



City of Malibu

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July 24, 2017

Sent via email to commentletters@waterboards.ca.gov

Attn. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Letter 10



RE: **Comment Letter – Bacteria Provisions**

Dear Ms. Townsend:

The City of Malibu (City) has prepared this comment letter in response to the Notice of Opportunity for Public Comment, Public Hearing, and Notice of Filing issued by the State Water Resources Control Board (SWRCB) in connection with updates to the bacteria provisions of the Water Quality Control Plan for Ocean Waters of California (Ocean Plan) and the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California (ISWEBE). **We appreciate the effort SWRCB is making to address water quality concerns regarding pathogenic microorganisms in waters of the State of California. The Pacific Ocean and coastal streams are vital resources in our community.**

10.01

Overall, the City is supportive of the proposed water quality control plans' amendments. However, there are three areas where we have substantial concerns. Accordingly, we offer the following comments.

Onsite Wastewater Treatment Systems

10.02

Under Ocean Plan subsection III.D.2(a)(1) and ISWEBE subsection IV.E.2(a) the two plans' proposed amendments both state:

The implementation procedures ... apply to non-point source discharges except on-site wastewater treatment system discharges, and storm water discharges regulated pursuant to section 402(p) of the Clean Water Act except industrial storm water discharges, and may only be implemented within the context of a TMDL.

The City of Malibu is situated in a coastal watershed area with abundant natural sources of fecal indicator bacteria. Malibu also has a significant number of onsite wastewater treatment systems (OWTS) serving existing development. We understand that it would be inappropriate to consider bacteria in OWTS discharges as natural sources in discharge permits for point sources (e.g., for

effluent or groundwater limits in OWTS discharge permits), yet we are concerned that, as written, the amendment may be construed to mean that watershed areas where OWTS are present will be ineligible for application of Reference System/Antidegradation Approach (RSAA) and/or Natural Source Exclusion (NSE) procedures in the context of a Total Maximum Daily Load (TMDL) standard. It appears that, without any justification or explanation in the staff report, OWTS have been singled out among other anthropogenic non-point sources of bacteria, such as leaky sewers, that may be found in areas that otherwise will be eligible to implement the new procedures. We request that the amendments' language be modified so as to make watershed areas where OWTS are present eligible for application of the implementation procedures for natural sources.

Stormwater

10.03

As mentioned above, the City of Malibu is situated in a coastal watershed area which has abundant natural sources of bacteria. Malibu has several ocean beach monitoring sites where bacteria levels are found above recreational water quality objectives on a recurring basis. The North Santa Monica Bay Coastal Watersheds area is largely undeveloped (93% vacant land use), the majority of which is designated as natural open space. The City desires the ability to someday possibly use natural source compliance provisions for non-anthropogenic bacteria in stormwater flowing from undeveloped areas. As written, Ocean Plan subsection III.D.2(a)(1) and ISWEBE subsection IV.E.2(a) (quoted above) may be construed to mean that watershed areas where natural sources of bacteria affect stormwater quality will be ineligible for application of the implementation procedures for natural sources in the context of a TMDL or discharge permits for non-point sources. It appears that, without any justification or explanation in the staff report, stormwater flowing from undeveloped areas with no anthropogenic sources of bacteria has been excluded from eligibility to implement the new procedures. We request that the amendment language be modified so as to make natural sources of bacteria in stormwater eligible for application of implementation procedures contained in the amendments.

Site Specific Objectives

10.04

In its 2012 updated Recreational Water Quality Criteria (RWQC), the United States Environmental Protection Agency (USEPA) began providing information on tools for developing alternative RWQC on a site-specific basis, such as epidemiological studies in both marine and fresh waters and quantitative microbial risk assessment (QMRA). Inasmuch as the proposed water quality control plans' amendments are based on the USEPA's 2012 RWQC, we anticipated the new bacteria provisions to include at least some recognition of these novel compliance approaches, and we expected the new provisions would facilitate the development of bacteria compliance approaches based on site-specific objectives, QMRA, and risk/illness based expressions of water quality standards. The absence of these approaches in the amendments is disappointing and we respectfully request that provisions to use these approaches be included in the plans' amendments.

The City appreciates the opportunity to provide comments on the bacteria provisions. If you have any questions about these comments, please contact Dr. Andrew Sheldon, Environmental Sustainability Manager, at (310) 456-2489 ext. 251, or by email to asheldon@malibucity.org.

Sincerely,



Craig George
Environmental Sustainability Director

cc: Reva Feldman, City Manager
Jennifer Voccolla Brown, Senior Environmental Programs Coordinator