

ITEM: 8

SUBJECT: Virginia L. Drake, Trustee, Drake Revocable Trust, Darwin H. and Nina R. Simmons, Trustees, Simmons Family Trust, James E. Simmons, and City of Chico, Butte County

BOARD ACTION: *Consideration of Two Administrative Civil Liability Orders*
a. *Humboldt Road Burn Dump Area 7 (All Parties Except City of Chico)*
b. *Humboldt Road Burn Dump Area 8 (All Parties)*

BACKGROUND: Virginia L. Drake, Trustee, Drake Revocable Trust (hereafter Drake Trust) owns 50% undivided interest, James E. Simmons (hereafter Simmons) owns 25% undivided interest, and Darwin H. and Nina R. Simmons, Trustees, Simmons Family Trust (hereafter Simmons Trust) own 25% undivided interest in two parcels in the area known as the Humboldt Road Burn Dump in the City of Chico. These parcels contain lead and other waste constituents that at some locations exceed hazardous waste levels. The waste constituents pose a threat to human health and the environment, including waters of the state. The Water Board ordered the Drake Trust and other persons to cleanup these parcels (Areas 7 and 8) by 15 August 2005. The cleanup has not occurred.

In September 2005, the Water Board Executive Officer issued complaints for Administrative Civil Liability to the Drake Trust for failing to submit required reports and for failing to cleanup Areas 7 and 8. Following the 28 November 2005 public hearing and after further consideration, on 10 February 2006, the Water Board Executive Officer issued two revised complaints for Administrative Civil Liability – one complaint for \$100,000 to the Drake Trust, Simmons, and the Simmons Trust for Area 7 and another for \$125,000 to the Drake Trust, Simmons, the Simmons Trust, and the City of Chico for Area 8.

ISSUES: The Drake Trust indicates the property owners are cooperating to commence activities to obtain necessary permits for cleanup of Areas 7 and 8 in the summer 2006, and claims the City of Chico is, at least, equally responsible for the Drake Trust's failure to cleanup Area 8. The City of Chico claims they are not responsible for the waste in Areas 7 and 8 and the Drake Trust's failure to cleanup Areas 7 and 8 in 2005.

For Area 7, did the Drake Trust, and/or Simmons, and/or the Simmons Family Trust violate the Water Board orders? For Area 8, did the Drake Trust, and/or Simmons, and/or the Simmons Family Trust, and/or the City of Chico violate the Water Board orders?

RECOMMENDATION: Adopt the proposed \$100,000 Administrative Civil Liability Order for Drake Trust, Simmons, and Simmons Family Trust for Humboldt Road Burn Dump Area 7 and the proposed \$125,000 Administrative Civil Liability Order for Drake Trust, Simmons, Simmons Trust and City of Chico for Humboldt Road Burn Dump Area 8.

Mgmt. Review _____
Legal Review _____