

Responsiveness Summary – MOU between City of Malibu, Los Angeles Regional Water Quality Control Board and State Water Resources Control Board (Comment Due Date July 1, 2011)

1. Malibu Bay Co
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19. Toni Littlejohn
20. Tommy Nefcy
21. Louis Busch
22. Surfrider Foundation – Comment received late

No.	Author	Date	Comment	Response
1.1	Malibu Bay Co	July 1	We endorse the draft MOU and would like to congratulate the Staff of both the RWQCB and the City of Malibu for the spirit of cooperation and hard work which the MOU demonstrates. We believe the MOU represents a practical and well thought out approach to	Comment noted.

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			improve water quality in the Malibu Civic Center and Malibu Lagoon.	
2.1	Malibu Road Association	June 29	The proposed phasing plan that has been detailed in the MOU lays the framework for an achievable solution that meets the financial, scientific, and political needs for Malibu to move forward. In addition, this plan has the highest levels of water quality protection as it targets the highest users in phase 1 and then targets those residential units in phase 2 that have the potential to impact to Malibu Creek and other areas	Comment noted.
3.1	Mariposa Land Company Ltd	June 30	I am writing to express my support for the approval of the proposed MOU between the City of Malibu and the RWQCB.	Comment noted.
4.1	Vista Pacifica Townhome Association	June 30	<p>As President of the Homeowners Association of Vista Pacifica Townhomes, a 17 unit complex that is in Phase II of Malibu City's proposed Civic Center Waste Water Treatment Plan, my Board of Directors and I wish to express our strong and unequivocal support for the City's Tentative Memorandum of Understanding (MOU) with the Regional and State Boards.</p> <p>Along with three other condo/townhome complexes, whereby together we comprise 191 units, our townhome complex has been connected to the county operated waste water treatment plant at Vista Pacifica & Civic Center Way for over thirty years, which we believe has helped mitigate contamination of groundwater and Malibu Lagoon. Our townhome owners paid for the operational costs of the plant and for the plant's expansion and</p>	As the comment has identified, the greatest strength of the MOU is that the proposed treatment facility aims to reduce bacteria and nitrogen concentrations which directly impact the surrounding environment. Phase I of the MOU does not preclude residential properties from connecting to the new wastewater treatment plant, and staff agrees that it may be a desirable option.

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			upgrade in the early 2000's. However, we expect that the life-span of the plant will be coming to end by sometime after 2020, so it would make sense for us to tie-in into a new, state-of-the art wastewater treatment plant in Phase II as proposed by the tentative MOU.	
5.1	Sally Benjamin	July 1	Issues raised by me personally and many other individuals regarding this ban remain unanswered and unresolved today. When new test results are received they should be processed in a timely manner, applied and the MOU adjusted as needed. Everyone must remember that implementing a program which spends millions of tax payer dollars, in the end, must actually resolve the problem. While the MOU is not a perfect document, both parties demonstrate a commitment to work together to understand the pollution sources and resolve the problems in the Lagoon and Malibu Creek. I support the City of Malibu and Mr. Unger continuing weekly meetings to resolve the issues that remain and/or develop during the progress of the MOU. I would like to see the City of Malibu and Regional move forward by adopting this MOU.	The Regional Board staff agrees that the City and the Regional Board should continue to work together by adopting the MOU. The purpose of the future technical studies completed during the implementation of Phase I and II will be used to evaluate whether the quality of the receiving waters is improved by eliminating ongoing discharges of waste to the subsurface in Phase I and II areas and to inform the likely impact of Phase 3 requirements on receiving water quality.. . If the Regional Board concludes that the Phase III properties need not be subject to the prohibition, it will proceed to amend the Basin Plan Amendment as soon as is reasonable.
6.1	Coldwell Banker Malibu Colony	June 30	I am writing to express my support for the approval of the proposed MOU between the City of Malibu and the RWQCB.	Comment noted.
7.1	Meril May	June 30	The MOU is the right step for both agencies to achieve that goal. The proposed phasing plan that has been detailed in the MOU lays the framework for an achievable	Comment noted.

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			solution that meets the financial, scientific, and political needs for Malibu to move forward. In addition, this plan has the highest levels of water quality protection as it targets the highest users in phase 1 and then targets those residential units in phase 2 that have the potential to impact to Malibu Creek and other areas.	
8.1	Coldwell Banker Pt. Dume	June 30	I am writing to express my support for the approval of the proposed MOU between the City of Malibu and the RWQCB.	Comment noted.
9.1	Steve Soboroff	July 1	Congratulations to the staff of the Regional Board and the staff of the City of Malibu, and all those who worked so hard to create an Agreement that is doable: a strict, tough, practical Agreement.	Comment noted.
10.1	Heal the Bay	July 1	Given Heal the Bay's demonstrated strong interest in the Malibu Creek watershed and our active involvement in the adoption of Resolution R4-2009-007 to prohibit on-site wastewater disposal systems (OWDSs) in the Malibu Civic Center Area, we are extremely disappointed that our participation in discussions on the Tentative Memorandum of Understanding with the City of Malibu on the Malibu Civic Center Area Prohibition ("MOU") never involved MOU language review. If the Regional Water Board and Malibu truly wanted environmental group involvement in MOU negotiations, then we would have been allowed to review and negotiate draft MOU language.	Although not required by law, the Regional Board has provided an opportunity for interested persons to comment on the Tentative MOU. The negotiations were conducted primarily in confidence between the parties, which is typical where there is threatened litigation, as is the case here. The City of Malibu has threatened to sue the State and Regional Water Boards. However, representatives of Heal the Bay were included in some discussions with the parties to the MOU.
10.2	Heal the Bay	July 1	In addition, State Water Board technical staff was excluded from the discussions and also excluded from	Regional Board staff has been in communication with appropriate State Water

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			<p>language review, which is of great concern. These frustrations are further exacerbated by the fact that stakeholders were only provided <i>eight</i> business days to review and comment on the MOU. Arguably one of the most critical and complex water quality issues that our Region has faced this decade is being rushed through the process in a completely nontransparent manner. This is unacceptable.</p>	<p>Resources Control Board (State Water Board) staff. In addition, while stakeholders were provided 10 days to submit written comments, stakeholders also have an opportunity to make oral comments at the board meeting.</p>
10.3	Heal the Bay	July 1	<p><u>The Regional Board must give the City of Malibu greater accountability in the MOU</u></p> <p>The MOU relies on the formation of assessment districts in order to fund the construction of the central Wastewater Treatment Facility and connections. However, the MOU does not adequately describe what happens if the voters reject the formation of one or more assessment districts, which is entirely plausible. For example, will the Regional Board issue individual waste discharge requirements for every single property in Serra Retreat and the Colony? Given the Regional Board's limited resources, this seems implausible. Or will the Regional Board immediately enforce the Basin Plan Amendment if this occurs? Will the City of Malibu issue individual operating permits for each site? The MOU should include additional clarity for each possible outcome and give the City of Malibu a greater level of accountability in the event that no assessment district is formed.</p>	<p>The Tentative MOU is not intended to address every contingency, but rather to establish an understanding between the City of Malibu and the Regional Board and the State Water Board with respect to a schedule to construct one or more wastewater treatment facilities. The Tentative MOU addresses some alternatives in the case the assessment districts are not formed. Neither the City, nor the Regional Board or State Water Board has the legal authority to alter Proposition 218. The Regional Board may terminate the MOU at any time and take any available enforcement or regulatory action, such as issuance of administrative civil liability or cease and desist orders against any or all properties within the prohibition area, or issuance of waste discharge requirements. It would not be appropriate to prejudge what that may be. The Regional Board agrees that it has limited resources, and that is one of the reasons why it is</p>

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				reasonable for the Regional Board to enter into the MOU to cooperate in the construction of one or more centralized wastewater treatment facility to address the serious water quality problems.
10.4	Heal the Bay	July 1	The MOU sets the deadlines of September 30, 2013 and September 30, 2017 for the formation of these districts during Phase I and Phase II, respectively. This schedule is problematic in the event that voters reject the formation of assessment districts. Under the proposed scenario, the City would only have two years to issue operating permits and ensure that individual property owners had made necessary upgrades to their OWDSs. This timeframe is far too tight: Instead at a minimum, the Regional Board should move these dates up by a year (September 30, 2012 and September 30, 2016) to ensure that there is time to comply with the MOU. The MOU should also specify that operating permits with the specified advanced treatment, inspection and monitoring requirements must be in place within 90 days of the end of the election in the event that the assessment district vote fails.	The dates in the Tentative MOU were established to provide sufficient time to develop a robust and accurate plan to assure that cost estimates are as accurate as possible. The Tentative MOU establishes a process for requiring upgraded systems if the assessment districts are not formed. Given that the prohibition on existing properties does not go into effect until 2015 for commercial properties or 2019 for residential properties, the 90 day requirement seems unnecessary. The Regional Board may terminate the MOU at any time and take enforcement action, including requiring upgrades. The Regional Board, pursuant to Water Code section 13225(d) can request local agencies to enforce their laws, but cannot require them to do so.
10.5	Heal the Bay	July 1	The operating permit modifications and new requirements for Phase 1' and Phase 2 shall be added as amendments to the current Malibu OWDS operating permit ordinance by December 31, 2012. The modifications can read as follows, "In the event that voters decide not to approve an assessment district, then the following amendment to Malibu's OWDS operating	The Tentative MOU establishes a process for providing upgraded systems if an assessment district is not formed. Given that the prohibition on existing properties does not go into effect until 2015 or 2019, the 90 day requirement seems unnecessary. The Regional Board may terminate the MOU at

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			<p>permit ordinance shall become effective 90 days after the pertinent election for that Phase. All facilities that do not hook up to Malibu's sewer system shall upgrade their OWDS to advanced treatment (Title 22 requirements for fecal indicator bacteria and/or total nitrogen of 10 mg/1 or less as appropriate for the potential impact of the OWDS to cause or contribute to receiving waters impairments and/or water quality, standards exceedances by no later than November, 2019 for Phase 2 properties and November, 2025 for Phase 3 properties that contribute to water quality standards exceedances."</p>	<p>any time and take enforcement action, including requiring upgrades. The Regional Board, pursuant to Water Code section 13225(d), can request local agencies to enforce their laws, but cannot require them to do so.</p> <p>Modifications to the Malibu Operating Permit Ordinance are not necessary to address the scenario in which the voters do not approve an assessment district. First, if the City amends its Ordinance to allow advanced OWDSs in an area covered by the prohibition, the amended ordinance would conflict with the existing prohibition that prohibits such discharges. Second, the proposed ordinance could potentially conflict with the Regional Board's ability to take other enforcement actions. Finally, this amendment is not needed. If the Regional Board decides to require upgrades to OWDSs within the prohibition area, it can issue waste discharge requirements to properties within the prohibition area, and the owners would need to obtain an Operating Permit under Malibu's existing code.</p>
10.6	Heal the Bay	July 1	Malibu foregoes their right to sue the Los Angeles Regional Water Quality Control Board or the State Water	The Regional Board staff does not disagree with the comment, but pursuant to Water

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			Resources Control Board over any terms stated within the MOU or over any pertinent; current Basin Plan Amendments including TMDLS, and Clean Water Act and Porter Cologne Act requirements until the city fully complies with the terms of the MOU.	Code section 13225, the Regional Board staff believes that the MOU provides a framework for the Board and the City to attempt to work cooperatively with the City to solve the serious water quality problem. See Response 11.8.
10.7	Heal the Bay	July 1	Although we would prefer language that would hold Malibu directly accountable for the failure of Phase 1, 2 and potentially polluting Phase 3 facilities to meet the MOU's compliance deadlines, and we would prefer for Malibu to pass an ordinance within a year that requires OWDS to either hook up to a sewer or go to advanced treatment with specified operating permit terms by the MOU deadline, the aforementioned language goes a long way towards eliminating our concerns.	See response to comment 10.5.
10.8	Heal the Bay	July 1	<p><u>The properties included in Phases II and III should be modified and substantiated</u></p> <p>Exhibit A shows the boundaries of all three phases contained in the MOU. The Phase III area appears to be the largest. Heal the Bay has repeatedly asked Regional Board staff for the GIS layers to fully understand which properties are currently included within Phase 3 but we have not received this information to date. That information is essential for us to determine whether or not a property was placed in the correct phase. For example, a number of facilities in Winter Canyon have had a history of WDR discharge violations, yet it is unclear whether or not a facility is in Phase 3 or Phase 2.</p>	The Phase Three area is large in area but only includes approximately 15% of the flow. Staff has provided Heal the Bay with a copy of a more detailed map.

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10.9	Heal the Bay	July 1	<p><i>Malibu Road</i></p> <p>The MOU includes the Malibu Road homes in Phase 3, yet no scientific justification is provided for this major change. The MOU requires the City to complete a water quality study in the ocean adjacent to Malibu Road homes for a period of two years beginning no later than July 1, 2014 to evaluate whether upgraded OWDS requirements are necessary. Instead, we urge the Regional Board to create a Phase II subset for these homes. Specifically, the Regional Board should require that the homes either install disinfection on existing OWDS or hook up to the central Wastewater Treatment Facility by November 5, 2019. We have seen no evidence to indicate that these OWDSs <i>are not</i> causing or contributing to impairment of water quality at a beach required to comply with dry weather beach bacteria TMDL requirements years ago. Thus, they should be included in the MOU. Also, the required study should be completed immediately (begin no later than September, 1 2011) in order to understand the water quality impacts sooner in the compliance timeline.</p>	<p>There are no available data providing specific details about water quality in the ocean along Malibu Road home beach. Rather than creating a Phase II subset for these homes, the MOU creates a separate category for this area under which the beach water quality will be monitored to evaluate the extent of the problem. Depending on the results of the monitoring, the Regional Board may issue WDRs, including advanced OWDS requirements to these homes, and depending on the results of they may continue to be subject to the prohibition and be required to connect to a centralized system.</p>
10.10	Heal the Bay	July 1	<p><i>Winter Canyon</i></p> <p>Several sites within the proposed Phase III boundary in Winter Canyon have known water quality problems and a history of violations. Yet under the terms of the MOU, it is unclear which Winter Canyon parcels are within which phase, and it is uncertain if any of the Winter, Canyon</p>	<p>Regional Board staff agree that there are Winter Canyon parcels that may affect water quality. The Board staff identified properties that generate relatively large wastewater flows as appropriate for Phase II.</p> <p>Key properties in Phase II include Webster Elementary School, and the condominiums.</p>

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			<p>parcels will ever be required to hook up to the new sewer or move forward to advanced treatment. It isn't even clear if all sites in and adjacent to Winter Canyon are included in Phase 2 or Phase 3. In general, the Regional Board must provide additional substantiation for the inclusion of properties in Phase 2 and Phase 3.</p>	<p>Hughes Research Laboratory may choose to connect to the centralized treatment plant or otherwise implement a disinfection system and other requirements in accordance with waste discharge requirements issued by the Regional Board.</p>
10.11	Heal the Bay	July 1	<p><i>Pacific Coast Highway</i></p> <p>The MOU's geographic scope should include commercial properties (especially hotels and restaurants) south from the Civic Center on Pacific Coast Highway to at least 21237 Pacific Coast Highway, Malibu. At a minimum, within Phase II, commercial property OWDSs south of the proposed boundary on PCH should be required to disinfect their wastewater prior to leach field disposal to ensure no bacteria contribution to groundwater and surface water by 2019. This is a more cost effective approach to meeting Santa Monica Bay beach bacteria TMDL requirements. Also, the land adjacent to PCH just southeast of Malibu Lagoon is currently in Phase 3 despite the fact that the beach from Surfrider to Malibu Pier is one of the most polluted beaches along Santa Monica Bay. All of those properties must be moved from Phase 3 to Phase 2, or at least required to implement wastewater disinfection by 2019.</p>	<p>Regional Board staff recognizes that ocean water quality is impaired in this area. Under the MOU, the Regional Board may independently require these properties to implement a disinfection system and other discharge requirements in accordance with waste discharge requirements to be issued by the Board. Regional Board staff plan to prioritize the investigation of this area, and take appropriate permitting or enforcement actions to implement the bacteria TMDL. Staff plans to complete this work long before 2019.</p>
10.12	Heal the Bay	July 1	<p><u>The Water Quality Sampling Program should be strengthened</u></p>	<p>Under the Tentative MOU, the City must submit a water quality monitoring program</p>

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			<p>Under the MOU, Phase III implementation hinges on a water quality sampling program in Malibu Lagoon. Specifically, the City is required to determine bacteria and nitrogen reductions from baseline values in order to evaluate whether Phase I and Phase II "solved" the pollution problems. This concept is scientifically flawed for several reasons. First, a reduction in bacteria and nitrogen in the Lagoon may result from upstream improvements or civic center improvements, or a combination of both. How would the Regional Board discern why the reductions were occurring, especially in such a short time frame?</p>	<p>for Executive Officer approval that is sufficient to provide information to make this determination. Interested persons will have an opportunity to comment on the City's program prior to approval</p>
10.13	Heal the Bay	July 1	<p>Also improvements in water quality resulting from the implementation of Phase I and Phase II would be seen first in the groundwater; transport of the groundwater in the Civic Center area to the Lagoon could take decades. Thus, it is critical that the MOU include groundwater monitoring.</p>	<p>Transport of the groundwater in the Civic Center area to the Lagoon could take decades. However, based on estimated wastewater generation rates for facilities in the Prohibition area, Phase I and Phase II will capture approximately 85% of the total flow which is within the 6-month of travel time to the Lagoon. It is expected that the water quality should be improved significantly by implementing Phases I and II.</p> <p>The City of Malibu agrees to continue to provide the access to the city-owned wells for groundwater sampling. Review of groundwater data will be included in the evaluation of water quality improvements from Phases I and II.</p>

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10.14	Heal the Bay	July 1	Finally the majority of the Phase III area is not in the Malibu Creek Watershed. Thus, tying Phase III implementation solely to the Lagoon monitoring is nonsensical. The sampling program should link to <i>all</i> receiving waters. This is especially critical given that the beaches are impaired for bacteria and there is a bacteria TMDL in effect. As the law requires, there must be a demonstration that the OWDS do not to cause or contribute to WQS exceedances in all-receiving waters.	Phase III implementation will be based on not only the Lagoon Monitoring, but also the ocean monitoring next to the Malibu Road homes and the groundwater monitoring within the Prohibition area. Page 7 of 17 of the MOU, Water Sampling section has been revised to add “3. The City shall provide access to all City-owned wells for groundwater sampling”.
10.15	Heal the Bay	July 1	<p><u>The MOU should specify levels of treatment at the central Wastewater Treatment Facility</u></p> <p>The MOU states that the central Wastewater Treatment Facility effluent must be treated to meet or exceed the requirements of applicable laws, regulations and policy, including Title 22 requirements. However, there is no stated water quality or treatment requirement for the Facility. Title 22 requirements do not include nitrogen standards. Thus, the Regional Board should modify the MOU to include a Total Nitrogen standard of 5 mg/l. Based on the current state of the art in water recycling plants, a 5 mg/l requirement is feasible, and in fact is far above the 3 mg/l requirement for the Malibu Lumber WDR that the Regional Board approved a few years ago.</p>	As stated in the Tentative MOU, the Regional Board will consider adoption of waste discharge requirements for any wastewater treatment facility in a separate public process and the waste discharge requirements must comply with all applicable laws, which include protection of beneficial uses. The Tentative MOU requires that any wastewater treatment facility comply with a nitrogen standard of no greater than 10 mg/l, which could be lower as necessary to protect beneficial uses and comply with all water quality standards, including State Water Board Resolution 68-16.
10.16	Heal the Bay	July 1	<p><u>The MOU should prioritize water recycling</u></p> <p>The MOU states that the City may consider the use of deep well or groundwater injection without reverse</p>	As noted in Response 10.15, the waste discharge requirements must comply with all applicable laws and adopted according to a public process. It is not necessary or appropriate to specify every applicable law in

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10.17	Heal the Bay	July 1	<p>The scientific and regulatory facts are clear: dischargers of wastewater in the Civic Center area often fail to meet water quality objectives and they have the reasonable potential to cause or contribute to impairments of existing or potential beneficial uses. There is great urgency in solving the water quality issues in the Malibu Civic Center area. World-class Surfrider Beach continues to get Ds and Fs on Heal the Bay's Beach Report Card, as wastewater from commercial and residential septic systems in the area leaches into local groundwater, Malibu Creek and Lagoon and then flows into the ocean, and its poor water quality places public health at risk. Malibu Creek and Lagoon are listed on the State's 2006 303(d) List as impaired by numerous pollutants, and TMDLs were adopted eight years ago for bacteria and nutrients. Surfrider Beach and Malibu Lagoon's legacy of polluted water has continued unabated for decades. For years, we've participated and commented on the development and implementation of plans and studies, from the 1992 Warshall Malibu Wastewater Study to the present. Clearly, Malibu's voluntary efforts to clean up Malibu Lagoon and Surfrider Beach have been largely unsuccessful. The bottom line is that Malibu Lagoon and Surfrider Beach are still two of the most polluted receiving waters in the region, if not the state. The public and aquatic life should not have to wait any longer for the promise of clean water.</p>	<p>The Regional Board agrees that a strong prohibition coupled with the MOU as an implementation framework is an appropriate way to resolve the water quality problems. In response to comments, staff has added language to the Tentative MOU requiring development of a storage plan during Phase One and addressing groundwater monitoring</p> <p>Also see response to comment 10.3.</p>

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			<p>The Regional Board's adoption of Resolution R4-2009-007 to prohibit on-site wastewater disposal systems (OWDSs) in the Malibu Civic Center Area provided a path forward fulfilling the promise of clean water in Malibu. However the proposed MOU greatly weakens the requirements and gives little accountability to the City of Malibu for ensuring that the water quality improves. Any change to the Regional Board approved and State Water Board upheld resolution is of tremendous economic benefit to civic center landowners and to Malibu. The fact the Regional Board was willing to voluntarily negotiate a less costly approach to water quality standards compliance was unprecedented and of great benefit to Malibu. However, a strong MOU is necessary to finally clean up Malibu Lagoon and Surfrider Beach to protect human health and aquatic life. Thus, we urge the Regional Board to strengthen the MOU as outlined above.</p>	
11.1	SMB	July 1	<p>On behalf of Santa Monica Baykeeper and our hundreds of members living and recreating in the Malibu Creek, Malibu Lagoon and Malibu beaches, please accept our comments on the Tentative Resolution and the Tentative MOU. As discussed in detail below, the Tentative MOU is an attempt to amend the Water Quality Control Plan for the Coastal Watersheds of Ventura and Los Angeles Counties ("Basin Plan") in violation of the California Water Code ("Water Code"). The Tentative Resolution, which purports to authorize the Executive Officer to amend the Basin Plan similarly</p>	<p>The Regional Board staff acknowledges and appreciates Santa Monica Baykeeper's concerns with respect to the Tentative MOU, but disagrees with its characterization of the Tentative MOU as an attempt to allow the Executive Officer to amend the Basin Plan and with the view that the MOU is unnecessary as an implementation framework. The MOU does not amend the Basin Plan nor allow the Executive Officer to amend the Basin Plan. The MOU is an agreement between the parties to cooperate in the construction of one or more</p>

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			violates the Water Code. Legal arguments aside, the Tentative MOU is unnecessary as an implementation framework. Consequently, we urge the Los Angeles Regional Water Quality Control Board ("Regional Board") to reject both the Tentative MOU and the Tentative Resolution.	wastewater treatment facilities to achieve compliance with the prohibition.
11.2	SMB	July 1	The Tentative MOU asserts to simply provide the framework for implementation of the prohibitions established in the November 5, 2009 Amendment to the Water Quality Control Plan for the Coastal Watersheds of Ventura and Los Angeles Counties to Prohibit On-site Wastewater Disposal Systems in the Malibu Civic Center Area ("Malibu Septic Prohibition" or "Basin Plan Amendment"). A close review of the MOU, however, reveals that it sets to accomplish far more than simply implement the Malibu Septic Prohibition. In fact, the Tentative MOU deviates substantively from the directives of the Malibu Septic Prohibition and as such is an improper and illegal attempt to amend the Basin Plan in violation of the Water Code's clear requirements. <i>See</i> Cal. Wat. Code § 13245 (specifying the procedure for Basin Plan amendments). To the extent that it authorizes the Regional Board's Executive Officer to amend the Basin Plan via the Tentative MOU, the Tentative Resolution separately violates the Water Code as well. <i>See id.</i> § 13223 (Regional Board may not delegate its authority to amend the Basin Plan to its Executive Officer).	See Response 11.1 and 11.7.
11.3	SMB	July	Similarly, despite the Waste Discharge Requirements	The Regional Board staff agrees that there

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		1	("WDRs") issued by the Regional Board to Malibu Civic Center area dischargers, discharges in the Malibu Septic Prohibition area have continued to violate effluent limits and effluent flows and the Regional Board has issued numerous Notice of Violations as recently as 2009. <i>See Final Technical Memorandum Dischargers Have Poor Records of Compliance with Regional Board</i> ("Technical Memorandum #1). Even the most recently permitted discharger in the area, the Malibu Lumber Yard, violated its WDRs immediately upon commencing discharge by exceeding its effluent limits for nitrogen, phosphorus and coliform Regional Board Notice of Violation to Malibu Lumber Yard (June 15, 2009).	are significant water quality issues associated with discharges in the Malibu Civic Center Area. Many of those discharges, however, will not be addressed without the construction and operation of one or more centralized wastewater treatment facilities. The purpose of the Tentative MOU is to establish the framework to assure construction of one or more facilities within the legal authority of the Regional Board.
11.4	SMB	July 1	Furthermore, the section 13269 waiver for smaller OWDS which was administered by the City of Malibu under the 2004 Memorandum of Understanding ("MOU") with the Regional Board has also failed to adequately regulate subsurface wastewater discharges.	The Regional Board staff agrees that the subsurface wastewater discharges must be addressed. The construction of one or more centralized wastewater treatment facilities will address such discharges. As will the additional monitoring and upgrades included within the MOU.
11.5	SMB	July 1	While it does not, and cannot, provide any new information or science showing that the Malibu Septic Prohibition and its implementation schedule was in any way unjustified and should be revoked or revised, the Tentative MOU completely modifies the Basin Plan amendment, negating the extensive scientific and technical analysis and public review which went into its development. In the meantime, violations of TMDLs and water quality standards in Malibu Creek, Malibu Lagoon and Surfrider Beach have not abated and the Malibu	The Tentative MOU does not amend the Basin Plan Amendment; it creates an agreement with respect to enforcement of the prohibition. The prohibition remains in effect. See Response 11.6 and 11.7. Construction of a centralized wastewater treatment facility will address the violations of water quality standards. The MOU is intended to accomplish this in the near future, rather than spending unnecessary time

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			<p>Septic Prohibition continues to be necessary just as it was when the Regional Board adopted it in November 2009. The Tentative MOU lacks any scientific and regulatory justification and should be rejected.</p>	<p>and money in litigation.</p>
11.6	SMB	July 1	<p><i>1. The MOU Directly Contradicts the Requirements of the Malibu Septic Prohibition</i></p> <p>The Tentative MOU contradicts and revises the substantive provisions of the Malibu Septic Prohibition and the Basin Plan. The discrepancies between the two documents are so significant that the Tentative MOU effectively replaces the Malibu Septic Prohibition.[?]</p> <p>The Basin Plan, as amended by the Malibu Septic Prohibition, requires that "all wastewater discharges in commercial areas from existing on-site wastewater disposal systems are prohibited on November 5, 2015, as specified in figure 4-yy." Regional Board Resolution No. R4-2009-007 at 12. "All wastewater discharges in residential areas from existing on-site wastewater disposal systems are prohibited on November 5, 2019, as specified in figure 4-yy."</p> <p>In direct contradiction with the Basin Plan's language, the Tentative MOU adds an entirely new <u>third</u> phase for compliance with the Malibu Septic Prohibition under which certain residential and commercial properties in the prohibition area <i>may</i> have to connect to a centralized wastewater treatment plant ("CWTP") and thus discontinue their on-site discharge, by November 5, 2025.</p>	<p>The Regional Board staff disagrees with the characterization of the Tentative MOU. The Tentative MOU does not contradict the Basin Plan Amendment (Prohibition). In the Tentative MOU, the City agrees to construct one or more wastewater treatment facilities according to a specified schedule. The City would also agree to develop additional information about the properties in Phase Three, which would be used to determine whether those properties should connect to a centralized facility to protect water quality. The MOU acknowledges that a Basin Plan Amendment may be needed if the Regional Board determines that those properties do not need to connect to a centralized facility to protect water quality. During the term of the MOU, the prohibition remains in effect, but the Regional Board would agree not to enforce the prohibition dates so long as the City complies with the schedule in the MOU. The Regional Board can terminate the MOU at any time. Individual properties continue to be subject to the prohibition and new discharges continue to be prohibited.</p>

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			<p><i>See</i> Tentative MOU at 6. Thus, the MOU effectively amends the requirements of the Malibu Septic Prohibition with respect to the following residential and commercial properties:</p> <ul style="list-style-type: none"> • Instead of discontinuing septic system discharges by November 5, 2015 as the Basin Plan currently requires, the Hughes Research Laboratory, the Malibu Bluff Park, the Webster Elementary School., and coastal properties to the southeast of the Malibu Pier, among others, <u>will be allowed to discharge at least until November 5, 2025 and may be indefinitely;</u> <p>Instead of discontinuing septic discharges by November 5, 2019 as the Basin Plan currently requires, the Malibu Knolls area properties, Malibu Road area properties, properties to the east of Sweetwater Mesa Road, among others, <u>will also be allowed to continue discharging at least by November 5, 2025 and may be indefinitely.</u></p> <p>The Tentative MOU also improperly attempts to amend the Basin Plan by extending the November 5, 2015 deadline to November 5, 2019 with respect to the following areas: coastal properties immediately to the southeast of the Malibu Lagoon and properties to the northwest of the Legacy Park. <i>See</i> Tentative MOU at .6.</p>	

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			<p>Thus, although presented as an agreement to streamline the implementation of the Malibu Septic Prohibition, the MOU is an improper and illegal attempt to amend the Basin Plan and should be rejected outright by the Regional Board. <i>See</i> Cal. Water Code § 13245 (outlining the procedure for amending the water quality control plans). Further, Regional Board staffs have failed to provide justification for these substantive and significant changes.</p>	
11.7	SMB	July 1	<p><i>2. As A Basin Plan Provision, the Malibu Septic Prohibition Cannot Be Amended Via an MOU and Can Only Be Revised by the Regional Board in Compliance with the Water Code</i></p> <p>The Malibu Septic Prohibition was adopted by the Regional Board on November 5, 2009 after a lengthy public process during which the Regional Board considered thousands of pages of comments from all stakeholders, including extensive comments by the City of Malibu. In compliance with the requirements of the Water Code, Regional Board staff prepared several peer-reviewed technical memoranda which unequivocally established that the Malibu Septic Prohibition is necessary and supported by science. Following this comprehensive process, the Malibu Septic Prohibition was again reviewed and subjected to public scrutiny at the State Water Resources Control Board ("State Board") which approved it on September 21, 2010. The Malibu Septic Prohibition became effective as a Basin Plan amendment on</p>	<p>As stated above, the Tentative MOU does not amend the Basin Plan. See Response 11.6. The decision in <i>State Water Quality Control Board Cases (2006) 136 Cal.App.4th 674, 729</i>, does not apply to the Regional Board's approval of an MOU with the City of Malibu for several reasons. In the case cited, the State Water Board adopted a water quality objective and implementation plan for the objective in the Bay Delta Basin Plan that was required to be implemented in a water rights proceeding. In the water rights proceeding, the State Water Board did not follow the implementation plan set forth in the Bay Delta Plan to achieve compliance with the water quality objective. The Court stated: "The guiding principle is that the Board's power to act in a water rights proceeding commenced to implement a water quality control plan is constrained by the</p>

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			<p>December 23, 2010.</p> <p>Thus, the Malibu Septic `Prohibition is now a part of the Basin Plan and Can only be modified in conformance with the Water Code requirements. <i>See</i> Cal. Wat. Code § 13245 (Basin Plan revisions must be adopted by the Regional Board and are not effective until approved by the State Water Resources Control Board). Revising the Basin Plan via an MOU or a resolution authorizing the Regional Board's Executive Officer to sign an MOU is clearly not an amendment mechanism sanctioned by the Water Code.</p> <p>In fact, the California Court of Appeal has held that a water board cannot amend a water quality control plan by approving an implementation agreement that alters the provision of the plan precisely because such an amendment does not comply with the Water Code's requirements. <i>See State Water Quality Control Board Cases (2006) 136 Cal.App.4th 674, 729</i> (the State Board could not properly _ adopt an agreement proposing a different implementation of a water quality control plan because the implementation "fundamentally altered" the water quality control plan and "such an alteration could be accomplished only through a properly noticed and conducted regulatory proceeding"). Just like in <i>State Water Quality Control Board Cases</i>, the Tentative Resolution will approve an implementation agreement that will de facto amend the Basin Plan. And just like in <i>State Water Quality Control Board Cases</i>, both the Tentative Resolution and the Tentative MOU will violate</p>	<p>terms of the plan it is implementing.” The court stated that Water Code sections 1258 and 13247 require the State Water Board to subject appropriative water rights to terms and conditions necessary to carry out water quality control plans (Basin Plans). In this case, the Basin Plan Amendment involves a prohibition, not a water quality objective, and did not include an implementation plan. The Water Code does not address the method to carry out a prohibition. According to Water Code section 13243, the Regional Board may establish a prohibition in waste discharge requirements or in a Basin Plan. If an individual discharger fails to comply with the prohibition in a Basin Plan (in this case either in 2015 or 2019), the individual discharger will be subject to enforcement. The Tentative MOU does not revise the Basin Plan Amendment nor ignore the prohibition; it addresses enforcement of the Basin Plan Amendment. The Regional Board has discretion on how to enforce its own regulations and can agree not to do so. In the Tentative MOU, the Regional Board agrees not to enforce certain aspects of the prohibition if the City complies with the schedule. In addition, unlike the water rights proceeding, the Regional Board may terminate the MOU at any time and</p>

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			<p>the Water Code and therefore must be rejected by the Regional Board.</p> <p>Furthermore, the Malibu Septic Prohibition, as any Basin Plan provision, may not be amended by the Regional Board's Executive Officer. Section 13223 of the Water Code specifically prohibits the delegation to the Executive Officer of the Regional Board's prerogative to revise the Basin Plan. Cal. Wat. Code § 13223 (a). The tentative resolution which purports to authorize the Executive Officer to do just that via an MOU with the City of Malibu is thus illegal. <i>See Hampson I). Superior Court (1977) 67 Cal.App.3d 472; 483-485</i> (a Regional Board's executive officer has not capacity to make an agreement with dischargers to amend the Basin Plan because the Regional Board "could not delegate its power and duty to issue, modify, or revoke any water control plan").</p> <p>Clearly, the Tentative MOU and the Tentative Resolution amount to a Basin Plan amendment undertaken in direct contravention of the Water Code provisions and case law. The Regional Board must therefore reject them.</p>	<p>immediately enforce the Basin Plan Amendment. Unlike in the case cited, in which the water quality objective was not implemented according to the implementation plan in the Basin Plan, the prohibition remains in effect. No new on-site wastewater disposal systems may be constructed and existing systems may not be expanded while the prohibition is in effect except some systems in Phase III subject to stringent conditions. In addition, Water Code section 13247, on which the decision is based, does not apply to the Regional Board Basin Plan Amendment.</p> <p>The Tentative MOU also does not authorize the Regional Board's Executive Officer to amend the Basin Plan. The MOU will be approved by the Regional Board, not the Executive Officer. The Executive Officer is merely signing the MOU on behalf of the Regional Board.</p>
11.8	SMB	July 1	<p>III. The MOU Is Unnecessary as an Implementation Tool because the Basin Plan Amendment and the Regional Board Resolution Provide an Implementation Schedule for the Malibu Septic Prohibition</p>	<p>The comment mischaracterizes the Basin Plan Amendment and the Resolution. The Basin Plan Amendment does not establish a schedule for construction of a centralized treatment plant; it prohibits discharges from onsite systems after 2015 and 2019 and</p>

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			<p>Apart from attempting to amend the Basin Plan in violation of the Water Code requirements, the Tentative MOU is also unnecessary and unjustified as an implementation framework for the Malibu Septic Prohibition.</p> <p>The Basin Plan and Regional Board Resolution No. R4-2009-007 together contains a detailed implementation schedule for achieving compliance with the Malibu Septic Prohibition. Thus, the Basin Plan clearly prohibits any new on-site wastewater disposal systems, with certain exceptions. Regional. Board Resolution No. R4-2009-007 at 12. It further mandates all on-site wastewater disposal systems in commercial and residential areas, as specified in figure 4-yy, to cease discharging by November 5, 2015 and November 5, 2019 respectively.</p> <p>Moreover, the Regional Board outlined specific steps and deadlines which must be followed by Malibu on the road toward achieving compliance with the Malibu Septic Prohibition. Regional Board Resolution No. R4-2009-007 at 7. These implementation measures include the submission of quarterly written reports by the City of Malibu to the Regional Board's Executive Officer "summarizing the strategy and progress toward meeting the 2015 prohibition deadline. The Regional Board also required the City to "document progress, to the satisfaction of the Executive Officer" toward the achievement of several interim and final prohibition deadlines, including deadlines for the completion of a</p>	<p>prohibits new discharges. All persons within the prohibition area would be subject to enforcement for failure to comply with the prohibition. As discussed in Response 11.7, if a person fails to comply with Regional Board can exercise its discretionary authority through enforcement actions, such as assessment of administrative civil liability or issuance of cease and desist orders, and, if appropriate and effective, through issuance of permits such as waste discharge requirements or NPDES permits. The Basin Plan Amendment establishing the Malibu Civic Center Prohibition Area does not include an implementation schedule. More importantly, the Resolution adopting the Basin Plan Amendment does not include an implementation schedule to construct a wastewater treatment facility. Rather, it directs the Executive Officer to direct the City, pursuant to Water Code section 13225, to submit reports documenting quarterly progress toward meeting the 2015 deadline. The City has submitted such reports. Water Code section 13225(c) does not authorize the Regional Board to require the City to construct a wastewater treatment facility; rather it authorizes the Regional Board to require the City to submit technical reports. The Regional Board may enforce the</p>

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			<p>master facilities plan for possible projects to comply with the prohibition, preliminary engineering and feasibility study, and selection of a project to comply with the prohibition, among others.</p> <p>In light of this detailed implementation framework for compliance with the Malibu Septic Prohibition, there is no justification or necessity for the Tentative MOU. Indeed, neither the Tentative MOU nor the Tentative Resolution provides any reasons for revising the existing implementation schedule other than the threat of litigation from City of Malibu.</p>	<p>prohibition, but, as set forth in Water Code section 13360, may not specify the manner of compliance. All property owners are required to comply with the prohibition by the specified date and may comply in any lawful manner that meets all public health and water quality requirements.. The Tentative MOU provides a reasonable process to implement the Basin Plan Amendment. If the property owners within the prohibition area, including the City, do not comply with the prohibition, they will all be subject to enforcement by the Regional Board.</p>
11.9	SMB	July 1	<p>While as an environmental organization enforcing water quality regulations Santa Monica Baykeeper appreciates the seriousness of litigation, we are concerned about the dangerous precedent that could be set if the Regional Board approves the Tentative MOU solely to appease potential litigants even before it has utilized any of the enforcement mechanisms available to it to ensure compliance with its Basin Plan provisions. Undoubtedly, such an action will provide an incentive to the neat individual, municipality or company that is unhappy with a Regional Board Basin Plan amendment or a waste discharge permit to threaten litigation in order to obtain a more lenient treatment. This prospect is not just undesirable; it is also in direct contradiction with the</p>	<p>The Regional Board staff disagrees with the characterization of the Tentative MOU as being more lenient or in conflict with the Regional Board’s mandate to protect water quality. The Regional Board may seek actions to protect water quality under Water Code section 13225, such as by the use of an agreement and it can enforce the Basin Plan. The Regional Board may only enforce the Basin Plan prohibition through such mechanisms as administrative civil liability, issuance of cease and desist orders, or court-ordered injunctions, However, such enforcement may or may not result in timely</p>

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			Regional Board's mandate to protect water quality.	construction of a centralized wastewater treatment facility. The Regional Board also has the responsibility and authority under Water Code section 13225 to coordinate with other agencies to prevent pollution, require local agencies to investigate and submit reports on water quality, request local agencies to enforce their water quality control laws, and encourage action for water quality control. The Tentative MOU is consistent with Water Code section 13225. If the Regional Board chooses in its discretion to enforce the Basin Plan Amendment, it may terminate the MOU at any time.
12.1	Malibu Surfing Association	July 1	<p>Notices of Violation will bring about water quality improvements. Our members are still getting sick at Surfrider Beach. The MOU must build upon TM-1 with an understanding that compliance will be difficult to achieve and prescribe penalties for noncompliance at levels which recognize this history.</p> <p>We also recognize that a centralized wastewater facility, a solution contemplated in the MOU, would be subject to approval by Malibu residents: We don't believe the MOU adequately considers the results of a `No' vote; specifically, the alternative solutions and which party would bear the costs of implementation and regulation. Regulation could not be sustained solely by the Regional Board, an agency with limited resources but needing to</p>	The Regional Board agrees that the City of Malibu should construct a centralized facility. Funding will be necessary from the property owners in the City of Malibu to achieve that result.

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			oversee compliance with more than 100 Civic Center commercial and residential properties. In a `No' vote alternatives to a centralized facility must be implemented and funded by the City of Malibu, and be defined in a way that the pattern of noncompliance exhibited under the recent 2004 Memorandum of Understanding is less likely.	
12.2	Malibu Surfing Association	July 1	Finally, one comment about process. MSA is an all-volunteer organization whose members have daily professional and personal commitments outside of their club membership. Being provided ten days from the receipt of the tentative MOU to requiring full comment was as surprising as it was difficult to accommodate. In the future, we ask the Regional Board understand the desire of organizations like ours to provide comment while better appreciating the time required to do so.	Stakeholders were provided 10 days to submit written comments, stakeholders also have an opportunity to make oral comments at the board meeting.
13.1	Jeff Harris	July 1	<p>In this regard in Malibu, I believe that the current MOU between the City and your Board is a marked improvement over the previous understandings and resolutions but it is still over-reaching and not substantiated by the now available scientific studies and methods of water pollution detection.</p> <p>This is what I would recommend:</p> <p>1. Acknowledge that sewerage portions of the Civic Center are a preventive measure to deal with future loads from future developments. What is in place now is</p>	Staff agrees that the Regional Board should review new techniques for optimizing prediction for disease risk resulting from fecal contamination. Regional Board staff can always consider revisions to Basin Plan amendments or Waste Discharge Requirements based on new scientific tools and/or new water quality criteria found to be more protective. In the meantime, fecal bacteria are useful for estimating these risks. Prior to construction of a centralized facility, the Regional Board will consider the

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			<p>working according to recent studies.</p> <p>Limit further the size and volume of a new commercial Malibu Civic Center sewage system to only new commercial construction and to those commercial properties that seek to expand their restroom and fixture use.</p> <p>Designing and implementing a larger system is unnecessary for systems that are currently in place and working; and injecting more than necessary treated effluent will only serve to increase ground water volumes, pressures and flows and threats of liquefaction damage during an earthquake.</p> <p>For any sewage plant, ensure an adequate electrical back up system which is not susceptible to damage from our wildfires. Also, limit the service area and pipes to reduce the likelihood of pipe fractures and leaks prevalent in Malibu’s challenging geological areas.</p> <p>2. Continue current studies with new human specific fecal measures in the Malibu Colony areas close to the lagoon for septic systems that have not been upgraded to tertiary treatment.</p> <p>3. Delay any further enforcement of a septic system ban in the so-called butterfly fly areas around the Malibu Civic Center; allow new or re-model residential improvements to occur with upgrades of septic systems to tertiary</p>	<p>adoption of waste discharge requirements following a public process, including consideration of adequacy of the system to address the waste volume.</p> <p>The centralized treatment system of the MOU will be designed by the City. It is not appropriate to comment on a design that is not yet completed.</p>

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14.1	Joan Lavine	June 30	<p>1. No causal connection exists between Malibu Civic Center residential septic systems and pollution of or toxic waste discharge into water or ground within the Malibu Civic Center area.</p> <p>City of Malibu scientific studies prove that NO pollution, contamination or degradation of ground, water or air comes from residential septic systems in the Malibu Civic Center. Those studies completely exonerate residential septic systems as a cause or source of water degradation. See Izbicki chart attached hereto as Exhibit "C" and incorporated herein by reference as thought fully set forth herein.</p> <p>This LA Regional Water Quality Control Board itself has not conducted scientific evaluations that would provide proof one way or the other as to whether a nexus exists between residential septic systems and degradation of water or ground in the Malibu Civic Center.</p> <p>This LA Regional Water Board has acknowledged it has no facts regarding the Lavine Malibu Road property specifically, which is about a mile west of the Malibu Lagoon, Cross Creek</p>	<p>The Basin Plan Amendment was adopted based on scientific peer-reviewed studies and after extensive opportunity for public comment. The Tentative MOU does not amend the Basin Plan Amendment. Therefore, your comments are not relevant to the MOU since the Basin Plan Amendment is now a final document.</p>

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14.2	Joan Lavine	June 30	<p>2. Because no causal connection exists between the Malibu Civic Center residential septic systems, removing residential septic systems as the means of waste management cannot conceivably solve whatever pollution problems exist that may be coming from entirely unrelated other sources.</p> <p>Those other sources are likely to be non-human animal and plant based disbursal by the Las Virgenes Water District's Tapia Treatment Plant in Calabassas of its partially treated wastewater, and commercial businesses in close proximity to the Malibu Lagoon, Malibu Surfrider. Beach and Malibu Pier and Malibu Creek. The Malibu areas listed in this paragraph are at least a mile away from the Lavine property, and up to three to four miles away from other residential properties in the septic ban zone. The Tapia Treatment Plant is located about 10 to 15 miles north of Malibu, over the Santa Monica Mountains and is entirely outside both the septic ban zone and the City of Malibu.</p> <p>The proposed "solution" of routing sewage across the Santa Monica Mountains to the Tapia Treatment Plant, frequently fined for its sewage spills and water degradation as a known polluter and "discharger", is simply not a real remedy to the perceived issues and problems.</p>	See Response 14.1.
14.3	Joan Lavine	June	The June 21; 2011, posted proposed MOU embraces a	The Tentative MOU does not amend the

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		30	<p>quasi-legislative means of addressing the legal issues and problems, which is not permitted under California law and materially, substantially violates it. Both the Los Angeles Regional Water Quality Control Board and the City of Malibu are required to use quasi-judicial processes as both the amendment to the LA Regional Basin Plan and the MOU at bar are quasi-judicial acts. See <u>Horn v. Ventura County</u>, 24 Cal.3d 605, 156 CR 718 (1979).</p> <p>Posting the MOU online on a website is constitutionally inadequate notice of the pending June 21, 2011, posted proposed MOU in prejudicial violation of Due Process- of Law as guaranteed by the 5th and 14th Amendments, U.S. Constitution. Just ten (10) days within which to file comments opposing the pending proposed MOU at bar between June 21, 2011, at 4:15 P.m. and July 1, 2011, at 5:00 p.m., and a hearing on July 14, 2011, about fifty miles north of Malibu in Simi Valley are each constitutionally inadequate and unreasonable notice and an inadequate and unreasonable opportunity to be heard in prejudicial violation of Due Process of Law.</p>	<p>Basin Plan, and, therefore is not a quasi-legislative or quasi-judicial action requiring a quasi-judicial public process. The approval of an MOU is not an adjudicatory matter. The Regional Board is not required to hold a public meeting to approve an MOU; the Executive Officer has the authority to enter into the MOU. The Regional Board, however, chose to provide an opportunity for public comment.</p>
14.4	Joan Lavine	June 30	<p>3. The currently proposed Memorandum of Understanding (MOU), posted on the LA Regional Water Board's on June 21, 2011, at about 4:15 p.m. PDT, is an incoherent, unenforceable agreement, with loopholes and escape clauses that make it illusory. It appears to materially vary both boundaries and terms and conditions from the LA Regional Basin Plan amendment which it purports to implement.</p>	<p>The Tentative MOU constitutes an agreement between the parties to proceed in a cooperative matter consistent with Water Code section 13225. You are correct that it is not enforceable. The parties may terminate the MOU at any time. It does not amend the Basin Plan Amendment, but allows the opportunity for construction of a centralized wastewater treatment facility to</p>

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				address the significant pollution caused by onsite systems. See Response 11.9.
14.5	Joan Lavine	June 30	4. Although unenforceable and impractical, the septic ban in the LA Regional Basin amendment, Resolution R4-2009-007 and State Water Board Resolution 2010-0045, nevertheless creates a cloud over the properties in the Malibu Civic Center ban zone, that has already devaluated the residential properties and has and will continue to cause egregious, extensive financial harm to the property owners without consideration to the monumental economic hardship it has visited on them. Both the LA Basin Plan amendment and this MOU fail to address and resolve the severe adverse financial impact on the residential property owners.	See Response 14.1.
14.6	Joan Lavine	June 30	5. The political reality of the practical effect and function of the pending MOU released for review on June 21, 2011, and the septic ban it purports to implement as a remedy, is actually that the goal and result of the septic ban and this MOU are to function as cost shifting in an attempt to force residential property owners to bear the burden of expenses of installing treatment plants for the benefit of commercial and developer interests. It has the additional improper, illegal payoff of devaluating what had been very valuable and desirable real estate so that it can be bought at fire sale prices.	The Regional Board staff disagrees with your characterization of the effect and function of the MOU.

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15.1	Latham Watkins	July 1	My clients are very pleased that the Regional Board and the City have reached the implementation compromise outlined in the MOU and they look forward to working with both entities in the coming decade to help realize shared water quality goals in Malibu.	Comment noted.
15.2	Latham Watkins	July 1	Specifically, under the Basin Plan Amendment, commercial dischargers are required to cease existing discharges by November 2015; residential dischargers must cease existing discharges by 2019. Under the MOU's implementation schedule, certain commercial and residential properties are not required to connect to a centralized wastewater treatment system until 2019, 2025 or potentially not at all. property's owner compliance obligation with respect to discharge is governed by the MOU implementation schedule, so long as the City is in substantial compliance with the MOU and property owners are discharging consistent with City requirements and Regional Board issued WDRs or waivers. MOU Article III.B provides that the Regional Board will "not enforce the prohibitions against property owners set forth in the Basin Plan Amendment so long as the City is in substantial compliance with the Plan set forth in Article II of this MOU and the property owners are in compliance with the Basin Plan Amendment conditions, applicable City requirements, and waste discharge requirements or a waiver issued by the Los Angeles Water Board." Practically speaking, assuming the City is in substantial compliance with the MOU and property owners are discharging consistent	The Tentative MOU does not amend the Basin Plan Amendment. If the City remains in compliance with the schedule set forth in the MOU, the Regional Board agrees not to enforce the 2015 and 2019 dates. The Tentative MOU does not affect the prohibition on new discharges within the prohibition area. Specifically, undeveloped parcels and those not already identified as undergoing development in the Malibu Civic Center Area Prohibition may not add new onsite systems. The Tentative MOU identifies that properties in Phase Three may modify existing systems under certain terms. As acknowledged in the MOU, a Basin Plan Amendment may be necessary to implement Phase III if the Regional Board ultimately decides that the prohibition in the Phase III area is not necessary to protect water quality. Please also see responses to comment 11.5, 11.6 and 11.7.

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			<p>with City requirements and Regional Board issued WDRs; we understand that the Regional Board will deem property owners to be in compliance with the Basin Plan Amendment conditions as well. This compliance will permit such property owners to continue operating under the MOU provisions (pursuant to the Regional Board's enforcement discretion) until such period as the MOU requires connection to a centralized wastewater treatment facility or alternative compliance, or there is a new, applicable, amendment to the Basin Plan.</p>	
15.3	Latham Watkins	July 1	<p>B. Treatment of Undeveloped Parcels:</p> <p>MOU Exhibit A, a boundary map entitled "Civic Center Wastewater Treatment Plan Phasing Options", uses a coloring scheme to identify properties within the adopted Basin Plan Amendment prohibition area as located within MOU implementation Phase One, Phase Two, and Phase Three. The colored areas on Exhibit A capture the vast majority of the parcels within the Basin Plan Amendment prohibition area, however, there are also various parcels scattered throughout the prohibition area that are not identified as being included in either MOU Phase One, Phase Two, or Phase Three by Exhibit A. For purposes of these comments, we will refer to these parcels as the "Undeveloped Parcels." Though the MOU does not expressly address Undeveloped Parcels, it is our understanding that Undeveloped Parcels will be treated similarly to Phase Three parcels in that they can utilize a</p>	<p>The Tentative MOU does not allow for the construction of new onsite systems in undeveloped areas within the Malibu Civic Center Area. As noted, it would allow limited modifications to existing systems on properties within the areas identified as Phase Three in the map accompanying the Tentative MOU.</p>

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			<p>OWDS accompanied by filtration and disinfection between the date of the signing of this MOU and upon the determination that a Phase Three is or is not necessary, so long as the OWDS meets review and permitting requirements, which authorities both agencies retain pursuant to MOU Article VI.E. The ability to discharge from Undeveloped Parcels would of course still be subject to the MOU requirements for Phase Three properties. (See MOU Article III.B and <i>supra</i> Section A).</p> <p>This understanding makes sense in the broader context of the MOU's implementation schedule. Over the next 10+ years the Regional Board will work with the City to determine whether or not a Phase Three is necessary to achieve the Basin Plan Amendment's state water quality goals. In an apparent acknowledgement of the timing and uncertainty of Phase Three, MOU Article 11.0.3 expressly authorizes the City to permit Phase Three properties to "modify" existing buildings upon the installation of a filtration and disinfection system to the property's existing OWDS before a determination that Phase Three may or may not be necessary, as long as the modification is accompanied by an installation of a filtration and disinfection system to the property's existing OWDS and the modification is consistent with the public health and the Basin Plan Amendment. Undeveloped Parcels face a similar state of limbo during such time as the Regional Board and City investigate the need to connect those properties outside of MOU designated Phase One and Phase Two areas prior to 2025. It follows then that, like</p>	

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			<p>the Phase Three properties subject to the MOU's extended and uncertain implementation schedule, the Regional Board will permit Undeveloped Parcels to utilize an OWDS accompanied by filtration and disinfection between the date of the signing of this MOU and upon the determination that a Phase Three is or is not necessary. (See <i>supra</i> Section A).</p>	
15.4	Latham Watkins	July 1	<p>C. "Opting-In" to an Assessment District and Connecting to a Centralized Wastewater Treatment Plant</p> <p>MOU Article II.D provides that "certain properties within Phase Three, including Hughes Research Laboratory and other properties, may choose to join an assessment district, connect to the Wastewater Treatment facility, and pay all associated fees." Allowing properties outside of the MOU delineated phased areas to join an assessment district and connect to a centralized wastewater treatment plant before that property would otherwise be required is a welcome concept and reflective of the Basin Plan Amendment's water quality goals. Permitting "opt-ins" facilitates the removal of additional OWDSs from the Malibu Civic Center Area, spreads the cost of Basin Plan Amendment compliance across a greater number of dischargers, and offers property owners greater certainty in the future use and development potential of their assets. However, by only referencing Phase Three properties when discussing the potential to "opt-in", the MOU unintentionally causes</p>	<p>The MOU does not preclude developed parcels from connecting to the Phase 1 treatment system, provided that the desire for inclusion is determined by the City in a manner allowing additional facilities to be connected. The Prohibition allows discharge via City's system.</p>

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			<p>confusion about whether or not other Malibu Civic Center Area properties have the option of joining an assessment district and connecting to a centralized wastewater treatment plant at an earlier stage than would otherwise be required by the MOU implementation schedule. We think it is clear that all Malibu Civic Center Area properties have that option.</p> <p>It is our understanding that any Malibu Civic. Center Area property (or any other property for that matter) has the option of joining an assessment district and connecting to a centralized wastewater treatment plant at any time subject to their ability to pay for this connection and the City's ability and willingness to permit this connection. The provision of municipal wastewater disposal is within the City's police power, and the MOU expressly provides for the reservation of the legal authority and responsibilities of the signatories. (<i>See MOU Article VI.E</i>). Because the MOU in no way restricts the City from connecting any user who has the ability and willingness to pay for such service, it is clear, that any parcel within the Prohibition may "opt-in" to an assessment district or connect to a centralized wastewater treatment facility at any time the option is available.</p>	
16.1	AZWM	June 30	First, we want to commend both the staff and their legal counsel at the LARWQCB and the City of Malibu for their hard work, thoughtfulness and collaborative efforts in drafting the MOU. Subject to the comments below,	Comment noted.

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			<p>we believe that the MOU represents a positive development for both agencies and property owners in the Civic Center areas toward achieving our shared goal of improved water quality and therefore we support the approval of the MOU with our proposed modifications.</p>	
16.2	AZWM	June 30	<p>Prior exhibits produced by the LARWQCB and reproduced by the City which designate the compliance schedule for the Civic Center Area have repeatedly shown the Towing Site as commercial and therefore subject to the compliance requirements of other commercial properties within the Prohibition boundary. This is incorrect. The Towing Site is residential. This error was pointed out to Wendy Phillips and she confirmed that the Towing Site was included in the residential exemption contained in Resolution R4-2009-007 as indicated in the attached email from Ms. Phillips dated December 1, 2009. While the MOU indirectly addresses this error by designating the Towing Site in Phase Three, the MOU also provides that the MOU can be terminated and in that event the terms of Resolution R4-2009-007 would apply. Therefore, in order to prevent any confusion in that eventuality, we want to include this comment in the record.</p> <p>The City has approved AZWM's application to subdivide and build four single family residences on the Towing Site. AZWM has also filed applications with the City for the development of the Crummer Site, which is currently</p>	comment noted

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			<p>undeveloped land, for the construction of five single family residences. The plans for the development of both sites include separate OSWTS with advanced treatment. In addition, the LARWQCB as turned over the permitting of both the Towing Site and the Crummer Site to the City. See email of Wendy Phillips to Andrew Sheldon dated December 23, 2009 attached hereto. The MOU contemplates that the Towing Site will be included in Phase Three, while the homes built on the Crummer Site would need to comply with the terms of the Resolution for other residential properties. Therefore, any development on these properties would ultimately have to connect to the City's; Wastewater Treatment facility. Depending on various timing issues it may be advantageous to have the Towing Site and/or the Crummer Site connect directly to the City wastewater treatment plant rather than constructing the OSWTS on the properties.</p>	
16.3	AZWM	June 30	<p>Article III D of the MOU provides "certain properties within Phase Three, including; Hughes Research Laboratory and other properties, may choose to join an assessment district, connect to the Wastewater Treatment facility, and pay all associated dues". We have two concerns about this language. First, the language does not specify that undeveloped properties may elect to do so. While we assume that this language is not intended to limited the ability of undeveloped properties, especially new subdivisions, from hooking up to the City's Wastewater Treatment Facility, we</p>	See response to comment 15.4

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			request that Article III D be modified to specifically allow for this possibility. Second, while we recognize that it is impractical to include in the MOU an unrestricted right allowing any property in Phase Three, especially certain single family residences, the ability to join the assessment district, we are concerned that the language "Hughes Research Laboratory and other properties" could be interrupted to limit the ability of the Towing Site to join the Phase One or Phase Two assessment district if the property owner desires to do so. Therefore, we request that Article III D also be modified to specifically allow for this possibility.	
16.4	AZWM	June 30	Finally, we are concerned that Article II A (4) of the MOU provides that the Environmental Impact Report is to be prepared in phases. Unless the Basin Plan is subsequently amended to eliminate Phase Two and Phase Three, we believe that the cumulative impacts of all three phases must be included in the EIR for Phase One. The failure to include all properties subject to the Prohibition in the initial EIR could result in CEQA challenges to the EIR. In addition, if the EIR does not include all properties within the Prohibition boundary, this may also result in the unintended consequence of preventing other property owners, like AZWM or Hughes Research Laboratory from joining the Phase One assessment district because the impacts of including these properties in Phase One were not analyzed in the EIR. We believe that this is contrary to	The City as the lead agency under the California Environmental Quality Act will be required to comply with CEQA, including consideration of cumulative effects, in considering any plan for construction of a centralized wastewater treatment facility. The public will have the opportunity to comment on any CEQA document prepared by the City.

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			the Resolution's goal of increasing water quality in the Civic Center Areas and its underlying mechanism to achieve this goal, having as many properties within the Prohibition boundary connected to the City's Wastewater Treatment Facility as soon as possible.	
17.1	R. Jeffery Follert	July 1	Despite the best efforts of the City and the RWQCB to craft a practical implementation plan, the proposed agreement contains language and provisions that may have severe consequence to our property and neighborhood. According to the phasing plan outlined in the agreement, Serra Canyon is included in the mandatory Phase II implementation. We have not had the opportunity to study the proposal in detail, to provide constructive input, to analyze potential impacts, or to propose alternative ideas.	The Tentative MOU does not amend the Basin Plan Amendment that established a prohibition on existing onsite wastewater systems as of November 5, 2015 or November 5, 2019. The public will have the opportunity to comment on alternatives the City may consider in constructing a wastewater treatment facility. Also, it is important to note that the prohibition set forth in the Basin Plan Amendment applies to the individual properties within the Malibu Civic Center Prohibition Area, not just to the City of Malibu's own property, and as of November 5, 2015 (commercial properties) and November 5, 2019 (residential properties), the individual property owners will be required to comply with the prohibition. .
17.2	R. Jeffery Follert	July 1	Though I speak as an individual, nearly all of my neighbors with whom I have spoken agree that if the canyon, or properties within the canyon are contributing to increased bacterial or nitrogen related levels within the watershed, we need to participate in measurable corrective solutions. After listening to presentations by many	The MOU seeks to implement the Prohibition, Resolution R4-2009-007, which stands in full force and effect until such time as it is revised or rescinded. Evaluations of technical basis, cost, notice, process and other matters were made during the adoption

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			<p>scientists at the recent Malibu Water Symposium, it is apparent that scientific evidence of impact from most residential on-site wastewater systems in our canyon is not indicated. Moreover, there is increasing belief by many within the scientific community that the requirement of the connection by our properties to a centralized system will not affect the levels of bacteria and/or nitrogen in any measurable way.</p>	<p>process in 2009. Because the MOU does not revise or supersede the Basin Plan Amendment comments on the underlying Basin Plan Amendment do not apply to this action.</p> <p>Also see response to comment 14.1.</p>
17.3	R. Jeffery Follert	July 1	<p>Our on-site septic system was permitted, installed and inspected in 2000. It has operated flawlessly since the beginning. We have not received notice of any operating violation or notice of contribution to an impaired waterway (or any waterway) as required by Water Code 13280. No test wells or monitoring has occurred within the canyon, to my knowledge—though there are 2 sites indicated on the USGS monitoring map near Serra Canyon at the Cross Creek bridge along Malibu Creek—each with no positive indicators for human fecal bacteria.</p> <p>I urge you to postpone action on the MOU to allow residents within the canyon to analyze and provide specific suggestions and responses as they relate to our specific properties and neighborhood. Although we applaud and support the efforts of the RWQCB and the City of Malibu to work toward a practical solution, the existing prohibition and implementation plan has already had devastating affects on property values and property rights.</p>	See response to comment 17.2.

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			Please provide us the opportunity to suggest alternatives without prejudice toward the eventual solution and modified implementation. I respectfully request that you postpone any action with regard to the MOU as written.	
18.1	Steve Littlejohn	June 29	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.	See response to comment 17.2.
18.2	Steve Littlejohn	June 29	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 are 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	See response to comment 14.1 and 17.2.

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			<p>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.</p>	

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18.3	Steve Littlejohn	June 29	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.	See response to comment 14.1 and 17.2.
18.4	Steve Littlejohn	June 29	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 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?	See response to comment 17.2.
19.1	Toni Littlejohn	June 29	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	See response to comment 17.2.

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			<p>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.</p>	
19.2	Toni Littlejohn	June 29	<p>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</p>	See response to comment 14.1 and 17.2.

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			<p>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</p>	
19.3	Toni Littlejohn	June 29	<p>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 leave 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.</p>	See response to comment 17.2.
19.4	Toni Littlejohn	June 29	<p>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 the ongoing monthly fee going to start at and how much will it rise in the future? Will this drive</p>	See response to comment 17.2.

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			some of the lower income older residents out of their houses?	
20.1	Tommy Nefcy	July 1	In my opinion this Memorandum of Understanding is a worthless sham and nothing more than another stalling tactic used by the People and the City of Malibu as they again push back the implementation of a sewer system.	The Tentative MOU sets forth a schedule to achieve compliance with the prohibitions through construction of one or more centralized wastewater facilities. If the City fails to comply with the schedule, the Regional Board would proceed to enforcement of the Basin Plan Amendment.
20.2	Tommy Nefcy	July 1	I beg the board to put some teeth into this MOU by condemning all the septic systems in the Phase 1, 2 & 3 areas NOW and then holding off enforcement of the condemnation order pending review or each and every milestone listed in this MOU.	See response to comment 20.1. The Basin Plan Amendment establishes the prohibition you request.
21.1	Louis Busch	July 1	Over many years I have sold hundreds of homes, and properties that could be built on using septic systems that have been satisfactory of disposing of effluent. We have had several votes of the electorate that supported the use of septic and rejected the installation of sewer systems. For those reasons I oppose the septic ban and the proposed tentative Memorandum of Understanding dated June 21, 2011. I request that you vote no and reject the resolution.	Comment noted. Also see response to comment 17.2.
22.1	Surfrider Foundation-Late	July 1	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	See responses to comment 10.12 and 10.16. Staff notes that public education is within the mission statement of the Surfrider

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			<p>wastewater disposal systems in the Civic Center area, as follows:</p> <ul style="list-style-type: none"> - <u>The Water Quality Sampling Program is vague and needs to be strengthened.</u> Flow 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? - <u>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.</u> This is a drastic change from the Malibu Septic Prohibition; <ul style="list-style-type: none"> * Instead of discontinuing septic system discharges by November 5, 2015, certain commercial properties in the prohibition area <i>maybe</i> 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. - <u>The MOU should include specific levels of</u> 	<p>Foundation and the successful formation of assessment districts can result from the actions of multiple local entities in educating the public.</p> <p>The comment that the MOU should require specific levels of wastewater treatment for the facility follows from the concern that poor quality water could be injected into the subsurface. The City’s treatment plant design will include disposal options for recycled water, leachfield disposal, and deep well injection and evaluate the costs for additional treatment for recycling and, possibly, deep well injection versus leachfield disposal. The City will develop a plan for recycling, reuse, and storage.. Prior to construction of any facility the Regional Board will consider adoption of waste discharge requirements after a public process and any authorized discharge must comply with applicable laws and regulations that apply to the approved discharge that must be protective of water quality and beneficial uses..</p>

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			<p><u>wastewater treatment required for the facility.</u> 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 injection 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.</p> <p>– <u>The MOU should prioritize water recycling and reuse.</u> 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.</p> <p>– <u>Detailed public stakeholder involvement plans should be outlined for all Phases.</u> 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.</p> <p><u>The MOU should clearly describe what happens if the voters reject the formation of one or more assessment districts.</u> 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</p>	

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			will work, and what are the enforcement assurances?	
22.2	Surfrider Foundation-Late	July 1	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.	See response to comment 12.2.
22.3	Surfrider Foundation-Late	July 1	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.	See response to comment 12.2.