California Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:

The Balboa Bay Club 1221 West Coast Highway Newport Beach, California 92663-5026	)))))	Complaint No. 01-35 for Administrative Civil Liability

YOU ARE HEREBY GIVEN NOTICE THAT:

1. The Balboa Bay Club (BBC) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board) may impose administrative civil liability, pursuant to California Water Code Section 13385.

2. A hearing concerning this complaint will be held before the Board within 60 days of the date of issuance of this complaint, unless BBC waives its right to a hearing. Waiver procedures are specified in Page 4 of this complaint. If the hearing on this matter is not waived, the hearing will be held during the Board's regular meeting on April 19, 2001, at the Orange County Water District, Fountain Valley, California. The meeting begins at 9:00 a.m. BBC or its representative will have the opportunity to appear and be heard and to contest the allegations in this complaint and the imposition of civil liability by the Board. An agenda and announcement for the meeting will be mailed to you not less than 10 days prior to the hearing date.

3. If the April 19, 2001, hearing is held on this matter, the 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. BBC is alleged to have violated California Water Code Section 13376 which states:

   "Any person discharging pollutants or proposing to discharge pollutants to the navigable waters of the United States within jurisdiction of this State…shall file a report of discharge in compliance with procedures set forth in Section 13260…," and, "The discharge of pollutants…by any person except as authorized by waste discharge requirements…is prohibited..."

5. This complaint is based on the following facts:

   A.) The BBC has a network of sanitary sewers to collect sewage from the buildings within the club compound. Sewer laterals are connected to eight- and ten-inch diameter sewer mains, which then discharge to an on-site sewage pump station operated by BBC. From the on-site pump station, sewage is pumped to Orange County Sanitation District's Rocky Point Sewer Pump Station. All BBC's sewer lines are within the club compound.

   B.) On September 19, 2000, a BBC contractor was conducting a video inspection of the club's sewer system to determine its condition. The video inspection project

was hampered by accumulations of grease in the sewer lines to be inspected. City of Newport Beach staff was requested to assist, and City staff proceeded to utilize its equipment to clean the club's sewers that were to be video inspected.

C.) On September 20, 2000, at 7:30 a.m., BBC staff observed raw sewage discharging from a manhole within BBC. The manhole from which sewage was discharging is approximately 45 feet from a storm drain inlet. This storm drain inlet discharges to Newport Bay and is approximately 30 feet from the sea wall fronting the bay. An estimated 500 to 700 gallons of raw sewage entered the storm drain and Newport Bay before the discharge was stopped. A BBC contractor controlled the sewage discharge.

D.) The cause of the sewage overflow was later determined to be a grease blockage.

E.) On September 23, 2000, Board staff, accompanied by staff of BBC and City of Newport Beach, visually inspected the Club's sewer lines. Indications of prior accumulations of grease were observed in the visible parts of the lines and in maintenance holes, including grease particles and a roughly cylindrical grease mass approximately six inches long and one and one half inches in diameter.

6. As a result of the September 20, 2000, sewage spill, Orange County Health Care Agency closed approximately 1,500 feet of public beach within Newport Bay to swimming, from September 20, 2000 through September 22, 2000. The closure extended from the west end of the BBC's marina through part of the Bayshore Beach "Play Beach."

7. The discharge occurred from sewage collection facilities owned and operated by BBC. Therefore, BBC is strictly liable for the unauthorized discharge of waste from these facilities. BBC is also liable for the violation cited above.

8. Pursuant to Section 13385(c), the Board can administratively assess civil liability in an amount not to exceed the sum of the following:

A.) Ten thousand dollars ($10,000) for each day in which the violation occurs; and,

B.) Where there is a discharge, any portion which is not susceptible to clean up or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars ($10) times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

10. In accordance with Water Code Section 13385(c), the maximum liability for the violation cited above is $10,000.

11. Section 13385(e) specifies factors that the Board shall consider in establishing the amount of civil liability, including recovery of economic benefits derived from the acts that constitute the violation. The State Water Resources Control Board's Enforcement Policy calls for recovery of staff costs in liability assessments. After consideration of these factors, requirements and policy directives, the Executive

Officer proposes civil liability be imposed on BBC in the amount of $5,000 for the violation cited above.

12. BBC may waive its right to a hearing in this matter. If BBC waives its right to a hearing, BBC shall sign the waiver, which is page 4 of this Complaint, and return it, together with a check payable to the State Water Resources Control Board in the amount of $5,000. Send the check and signed waiver to:

Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3339

If you have any questions concerning this complaint, contact the undersigned at 909/782-3284, Mark Adelson, Surveillance and Enforcement Section Chief, at 909/782-3234, Najah N. Amin, Surveillance and Enforcement Section Staff Engineer, at 909/320-6362, or Ted Cobb, the Board's Staff Counsel, at 916/657-0406.

3-8-01
Date

Gerard J. Thibeault
Executive Officer

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SANTA ANA REGION

California Regional Water Quality Control Board
Santa Ana Region

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Balboa Bay Club	)	Complaint No. 01-35
1221 West Coast Highway	)	for
New port Beach, California	)	Administrative Civil Liability
92663-5026	)	

Waiver of Hearing

Balboa Bay Club (BBC) agrees to waive its right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. 01-35. BBC has enclosed a check payable to the State Water Resources Control Board for the amount of the proposed liability in Paragraph 11 of Complaint No. 01-35. BBC understands that it is giving up its right to be heard and to argue against the allegations made in the Complaint No. 01-35, and against the imposition of, and amount of, civil liability.

_____ _____
Date for Balboa Bay Club