

STEVE LITTLEJOHN
PO Box 176
Malibu, CA 90265

6/29/11

Via Fedex Overnight and via email ewu@waterboards.ca.gov

Dr. Eric Wu, Chief of Groundwater Permitting Unit
Calif. Regional Water Quality Control Board, LA Region
320 W. 4th St, Suite 200
LA, CA 90013

RECEIVED
2011 JUL 1 AM 11 04
CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD
LOS ANGELES REGION

Re: MOU between the City of Malibu and the RWQCB

Dr. Wu:

I attended the latest Malibu City Council meeting (6/27/11) where they passed the MOU between the Water Boards and the City and today I attended a stakeholder's meeting at the City Hall to try to figure out what and why the Water Boards have not only banned septic systems in the "butterfly" area drawn in the Civic Center area of Malibu proposed septic ban map, but also have come up with a moratorium on issuing new septic system permits for the areas in phases 1 and 2 for any new development. As my sister and I inherited our father's property in the Malibu Colony (shown as phase 2 on this map), we are illegally being denied the full use of our property which consequently lowers market value for no reason whatsoever as explained below.

State water code section 13280, which the Water Boards are governed by, allows the use of septic systems where water quality can be attained. As the USGS study has and or is showing, there is essentially zero bacteria leeching into the ground water system which ultimately migrates to the Malibu Lagoon from any of the septic systems in the area. Since the new modern septic systems produce essentially clean water and can also be designed to remove the problematic nutrients that have been cited as exacerbating the problems in the Lagoon, there is absolutely no violation of State water code 13280 that has been shown by evidence. And evidence has to be shown for the Water Boards to affect such a ban. Therefore the ban is totally illegal. Further, code 13280 reads "a determination that discharge of waste from existing or new individual disposal systems or from community collection and disposal systems which utilize subsurface disposal should not be permitted shall be supported by substantial evidence in the record that discharge of waste from such disposal systems will result in violation of water quality objectives, will impair present or future beneficial uses of water, will cause pollution, nuisance, or contamination, or will unreasonably degrade the quality of any waters of the state." So with this in mind, where is the evidence that the current old style OSDS being used at our property 23452 Malibu Colony Rd, Malibu, CA 90265 is causing any

degradation to the water quality? If so, then why didn't we receive a notice of violation and be allowed to make repairs as the Water Board is required to do? Why are we being held in a moratorium if we wanted to upgrade the system to develop our property without proper notice? How can what you are doing be legal? Where is our notice that as of 2019 we can no longer have a septic system? We never received such a notice.

I have learned that the Water Boards lack direct condemnation or eminent domain authority. A moratorium and or a ban without a sewer to hook up coupled with no evidence, notice, or ability to make repairs if needed stacks up to exactly that.

I learned at the Stakeholder's meeting today that Mark Gold of Heal the Bay has huge sway with the Water Boards. Without any evidence whatsoever, Mark points to a map and says that he wants this part of Malibu or that part of Malibu hooked up to a central sewer. And then the Water Board just goes along with it! How can you let this happen when so much is at stake? Shame on you for letting politics lead you by the nose. Now with the USGS study showing no connection to the high bacteria levels in the Lagoon, it is as if a convicted murderer is exonerated by modern DNA evidence, but the judge won't free him from jail.

A law suit was filed that states: "The ban is arbitrary, capricious, unreasonable, overbroad and confiscatory. It is an exercise of authority in excess of and without jurisdiction, is a usurpation of power, authority and jurisdiction, is without any factual support, and is invalid as a matter of law and therefore null and void." Once again agencies that we pay for with public funds violate the law and leaves the only venue for the aggrieved citizens the courts and the ensuing writs of mandate. I can only pray that the courts rule against you. I have read the brief and I feel the case against you is very strong.

I understand that 2 of the 3 major commercial centers in the Civic Center of Malibu have already upgraded to new modern systems that even filter out the nutrients. The water that enters the ground water table is absolutely clean. The 3rd center is appropriately being cited by the Water Board of various violations that will force them to install a new modern system. This is the job the Water Board should be doing: issue violation notices and let the corrections get done. Not illegally stepping out of its authority and banning all OSDS's because Mark Gold said so.

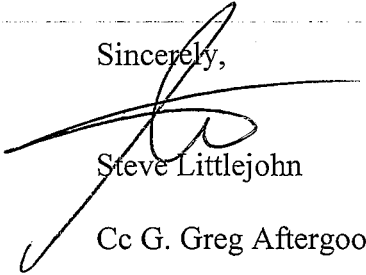
The real elephant in the room is that modern OSDP's are actually far superior to a centralized sewer system. This is because the modern systems won't sludge up like the older aerobic systems of yore and produce clean effluent. And if there is ever a problem, it is a micro problem limited to a single residence or commercial property. A centralized sewer is a horror of enormous scale just waiting to happen with raw sewage dumping into our Lagoon and ocean filled with endangered species. In the event of a massive earth quake, a massive infrastructure (ie power) failure, pump failure, or just sewer pipes that cross the lagoon that age and burst this could and likely will be the result.

Then you have the cost of all this which is unknown. In this rough economy, how much is each residence going to need to cough up under the assessment district? And what is

the ongoing monthly fee going to start at and how much will it rise in the future? Will this drive some of the lower income older residents out of their houses?

To finalize, I wish the Water Boards to follow the law and stay within their duties as allowed under the law. On a personal basis, your illegal and unfounded actions are costing my sister and me millions of dollars. You should at minimum let existing properties shown in all phases on the butterfly map be allowed to be develop if modern septic systems are employed.

Sincerely,



Steve Littlejohn

Cc G. Greg Aftergood, Esquire