

In the matter of the

Complaints Commissioner Law (2006 Revision)

**Cayman Turtle Farm and Waste Discharge into the
Marine Environment**

Own Motion Investigation Report Number 9

Prepared by the Office of the Complaints Commissioner

Date: 24 April 2008

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Aim of the Office: To investigate in a fair and independent manner complaints against government to ascertain whether injustice has been caused by improper, unreasonable, or inadequate government administrative conduct, and to ascertain the inequitable or unreasonable nature or operation of any enactment or rule of law.

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Foreword

In accordance with the powers conferred on the Commissioner under section 6 of the Complaints Commissioner Law (2006 R), this report was completed in part by Analyst Barrie Quappe.

Table of Contents

1. Executive summary
2. Introduction
 - 2.1 Boatswain's Beach/Cayman Turtle Farm (1983) Ltd.
 - 2.2 Water Authority–Cayman
 - 2.3 Own Motion
3. Background
 - 3.1 Environmental concerns
 - 3.2 History of discharge from BB/CTFL
 - 3.3 Importance of the anti-degradation study
 - 3.4 Importance of a discharge permit
4. Description of investigation
5. Investigation questions: Is a discharge permit required for the Boatswain's Beach/Cayman Turtle Farm (1983) Ltd. and does BB/CTFL have the required permit?
 - 5.1 Water Authority Law
 - 5.2 Permit required
 - 5.3 Plea in mitigation
 - 5.4 Public Health Law permit
 - 5.5 Efforts to obtain a WA–C permit
 - 5.5 Findings and subconclusion
6. Certificates of Occupancy
 - 6.1 Investigation revealed other violations
 - 6.2 Planning Department

6.3 Progress with Planning

6.4 Findings and subconclusion

7. Conflict of interest or bias

7.1 Issue

7.2 Water Authority–Cayman as regulator

7.3 Evidence

7.4 Findings and subconclusion

8. Summary of conclusions and recommendations

1. Executive summary

The OCC commenced in January 2008 an Own Motion investigation into the apparent failure of Boatswain's Beach/Cayman Turtle Farm (1983) Ltd. (hereafter BB/CTFL) to comply with the Water Authority Law, including its apparent failure to obtain the required permit to discharge effluent from the Turtle Farm commercial operation (including turtle touch tanks), as distinct from the new water park, into the marine environment. The Own Motion investigation was initiated in response to concerns about the BB/CTFL's non-compliance that had been expressed in both print and broadcast media. The alleged failure of BB/CTFL to give information to the WA-C and its alleged failure to adhere to the law brought into question the administration of the BB/CTFL.

The investigation focused on three issues: first, whether a discharge permit is required for the Turtle Farm commercial operation (including turtle touch tanks) with its continuous discharge of untreated effluent at an estimated outflow of 10,000 gallons per minute or 14.4 million gallons per day; second, the failure of the BB/CTFL to get a discharge permit; and third, a potential conflict of interest (apparent bias) between Mr. Joseph Ebanks as Acting Managing Director of BB/CTFL and his membership on the Board of Directors of the WA-C, which is the regulator.

The investigation included interviews with the current Acting Managing Director and Chief Operating Officer (AMD-COO) of BB/CTFL, Mr. Joseph Ebanks; the immediate past general manager, Mr. Kenneth Hydes; MEP Manager Mr. Adam McLaren; the director of the Water Authority-Cayman, Dr. Gelia Frederick-van Genderen; the Chairman of the Board of the Water Authority-Cayman, Mr. Brainard Watler; Director of Planning Mr. Kenneth Ebanks; and the director of the Department of Environmental Health, Mr. Roydell Carter. Amongst the documented evidence gathered were timelines or chronological lists from the WA-C and from BB/CTFL of the steps taken towards obtaining a discharge permit; minutes from meetings of both entities' governing boards; e-mail evidence supporting testimony; and other ancillary documents. DoE Director Mrs. Gina Ebanks-Petrie supplied requested information.

The evidence of the Water Authority-Cayman (hereafter WA-C) as the regulator was that BB/CTFL had applied for a discharge permit but no discharge permit had been granted.

Over the past decade there has been discussion about the impact of the discharge from BB/CTFL on the marine environment. A study was proposed and agreed between BB/CTFL and WA-C in 2004 that would establish then current conditions. This study was to serve as a baseline for the future protection of the marine environment and to inform the WA-C's deliberations on the setting of appropriate conditions within the discharge permit that was under consideration. The study, called an anti-

degradation study, was to be conducted by independent experts, in accordance with agreed terms of reference. The terms of reference were settled after discussion with DoE, WA-C and BB/CTFL.

The Interim Report of this study was prepared as of 20 January 2005. It did document the existence of nutrient loading in the outflow area, but did not offer a commentary or draw conclusions with respect to the issue of degradation or rate of change. The final report was due by August 2005 or shortly thereafter, but it was not presented to WA-C until 6 March 2006.

The WA-C provided its full reply on 5 May 2006. It noted items that were required by the terms of reference but were missing from the ADS report, and provided comprehensive feedback. The applicant sought to commence operation of the quarantine facility by the end of May 2006, with the lagoons becoming operational by early August 2006. In consequence, the director in the reply cautioned: "This time line makes it critical that all information is supplied in a timely manner so that the Authority is in a position to complete its review of the study with sufficient due diligence and to prepare the permits." In a letter of 8 September 2006 to BB/CTFL she warned that if there was not a satisfactory reply by 13 September 2006 and the facility opened, the matter would be referred to the Attorney General for action.

Former managing director Mr. Kenneth Hydes acknowledged that he had known that a discharge permit was required of the BB/CTFL project since its redevelopment following the devastation from hurricane Michelle in 2001. AMD-COO Mr. Joseph Ebanks acknowledged that he knew that a discharge permit was required and that one was still not in place. Reasons and excuses were offered but were found to be unsatisfactory.

It is the finding of the OCC that it is maladministration for the management of BB/CTFL to operate without the required discharge permit. The management team of BB/CTFL has been given every opportunity to comply with the law and has not done so. Beyond that it is clear that WA-C did not exert the kind of authority expected of a regulator from 2007 onward when it became aware that BB/CTFL was going ahead into expanded operations without having resolved the issues arising from the first discharge permit.

In the course of the investigation, the former managing director acknowledged that he was party to a decision to use the electricity gained through an Electrical Services Special Connection ("Special Connection") to power up all of the buildings in the new water park connected to the northern electricity feed in 2006. This contravened the conditions: "No use of any building attached/powered by this meter except for testing and use of the lift station. Power will be disconnected if unauthorized use is determined." The power supply was used beyond the limits of the permission because of the Florida Caribbean Cruise Association's conference, held 31 October to 3 November 2006.

According to the current AMD-COO, he discovered the irregular situation when his team was trying to arrange the electrical connection for a Tiki bar in 2007, and the electrical inspector told them no permission existed for the current hook-up. Mr. Ebanks stated that he reported this fact to the BB/CTFL board. The power continues to be supplied through this illegal and unregulated system.

The continued unauthorised use of electricity raised the question of certification for occupancy of the buildings. The AMD was formally advised in October 2007, with the assistance of Mr. Kearney Gomez, a member of the BB/CTFL board, that no Certificates of Occupancy were issued. He learned that not only were there problems with electrical inspections, but that foundations and roofs had not been inspected (and thus had not been certified as safe) and neither were the pools or lagoons. He first estimated that "thirty to sixty different stages of approval were outstanding" and admitted that "We've been operational without a certificate of occupancy ... we've been operational contrary to the law."

Renewed efforts commenced in late October 2007 to obtain Certificates of Occupancy. BB/CTFL's MEP manager produced a plan to rectify the situation and to hopefully achieve certification by early March 2008. As at February 2008 four buildings were granted their Certificates of Occupancy, which left 10 structures (some with limited public access) and three pools not certified as safe for occupancy. At 21 April 2008, one additional certificate was obtained for a building. Mr. Joseph Ebanks testified that large sums of money might be required to complete the inspection and certification process in the whole development. For example, while the pools were built well and have held water, inspections for electrical grounding would require excavating dirt which provides the support for the pool wall and could lead to collapse. The remedial option may be to install thousands of dollars worth of "GCFI plugs" on each of the 30 pumps. He also testified that to end the continuing breach of the law, he would have to close the water park.

It is the finding of the OCC that it is bad administration for the management to operate the facility by using electricity without proper authorisation and safety inspections. It is bad administration for the management to operate the facility without the required Building Code inspections, required improvements (if any), and ultimately being satisfied as to the safety of all buildings and pools. The situation is compounded by the fact that management does not have a settled timeline for the completion of inspections and improvements. While we accept that Mr. Joseph Ebanks may feel pressure to keep the facility open, the law was designed to encourage better quality and safety practices, and urgent action is required.

Mr. Joseph Ebanks was appointed as a member of the Water Authority board on 18 October 2005, to serve until 21 January 2007, and appointed for 23 January 2007 until 22 January 2009. He remained a member during

his tenure as COO of BB/CTFL, which commenced on 1 March 2007, and during his current tenure as AMD, which commenced 17 September 2007. Mr. Ebanks stated that he had declared a conflict of interest to the chairman verbally (but has no written document recording any time when he declared a conflict) and excused himself from meetings when the topic of BB/CTFL was next on the agenda. The board minutes were examined, and the attendance record indicates that he was present. The minutes do not reflect that Mr. Ebanks ever excused himself from meetings when the BB/CTFL project was on the agenda. Chairman Watler stated that, to the best of his recollection, he believed that Mr. Joseph Ebanks excused himself once. He characterised the discussions surrounding the BB/CTFL project as simply reports or updates, without decisions being taken. The director concurred with this characterisation.

The law governing the board required that, at a minimum, Mr. Joseph Ebanks should have excused himself from meetings when BB/CTFL matters were addressed. Administrative law addresses conflict of interest – or, as it is more often described, the rule against bias – and requires that decision-makers be fair and not biased and also be seen to be fair and not biased. The facts of this case are such that a fair-minded and informed observer would conclude that the preservation of the status quo through to 2008 suited Mr. Ebanks and served his interest. Given Mr. Joseph Ebanks's failure to recuse himself each time BB/CTFL matters were on the agenda, and the history of the attempts to have the BB/CTFL comply with the law and regularise the discharge permit, the need to address public perception and confidence dictates that he should now resign from the board of WA-C.

It is the finding of the OCC that it is bad or improper administration for Mr. Joseph Ebanks to remain a member of the board.

Recommendations

1. It is my recommendation that BB/CTFL make arrangements forthwith to meet the requirements of the regulator and do all things reasonably required to complete the licence process by 30 May 2008.
2. It is my recommendation that the Acting Managing Director complete as a matter of urgency all steps necessary to complete the criterion for Certificates of Occupancy for the buildings and pools at BB/CTFL.
3. It is my recommendation that Mr. Joseph Ebanks resign from the board of the Water Authority-Cayman.

2. Introduction

2.1 Boatswain's Beach/ Cayman Turtle Farm (1983) Ltd.

In this report we refer to Boatswain's Beach/Cayman Turtle Farm (1983) Ltd. as "BB/CTFL".

The history of the Cayman Islands Turtle Farm up to 2006 is recorded on the website <<http://turtle.ky/main.cfm>>:

Cayman Turtle Farm was established in 1968 as Mariculture Ltd. by a group of investors from the United States and Great Britain as a facility to raise the green sea turtle for commercial purposes. The intention was to supply the market with a source of product that did not deplete the wild populations further. By releasing turtles and facilitating research, any harm created by removing turtles and eggs from the wild would be mitigated. After much work was put into pioneering the requirements of domesticating this wild animal, regulations designed to protect the sea turtle prevented the sale of even the farmed turtle product in the US and many other countries. With close to 100,000 turtles to feed and care for and unable to sell its products to continue a cash flow, Mariculture Ltd. consequently went bankrupt in 1975. Mariculture Ltd. was bought by a group from Germany and renamed Cayman Turtle Farm Ltd.

The Cayman Islands Government then purchased this mini farm in 1983 and has since operated it as a private company, Cayman Turtle Farm (1983) Ltd. The goal of this new company is to produce enough turtles to supply the needs of the local market and continue releasing turtles. The farm has become one of the largest tourist attractions on the island, attracting over 404,000 visitors during 2006.

On 4 November 2001 the Cayman Turtle Farm was hit by waves generated by hurricane Michelle, which washed turtles out of their tanks. This was a severe setback as 75 per cent of the breeders were lost. The turtle release program and the sale of meat were reduced to build up the population again.

A new breeding pond, further inland, was completed by the end of 2002 and the remaining adults and selected future breeders were moved to their new home in early 2003 and they produced some hatchlings that season. Numbers have increased each year and a total of 1898 were hatched this year [2006].

The commercial meat-processing operation continued in an area not open to the public.

The concept of an expanded recreational water park emerged during the redevelopment. The result was Boatswain's Beach, approximately 23 acres of reef lagoon in which guests can snorkel, view a predator tank and a free flight aviary, and walk through a woodland nature trail.

<<http://www.boatswainsbeach.ky/>>

2.2 Water Authority–Cayman

In this report we refer to the Water Authority–Cayman as “WA–C”.

It states that its mission is to ensure that the entire population of the Cayman Islands has access to a pure, wholesome, and affordable supply of potable water; and to regulate other entities licensed by the government to provide public water supplies. It also provides sewerage services and carries out development control relating to water, wastewater, and groundwater. The Water Authority Law (18 of 1982) (1996 Revision) and the Water Authority Regulations (2007 Revision) provide the statutory basis for these activities and responsibilities.

2.3 Own Motion

The OCC announced on 19 December 2007 that in January 2008 we would commence an Own Motion investigation into the apparent failure of BB/CTFL to comply with the Water Authority Law, including its apparent failure to obtain the required permit to discharge effluent from the Turtle Farm commercial operation (including turtle touch tanks), as distinct from the new water park, into the marine environment.

Under section 11(1) of the Complaints Commissioner Law (2006 Revision) the Commissioner may initiate an Own Motion investigation if he is of the opinion that there are reasons of special importance that make it desirable in the public interest. In this case, concern has been expressed in both print and broadcast media about the BB/CTFL’s alleged non-compliance with the Water Authority Law in recent years.

The Office of the Complaints Commissioner (OCC) had established that the WA–C had, in fact, taken action to monitor and to attempt to control through licensing the discharge of effluent from the BB/CTFL facility, though these findings raised questions about the BB/CTFL’s cooperation with the WA–C. For example, the OCC found in an earlier investigation of the WA–C that the failure of the BB/CTFL to have produced the Final Report of the anti-degradation study (discussed below) on a timely basis protracted the regulatory process of the WA–C. That investigation, arising from a written complaint, was completed 15 August 2006.

The evidence of the WA–C as the regulator was that at December 2007, no discharge permit had been granted. The alleged failure of BB/CTFL to address questions raised by the WA–C and its alleged failure to adhere to the law brought into question the administration of the BB/CTFL.

We also queried whether permission for discharge may be required under the Public Health Law from the Director of Environmental Health, Mr. Roydell Carter, envisioned by Section 22 of the Marine Conservation Law.

It was estimated in 2005 that 17,000 gallons per minute of trade effluent was continuously discharged from the Turtle Farm commercial operation

(including turtle touch tanks) into the marine environment. The exact amount of suspended solids per gallon was not known to anyone. Evidence suggested that BB/CTFL had since that time achieved a considerable reduction in the amount of suspended solids discharged by better management of the waste from the Turtle Farm's butchery and an unanticipated reduction of the herd, which reduced the amount of fecal waste. However, there remained a significant volume of untreated effluent in continuous discharge with an estimated outflow of 10,000 gallons per minute or 14.4 million gallons per day. This does not include the discharge from the new water park, which is handled differently and is subject to separate discharge permits.

The investigation focused on three issues: first, whether a discharge permit is required for the Turtle Farm commercial operation (including turtle touch tanks); second, the failure of the BB/CTFL to get a discharge permit; and third, a potential conflict of interest between Mr. Joseph Ebanks as Acting Managing Director of BB/CTFL and his membership on the Board of Directors of the WA-C, who are the regulators.

We notified Mr. Ebanks of the intention to investigate on 17 October 2007. Mr. Ebanks responded to the Complaints Commissioner a week later (24 October) saying that he had received the OCC's notification and was committed to following the law, and that he had re-commenced negotiations with the WA-C.

3. Background

3.1 Environmental concerns

The Department of Environment (DoE) acknowledges that the commercial turtle farm serves a valuable conservation purpose in that it promotes the turtle species and provides Caymanians with a valued food staple. Over the years it substantially satisfied demand and diminished poaching, thereby protecting the natural green sea turtle populations. There is also tentative evidence that the annual turtle release program has had a positive effect on sustaining generations of indigenous turtles.

Scientists have maintained that negative environmental effects from effluent discharge can have a long-term impact on the Cayman Islands' marine environment, especially the beaches and coral reefs, and therefore on its attractiveness as a tourist destination.

According to expert research conducted by the DoE, the phosphate and nitrogen nutrient content of the wastewater effluent has promoted the growth of fleshy and weedy algae. This might be expected to overgrow and kill corals and beneficial species of algae through the process of algae overgrowth, or "eutrophication". It is argued that effluent thereby may have interfered with the attractiveness to the water tourism industry of Cayman's well-known surrounding reefs and contributed to a reduction in the production of beach sand, thereby lessening beach regeneration. The

DoE's position is supported by a 1985 study by C.S. Rose and M.J. Risk, "Increase in *Celia delitrix* Infestation of *Montastera cavernasa* Heads on an Organically Polluted Portion of the Grand Cayman Fringing Reef" (*Marine Ecology* 6(4): 345–63), and a more recent study by T.J. Goreau in Jamaica and Cozumel. The DoE had documented this latter study in a memorandum written by the director, Ms Gina Ebanks-Petrie, and summarised in a DoE paper, "General Brief on Possible Impacts Associated with the Proposed Dolphin Facilities in Grand Cayman", written from work undertaken in the autumn of 2003.

With respect to the BB/CTFL discharge issue, no further formal work has been specifically undertaken by the DoE, though there have been anecdotal observations of a reduction or stunting of coral growth in the immediate area of the effluent plume "which disperses in a widening southwest direction, moving away from shore in clear weather conditions". The minutes of the Water Authority board of 16 June 2004 acknowledge the possible effects of unregulated discharge. It is recorded that "The marine environment off Northwest Point does show signs of deterioration and algae growth as a result of the farm's waste discharge."

Of note is a similar situation that occurred in Negril, Jamaica, where the water had been turning green and divers had witnessed excessive algae growth. Mr. Bradley Smith stated:

The wastewater treatment plant in Negril was a great success and I witnessed it with my own eyes over the years since I am avid diver and have been diving the same sites around Negril for 22 years. As soon as they hooked up the sewage system I started to see improvements within 6 months to a year after. Right now I know of several places in Negril that have beautiful reefs once again that were once destroyed.

Additional anecdotal information given by the BB/CTFL was that it had received information from local dive operators that little degradation of the coral environment had been witnessed over a number of recent years. These observations demonstrate the value of further independent study.

In consequence, an independent expert's report on measuring and monitoring the extent or degree of degradation was important information for the licensing of discharge into the marine environment.

3.2 History of discharge from BB/CTFL

The former managing director of BB/CTFL, Mr. Kenneth Hydes, provided evidence on the volume of untreated waste discharge from BB/CTFL. In 1980 the herd of turtles totalled 100,000. In 2001 before hurricane Michelle, that number had dropped to 24,000, and by 2007, to 11,000. He stated that when the original Turtle Farm had 100,000 turtles, all of the discharge and sewage went straight into the sea, including the waste from the turtle meat processing plant. After 2001, with the redevelopment of the Turtle Farm, the issue of the discharge permit came to the fore but no

major changes were made until 2005. Among the changes were the use of food skimmers that collect and prevent loss of floating turtle food in each tank and the diversion of waste from the meat processing plant to a collection tank (from November 2005) which was and is trucked to the WA-C for safe disposal in the municipal wastewater treatment plant, thereby reducing the amount of waste being discharged into the marine environment.

Nonetheless, there remains a significant volume of untreated effluent in continuous discharge into the marine environment.

By January 2008, according to Chief Operating Officer and Acting Managing Director Mr. Joseph Ebanks, the turtle population at BB/CTFL was 7,700.

A large investment was made in a closed system of wastewater processing (Animal Life Support System) for the water park including the freshwater pool, the saltwater predator tank, and the lagoon. The final elements were being installed during the course of our investigation. While not part of the investigation, it is instructive to know what can be achieved. It is estimated that while 1.5 million gallons is held in the water park system, its trade effluent discharge (sludge), mostly a result of filter backwashing, will be approximately 56,000 gallons per year. These solids are then pumped out and disposed of at WA-C. The remaining "water" is then treated with ozone in accordance with proven practices, before being discharged into the deep wells or out into the sea.

3.3 Importance of the anti-degradation study

Over the past decade there has been discussion about the impact of the discharge from BB/CTFL on the marine environment.

A study was proposed and agreed between BB/CTFL and WA-C in 2004 that would establish then current conditions. This study was to serve as a baseline for the future protection of the marine environment and to inform the WA-C's deliberations on the setting of appropriate conditions within the discharge permit that was under consideration. The study, called an anti-degradation study, was to be conducted by independent experts, in accordance with agreed terms of reference. The terms of reference were settled after discussion with DoE, WA-C, and BB/CTFL.

3.4 Importance of a discharge permit

The discharge permit, once granted, contains a set of conditions under which discharge of waste can occur. It can include a condition to monitor and report effects and supply data to the regulator, WA-C. Annually, the conditions of the permit can be revised if the goal of protecting the environment demands it. One way this could be done would be to set progressive limits to reduce the amount of nutrients or suspended solids in the water discharged. Significant changes to the rate of discharge – for

example, by adding another tenant who has a plan to discharge waste into the marine environment – also may require new provisions.

It is instructive to note that biochemical oxygen demand (“BOD”) and suspended solids (“SS”) are general wastewater parameters. Wastewater treatment is designed to achieve particular levels of BOD and SS. BOD is an indication of how much oxygen the waste will use when discharged into a water body (e.g., a river, lake, or sea). This is important, as discharge of organic waste with high BOD will use up the oxygen in the water and can lead to the death of fish and other consequences in rivers when no oxygen is left (bad smells and potential formation of toxins are additional consequences). SS indicates the amount of small (hanging) particles in the water; the higher the number, the more suspended solids are present. High levels of suspended solids will also smother healthy water bodies.

4. Description of investigation

This investigation included interviews with the current Acting Managing Director and Chief Operating Officer (AMD-COO) of BB/CTFL, Mr. Joseph Ebanks; the immediate past general manager, Mr. Kenneth Hydes; MEP Manager Mr. Adam McLaren; the director of the Water Authority–Cayman, Dr. Gelia Frederick-van Genderen; the chairman of the board of the Water Authority–Cayman, Mr. Brainard Watler; Director of Planning Mr. Kenneth Ebanks; and the director of the Department of Environmental Health, Mr. Roydell Carter. Amongst the documented evidence gathered, the OCC obtained timelines or chronological lists of the steps taken towards obtaining a discharge permit from the WA–C and from BB/CTFL. Minutes from meetings of both entities’ governing boards were obtained where there was a recording related to this topic. E-mail evidence supporting testimony and other ancillary documents were gathered. DoE Director Mrs. Gina Ebanks-Petrie supplied requested information.

5. Investigation questions: Is a discharge permit required for the Boatswain’s Beach/Cayman Turtle Farm (1983) Ltd., and does BB/CTFL have the required permit?

5.1 Water Authority Law

WA–C is required, pursuant to section 35(1) of the Water Authority Law (1996 Revision), to control the discharge of trade effluent into territorial waters from the BB/CTFL.

Section 35 (1) states:

Whoever discharges any sewage, trade effluent or other wastes into the territorial waters, except with a permit from the Authority, and subject to such terms and conditions as it deems fit, including standards of effluent quality, is guilty of an offence.

Renewals and revocation of permits are addressed in section 36.

The Water Authority Regulations (2007 Revision) provide criteria for effluent discharge. Regulation 18 states the limit for domestic effluent, being 30 milligrams per litre of suspended solids (SS) and 30 milligrams per litre biochemical oxygen demand (BOD). Regulation 19 uses the same standard for trade effluent (e.g., BB/CTFL) and states that it shall contain no toxic or harmful substances which, in the opinion of the Chief Environmental Health Officer, are likely to be harmful to the health of the inhabitants or to the environment.

The director of WA-C stated:

To determine these parameters a laboratory test has to be carried out, the testing protocol is standardized in the book *Standard Methods for the Examination of Water and Wastewater*. We use the 21st edition of 2005. This book and its standards are used throughout the water and wastewater industry all over the world. This means that the tests, although carried out by different labs, are comparable and reliable if they are carried out in accordance with the same standard. The Water Authority Laboratory does have accreditation from the American Association for Laboratory Accreditation (A2LA) for both these tests. This means an independent stamp of approval that the lab has met the stringent standards of A2LA to carry out this test and that it will provide reliable results.

5.2 Permit required

It is the opinion of the WA-C director that BB/CTFL requires a discharge permit. She confirmed that a permit application was made but that a permit has not been granted.

Former managing director Mr. Kenneth Hydes acknowledged that he had known that a discharge permit was required of the BB/CTFL project since its redevelopment following the devastation from hurricane Michelle in 2001. AMD-COO Mr. Joseph Ebanks acknowledged that he knew that a discharge permit was required and that one was still not in place.

5.3 Plea in mitigation

Mr. Hydes stated: "I would just like to say from the outset, there was never an attempt by myself or any of my managers to circumvent or to attempt to ignore the Water Authority Law and the requirements for us to actually get the licence ...".

Mr. Hydes continued:

Now trying to address the issue of public perception, my frustration all along – and I've been very quiet on this – but there is a view that management somehow made an effort to circumvent the law of the Cayman Islands and I'm really sick of it ... that was not the case. It was really a case of resources. The time and effort that we needed to do this

on occasion was diverted to more pressing things. Quite serious things like actually keeping people paid. And basically trying to finish a park ... in a timely fashion. And we at all times, we realise that this was part and parcel of all of that.

The minutes of the meeting of the Board of Directors of BB/CTFL held on 28 September 2006 (at p 5) record a message from the acting Permanent Secretary of the Ministry of Tourism, "Goodwill of Cabinet now exhausted; project must open on time."

While we have some sympathy for the pressure that Mr. Hydes was under, it is reduced by two points. First, as discussed below, we learned that not only did the issue of a wastewater discharge permit not get resolved in a timely fashion, but also Mr. Hydes and the management team took the decision to continue using a special electrical connection in violation of its very limited and clear terms of permission. Also, building inspections were not completed and Certificates of Occupancy were not obtained. Second, the proper management of BB/CTFL required the management team to take a decision to fully comply with regulatory bodies and to not move forward without authorisations required by law. Pressure to complete projects or do business at the first opportunity is real, and it exists in the private sector as well. The public sector must lead the way in compliance with laws.

5.4 Public Health Law permit

The Marine Conservation Law (2007 Revision) section 22 makes it an offence for "whoever directly or indirectly causes or permits to flow or to be put into Cayman waters any harmful effluents or raw sewage, unless specifically permitted in that behalf under the Public Health Law (2002 Revision) or any other law ...". While there has been some general discussion of the BB/CTFL being subject to this provision and not having express permission as noted in section 6 (2) of the Public Health Law (2002 Revision), our investigation leads us to conclude that this provision does not apply.

In explaining the role of the Department of Environment Health (DEH) and its relationship to issues arising from BB/CTFL, the director, Mr. Roydell Carter, wrote:

Under the Public Health Law the only permit that needs to be obtained directly from DEH is for the construction of swimming pools (Part VIII) and the provision of onsite solid waste storage facilities (Part X Section 53(1) and (2). All other aspects of our plan review for new developments are carried out as a proactive measure to ensure that the design does not have the potential for creating a public health nuisance as set out in Part III–Nuisances. However, DEH provides this information as advice and recommendations to the various agencies such as the Planning Department.

The information required varies according to the type of development. The DEH has guidelines relating to the environmental health aspects that need to meet minimum data required. Some requirements would include technical details for swimming pools, restaurants, barber/beauty salons, industrial/institutional facilities (garages, etc.), noise pollution, air quality aspects and waste generation including location of solid waste facilities. Often these details are not initially submitted by the clients, which cause delays with their projects.

Periodic inspections of developments are not normally carried out by the DEH for projects that they are not directly involved with because there is no mechanism in the present inspection system to allow for that. That means it is not prescribed in law except for swimming pools. In some cases, for large projects, joint departmental visits are made. Essentially, most of the project's monitoring is done by the Planning Department or the Authorities. However, a certificate of occupancy inspection is carried out by the DEH, on request from the Planning Department's Building and Control Unit (BCU), at the end of the project.

From the initial request for inspection to the submission of the certificate of occupancy report is normally not more than 5 working days.

The DEH does not sign off on discharge permits from WA-C, which are issued by them under their laws. They are responsible for the management, design and monitoring of sewage treatment and disposal systems and thus reports directly to the Planning Department. The DEH is not involved with sewage systems, except to prevent public health nuisances. Generally, a permit issued by WA-C (the regulatory agency for sewage management) will suffice under the PH Law.

5.5 Efforts to obtain a WA-C permit

It was clear that a site specific anti-degradation impact study should be completed. The WA-C and the DoE created the terms of reference and sent it to BB/CTFL on 21 April 2004. From that the BB/CTFL responded with a document dated November 2004 entitled "Study Plan for the Cayman Turtle Farm (CTF) Anti-degradation Plan". The Study Plan contemplated setting a "site specific" state of play and alluded to some absolute measurement of existing environmental degradation to some reasonable standard. It then suggested an overlay of a dynamic model designed to anticipate additional dolphin effluent.

The Interim Report of this study was prepared as of 20 January 2005. It did document the existence of nutrient loading in the outflow area, but did not offer a commentary or draw conclusions with respect to the issue of degradation or rate of change. The final report was due by August 2005 or shortly thereafter, but it was not presented to WA-C until 6 March 2006. During this period the director of WA-C considered referring the matter to the ministry for onward transmission to the Attorney General for prosecution. However, there was no guarantee that the matter would be passed on to the Attorney General or that he would take up the prosecution.

The WA-C provided its full reply on 5 May 2006. It noted a list of items that were required by the terms of reference but were missing from the ADS report, and provided comprehensive feedback. The applicant sought to commence operation of the quarantine facility by the end of May 2006, with the lagoons becoming operational by early August 2006. In consequence, the director in the reply cautioned: "This time line makes it critical that all information is supplied in a timely manner so that the Authority is in a position to complete its review of the study with sufficient due diligence and to prepare the permits." In her letter of 8 September 2006 to BB/CTFL she warned that if there was not a satisfactory reply by 13 September 2006 and the facility opened, the matter would be referred to the Attorney General for action.

The minutes of the meeting of the Board of Directors of BB/CTFL held on 28 September 2006 (at p. 5) state that it is "imperative that CTFL receives the discharge permit before October 30 [2006]".

On 16 October 2006 WA-C's director wrote, "Based on fact that supplemental ADS information has been provided abstraction licence and fish quarantine deepwell discharge permits are issued [for sections of the water park area]." She stated that the remaining ADS information was needed by 3 November 2006.

Former managing director Hydes replied on 18 February 2007 and committed to supplying all missing information for the ADS and to do the sampling required within the tight time frame. (His management team was bolstered by the addition of Mr. Joseph Ebanks as COO in March 2007.) On 26 June 2007 the WA-C responded to Managing Director Hydes, stating that no further information had been received despite his promises in his last letter. WA-C stated that the "situation is embarrassing as BB/CTFL is fully operational without all permits in place."

Other communications were exchanged and another meeting was held in August 2007.

The Water Authority board minutes of 17 October 2007 (at p. 8) state:

Their [BB/CTFL's] permit had not been issued as the information required to be provided in the Anti-Degradation Study was incomplete and interpretation of the information was very difficult. Recently the Authority was in communication with BB/CTFL and agreed with the plan for additional monitoring of effluent water quality to be carried out by BB/CTFL. Outstanding issues remaining in relation to the study: a professional review of wastewater treatment options (section four) and a more comprehensive study of the marine environment.

The BB/CTFL's former managing director felt that the ADS report and the supplemental information had been extensive, had been supplied (at quite a cost) by experts in the field, and had been supplemented by information which took many hours of his staff's time. After all of this time and effort,

he expressed great frustration that the WA-C still said the ADS was not adequate, and that, in fact, their feedback seemed to become increasingly critical. Further, getting the water park open was a matter of national pride and he and his staff were committed to getting it open.

However, it was the applicant's obligation to meet the requirements of the terms of reference and satisfy the regulator. The former managing director admitted that there were times when perhaps he did not commit the needed resources to achieve this permit and that, at times, more important issues changed his priorities, such as having to make payroll for the staff. Of course, some improvements had been made, such as diverting the waste from the meat processing plant to a collection tank and trucking it to the WA-C beginning in November 2005. And some of the issues related to securing permits for the water park features had been resolved.

Mr. Joseph Ebanks informed the OCC on 24 October 2007 that he was committed to following the Water Authority Law and that he had recommenced negotiations with WA-C. He also testified that he should not be held responsible for delays of years past and that he would take action quickly to comply with the law. He accepted responsibility only from the date of becoming acting managing director (September 2007), not from when he joined the management team (March 2007).

The director of WA-C sent a letter dated 19 December 2007 to BB/CTFL, outlining the topics in question to be answered prior to receiving a discharge permit:

The Water Authority proposes to have a meeting between the parties involved (Water Authority, Turtle Farm and Department of the Environment) by mid-January 2008 to take stock of the outstanding issues and to agree on a practical way forward. It is essential that we are all on the same page and that we see this project through by the middle of 2008.

In broad terms the points for our discussion will be:

1. **Anti Degradation Study.** What can be done with data and information provided so far. To what extent, if deemed feasible, does the study need to be repeated and what additional information is needed.
2. **Wastewater Treatment Options.** The study was required to carry out a review of wastewater treatment options and ways to reduce the level of pollutants that are disposed of in the marine environment. The previous manager made a commitment in his letter of 18 February 2007 to address this by mid March 2007. To date this issue has not been addressed at all.
3. **Dolphin Discovery Cayman.** Is the proposed discharge of DDC a responsibility of CTF/BB as landlord, or will DDC have to find its own, independent treatment options.
4. **Water quality monitoring data.** Review recent water quality monitoring data as established by CTF/BB.

I trust that you agree that this is the way forward and look forward to your cooperation to bring this process to a successful end.

The BB/CTFL completed nine weeks of sampling on 10 January 2008 and a report was sent to the WA-C in February.

The meeting did not take place until mid-April 2008. The WA-C had issued the invitation and was steadfast in its position that the terms of reference were clear and had not been met. The BB/CTFL took the position that it had submitted information and was requesting the promised meeting with the WA-C to plan the way forward with this new data in hand.

The evidence reveals that this has been a process that needlessly expended a lot of resources. The BB/CTFL and the WA-C each supplied a detailed chronology of events; these clearly demonstrate the amount of time expended, especially by the WA-C.

It began in earnest in early November 2001, when at a meeting between officials of the BB/CTFL and the WA-C it was stated that a discharge permit was needed as part of the proposed redevelopment of the CTF site. As noted above, the former managing director admitted that there were times when perhaps he did not commit the needed resources to achieve this permit. Beyond financial difficulties, other issues he considered were adding tenants to the site, obtaining electricity for the water park's first special event, and getting the project completed and open on time. The COO, when he took up his post in March 2007, knew the history of the efforts of WA-C as he had been a long-serving member of the WA-C board.

A collateral issue was whether the permit should be for the BB/CTFL only or whether it should also cover the discharge of Dolphin Discovery Cayman (DDC), a swim-with-the-dolphins facility that intends to operate on property leased from BB/CTFL. The environmental impact may be heightened. The DoE, citing studies of such facilities in Australia and other parts of the Caribbean such as Cozumel, is concerned about an acceleration of the eutrophication process as a result of the excess nutrients caused by waste from the dolphin facility. A mature large dolphin generates 3 to 4 pounds of fecal waste each day, in addition to urine and waste food. It is believed that the dolphin facility, if successful, will house eight dolphins.

AMD-COO Mr. Joseph Ebanks does not see the addition of DDC as complex but rather as "pretty simple":

I am hoping that the Dolphin Discovery one will be a pretty simple inclusion because this is not new business. These guys have units in Mexico and other parts of the world so they're an existing business and have a template. But the information that they provided was on a disc as well as a paper format. So we can take, whatever their discharges are,

they know what they are, and inform the Water Authority, in addition to what our discharges are, is what will be included ... how we are going to treat that.

5.5 Findings and subconclusion

It is a fact that a discharge permit is required under the Water Authority Law and that this was known to the management of the BB/CTFL. The permit to discharge waste into the sea (under certain conditions) was not obtained, and yet BB/CTFL continued to operate without one. We accept the comment made on 26 June 2007 by the WA-C that the “situation is embarrassing as BB/CTFL is fully operational without all permits in place”.

On the issue of the BB/CTFL being subject to the Public Health Law (2002 Revision) and not having express permission as noted in section 6(2) of the Public Health Law (2002 Revision), we conclude that this provision does not apply.

It is maladministration for the management (the former managing director and the COO and now AMD) of BB/CTFL to operate without the required discharge permit. The management team of BB/CTFL has been given every opportunity to comply with the law and has brought their organisation into disrepute and caused embarrassment to the regulator, WA-C. Beyond that it is clear that WA-C did not exert the kind of authority expected of a regulator from 2007 onward when it became aware that BB/CTFL was going ahead into expanded operations without having resolved the issues arising from the first discharge permit.

It is my recommendation (#1) that BB/CTFL make arrangements forthwith to meet the requirements of the regulator and do all things reasonably required to complete the licence process by 30 May 2008.

6. Certificates of Occupancy

6.1 Investigation revealed other violations

The former managing director acknowledged that he was party to a decision to use the electricity gained through an Electrical Services Special Connection (“Special Connection”) to power up all of the buildings in the new water park connected to the northern electricity feed in 2006. This contravened the conditions set on the Special Connection temporary permit and may have been an offence under the Electricity Law (2005 Revision). The conditional permit, granted by the Chief Building Control Officer, was to facilitate testing and use of the lift station.

The Planning Department produced a copy of the Special Connection application (dated 6 March 2006) that was signed as approved (dated 10 March 2006) with the condition of: “No use of any building attached/powered by this meter except for testing and use of the lift station. Power will be disconnected if unauthorized use is determined.”

The power supply was used beyond the limits of the permission initially because on the horizon was the arrival of approximately 1,000 delegates for the Florida Caribbean Cruise Association's conference event. The conference took place 31 October to 3 November 2006. According to the current AMD-COO, the power continues to be supplied through this illegal and unregulated system.

Mr. Joseph Ebanks stated that he had no knowledge of the violation of the Special Connection permit when he assumed the role of AMD on 17 September 2007. It is his evidence that he discovered the irregular situation when his team was trying to arrange the electrical connection for a Tiki bar, and the electrical inspector told them no permission existed for the current hook-up. Mr. Ebanks stated that he reported this fact to the BB/CTFL board.

The continued unauthorised use of electricity raised the question of certification for occupancy of the buildings. The AMD soon learned, with the assistance of Mr. Kearney Gomez, who is a member of the board and Chief Officer for the ministry that oversees the Planning Department (Ministry of District Administration, Planning, Agriculture and Housing) that there were no Certificates of Occupancy. He learned that not only were there problems with electrical inspections, but that foundations and roofs had not been inspected (and thus had not passed inspection – been certified as safe) and neither were the pools or lagoons. He first estimated that “thirty to sixty different stages of approval were outstanding” and admitted that “We’ve been operational without a certificate of occupancy ... we’ve been operational contrary to the law.”

6.2 Planning Department

Director of Planning Mr. Kenneth Ebanks was called upon to assist. He produced e-mail communication from 2005 showing regular communication between himself and the former managing director, Mr. Hydes, on the issue of gaining a Certificate of Occupancy and the Development and Planning Law (2006 Revision). Mr. Ebanks stated that originally the application for development of BB/CTFL was a single application. However, monitoring progress at each building on the site at various stages of construction had proven difficult. During 2005 it was decided to require BB/CTFL to apply separately for a certificate for each building in the BB/CTFL development, to enable an appropriate monitoring process.

Inspectors have continued to conduct inspections to determine adherence to Cayman's Building Code Regulations (2006 Revision) the goals of which include quality and safety. Buildings usually require inspections and approvals under the categories of building, plumbing, electrical, fire, and mechanical.

6.3 Progress with Planning

On 15 October 2007, Planning Department Director Mr. Kenneth Ebanks sent to Mr. Gomez, for onward transmission to BB/CTFL, a detailed report indicating that almost all buildings and pools on the grounds did not have Certificates of Occupancy. BB/CTFL's MEP manager produced a plan to rectify the situation and to hopefully achieve certification by "late February or early March 2008". By 20 February 2008 four buildings were granted their Certificates of Occupancy, which left 10 structures not certified as safe for occupancy and three pools also not certified, specifically the Breakers Beach pool, the Boatswains Beach swimming lagoon, and the predator pool. By 21 April 2008, one additional certificate had been earned, leaving the three pools and nine buildings (some with limited public access), including the Turtle Education Centre and the Reception building, uncertified.

Mr. Joseph Ebanks testified that large sums of money might be required to complete the inspection and certification process in the whole development. For example, while the pools were built well and have held water, inspections for electrical grounding would require excavating dirt which provides the support for the pool wall and could lead to collapse. The remedial option may be to install thousands of dollars worth of "GFCI plugs" on each of the 30 pumps. He also testified that to end the continuing breach of the law, he would have to close the park. In his view, "Self-imposed closure would require approval from the Ministry – Cabinet, I guess – because they have a \$66 million investment here. So I don't even have the power to do that. The only power I have is to correct it. So we informed Planning – yes we got your list and here's how we want to approach it – and they've worked with us each step." He continued, "Okay, we broke the law. So you can't expect Planning to do anything else but impose the strictest rules on us. And Planning has to be safe. I don't want Planning to bend the rules for us. I got 400 people walking through here [the water park]. I got serious liability issues."

6.4 Findings and subconclusion

While some progress has been made toward compliance, this is an urgent matter. It is unsatisfactory and bad administration for the management (AMD-COO and former managing director) to operate the facility by using electricity without proper authorisation and safety checks. It is bad administration for the management to operate the facility without the required Building Code inspections, required improvements (if any), and certificates of safety. While we accept that Mr. Joseph Ebanks may feel pressure to keep the facility open, it is maladministration to continue to operate the facility without immediate improvement. The situation is compounded by the fact that management does not have a set timeline for the completion of inspections and improvements.

It is my recommendation (#2) that the Acting Managing Director complete as a matter of urgency all steps necessary to complete the criterion for Certificates of Occupancy for the buildings and pools at BB/CTF.

7. Conflict of interest or bias

7.1 Issue

Mr. Joseph Ebanks was appointed as a member of the Water Authority board on 18 October 2005, to serve until 21 January 2007, and appointed for 23 January 2007 until 22 January 2009. It is alleged that he remained a member during his tenure as COO of BB/CTFL, which commenced on 1 March 2007, and during his current tenure as AMD, which commenced 17 September 2007. It is also alleged that while in these roles he did not excuse himself from meetings or sections of meetings of the board when matters pertaining to the BB/CTFL were discussed.

7.2 Water Authority as regulator

The Water Authority serves as the regulator of entities that discharge sewage, trade effluent, or other wastes (see section 35 quoted above).

Section 3 (2) (a) (b) of the Water Authority Law (18 of 1982) (1996 Revision) states:

The affairs of the Authority shall be managed by a Board [consisting of a Chairman] ... not less than six and not more than ten other members appointed by the Governor [in Council] for a period not exceeding two years, not less than three of whom are public officers as defined in the Public Service Commission Law (Revised).

Section 3 (4) states:

Subject to this section, the constitution and procedure of the Authority shall be in accordance with the Schedule.

The Schedule outlining the Constitution and Procedures of the Authority states at paragraph 15:

Any member having a personal interest in any matter under consideration by the Authority shall immediately declare such interest and shall refrain from taking part in any relevant determination by the Authority.

Section 4 (3) covers the appointment of the secretary to the board:

... the Director shall be secretary to the Authority, present at all meetings and responsible for the minutes of the business transacted.

7.3 Evidence

Mr. Kenneth Hydes, Mr. Joseph Ebanks, Dr. Gelia Frederick-van Genderen, and WA–C Chairman Mr. Brainard Watler have independently agreed that six years is not an acceptable time frame for this application to have been in process and still remain unresolved.

Mr. Joseph Ebanks admits that he has remained a member of the board of the Water Authority since his appointment to BB/CTFL on 1 March 2007.

Mr. Ebanks gave evidence that he had declared a conflict of interest to the chairman verbally (but has no written document recording any time when he declared a conflict) and excused himself from meetings when the topic of BB/CTFL was next on the agenda. The board minutes were examined, and the attendance record indicates that he was present. The minutes do not reflect that Mr. Ebanks ever excused himself from meetings when the BB/CTFL project was on the agenda.

Chairman Watler stated that, to the best of his recollection, he believed that Mr. Joseph Ebanks excused himself once. He characterised the discussions surrounding the BB/CTFL project as simply reports or updates, without decisions being taken. The director concurred with this characterisation.

The director also admits that she has been frustrated by the lack of cooperation displayed by the management of BB/CTFL over the years. At one point the regulator had decided to refer the matter to the Attorney General for prosecution, a process that involves first writing the Chief Officer of the ministry and convincing the officer that such referral is appropriate. However, a minor step forward by BB/CTFL forestalled that, and while it was considered again from time to time it never was raised with the Attorney General.

We wondered not only what impact Mr. Joseph Ebanks's presence in meetings had on the WA–C board but also what the perception of an independent observer might have been. Recall that the former managing director, Mr. Hydes, replied on 18 February 2007 to a demand for information from the regulator (the deadline set for his reply, 3 November 2006, had long passed) and committed to supplying all missing information for the ADS and to doing the required sampling within a tight time frame. Then in March 2007 his management team was bolstered by the addition of Mr. Joseph Ebanks as COO. On 26 June 2007 the WA–C responded to Managing Director Hydes, stating that no further information had been received despite his promises in his last letter. The WA–C stated that the “situation is embarrassing as BB/CTFL is fully operational without all permits in place”.

7.4 Findings

Mr. Joseph Ebanks, as COO and then as AMD, was in a position of conflict of interest serving as member of the board of the WA–C.

The law governing the board required that, at a minimum, Mr. Joseph Ebanks should have excused himself from meetings when BB/CTFL matters were addressed. Administrative law addresses conflict of interest – or, as it is more often described, the rule against bias – and requires that decision-makers be fair and not biased and also be seen to be fair and not biased. Judicial pronouncements characterise the test as the reaction of the fair-minded and informed observer. The observer in this case could form the belief that the reason no decisions regarding BB/CTFL were taken, or raised to be taken, by the board was Mr. Ebanks's continued presence. The observer might believe that the potential prosecution under section 35 was never referred to the Attorney General in part because of Mr. Ebanks's presence. It does not need to be an actual fact that his presence did or did not influence the decision to bring this or equally weighty topics to the board for action. The facts of this case are such that a fair-minded and informed observer would conclude that the preservation of the status quo through to 2008 suited Mr. Ebanks and served his interest. It is my finding that the continued presence of Mr. Ebanks would be seen by such members of the public as impairment to the proper execution of the duties of the regulator in 2007.

Given Mr. Joseph Ebanks's failure to recuse himself each time BB/CTFL matters were on the agenda, and the history of the attempts to have the BB/CTFL comply with the law and regularise the discharge permit, the need to address public perception and confidence dictates that he should now resign from the board of WA-C.

It is bad or improper administration for Mr. Joseph Ebanks to remain a member of the board.

7.5 Recommendation

It is my recommendation (#3) that Mr. Joseph Ebanks resign from the board of the Water Authority-Cayman.

8.0 Conclusions and recommendations

Under section 11(1) of the Complaints Commissioner Law (2006 Revision) the Commissioner may initiate an Own Motion investigation if he is of the opinion that there are reasons of special importance that make it desirable in the public interest. In this case, concern had arisen in both written and broadcast media about the BB/CTFL's alleged non-compliance with the Water Authority Law in recent years. In the course of the investigation, we learned about the failure of BB/CTFL to comply not only with the Water Authority Law but also with other regulatory legislation, such as the Development and Planning Law (2006 Revision). Although the possibility was raised that the BB/CTFL was subject to the Public Health Law (2002 Revision) and did not have express permission as required in section 6(2) of the Public Health Law (2002 Revision), we concluded that this provision does not apply. Our investigation also led us

to consider the effectiveness of WA-C as a regulator and the apparent bias of one of its board members.

The evidence reveals that the manner in which this discharge permit application has been processed needlessly expended a lot of resources. The management of BB/CTF did not complete what it was required to do in a timely manner, and the regulator allowed the matter to drag on far too long. The situation is embarrassing to all.

Compliance with Cayman's Building Code Regulations (2006 Revision) must be achieved. While we accept that the management of BB/CTFL may feel pressure to keep the facility open, it is maladministration to continue to operate the facility without improvements. It is compounded by the fact that management does not have a set timeline for achieving compliance.

There is an understandable desire to achieve an impressive facility with the potential to enhance our tourism product and contribute to maintaining our competitive edge in the tourism industry, but this should not be an excuse for breaking the law. BB/CTFL is owned by government, representing the people of the Cayman Islands, and should be an example of how to do things right. Instead it has become the opposite.

Our findings are summarised here as follows.

The OCC finds that a discharge permit is required for the Turtle Farm commercial operation (including turtle touch tanks) and that BB/CTFL has failed to take all the steps necessary to obtain such a permit and thus remains in violation of the law. It is maladministration on the part of the management team to continue to discharge untreated effluent into the marine environment outside parameters set or to be set, by the regulator.

The investigation led us into the issue of compliance with other regulatory health and safety legislation. The water park was built without mandatory inspections being completed and thus without assurance for the safety of those who visit and work on the premises. It is maladministration on the part of the management team to continue to operate a water park that has not yet been fully inspected for adherence to Cayman's Building Code Regulations (2006 Revision) and this situation must be rectified as a matter of urgency.

Finally, we examined the potential conflict of interest, or real or apprehended bias, on the part of Mr. Joseph Ebanks as Chief Operating Officer and later Acting Managing Director of BB/CTFL and as a member of the Board of Directors of the WA-C, which is the regulator. A fair-minded and informed observer in this case would form the belief that Mr. Ebanks's continued presence influenced the decision of whether or not to bring weighty issues concerning BB/CTFL to the board for action. Such an observer could reasonably conclude that the preservation of the status quo through to 2008 suited Mr. Ebanks and served his interest, and that his

continued presence acted as impairment to the proper execution of the duties of the regulator in 2007. Therefore, it is bad or improper administration for Mr. Joseph Ebanks to remain a member of the board.

Recommendations

1. It is my recommendation that BB/CTFL make arrangements forthwith to meet the requirements of the regulator and do all things reasonably required to complete the licence process by 30 May 2008.
2. It is my recommendation that the Acting Managing Director complete as a matter of urgency all steps necessary to complete the criterion for Certificates of Occupancy for the buildings and pools at BB/CTFL.
3. It is my recommendation that Mr. Joseph Ebanks resign from the board of the Water Authority–Cayman.

Office of the Complaints Commissioner
24 April 2008