review the quality assurance manual. Additionally, independent laboratories contracted to sample or analyze on behalf of the permittee are required to follow a quality assurance manual. Likewise, there is no requirement in the Proposed Permit to demonstration of a completed manual.
- The Proposed Permit includes a list of receiving water limitations. However, there are no monitoring requirements for assessment of any water quality parameters in the receiving water. To assess the effect of the discharge on the receiving water, the effluent would have to attain the receiving water standards, or samples in the receiving water collected upstream and downstream of the discharge would have to be compared to determine compliance. Additionally, the dissolved oxygen could be affected at considerable distance from the point of discharge. To evaluate constituents such as dissolved oxygen, an analysis would have to be performed considering the BOD and ammonia levels in the discharge along with the flow time of the discharge through the channel and unnamed tributary. The Basin Plan objective for pesticides is not included in the Proposed Permit receiving water limitations (Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, 4th Edition, revised October 2007).

- The Proposed Permit contains a reopener clause providing relaxation of monitoring requirements of ammonia, nitrate, EC, or TDS if after 24 months of sampling these constituents do not demonstrate reasonable potential. Ammonia is a component of domestic wastewater. The Proposed Permit acknowledges the fact that ammonia is present in domestic wastewater in levels potentially toxic to aquatic organisms. As the Proposed Permit indicates, the specific treatment system to be used cannot be imposed upon the discharger. The only way to assure the required effluent water quality is through effluent limitations. Without effluent limitations for ammonia, there would be no driver that would require operation of the system to nitrify the wastewater; failure to do so would allow ammonia to be discharged at levels potentially toxic to aquatic organisms. Likewise, the nitrification process produces nitrate, and an additional treatment step of denitrification is required to convert the nitrate to nitrogen gas. Without the effluent limitations, there would be no driver to require the continued operation of the denitrification to protect downstream drinking water uses.
- In the reopener section of the Proposed Permit, there is a clause to revise ammonia and nitrate limitations pending an assessment of antidegradation requirements or to establish more stringent technology based effluent limits based on demonstrated performance data. While the County feels it is appropriate to reopen the permit for more stringent limits based on the demonstrated performance of the treatment system, the County is concerned that the assessment of antidegradation has not been conducted prior to the issuance of the Proposed Permit. The County contends the antidegradation analysis is mandated before consideration of a new discharge.
- There is a lack of monitoring data for the Proposed Permit. While the effluent data is not available due to the facility not being in operation, there is and has been an opportunity to perform monitoring of the receiving water to determine existing impairments. Additionally, as noted above, the assessment of the receiving water is necessary to perform an antidegradation analysis.

Proposed Permit Should Not Be Issued Until Groundwater Impacts Are Examined

In addition to potential impacts to surface water quality, a significant discharge such as proposed can drastically influence the vulnerable groundwater resource in the Jackson Valley area. Concern over potential groundwater impacts was a key issue raised by the public during CEQA review of the project.

Work prepared in support of the Monitoring Well Work Plan, Buena Vista Rancheria of Me-Wuk Indians, Gaming and Entertainment Facility, names Jackson Creek as a principal

source of recharge for groundwater contained in the alluvium in Jackson Valley. Conversation with local well drilling contractors indicates that groundwater quality within the alluvium tends to be much better than that produced from deeper aquifers. Well construction practices in the area historically sought to produce water from this shallow aquifer since deeper water quality is typically not acceptable without substantial treatment. There is some documentation of water quality problems in the deeper aquifers in the same work plan.

In the Lone Valley, north of the project site and geologically similar, a number of water wells in close proximity to an institutional waste water treatment plant were found to produce water with high nitrate levels and traces of organic chemicals that were consistent with chemicals used at that institution but unlikely to be found elsewhere in the area. Wastewater from that institution was treated and applied to land in close proximity to the seasonal drainage. Additional investigation, including trilinear assessment of ionic constituents, showed a strong correlation between the water produced by the impacted wells, water collected from the seasonal drainage downstream of the waste water treatment plant, and treated water piped to the institution originating from the Mokelumne River, a very distant and distinct source. There was little correlation between water produced by the impacted wells and water from the seasonal drainage upstream of the waste water treatment plant. The California Central Valley Regional Water Quality Control Board required corrective action for the institution's waste water treatment plant, including a groundwater monitoring program. Connection of affected users in the area to a piped potable water system was accomplished to provide immediate protection from nitrate levels in excess of safe drinking water standards. There is currently no piped potable water system within Jackson Valley available to area residents in the event groundwater is impacted. In addition to establishing sufficiently protective discharge criteria, stringent groundwater monitoring must be included in the monitoring and reporting program.

Plant Reliability and Contingency Planning Must Be Analyzed and Mitigated

Reliability of the proposed waste water treatment plant is of great concern. In addition to the example cited above, many other instances of plant upset or other system failure have been documented, most notably in a virtually identical plant designed for Thunder Valley Casino. It is unclear whether any provision for storage or removal of wastewater that cannot be treated to comply with discharge requirements is to be required. If inadequate storage is provided, ongoing generation of wastewater must be hauled to another waste water treatment plant or it will be discharged in violation of the Proposed Permit. Hauling would create additional environmental impacts, and feasible destinations for hauled waste water have often been difficult or impossible to locate in the past. The Proposed Permit should include a requirement for adequate contingency planning in recognition of the potential for plant upset.

Additional Problematic Waste Stream Must Be Analyzed and Mitigated

In addition to human wastes, food facility wastes, cleaning agents, pharmaceuticals, and other contaminants added to the waste stream by the casino project, the groundwater source water itself contains arsenic, metals, and radiological constituents that must be removed by the on-site water treatment plant prior to domestic use. This concentrated waste stream will likely be diverted to the waste water treatment plant. It is unclear if the waste water plant is designed to exclude these contaminants from the discharge. If so, there needs to be a discussion of management of this waste stream. Both surface and groundwater monitoring should be designed to be able to detect these constituents. If the wastewater treatment plant is not designed to address these constituents, it needs to be determined how they are to be managed. Solids resulting from evaporation may be hazardous wastes and the process could be. Since energy required for evaporation may be very costly, a problematic liquid waste stream that would have to be hauled off site may be more likely. A reliable, feasible destination for that waste stream may be even more difficult to locate. The Proposed Permit should identify and analyze this waste stream generated by the water treatment plant, and identify requirements for handling the constituents removed by the on-site water treatment plant.

Reporting Noncompliance

The discharger would be required to report to the U.S. EPA any noncompliance that may endanger human health or the environment. Due to the casino project's physical size and configuration, these impacts are likely to be off-site. This reporting requirement should include the State Office of Emergency Services and the Amador County Public Health and Environmental Health departments. What enforcement steps are available to U.S. EPA in the event of noncompliance?

Proposed Permit may not be Issued until EPA complies with NEPA

The Proposed Permit and Fact Sheet are silent as to the steps EPA is taking to comply with NEPA in issuing the Proposed Permit. Because the permit is being issued for a new discharge, it is subject to review under NEPA (40 C.F.R. § 6.101(a)). NEPA requires EPA to thoroughly examine the potential environmental effects of any new discharge to navigable waters and to inform the public of its studies and resulting concerns. As EPA is well aware, if the discharge may have a significant impact on the environment, EPA is required to prepare an EIS describing the impacts of the action and possible alternatives.

We suspect that when sufficient information about the full range of potential pollutants is disclosed, including ammonia, dissolved oxygen, nitrate, and CTR constituents, the data will demonstrate the potential for many significant impacts, each of which must be disclosed and mitigated.

September 4, 2009

Page 9

NEPA should review reclaimed water reuse alternatives to direct discharge. Potential beneficial uses may include industrial use by the cogeneration facility immediately west of the project or agricultural use on other surrounding lands.

Conclusion

Without limiting the specific concerns identified above, the County is concerned that the monitoring requirements in the Proposed Permit are not sufficient to evaluate compliance with ammonia levels in the discharge. Additionally, there are no receiving water monitoring requirements, so that the receiving water limitation compliance cannot be evaluated, providing no ability to assess the environmental impact of the discharge or compliance with state and federal antidegradation policies. Monitoring frequency is insufficient to identify threats to the environment. Additional threats to groundwater and analysis of the waste stream generated by the on-site water treatment plant must be included.

The County requests the EPA hold a public hearing on the Proposed Permit. Please place the County on the notice list to receive any notices regarding the proposed discharge and Proposed Permit, including notices related to EPA's compliance with NEPA.

Very truly yours,



Martha Jeanne Shaver

Cc: Ken Landau, Regional Water Quality Control Board
James Marshall, Regional Water Quality Control Board
Lori Okun, Regional Water Quality Control Board

EXHIBIT 3

AMADOR COUNTY COUNSEL

COUNTY ADMINISTRATION CENTER
500 ARGONAUT LANE, JACKSON, CA 95642-9534 • (209) 223-6366 • FAX (209) 223-4286



RECEIVED
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OFFICIAL RECORDS
AMADOR COUNTY, CA.

John F. Hahn, County Counsel
jhahn@co.amador.ca.us
Martha Jeanne Shaver, Deputy
mshaver@co.amador.ca.us
Evelyn Spirou, Deputy
espirou@co.amador.ca.us
Gregory Gillott, Deputy
gillott@co.amador.ca.us
Julie Turley, Legal Secretary
turley@co.amador.ca.us

February 22, 2006

Mr. John Tinger
United States Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94105-3901

Re: Ownership of Buena Vista Rancheria

Dear Mr. Tinger,

Pursuant to our discussion during the conference call yesterday I am submitting to EPA as a further County comment on the Buena Vista Rancheria's NPDES Permit application for its casino basic information on the status of the title to the Rancheria. In brief, the Rancheria is not owned by the United States, nor is there any legal relationship between the Rancheria land and the federal government. Records filed in the County Assessor's Office show that the land is owned in fee by the Buena Vista Band of Me-wuk Indians (the "Tribe").

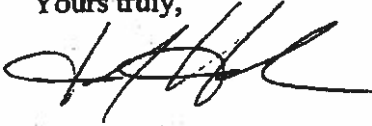
The history of title to the land is not very complex. It was purchased in 1926 by the United States for landless Indians, conveyed in 1958 to individual Indians with no trust or residual connection to the federal government, conveyed or willed by those Indians to others, and ultimately conveyed by a tribal member to the Tribe in 1996. Simultaneously in 1996 the Tribe attempted to convey the land to the United States and the federal government refused to accept the conveyance. Title is retained by the Tribe.

I have enclosed the following documents: (a) the deed purporting to convey title to the United States, (b) a letter from the federal government refusing to accept the conveyance, and (c) and (d) two recent letters from the federal government acknowledging that the land is not owned by the Federal government.

Thus EPA's jurisdiction must be based on something other than federal ownership of the land.

Thank you for your review of this matter. If your counsel wants more detailed information I can supply it.

Yours truly,

A handwritten signature in black ink, appearing to read 'J. Hahn', written over the closing 'Yours truly,'.

John F. Hahn
County Counsel

cc: **Peter Tateishi**
Cathy Christian, Esq.
Jim Parrinello, Esq.

Order No.
Escrow No. 101504-A
Loan No.

PCO NOT REQUIRED
RECORDED AT REQUEST OF
FIRST AMERICAN TITLE CO. PCO NOT REQUIRED
at 55 Min. Post 2P

1996 006959

② WHEN RECORDED MAIL TO:
THE UNITED STATES DEPARTMENT OF
THE INTERIOR, BUREAU OF INDIAN AFFAIRS
③ Central California Agency
1824 Tribute Road, Suite J
Sacramento, CA 95815-4308

AUG 01 1996

Official Records
Amador County, California

\$ NO fee Recorder

RECORDED AT REQUEST OF
FIRST AMERICAN TITLE CO.
at 30 Min. Post 2P

SEP 06 1996

Official Records
Amador County, California

Recorder

1996 007879

SPACE ABOVE THIS LINE FOR RECORDING USE

MAIL TAX STATEMENTS TO:

SAME AS ABOVE

DOCUMENTARY TRANSFER TAX \$ NONE

- Computed on the consideration or value of property conveyed; OR
- Computed on the consideration or value less liens or encumbrances remaining at time of sale.

The undersigned Grantor declares

Signature of Declarant or Agent determining tax - Firm Name

GRANT DEED

AFN 12-100-005

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

THE BUENA VISTA RANCHERIA OF MEWUK INDIANS

does hereby GRANT to
THE UNITED STATES OF AMERICA IN TRUST FOR THE BUENA VISTA RANCHERIA OF ME-WUK INDIANS,
~~THE UNITED STATES DEPARTMENT OF THE INTERIOR / BUREAU OF INDIAN AFFAIRS~~
their interest in the following described property:

the real property in the
County of Amador unincorporated area of the
State of California, described

THIS DOCUMENT IS BEING RE-RECORDED TO REFLECT A CORRECTION AS TO THE VESTING OF GRANTEE HEREIN
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

THIS DEED IS GIVEN IN COMPLIANCE WITH THE ORDERS AND STIPULATIONS OF THE COURT IN TILLIE
HARDWICK, ET AL VS. UNITED STATES OF AMERICA, ET AL, UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA, CASE NO. C-79-1710 SW

Dated July 30, 1996

STATE OF CALIFORNIA
COUNTY OF AMADOR

On July 31, 1996 before me,
Renee Kirk, Notary Public

THE BUENA VISTA RANCHERIA OF MEWUK INDIANS

By Donnamarie Potts
DONNAMARIE POTTS - Tribal Spokesperson

personally appeared at the time of the recording of this deed to me on the basis of satisfactory evidence that the person(s) named herein subscribed to the same and that he/she/they executed the same in the presence of me (and in the presence of the witnesses named in the instrument) and that by his/her/their signature on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.



Signature Renee Kirk
Renee Kirk

"A"

1996

006859

"EXHIBIT A"
Legal Description

All that real property situated in the State of California, County of Amador, Unincorporated Area, described as follows:

Commencing at the Northeast corner of Section 19, Township 5 North, Range 10 East, M.D.B. & M., and thence running West along Section line 578 feet; thence at right angles South 5280 feet; thence at right angles East 578 feet; thence at right angles North 5280 feet to a place of beginning.

EXCEPTING THEREFROM THE FOLLOWING:

All the portion of the Northeast Quarter of Section 19, Township 5 North, Range 10 East, M.D.B. & M., described as follows:

Beginning at a 3 inch iron pipe fence and post at the Southerly end of a new road fence, from which point a 1 1/2 inch capped iron pipe stamped "U.S.I.S. 1953 17, 18, 19 AND 20" found marking the Northeast corner of said Section 19, bears North 30° 08' 30" East 1099.38 feet distant; thence, from said point of beginning, along the Southerly prolongation of said new road fence, South 00° 39' 30" East 65.11 feet to a 3/4 inch steel reinforcing rod tagged R.C.E. 10761; thence South 01° 58' 50" West 385.29 feet to a similar steel rod; thence South 19° 02' 00" West 186.24 feet to a Z iron fence post; thence South 62° 22' 50" West 6.19 feet to a 3/4 inch steel reinforcing rod tagged R.C.E. 10761 set on the Westerly line of that certain parcel of land conveyed by the United States of America, Department of the Interior to Louis Oliver and his wife, Annie Oliver, by instrument dated October 5, 1959, and recorded in the Office of the Recorder of Amador County on October 8, 1959, in Book 88 of Official Records at Page 198; thence along the Westerly line of said Oliver Parcel of land, North 01° 58' 50" East 481.11 feet to a similar steel rod, from which point the Northwest corner of said Oliver Parcel of land, bears North 01° 58' 50" East 1100.00 feet distant; thence South 88° 01' 10" East 40.00 feet to a similar steel rod; thence North 08° 26' 00" East 151.30 feet to the point of beginning.

ALSO EXCEPTING therefrom all minerals and metals as reserved by B. Accampo in Deed filed for record October 5, 1925 in Book 45 of Deeds at Page 43, Records of Amador County.

A.F.N. 12-100-005

END OF DOCUMENT

1996
007879

Amador County

Real Property Mgmt.,

NOV 18 1996

Mr. Sheldon D. Johnson
County Clerk/Recorder
500 Argonaut Lane
Jackson, California 95642-9534

Dear Mr. Johnson:

By this letter we are acknowledging receipt of the Grant Deed recorded as 1996 006859, to the United States of America in Trust for the Buena Vista Rancheria of Me-Wuk Indians. Subject Grant Deed is for Assessor's Parcel Number 12-100-005.

Although the Grant Deed states the conveyance is to the United States of America in Trust for the Buena Vista Rancheria of Me-Wuk Indians, it is lacking an Acceptance of Conveyance on behalf of the United States. Our regulations specify a formal acceptance, as in accordance with, 25 CFR 151.14, Formalization of Acceptance, "Formal acceptance of land in trust status shall be accomplished by the issuance or approval of an instrument of conveyance by the Secretary as is appropriate in the circumstance." Therefore, the subject Grant Deed is not a valid conveyance to the United States.

We are, by copy of this letter, informing the Buena Vista Rancheria of the Grant Deed's status.

If you have any further questions, please contact Ms. Kayla M. Danks, Realty Officer, at (916) 566-7117.

Sincerely,

/s/ Harold M. Brafford

Harold M. Brafford
Superintendent

cc: Ms. Donnamarie Potts, Spokesperson
Buena Vista Rancheria

" B "



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825

FEB 08 2006

Michelle LaPena, Esq.
Holland & Knight
1215 K Street, Suite 1747
Sacramento, California 95814

Dear Ms. LaPena:

On behalf of the Ione Band of Miwok Indians, by your November 2, 2005 letter, you submitted a chain of title guarantee and other data regarding the Buena Vista Rancheria. You specifically requested our position regarding jurisdiction over the Buena Vista Rancheria and its status. Please accept our apology for the delay in our response.

At this time, it is our position that the lands within the exterior boundaries of the Buena Vista Rancheria are not held in trust. Although there were two grant deeds to the U.S. recorded in Amador County, they were recorded without our prior knowledge, and neither deed was formally accepted by the United States as required in 25 CFR 151.14.

We will forward a copy of your letter and its enclosures to the Director, Office of Indian Gaming.

Sincerely,

Cam Davis
Acting Regional Director

cc: Director, OIGM, w/copies of all inc.
Superintendent, CCA, w/copies of all inc.

"C"



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Central California Agency
650 Capitol Mall, Suite 8-500
Sacramento, CA 95814

RECEIVED

FEB 23 2004

COUNTY JACKSON

IN REPLY REFER TO:
Real Estate Service
Buena Vista Rancheria

FEB 20 2004

Mr. Jim Rooney
Amador County Assessor
500 Argonaut Lane
Jackson, California 95642

Dear Ms. Rooney:

This letter is in response to your letter dated February 5, 2004, regarding Parcel Number 012-100-005-000, referred to as the Buena Vista Rancheria. Our records reflect that the parcel is not in Trust Status. If you need additional information, please write to the address above to H. James Brafford, Realty Officer.

Sincerely,


Dale Risling, Sr.
Superintendent

" D "

EXHIBIT 4

DECLARATION OF THERESA R. DALY

I, Theresa R. Daly, declare as follows:

1. I am the duly appointed and acting County Administrative Officer for the County of Amador. I submit this declaration in support of Amador County's appeal of the grant of an NPDES permit to the Buena Vista Rancheria of Me-Wuk Indians (the "Tribe") in connection with the operation of a casino on land owned by the Tribe. If called as a witness, I could competently testify to the facts and matters set forth in this Declaration based upon my own knowledge and information.

2. On July 21, 2010 I had a telephone conversation with Dennis Trzcinski, an employee of Wilmorite Construction Management Services and Project Manager for the construction of the Flying Cloud Casino by the Tribe, owner of certain real property in Amador County upon which the casino is proposed to be located.

3. The Intergovernmental Services Agreement dated June 11, 2008 between Amador County and the Tribe provides in Section 6 that the Tribe has a one-time right, at any time after the first year of operation of the casino, to negotiate a new intergovernmental services agreement for an expanded facility, not to exceed 1,650 slot machines and 60 gaming tables.

4. During my telephone conversation with Mr. Trzcinski, he asked me if Amador County would be willing to enter into negotiations with the Tribe immediately for the construction of an expanded casino notwithstanding the fact that construction has not yet begun upon the smaller casino allowed under the Intergovernmental Services Agreement.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed this 22nd day of July, 2010, at Jackson, California.


Theresa R. Daly

EXHIBIT 5

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER NO. R5-2010-0006

REQUIRING THE UNITED AUBURN INDIAN COMMUNITY
THUNDER VALLEY CASINO WASTEWATER TREATMENT PLANT
PLACER COUNTY

TO COMPLY WITH REQUIREMENTS PRESCRIBED IN ORDER NO. R5-2010-0005
(NPDES PERMIT NO. CA0084697)

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Central Valley Water Board) finds that:

1. On 28 January 2010, the Central Valley Water Board adopted Waste Discharge Requirements (WDR) Order No. R5-2010- 0005, prescribing waste discharge requirements for the United Auburn Indian Community (hereafter Discharger), Thunder Valley Casino Wastewater Treatment Plant (hereafter Facility), in Placer County.
2. WDR Order No. R5-2010-0005 section IV.A.1.a contains Final Effluent Limitations for Discharge Point No. 001 which read, in part, as follows:

Table 6. Final Effluent Limitations

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Priority Pollutants						
Cadmium, Total Recoverable	µg/L	0.05	--	0.10	--	--
Lead, Total Recoverable	µg/L	0.05	--	0.10	--	--
Zinc, Total Recoverable	µg/L	10	--	20	--	--

3. The effluent limitations at Discharge Point No. 001 specified in Order No. R5-2010-0005 for cadmium, lead, and zinc are based on implementation of the California Toxics Rule (CTR). The effluent limitations for cadmium, lead, and zinc are new limitations that were not prescribed in previous WDR Order No. R5-2005-0032, adopted by the Central Valley Water Board on 17 March 2005.
4. California Water Code (CWC) section 13300 states: *"Whenever a regional board finds that a discharge of waste is taking place or threatening to take place that violates or will violate requirements prescribed by the regional board, or the state board, or that the waste collection, treatment, or disposal facilities of a discharger are approaching capacity, the board may require the discharger to submit for approval of the board, with such modifications as it may deem necessary, a detailed time schedule of specific actions the discharger shall take in order to correct or prevent a violation of requirements."*

5. Federal regulations, 40 CFR 122.44 (d)(1)(i), require that NPDES permit effluent limitations must control all pollutants which are or may be discharged at a level which will cause or have the reasonable potential to cause or contribute to an in-stream excursion above any State water quality standard, including any narrative criteria for water quality. Beneficial uses, together with their corresponding water quality objectives or promulgated water quality criteria, can be defined per federal regulations as water quality standards.
6. In accordance with CWC section 13385(j)(3), the Regional Water Board finds that, based upon results of effluent monitoring, the Discharger is not able to consistently comply with the new effluent limitations for cadmium, lead, and zinc at Discharge Point No. 001. These limitations are based on new requirements that become applicable to the Order after the effective date of the waste discharge requirements, and after 1 July 2000, for which new or modified control measures are necessary in order to comply with the limitation, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.
7. Immediate compliance with the new effluent limitations for cadmium, lead, and zinc at Discharge Point No. 001 are not possible or practicable. The Clean Water Act and the California Water Code authorize time schedules for achieving compliance. The Discharger indicated in their infeasibility report that additional time is required to comply with the final effluent limitations for cadmium, lead and zinc. The Regional Water Board is providing no later than 1 January 2015 for the Discharger to comply with the final effluent limitations for cadmium, lead, and zinc at Discharge Point No. 001.
8. This Order provides a time schedule for the Discharger to develop, submit, and implement methods of compliance, including developing and implementing pollution prevention activities or constructing necessary treatment facilities to meet these new effluent limitations.
9. CWC sections 13385(h) and (i) require the Regional Water Board to impose mandatory minimum penalties upon dischargers that violate certain effluent limitations. CWC section 13385(j)(3) exempts certain violations from the mandatory minimum penalties, *"where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300, if all the [specified] requirements are met."*
10. Compliance with this Order exempts the Discharger from mandatory penalties for violations of effluent limitations at Discharge Point No. 001 for cadmium, lead, and zinc only, in accordance with CWC section 13385(j)(3). CWC section 13385(j)(3) requires the Discharger to prepare and implement a pollution prevention plan pursuant to section 13263.3 of the California Water Code. Therefore, a pollution prevention plan will be necessary for cadmium, lead, and zinc in order to effectively reduce the effluent concentrations by source control measures.
11. Since the time schedule for completion of action necessary to bring the waste discharge into compliance exceeds 1 year, this Order includes interim requirements and dates for their achievement. The time schedule does not exceed 5 years.

The compliance time schedule in this Order includes interim performance-based effluent limitations for cadmium, lead, and zinc at Discharge Point No. 001. The interim effluent limitations consist of a maximum daily effluent concentration derived using sample data provided by the Discharger. In developing the interim limitations, where there are 10 sampling data points or more, sampling and laboratory variability is accounted for by establishing interim limits that are based on normally distributed data where 99.9 percent of the data points will lie within 3.3 standard deviations of the mean (*Basic Statistical Methods for Engineers and Scientists, Kennedy and Neville, Harper and Row, 3rd Edition, January 1986*). Where actual sampling shows an exceedance of the proposed 3.3-standard deviation interim limit, the maximum detected concentration has been established as the interim limitation. In developing the interim limitations, when there are less than 10 sampling data points available, the USEPA *Technical Support Document for Water Quality-based Toxics Control* ((EPA/505/2-90-001), TSD) recommends a coefficient of variation of 0.6 be utilized as representative of wastewater effluent sampling. The TSD recognizes that a minimum of 10 data points is necessary to conduct a valid statistical analysis. The multipliers contained in Table 5-2 of the TSD are used to determine a maximum daily limitation based on a long-term average objective. In this case, the long-term average objective is to maintain, at a minimum, the current plant performance level. Therefore, when there are less than 10 sampling points for a constituent, an interim limitation is based on 3.11 times the maximum observed effluent concentration to obtain the daily maximum interim limitation (TSD, Table 5-2).

The following tables summarize the calculations of the interim performance-based effluent limitations at Discharge Point No. 001:

Interim Effluent Limitation Calculation Summary for Discharge Point No. 001

Parameter	Units	MEC	Mean	Std. Dev.	# of Samples	Interim Maximum Daily Effluent Limitation
Cadmium, Total Recoverable	µg/L	0.24	0.14	0.04	7	0.75
Lead, Total Recoverable	µg/L	1.1	0.62	0.25	7	3.4
Zinc, Total Recoverable	µg/L	89	46	28	7	277

12. The Central Valley Water Board finds that the Discharger can, in addition to other treatment and control options, undertake source control to maintain compliance with the interim limitation included in this Order. Interim limitations are established when compliance with the final effluent limitations cannot be achieved by the existing discharge. Discharge of constituents in concentrations in excess of the final effluent limitations, but in compliance with the interim effluent limitations, can significantly degrade water quality and adversely affect the beneficial uses of the receiving stream on a long-term basis. The interim limitation, however, establishes an enforceable ceiling concentration until compliance with the effluent limitations can be achieved.
13. On 28 January 2010, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Regional Water Board conducted a public hearing at which evidence was received to consider a Time Schedule Order under CWC section

13300 to establish a time schedule to achieve compliance with waste discharge requirements.

14. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000, et seq.), in accordance with CWC section 15321 (a)(2), Title 14, California Code of Regulations.
15. Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with CWC section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date that this Order becomes final, except that if the thirtieth day following the date that this Order becomes final falls on a Saturday, Sunday, or state holiday (including mandatory furlough days), the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

IT IS HEREBY ORDERED THAT:

1. The Discharger shall comply with the following time schedule to ensure compliance with cadmium, lead, and zinc effluent limitations at Discharge Point No. 001 at section IV.A.1.a and IV.A.2.a, contained in WDR Order No. R5-2010-0005 as described in the above Findings.

<u>Task</u>	<u>Date Due</u>
Submit Method of Compliance Workplan/Schedule	Within 6 months after adoption of this Order
Submit and implement Pollution Prevention Plan (PPP) ¹ pursuant to CWC section 13263.3 for cadmium, lead, and zinc	Within 1 year after adoption of this Order
Progress Reports ²	30 June, annually , after approval of work plan until final compliance
Full compliance with cadmium, lead, and zinc effluent limitations	1 January 2015

¹ The PPP shall be prepared and implemented for cadmium, lead, and zinc, as appropriate, and shall meet the requirements specified in CWC section 13263.3.

² The progress reports shall detail what steps have been implemented towards achieving compliance with waste discharge requirements, including studies, construction progress, evaluation of measures implemented, and recommendations for additional measures as necessary to achieve full compliance by the final date.

2. The following interim effluent limitations shall be effective immediately. The interim effluent limitations at Discharge Point No. 001 for cadmium, lead, and zinc shall be effective up through 31 December 2014, or when the Discharger is able to come into compliance with final effluent limitations, whichever is sooner:

Parameter	Units	Maximum Daily Effluent Limitation
Cadmium, Total Recoverable	µg/L	0.75
Lead, Total Recoverable	µg/L	3.4
Zinc, Total Recoverable	µg/L	277

3. For the compliance schedule required by this Order, the Discharger shall submit to the Central Valley Water Board on or before each compliance report due date, the specified document or, if appropriate, a written report detailing compliance or noncompliance with the specific schedule date and task. If noncompliance is being reported, the reasons for such noncompliance shall be stated, and shall include an estimate of the date when the Discharger will be in compliance. The Discharger shall notify the Central Valley Water Board by letter when it returns to compliance with the time schedule.
4. If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may apply to the Attorney General for judicial enforcement. If compliance with these effluent limitations is not achieved by the full compliance date, the discharge would not be exempt from the mandatory minimum penalties for violation of certain effluent limitations, and would be subject to issuance of a Cease and Desist Order in accordance with CWC section 13301.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 28 January 2010.

Original Signed by Kenneth D. Landau for

PAMELA C. CREEDON, Executive Officer

EXHIBIT 6

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. R5-2005-0033

REQUIRING THE UNITED AUBURN INDIAN COMMUNITY
AUBURN RANCHERIA CASINO
WASTEWATER TREATMENT PLANT
TO CEASE AND DESIST

FROM DISCHARGING CONTRARY TO REQUIREMENTS

The California Regional Water Quality Control Board, Central Valley Region (hereafter referred to as Regional Board), finds:

1. On 17 March 2005, the Regional Board adopted Waste Discharge Requirements Order No. R5-2005-0032, for the United Auburn Indian Community's Auburn Rancheria Casino Wastewater Treatment Plant (hereafter Discharger). Waste Discharge Requirements Order No. R5-2005-0032 regulates the discharge of 0.35 million gallons per day (mgd) of treated domestic wastewater to an unnamed tributary to Orchard Creek, Orchard Creek, Auburn Ravine, the East Side Canal, the Cross Canal, and the Sacramento River.
2. Waste Discharge Requirements Order No. R5-2005-0032, includes Effluent Limitations for aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), nitrate, electrical conductivity, sulfate, arsenic, total trihalomethanes, persistent chlorinated hydrocarbon pesticides, and ammonia as contained in Sections C.1, which read in part as follows:

"1. Effluent from the wastewater treatment plant shall not exceed the following limits:

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>	<u>Daily Average</u>
Persistent Chlorinated Hydrocarbon Pesticides	µg/l	---	ND	---
Aluminum	µg/l	71	---	143
	lbs/day ²	0.21	---	0.42
Atrazine	µg/l	1.0	---	---
	lbs/day ²	0.003	---	---
Boron	µg/l	700	---	---
	lbs/day ²	2.0	---	---

CEASE AND DESIST ORDER NO. R5-2005-0033
 NPDES NO. CA0084697
 UNITED AUBURN INDIAN COMMUNITY
 AUBURN RANCHERIA CASINO
 WASTEWATER TREATMENT PLANT
 PLACER COUNTY

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>	<u>Daily Average</u>	<u>One-hour Average</u>
Fluoride	µg/l	1,000	---	---	---
	lbs/day	2.9	---	---	---
Methylene Blue Active Substances (MBAS)	µg/l	500	---	---	---
	lbs/day	1.5	---	---	---
Nitrate (as N)	µg/l	10,000	---	---	---
	lbs/day	29	---	---	---
Sulfate	µg/l	250,000	---	---	---
	lbs/day	730	---	---	---
Arsenic	µg/l	10	---	---	---
	lbs/day	0.03	---	---	---
Total Trihalomethanes	µg/l	80	---	---	---
	lbs/day	0.23	---	---	---
Electrical Conductivity (EC)	µmhos/cm	700	---	---	---
Ammonia	mg/l	0.42	---	---	3.5
	lbs/day	1.2	---	---	10.2

3. Based on sampling submitted by the Discharger, the discharge currently cannot consistently comply with the Effluent Limitations for aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), nitrate, electrical conductivity, sulfate, arsenic, total trihalomethanes, persistent chlorinated hydrocarbon pesticides, and ammonia contained in the Waste Discharge Requirements Order No. R5-2005-0032.

All maximum detected effluent sampling results for aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), nitrate, electrical conductivity, sulfate, arsenic, total trihalomethanes/chloroform, and ammonia, calculated projected Maximum Effluent Concentrations (MEC), and controlling water quality criteria for the receiving water for are summarized in the table below:

Constituents	Maximum Detected Concentration (µg/l)	Controlling Water Quality Criteria (µg/l)	Projected MEC (µg/l)
Aluminum	32	Basin Plan narrative toxicity objective and U.S.EPA Ambient Water Quality Freshwater Aquatic Life Criteria	237
Atrazine	0.83	Basin Plan chemical constituent objective and Primary MCL	6.1
Boron	3,500	Agricultural Goal	25,900

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Constituents	Maximum Detected Concentration (µg/l)	Controlling Water Quality Criteria (µg/l)	Projected MEC (µg/l)
Fluoride	520	Agricultural Goal	3,848
MBAS	72	Basin Plan chemical constituent objective and Secondary MCL	533
Nitrate (as N)	16,000	Basin Plan narrative objective and Primary MCL	16,000
Sulfate	70,000	Basin Plan chemical constituent objective and Secondary MCL	518,000
Arsenic	3	Basin Plan chemical constituent objective and Primary MCL	22.2
Electrical Conductivity	6,900	Agricultural Goal	N/A
Chloroform	16	Basin Plan chemical constituent objective and Primary MCL	118
Ammonia	19,000	Basin Plan narrative toxicity objective and U.S.EPA Ambient Water Quality Freshwater Aquatic Life Criteria	N/A

4. Based on the above Findings, this discharge represents a threatened discharge of waste in violation of the Effluent Limitations for aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), nitrate, electrical conductivity, sulfate, arsenic, total trihalomethanes, persistent chlorinated hydrocarbon pesticides, and ammonia included in Waste Discharge Requirements Order No. R5-2005-0032.
5. In accordance with California Water Code (CWC) Section 13385 (j)(3), the Regional Board finds that, based upon the current condition of the wastewater treatment plant, the Discharger is not able to consistently comply with aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), nitrate, electrical conductivity, sulfate, arsenic, total trihalomethanes, persistent chlorinated hydrocarbon pesticides, and ammonia limitations. The aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), electrical conductivity, sulfate, arsenic, total trihalomethanes, and persistent chlorinated hydrocarbon pesticides Effluent Limitations are new requirements that become applicable to the permit after the effective date of adoption of the waste discharge requirements, and after 1 July 2000, for which new or modified control measures are necessary in order to comply with the limitation, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

CEASE AND DESIST ORDER NO. R5-2005-0033
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Source control and treatment actions can be taken to correct the violations that would otherwise be subject to mandatory penalties under California Water Code section 13385(h) and (i), and the Discharger can take reasonable measures to achieve compliance within five (5) years from the date the waste discharge requirements were required to be reviewed pursuant to Section 13380.

California Water Code (CWC) Section 13385 (j)(3) requires the Discharger to prepare and implement a pollution prevention plan pursuant to Section 13263.3 of the California Water Code. A pollution prevention plan addresses only those constituents that can be effectively reduced by source control measures. Aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), nitrate, electrical conductivity, sulfate, arsenic, total trihalomethanes, persistent chlorinated hydrocarbon pesticides, and ammonia can be reduced significantly through source control measures.

Compliance with this Order exempts the Discharger from mandatory minimum penalties for violations of nitrate and ammonia limitations from adoption to 16 March 2006 and aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), electrical conductivity, sulfate, arsenic, total trihalomethanes, and persistent chlorinated hydrocarbon pesticides limitations through 1 February 2008, in accordance with California Water Code (CWC) Section 13385 (j)(3).

6. On 17 March 2005, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Regional Board conducted a public hearing at which evidence was received to consider a Cease and Desist Order to establish a time schedule to achieve compliance with waste discharge requirements.
7. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), in accordance with Section 15321 (a)(2), Title 14, California Code of Regulations.
8. Any person adversely affected by this action of the Regional Board may petition the State CA 95812-0100, within 30 days of the date in which the action was taken. Copies of the law and regulations applicable to filing petitions will be provided on request.

IT IS HEREBY ORDERED that:

1. The United Auburn Indian Community shall cease and desist from discharging, and threatening to discharge, contrary to Waste Discharge Requirements Order No. R5-2005-0032 Effluent Limitation No.1 for aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), nitrate, electrical conductivity, sulfate, arsenic, total trihalomethanes, persistent chlorinated hydrocarbon pesticides, and ammonia.

CEASE AND DESIST ORDER NO. R5-2005-0033
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2. The United Auburn Indian Community shall comply with the following time schedule to assure compliance with aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), nitrate, electrical conductivity, sulfate, arsenic, total trihalomethanes, persistent chlorinated hydrocarbon pesticides, and ammonia Effluent Limitations contained in Waste Discharge Requirements Order No. R5-2005-0032 as described in the above Findings:

<u>Task</u>	<u>Compliance Date</u>
Submit a Workplan to Achieve Compliance ¹	1 September 2005
Submit Progress Report ²	1 December, annually
Pollution Prevention Plan	1 February 2006
Achieve Full Compliance with Ammonia and Nitrate Effluent Limitations	16 March 2006
Achieve Full Compliance ³	11 March 2008

¹ The Workplan shall include the Implementation Schedule to achieve compliance with waste discharge requirements.

² The Progress Report shall detail what steps have been implemented towards achieving compliance with waste discharge requirements, including construction progress, evaluate the effectiveness of the implemented measures and assess whether additional measures are necessary to meet the time schedule.

³ The Discharger shall achieve full compliance with Effluent Limitations for aluminum, atrazine, boron, fluoride, methylene blue active substances (MBAS), electrical conductivity, sulfate, arsenic, total trihalomethanes, and persistent chlorinated hydrocarbon pesticides by 11 March 2008.

3. If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may apply to the Attorney General for judicial enforcement or issue a complaint for Administrative Civil Liability.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 17 March 2005.

THOMAS R. PINKOS, Executive Officer

EXHIBIT 7



California Regional Water Quality Control Board

Central Valley Region



Alan Lloyd, Ph.D.
Agency Secretary

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>

7 March 2006

CERTIFIED MAIL

7005 1160 0004 0127 5894

Mr. Scott Garawitz, General Manager
United Auburn Indian Community
Thunder Valley Casino
1200 Athens Avenue
Lincoln, CA 95648

CERTIFIED MAIL

7005 1160 0004 0127 5900

Mr. Donald Brown
HydroScience Operations, Inc.
10569 Old Placerville Road
Sacramento, CA 95827

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2006-0502; AUBURN RANCHERIA CASINO WASTEWATER QUALITY CONTROL FACILITY, PLACER COUNTY

Enclosed is an Administrative Civil Liability Complaint issued by the Assistant Executive Officer of the California Regional Water Quality Control Board, Central Valley (Regional Water Board) pursuant to California Water Code Section 13385 for violations of Waste Discharge Requirements (WDRS) Order No. 5-01-068 and WDRs Order No. R5-2005-0032 (NPDES No. CA0084697), by the United Auburn Indian Community and HydroScience Operations, Inc. The Complaint proposes an administrative civil liability in the amount of \$435,000 for non-discretionary mandatory minimum penalties for the effluent limitation violations, which have occurred at Thunder Valley Casino's wastewater treatment plant since June 2003.

Pursuant to the California Water Code Section 13323, the Discharger may either choose to pay the civil liability and waive a Regional Water Board hearing on the matter or choose to contest the complaint and proceed to a hearing before the Regional Water Board. If the Discharger chooses to waive the right to a hearing, then a duly authorized person must sign the waiver and submit it to this office, along with a check payable to the "State Water Pollution Cleanup and Abatement Account" in the full amount of the civil liability. Any waiver will not be effective until 30 days from the date of this Complaint to allow other interested persons to comment on this action. If the Regional Water Board does not receive a waiver and a check for the full amount by **31 March 2006**, then a hearing will be scheduled for the 4/5 May 2006 Regional Water Board Meeting in Sacramento. Additionally, the Assistant Executive Officer may decide to schedule the complaint for a hearing consistent with California Water Code Section 13323(b). If you intend to proceed to a hearing on this matter, you must submit written comments and evidence to the Regional Water Board, attention: Richard McHenry, by **31 March 2006**.

Persons wishing to submit comments on this action should submit written comments within 30 days from the date of this letter to the Regional Water Board, attention: Richard McHenry.

California Environmental Protection Agency



Mr. Scott Garawitz
Mr. Donald Brown

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7 March 2006

If you have any questions or comments regarding the Administrative Civil Liability Complaint, please contact Mr. Alex Baillie at (916) 464-4815 or Mr. Richard McHenry at (916) 464-4655.

KENNETH D. LANDAU
Assistant Executive Officer

Enclosure

cc: Regional Board Members, Rancho Cordova
Ms. Kathi Moore, U.S. Environmental Protection Agency, Region IX, San Francisco
Mr. Andrew Selleck, U.S. Environmental Protection Agency, Region IX, San Francisco
Ms. Lisa Brown, CalEPA, Sacramento
Mr. Mark Bradley, State Water Resources Control Board, Sacramento
Ms. Frances McChesney, State Water Resources Control Board, Sacramento
Mr. Phil Isorena, State Water Resources Control Board, Sacramento
Ms. Carol Oz, Department of Fish and Game, Rancho Cordova
Placer County Health Department, Auburn
Mr. Bill Jennings, Water Enforcers, Stockton
Mr. George Harris, HydroScience Engineers Inc., Sacramento

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ACL COMPLAINT NO. R5-2006-0502
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
AND MANDATORY PENALTY
IN THE MATTER OF

UNITED AUBURN INDIAN COMMUNITY
HYDROSCIENCE OPERATIONS, INC.
AUBURN RANCHERIA CASINO WASTEWATER TREATMENT PLANT
PLACER COUNTY

This complaint is issued to the United Auburn Indian Community and HydroScience Operations, Inc. (hereafter referred to individually as United Auburn Indian Community and HydroScience Operations or jointly as Discharger) based on a finding of violations of NPDES Waste Discharge Requirements (WDR) Order No. 5-01-068, and Order No. R5-2005-0032 (NPDES No. CA0084697), pursuant to California Water Code (CWC) Section 13385, which authorizes the imposition of Administrative Civil Liability, and CWC Section 13323, which authorizes the Executive Officer to issue this complaint.

The Assistant Executive Officer of the California Regional Water Quality Control Board, Central Valley (Regional Water Board) finds the following:

1. The Discharger owns and operates the Auburn Rancheria Casino Wastewater Treatment Plant (WWTP), which provides sewerage service to the Auburn Rancheria Casino. Treated domestic wastewater is discharged to an unnamed tributary of Orchard Creek, a water of the United States, and tributary to Orchard Creek, Auburn Ravine, the East Side Canal, and the Sacramento River.
2. On 16 March 2001, the Regional Water Board adopted WDR Order No. 5-01-068 to regulate discharges of waste from the WWTP. On 17 March 2005, the Regional Water Board adopted WDR Order No. R5-2005-032, revising and rescinding Order No. 5-01-068.

Water Code Requirements

3. CWC Section 13323 states, in part:

“Any executive officer of a regional board may issue a complaint to any person on whom administrative civil liability may be imposed pursuant to this article. The complaint shall allege the act or failure to act that constitutes a violation of law, the provision authorizing civil liability to be imposed pursuant to this article, and the proposed civil liability.”

4. CWC Section 13385 states, in part:

“(a) Any person who violates any of the following shall be liable civilly in accordance with this section:

(1) Section 13375 or 13376.

(2) Any waste discharge requirements ...issued pursuant to this chapter ...”

“(5) Any requirements of Section 301, 302, 306, 307,308, 318, 401, or 405 of the Clean Water Act, as amended.”

5. CWC Section 13385(h) and (i) require assessment of mandatory penalties and state, in part, the following:

“(h)(1)... a mandatory penalty of three thousand dollars (\$3,000)shall be assessed for each serious violation.”

“(h)(2)... a ‘serious violation’ means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.”

“(i)(1) ... a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each violation whenever the person does any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations.

- (A) Violates a waste discharge requirement effluent limitation.*
- (B) Fails to file a report pursuant to [CWC] Section 13260.*
- (C) Files an incomplete report pursuant to [CWC] Section 13260.*
- (D) Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.”*

Order Requirements

6. WDR Order No. 5-01-068 Effluent Limitations No. B. 1 include, in part, the following effluent limitations:

<u>Constituent</u>	<u>Unit</u>	<u>Monthly Average</u>	<u>7-Day Median</u>	<u>Daily Maximum</u>
Ammonia	mg/l	X ¹	---	Y ²
Total Coliform Organisms	MPN/100 ml	---	2.2 ³	23

¹Monthly Average limitations shown on Attachment X (table shows adjustments for pH and temperature)

²Daily Maximum limitations shown on Attachment Y (table shows adjustments for pH)

³Weekly median

7. WDR Order No. R5-2005-032 Effluent Limitations No. C. 1 includes, in part, the following effluent limitations:

<u>Constituent</u>	<u>Unit</u>	<u>7-Day Median</u>	<u>Instantaneous Maximum</u>
Total Coliform Organisms	MPN/100 ml	2.2 ¹	23
¹ Weekly median			

8. WDR Order No. 5-01-068 and Order No. R5-2005-032 require that the Discharger implement Monitoring and Reporting Programs No. 5-01-068 and No. R5-2005-032, respectively. Both Monitoring and Reporting Programs No. 5-01-068 and No. R5-2005-032 prescribe effluent monitoring and reporting requirements including, but not limited to, ammonia, and total coliform organisms.

Mandatory Penalties

9. According to the Discharger's self-monitoring reports, the Discharger committed 166 violations of the effluent limitations contained in Order No. 5-01-068 and Order No. R5-2005-032 during the period beginning 1 June 2003 and ending 31 May 2005 as detailed in Attachment A.
10. The total amount of the mandatory penalties assessed for 145 of the 166 cited effluent violations is four hundred thirty-five thousand dollars (**\$435,000**), as shown on Attachment A.
11. Issuance of this Administrative Civil Liability Complaint to enforce CWC Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et. seq.), in accordance with Title 14 California Code of Regulations, Enforcement Actions by Regulatory Agencies, Section 15321(a)(2).

THE UNITED AUBURN INDIAN COMMUNITY AND HYDROSCIENCE OPERATIONS INC. IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer of the Regional Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **four hundred thirty-five thousand dollars (\$435,000)** which is the minimum mandatory penalty required by CWC Section 13385 for the cited effluent violations.
2. A hearing on this matter will be held at the Regional Water Board meeting scheduled on **4-5 May 2006**, unless the Discharger agrees to:
 - a. Waive the hearing and pay the proposed civil liability in full; or
 - b. Waive the right to a hearing in 90 days, and submit a settlement proposal within 30 days of the date of this complaint that includes an agreement to conduct a Supplemental Environmental Project (SEP) and also includes payment of monetary liability. The Discharger may preserve its right to a hearing pending approval of the settlement proposal.

3. If a hearing on this matter is held, the Regional Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. The Discharger may waive the right to a hearing. If you wish to waive the hearing, **within 30 days of the date of this complaint**, sign and return the waiver to the Regional Water Board's office with a check in the amount of the civil liability made payable to the "State Water Pollution Cleanup and Abatement Account." Any waiver will not be effective until 30 days from the date of this complaint to allow interested persons to comment on this action.

KENNETH D. LANDAU, Assistant Executive Officer

Date

**WAIVER OF HEARING FOR
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

1. I am duly authorized to represent the United Auburn Indian Community or HydroScience Operations, Inc (hereinafter jointly as "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2006-0502 (hereinafter the "Complaint");
2. I am informed of the right provided by California Water Code Section 13323, subdivision (b), to a hearing within ninety (90) days of issuance of the Complaint;
3. I hereby waive the Discharger's right to a hearing before the California Regional Water Quality Control Board, Central Valley Region, within ninety (90) days of the date of issuance of the Complaint; and
4. I certify that the Discharger will remit payment for the civil liability imposed in the amount of **four hundred thirty-five thousand dollars (\$435,000)** by check, which contains a reference to "ACL Complaint No. R5-2006-0502" and is made payable to the "*State Water Pollution Cleanup and Abatement Account.*"
5. I understand the payment of the above amount constitutes a settlement of violations alleged in the Complaint that will not become final until after a public comment period.
6. I understand that both the United Auburn Indian Community and HydroScience Operations, Inc. are named as Dischargers in this matter and are jointly and severally liable for the entire amount of administrative civil liability. Payment of the total assessed amount of \$435,000 by one or both Dischargers is required to accompany this Waiver.
7. I understand that the Assistant Executive Officer has complete discretion to modify or terminate this settlement.
8. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

(Print Name and Title)

(Signature)

(Date)

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
AUBURN RANCHERIA CASINO WWTP
PLACER COUNTY

ATTACHMENT A

Effluent Limitation Violations Requiring Mandatory Minimum Penalties

#	Violation Date*	Constituent	Units	Limitation Period	Limit	Result/ Average	% Over Limit	Pollutant Group	Date 180 Days Prior ^a	Effluent Violations in Past 180 Days	Serious** Violation?	Mandatory Fine?	Penalty
1	9-Jun-2003	Total Coliform Organisms	MPN/100 ml	Daily	23	110.0	378	OEV	11-Dec-2002	0	No	No	Startup
2	10-Jun-2003	Total Coliform Organisms	MPN/100 ml	Daily	23	170.0	639	OEV	12-Dec-2002	1	No	No	Startup
3	10-Jun-2003	Ammonia	mg/l	Daily	9.64	18.00	87	I	12-Dec-2002	2	Yes	Yes	Startup
4	11-Jun-2003	Total Coliform Organisms	MPN/100 ml	Daily	23	170.0	639	OEV	13-Dec-2002	3	No	Yes	Startup
5	26-Jun-2003	Total Coliform Organisms	MPN/100 ml	Daily	23	30.0	30	OEV	28-Dec-2002	4	No	Yes	Startup
6	26-Jun-2003	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	30.0	1264	OEV	28-Dec-2002	5	No	Yes	Startup
7	27-Jun-2003	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	23.0	945	OEV	29-Dec-2002	6	No	Yes	Startup
8	28-Jun-2003	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	13.0	491	OEV	30-Dec-2002	7	No	Yes	Startup
9	29-Jun-2003	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	17.0	673	OEV	31-Dec-2002	8	No	Yes	Startup
10	30-Jun-2003	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	17.0	673	OEV	1-Jan-2003	9	No	Yes	Startup
11	30-Jun-2003	Total Coliform Organisms	MPN/100 ml	Daily	23	30.0	30	OEV	1-Jan-2003	10	No	Yes	Startup
12	1-Jul-2003	Total Coliform Organisms	MPN/100 ml	Daily	23	30.0	30	OEV	2-Jan-2003	11	No	Yes	Startup
13	1-Jul-2003	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	23.0	945	OEV	2-Jan-2003	12	No	Yes	Startup
14	3-Jul-2003	Total Coliform Organisms	MPN/100 ml	Daily	23	50.0	117	OEV	4-Jan-2003	13	No	Yes	Startup
15	2-Jul-2003	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	13.0	491	OEV	3-Jan-2003	14	No	Yes	Startup
16	3-Jul-2003	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	13.0	491	OEV	4-Jan-2003	15	No	Yes	Startup
17	4-Jul-2003	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	11.0	400	OEV	5-Jan-2003	16	No	Yes	Startup
18	25-Sep-2003	Total Coliform Organisms	MPN/100 ml	Daily	23	240.0	943	OEV	29-Mar-2003	17	No	Yes	\$3,000
19	31-Oct-2003	Total Coliform Organisms	MPN/100 ml	Daily	23	110.0	378	OEV	4-May-2003	18	No	Yes	\$3,000
20	7-Jan-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	170.0	639	OEV	11-Jul-2003	2	No	No	\$0
21	24-Jun-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	40	74	OEV	27-Dec-2003	0	No	No	\$0
22	30-Jul-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2	4.0	82	OEV	1-Feb-2004	1	No	No	\$0
23	31-Jul-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	4.0	82	OEV	2-Feb-2004	2	No	No	\$0
24	1-Aug-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	4.0	82	OEV	3-Feb-2004	3	No	Yes	\$3,000
25	2-Aug-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	4	82	OEV	4-Feb-2004	4	No	Yes	\$3,000
26	3-Aug-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	4	82	OEV	5-Feb-2004	5	No	Yes	\$3,000
27	16-Aug-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	4	82	OEV	18-Feb-2004	6	No	Yes	\$3,000
28	17-Aug-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	4	82	OEV	19-Feb-2004	7	No	Yes	\$3,000
29	17-Aug-2004	Ammonia	mg/l	Daily	13.3	24.00	80	I	19-Feb-2004	8	Yes	Yes	\$3,000
30	18-Aug-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	30	30	OEV	20-Feb-2004	9	No	Yes	\$3,000
31	18-Aug-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	4	82	OEV	20-Feb-2004	10	No	Yes	\$3,000
32	18-Aug-2004	Ammonia	mg/l	Daily	15.3	16	5	I	20-Feb-2004	11	No	Yes	\$3,000

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
 AUBURN RANCHERIA CASINO WWTP
 PLACER COUNTY

ATTACHMENT A

Effluent Limitation Violations Requiring Mandatory Minimum Penalties

#	Violation Date*	Constituent	Units	Limitation Period	Limit	Result/ Average	% Over Limit	Pollutant Group	Date 180 Days Prior ^a	Effluent Violations in Past 180 Days	Serious** Violation?	Mandatory Fine?	Penalty
33	19-Aug-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	4	82	OEV	21-Feb-2004	12	No	Yes	\$3,000
34	20-Aug-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	4	82	OEV	22-Feb-2004	13	No	Yes	\$3,000
35	21-Aug-2004	Total Coliform Organisms	MPN/100 ml/	Daily	2.3	30	30	OEV	23-Feb-2004	14	No	Yes	\$3,000
36	21-Aug-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	11	400	OEV	23-Feb-2004	15	No	Yes	\$3,000
37	22-Aug-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	11	400	OEV	24-Feb-2004	16	No	Yes	\$3,000
38	23-Aug-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	11	400	OEV	25-Feb-2004	17	No	Yes	\$3,000
39	24-Aug-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	11	400	OEV	26-Feb-2004	18	No	Yes	\$3,000
40	25-Aug-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	4.0	82	OEV	27-Feb-2004	19	No	Yes	\$3,000
41	25-Aug-2004	Total Coliform Organisms	MPN/100 ml/	Daily	2.3	50.0	117	OEV	27-Feb-2004	20	No	Yes	\$3,000
42	26-Aug-2004	Total Coliform Organisms	MPN/100 ml/	Daily	2.2	130.0	465	OEV	28-Feb-2004	21	No	Yes	\$3,000
43	26-Aug-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	8.0	264	OEV	28-Feb-2004	22	No	Yes	\$3,000
44	27-Aug-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	4.0	82	OEV	29-Feb-2004	23	No	Yes	\$3,000
45	28-Aug-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	4.0	82	OEV	1-Mar-2004	24	No	Yes	\$3,000
46	29-Aug-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	4.0	82	OEV	2-Mar-2004	25	No	Yes	\$3,000
47	30-Aug-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	4.0	82	OEV	3-Mar-2004	26	No	Yes	\$3,000
48	31-Aug-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	8.0	264	OEV	4-Mar-2004	27	No	Yes	\$3,000
49	30-Aug-2004	Ammonia	mg/l	Monthly	1.47	4.09	178	I	3-Mar-2004	28	Yes	Yes	\$3,000
50	1-Sep-2004	Total Coliform Organisms	MPN/100 ml/	Daily	2.3	220.0	857	OEV	5-Mar-2004	29	No	Yes	\$3,000
51	1-Sep-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	8.0	264	OEV	5-Mar-2004	30	No	Yes	\$3,000
52	2-Sep-2004	Total Coliform Organisms	MPN/100 ml/	Daily	2.3	80.0	248	OEV	6-Mar-2004	31	No	Yes	\$3,000
53	2-Sep-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	8.0	264	OEV	6-Mar-2004	32	No	Yes	\$3,000
54	3-Sep-2004	Total Coliform Organisms	MPN/100 ml/	Daily	2.3	60.0	161	OEV	7-Mar-2004	33	No	Yes	\$3,000
55	3-Sep-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	11.0	400	OEV	7-Mar-2004	34	No	Yes	\$3,000
56	4-Sep-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	11.0	400	OEV	8-Mar-2004	35	No	Yes	\$3,000
57	5-Sep-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	17.0	673	OEV	9-Mar-2004	36	No	Yes	\$3,000
58	6-Sep-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	17.0	673	OEV	10-Mar-2004	37	No	Yes	\$3,000
59	7-Sep-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	17.0	673	OEV	11-Mar-2004	38	No	Yes	\$3,000
60	8-Sep-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	11.0	400	OEV	12-Mar-2004	39	No	Yes	\$3,000
61	9-Sep-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	8.0	264	OEV	13-Mar-2004	40	No	Yes	\$3,000
62	10-Sep-2004	Total Coliform Organisms	MPN/100 ml/	7-Day	2.2	4.0	82	OEV	14-Mar-2004	41	No	Yes	\$3,000
63	17-Sep-2004	Total Coliform Organisms	MPN/100 ml/	Daily	2.3	500.0	2074	OEV	21-Mar-2004	42	No	Yes	\$3,000
64	18-Sep-2004	Total Coliform Organisms	MPN/100 ml/	Daily	2.3	300.0	1204	OEV	22-Mar-2004	43	No	Yes	\$3,000

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
AUBURN RANCHERIA CASINO WWTP
PLACER COUNTY

ATTACHMENT A

Effluent Limitation Violations Requiring Mandatory Minimum Penalties

#	Violation Date*	Constituent	Units	Limitation Period	Limit	Result/Average	% Over Limit	Pollutant Group	Date 180 Days Prior*	Effluent Violations in Past 180 Days	Serious** Violation?	Mandatory Fine?	Penalty
65	19-Sep-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	300.0	1204	OE	23-Mar-2004	44	No	Yes	\$3,000
66	19-Sep-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	17.0	673	OE	23-Mar-2004	45	No	Yes	\$3,000
67	20-Sep-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	17.0	673	OE	24-Mar-2004	46	No	Yes	\$3,000
68	21-Sep-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	17.0	673	OE	25-Mar-2004	47	No	Yes	\$3,000
69	22-Sep-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	900.0	3813	OE	26-Mar-2004	48	No	Yes	\$3,000
70	22-Sep-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	300.0	13536	OE	26-Mar-2004	49	No	Yes	\$3,000
71	23-Sep-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	300.0	13536	OE	27-Mar-2004	50	No	Yes	\$3,000
72	23-Sep-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	300.0	13536	OE	27-Mar-2004	51	No	Yes	\$3,000
73	24-Sep-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	240.0	943	OE	28-Mar-2004	52	No	Yes	\$3,000
74	24-Sep-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	240.0	10809	OE	28-Mar-2004	53	No	Yes	\$3,000
75	25-Sep-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	130.0	465	OE	29-Mar-2004	54	No	Yes	\$3,000
76	25-Sep-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	240.0	10809	OE	29-Mar-2004	55	No	Yes	\$3,000
77	26-Sep-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	130.0	5809	OE	30-Mar-2004	56	No	Yes	\$3,000
78	26-Sep-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	130.0	465	OE	30-Mar-2004	57	No	Yes	\$3,000
79	27-Sep-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	130.0	5809	OE	31-Mar-2004	58	No	Yes	\$3,000
80	28-Sep-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	130.0	5809	OE	1-Apr-2004	59	No	Yes	\$3,000
81	28-Sep-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	50.0	117	OE	1-Apr-2004	60	No	Yes	\$3,000
82	29-Sep-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	130.0	5809	OE	2-Apr-2004	61	No	Yes	\$3,000
83	29-Sep-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	50.0	117	OE	2-Apr-2004	62	No	Yes	\$3,000
84	30-Sep-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	50.0	2173	OE	3-Apr-2004	63	No	Yes	\$3,000
85	1-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	50.0	2173	OE	4-Apr-2004	64	No	Yes	\$3,000
86	2-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	30.0	1264	OE	5-Apr-2004	65	No	Yes	\$3,000
87	2-Oct-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	30.0	30	OE	5-Apr-2004	66	No	Yes	\$3,000
88	3-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	23.0	945	OE	6-Apr-2004	67	No	Yes	\$3,000
89	4-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	8.0	264	OE	7-Apr-2004	68	No	Yes	\$3,000
90	5-Oct-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	300.0	1204	OE	8-Apr-2004	69	No	Yes	\$3,000
91	6-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	8.0	264	OE	9-Apr-2004	70	No	Yes	\$3,000
92	7-Oct-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	50.0	117	OE	10-Apr-2004	71	No	Yes	\$3,000
93	7-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	8.0	264	OE	10-Apr-2004	72	No	Yes	\$3,000
94	8-Oct-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	240.0	943	OE	11-Apr-2004	73	No	Yes	\$3,000
95	8-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	30.0	1264	OE	11-Apr-2004	74	No	Yes	\$3,000
96	9-Oct-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	170.0	639	OE	12-Apr-2004	75	No	Yes	\$3,000

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
 AUBURN RANCHERIA CASINO WWTP
 PLACER COUNTY

ATTACHMENT A

Effluent Limitation Violations Requiring Mandatory Minimum Penalties

#	Violation Date*	Constituent	Units	Limitation Period	Limit	Result/ Average	% Over Limit	Pollutant Group	Date 180 Days Prior ^A	Effluent Violations in Past 180 Days	Serious** Violation?	Mandatory Fine?	Penalty
97	9-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	50.0	2173	OEV	12-Apr-2004	76	No	Yes	\$3,000
98	10-Oct-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	1600.0	6857	OEV	13-Apr-2004	77	No	Yes	\$3,000
99	10-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	170.0	7627	OEV	13-Apr-2004	78	No	Yes	\$3,000
100	11-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	170.0	7627	OEV	14-Apr-2004	79	No	Yes	\$3,000
101	12-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	170.0	7627	OEV	15-Apr-2004	80	No	Yes	\$3,000
102	12-Oct-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	30.0	30	OEV	15-Apr-2004	81	No	Yes	\$3,000
103	13-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	50.0	2173	OEV	16-Apr-2004	82	No	Yes	\$3,000
104	14-Oct-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	70.0	204	OEV	17-Apr-2004	83	No	Yes	\$3,000
105	14-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	70.0	3082	OEV	17-Apr-2004	84	No	Yes	\$3,000
106	15-Oct-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	70.0	3082	OEV	17-Apr-2004	84	No	Yes	\$3,000
107	15-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	70.0	3082	OEV	18-Apr-2004	85	No	Yes	\$3,000
108	16-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	70.0	3082	OEV	18-Apr-2004	86	No	Yes	\$3,000
109	17-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	30.0	1264	OEV	19-Apr-2004	87	No	Yes	\$3,000
110	18-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	23.0	945	OEV	20-Apr-2004	88	No	Yes	\$3,000
111	19-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	22.0	900	OEV	21-Apr-2004	89	No	Yes	\$3,000
112	20-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	13.0	491	OEV	22-Apr-2004	90	No	Yes	\$3,000
113	21-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	8.0	264	OEV	23-Apr-2004	91	No	Yes	\$3,000
114	22-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	13.0	491	OEV	24-Apr-2004	92	No	Yes	\$3,000
115	23-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	13.0	491	OEV	25-Apr-2004	93	No	Yes	\$3,000
116	24-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	9.0	309	OEV	26-Apr-2004	94	No	Yes	\$3,000
117	25-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	9.0	309	OEV	27-Apr-2004	95	No	Yes	\$3,000
118	26-Oct-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	7.0	218	OEV	28-Apr-2004	96	No	Yes	\$3,000
119	1-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	7.0	218	OEV	29-Apr-2004	97	No	Yes	\$3,000
120	4-Dec-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	30.0	30	OEV	4-Jun-2004	98	No	Yes	\$3,000
121	4-Dec-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	30.0	1264	OEV	7-Jun-2004	99	No	Yes	\$3,000
122	5-Dec-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	110.0	378	OEV	7-Jun-2004	100	No	Yes	\$3,000
123	5-Dec-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	1600.0	6857	OEV	8-Jun-2004	101	No	Yes	\$3,000
124	6-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	110.0	4900	OEV	8-Jun-2004	102	No	Yes	\$3,000
125	7-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	30.0	1264	OEV	9-Jun-2004	103	No	Yes	\$3,000
126	8-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	17.0	673	OEV	10-Jun-2004	104	No	Yes	\$3,000
127	9-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	17.0	673	OEV	11-Jun-2004	105	No	Yes	\$3,000
128	9-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	17.0	673	OEV	12-Jun-2004	106	No	Yes	\$3,000
				Daily	23	30.0	30	OEV	12-Jun-2004	107	No	Yes	\$3,000

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
 AUBURN RANCHERIA CASINO WWTP
 PLACER COUNTY

ATTACHMENT A

Effluent Limitation Violations Requiring Mandatory Minimum Penalties

#	Violation Date*	Constituent	Units	Limitation Period	Limit	Result/Average	% Over Limit	Pollutant Group	Date 180 Days Prior ^A	Effluent Violations in Past 180 Days	Serious** Violation?	Mandatory Fine?	Penalty
129	10-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	17.0	673	OEV	13-Jun-2004	108	No	Yes	\$3,000
130	11-Dec-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	110.0	378	OEV	14-Jun-2004	109	No	Yes	\$3,000
131	11-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	17.0	673	OEV	14-Jun-2004	110	No	Yes	\$3,000
132	12-Dec-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	80.0	248	OEV	15-Jun-2004	111	No	Yes	\$3,000
133	12-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	17.0	673	OEV	15-Jun-2004	112	No	Yes	\$3,000
134	13-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	23.0	945	OEV	16-Jun-2004	113	No	Yes	\$3,000
135	14-Dec-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	50.0	117	OEV	17-Jun-2004	114	No	Yes	\$3,000
136	14-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	30.0	1264	OEV	17-Jun-2004	115	No	Yes	\$3,000
137	15-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	50.0	2173	OEV	18-Jun-2004	116	No	Yes	\$3,000
138	15-Dec-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	50.0	117	OEV	18-Jun-2004	117	No	Yes	\$3,000
139	16-Dec-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	50.0	117	OEV	19-Jun-2004	118	No	Yes	\$3,000
140	16-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	50.0	2173	OEV	19-Jun-2004	119	No	Yes	\$3,000
141	17-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	50.0	2173	OEV	20-Jun-2004	120	No	Yes	\$3,000
142	18-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	50.0	2173	OEV	21-Jun-2004	121	No	Yes	\$3,000
143	19-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	23.0	945	OEV	22-Jun-2004	122	No	Yes	\$3,000
144	20-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	11.0	400	OEV	23-Jun-2004	123	No	Yes	\$3,000
145	21-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	11.0	400	OEV	24-Jun-2004	124	No	Yes	\$3,000
146	22-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	8.0	264	OEV	25-Jun-2004	125	No	Yes	\$3,000
147	23-Dec-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	130.0	465	OEV	26-Jun-2004	126	No	Yes	\$3,000
148	23-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	8.0	264	OEV	26-Jun-2004	126	No	Yes	\$3,000
149	24-Dec-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	50.0	117	OEV	27-Jun-2004	127	No	Yes	\$3,000
150	24-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	11.0	400	OEV	27-Jun-2004	128	No	Yes	\$3,000
151	25-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	8.0	264	OEV	28-Jun-2004	129	No	Yes	\$3,000
152	26-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	4.0	82	OEV	29-Jun-2004	130	No	Yes	\$3,000
153	27-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	11.0	400	OEV	30-Jun-2004	131	No	Yes	\$3,000
154	28-Dec-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	1600.0	6857	OEV	1-Jul-2004	132	No	Yes	\$3,000
155	28-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	23.0	945	OEV	1-Jul-2004	133	No	Yes	\$3,000
156	29-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	23.0	945	OEV	2-Jul-2004	134	No	Yes	\$3,000
157	30-Dec-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	30.0	30	OEV	3-Jul-2004	135	No	Yes	\$3,000
158	30-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	23.0	945	OEV	3-Jul-2004	136	No	Yes	\$3,000
159	31-Dec-2004	Total Coliform Organisms	MPN/100 ml	Daily	23	50.0	117	OEV	4-Jul-2004	137	No	Yes	\$3,000
160	31-Dec-2004	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	23.0	945	OEV	4-Jul-2004	138	No	Yes	\$3,000

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
 AUBURN RANCHERIA CASINO WWTP
 PLACER COUNTY

ATTACHMENT A

Effluent Limitation Violations Requiring Mandatory Minimum Penalties

#	Violation Date*	Constituent	Units	Limitation Period	Limit	Result/ Average	% Over Limit	Pollutant Group	Date 180 Days Prior [^]	Effluent Violations in Past 180 Days	Serious** Violation?	Mandatory Fine?	Penalty
161	1-Jan-2005	Total Coliform Organisms	MPN/100 ml	Daily	23	30.0	30	OEV	5-Jul-2004	139	No	Yes	\$3,000
162	1-Jan-2005	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	30.0	1264	OEV	5-Jul-2004	140	No	Yes	\$3,000
163	2-Jan-2005	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	30.0	1264	OEV	6-Jul-2004	141	No	Yes	\$3,000
164	3-Jan-2005	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	30.0	1264	OEV	7-Jul-2004	142	No	Yes	\$3,000
165	4-Jan-2005	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	13.0	491	OEV	8-Jul-2004	143	No	Yes	\$3,000
166	5-Jan-2005	Total Coliform Organisms	MPN/100 ml	7-Day	2.2	13.0	491	OEV	9-Jul-2004	144	No	Yes	\$3,000

Total Penalty: \$435,000

* Violation occurs on sample date or last date of averaging period.
 ** For Group I pollutants, a violation is serious when the limitation for the parameter of concern is exceeded by more than 40%.
 For Group II pollutants, a violation is serious when the limitation for the parameter of concern is exceeded by more than 20%.
[^] Mandatory penalties effective 1 January 2000.

VIOLATIONS AS OF: 5/31/2005

Group 1 Serious Violations:	2
Group 2 Serious Violations:	0
Non-Serious Violations Subject to MMPs:	143
Non-Serious Violations Exempt from MMPs:	4
Startup Violations Exempt from MMPs:	17
Total Violations Subject to MMP	145

Mandatory Penalty = (2 Serious Violations + 143 Non-Serious Violations) x \$3,000 = \$435,000

EXHIBIT 8

LAW OFFICES OF
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April 3, 2006

Mr. John Tinger
U.S. Environmental Protection Agency, Region IX
CWA Office or Permits and Standards, WRR-5
75 Hawthorne Street
San Francisco, CA 94105

Re: Further Comments in Opposition to NPDES permit application --
Proposed Buena Vista Rancheria Casino

Dear Mr. Tinger:

My client, Amador County, previously filed comments concerning the Buena Vista Rancheria's application for a National Pollutant Discharge Elimination System (NPDES) permit in order to construct a wastewater treatment facility to serve its proposed casino. Although the County has raised a jurisdictional objection to the EPA's handling of this permit application, the County has also filed substantive comments on the merits of the application. Without waiving the County's jurisdictional objections, recent weather events in Amador County graphically demonstrate the reason for the County's grave concern over the possible issuance of the NPDES permit and we are writing to provide further information to you concerning this serious problem.

During the severe rainstorms over the New Year's holiday, there was significant flooding on the access road to the casino site: Coal Mine Road. There have again been major rainstorms over the last week in the Sacramento area and Amador County has experienced more severe flooding on Coal Mine Road. I have attached copies of photos taken on March 28, 2006 at the site.

The proposed wastewater discharge from the casino site will significantly exacerbate this problem. Without a plan to manage the increased water flow, Amador County believes there will be serious public safety and water quality problems associated with the casino project. Because the tribe proposes to discharge its wastewater into a county ditch which adjoins a portion of the tribe's property line and is adjacent to Coal Mine Road, the implications for the County are profound.

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Please let me know if I can answer any questions or provide any further information to your office. Thank you for your attention to this matter.

Cordially,



Cathy Christian

CAC/mc
Enclosures

cc: Andrea Hoch, Legal Affairs Secretary, California Governor's Office (w/o attachments)
Stephanie Shimazu, Deputy Legal Affairs Secretary, California Governor's Office (w/o attachments)
Sara Drake, Deputy Attorney General, California Attorney General's Office (w/o attachments)
Frances McChesney, Senior Staff Counsel, California Water Resources Control Board
Arnold Samuel, Counsel to Buena Vista Rancheria (w/o attachments)
John Hahn, Amador County Counsel (w/o attachments)
Patrick Blacklock, Amador County Administrator (w/o attachments)