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Eric Wu, PhD
California Regional Water Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, California, 90013

July 1, 2011

RE: MEMORANDUM OF UNDERSTANDING BETWEEN CITY OF MALIBU AND REGIONAL WATER QUALITY CONTROL BOARD, LOS ANGELES REGION AND STATE WATER RESOURCES CONTROL BOARD REGARDING PHASED IMPLEMENTATION OF BASIN PLAN AMENDMENT PROHIBITING ON-SITE WASTEWATER DISPOSAL SYSTEMS IN THE MALIBU CIVIC CENTER AREA

Dear Dr. Wu,

The Surfrider Foundation is a non-profit grassroots organization dedicated to the protection and enjoyment of our world's oceans, waves, and beaches. Founded in 1984 by a handful of visionary surfers in Malibu, California, the Surfrider Foundation now maintains over 50,000 members and 90 chapters worldwide. We represent over 22,000 paid members in the state of California.

Surfrider Foundation has been advocating for improved water quality at Surfrider Beach for over two decades, and was one of the first environmental organizations that gave voice to this issue. Our members have submitted written and oral testimony to both the Los Angeles Regional Water Quality Control Board (RWQCB) and California Regional Water Control Board on countless water quality issues, including our strong support of the Malibu Septic Prohibition, which was adopted by the Regional Board on November 5, 2009. The Malibu Septic Prohibition was approved following a comprehensive process, including consideration of comments from all stakeholders and extensive comments from the City of Malibu.

Although we understand the Tentative MOU is crafted to provide guidance and allows for flexibility, we feel the Tentative MOU strays significantly from the Malibu Septic

Prohibition and Regional Board Resolution No. R4-2009-007, which together provided a clear implementation plan to achieve the goals of the Basin Plan Amendment.

The Tentative MOU is fairly vague at several points and does not provide clear and certain guidance on the phased implementation of the Basin Plan Amendment prohibiting on-site wastewater disposal systems in the Civic Center area, as follows:

- The Water Quality Sampling Program is vague and needs to be strengthened. How will this program work with and/or affect local NGOs, and how will the City of Malibu work to notify the public on water quality findings and actions that will be taken by the City and/or Water Board as a result of these findings?
- The Tentative MOU has added an entirely new Phase III, including significant changes in dates for compliance, and no clear guarantees or well-defined triggers for activation. This is a drastic change from the Malibu Septic Prohibition;
 - Instead of discontinuing septic system discharges by November 5, 2015, certain commercial properties in the prohibition area *may* be allowed to continue discharging at least until November 5, 2025 and possibly indefinitely.
 - Instead of discontinuing septic system discharges by November 5, 2019, certain residential properties *may* be allowed to continue discharging at least until November 5, 2025 and possibly indefinitely.
- The MOU should include specific levels of wastewater treatment required for the facility. On p.3 Article II A. describing the City's duties for Phase One, it states, "The City's Wastewater Treatment Facility may consider the use of deep well or groundwater injections without reverse osmosis as a method of dispersal of effluent from the proposed Wastewater Treatment Facility." Our members are concerned this may allow a lower level of wastewater treatment than what would otherwise be required.
- The MOU should prioritize water recycling and reuse. The MOU must have clear language requiring the City of Malibu to maximize water recycling and reuse in the Civic Center and adjacent areas, including water storage.
- Detailed public stakeholder involvement plans should be outlined for all Phases. Public outreach meetings are mentioned only once for Phase One, but not mentioned as a requirement for Phase Two or Phase Three proceedings. There are great concerns with transparency and public involvement.
- The MOU should clearly describe what happens if the voters reject the formation of one or more assessment districts. We are concerned what will happen if the funding sources or the assessment districts operation plans fall through, and request clarity on steps that will be taken for each possible

outcome. What assurances do we have that this plan will work, and what are the enforcement assurances?

Surfrider Foundation has invested over two decades of community-driven volunteer resources in the protection of Malibu Creek, Lagoon, and surf zone at Surfrider Beach. This important coastal resource has suffered from years of chronic poor water quality.

The West Los Angeles/Malibu Chapter is an all-volunteer organization whose members have “real-life” demands outside of their volunteer commitment to our organization. Providing only 10 days from the receipt of the tentative MOU to crafting a well-informed comment letter was extremely difficult to accomplish. Thank you in advance for considering this challenge for organizations like ours and work to provide us fair and ample time in the future to reach out to our grassroots activists in the area.

600 violations for 19 Civic Center dischargers between 2004-2009 is shocking, and simply unacceptable. Surfrider Foundation members wish to see a clear and strong plan for maximum wastewater treatment and recycling of wastewater. On behalf of the Foundation, the West Los Angeles/Malibu Chapter urges the Water Board to strengthen the MOU as outlined above.

If you have questions regarding these comments, please don't hesitate to contact me at 310.995.7873.

Respectfully,

Nancy Hastings
Southern CA Field Coordinator

On behalf of the Surfrider Foundation West Los Angeles/Malibu Chapter