

Response to Comments

Tentative Waste Discharge Requirements and Water Recycling requirements for Malibu La Paz Ranch LLC Onsite Wastewater Disposal System (OWDS)

Comment Letters	Commented by	Date
1	Cox, Castle & Nicholson LLP	May 15, 2015
2	Lombardo Associates, INC	May 18, 2015
3	Heal the Bay	May 18, 2015

No.	Comment	Response to Comment
Cox, Castle & Nicholson LLP		
1-1	<p>Recycled water is not waste, so the extension should be of WRRs, only. See Water Code §13050(n). The Regional Board has no authority to ban the construction or operation of an onsite waste water disposal system that does not discharge waste to ground water. Water Code §13260, 13263. Recycled water is a “valuable resource” that constitutes “...the development of new basic water supplies...” Water Code §13511. The development of recycled water facilities is mandated by the State Board’s Policy for Water Quality Control for Recycled Water, revised January 22, 2013, effective April 25, 2013 (the “Recycled Water Policy”), the State Water Resources Control Board’s General Waste Discharge Requirements for Recycled Water Use (Order WQ 2014-0090-DWQ-Corrected), adopted June 3, 2014 (the “2014 Order”) and the Governor’s Executive Order B-29-15.</p>	<p>The Regional Board disagrees with the comment. The term “waste” is defined in Water Code section 13050(d) to mean “sewage and any all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, . . .”. The wastewater proposed to be discharged is “sewage” “of human origin”, that contains within it bacteria, nitrates, salts, constituents of emerging concern (CECs), and other waste constituents. Water Code section 13260 requires a person who proposes to discharge waste “that could affect the quality of the waters of the state, other than into a community sewer system” to submit a report of waste discharge. In this case, the discharger proposes to discharge waste to land where it could impact the quality of the waters of the state by running off to surface water or infiltrating to groundwater. The waste discharge requirements contain conditions that are intended to assure that the waste does not unreasonably impact the waters of the state, including ground and surface water. Recycled water is water that as a result of treatment of waste is suitable for a direct beneficial use. The discharger proposes to treat the waste to</p>

No.	Comment	Response to Comment
		<p>meet criteria set forth in Title 22 of the California Code of Regulations such that the wastewater may be used as recycled water. Title 22 criteria are intended to protect human health, but do not address all waste constituents nor all impacts to ground or surface water. The recycled water still contains waste that could impact the waters of the state. The treated waste will ultimately be discharged to land where it may reach surface waters and percolate to groundwater. While Water Code section 13050(n) recognizes recycled water as a valuable resource, it does not alter the fact that, in this case, the recycled water is derived from sewage and other waste substances and therefore contains “waste” as defined by the Water Code.</p> <p>With respect to recycling projects, nothing in Water Code section 13511 limits or speaks to the propriety of issuing waste discharge requirements under section 13263. The two regulatory mechanisms are at times overlapping, but certainly not mutually exclusive. Similarly, the references to the Recycled Water Policy, State Water Board Order WQ 2014-0090-DWQ-Corrected (State Water Board 2014 Order), and Executive Order B-29-15 do not support the commenter’s position. The Policy and Orders do not circumscribe the Board’s authority and the necessity of issuing waste discharge requirements (WDRs) to protect water resources. After all, water reclamation requirements (WRRs) are primarily about protecting human health. Waste Discharge Requirements are primarily about protecting water resources. In addition, Finding No. 20 on Page 6 of the 2014 Order states that “...<i>Compliance with this General Order does not relieve producers or distributors from the obligation to comply with applicable WDRs for discharges from wastewater treatment plants, other than the recycled water uses described herein.</i>” The Recycled Water Policy specifies the role of the Regional Board as “<i>The Regional Water Boards are charged with protection of surface and groundwater resources and with the issuance of permits that implement CDPH (renamed as Division of Drinking Water) recommendations, this Policy, ...</i>” Furthermore, Executive Order B-29-15 specifies how to deal with the California</p>

No.	Comment	Response to Comment
		<p>statewide drought issue and does not circumscribe the Regional Board's duty to issue waste discharge requirements or with necessary water reclamation requirements for recycled water projects.</p> <p>Action: No change is necessary.</p>
1-2	<p>La Paz is not subject to the Prohibition. La Paz is not subject to the Prohibition because the La Paz System is a no discharge system which can operate consistent with the Prohibition. The WDRs/WRRs found that the La Paz System is "a 100% wastewater reuse system", that it "...eliminate[d] any discharge to groundwater", and that the La Paz System could operate consistent with the Prohibition. This was affirmed in testimony on behalf of the Regional Board at the State Board's hearing approving the Prohibition. Only six months ago the Regional and State Boards represented in writing to the Superior Court of Los Angeles County that the La Paz System could operate consistent with the Prohibition. Accordingly, La Paz cannot be required to stop operating by November 5, 2015. Therefore, the extension of its permit should be for five years, the maximum allowed under Water Code sections 13260-13269, and the time generally allotted by the Regional Board. The five month extension proposed in the Tentative Order is tantamount to an impermissible denial.</p>	<p>The Regional Board staff disagrees with the comment. The Regional Board has authority pursuant to Water Code section 13243 to specify certain conditions or areas where the discharge of waste, or certain types of waste, will not be permitted (i.e., prohibit discharges). On November 5, 2009, the Regional Board adopted Resolution No. R4-2009-007 amending the Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura Counties (Basin Plan) to establish a prohibition for on-site wastewater discharge systems (OWDSs) in the Malibu Civic Center Area (Malibu Prohibition). The Malibu Prohibition became final On December 23, 2010 following approval by the State Water Resources Control Board (State Water Board) and the Office of Administrative Law. The Malibu Prohibition immediately prohibited, as of December 23, 2010, all new discharges from OWDSs in the Malibu Civic Center Area. The Malibu Prohibition provided a temporary exception from this immediate prohibition for "existing OWDSs" identified in Table 4-zz of the Malibu Prohibition. For existing OWDSs, the Malibu Prohibition prohibits all discharges from existing OWDSs in accordance with a phased schedule. Existing OWDSs in commercial areas must cease discharges by November 5, 2015 and existing discharges in residential areas must cease discharges by November 5, 2019. The Malibu La Paz project was listed on Table 4-zz as an existing OWDSs and is in the commercial area, and therefore, subject to the phased prohibition. The Malibu Prohibition was adopted as a Basin Plan Amendment in compliance with Water Code section 13240 and 13243.</p> <p>Regional Board staff disagree the statement provided by the commenter as "The WDRs/WRRs found that the La Paz System is "a 100% wastewater reuse system", that it "...eliminate[d] any discharge to groundwater", ...",</p>

No.	Comment	Response to Comment
		<p>which wrongly interpreted Finding No. 21 in the tentative WDRs/WRRs, which states:</p> <p><i>“The OWDS is intended to produce tertiary treated and disinfected water for 100% onsite reuse, except where reuse is not feasible as discussed in finding 19. According to the report titled “Irrigation with Reclaimed Municipal Wastewater: A Guidance Manual” prepared by University of California, Davis (UC Davis) for State Water Board in 1984, even if irrigating at an agronomic rate, the maximum nutrient plant uptake is approximately 50%. Another study titled “Addressing Nitrate in California’s Drinking Water” prepared by UC Davis in 2012 also indicates that the residual nutrients, i.e., nitrate, will leach from the root zone to underlying groundwater.”</i></p> <p>Finding No. 21 clearly describes that the treated effluent as recycled water will be only used onsite, not anywhere else. Finding No. 21 does not say that the La Paz systems will eliminate any discharge of waste to groundwater. Residual nutrients and other wastes will reach groundwater, based on results of research papers and site-specific information.</p> <p>As noted, the system as described, however, would discharge wastewater to land containing waste constituents not treated by the proposed system, including salts (chloride, boron, and TDS) and constituents of emerging concern (CECs), that will be discharged to land and reach groundwater through percolation from application of recycled water and rainwater.</p> <p>It is also important to note that the groundwater at the Malibu La Paz site is very shallow (less than 10 feet) and is already polluted with nitrate and salts due to the operation of OWDSs in the Malibu Civic Center Area. The application of recycled water combined with storm events will reach the already polluted groundwater.</p> <p>Any discharge authorized by the Regional Board must be consistent with the Basin Plan, including the Malibu Prohibition. To be consistent with the Basin Plan, no</p>

No.	Comment	Response to Comment
		<p>discharge can cause degradation of groundwater and no wastewater can runoff to surface waters.</p> <p>The Regional Board does not agree that WDRs/WRRs should be extended for five years. Water Code section 13263(g) states: "No discharge of waste into the waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights."</p> <p>The Regional Board acknowledges, however, that it has entered into a Memorandum of Understanding (MOU) with the City of Malibu and the State Water Resource Control Board regarding the Malibu Civic Center Area Prohibition (Resolution No. R14-012) in 2011 and revised in 2014. In that MOU, the City has agreed to conduct various studies and construct a centralized wastewater treatment system for commercial areas (Phase I) by June 30, 2017. The Regional Board agreed not to enforce the Malibu Prohibition against property owners who comply with waste discharge requirements issued by the Regional Board. The City is in compliance with its agreements in the MOU and has received applicable permits from the Regional Board and the California Coastal Commission for its project.</p> <p>Given the status of compliance with the MOU, the Regional Board staff proposes a revision to the tentative WDRs/WRRs to revise the termination date to June 30, 2017 consistent with the MOU as follows:</p> <p>Revised Finding No. 11: On August 19, 2011 and revised on March 24, 2015, the Regional Board entered into a Memorandum of Understanding (MOU) with the City of Malibu and the State Water Resource Control Board regarding the Malibu Civic Center Area Prohibition (Resolution No. R14-012) in 2011 and revised in 2014. In that MOU, the City has agreed to conduct various studies and to construct a centralized wastewater treatment system for commercial areas by November 5, 2017. In the MOU, the Regional</p>

No.	Comment	Response to Comment
		<p>Board agreed not to enforce the Malibu Prohibition against property owners who comply with waste discharge requirements or waivers of waste discharge requirements that apply to their OWDSs issued by the Regional Board. The City is in compliance with its agreements in the MOU and has received applicable permits from the Regional Board and the California Coastal Commission for its project. This Order renews and revises WDRs/WRRs Order No. R4-2010-0017 and extends the expiration date to June 30, 2017 to be consistent with the MOU. This Order, therefore, expires on <u>June 30, 2017</u>.</p> <p>Revised Finding No. 28: The Discharger shall cease the discharge from the OWDS by <u>June 30, 2017</u>. By <u>May 30, 2017</u>, the discharger shall identify an alternative discharge location, such as the Malibu Civic Center Wastewater Treatment Facility, or other legal alternative to the discharge of waste, to be used after <u>June 30, 2017</u>.</p> <p>Revised Section XII. TERM: This Order expires on <u>June 30, 2017</u>.</p> <p>Action: Revise Finding No. 10, Provision No. 28, and paragraph XII. TERM.</p>
1-3	<p>The Tentative Order imposes upon La Paz onerous, unnecessary and expensive requirements that the Regional Board did not impose on the City of Malibu (the "City"), even though the La Paz treatment technology achieves better than the United States Environmental Protection Agency's defined limits of technology and has demonstrated effluent quality better than that required in the approved WDRs/WRRs for the City's centralized waste treatment facility (the "City's WTF").</p>	<p>Staff disagrees with the comment. Before the Regional Board adopted WDRs/WRRs for the City of Malibu's centralized wastewater treatment facility, the City conducted extensive studies including modeling to delineate the possible impacts to surface water and groundwater quality from its discharge and is able to manage the use of recycled water and discharges of waste over a broader area than La Paz has on its property. La Paz is encouraged to conduct sufficient analysis to evaluate whether the future discharge from La Paz facility will cause the rise of groundwater or alter the groundwater quality.</p>
1-4	<p>Nothing has changed since the Regional Board's adoption of the WDRs/WRRs; no new material information has come forward undermining the scientific studies that supported approval of the WDRs/WRRs. The only thing that has changed is the Regional Board's desire to force all commercial property owners in the City's Civic Center to finance the City's</p>	<p>The Malibu Prohibition became effective on December 23, 2010, after the adoption of WDRs/WRRs Order No. R4-2010-0107 on July 8, 2010. The Malibu Prohibition includes a phased prohibition that requires existing commercial discharges from OWDSs by November 5, 2015. This major</p>

No.	Comment	Response to Comment
	<p>WTF because the Regional Board wants only one public water recycling and reuse facility. The Regional Board is not empowered to make this choice. Water Code §13360. The 2014 Order acknowledges that producers of recycled water may be private. (Section 30.a, p.12)</p>	<p>change is the foundation to revise R4-2010-0107 with additional requirements to be consistent with the Malibu Prohibition.</p> <p>In addition, new information is available regarding the fate of nitrate applied to land in an additional study titled <i>“Addressing Nitrate in California’s Drinking Water”</i> prepared by the University of California Davis in 2012 that indicates that the residual nutrients, i.e., nitrate, will leach from the root zone to underlying groundwater.</p> <p>The Regional Board does not agree with the statement regarding forcing commercial property owners to connect to the centralized system as the basis for the prohibition. Rather, the Regional Board adopted the Malibu Prohibition to address severe water quality problems in the groundwater and in Malibu Creek and Malibu Lagoon and associated beaches. These waters frequently fail to meet water quality standards for coliform bacteria and other standards necessary to protect public health. The primary source of the coliform bacteria is from groundwater beneath the Malibu Civic Center Area that is polluted by discharges of waste from the commercial and residential OWDSs and flows into the surface water. Based on this evidence, the Los Angeles Regional Water Board determined that to stop this ongoing pollution and restore ground and surface waters it was necessary to prohibit the installation of any new on-site systems immediately and provided for a phase out of existing on-site systems according to a schedule – commercial systems by November 5, 2015 and residential systems by November 5, 2019. The Regional Board agrees that it cannot specify the manner of compliance, but it does have authority to adopt the prohibition and it is up to the dischargers to determine how to dispose of their wastewater in a lawful manner. The Regional Board does not have authority with respect to the financing of the City’s project. The City of Malibu’s agreement to build a centralized wastewater treatment system provides a reasonable option for commercial dischargers.</p> <p>Action: No change is necessary.</p>

No.	Comment	Response to Comment
1-5	In violation of applicable law and policy, the Tentative Order willfully ignores the objective scientific data by treating application of recycled water at agronomic rates as a discharge of waste to groundwater, and using this supposed discharge to impose onerous, unnecessary and expensive requirements, and wrongly claim that La Paz's system is subject to the Prohibition and cannot operate beyond November 5, 2015 (effectively a denial of the permit).	See response to Item No. 1-2. Action: No change is necessary, except as noted in Item No. 1-2.
1-6	La Paz's application to extend the WDRs/WRRs must be approved as WRRs for a five year term because La Paz is a 100% reuse system, consistent with the Prohibition, complies with the Water Code, all requirements, criteria and policies of the State Water Resources Control Board (the "State Board"), and forwards the Governor's Executive Order B-29-15, which mandates State permitting agencies to prioritize review and approval of water recycling facilities and the policies that will extricate California from its unprecedented water crisis.	See response to Item Nos. 1-1 and 1-4. Action: No change is necessary.
1-7	<p>I. RECYCLED WATER IS NOT WASTE</p> <p>The Porter-Cologne Water Quality Control Act, Water Code §13000 <i>et. seq.</i> ("Porter-Cologne") creates a regulatory scheme protecting the beneficial uses of "waters" from the potential adverse impacts of "waste." As a result, many provisions in Porter-Cologne differentiate between "water" and "waste." Porter-Cologne defines recycled water as "water", not "waste":</p> <p>"'Recycled water' means water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource." Water Code §13050(n)</p> <p>The Legislature in Porter-Cologne found and determined that: "...a substantial portion of the future water requirements of this state may be economically met by beneficial use of recycled water... Use of recycled water constitutes the development of new basic water supplies...." Water Code §13511.</p> <p>Under the 2014 Order, the State Board established that "water recycling is an essential part of an overall program to manage local and regional water resources" (Section 8, p.2.), and the limited degradation of water that may result from recycling, under the conditions required by the 2014 Order,</p>	<p>The Regional Board does not agree that recycled water is not a waste. See response to Item No. 1-1. The Regional Board strongly supports and implements the state's policies regarding use of recycle water. For example, the Regional Board recently approved WDRs/WRRs for the City of Malibu's Civic Center Wastewater Treatment Facility that establishes landscape irrigation as the primary use of the wastewater via a recycled water distribution system. This system will provide a reasonable option for commercial dischargers.</p> <p>Action: No change is necessary.</p>

No.	Comment	Response to Comment
	<p>“provides maximum benefit to the people of California” (Section 25, p.8.). The State Board also found that the use of recycled water permitted under the 2014 Order will not unreasonably affect beneficial uses or result in water quality that is less than prescribed in applicable policies. The La Paz complies with the 2014 Order.</p> <p>The recycled water produced by the La Paz System is not waste.</p>	
1-8	<p>II. ONLY WRRs ARE REQUIRED BECAUSE LA PAZ'S SYSTEM IS A 100% WATER REUSE SYSTEM</p> <p>The Regional Board's authority is limited to regulating waste discharges that could affect state water quality. The Regional Board has no lawful power to ban the construction or operation of an onsite wastewater disposal system that does not discharge waste in a manner that could affect the quality of the waters of the state. Water Code §13260, 13263.</p> <p>The Regional Board's Tentative Order purports to impose both WDRs and WRRs on La Paz even though La Paz's System does not discharge waste. Water Code §13260(a)(i) defines the persons required to file a Report of Waste Discharge (ROWD) as "Any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a community sewer system." The accepted definition of "discharge" is found in the federal Clean Water Act which defines a "discharge" as "...the addition of any pollutant to [navigable] waters", see 33 U.S.C., § 502(12),(16).</p> <p>Here, the La Paz System is a 100% reuse, Title 22 compliant, recycled water facility, so does not discharge waste. The La Paz System is a no discharge system for which only WRRs are required.</p>	<p>The Regional Board disagrees that the La Paz system will not discharge waste. See response to Item No. 1-4.</p> <p>Action: No change is necessary.</p> <p>See response to Item No. 1-1.</p> <p>Action: No change is necessary.</p> <p>The Regional Board agrees that the system will comply with Title 22 but disagrees that it does not discharge waste. WDRs and WRRs are required. See response to Item No. 1-1.</p> <p>Action: No change is necessary.</p>
1-9	<p>III. LA PAZ IS NOT SUBJECT TO, BECAUSE IT CAN OPERATE CONSISTENT WITH, THE PROHIBITION</p> <p>As noted above, the Regional Board's authority is specifically limited to regulating waste discharges that could affect state water quality, meaning the surface waters of the state and the underlying groundwater. Again, the Regional Board has no lawful power to ban the construction or operation of an onsite wastewater disposal system that does not discharge waste to groundwater in a manner that could affect the quality of the waters of the state. Water Code §13260, 13263.</p>	<p>The Regional Board disagrees with the comment. See response to Item Nos. 1-1 and 1-4. The Regional Board does have authority in Water Code section 13243 to adopt prohibitions. As noted in response to Item No. 1-2, the Regional Board staff has proposed to extend the termination date of the WDRs/WRRs to coincide with the schedule for construction of the centralized sewage treatment plant by the</p>

No.	Comment	Response to Comment
	<p>The State and Regional Boards determined in 2010 that La Paz's System is a 100% water reuse, no discharge system, which can operate consistent with the Prohibition. The Prohibition is part of the Basin Plan Amendment which became effective on December 23, 2010 (the "Amendment"). The Amendment in pertinent part prohibits discharges from existing commercial onsite wastewater disposal systems in the City's Civic Center after November 5, 2015.</p> <p>The Findings of the Regional Board in the WDRs/WRRs, the testimony on behalf of the Regional Board by its Executive Officer to the State Board when the Prohibition was approved by the State Board, as well as written representations by the State and Regional Boards to the Superior Court in November 2014, establish that the La Paz System is a 100% water reuse system, which can operate while the Prohibition is in effect. The technical aspects of the La Paz System are addressed by Lombardo Associates' submission.</p>	<p>City of Malibu.</p> <p>Action: No change is necessary.</p> <p>See response to Item No. 1-8.</p> <p>Action: No change is necessary.</p> <p>The Regional Board disagrees that the La Paz System is a 100% water reuse system as you state. The system will discharge waste that could impact the waters of the state, including nitrate, salts, and constituents of emerging concern. See response to Item No. 1-2.</p> <p>The comment mischaracterizes the testimony of the Executive Officer and others and the representations to the Superior Court. The testimony and representations do not "establish that the La Paz System is a 100% reuse system", rather they address whether an on-site wastewater treatment systems can operate consistent with the prohibition. They also do not address whether the Regional Board must approve such a system. The Regional Board has established a prohibition and Water Code section 13263(g) makes clear that: "No discharge of waste into the waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights."</p>
1-10	<p>A. The WDRs/WRRs Found That the La Paz System Is A No Discharge System Which Can Operate Consistent with the Prohibition</p> <p>It is crystal clear that the Regional Board agreed that La Paz was a no discharge system that could operate during the Prohibition. The Regional Board adopted the WDRs/WRRs on July 8, 2010, after it approved the Prohibition on November 5, 2009. The Regional Board made the following Findings knowing that it had already approved the Prohibition: "This tentative WDR/WRR is proposed because the ROWD has been modified to eliminate any discharge to groundwater." (Section 2)</p>	<p>Since adoption of the WDRs/WRRs, the Regional Board has new information regarding the fate of constituents in the wastewater. See response to Item Nos. 1-1, 1-2, 1-4, 1-8, and 1-11.</p>

No.	Comment	Response to Comment
	<p>“... Malibu La Paz is within the prohibition boundaries and, along with all other users, would be required to cease subsurface discharge no later than November 5, 2015. After that date, La Paz will be required to send the effluent which does not comply with the WDR/WRR to a sewer, or other centralized facility, in the event that La Paz exceeds its storage, treatment or re-use capabilities.” (Section11).</p> <p>"The Facility design is for 100% recycling." (Section 17).</p> <p>“These WDR/WRRs allow only irrigation of landscaping and not subsurface disposal to groundwater...” (Section 18)</p> <p>The WDRs/WRRs “... are in conformance with the goals and objectives of the Basin Plan and implements the requirements of the California Water Code and Water Recycling Criteria and Policy.” (Section 21)</p> <p>It should be noted that Section 11 specifically allows the La Paz System to operate after the Prohibition's effective date.</p>	
1-11	<p>B. The State Board and Its Chief Legal Counsel Agreed That the La Paz System Is Not in Conflict With the Prohibition</p> <p>On September 21, 2010, the Amendment containing the Prohibition came before the State Board for its approval. The State Board closely questioned the Regional Board's Executive Officer, who testified on behalf of the Regional Board, as to whether the La Paz System was properly approved despite the Prohibition. The Regional Board's Executive Officer Samuel Unger repeatedly assured the State Board that the La Paz System could operate consistent with the Prohibition.</p> <p>Mr. Unger testified:</p> <p>"The second issue about which there seems to be some controversy is the La Paz Project and the fact that the Regional Board permitted this project after the Basin Plan Amendment for onsite wastewater disposal systems was approved. This is a rather straightforward issue because the La Paz project will not discharge wastewater to groundwater. It is a 100% recycle project and fully supports the State's policy for decreasing dependence on imported water. It does not conflict with</p>	<p>See response to item No. 1-4.</p> <p>The new finding in the study titled “<i>Addressing Nitrate in California’s Drinking Water</i>” prepared by UC Davis in 2012 indicates that residual nutrients, i.e., nitrate, will leach from the root zone to underlying groundwater. The Malibu Prohibition provided a temporary exception from this immediate prohibition for “existing OWDSs” identified in Table 4-zz of the Malibu Prohibition. For existing OWDSs, the Malibu Prohibition prohibits all discharges from existing OWDSs in accordance with a phased schedule. Existing OWDSs in commercial areas must cease discharges by November 5, 2015 and existing discharges in residential areas must cease discharges by November 5, 2019. The Malibu La Paz project was listed on Table 4-zz as an existing OWDSs and is in the commercial area, and therefore, subject to the phased prohibition.</p>

No.	Comment	Response to Comment
	<p>the Prohibition."</p> <p>In response to further questions from State Board Chair Charles Hoppin, Mr. Unger explained that La Paz would operate past the Prohibition date:</p> <p>"...So, as I said about La Paz, that it's a 100% recycle system. We expect that to be continuing to operate past the Prohibition date and except for possibly off spec wastewater that they may choose to handle through the centralized system. It is at their discretion as to handle their requirements."</p> <p>One State Board member sought to further clarify the relationship between La Paz and the Prohibition, asking: "[The La Paz project is still subject to the Prohibition, but by its nature of zero discharge, it's not in conflict with the Prohibition. Is that what I'm understanding?] The executive Officer respond: "I think that's a more accurate way of stating what I attempted to convey to you earlier".</p> <p>The State Board's Chief Legal counsel Michael Lauffer agreed:</p> <p>"[t]he Regional Board, at least for the Malibu La Paz project, ...has issued [WDRs] that are essentially zero discharge [WDRs]. And so it's that key language that brings [La Paz] within the scope of the prohibition. And by within the scope, I mean...they are not prohibited, because they are not discharging under the waste discharge requirements..."</p>	<p>At the time of the State Water Board hearing on September 21, 2010, the Executive Officer's testimony was solely based on the possible seepage of the use of recycled water for irrigation to groundwater, which may cause the rise of groundwater level. However, with the research mentioned above, an additional consideration of the groundwater quality impact caused by the discharge or accumulation of nitrate in the soil due to the use of recycled water becomes critical.</p> <p>The comment mischaracterizes the testimony of the Executive Officer and others and the representations to the Superior Court. The testimony and representations do not "establish that the La Paz System is a 100% reuse system", rather they address whether an on-site wastewater treatment system can operate consistent with the prohibition. They also do not address whether the Regional Board must approve such a system. The Regional Board has established a prohibition and Water Code section 13263(g) makes clear that: "No discharge of waste into the waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights."</p>
1-12	<p>C. Only Six Months Ago the State and Regional Boards Represented to the Court that La Paz's System Is Consistent With the Prohibition and Other Applicants Might Get such An Approval</p> <p>On November 4, 2014, the State and Regional Boards represented in writing to the Court in the case of <i>Green Acres v. Los Angeles Regional Water Quality Control Board, et al</i>, Los Angeles Superior Court Case No. BS138872, that the La Paz System is consistent with the Prohibition. Plaintiff Green Acres had complained that it would be futile to apply to the Regional Board for a permit to operate its Title 22 compliant system because the Regional Board would refuse to approve an onsite wastewater disposal system even if it could operate consistent with the Prohibition. The Boards represented to the Court that Green Acres was wrong because they'd approved the La Paz System:</p>	<p>The comment mischaracterizes the representations to the Superior Court. The brief filed with the court addresses a legal issue in that litigation regarding ripeness. In issuing any WDRs/WRRs, the Regional Board must take into account the site-specific circumstances. In some circumstances and locations, discharges from an OWDS will be consistent with the Basin Plan and Malibu Prohibition.</p>

No.	Comment	Response to Comment
	<p>“... the available administrative process, if pursued, may provide Green Acres with the ...relief it seeks, Regional Board authorization to build an onsite system that is consistent with the...Prohibition. Respondents [the Regional & State Boards] have issued and approved WDRs for an advanced onsite system issued and approved WDRs for an advanced onsite system proposed by Malibu La Paz.” [Respondents’ Opposition Brief, p. 22, 1. 15-19].</p>	
1-13	<p>The relevant pages are attached hereto as Exhibit “1”.</p> <p>IV. THE REGIONAL BOARD CANNOT BACK PEDAL AND CLAIM THERE IS NO SUCH THING AS A ZERO DISCHARGE OR 100% REUSE SYSTEM</p> <p>In a July 16, 2014, letter to La Paz’s representative Donald W. Schmitz, the Regional Board’s Executive Officer, in a 180 degree turn about, asserted that there is “no such thing” as a “zero discharge system”. That is not accurate. A “zero discharge system” or “zero liquid discharge system” or “net zero water system” or “100% wastewater reuse system” or “no net discharge system” mean the same thing and are all accepted terms of art.</p> <p>The Regional Board itself defined a zero net discharge system on July 31, 2009, in its then-proposed Prohibition, which expressly exempted “zero discharge” systems.</p> <p>The Regional Board said:</p> <p>“A specific wastewater discharge may be permitted if a discharger can demonstrate, to the satisfaction of the Executive Officer, that reuse, evaporation, and/or transpiration will use 100% of the wastewater generated by activities on a site, will not contribute to a rise in the water table, and will contain and properly handle any brines and/or off-specification wastewaters that cannot be reused/discharged in a manner that meets water quality objectives established in the Basin Plan.”</p> <p>The State Board agrees. In 2008 the State Board was a funding partner and co-sponsor of the Survey of High Recovery and Zero Liquid Discharge Systems for Water Utilities, which Survey can be downloaded at:</p>	<p>See response to Item Nos. 1-4 and 1-11.</p> <p>The comment mischaracterizes the following quoted statement:</p> <p>“A specific wastewater discharge may be permitted if a discharger can demonstrate, to the satisfaction of the Executive Officer, that reuse, evaporation, and/or transpiration will use 100% of the wastewater generated by activities on a site, will not contribute to a rise in the water table, and will contain and properly handle any brines and/or off-specification wastewaters that cannot be reused/discharged in a manner that meets water quality objectives established in the Basin Plan.”</p> <p>The statement is not a statement of the Regional Board, or a definition adopted by the Regional Board. It is a statement in the public notice for a public hearing to consider adoption of the Malibu Prohibition that was originally scheduled for Oct. 1, 2009, that describes the structure of the proposed Malibu Prohibition. That hearing was not held, but instead a new hearing notice was issued with a new hearing date. The Regional Board considered but rejected the option of including a “zero discharge” exemption in the Malibu Prohibition and did not adopt the statement quoted in the</p>

No.	Comment	Response to Comment
	<p>http://www.swrcb.ca.gov/water_issues/programs/grants_loans/waterrecycling/research/02_006a_01.pdf</p> <p>The La Paz System is a zero discharge system.</p>	<p>comment.</p> <p>In the Regional Board's view the words "zero discharge system" or "no discharge system" are not terms of art. The words are used as a short hand for discharges of waste that are treated to meet Title 22 standards and controlled in such a way as to minimize impacts to groundwater. The comment by Mr. Schmitz was that there was no discharge of waste at all. Such systems, such as the system contemplated by La Paz, do in fact discharge waste as the term is defined in the Water Code. A person who proposes to discharge waste must file a report of waste discharge, as Malibu La Paz has done.</p>
1-14	<p>V. LA PAZ CANNOT BE REQUIRED TO CONNECT TO THE CITY'S WTF</p> <p>Section 20 of the Tentative Order purports to require La Paz to connect to the City's WTF. The Regional Board has no authority to impose such a requirement. Section 13360 of the Water Code serves to "limit how a Regional Board may regulate." Section 13360 provides that a regional board may not "specify the design, location, type of construction or the particular manner in which compliance may be had" with applicable water quality standards and requirements. <i>See Tahoe-Sierra Preservation Council v. State Water Resources Control Board</i>, 210 Cal.App.3d 1421, 1438 (1989) (the Water Board "may identify the disease and command that it be cured but not dictate the cure"; it "may not prescribe the manner in which compliance may be achieved.") The requirement to connect to the City's WTF must be stricken. As the Executive Officer told the State Board when asked whether La Paz would connect to the City's WTF, "It is at their discretion how to handle their requirements."</p>	<p>The comment misrepresents Section IX Provision 28 (Tentative WDRs/WRRs page 23: "<i>The discharger shall cease the discharge from the OWDS by November 5, 2015. By October 5, 2015, the discharger shall identify an alternative discharge location, such as the Malibu Civic Center Wastewater Treatment Facility, or other legal alternative to the discharge of waste, to be used after November 5, 2015.</i>" It is within the discharger's discretion to determine how to be in compliance with the Malibu Prohibition.</p> <p>Finding no. 20 at page 4 of the Tentative WDRs/WRRs (referred as Section 20 by the commenter) summarizes the discharger's proposal for discharging wastewater if it does not have sufficient storage; the Regional Board did not dictate disposal options.</p> <p>See response to Item No. 1-2, which proposes a revision to the Tentative WDRs/WRRs to revise the termination date.</p> <p>In reviewing the Tentative WDRs/WRRs, the staff noted that Prohibition 2 is inconsistent with Provision 23 and will revise Prohibition 2 to be consistent. Also note that staff is proposing to revise the dates in Provision 23.</p> <p>Action: Revise Prohibition 2.</p>

No.	Comment	Response to Comment
1-15	<p>VI. SALT AND NUTRIENT MANAGEMENT</p> <p>A. Salt Management Issues Cannot Be Used to Deny WRRs or to impose WDRs</p> <p>California law precludes the Regional Board from denying issuance of WRRs to a project which violates only a salinity standard in the Basin Plan. Water Code §13523.5. Recycled water is not waste, so the need for salt management cannot be used as an excuse to impose WDRs on La Paz. Water Code §13050(n). Section 33 of the Tentative Order references a legal opinion rendered by the State Board's Chief Counsel opining that Water Code §13523.5 is not applicable to WDRs. La Paz does not need WDRs. It should be noted, however, that the Chief Counsel's opinion is now thirty years old, so the Chief Counsel did not have the benefit of the evolution of the laws and policies that govern recycled water today.</p> <p>The 2014 Order directed that salt and nutrient management be addressed through regional or sub-regional plans rather than through requirements imposed solely on individual recycled water projects. The Recycled Water Policy calls for funding and development of basin-wide salt and nutrient management plans. Under the Recycled Water Policy, an individual project does not require salt removal when its salt contribution is less than 10% of Basin or Sub-Basin assimilative capacity. La Paz has demonstrated that its System would use less than 10% of the assimilative capacity of the Malibu Lagoon Sub-Basin, see La Paz's Salt and Nutrient Management Plan (the "Plan") which was submitted in February, 2011. Indeed, the Plan shows that La Paz's salt contribution would be inconsequential. The Plan also shows that State Board policies, such as Water Quality Order No. 2009-0006-DWQ, General Waste Discharge Requirements for Landscape Irrigation, provide two feasible methods which La Paz could use to manage salt accumulation: removal of salts at the treatment plant or through a salt/nutrient management plan for the groundwater basin.</p> <p>Soil salt management is necessary for <i>any</i> irrigation project. The La Paz System's salt management was addressed during design, as required in the Project's conditions, and the Plan is to be integrated with the Basin-wide Salt Management Plan that is required by the State Board to be developed.</p>	<p>The Regional Board disagrees with the comment. The Regional Board is proposing to issue WDRs/WRRs with a defined termination date based on the Malibu Prohibition; it is not denying WDRs/WRRs based on a violation of a salinity standard. However, the State Water Board's Chief Counsel's opinion is still valid. Further, the Regional Board disagrees with the statement that recycled water is not a waste; recycled water is waste treated to meet standards to protect human health.</p> <p>See response to Item Nos. 1-1 and 1-2.</p> <p>The analysis conducted and submitted in February 2011 did not consider the discharge from the proposed Malibu centralized wastewater treatment facility. Since the La Paz facility has not been built, Regional Board staff encourages La Paz to update the submitted Salt and Nutrient Management Plan to incorporate the available new information.</p>

No.	Comment	Response to Comment
	<p>It should be noted that the "Malibu Valley Joint Salt-Nutrient Management Group", referenced in Section 32 of the Tentative Order, does not exist. The requirements in Section 32 directed to that so-called group have no place in La Paz's WRRs. La Paz is not required to address salt and nutrient management issues caused by other property owners. It should also be noted that the City's Salt and Nutrient Management Plan addresses ot1ly the City's impacts.</p> <p>The La Paz System is consistent with all Water Code and State Board requirements for salt management, so the Regional Board cannot lawfully deny extension of the WRRs or impose WDRs.</p>	<p>The Malibu Valley Joint Salt-Nutrient Management Group is lead by the City of Malibu, which has developed a tentative draft Salt and Nutrient Management Plan. Any Salt and Nutrient Management Plan must consider existing conditions and all existing and potential discharges to the groundwater basin in order to understand the assimilative capacity of the receiving groundwater aquifer. A Salt and Nutrient Management Plan prepared only addressing La Paz's discharge without considering other dischargers will not provide a comprehensive understanding of the groundwater quality.</p>
1-16	<p>B. Nutrient Management</p> <p>The 2014 Order requires that recycled water used for irrigation purposes be applied at agronomic rates. (Section 13, p. 4) The 2014 Order found that to the extent the use of recycled water may result in some waste constituents entering the environment after effective source control, treatment and control measures are implemented, the conditions of the 2014 Order limiting the use of water to agronomic rates provide Best Practicable Treatment or Control (BPTC). (Section 25, p. 9) The La Paz System complies with the 2014 Order, as implicitly acknowledged in the Tentative Order, Sections 19 and VII.8A-G, which require that no recycled water will be applied in excess of agronomic rates.</p> <p>As Lombardo Associates, Inc. has documented, proper fertilization (i.e. use of slow release/organic fertilizers) and irrigation practices (i.e. at agronomic rates- not excessive irrigation which causes nutrient leaching) has been shown to have minor to no nutrient discharges to groundwater by researchers well documented in the literature. It is noted that the science of minimizing nutrient leaching associated with fertilization has advanced significantly throughout the United States due to concerns with and regulations to minimize water quality impacts.</p>	<p>The Regional Board agrees that the State Water Board's 2014 Order requires application of recycled water at agronomic rates, as does the Tentative WDRs/WRRs proposed by the Regional Board. The Tentative WDRs/WRRs also take into account site-specific information, including that there is now a prohibition that was not in effect at the time of adoption of La Paz' 2010 WDRs/WRRs. La Paz is listed on Table 4-zz as an existing OWDS that must cease discharge by November 15, 2015.</p> <p>See response to Item No. 1-11.</p>
1-17	<p>C. Nitrates</p> <p>1. The 1984 Report</p> <p>Based upon a pdf search, the word "agronomic" is not contained in the 1984 Report. Please provide specific citations to the pages in the 1984 Report where application of recycled water at agronomic rates is</p>	<p>Comment noted. However, the groundwater is very shallow (less than 10 feet) at the La Paz property. The 1984 Report indicates that nitrate can be utilized by plants/crops on</p>

No.	Comment	Response to Comment
	<p>addressed. It is important to note that the wastewater nitrogen concentration in the 1984 Report, which was typical at that time, was >20 mg/l. La Paz's permit requires < 10 mg/1, far less than the level typical in 1984.</p> <p>2. The 2012 Compendium</p> <p>There are twelve reports (many with hundreds of pages) associated with this study, which focuses on the Tulare Lake Basin and Salinas Valley Groundwater Basin, which are primarily agricultural areas. Please provide citations to the specific documents and pages where landscape irrigation is addressed. The compendium as a whole does not appear applicable to landscape irrigation.</p>	<p>average as much as 50%. The remaining nitrate will stay in the soil. Any residual nitrate and other waste constituents in the soil as the result of recycled water use, may migrate with precipitation, and reach groundwater.</p> <p>The statement of "...residual nutrients, i.e., nitrate, will leach from the root zone to underlying groundwater." in Finding No. 21 of the tentative SDRs/WRRs is based on the first bullet listed on "Findings: Sources of Nitrogen Pollution", Page 3 of "Addressing Nitrate in California's Drinking Water" prepared by UC Davis in 2012.</p>
1-18	<p>VII. THE TENTATIVE ORDER IGNORES CRITICAL FACTS</p> <p>A. Groundwater Table Elevation</p> <p>Section 15 of the Tentative Order claims that use of recycled water may potentially cause elevation of the groundwater table, and calls out WDR violations by others. Speculation on elevation of the groundwater table is not relevant here, as La Paz does not propose to apply recycled water that would reach groundwater. The conduct of others, especially those with different systems, is also irrelevant.</p> <p>B. Subsurface disposal of Wastewater</p> <p>Section 17 of the Tentative Order addressing subsurface disposal of wastewater does not apply to La Paz because La Paz is not proposing any subsurface disposal of wastewater.</p> <p>C. Landscape Irrigation</p> <p>Section 18 of the Tentative Order speculates about what would happen "if all of the wastewater were to reach groundwater." This speculation is baseless. Recycled water is not waste. Landscape irrigation with recycled water will not reach groundwater.</p>	<p>The tentative WDRs/WRRs require that the discharge from the La Paz facility not cause any change of groundwater elevation and the groundwater quality. The discharger has not demonstrated by data that the discharge from La Paz facility will meet the criteria mentioned above. However, staff proposed to revise Finding 15. Action: Revise Finding 15.</p> <p>Staff disagrees. The description in Finding 17 (referred as Section 17 by commenter) is adequate. See response to Item no. 1-1.</p> <p>Staff agrees that it is unlikely that all the wastewater will reach groundwater, but some wastewater will reach groundwater and could cause a rise in groundwater elevation and alter the water quality. Recycled water is waste treated to meet criteria to protect human health; it still continues to contain waste that may impact the quality of waters of the state. Irrigation with the effluent from the proposed system may result in wastewater reaching groundwater.</p>

No.	Comment	Response to Comment
	<p>D. Storage</p> <p>The statements in Section 20 of the Tentative Order, exclusive of the last sentence, are not accurate. The design of the storage tank provides for the most extreme wet conditions recorded during the past 20+/- years. It should be noted that the storage capacity for off-specification water is close to and can easily be configured to comply with Title 22 requirements such that connection to a wastewater treatment plant would not be required by Title 22 requirements.</p>	<p>Staff disagrees. As required of other dischargers, the discharger must analyze, at a minimum, 100-year storm, to determine the necessary storage capacity for extreme weather under the circumstances that the La Paz facility cannot properly treat wastewater, or the recycled water cannot be used during wet weather. It is premature to determine the sufficiency of the storage capacity, and discharger shall always have alternative plan if the storage capacity is not enough.</p> <p>See response to Item Nos. 1-1 and 1-2.</p>
1-19	<p>VIII. NOTHING HAS CHANGED SINCE THE WDRs/WRRs WERE ADOPTED</p> <p>No new information has come to light that might undermine any of the scientific studies and other data that supported adoption of the WDRs/WRRs. Certainly, there has been no material change as defined in 23 Cal. Code Regs. §2210, which governs Reports of Waste Discharge (ROWDs). Section 2210 defines a material change as "A material change in the character, location or volume of the discharge requiring a waste discharge report..." The Regional Board does not contend such a change has occurred with respect to the La Paz System nor could it.</p>	<p>See response to Item Nos. 1-4 and 1-11.</p>
1-20	<p>IX. THE TENTATIVE ORDER FLOUTS THE STATE'S LAWS AND POLICIES MANDATING USE OF RECYCLED WATER</p> <p>The Governor's Executive Order, the 2014 Order and the Recycled Water Policy have all declared that California is facing an unprecedented water crisis. The State Board is adopting stringent new regulations requiring drastic cutbacks in water use, statewide. The Legislature has found as a matter of State law and policy that the utilization of recycled water is crucial to California's ability to meet the challenge posed by this unprecedented crisis, declaring that "Use of recycled water constitutes the development of new basic water supplies." Water Code §13511.</p> <p>The State Board in the Recycled Water Policy has declared its</p>	<p>Comment noted. Note that the Regional Board adds that it recently approved WDRs/WRRs for the City of Malibu that would rely primarily on recycling the waste water and intends to provide such recycled water to properties within the Malibu Civic Center Area at no cost.</p> <p>See response to Item Nos. 1-1 and 1-2.</p> <p>Action: No change is necessary.</p>

No.	Comment	Response to Comment
	<p>independence from "reliance on the vagaries of annual precipitation", mandating goals increasing the use of recycled water and ordering its Regional Boards to exercise the authority granted to them to the fullest extent possible to encourage the use of recycled water. (Sections 2 through 4).</p> <p>The Governor's Executive Order directs state permitting agencies to expedite review and approval of recycled water facilities. (Section 19).</p> <p>La Paz is a model of the type of project California needs to create a sustainable water future. La Paz will treat the wastewater generated on site to Title 22 standards, recycle and beneficially use 100% of the recycled water for landscape irrigation and onsite in-building reuse. If there is any off specification wastewater, it will be stored and returned to the treatment system. La Paz will provide an 800,000 gallon underground storage tank where excess recycled water can be stored, exceeding by 100% the California Department of Public Health's storage requirements.</p> <p>Put simply, La Paz's effluent is treated to Title 22 standards, has 100% water reuse, cannot raise groundwater levels, cannot impact adjacent or downstream properties, cannot contribute to nutrient pollution in the City's Civic Center area and complies with the water quality objectives in the Basin Plan.</p>	<p>There is no data demonstrating that the discharge from the La Paz facility will not alter groundwater quality.</p> <p>See response to Item No. 1-18.</p>
Lombardo Associates, INC		
2-1	<p>4. The Malibu OWDS Prohibition immediately prohibited, as of December 23, 2010, all new discharges from OWDSs in the Malibu Civic Center Area, and provided a temporary exception from this immediate prohibition for "existing OWDSs" identified in Table 4-zz of the Malibu OWDS Prohibition the Malibu OWDS Prohibition prohibits all discharges from existing OWDSs, in accordance with a phased schedule. Existing OWDSs in commercial areas (Phase I) must cease discharges by November 5, 2015 and existing OWDSs in residential areas (Phase II) must cease discharges by November 5, 2019. La Paz Ranch (3700 La Paz Lane, Malibu) is listed on Table 4-zz and is, therefore, an "existing OWDS" and is subject to the Malibu OWDS Prohibition. Because it is a commercial activity, it must cease discharges from an OWDS by November 5, 2015.</p>	<p>Staff disagrees. The Malibu Prohibition immediately prohibited, as of December 23, 2010, all new discharges from OWDSs in the Malibu Civic Center Area. The Malibu Prohibition provided a temporary exception from this immediate prohibition for "existing OWDSs" identified in Table 4-zz of the Malibu Prohibition. For existing OWDSs, the Malibu Prohibition prohibits all discharges from existing OWDSs in accordance with a phased schedule. Existing OWDSs in commercial areas must cease discharges by November 5, 2015 and existing discharges in residential areas must cease discharges by November 5, 2019. The Malibu La Paz project was listed on Table 4-zz as an existing</p>

No.	Comment	Response to Comment
	<p>Per Attorney Tamar Stein’s May 15, 2015 letter, LARWQCB issued July 8, 2010 La Paz WDR/WRR No. R4-2010-0107, specifically section 4 of the Purpose of the Order, and LARWQCB testimony, La Paz is a no discharge system. Consequently the last sentence “Because it is a commercial activity, it must cease discharges from an OWDS by November 5, 2015.” should be deleted.</p>	<p>OWDSs and is in the commercial area, and therefore, subject to the phased prohibition.</p> <p>See response to Item Nos. 1-2 and 1-8.</p> <p>Action: No change is necessary, with the exception of changes noted in the response to Item 1-2.</p>
2-2	<p>6. California Water Code (CWC) section 13260 requires any person "proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than to a community sewer system," to file a report of waste discharge. The term "waste" is defined in California Water Code section 13050(d) to include "sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, ... prior to, and for purposes of, disposal." The Discharger proposes to discharge human sewage, i.e., "waste" to land where it could affect the quality of the waters of the state. Sewage contains various waste constituents, including total dissolved solids, sulfate, salts (e.g., chloride, boron), bacteria, nitrogen, priority pollutants and constituents of emerging concern (CECs). In accordance with CWC section 13263(g), no discharge of waste into waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights.</p> <p>No waste is proposed to be discharged at the site. Only disinfected tertiary recycled water is proposed for use for irrigation at agronomic rates, resulting in no discharge to waters of the State – per the July 8, 2010 La Paz WDR/WRR. Consequently except for the 1st sentence, the remaining text of Section 6 should be deleted.</p>	<p>Staff disagrees. See response to Item Nos. 1-2 and 1-8.</p> <p>Action: No change is necessary.</p>
2-3	<p>9. CWC section 13267 authorizes the Regional Board to require that any person who proposes to discharge waste to furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports. This Order incorporates Monitoring and Reporting Program Cl. No. 9617 for La</p>	

No.	Comment	Response to Comment
	<p>Paz Ranch (File No. 08-0101) (MRP), which is necessary to assure that the discharge of waste, including the use of recycled water complies with this Order and is protective of human health and the environment.</p> <p>La Paz does not propose to discharge water. Disinfected tertiary recycled water is a resource not waste. With deleting the remainder of the section, the last sentence should state, "This Order incorporates Monitoring and Reporting Program Cl. No. 9617 for La Paz Ranch (File No. 08-0101) (MRP), which is necessary to assure that the use of recycled water complies with this Order and is protective of human health and the environment."</p>	<p>Staff disagrees. Recycled water is waste treated to criteria to protect human health; it is not free of waste. See response to Item No. 1-1.</p> <p>Action: No change is necessary.</p>
2-4	<p>10. This Order is adopted pursuant to CWC sections 13263, 13267, and 13523. It sets forth requirements, prohibitions, and other conditions to implement the Basin Plan; prescribes the limits for the recycled water and the Discharger's responsibilities for the production, distribution, monitoring, and application of recycled water; and includes an MRP. The Discharger is responsible for inspecting point-of-use facilities, and ensuring compliance with the WDRs and WRRs contained in this Order.....</p> <p>Discharger should be replaced with Recycled Water Producer, as there is no discharge.</p>	<p>Staff disagrees. The WDRs/WRRs clearly describe the actions proposed by the discharger. See response to Item No. 1-1.</p>
2-5	<p>11. This Order renews and revises WDRs/WRRs Order No. R4-2010-0107 and extends the expiration date to November 5, 2015 to be consistent with the Malibu OWDS Prohibition. This Order, therefore, expires on November 5, 2015.</p> <p>This Section should only state "This Order renews and revises WDRs/WRRs Order No. R4-2010-0107 and extends the expiration date to July 8, 2020."</p>	<p>The Malibu Prohibition establishes that existing OWDSs in commercial areas (Phase I) must cease discharges by November 5, 2015 and existing OWDSs in residential areas (Phase II) must cease discharges by November 5, 2019. La Paz Ranch is listed on Table 4-zz and is, therefore, an "existing OWDS" and is subject to the Malibu Prohibition.</p> <p>Based on the MOU between the Regional Board, the City of Malibu, and the State Water Board, the Regional Board staff proposes to revise the Tentative WDRs/WRRs to establish a termination date of June 30, 2017.</p> <p>Action: No change is necessary.</p>
2-6	<p>15. This Order includes requirements that preclude any changes in the elevation or quality of the groundwater. These restrictions are necessary because of the potential that use of recycled water may</p>	

No.	Comment	Response to Comment
	<p>cause elevation of the groundwater table. Further, the water table intersects the ground surface, causing ponding, in the Malibu Civic Center Area on both sides of Pacific Coast Highway under critical conditions. And finally, the project is directly upgradient of existing subsurface disposal systems at Malibu Lumber, Malibu Country Marts I, II and III, Malibu Village, and the Malibu Professional Building, all of which have leachfields which require 5 feet of soil above the groundwater for additional effluent treatment and all of which have violated the requirements of their WDRs within the last five years.</p> <p>Speculation on raising the elevation of the groundwater table does not apply as the project does not propose to apply recycled water that will reach groundwater. Consequently, “These restrictions are necessary because of the potential that use of recycled water may cause elevation of the groundwater table.” should be deleted.</p> <p>As we are not aware of any such events based upon our 10+ years of engineering work in the Civic Center area, please provide basis/technical documentation for the statement “Further, the water table intersects the ground surface, causing ponding, in the Malibu Civic Center Area on both sides of Pacific Coast Highway under critical conditions.” Without providing the objective technical basis, the sentence should be deleted.</p> <p>The last sentence is irrelevant to La Paz since La Paz is a no discharge system and should be deleted. Also the fact that these disposal systems have violated their WDR requirements is irrelevant to La Paz.</p>	<p>Staff agrees that information regarding the other facilities is not necessary to be included in the WDRs/WRRs. Staff does not agree that wastewater will not reach groundwater.</p> <p>Action: Revise Finding 15.</p>
2-7	<p>17. Although other sources contribute to water quality impairments, unsuitable hydrogeologic conditions for subsurface disposal of wastewaters are a significant factor. The high water table in much of the area precludes consistent passive treatment of wastes (in particular, pathogens and nitrogen) that are needed for successful operation of conventional septic systems. This limitation is further aggravated by the relative density of wastewater discharges in the Malibu Civic Center Area, where many businesses, municipalities, and homeowners have little lateral space and insufficient vertical separation to spread and treat wastewater loads.</p> <p>This discussion does not apply to La Paz because La Paz is not</p>	<p>Finding 17 provides information that OWDSs in the Malibu</p>

No.	Comment	Response to Comment
	<p>proposing subsurface disposal of wastewater. Also the La Paz disinfected tertiary recycled water production system Engineering Report has been approved by the State Water Board Division of Drinking Water (DDW) (formerly State Department of Public Health) so the apparent suggested comparison to a conventional septic system is inappropriate.</p> <p>Consequently the entire Section should be deleted.</p>	<p>Civic Center Area are contributing to impairment of water quality.</p> <p>Action: No change is necessary.</p>
2-8	<p>18. The Discharger estimates that activities at the facilities of the Site will generate an average of 19,000 gpd of Title 22 disinfected tertiary recycled water with 8,540 gpd being reused within the buildings for non-potable purposes, i.e. toilet flushing, and 11,460 gpd being used for landscape irrigation. The site requires irrigation at a rate of up to 14,200 gpd of waste and about 3,000 gpd of potable water. The peak flow of the plant is 24,870 gpd. If all of the wastewater were to reach the groundwater, it will increase liquid wastes in the Civic Center area (currently estimated to total 270,000 gpd) by about 10%. Indoor recycling (e.g. toilet recycling) may reduce the volume of imported water required by the project and may reduce the volume of wastewater to be discharged by the project. Landscape irrigation is expected to reduce the amount of wastewater that would reach groundwater.</p> <p>The 2nd sentence “The site requires irrigation up to 14,200-gpd of waste and....” should be changed to “The site requires irrigation up to 14,200-gpd of recycled water and....”.</p> <p>The speculation that “if all the wastewater were to reach groundwater” does not apply as no recycled water is proposed to reach groundwater. The sentence should be deleted.</p> <p>The term wastewater in the last two sentences should be replaced with recycled water. Also as no recycled water is proposed to reach groundwater the last sentence should be deleted as well as any reference to discharge. Also in the next to the last sentence “Indoor recycling (e.g. toilet recycling) may reduce the volume of imported water required by the project.” should be replaced by ““Indoor recycling (e.g. toilet recycling) will reduce the volume of imported water required by the project by approximately 60%.”</p>	<p>Staff agrees.</p> <p>Action: Change had been made.</p> <p>Staff disagrees. See response to Item nos. 1-18 and 2-6.</p> <p>Staff disagrees. The use of wastewater in the last two sentences is a proper term to describe the effluent from the treatment system. However, the treated wastewater can be used as recycled water if it meets the water reclamation requirements.</p>
2-9	19. The collection and treatment system consists of grease interceptors	

No.	Comment	Response to Comment
	<p>and septic tanks which supply clarified effluent to a pressurized treatment system that discharges to an equalization tank that feeds the treatment system on an equal flow basis throughout the day. It also includes four filters (recirculating media filter, Nitrex denitrification filter, polishing filter, final pressure pre-filter). The design includes an 800,000 gallon segmented tank, with 350,000 gallons reserved for effluent which does not meet discharge requirements, 364,000 gallons for Title 22 disinfected tertiary recycled water for use and delayed recycled use and 86,000 gallons for storage. Ozone disinfection, and, If necessary, ultraviolet disinfection are used for disinfection. Chlorine will be used during storage prior to building re-use and before irrigation to prevent bacterial growth in the distribution system as is used in all municipal water supply systems.</p> <p>In the 2nd line "to a pressurized treatment system that discharges" should be deleted</p>	<p>Staff agrees.</p> <p>Action: Revise Finding 19.</p>
2-10	<p>20. The Discharger's reclaimed water system includes storage of treated effluent, landscape irrigation on the property and toilet recycling. In addition, during conditions where landscape and on-site recycling demands are not sufficient and insufficient storage capacity exists for anticipated conditions, a portion or all of the wastewater will be discharged to the City of Malibu Civic Center Wastewater Treatment Facility (Malibu WTF) or a permitted facility if Malibu WTF is not available. The areas of reuse are located within Malibu Valley Hydrologic Subunit.</p> <p>Water levels in the storage tank were modeled using 20+/- years of historical daily data on local rainfall and evapotranspiration in conjunction with the very conservative assumption that the system would see the design flow every day. At no time during the period of record using these conservative assumptions would insufficient storage capacity have existed.</p> <p>The above statements, exclusive of the last sentence, are incorrect and should be deleted. The design of the storage tank provides for the most extreme wet conditions recorded during the past 20+/- years. It is noted that the storage capacity for off-spec water is close to and can easily be configured to comply with Title 22 requirements such that connection to a wastewater treatment plant would not be required by Title 22 regulations.</p>	<p>Staff disagrees. See response to Item No. 1-18.</p>

No.	Comment	Response to Comment
2-11	<p>21. The OWDS is intended to produce tertiary treated and disinfected water for 100% on site reuse, except where reuse is not feasible as discussed in finding 19. According to the report titled <i>"Irrigation with Reclaimed Municipal Wastewater: A Guidance Manual"</i> prepared by University of California, Davis (UC Davis) for State Water Board in 1984, even if irrigating at an agronomic rate, the maximum nutrient plant uptake is approximately 50%. Another study titled <i>"Addressing Nitrate in California's Drinking Water"</i> prepared by UC Davis in 2012 also indicates that the residual nutrients, i.e., nitrate, will leach from the root zone to underlying groundwater.</p> <p>Based upon the comments to Sections 19 and 20, in the 1st sentence, "except where reuse is not feasible as discussed in finding 19" should be deleted as there is no time when disinfected tertiary recycled water cannot be reused at La Paz.</p> <p>Based upon a pdf search of the 1984 document, the word agronomic is not contained therein. The specific page citation is requested. Also it is important to note that the wastewater nitrogen concentration in the report and was typical at that time was > 20 mg/l. La Paz's permit requires TN < 10 mg/l.</p> <p>Regarding "Addressing Nitrate in California's Drinking Water" prepared by UC Davis in 2012, there are 12 reports (many with hundreds of pages) associated with the study which focuses on the Tulare Lake Basin and Salinas Valley Groundwater – primarily agriculture. The specific document & page citation is requested as the general citation does not appear applicable to landscape irrigation.</p> <p>Furthermore, proper fertilization (i.e. use of slow release/organic fertilizers) and irrigation practices (i.e. at agronomic rates- not excessive irrigation which causes nutrient leaching) has been shown to have minor to no nutrient discharges to groundwater by researchers well documented in the literature. It is noted that the science of minimizing nutrient leaching associated with fertilization has advanced significantly throughout the United States due to concerns with and regulations to minimize water quality impacts.</p> <p>References include:</p>	<p>The comment is unclear. Finding No. 19 describes the system as proposed by La Paz, which has stated that storage is reserved for effluent which does not meet discharge requirements.</p> <p>See response to Item no. 1-17.</p> <p>See response to Item no. 1-17.</p> <p>Comment noted.</p>

No.	Comment	Response to Comment
	<p>Guillard K , and Kopp KL, “Nitrogen fertilizer form and associated nitrate leaching from cool season lawn turf.” J Environ Qual. 2004 SepOct;33(5):18227.</p> <p>Petrovic, A.M. and T.C. Cambareri, “Technical Review of Test Results and Implementation of the Groundwater Monitoring Protocol, The Bridge Golf Course Southampton, NY, April 2011 in Maidstone Club Irrigation Improvement Project Final EIS, June 2014. http://www.easthamptonvillage.org/pdf/Maidstone-FEIS%20-Accepted-6-27-14.pdf</p>	
2-12	<p>22. The filters of OWDSs remove most bacteria and nutrients but not salt, which is considered a "waste" as defined in CWC section 13050(d). Without a salt management plan, irrigation with the effluent is reasonably expected to provide salt loading to the underlying groundwater. Leachate entering the groundwater may exceed the water quality objectives contained in the Basin Plan for Malibu Valley groundwater of 2,000 mg/L for total dissolved solids; 500 milligrams per liter(mg/L) for chloride; 500 mg/L for sulfate and 2 mg/L for Boron. This Order contains effluent limitations for these constituents that must be attained in the effluent prior to use for recycling. A facility specific salt and nutrient management plan shall be developed by the Discharger during their participation in the preparation of a Malibu Valley salt and nutrient management plan as required in Provision IX.1 prior to use of the wastewater for recycling.</p> <p>Based upon our reading CWC section 13050(d) does not define salt as a waste.</p> <p>La Paz provided the LARWQCB the La Paz Salt and Nutrient Management Plan (SNMP) dated February 11, 2011 which is a facility specific salt and nutrient management plan. The Feb. 2011 La Paz SNMP should be referenced and any additional required information described.</p> <p>It is noted that at present, TDS and sulfate groundwater concentrations in the Malibu Valley Groundwater Basin are at or above the Water Quality Standard (WQS) of 2,000 mg/L and 500 mg/L respectively. La Paz’s recycled water quality is projected to be significantly less than the WQS.</p>	<p>Staff disagrees. Water Code section 13050(d) defines the term “waste” to mean “sewage and any all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin . . .”. Salts, including chloride, boron, sulfate, and TDS, are contained in the human sewage that is intended to be treated. The proposed OWDS is not designed to remove such wastes. The Basin Plan contains groundwater quality objectives for chloride, boron, sulfate and TDS and discharges of those wastes may impact the quality of the groundwater.</p> <p>To comply with the requirement, Malibu La Paz should update its salt and nutrient management plan or join with the City of Malibu in preparing a salt and nutrient management plan.</p> <p>See response to Item no. 1-15.</p>

No.	Comment	Response to Comment
	<p>It is understood and noted that the Malibu Valley Groundwater Basin is rated by the State as a very low priority basin.</p>	
2-13	<p>26. State Water Board Resolution No. 68-16 requires the Regional Board, in regulating the discharge of waste, to maintain the high quality waters of the state until it is demonstrated that any change in quality will be consistent with maximum benefit to the people of the State, will not unreasonably affect beneficial uses, and will not result in water quality less than that described in the State Water Board's policies (e.g., quality that exceeds water quality objectives). Further, any activity that produces waste must meet waste discharge requirements that will result in the best practicable treatment or control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained. The Order contains requirements that prohibit discharges that will degrade groundwater.</p> <p>Tertiary disinfected recycled water is not waste. The La Paz system is not discharging wastes.</p>	<p>Staff disagrees. See response to Item No. 1-1.</p> <p>Action: No change is necessary.</p>
2-14	<p>28. The Discharger proposes to use recycled water for irrigation on landscape at the facility. Future uses might include disposal to parks, golf courses....</p> <p>“Discharger” should be replaced with “Recycled water producer”</p> <p>2nd sentence should state “Future uses might include reuse for irrigation to parks,...”</p>	<p>See response to item no. 2-4.</p> <p>After reviewing the Tentative WDRs/WRRs and your comment, staff intends to revise the Tentative Order to make clear that the discharger must obtain approval from both the Executive Officer and the State Water Board Division of Drinking Water (DDW) and permission from landowners prior to any off-property application. The recycled water can only be used at the designated area, based on the engineering report approved by DDW.</p> <p>Action: Revise Paragraph VI.1. to clarify the off-property use of recycled water.</p>
2-15	<p>32. The Recycled Water Policy directs dischargers to develop a salt and nutrient management plan for additional loading of total dissolved solids, chloride, sulfate, boron, and nitrogen related compounds including nitrate to groundwater basins through recycled water use via irrigation. If the dischargers are making progress towards a watershed-wide plan, the Malibu Valley Joint Salt-Nutrient</p>	

No.	Comment	Response to Comment
	<p>Management group shall submit the salt and nutrient management plan no later than June 30, 2015.</p> <p>La Paz has already been submitted its Salt & Nutrient Management Plan (SNMP) dated February 2, 2011.</p>	<p>Comment noted. See response to Item No. 1-15.</p>
2-16	<p>34. The Discharger prepared a ~ Final Supplemental Environmental Impact Statement/Environmental Impact Report (EIS/EIR)" approved by the City of Malibu, on November 10, 2008 (SCH No. 2003011131) for the Malibu La Paz project, including evaluation of the use of an OWDS and water recycling. No significant adverse impacts on ground water quality were identified in the EIS/EIR as a result of proposed project.</p> <p>It is noted that No significant adverse impacts on ground water quality were identified in the EIS/EIR as a result of proposed project.</p>	<p>Comment noted.</p> <p>Action: No change is necessary.</p>
2-17	<p>35. The project...</p> <p>Prior to last sentence is incomplete</p>	<p>Regional Board staff agrees to revise Finding 35 as "... The Regional Board is a responsible agency for purposes of CEQA for the project and has reviewed and considered the EIS/EIR, made recommendations for revision, and. ..."</p> <p>Action: Revise Finding 35.</p>
2-18	<p>37. The Regional Board has notified the Discharger and interested agencies and persons of its intent to issue WDRs and WRRs Order No. R4-2015-XXXX for the treatment and discharge of wastewater associated with the La Paz Ranch facilities; the use of tertiary treated and disinfected effluent as recycled water; and to implementation of the Malibu OWDS Prohibition,; and has provided an opportunity to submit written comments.</p> <p>"Discharger" should be replaced with "Recycled water producer"</p> <p>Change "for the treatment and discharge of wastewater associated with the La Paz Ranch facilities; the use of tertiary treated" to "for the production and use of tertiary treated"</p>	<p>Staff disagrees. See response to Item No. 2-4.</p> <p>Staff disagrees. See response to Item Nos. 1-1 and 1-2.</p>
2-19	<p>1. Pretreatment Education</p> <p>E. Documentation of the pretreatment educational materials and/or lease provisions shall be included in a report on water conservation and recycling/recycling to be provided to the Executive Officer within 60 days of adoption of this Order.</p>	

No.	Comment	Response to Comment
	<p>A Water Conservation Plan report dated September 13, 2010 was previously submitted to the Board addressing this issue and should be referenced. The basis for any additional information that needs to be submitted should be presented.</p>	<p>Comment noted. The Discharger shall provide an update to the submitted document if there is new information or as necessary.</p>
2-20	<p>2. Restaurant Waste Management: The Dischargers shall provide:</p> <p>A. A summary of the adequacy of the capacity and design of the Best Management Practices to trap and manage fats, oils, and grease before entering the treatment system, and</p> <p>A Restaurant Waste Management Plan report dated September 13, 2010 was previously submitted to the Board and addressed this issue. The basis for any additional information that needs to be submitted should be presented.</p> <p>B. Documentation of the operation and maintenance plan for all restaurants and food services establishments with a report on restaurant waste management within 60 days of adoption of this order.</p> <p>A Restaurant Waste Management Plan report dated September 13, 2010 was previously submitted to the Board and addressed this issue. The basis for any additional information that needs to be submitted should be presented.</p>	<p>Comment noted. The Discharger shall provide an update to the submitted document if there is new information or as necessary.</p> <p>Comment noted. The Discharger shall provide an update to the submitted document if there is new information or as necessary.</p>
2-21	<p>3. Water Conservation: Water conservation technology and practices shall be used by tenants and customers to decrease the addition of potable water to Malibu Valley Groundwater Basin and the impact on the water balance. The reduction in water consumption shall be predicted and quantified in the Water Conservation Report, which shall include the number and flow standards of all plumbing fixtures and water usage assumptions, and submitted within 60 days to the Executive Officer of adoption of this Order, and updated annually.</p> <p>A Water Conservation Plan report dated September 13, 2010 was previously submitted to the Board and addressed this issue. The basis for any additional information that needs to be submitted should be presented.</p>	<p>Comment noted. The Discharger shall provide an update to the submitted document if there is new information or as necessary.</p>
2-22	<p>5. Oxidation: The recycled water shall, at all times, be adequately oxidized. The recycled water shall be considered adequately oxidized</p>	

No.	Comment	Response to Comment
	<p>when it meets the following characteristics:</p> <p>A. The monthly average Biochemical Oxygen Demand value (BOD5 20°C) does not exceed 20 mg/L. Compliance shall be determined monthly using the average of the analytical results of all 24-hour composite samples taken at least weekly during the month.</p> <p>Grab samples are requested to be acceptable due to the inherent stability of the system, i.e. long residence time.</p> <p>B. The monthly average Total Suspended Solids (TSS) concentration does not exceed 15 mg/L. Compliance shall be determined monthly using the average of the analytical results of all 24-hour composite samples taken daily during the month.</p> <p>This is an onerous, unnecessary and expensive requirement with no apparent value, which was not required in City of Malibu Permit and should be deleted. As turbidity is constantly monitored and is a better indicator of water quality than TSS, this requirement is redundant. Also this sampling requirement is inconsistent with the MONITORING AND REPORTING PROGRAM CJ. NO. 9617 FOR MALIBU LA PAZ RANCH, LLC. (FILE NO. 08-0101), and therefore should be deleted.</p> <p>C. The Total Organic Carbon (TOC) concentration does not exceed 16 mg/L for more than two consecutive days, based on 24-hour composite samples taken daily.</p> <p>This is onerous, unnecessary and expensive requirement with no apparent value which was not required in City of Malibu Permit and should be deleted. TOC is usually a surrogate for CECs – which are not a concern for recycled water used for landscape irrigation per State Board policy. Also this sampling requirement is inconsistent with the MONITORING AND REPORTING PROGRAM CJ. NO. 9617 FOR MALIBU LA PAZ RANCH, LLC. (FILE NO. 08-0101), and therefore should be deleted.</p> <p>Table 2 Effluent Limitations</p> <p>Daily maximums are required for constituents that are not being sampled daily and should be replaced with effluent requirements. It is</p>	<p>Grab samples are already specified.</p> <p>Action: No change is necessary.</p> <p>Staff disagrees. During the optimization of the La Paz facility, constituents including TOC, TSS, nitrate, nitrite, ammonia, and total nitrogen shall be closely monitored to ensure the effectiveness of the treatment for the first 12 weeks. After 12 weeks of operation, the monitoring frequency can be reduced from daily to weekly.</p> <p>Staff disagrees. During the optimization of the La Paz facility, constituents including TOC, TSS, nitrate, nitrite, ammonia, and total nitrogen shall be closely monitored to ensure the effectiveness of the treatment for the first 12 weeks. After 12 weeks of operation, the monitoring frequency can be reduced from daily to weekly.</p> <p>The wastewater treatment system, disposal method and site conditions including, but not limited to, the area used for recycled water application for the Malibu centralized</p>

No.	Comment	Response to Comment
	<p>noted that daily maximums are not required in the City of Malibu permit. Also the basis for the La Paz effluent requirement of TN < 8 being more stringent requirement than the City of Malibu permit should be presented.</p>	<p>wastewater treatment facility are different than the proposed La Paz facility and therefore, necessarily will have different requirements.</p>
2-23	<p>6. Turbidity: The turbidity of the effluent water prior to disinfection shall not exceed an average of 0.2 NTU within a 24-hour period or 5 NTU more than 5 percent of the time within a 24-hour period and 10 NTU at any time. When the turbidity requirements are exceeded, delivery of recycled water shall be suspended until such time as the cause of the exceedance has been identified and corrected. The Discharger shall notify the Regional Board and submit a report according to this Order.</p> <p>Title 22 requirements for filtered wastewater are:</p> <ol style="list-style-type: none"> 1) An average of 2 nephelometric turbidity units (NTU) within a 24-hour period. 2) 5 NTU no more than 5 percent of the time within a 24-hour period; and 3) 10 NTU at any time. “0.2 NTU within a 24-hour period” should be changed to 2.0 NTU within a 24-hour period” 	<p>Staff agrees there is a typographical error.</p> <p>Action: Revise III.6. Effluent Requirements.</p>
2-24	<p>7. Maximum Contaminant Levels: The effluent shall not contain constituents in concentrations exceeding the applicable maximum contaminant levels (Attachment A) for drinking water established in sections 64431 (Attachment A1), 64443 (Attachment A2), 64444(Attachment A3), 64533 (Attachment A4), and 64449 (Attachment A5), of Article 5, Chapter 15, Division 4, Title 22 of the CCR, or subsequent revisions or at levels that adversely affect the beneficial uses of receiving groundwater. Concentrations of wastes in the effluent shall, at all times, not exceed the following MCLs. In case of a violation of any primary or secondary MCL, the City shall notify and submit a report according to Provision IX.6 of this Order.</p> <p>Replace “City” with “La Paz”</p>	<p>Regional Board staff agrees.</p> <p>Action: Revise IV.4. Groundwater Requirements.</p>
2-25	<p>8.C.</p> <p>Change last word “groundwater” to “surface water”</p>	<p>Staff disagrees. The suggested change: “surface water that may be in hydraulic connection with surface water” does not make sense.</p> <p>Action: No change is necessary.</p>
2-26	<p>9. After November 5, 2015, any effluent not recycled within the buildings for Nonpotable applications shall be discharged to a centralized</p>	

No.	Comment	Response to Comment
	<p>wastewater treatment plant, such as the Malibu Civic Center Wastewater Treatment Facility, for treatment, when available.</p> <p>Use of recycled water for irrigation is not a discharge. This section should be deleted.</p>	<p>Staff agrees that Prohibition 2 is inconsistent with Provision 28 and Prohibition 2 will be revised to say: "Upon termination of this Order, effluent from the La Paz facility shall be discharged to the Malibu Civic Center Wastewater Treatment Facility or other legal alternative."</p> <p>Staff disagrees that use of recycled water is not a discharge of waste. See response to Item Nos. 1-1, 1-2, and 1-4.</p> <p>Action: Revise Prohibition 2.</p>
2-27	<p>IV. GROUNDWATER REQUIREMENTS</p> <p>3. Groundwater Monitoring: Monitoring of the groundwater for water quality parameters listed in Table 3 and for the elevation of the water table shall take place beginning at least 3 months prior to any discharge to land. At least one upgradient, one cross gradient, and one downgradient wells shall be installed to monitor groundwater impacts caused by the discharge. Groundwater collected from monitoring wells shall not contain constituents in concentrations exceeding limitations listed in Table 3 or the background concentration, if lower than the effluent limitations.</p> <p>These requirements should not apply to La Paz as they defacto will create a permit violation immediately as the existing groundwater does not meet all of the Table 3 maximums. As documented in the February 2, 2011 La Paz SNAP, existing groundwater already exceeds some of these standards and therefore would result in a violation prior to startup.</p> <p>The requirement of not exceeding ambient concentrations that are lower than Table 3 values is in conflict with the La Paz SNMP and State Board policy that allows use of a limited amount of assimilative capacity.</p> <p>Also these requirements do not apply to the City of Malibu permit. Consequently the requirement appears to be arbitrary especially considering that the City's discharge is so much greater than that proposed by La Paz.</p>	<p>The commenter misunderstands the purpose of the groundwater monitoring prescribed in the Monitoring and Reporting Program. The purpose of the monitoring is to understand the impact to groundwater that may be caused by the discharge of wastewater or use of recycled water and assure compliance with the Order. It is premature to determine whether La Paz's discharge will cause any violation.</p> <p>The requirement that the discharge not impact groundwater quality and not exceed the ambient groundwater quality is consistent with the Anti-degradation Policy (State Board Resolution No. 68-16) and the Basin Plan.</p> <p>See response to Item No.2-22.</p>

No.	Comment	Response to Comment
2-28	<p>5. The Discharger shall demonstrate that the discharges from the La Paz Ranch OWDS do not contribute to the degradation of groundwater quality above either the limits specified in Table 3 or ambient groundwater quality as established by monitoring, whichever is lower.</p> <p>Same response as to item 3 above.</p>	See response to Item No. 2-27.
2-29	<p>V. A. & B.</p> <p>“Discharger” should be replaced with “recycled water producer”.</p>	See response to Item Nos. 2-4 and 2-14.
2-30	<p>VII. USE AREA REQUIREMENTS</p> <p>Use area is an area of recycled water use with defined boundaries, which may contain one or more facilities where recycled water is used.</p> <p>The Discharger shall be responsible to ensure that all users of recycled water comply with the following:</p> <p>8. Use of recycled water shall comply with the following:</p> <p>A. Recycled water shall be applied at such a rate and volume as not to exceed vegetative demand and soil moisture conditions.</p> <p>B. Special precautions must be taken to: prevent clogging of spray nozzles, prevent overwatering, and minimize the production of run-off. Pipelines shall be maintained so as to prevent leakage.</p> <p>C. Irrigation at agronomic rates shall be confirmed through the use of equipment for the measurement of soil moisture at depth, daily during the weeks when recycled water is applied, to demonstrate application is complying with the agronomic rate required by the Recycled Water Policy.</p> <p>It is noted that application at agronomic rates is required in this section where previously it was claimed by the LARWQCB that it is not possible.</p>	<p>This comment is misleading. To comply with State Water Board policies and the Basin Plan, the Regional Board requires dischargers to use recycled water for irrigation at an agronomic rate. The Malibu Prohibition prohibits discharges from OWDSs in commercial areas by November 5, 2015. The requirements are not in conflict with each other.</p>
2-31	<p>IX. PROVISIONS</p> <p>8. Recycled Water Policy: The Discharger shall comply with the requirements set forth in the Recycled Water Policy, including the following specific requirements;</p>	

No.	Comment	Response to Comment
	<p>F. The Discharger must document the appropriate use of fertilizer that takes into account the nutrient levels in the recycled water.</p> <p><i>This documentation was previously provided in the La Paz documents submitted to the LARWQCB. The plant fertilizer requirements are at least 5 times greater than nutrients in the recycled water.</i></p>	<p>Comment noted.</p> <p>Action: No change is necessary.</p>
2-32	<p>28. The Discharger shall cease the discharge from the OWDS by November 5, 2015. By October 5, 2015, the discharger shall identify an alternative discharge location, such as the Malibu Civic Center Wastewater Treatment Facility, or other legal alternative to the discharge of waste, to be used after November 5, 2015.</p> <p>This Section should be deleted.</p>	<p>Staff disagrees. La Paz is subject to the Malibu Prohibition. However, Regional Board staff has proposed to revise the WDRs/WRRs to change the termination date to June 30, 2017, to be consistent with the MOU between the Regional Board, the City of Malibu, and the State Water Board.</p> <p>See response to Item No. 1-2</p> <p>Action: Revise termination date in various locations.</p>
2-33	<p>I. REPORTING REQUIREMENTS</p> <p>A. For the initial 12 weeks of operation of the advanced On-site Wastewater Disposal System (OWDS), weekly sampling results shall be submitted monthly on the 15th of the following month. After the initial 12 weeks, monthly samplings results shall be submitted quarterly according to Table 1. The first quarterly monitoring report shall be received at the Regional Board by July 30, 2015.</p> <p>Daily sampling is required during the initial 12 weeks of La Paz, but not the City of Malibu (CoM). La Paz's requirements should be less stringent than the CoM's as the City's system is significantly larger.</p>	<p>Staff disagrees. During the optimization of the La Paz facility, constituents including TOC, TSS, nitrate, nitrite, ammonia, and total nitrogen shall be closely monitored to ensure the effectiveness of the treatment.</p>
2-34	<p>II. WATER QUALITY MONITORING REQUIREMENTS</p> <p>A. Pretreatment and Start-up Monitoring</p> <p>3. Water Conservation Report.....The first report is due 30 days after approval of this Order</p> <p>The first report should be due 3 months before recycled water production.</p>	<p>Comment noted. The Monitoring and Reporting Program will be revised accordingly.</p> <p>Action: Revise monitoring and reporting program.</p>
2-35	E. Irrigation/Groundwater Monitoring	

No.	Comment	Response to Comment
	<p>2. Irrigation Monitoring: daily testing shall be performed to document irrigation rates.....A sample irrigation monitoring program is as follows:</p> <p><i>“Oil Tensiometer” should be “Soil Tensiometer”.</i></p> <p><i>Daily sampling during irrigation for Chloride, boron, sulfate, TDS, and TN is excessive, onerous and unnecessary and should be deleted. As the influent to the storage tank is sampled frequently per permit requirements, the recycled water system has a long residence time in the storage tank and recycled water for irrigation will be fed from the large storage tank, the recycled water quality can be reliably calculated. The La Paz Irrigation Operation & Management Plan (IOMP) dated January 5, 2011 previously submitted to the LARWQCB provides details on the irrigation system.</i></p> <p><i>The recycled water nitrogen application rate assuming actual effluent TN of 5 mg/L at full design flow would only be 0.72 lbs/1,000 sf-year. As lawns require a minimum of 1-3 lb/1,000 sf-year. Recycled water nitrogen is less than landscape nitrogen requirements. Consequently landscape fertilization will be needed. The IOMP will document fertilizer usage to ensure the minimum fertilizers are used.</i></p> <p><i>In addition, it is noted that there is no requirement for irrigation sampling for the city of Malibu WDR/WRR that proposes to irrigate significantly greater volumes than La Paz.</i></p> <p><i>The attached Tables 1 through 3 present and compare the tentative La Paz and City of Malibu WDR/WRR sampling and effluent permit requirements.</i></p>	<p>Comment noted. The Monitoring and Reporting Program will be revised accordingly. Action: Change had been made.</p> <p>Staff disagrees. Sampling frequencies for chloride, boron, sulfate, TDS and total nitrogen are daily for the first 12 weeks and weekly thereafter. It is critical to understand whether the wastewater treatment system is optimized properly in order to ensure treatment effectiveness. Therefore it is adequate to require the sampling frequency currently prescribed in the MRP.</p> <p>See response to Item No. 1-17.</p> <p>See response to Item No. 2-22.</p>
Heal the Bay		
3-1	<p>The Tentative Permit correctly allows septic system discharges from the Malibu Ranch La Paz LLC property until November 5, 2015, consistent with the commercial deadline contained in the Septic Prohibition. After November 5, 2015 any effluent not recycled within buildings on the property for non-potable application will be required to be sent to a</p>	<p>The Regional Board has no authority to require Malibu La Paz to develop their property concurrently with the construction of the Malibu Civic Center Wastewater Treatment Facility, but we do encourage them to do so.</p>

No.	Comment	Response to Comment
	<p>centralized wastewater treatment plant, such as the Malibu Civic Center Wastewater Treatment Facility (“WWTF”), when available. Given the fact that the La Paz Ranch project has yet to be built and there are currently no OWDS discharges from the property, we believe that the most appropriate course of action would be to develop the property concurrently or after the completion of the Civic Center WWTF and avoid altogether the need to construct an OWDS. For this reason, we strongly urge the Malibu La Paz Ranch LLC to postpone development of the property until the Malibu Civic Center WWTF is operational and the property can hook up to the facility. In addition, we suggest that any development on the Malibu La Paz Ranch LLC property use recycled water to its fullest extent possible; given the current extreme drought California is experiencing, diversifying regional water portfolios with a variety of water qualities is essential for long-term water sustainability.</p>	<p>It is the Regional Board staff’s understanding that Malibu La Paz and the City of Malibu have entered into an agreement regarding connection to the City’s centralized wastewater treatment facility.</p> <p>Action: No change is necessary.</p>
3-2	<p>We feel it is important that any future septic discharges, initiated during the Tentative Permit term, to groundwater from the La Paz property be phased-out prior to the expiration of this permit, no further permits be granted to the Permittee, and no OWDS be constructed on the property after November 5, 2015 as this would violate the Septic Prohibition. Not accounting for groundwater impacts if OWDS were constructed and irrigation was used for “discharge”, in general, we support the Tentative Permit as written. The completion of the Civic Center Wastewater Treatment Facility in accordance with the schedule set forth by the Regional Board is essential for restoring beneficial uses to Malibu Creek and Lagoon and coastal waters. The Tentative Permit correctly mirrors the commercial property phase-out deadline contained in the Septic Prohibition and any development on the Malibu La Paz Ranch LLC property developed prior to the expiration of this permit needs to connect to the centralized wastewater treatment facility in the Civic Center area.</p>	<p>Comments noted. Note that to be consistent with the MOU between the Regional Board, the City of Malibu, and the State Water Board, the Regional Board staff proposes to revise the Tentative WDRs/WRRs to establish a termination date of June 30, 2017, the date the City of Malibu intends to have the centralized wastewater treatment system in operation. In that MOU, the Regional Board has agreed not to enforce the Prohibition against individual dischargers that are in compliance applicable WDRs.</p> <p>Action: No change is necessary.</p>