



City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

November 14, 2011

OWTS Policy
State Water Resources Control Board
PO Box 2231
Sacramento, CA 95812

Sent via email to:
owts_commentletters@waterboards.ca.gov

Subject: City of Malibu Comments on Proposed "Policy for Siting, Design, Operation, and Management of Onsite Wastewater Treatment Systems"

The City of Malibu has prepared this comment letter in response to the State Water Resources Control Board (SWRCB) solicitation for public comment on the September 30, 2011 draft "Policy for Siting, Design, Operation, and Management of Onsite Wastewater Treatment Systems" (hereinafter Policy). Thank you for the opportunity to comment on the Policy, as this is an important issue for the City.

Malibu has many onsite wastewater treatment systems (OWTS) situated near sensitive water environments, and our staff has considerable experience in overseeing the design, construction, and operation of hundreds of OWTS that incorporate supplemental treatment for nitrogen reduction and disinfection.

Since 1991 the City of Malibu has locally administered OWTS construction permitting programs for residential and commercial OWTS. Through a 2004 memorandum of understanding (MOU) with the Los Angeles Regional Water Quality Control Board, the City of Malibu was designated a Qualified Local Agency (QLA) for implementation of State requirements for residential and some small commercial OWTS.

The City is overall very supportive of the Policy, as presented, and was pleased to see that the Policy mirrors many of the progressive OWTS management steps taken by the City since the passage of the original AB885 legislation. Malibu's locally implemented management steps include, notably among other items, an operating permit program and a requirement for all new OWTS on beachfront property to include secondary treatment with disinfection.

Generally, with respect to the policy, the City's biggest priority is being able to maintain the successful and environmentally sound aspects of its existing OWTS permitting program. Our specific comments to the draft Policy are presented below.

Under Tier 3, the proposed connection between OWTS and TMDLs provides for an equitable manner to treat existing OWTS, by taking into account other sources of impairment that may also be addressed in the TMDL. The City's understanding of the TMDL relationship under Tier 3 is as follows:

1. If a TMDL is in place to address an impairment for pathogens or nitrogen, and where that TMDL does not assign a load allocation to OWTS, then the Policy says that local agencies and existing OWTS owners adjacent to the impaired water body must follow the implementation plan as set forth in the TMDL implementation documents.



2. The Santa Monica Bay is listed as impaired for bacteria (pathogens). So as applied to Malibu specifically, the City understands the Policy to say that the Santa Monica Bay Beaches Bacteria (SMBBB) TMDL (i.e., wet weather and dry weather TMDLs) qualifies as such an adopted TMDL under Tier 3. As such, the provisions of the SMBBB TMDL Implementation plan would apply (as exists and as may be amended in the future). City staff received verbal confirmation that this is a correct interpretation of how the policy will be implemented. Please confirm that that the City's interpretation of the Policy is correct.

The City's second priority is ensuring that the setback requirements in Section 7.5.5 are realistic and attainable. This section is referenced in Tiers 1 & 3. The requirement appears to require a 200 foot setback from "...the mean high tide line for tidally influenced water bodies," which includes the ocean. Please confirm whether the new setback requirements would apply to new OWTS (i.e., infill development) adjacent to the ocean, specifically on the Santa Monica Bay Beaches. This requirement is more restrictive than current standards and may not be attainable on many oceanfront properties. This would have the effect of restricting much of the infill development on oceanfront property. In many cases the lots are not deep or wide enough for the OWTS to be set back 200 feet. If the setbacks do apply, the City recommends providing an exception to allow new OWTS installations within the setback area provided that:

1. The property adjacent to the impaired water bodies, is less than 200 feet in depth perpendicular to the impaired water body (the ocean), or where compliance is not feasible due to other physical constraints;
2. The new OWTS has advanced treatment (secondary treatment with disinfection); and
3. The local agency can determine how to site the new systems under this exception through its Advanced Protection Management Program.

Finally, the City has some concerns regarding the requirement under Tier 2 for local agencies to establish terms, conditions, and timing for monitoring and assessment of groundwater and local surface water across the entire jurisdictional area. We appreciate the provision for local agencies to potentially use existing data to help meet this requirement; however, we are also concerned about the potential for such an "open ended" requirement for new monitoring programs and the potential costs associated with such programs. Please provide more detail as to what will be expected under this requirement.

Thank you again for the opportunity to comment and subject to the above comments, the City is supportive of the Policy.

Sincerely yours,



Andrew Sheldon, PhD, PE, REHS
Environmental Health Administrator



for Craig George
Environmental and Building Safety Division
Manager

cc: Jim Thorsen, City Manager
Victor Peterson, Environmental Sustainability Department Director

