

GREENBERG GLUSKER FIELDS CLAMAN  
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1900 Avenue of the Stars, 21<sup>st</sup> Floor  
Los Angeles, California 90067-4590

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6 Attorneys for Petitioner Kissel Company, Inc.

7  
8  
9 STATE OF CALIFORNIA

10 STATE WATER RESOURCES CONTROL BOARD

11  
12 In The Matter Of The Petition Of  
13 KISSEL COMPANY, INC.  
14 Petitioner,

Petition No. \_\_\_\_\_

PETITION FOR REVIEW OF THE  
LARWQCB CLEANUP AND  
ABATEMENT ORDER DATED  
SEPTEMBER 5, 2007

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17  
18 INTRODUCTION AND SUMMARY

19 Petitioner Kissel Company, Inc. ("Kissel") respectfully petitions the California State  
20 Water Resources Control Board (the "State Board") to review Cleanup and Abatement Order No.  
21 R4-2007-0043 (the "CAO") of the California Regional Water Quality Control Board, Los  
22 Angeles Region (the "Regional Board") pursuant to California Water Code Section 13320 and  
23 California Code of Regulations, title 23, section 2050. Kissel also requests that the Petition be  
24 held in abeyance pursuant to California Code of Regulations, title 23, section 2050.5(d).

25  
26 Although Kissel does not request at this time a stay of the CAO, Kissel seeks to preserve  
27 its right to petition the State Board should the Executive Officer or Regional Board take any  
28

1 action (or inaction) which violates Kissel's rights or applicable law as a result of the CAO or  
2 Kissel's response thereto.

3  
4 **PETITION FOR REVIEW**

5 Pursuant to section 2050 of title 23 of the Code of Regulations, Kissel provides the  
6 following information in support of the Petition:

7 **1. CONTACT INFORMATION OF PETITIONER**

8 Kissel Company, Inc.  
9 P.O. Box 2913  
10 Malibu, California 90265  
11 Attention: Mr. Steven F. Dahlberg, President  
12 Telephone: (310) 396-1826  
13 E-mail: steve@paradisecovemalibu.com

14 Roger J. Holt and Sedina L. Banks  
15 Greenberg Glusker Fields Claman & Machtinger LLP  
16 1900 Avenue of the Stars, Suite 2100  
17 Los Angeles, California 90067  
18 Telephone: (310) 553-3610  
19 E-mail: rholt@ggfirm.com and sbanks@ggfirm.com

20 **2. ACTIONS FOR WHICH PETITIONER SEEKS REVIEW**

21 Kissel seeks review of the Regional Board's Cleanup and Abatement Order No. R4-  
22 2007-0043 dated September 5, 2007 (the "CAO"). (A true and correct copy of the September 5,  
23 2007 CAO is included as Exhibit A in Kissel's Appendix in Support of Petition (the "Appendix,"  
24 submitted herewith))

25 **3. DATE ON WHICH THE REGIONAL BOARD ACTED**

26 The Regional Board sent a letter enclosing the CAO to Kissel by certified mail on  
27 September 5, 2007. (A true and correct copy of the Regional Board's September 5, 2007 letter  
28 enclosing the CAO is included in the Appendix as part of Exhibit A)

1           4.       STATEMENT OF REASONS WHY THE ACTION WAS  
2                           INAPPROPRIATE OR IMPROPER

3           The Regional Board CAO was inappropriate or improper for the following reasons: (1)  
4 the Regional Board abused its discretion by requiring that Kissel submit a Spill Response  
5 Protocol when Kissel has already submitted its spill response procedures several times to the  
6 Regional Board and the Regional Board has failed to provide specific guidance or an explanation  
7 as to why Kissel must submit another spill response plan; (2) the Regional Board abused its  
8 discretion by misstating the evidence in the administrative record by implying in its findings that  
9 Kissel's response to the August 8, 2007 Notice of Violation ("NOV") was incomplete when the  
10 Regional Board issued the CAO prior to when Kissel's response was even due; (3) the Regional  
11 Board abused its discretion by requiring Kissel in the CAO to submit a Spill Response Protocol  
12 because its request was not supported by substantial evidence; (4) the Regional Board abused its  
13 discretion by requiring Kissel in the CAO to submit a Spill Response Protocol because the  
14 Regional Board does not have the legal authority to require Kissel to submit a Spill Response  
15 Protocol; (5) the Regional Board abused its discretion by requiring Kissel in the CAO to submit a  
16 Spill Prevention Plan because its request was not supported by substantial evidence; (6) the  
17 Regional Board abused its discretion by requiring Kissel in the CAO to submit a Spill Prevention  
18 Plan because the Regional Board does not have the legal authority to require Kissel to submit a  
19 Spill Prevention Plan; and (7) although Kissel submitted a response to the CAO, including  
20 submitting a Spill Response Protocol and Spill Prevention Plan, Kissel hereby reserves its right  
21 to petition the State Board should the Executive Officer or Regional Board take any action (or  
22 inaction) which violates Kissel's rights or applicable law as a result of Kissel's submittal of a  
23 Spill Response Protocol and Spill Prevention Plan. This reservation includes, without limitation,  
24 the right to challenge the Executive Officer's or Regional Board's amendment or modification of  
25 the Spill Response Protocol or Spill Prevention Plan as submitted by Kissel.

1           **5. THE MANNER IN WHICH KISSEL IS AGGRIEVED**

2           Kissel is aggrieved because the CAO is requesting that Kissel submit a Spill Response  
3 Protocol even though Kissel has already submitted its spill response procedures to the Regional  
4 Board on several occasions, including, most recently, in its response to the August 8, 2007 NOV.  
5 Despite these prior submittals, the Regional Board has failed to provide specific guidance or an  
6 explanation as to why Kissel must submit another spill response plan.

7           Additionally, the Regional Board has failed to provide guidance when requested directly  
8 by Kissel. In responding to the CAO, Kissel's agents requested that Regional Board staff,  
9 Elizabeth Erickson and Jennifer Fordyce, provide Kissel with sample spill response plans to  
10 assist in formulating a revised plan. To date, Kissel has not received any sample response plans  
11 from the Regional Board staff.

12           Kissel is also aggrieved because the CAO misstates the evidence in the administrative  
13 record. The CAO implies that the discharger did not fully respond to the August 8, 2007 NOV.  
14 However, the CAO was issued prior to Kissel's response to the NOV was due. The CAO is  
15 dated September 5, 2007. However, Kissel responded to the NOV on September 7, 2007.  
16 Accordingly, the CAO was issued before Kissel's response was even due and submitted.

17           Kissel is also aggrieved because the CAO's requirement that Kissel submit a Spill  
18 Response Protocol and Spill Prevention Plan is not supported by substantial evidence.  
19 Additionally, the Regional Board does not have the legal authority to require Kissel to submit a  
20 Spill Response Protocol or Spill Prevention Plan.

21  
22           **6. SPECIFIC ACTION KISSEL REQUESTS OF THE STATE BOARD**

23           Kissel respectfully requests that the State Board: (1) accept this Petition; (2) determine  
24 that the challenged portions of the CAO were inappropriate and improper; and (3) direct that  
25 such inaccurate findings and improper requirements be revised or deleted by the Regional Board  
26 or in the alternative to take such action itself. However, Kissel requests at this time that the  
27 Petition be held in abeyance pursuant to California Code of Regulations, title 23, section  
28 2050.5(d) and reserves its right to supplement the Petition.

1           Although Kissel has not requested at this time a stay of the CAO, Kissel requests that the  
2 findings contained in the CAO and the grounds for issuance be accurate. Kissel also seeks to  
3 preserve its right to petition the State Board should the Executive Officer or Regional Board take  
4 any action (or inaction) which violates Kissel's rights or applicable law as a result of the CAO or  
5 Kissel's response thereto.

6

7           **7. STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF**  
8           **PETITION**

9           Kissel did not submit a statement of points and authorities at this time because it is  
10 requesting that the petition be held in abeyance pursuant to California Code of Regulations, title  
11 23, section 2050.5(d). Kissel will provide a detailed statement of points and authorities in the  
12 event the Executive Officer or Regional Board take further action which necessitate Kissel  
13 requesting the State Board to convert this petition to active status. In the interim, should the  
14 State Board request a statement of points and authorities, Kissel will provide a detailed statement  
15 of points and authorities.

16

17           **8. STATEMENT THAT THE PETITION WAS SENT TO THE REGIONAL**  
18           **BOARD**

19           A true and correct copy of this Petition was sent to the Regional Board via electronic mail  
20 and First Class Mail on October 4, 2007, to the attention of Deborah J. Smith, Interim Executive  
21 Officer. (A true and correct copy of the correspondence reflecting the transmission is included in  
22 the Appendix as Exhibit B)

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GREENBERG GLUSKER FIELDS CLAMAN  
& MACHTINGER LLP  
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9. STATEMENT THAT ISSUES WERE RAISED BEFORE THE REGIONAL BOARD, AND EXPLANATION WHY PETITIONER WAS UNABLE TO RAISE SUBSTANTIVE ISSUES BEFORE THE REGIONAL BOARD

Kissel has been continually updating the Regional Board and staff regarding its operations at Paradise Cove as well as the construction and completion of its new Wastewater Treatment Plant.

10. COPY OF REQUEST FOR RECORD TO THE REGIONAL BOARD

Kissel requests that the Petition be held in abeyance pursuant to California Code of Regulations, title 23, section 2050.5(d) and reserves the right to request that the Regional Board prepare the record.

11. REQUEST FOR HEARING

Kissel requests that the Petition be held in abeyance pursuant to California Code of Regulations, title 23, section 2050.5(d) and reserves the right to request a hearing.

DATED: October 4, 2007

Respectfully Submitted

GREENBERG GLUSKER FIELDS CLAMAN  
& MACHTINGER LLP

By: Sedina Banks  
SEDINA L. BANKS  
Attorneys for Kissel Company, Inc.

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12 STATE OF CALIFORNIA

13 STATE WATER RESOURCES CONTROL BOARD

14 In The Matter Of The Petition Of  
15 KISSEL COMPANY, INC.  
16  
17 Petitioner,

Petition No. \_\_\_\_\_

APPENDIX IN SUPPORT OF THE  
PETITION FOR REVIEW OF THE  
LARWQCB CLEANUP AND  
ABATEMENT ORDER DATED  
SEPTEMBER 5, 2007

KISSEL COMPANY, INC.

APPENDIX IN SUPPORT OF PETITION FOR REVIEW

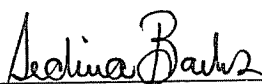
<u>EXHIBIT</u>	<u>DATE</u>	<u>DESCRIPTION</u>
A	09/05/2007	California Regional Water Quality Control Board, Los Angeles Region (the "Regional Board") Cleanup and Abatement Order No. R4-2007-0043 issued to the Kissel Company, Inc. (Paradise Cove Mobile Home Park) (File No. 01-083) (the "CAO"); letter enclosing the CAO from the Regional Board to Steven F. Dahlberg dated September 5, 2007.
B	10/04/2007	Letter from Greenberg Glusker to the Regional Board reflecting transmission of the Petition for Review.

GREENBERG GLUSKER FIELDS CLAMAN  
& MACHTINGER LLP  
1900 Avenue of the Stars, 21<sup>st</sup> Floor  
Los Angeles, California 90067-4590

DATED: October 4, 2007

Respectfully Submitted

GREENBERG GLUSKER FIELDS CLAMAN  
& MACHTINGER LLP

By:   
SEDINA L. BANKS  
Attorneys for Kissel Company, Inc.



**EXHIBIT A**



# California Regional Water Quality Control Board

## Los Angeles Region



Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Arnold Schwarzenegger  
Governor

Linda S. Adams  
Agency Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013  
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

September 5, 2007

Mr. Steven Dahlberg  
President  
The Kissel Company, Inc.  
28128 Pacific Coast Highway  
Malibu, CA 90265

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
No. 7002 2410 0005 0647 5917

**CLEANUP AND ABATEMENT ORDER NO. R4-2007-0043 FOR THE KISSEL COMPANY, PARADISE COVE MOBILE HOME PARK, 28128 PACIFIC COAST HIGHWAY, MALIBU, CA (ORDER NO. R4-2002-0108 AND AMENDED TSO NO. R4-2006-0079, FILE NO. 01-083, CI NO. 8342)**

Dear Mr. Dahlberg:

Enclosed is Regional Board Cleanup and Abatement Order (CAO) No. R4-2007-0043 requiring The Kissel Company, Inc. (Permittee) to take remedial action to cleanup and abate actual and threatened discharges of raw sewage at the Paradise Cove Mobile Home Park (Site) located at 28128 Pacific Coast Highway in Malibu, California.

This CAO is issued pursuant to the Regional Board's authority under section 13304 of the California Water Code. Pursuant to California Water Code section 13350, failure to comply with the requirements contained in this CAO may result in the Regional Board imposing administrative civil liability penalties of up to \$5,000 per day in which the violation occurs. These civil liabilities may be assessed by the Regional Board for failure to comply, beginning with the date that the violations first occurred, and without further warning. The Regional Board may also request that the Attorney General seek judicial civil liabilities, which could amount to \$15,000 per violation, or injunctive relief and/or request the United States Attorney, appropriate county District Attorney, or City Attorney seek criminal prosecution.

Pursuant to California Water Code section 13320, the Permittee may seek review of this CAO by filing a petition within 30 days of the date of this CAO with the State Water Resources Control Board (SWRCB). A petition must be sent to the SWRCB, P.O. Box 100, Sacramento, CA, 95812.

If you have any questions concerning this CAO, please call Mr. Hugh Marley at (213) 620-6375 or Ms. Mercedes Merino at (213) 620-6369.

Sincerely,

Deborah J. Smith  
Interim Executive Officer

cc: see Mailing List

*California Environmental Protection Agency*



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*Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations*

Mr. Steve Dahlberg  
The Kissel Company

- 2 -

September 5, 2007

MAILING LIST

Ms. Jennifer Fordyce, Office of Chief Counsel, State Water Resources Control Board  
Mr. Roger Holt, Esq., Greenberg Glusker  
Mr. Chris Anderson, Chief of Field Operations, Housing and Community Development  
Mr. Craig George, City of Malibu  
Mr. Dan Wright, Los Angeles County District Attorney  
Mr. Tim Smith, County of Los Angeles, Department of Public Works, Environmental Program  
Division  
Dr. Mark Gold, Heal the Bay  
Mr. Keith G. Fleer, Paradise Cove Homeowners Association  
Mr. Steve Braban, Biosolutions, Inc.

*California Environmental Protection Agency*



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*Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.*

STATE OF CALIFORNIA  
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LOS ANGELES REGION

CLEANUP AND ABATEMENT ORDER NO. R4-2007-0043  
REQUIRING THE KISSEL COMPANY, INC.  
TO TAKE REMEDIAL ACTION TO CLEANUP AND ABATE ACTUAL AND  
THREATENED DISCHARGES OF RAW SEWAGE AT  
THE PARADISE COVE MOBILE HOME PARK

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board), finds that:

1. The Kissel Company, Inc. (hereinafter Discharger) owns and operates the Paradise Cove Mobile Home Park (Park), which encompasses approximately 72 acres of land with 257 mobile home sites located at 28128 Pacific Coast Highway in Malibu, California. The average daily flow of domestic wastewater has been estimated at 41,000 gallons per day (gpd). The peak flow rate is estimated at 60,000 gpd. All homes located within the Park are within 1,500 feet of the Pacific Ocean.
2. On May 23, 2002, the Regional Board adopted Order No. R4-2002-0108 prescribing Waste Discharge Requirements (WDRs) for the Park to operate an on-site wastewater treatment plant and discharge treated effluent to a subsurface disposal system consisting of seepage pits, leach fields or subsurface drip irrigation areas. The Discharger indicated that it could not comply with the requirements contained in Order No. R4-2002-0108 because the existing septic system needed to be upgraded. In order to ensure compliance with the WDRs, the Regional Board adopted Time Schedule Order (TSO) No. R4-2002-0109 that allowed the Discharger to complete all needed upgrades by November 30, 2003.
3. On October 24, 2006, the Regional Board adopted Amended Time Schedule Order (Amended TSO) No. R4-2006-0079. The Amended TSO contains three interim task deadlines for the Discharger to complete its plans of upgrading the Park's treatment system. The treatment system was required to be completed by November 1, 2006; the Discharger did meet this deadline.
4. The *Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura Counties* (Basin Plan) has the following beneficial use designations:

Surface water (Ramirez Canyon Creek):

Existing: wildlife habitat

Intermittent: municipal and domestic water supply, contact and non-contact recreation,  
warm fresh water habitat

September 5, 2007

Potential: spawning, reproduction, and /or early development

Groundwater (Malibu Valley):

Existing: agricultural supply

Potential: municipal and domestic water supply, industrial service supply

Coastal Features (Escondido Beach):

Existing: navigation, water contact recreation, non-contact water recreation, commercial and sport fishing, marine habitat, wildlife habitat and shellfish harvesting

Potential: spawning, reproduction, and/or early development

5. On February 14, 2006, Regional Board staff was notified of a sewage spill originating from a manhole located in front of Unit #223 in the Bluffs area of the Park. On February 15, 2006, Regional Board staff conducted an inspection of the site and determined that raw sewage had flowed down the ocean frontage road, towards Ramirez Canyon Creek, a navigable water of the United States. On March 3, 2006, the Regional Board issued the Discharger a Notice of Violation (NOV) for the February 14, 2006 discharge of raw sewage at the Park. The NOV required that the Discharger submit to the Regional Board a report detailing implementation of corrective and preventative actions taken to prevent future sewage spills.
6. On September 26, 2006, the Regional Board issued the Discharger a NOV for discharges of raw sewage at the Park on August 9, 2006, August 15, 2006, August 19, 2006, and September 17, 2006. The NOV required that the Discharger submit to the Regional Board a report detailing corrective and preventative action taken to prevent future sewage spills.
7. On August 8, 2007, the Regional Board issued the Discharger a NOV for seven effluent violations, fourteen reporting violations, and required the Discharger, pursuant to Water Code section 13267, to provide information on twelve reported discharges of raw and/or partially treated sewage from September 30, 2006 to July 23, 2007 at several locations within the Park. The NOV required that the Discharger submit to the Regional Board a report detailing implementation of corrective and preventative actions to bring the discharge into full compliance with effluent limitations of Regional Board Order No. R4-2002-0108 and Amended TSO No. R4-2006-0079 and to prevent future sewage spills.
8. On August 14, 2007, Regional Board staff received complaints from Park residents regarding a sewage overflow at Units #152 and 153.
9. On August 18, 2007, Regional Board staff received complaints from Park residents regarding a sewage overflow at Unit #153.

10. On August 24, 2007, Regional Board staff received complaints from Park residents regarding another sewage spill at the Park. Regional Board staff immediately conducted an inspection of the Park and found that a sewage overflow had occurred at Unit #151.
11. To date, the Discharger's spill response and reporting has been inadequate in providing information on prevention of future sewage spills and the impacts to water quality in the area.
12. Raw sewage may contain pathogenic organisms and viruses known to be harmful to human and animal health and the environment.
13. Pursuant to section 13304 of the California Water Code, the Discharger has caused or permitted, and continues to threaten to cause or permit, waste including raw sewage to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and has created, and continues to threaten to create, a condition of pollution or nuisance at the Paradise Cove Mobile Home Park.
14. Discharges of waste including raw sewage at the Park create a substantial probability of harm that makes it reasonably necessary for the Discharger to take immediate action to prevent, reduce, or mitigate damages to persons, property, and/or natural resources.
15. This Order is an action taken for the protection of the environment and, as such, is exempt from the provisions of the California Environmental Quality Act in accordance with California Code of Regulations, title 14, section 15321.

**IT IS HEREBY ORDERED**, pursuant to California Water Code section 13304, that the Kissel Company, Inc. comply with the following:

- A. The Discharger shall take remedial action to cleanup and abate actual and threatened discharges of raw sewage at the Paradise Cove Mobile Home Park. Such action shall include:
  1. Immediately cease all unauthorized sewage discharges.
  2. Immediately cleanup, abate the risks from, and properly dispose of any residual waste that is still remaining at any unpermitted discharge location. A report demonstrating compliance with this task and describing the measures the Discharger has taken to comply with this directive, and to prevent public exposure to any such waste, must be submitted to the Regional Board by **September 28, 2007**.
  3. Immediately take measures to abate the ongoing threat of sewage discharges by adopting and implementing a Spill Prevention Plan. The Plan must be submitted to the Regional Board for approval by the Regional Board Executive Officer by

September 5, 2007

**September 28, 2007**, and shall include measures to prevent future sewage overflows at the Park. These may include, but need not be limited to: water conservation, improved structural controls, use of more efficient appliances, installation of low flow plumbing fixtures, improved behavioral practices, and mechanisms to measure conservation gains and reduce discharge of waste until compliance with WDRs can be achieved. The Plan should also identify whether all homes at the Park have water meters.

B. The Discharger must identify and provide to the Regional Board by **September 28, 2007** the following:

- The Chief Plant Operator;
- The Plant supervisor and/or shift supervisors;
- An organization chart showing all Plant personnel;
- Job descriptions for all personnel classifications; and
- Duty rosters for operation of the Plant, or a listing of all Plant personnel by title and/or classification.

C. The Discharger shall submit a Spill Response Protocol, for approval by the Regional Board Executive Officer, by **September 28, 2007**. The Spill Protocol, which must be followed by the Discharger during sewage spills, shall include:

- Identification of the staff responsible for spill response during each hour of each day;
- Identification of all the parties the Discharger will inform about any spills, including, but not limited to: nearby residents of the Park, the City of Malibu, the County of Los Angeles, the Regional Water Quality Control Board, the Governor's Office of Emergency Services (OES), Housing and Community Development (HCD), and other concerned parties. The Protocol shall include timeframes for notification as well as appropriate contact information for each identified party;
- Identification and location of any equipment and procedures that will be used for spill cleanup and abatement;
- Identification of any access restrictions (if any), and procedures to obtain emergency access;
- Procedures to contain and cleanup discharges of raw sewage;
- The procedure that will be used for estimating the volume of waste discharged and recovered;
- The procedure that will be used for determining the impact or threatened impact to public health and the environment of any waste discharged;
- A sampling and analysis plan; and
- Actions that will be taken to prevent reoccurrence of such spills.

The Protocol shall describe training that has been and will be conducted to ensure that the procedures set forth in the Protocol are adhered to.

September 5, 2007

- D. The Discharger shall notify the Regional Board within 24 hours, by telephone, of any bypassing or surfacing of wastes. Written confirmation shall follow within one week and shall include information relative to the location(s), estimated volume, date and time, duration, cause and remedial measures taken to effect cleanup and measures taken to prevent any recurrence.
- E. This Order is not intended to stop or redirect any investigation, cleanup, and remediation programs ordered by this Board or any other agency.
- F. Pursuant to Water Code section 13304(c)(1), the Discharger shall reimburse the Regional Board for all reasonable and necessary costs incurred by Regional Board staff to investigate the Permittee's unauthorized discharges of waste and to oversee cleanup of such wastes, abatement of the effects thereof, or other remedial actions.
- G. This Order in no way limits the authority of the Board, as contained in the California Water Code, to institute additional enforcement actions or to require additional investigation and cleanup. This Order may be revised by the Executive Officer, as additional information becomes available.
- H. Consistent with California Water Code Section 13304, the Regional Board's authorized representative(s) shall be allowed:
- Entry upon premises where a regulated facility or activity is located, conducted, or where records are stored, under the conditions of this Order;
  - Access to copy any records that are stored under the conditions of this Order;
  - Access to inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
  - The right to photograph, sample, and monitor the Park for the purpose of ensuring compliance with this Order, or as otherwise authorized by the California Water Code.
- I. The Discharger shall submit 30-day advance notice to the Regional Board of any planned changes in name, ownership, or control of the Park and shall provide 30-day advance notice of any planned physical changes to the Park that may affect compliance with this Order. In the event of a change in ownership or operator, the Discharger also shall provide 30-day advance notice, by letter, to the succeeding owner/operator of the existence of this Order, and shall submit a copy of this advance notice to the Regional Board.
- J. All reports, notifications, and other documents the Discharger submits pursuant to this Order shall be accompanied by a statement from the Discharger stating: "I certify under penalty of perjury that the attached documents were prepared at my request or under my supervision, and to the best of my knowledge are true, accurate and complete. I understand that there are significant penalties for providing false or incomplete information, including the possibility of criminal fines or imprisonments."



- K. Failure to comply with the terms or conditions of this Order may result in imposition of civil liabilities, either administratively by the Regional Board or judicially by a Superior Court, in accordance with section 13350 of the California Water Code and/or referral to the Attorney General of the State of California for action deemed appropriate. Furthermore, the Regional Board may also request the United States Attorney, appropriate county District Attorney, or City Attorney to seek criminal prosecution. Any such penalties are in addition to any penalties that may otherwise be assessed for violations of waste discharge requirements or other applicable orders or prohibitions.
- L. Pursuant to California Water Code section 13320, an aggrieved person may seek review of this Order by filing a petition within 30 days of the date of this Order with the State Water Resources Control Board (SWRCB). The petition must be sent to the SWRCB, Attention: Elizabeth Jennings, P.O. Box 100, Sacramento, CA 95812.

Ordered by:



Deborah J. Smith  
Interim Executive Officer

Date: September 5, 2007

September 5, 2007

**EXHIBIT B**

Sedina L. Banks

Direct Dial: 310.201.7436  
Direct Fax: 310.201.4456  
E-Mail: sbanks@ggfirm.com  
File Number: 17139-00002



October 4, 2007

**Via Certified Mail, Return Receipt Requested**

**Via E-mail**

State Water Resources Control Board  
Office of Chief Counsel  
P.O. Box 100  
Sacramento, CA 95812-0100

Attention: Jeannette L. Bashaw  
Legal Secretary

Re: Paradise Cove, Malibu -- Petition for Review of Cleanup and Abatement  
Order No. R4-2007-0043 & Request that it be Held in Abeyance

Dear Ms. Bashaw:

We represent the Kissel Company, Inc. ("Kissel"). Please find enclosed Kissel's Petition for Review of Cleanup and Abatement Order No. R4-2007-0043 issued by the California Regional Water Quality Control Board, Los Angeles Region. Kissel requests that the State Board hold this petition in abeyance pursuant to California Code of Regulations, title 23, section 2050.5(d).

Please contact me if you have any questions. Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "Sedina L. Banks".

Sedina L. Banks

SLB/nhs  
Enclosure

cc: Deborah L. Smith, Interim Executive Director, LARWQCB (Via Email & U.S. Mail)  
Steven F. Dahlberg, President, Kissel Company, Inc.  
Roger J. Holt, Esq., Greenberg Glusker Fields Claman & Machtinger LLP

GREENBERG GLUSKER FIELDS CLAMAN & MACHTINGER LLP  
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