

Marily Woodhouse/Battle Cr. Alliance  
Comments on Use Permit 07-021  
**EXHIBIT A**



**Battle Creek Watershed, 1976**

2007

Sierra Pacific Industries settles Air Quality case with  
California State Air Resources Board

The company was fined \$13,000,000 by the state for  
violations that took place between 1999 – 2004 at  
four Northern California SPI facilities: Susanville,  
Loyalton, Quincy and Lincoln.

Violations included among other things:

- Operating without air pollution control equipment
- Disconnecting equipment
- Tampering with equipment
- Falsifying reports
- Actively concealing violations from regulators

1. SPI illegally emitted air contaminants from four power plants on hundreds of occasions  
for 5 years from 1999-2004.

- The Northern California Plants: Susanville, Loyalton, Quincy and Lincoln.
- The violations included operating without required pollution control equipment,  
not reporting violations, and actively concealing violations from regulators.
- SPI plant managers expressly directed employees to take actions that violated the  
permit requirements.
- Plant managers appeared to care about little other than generating profits while  
they endangered the public health and safety of thousands of northern California  
citizens—for years.

2. The Regional Air District

- Lassen Co. APCD
- Northern Sierra Air Quality Management District
- Placer Co. APCD

Pollutants were NOx, CO and Particulate Matter (Smoke) produced far in excess of their permits. The pollution is the heart of the complaint by the AG but...

### 3. The Lincoln Plant Violations

- Critical Air Pollution Control Equipment was disconnected, maintained in a state of disrepair or simply not used.
- SPI tampered with the monitoring equipment so that it would indicate much lower emissions.
- Despite the tampering the monitoring system reveals hundreds of violations.
- SPI filed false pollution reports and failed to report violations.
- All the plants are in non-attainment areas; Lincoln is at non-attainment for ozone, 8-hour ozone, PM 10 and PM 2.5

### 4. Additional malfeasances

- a. In 1999 SPI's competitors spent \$1,145,000,000 dollars installing air pollution control equipment. They violated the law for economic advantage.
- b. SPI employees were taught how to tamper with the emission reporting data collectors.
- c. SPI employers pressured employees to run boilers at or above capacity exceeding air contaminant permit levels.
- d. At the Lincoln plant they intentionally decided to operate without using pollution controls.
- e. SPI employees prepared "upset/breakdown" reports so frequently that one joked he feared "carpal tunnel" from the paperwork.
- f. Although managers had unlimited access to emissions information, the violations continued month after month, year after year.

g. Although SPI could have used steam to dry wet material and avoid violations, SPI's owner Red Emmerson testified that, "there are better uses for energy than to dry fuel."

Making money selling electricity by burning wet material and polluting several California communities was a better choice for the sawmills, according to SPI.

#### 5. Environmental Harm

a. The cities of Grass Valley and Nevada City are down wind of the Lincoln Plant  
15,000 people live in the city limits (2006 Census)

b. If California reached air quality attainment:

-between 310 to 950 premature deaths could be avoided

-between 2400 to 5800 hospitalizations for respiratory diseases could be avoided

-between 1.2 to 8.6 million school absences could be avoided

-between 1.3 and 5 million minor restricted activity days for adults could be avoided.

c. California's Air Pollution Control System depends heavily on the Honor System.

SPI evidently believes in a different system for itself...

"Each day that tampering occurred resulted in a false record that was intended to deceive within the meaning of Health & Safety Code 42402.4". The Peoples Brief p. 27.

d. Placer Co. received 30 complaints of ash and soot pollution for the Lincoln plant from 2000 to 2007.

## 6. SPI's Defense

**Government agencies conspired to enforce the law!**

SPI faced penalties of approximately \$46.8 million for violations at the four northern California plants. Lawyers for SPI asked for additional time to work out a settlement agreement. During this period SPI secretly went to Lassen County and the Northern Sierra District—who had not discovered or investigated the violations nor made any demand to SPI—and offered small cash payments in exchange for release of liability to the air districts. The districts accepted. Upon learning of SPI's deceit, the California Attorney General filed suit.

## 7. Penalties

**Over \$13 million in civil fines, penalties, attorneys fees and equipment upgrades.**

**SPI is characterizing this as a donation to the communities!**

**Central Valley Regional Water Quality Control  
Board Violations Issued to Sierra Pacific Industries**

**California Central Valley Regional Water Quality  
Control Board**

**1998-2008 : 14 violations or citations resulting in \$141,000 in  
fines all resulting from water quality effluent discharges from  
facilities**

Note: violations prior to 2003 are not readily available and a complete list of violations and orders would require a Public Records Act request to the state. This list should therefore be considered a *partial* list of violations.

Furthermore please also note these violations are **only** for the Central Valley Regional Water Quality Control Board, and don't include violations from the North Coast Regional Water Quality Control Board, including the 2003 Humboldt Bay estuary pollution settlement (\$1.5 million).

## **Central Valley Regional Water Quality Control Board Violations Issued to Sierra Pacific Industries**

**1998-2008**

NPDES = National Pollutant Discharge Elimination System

Please note that violations prior to 2003 are not readily available through web searches and a complete list of violations would require a Public Records Act request to the state. This list should therefore be considered a *partial* list of violations.

Furthermore please also note these violations are **only** for the Central Valley Regional Water Quality Control Board, and don't include violations from the North Coast Regional Water Quality Control Board, including the 2003 Humboldt Bay estuary pollution settlement (\$1.5 million).

**1998**

### **Plumas County**

Quincy Division, Sierra Pacific Industries- \$20,000 penalty for discharge of hazardous or toxic substances into Mill Creek, 400% increase in turbidity, failure to submit bi-monthly bioassay data. Administrative Civil Liability Complaint No. 98-503 Relative to violation of Waste Discharge Requirements Order No. 96-280 (NPDES Permit No. CA0080357).

**2003**

### **El Dorado County**

Hazel Creek Mine, Sierra Pacific Industries—Clean up and Abatement Order issues to clean up toxic and hazardous materials from old mining site

### **Sierra County**

Loyalton Cogeneration Facility, Sierra Pacific Industries—Notice of Violation due to continuing non-compliance of waste discharge permit requirements, effluent limit regularly exceeded, and the company's use of hand held meters instead of lab reports violates accuracy for measuring water quality.

### **Shasta County**

Shasta Lake Division, Sierra Pacific Industries --Cease and Desist Order No. R5-2003-0155 due to exceeding limitations on discharge of lead and bis-2-ethylhexylphthalate. Relative to violation of Waste Discharge Requirements Order No. R5-2003-0154, (NPDES No. CA0081400).

### **Shasta County**

Shasta Lake Division, Sierra Pacific Industries -- \$25,000 penalty for effluent discharges exceeding limits for bioassay survival (in one instance there was zero survival in bioassay

of toxicity for fish, in second there was 10% survival), and exceeded settleable solids, and failed to submit a required report. Administrative Civil Liability Complaint No. R5-2003-0510, relative to violation of Waste Discharge Requirements (WDRs) Order No. 97-047 (NPDES No. CA0081400).

## **2004**

### **Plumas County**

Quincy Division, Sierra Pacific Industries -- \$9,000 penalty for exceeding discharge of pollution limits three times (150%, 150%, and 200% greater than limit) to Mill Creek. Administrative Civil Liability Complaint No. R5-2004-0532 relative to violation of Waste Discharge Requirements order No. R5-2002-0132 (NPDES No. CA 0080357).

### **Shasta County**

Anderson Division, Sierra Pacific Industries – Cease and Desist Order. Results of monitoring by the Discharger and Regional Board staff shows discharge to Sacramento River from the site contained concentrations of cadmium as high as 3.1 µg/L (maximum effluent permitted for health is 0.2 µg/L), copper as high as 37 µg/L (max. allowed is 21.6 µg/L), and zinc as high as 707 µg/L (max. allowed 120.2 µg/L). SPI is given until July 2009 to meet full compliance. Relative to violation of Waste Discharge Requirements Order No. R5-2004-0100, (NPDES No. CA0082066).

## **2006**

### **Shasta County**

Burney Sawmill and Cogeneration Plant, Sierra Pacific Industries – Illegal discharge of pond sediment slurry into Burney Creek and Canyon Creek reported by Regional Water Board staff. Enforcement action to be taken.

Shasta Lake Division, Sierra Pacific Industries – Cease and Desist Order, illegal discharge of cadmium, copper, lead, zinc, and bis-2-ethylhexylphthalate into Churn Creek, a tributary of the Sacramento River. Relative to R5-2006-0128 Order No. R5-2003-0154, (NPDES No. CA0081400). Amended 2003 order giving SPI additional three years to meet compliance for limiting effluents.

## **2007**

### **Amador County**

Martell Wheelabrator Site, Sierra Pacific Industries—Notice of violation for failure to file reports, failure to close ash disposal area containing dioxin and other polycyclic aromatic hydrocarbons at levels which pose a health risk to workers and the public. Relative to 2002 Order No. No. R5-2002-0018 (NPDES No. CA0004219).

## **2008:**

### **Amador County**

Martell Wheelabrator Site, Sierra Pacific Industries—Fined \$3,000 for failure to comply with 2002 order to properly limit effluent discharges to Stony Creek, a tributary of Dry Creek, Sutter Creek, and Mokelumne River. Waste Discharge Requirements (WDRs)

violated from Order No. No. R5-2002-0018 (NPDES No. CA0004219). Complaint NO. R5-2008-0505 assesses a fine of \$3,000.

#### **Shasta County**

Anderson Division, Sierra Pacific Industries—Fined \$42,000 for exceeding pollutant effluent discharges (solids and lead) into the Sacramento River 14 times (exceedances ranged from 50% to 700% over the daily allowed limit). Complaint No. R5-2008-0541, due to violation of WDR Order No. R5-2004-0100 (NPDES No. CA0082066).

#### **Shasta County**

Burney Division, Sierra Pacific Industries – Fined \$36,000 R5-2008-0540 for exceeding pollutant effluent discharges into Burney Creek, a tributary of the Sacramento River, 12 times between 2004-2007 (exceedances ranged from 50 to 400% over the daily allowed limit). Complaint No. R5-2008-0540 due to violation of WDR Order No. 5-00-218 (NPDES No. CA0003981).

#### **Shasta County**

Shasta Lake Division, Sierra Pacific Industries – Fined \$6,000 for exceeding pollutant effluent discharges into the Sacramento River via Churn Creek twice in 2004 (exceedance of lead was 46% over the allowed limit). R5-2008-0573 due to violation of WDR Order No. R5-2003-0154 (NPDES No. CA0081400).

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### **Some Other Reasons Why Sierra Pacific Industries is NOT a Good Neighbor**

**In 2002**, the Sour Grass fire was started by SPI from a fire that got away from them when burning logging slash. The cost to the state for suppressing the fire was \$942,379.00. SPI settled with the state for \$500,000. (Source: Tom Hoffman, Chief of Law Enforcement, Office of the State Fire Marshall).

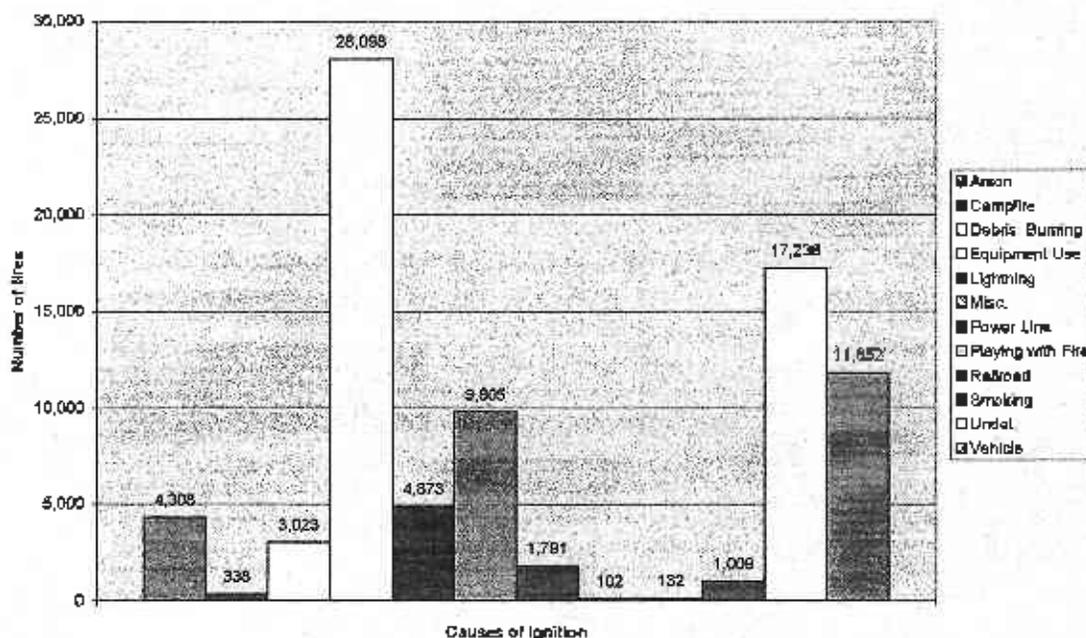
While we don't know how many fires have been started by logging operations, we do know that equipment is the greatest source of wildland fire ignitions in northern California.

**In 2007** the Moonlight Fire in Plumas County, for example, was started by logging equipment. The fire burned over 60,000 acres at a cost of over \$28.5 million.

Below is a chart showing the number of wildland fires started in Sierra counties by various sources of ignition. Note that **equipment** is by far the most common source of wildfire ignitions. Data is from 2002-2008; older data available is only with Public Records Act Request. Source: Cal Fire Office of the State Fire Marshal.

### Causes of Wildland Fires in Sierra Nevada 2002-2008

Source: Cal Fire Office of the State Fire Marshal



**In 2007**, a court approved a \$2.4 million settlement for a 2005 class action suit brought by SPI truck drivers, who allege that SPI failed to provide meal and rest breaks, and provided inaccurate W2 information for their wages.

**In 2009**, a worker at SPI's Oroville plant, was awarded \$110,000 in damages in a civil rights case alleging discrimination. Another civil rights case is still pending, in which a worker at SPI's Red Bluff plant filed another discrimination lawsuit against SPI in 2007. According to a press release, Sierra Pacific subjected the worker, Ahmed Elshenawy, to disproportionately harsh treatment and fired him after four years of employment due to his protesting ongoing verbal harassment he had received by other employees at the job site, due to his Egyptian national origin.

**CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY  
BOND FINANCING PROGRAM**

**Meeting Date: July 28, 2010**

**Request for Initial Resolution**

Prepared by: *Dorcen Smith*

<b>Applicant:</b> Sierra Pacific Industries and/or its Affiliates	<b>Amount Requested:</b> \$45,000,000
<b>Project</b>	<b>Application No.:</b> 00838
<b>Location:</b> Anderson (Shasta County)	<b>Initial Resolution No.:</b> 10-09

**Summary.** Sierra Pacific Industries and/or its Affiliates (the "Company") requests approval of an Initial Resolution for an amount not exceed \$45,000,000 to finance solid waste disposal and cogeneration facilities at the Company's existing lumber manufacturing plant located in Anderson.

**Borrower.** The Company incorporated in California on November 20, 1996 and provides timber tract management and lumber processing in Shasta County.

The principal stockholders of the Company are as follows:

Carolyn Emmerson Dietz Revocable Trust of 1990	22.51123%
Carolyn Emmerson Dietz 2005 Irrevocable Trust	5.34226%
George Emmerson Revocable Trust of 1990	22.51123%
George Emmerson 2005 Irrevocable Trust	5.34226%
M.D. Emmerson Revocable Trust of 1990	22.51123%
M.D. Emmerson 2005 Irrevocable Trust	5.34226%
Various Trusts (less than 3% each)	<u>16.4390%</u>
<b>Total:</b>	<b><u>100.0000%</u></b>

**Legal Questionnaire.** The Staff has reviewed the Company's responses to the questions contained in the Legal Status portion of the Application. No information was disclosed that raises questions concerning the financial viability or legal integrity of this applicant.

**Project Description.** The Company plans to construct a solid waste disposal and cogeneration unit that will burn biomass fuel (including non-treated wood and agricultural crop residues as well as urban wood-waste and other fuels) generated by the facility, regional lumber manufacturing facilities, and other biomass fuel sources to produce electricity through use of a steam turbine. The steam turbine will drive a generator that will produce electricity for on-site use as well as for sale to the grid.

The unit will be located at the Company's existing lumber manufacturing facility located in Anderson. The project will include the construction of a new fuel handling building, boiler building, turbine building, cooling tower, electrostatic precipitator, ash silo, and electric substation, as well as all necessary work and equipment for the project.

**Volume Cap Allocation.** The Company anticipates applying to the Authority for volume cap allocation in October 2010.

**Financing Details.** The Company anticipates issuance of negotiated tax-exempt, weekly reset, variable rate bonds. The Company plans to secure the bonds with an irrevocable, direct pay Letter of Credit that is rated at least "A-" by Fitch Rating Agency or equivalent. The target date for financing is November 2010.

**Financing Team.**

**Underwriter:** Westhoff, Cone & Holmstedt  
**Bond Counsel:** Lofton & Jennings  
**Financial Advisor:** Progressive Capital  
**Issuer's Counsel:** Office of the Attorney General

**Staff Recommendation.** Staff recommends approval of Initial Resolution No. 10-09 for Sierra Pacific Industries and/or its Affiliates for an amount not to exceed \$45,000,000.

*Note: An Initial Resolution approval is not a commitment that the Board will approve a Final Resolution and bond financing of the proposed Project.*

RESOLUTION OF OFFICIAL INTENT TO ISSUE BONDS TO  
FINANCE SOLID WASTE DISPOSAL FACILITIES FOR SIERRA  
PACIFIC INDUSTRIES AND/OR ITS AFFILIATES

July 28, 2010

WHEREAS, the California Pollution Control Financing Authority (“Authority”), a public instrumentality, is authorized and empowered by the provisions of the California Pollution Control Financing Authority Act (“Act”) to issue bonds for the purpose of defraying the cost of facilities for the disposal of solid and liquid waste products, including resource recovery and energy conversion facilities; and

WHEREAS, Sierra Pacific Industries, a California corporation (“Applicant”), has requested that the Authority assist in financing solid waste disposal and cogeneration facilities to be owned and operated by the Applicant and/or its Affiliates (as hereinafter defined) (collectively, the “Company”), which facilities are expected to involve the construction of a new fuel handling building, boiler building, turbine building, cooling tower, electrostatic precipitator, ash silo, and electric substation, as well as the acquisition and installation of equipment including conveyors for the transport of wood waste products, a boiler for the combustion of such waste products and for the generation of steam, equipment for utilization of such steam, including plumbing for steam use in Company processes and a turbine for the production of electricity, and other equipment functionally related thereto (collectively, “Facilities”), and have presented an estimate of the maximum cost of such Facilities as shown in Exhibit “A” attached hereto; and

WHEREAS, the Authority desires to encourage the Company to provide solid waste disposal and cogeneration facilities which will serve the interests of the public of the State; and

WHEREAS, the Authority deems it necessary and advisable to further the purposes of the Act that the Facilities be constructed and equipped at the earliest practicable date, but the Company requires satisfactory assurances from the Authority that the proceeds of the sale of bonds of the Authority will be made available to finance such Facilities; and

WHEREAS, the Company expects to incur or pay from its own funds certain expenditures in connection with the Facilities prior to the issuance of indebtedness for the purpose of financing costs associated with the Facilities on a long-term basis; and

WHEREAS, subject to meeting all the conditions set forth in this resolution the Authority reasonably expects that debt obligations in an amount not expected to exceed \$45,000,000 will be issued and that certain of the proceeds of such debt obligations will be used to reimburse the Company for its prior expenditures for the Facilities; and

WHEREAS, Section 1.103-8(a)(5) and Section 1.150-2 of the Treasury Regulations require the Authority to declare its reasonable official intent to reimburse prior expenditures for the Facilities with proceeds of a subsequent borrowing;

NOW, THEREFORE, BE IT RESOLVED by the California Pollution Control Financing Authority as follows:

Section 1. The Authority finds and determines that the foregoing recitals are true and correct. For purposes of this Resolution, an "Affiliate" of the Applicant means any person or entity which meets the definition of "participating party" in the Act and controls, is controlled by, or is under common control with, the Applicant, as shown by the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through majority equity ownership, contract or otherwise.

Section 2. The Authority declares its official intent to issue, at one time or from time to time, an aggregate of up to \$45,000,000 principal amount of bonds of the Authority for the Facilities; including for the purpose of reimbursing to the Company costs incurred for the Facilities prior to the issuance of the bonds.

Section 3. The bonds will be payable solely from the revenues to be received by the Authority pursuant to a loan agreement or other agreements to be entered into between the Authority and the Company in connection with the Facilities. Each bond shall contain a statement to the following effect:

"Neither the faith and credit nor the taxing power of the State of California or any political subdivision thereof or any local agency is pledged to the payment of the principal of, premium, if any, or any interest on this bond."

Section 4. The bonds shall be issued subject to the conditions that (i) the Authority and the Company shall have first agreed to mutually acceptable terms for the bonds and of the sale and delivery thereof, and mutually acceptable terms and conditions of the loan of the proceeds thereof to the Company; (ii) all requisite governmental approvals shall have first been obtained; (iii) a Final Resolution shall have been received from the Authority; and (iv) an allocation of private activity bond issuance authority shall have been received from the California Debt Limit Allocation Committee or from the Authority.

Section 5. The Executive Director of the Authority is hereby directed to indicate the willingness of the Authority to proceed with and effect such financing in order to assist the Company by defraying the cost of the Facilities, subject to due compliance with all requirements of the law and the obtaining of all necessary consents and approvals and meeting all other requirements of the Authority.

Section 6. It is intended that this Resolution shall constitute "some other similar official action" towards the issuance of bonds within the meaning of Section 1.103-8(a)(5) of the Treasury Regulations and "official intent" within the meaning of Section 1.150-2 of the Treasury Regulations, each as applicable under Section 103 of the Internal Revenue Code of 1986, as

amended. It is also intended that this statement of “official action” or “official intent” by the Authority shall continue in full force and effect even if this Resolution ceases to be effective for other purposes.

Section 7. This Resolution shall take effect immediately upon its passage and remain in full force and effect thereafter, provided that, subject to Section 6, this Resolution shall cease to be effective on July 28, 2013 unless prior thereto the Authority specifically adopts a further resolution extending the effective date of this Initial Resolution, which it will do only after receiving a specific request for such action from the Company, accompanied by an explanation of the status of the project and any additional information requested by the Authority to supplement the Company’s application.



**SIERRA  
CLUB**  
FOUNDED 1892

**MOTHER LODE CHAPTER**

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SEP 20 2010

COUNTY OF SHASTA  
FACILITY CENTER

Lio Salazar, Shasta County Department of Resource Management  
1855 Placer St., Ste. 103  
Redding, CA 96001

Sept. 20, 2010

**Comment on Use Permit 07-021 Sierra Pacific Industries Cogeneration Power Project**

would like to add the Shasta Group of the Sierra Club as co-signers on the comments from myself and the Battle Creek Alliance that were hand delivered to your office this morning.

Thank you,

*Marilyn Woodhouse*

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