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# California Regional Water Quality Control Board
## Los Angeles Region

Linda S. Adams
*Cal/EPA Secretary*

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Arnold Schwarzenegger
*Governor*


May 4, 2010

Ms. Christi Hogin
Jenkins & Hogin, LLP
1230 Rosecrans Avenue, Suite 110
Manhattan Beach, CA 90266

RE: THE CITY OF MALIBU'S REQUEST FOR RECONSIDERATION OF RESOLUTION NO. R4-2009-007

Dear Ms. Hogin:

This acknowledges receipt of the City of Malibu's request for reconsideration of Resolution No. R4-2009-007 or to alternatively amend the Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura Counties, dated March 25, 2010. Resolution No. R4-2009-007 was adopted by the Regional Board on November 5, 2009.

The Regional Board staff has reviewed the list of 23 studies (page 9, list under "Exhibit 2" heading) that are referred to as "recent scientific information." Of the 23:

A. One (1) study is new and provides relevant information to the Malibu Civic Center Area but the results were described for the Regional Board at the hearing. The USGS report (#18 on the list) describes one week when no bacteria were found in groundwater wells and so groundwater-related bacteria discharge could not reasonably be expected. It was also a storm period when the ocean breached the barrier and flooded the lagoon and several feet of tidal surge was recorded in the monitored groundwater wells. We understand that USGS is doing additional studies for the City of Malibu.

B. Four (4) studies were published after 2007, are not included in staff's reference list and could possibly provide new information, but none of these studies describe beaches with conditions like those seen at Malibu (#6, #8, #9, #14), with a potential non-point source supply of human waste. They describe the limitations of closing beaches using enterococcus as an indicator of human illness where no sewage source is present.

C. Two (2) studies were presented and considered by the Regional Board at the November 5th Board meeting (#15 and #16). The studies describe the use of bacteriordales (human marker).

D. The remaining sixteen (16) were considered in the development of the prohibition and/or referenced by staff (#1-5, #7, #10-#13, #17, #19-23). They emphasize the role of storm water, animal sources, and other indicators in predicting human illness. One is an epidemiology study at Mission Beach showing that enterococcus does not relate to human illness where a human sewage source is lacking, but this does not refute the existing 1996 epidemiology study at Surfrider which shows that enterococcus does relate to human illness in the Malibu Civic Center.

The City of Malibu informed the Regional Board at the hearing about all of the new studies that were not completed. The Regional Board considered that information but believed there was sufficient evidence from the studies that were complete at that time to amend the Basin Plan.. The Regional Board believes its Resolution is supported by substantial evidence and that no new evidence has been presented in the City's petition.

The City alternatively requests that the Regional Board amend the Basin Plan amendment, which is pending consideration before the State Board. In light of the City's continuing studies, as described in the petition and in the press, the Board respectfully declines to begin a new amendment process now. Please notify us when there is new information and details about the City's plan to address the underlying issues.

Sincerely,

Mary Ann Lutz
Chairperson
Los Angeles Regional Water Quality Control Board

Cc: Interested Persons list