
Los Angeles Regional Water Quality Control Board

May 29, 2019

Mr. Steve Dahlberg
The Kissel Company, Inc.
Paradise Cove Land Company, LLC
28128 West Pacific Coast Highway
Malibu, CA 90265

RESPONSE TO COMMENTS - TENTATIVE SECOND AMENDMENT TO CEASE AND DESIST ORDER NO. R4-2016-0311-A2 FOR THE KISSEL COMPANY, INC. AND THE PARADISE COVE LAND COMPANY, LLC – PARADISE COVE MOBILE HOME PARK AND PARADISE COVE BEACH CAFÉ, 28128 WEST PACIFIC COAST HIGHWAY, MALIBU, CALIFORNIA (FILE NO. 01-083, CI NO. 8342, GLOBAL ID WDR100039566)

Dear Mr. Dahlberg:

On March 10, 2019, a tentative second Amended Cease and Desist Order (CDO) No. R4-2016-0311-A2, for the Kissel Company, Inc. and the Paradise Cove Land Company, LLC., were released for public comment. The comment period ended on May 20, 2019. Comments were received from the Los Angeles Waterkeeper, the Paradise Cove Land Company and Heal the Bay by the deadline. Regional Board staff has considered all comments submitted. No revisions to the tentative amended CDO were made.

The Response to Comments is enclosed.

The document and the tentative amended CDO are also available at the Regional Board's website:

https://www.waterboards.ca.gov/losangeles/board_decisions/tentative_orders/individual/non-npdes/CDO_Paradise_Cove/index.html

In accordance with administrative procedures, the Regional Water Board is scheduled to consider the enclosed tentative amended CDO and comments timely received at a public hearing to be held at **9:00 AM on June 13, 2019**, at the City of Camarillo Council Chambers located at 601 Carmen Drive, Camarillo, California. The Board will hear any testimony pertinent to the tentative amended CDO. It is expected that the Board will take action at the hearing; however, as testimony indicates, the Board at its discretion may postpone action on the tentative CDO to a subsequent board meeting.

May 29, 2019

If you have any questions, please contact the Project Manager, Mr. Peter Raftery at (213) 620-6156 (peter.raftery@waterboards.ca.gov), or me at (213) 576-6683 (eric.wu@waterboards.ca.gov).

Sincerely,



Eric Wu, Ph.D., P.E.
Chief of Groundwater Permitting Unit

Enclosure: Response to Comments

cc:

Ms. Barbara Bradley, Advanced Onsite Water
Mr. Craig George, City of Malibu
Ms. Shelley Luce, Heal the Bay
Ms. Annelisa Moe, Heal the Bay
Mr. Arthur Pugsley, Los Angeles Waterkeeper
Mr. Ric Vardel, Integrated Performance Consultants, Inc.
Mr. Martin Ford, California Department of Housing and Community Development
Mr. James Schofield, Southern California Edison

Response to Comments

Tentative Second Amendment to Cease and Desist Order (CDO) No. R4-2016-0311-A2 for The Kissel Company, Inc. and Paradise Cove Land Company, LLC – Paradise Cove Mobile Home Park and Paradise Cove Beach Cafe Comment Deadline: May 20, 2019

The Los Angeles Regional Water Quality Control Board (Regional Water Board) received the following comment letters:

No.	Commenters	Date Received
1	Los Angeles Waterkeeper	May 14, 2019
2	Steve Dahlberg, PCLC / Advanced Onsite Water	May 16, 2019
3	Heal the Bay	May 20, 2019

No.	Comment	Response
Los Angeles Waterkeeper		
1-1	Los Angeles Waterkeeper has reviewed the proposed changes to the CDO referenced in the subject line. We would normally be strongly inclined to oppose such additional extensions in CDO compliance deadlines as leading to unwarranted negative impacts on water quality. Nonetheless, here the delays do not appear unreasonable, given the conjunction of unfortunate circumstances since the issuance of the first CDO extension last year. The Tentative Second Amendment describes the events causing the compliance delays and includes an individualized delay estimate for each event, which is helpful to understand the causes of the delay in compliance with the CDO. We note in particular the Woolsey Fire followed by heavy wet season rains as a cause of the delays precipitating the request for a second extension of the CDO. These events have greatly impacted the Malibu community (including several of our own members and staff), as well as the surrounding areas of Los Angeles and Ventura Counties.	Comment noted.

No.	Comment	Response
1-2	Given the unusual and unfortunate conjunction of events causing the delays, and (equally importantly) the documentation of those circumstances in the Tentative Second Amendment, Los Angeles Waterkeeper does not object to an extension of 10 months to complete system upgrades and three months to optimize system performance, for a total of thirteen additional months to achieve final compliance with the CDO.	Comment noted. However, for clarification, the commenter did not correctly state the proposed schedule extension. The deadline for completion of the treatment system is proposed to be extended from June 1, 2019 to February 7, 2020, roughly 8 months; and the deadline for the Dischargers to be in full compliance with the Waste Discharge Requirements (WDRs) and Water Recycling Requirements (WRRs) contained in Order No. R4-2016-0310 is proposed to be extended from September 1, 2019 to April 3, 2020, about 7 months. Please note that the tentative amended CDO only allows 2 months for treatment plant optimization, instead of the 3 months in the current CDO. Overall, the tentative amended CDO allows a 7-month extension, not 13 months as described in the comment letter.
Steve Dahlberg, PCLC / Advanced Onsite Water		
2-1	We wish to express our gratitude for your efforts in preparing the proposed second extension to the compliance deadlines for the Paradise Cove Land Company and the Kissel Company, Inc. (PCLC). As you know, circumstances beyond the control of Paradise Cove have continued to prevent PCLC from proceeding as required and intended. We appreciate your time to closely review the request and the factual data. Thank you for your analysis and recommendation.	Comment noted. The Dischargers must make all necessary efforts to orchestrate all tasks and coordinate with all regulatory agencies to ensure that the wastewater treatment plant upgrades are completed according to the schedule in the amended CDO.
Heal the Bay		
3-1	As stated in our April 23, 2018 comment letter, we support the joint efforts between the Los Angeles Regional Water Quality Control Board (Regional Board), and the Kissel Company, Inc. and Paradise Cove Land Company, LLC (the dischargers) to upgrade and consolidate the onsite wastewater treatment systems (OWTS) at the Paradise Cove Mobile Home Park and	<p>Comment noted.</p> <p>The Regional Water Board shares the commenter's concerns about delay of project completion, but recognize that certain events (e.g., Woolsey Fire) have impacted the Dischargers' ability to comply with the</p>

No.	Comment	Response
	<p>the Paradise Cove Beach Café. The upgraded system will consolidate two OWTS into one Paradise Cove Wastewater Treatment Plant, improve the overall quality of the effluent discharged from this treatment system, and provide a source of treated water to be used for on-site irrigation, reducing reliance on alternative water sources. However, continued delay of project completion has extended the period of polluted effluent discharge at these sites, which poses a risk to public and environmental health, particularly considering the popularity of the beach at the Paradise Cove Pier.</p>	<p>current CDO schedule. The Board believes a short extension is therefore warranted, especially considering the anticipated improvement in effluent quality as the commenter notes.</p> <p>For clarification the individual wastewater streams discharged from the Paradise Cove Mobile Home Park and the Beach Café are currently treated by individual systems and are discharged to seepage pit areas dedicated to the individual treatment systems. The tentative amended CDO prescribes interim effluent limitations based on the receiving water quality objectives. The interim effluent limitations are consistent with the groundwater quality objectives in the Basin Plan and bacteria limitations in the Ocean Plan. These interim effluent limitations are protective of public and environmental health.</p>
3-2	<p>All original effluent limits prescribed in Order No. R4-2016-0310 should be enforced during this extension period.</p> <p>In our April 23, 2018 comment letter, we proposed more stringent interim effluent limits in order to better protect public and environmental health. While our proposed interim effluent limits were not accepted by the Regional Board, staff did recalculate the interim effluent limit, and lowered the limits slightly to reflect the most recent data available at that time. In the 2019 Tentative CDO Amendment, these limits have been lowered slightly again, to reflect the most recent monitoring data. We appreciate this effort to strengthen the interim effluent limits.</p> <p>However, all interim effluent limitations listed in Table 1 and Table 2 of the Tentative CDO Amendment are still significantly higher than those prescribed in Order No. R4-2016-0310, and continued discharge at these levels poses a risk to public and environmental</p>	<p>Comment noted.</p> <p>Regional Water Board staff acknowledge that the interim effluent limits in the tentative amended CDO are higher than the final effluent limits in Order No. R4-2016-0310. For context, however, Order No. R4-2016-0310 established, for the first time, consolidated WDRs/WRRs for the Park and the Café. The WDRs/WRRs specify requirements for the recycled water use and wastewater discharges at the Park and Café to allow recycled water to be utilized from the upgraded system. In so doing, the WDRs/WRRs prescribed several new and/or more stringent effluent limitations that the Dischargers could not immediately achieve without completion of the upgrades. In issuing the CDO in 2016, the Board determined that a CDO with interim effluent limitations</p>

No.	Comment	Response
	<p>health. High concentrations of Fecal Indicator Bacteria (FIB) indicate a high risk of gastrointestinal illness in people who participate in direct water contact recreation. Additionally, high turbidity, total dissolved solids, nitrogen, sulfate and chloride can have negative effects on aquatic ecosystems including eutrophication. We therefore recommend that all original effluent limits prescribed in Order No. R4-2016-0310 be enforced during this extension period.</p>	<p>and a time schedule that was as short as possible was appropriate to allow time for the Dischargers to complete facility modifications that will bring the Park and Cafe's treatment systems into compliance with effluent limitations.</p> <p>The existing individual treatment systems operate separately for the Mobile Home Park and Beach Café and do not have the treatment capacity to meet the Title 22 Recycled Water Standards if the wastewater streams were combined. The interim effluent limitations specified in the tentative amended CDO are adequate because the effluent limitations are prescribed based on the anticipated performance of each existing treatment system and the limitations of the receiving water at the current discharge locations. The existing interim effluent limitations are consistent with the objectives in the Basin Plan and the Ocean Plan and are protective of environmental and public health. Using and enforcing effluent limitations in the WDRs/WRRs contained in Order No. R4-2016-0310 for the existing treatment systems that do not have the same treatment capabilities is not appropriate.</p> <p>In order to protect public and environmental health, the Discharger must comply with the interim effluent limitations in the CDO.</p>
3-3	<p>Additional interim remediation activity must be required to limit the impact of effluent discharge during this project extension period.</p> <p>In 2018, we did not oppose the proposed 1-year extension, which gave the Kissel Company and Paradise Cove Land Company until June 2019 to complete construction for their upgraded</p>	<p>Based on our review of data from the first quarter of 2019, there are no groundwater impacts caused by the discharge from the Beach Café treatment system. There is one groundwater sample collected from monitoring well MW-3, downgradient from the seepage pits of the Mobile Home Park wastewater treatment system, in the</p>

No.	Comment	Response
	<p>system, but we did express our concerns that unforeseen complications could prolong this extension beyond 1 year. Now, 1 year later, an additional 8 month extension is being proposed. We appreciate the inclusion of interim requirements (e.g. the delivery of the new system to be housed on site by July 2019) which will help to move the project forward as quickly as possible. However, with this additional 8 month extension, project completion will now be delayed by 20 months, and we are very concerned that additional unforeseen complications will continue to postpone project completion, prolonging the discharge of polluted effluent. We urge the Regional Board to require additional interim remediation activity to limit the impact of effluent discharge from the Mobile Home Park and Beach Café during this project extension period. If exceedances of the original effluent limits, prescribed in Order R4-2016-0310, are measured during this extension period, we would like to see enforcement along with a Supplemental Environmental Project in order to more adequately mitigate for the impacts. As we approach Memorial Day and the summer beach season, there is an increased urgency and need to protect public health.</p>	<p>southwest area of Paradise Cove that has enterococcus exceeding the limits specified in the Ocean Plan. The Dischargers are required to take immediate action to eliminate the effluent exceedances and continue to improve the treatment systems to ensure that groundwater is not impacted by their discharge.</p> <p>There are no environmentally-sound technologies to disinfect bacteria in groundwater. Use of disinfecting agents such as chlorine to treat bacteria in soil or groundwater adjacent to the beach may threaten marine life.</p> <p>It is also important to note that a CDO is a type of enforcement order. The purpose of the CDO is to put the Dischargers on a path to compliance; in this case, that requires that the Dischargers complete upgrades to their existing wastewater treatment systems. "This Order requires the Dischargers to take appropriate remedial action and to comply in accordance with the time schedule set forth below. The time schedule provides the Dischargers sufficient time to complete upgrades to the wastewater treatment plant(s) at the Park and Beach Café to promptly achieve compliance with the WDRs/WRRs in Order No. R4-2016-0310." (See Finding 21).</p> <p>As explained in response to comment 3-2, it is not appropriate to impose the effluent and groundwater limitations in Order No. R4-2016-0310 for the soon-to-be combined system to the existing wastewater treatment systems at the Mobile Home Park and Beach Café.</p>

No.	Comment	Response
3-4	<p>The dischargers must post signage that warns of the risk to swimmers until the project is complete.</p> <p>In the 22 weeks since the beginning of the calendar year (January 1, 2019), the beach at the Paradise Cove Pier has received 15 F grades, 3 D grades, 1 C grade, and only 4 A grades under Heal the Bay's weekly Beach Report Card for dry weather conditions. While this is not the only beach in North Santa Monica Bay that has received low dry-weather grades this year, it does exhibit the worst water quality among its neighboring beaches. Little Dume, just north of Paradise Cove, has received 14 A grades, 1 B grade, 2 C grades, 3 D grades and only 3 F grades under Heal the Bay's weekly Beach Report Card for dry weather conditions since January 1, 2019. Frequent bacteria exceedances measured in the effluent and groundwater at both the Paradise Cove Mobile Home Park and the Beach Café, disclosed in the 2018 annual report, likely contribute to exceedances at the Paradise Cove Pier. Continued discharge of effluent that exceeds these FIB limits may be influencing the low Beach Report Card Grades observed at this location. In order to protect public health, we recommend that the property owner post signage that warns of the potential risk to swimmers until the project is complete. These would be in addition to the official beach posting signs and would provide additional information about the project underway and efforts to improve water quality. Signs should be developed in coordination with the Regional Board, Department of Public Health, and stakeholders.</p>	<p>Based on our review of groundwater data from the first quarter of 2019, a groundwater sample from one monitoring well (MW-3) in the southwest area of Paradise Cove, contained enterococcus at concentrations exceeding the Ocean Plan limits. The Dischargers are required to take immediate action to eliminate the effluent exceedances and continue to improve the treatment systems to ensure that groundwater and surface water are not impacted by their discharges.</p> <p>However, there may be multiple sources that could contribute to the poor beach water quality. In addition to the discharges from Paradise Cove Mobile Home Park and Beach Café wastewater treatment systems to groundwater, Ramirez Creek, a perennial creek discharges immediately next to the Paradise Cove Pier. It is likely that the perennial creek conveys pollutants including bacteria in dry weather flows from the inland watershed that could cause or contribute to exceedances of bacteria along the beach. Since approximately 2010, there has been a stormwater treatment system to treat stormwater and urban runoff from Ramirez Creek. However, based on communications with the Dischargers, it is the Board's understanding that the stormwater treatment facility, which is owned and operated by the City of Malibu, has been inoperable since the Woolsey Fire.</p> <p>Additional investigation may determine if the exceedances documented by Heal the Bay's weekly Beach Report Card are caused by discharges from Ramirez Creek, contributed by groundwater, or both.</p>

No.	Comment	Response
		<p>With regards to establishing a sign describing the progress of the wastewater treatment system upgrade project, and the beach water quality, Board staff will coordinate with the Department of Public Health, and the Dischargers to evaluate the need for signage.</p>