

**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)**

**Part 2**

23. Knolls Property Owners Association
24. La Paz
25. Ozzie Silna

<b>No.</b>	<b>Author</b>	<b>Date</b>	<b>Comment</b>	<b>Response</b>
23.1	Knolls – Connie James	June 30	As President of the Malibu Knolls Property Owners Association (Knolls), I am writing to express the Knolls' support of the proposed MOU between the City of Malibu and the California Regional Water Quality Control Board. The Knolls would like to commend the efforts of the City of Malibu and the California Regional Water Control Board in developing this MOU. It has taken a considerable amount of time, hard work and negotiating at all levels to reach this point.	Your support for the MOU is noted.
24.1	La Paz	July 1	Our firm represents Malibu La Paz Ranch, LLC ("La Paz") whose property is located at 23465 Civic Center Way (APN# 4458-022-023 & 024) in the Phase 1 area of the tentative Memorandum of Understanding ("MOU") between the City of Malibu ("City") the Los Angeles Regional Water Quality Control Board ("RWQCB") and the State Water Resources Control Board. ("SWRCB"). La Paz generally supports the tentative MOU, subject to the following comments.	Your support for the MOU is noted.
24.2	La Paz	July 1	The tentative MOU phasing map <sup>s</sup> depicts La Paz's property as one of the parcels to be assessed in Phase 1 of the plan (Phase 1 properties are shown in yellow on Exhibit A of the proposed MOU). This assessment upon La Paz's property is mandated by the provisions	Staff concurs that there are many treatment technologies to achieve zero discharge as required by the Prohibition, including connection to a centralized wastewater treatment facility.

**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)**

**Part 2**

No.	Author	Date	Comment	Response
			<p>of the MOU to occur no later than September 30, 2013. Additionally, the MOU would require La Paz to physically connect to the City's Centralized Wastewater Treatment Facility (CWWTF) no later than November 5, 2015. These provisions of the tentative MOU appear to breach the City's obligations <i>pursuant to its Development Agreement<sup>2</sup> ("Agreement") with La Paz and are likewise inconsistent with the adopted Basin Plan Amendment ("BPA"), as hereafter explained.</i></p> <p><u>The Proposed MOU Would Breach the City's Agreement with La Paz</u></p> <p>Pursuant to Section 5.10 of the Agreement, the City can neither mandate La Paz's connection to the CCWTF nor cause La Paz to be assessed, except on the terms set forth in Section 5.10.</p> <p>Section 5.10 provides that La Paz cannot be required to hook up to, nor be assessed for, the City's CWWTF unless the CCWTF is fully permitted and operational before La Paz receives the final grading permit for its wastewater treatment facility. Under those circumstances, La Paz <i>may</i> within its sole discretion opt to connect to the City's CWWTF and be assessed accordingly; however, as noted, La Paz may not be assessed for, nor mandated to connect to, the City's CWWTF except as specified in the Agreement. Therefore, to the extent it breaches Section 5.10, the tentative proposed MOU is inconsistent with the</p>	<p>With respect to the Development Agreement with the City, the MOU does not affect the development agreement; that is a matter between the City and La Paz. The Regional Board has jurisdiction over the OWTS for commercial property. La Paz must comply with Regional Board requirements for wastewater discharge and is subject to the terms of the Basin Plan Amendment. Compliance may be by WDRs or through participation in a community facility as long as the Board finds that the method of compliance is consistent with the Basin Plan Amendment.</p> <p>The MOU Phase One is "for the wastewater discharge of those properties." If a property has zero discharge (for example is vacant), the owner would not be required to connect to the City's centralized system. But any property -- as determined by the Regional Board -- that discharges wastewater to waters of the state would be required to connect.</p>

**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)**  
**Part 2**

No.	Author	Date	Comment	Response
			Agreement and La Paz objects to it.	
24.3	La Paz	July 1	<p><u>The Proposed MOU is Inconsistent with the Adopted Basin Plan Amendment , and La Paz's WDR/WRR</u></p> <p>The La Paz Project is a zero discharge project. The Project's WDR/WRR, as you may recall, was approved after the adoption of the BPA and was found to be consistent with the BPA because the Project did not propose to "discharge wastewater" into State receiving waters. Both the State and Regional Water Boards thus determined that La Paz was not subject to the provisions of the BPA.</p> <p>La Paz's WDR/WRR (Order No. R4-2010-0107) was adopted by the RWQCB on July 8, 2010. The order states in pertinent part as follows:</p> <p><b>30. Future Civic Center Connection:</b>  The Executive Officer may choose to re-open the WDR/WRR for a material change allowing or requiring La Paz to accept specified Civic Center effluent when the irrigation capacity at La Paz is not met and potable water would otherwise be applied...</p> <p><b>J. PROHIBITIONS</b>  1. Sewer Connection: Effluent from system upset which cannot be stored or used for irrigation must be</p>	<p>An emergency connection to the City's sewer is required as a part of the La Paz WDR Permit. This condition is consistent with California Department of Public Health requirements and was discussed during La Paz's adoption meeting in case the system malfunctions.</p>

**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)**

**Part 2**

No.	Author	Date	Comment	Response
			<p>discharged to a centralized facility when constructed by the City of Malibu. La Paz is in the Malibu Civic Center Onsite Wastewater Disposal System prohibition area, and is subject to the Basin Plan Amendment, if it is in effect.</p> <p>Both the State Board and the RWQCB were clear that La Paz's wastewater system as designed would not require future connection to the CWWTF unless the system failed to comply with the provisions in Order No R4-2010-0107. This is reflected in La Paz's WDR/WRR as well as in the meeting minutes that reflect Board discussions on July 8, 2011 (date of adoption of Resolution Approving Order No. R4-2010-0107 by the RWQCB 4. The SWRCB made similar observations and comments during its meeting on September 21, 2010 when the SWRCB adopted Resolution Number 2010-0045 approving the BPA. The SWRCB acknowledged that La Paz's Project as designed and engineered was consistent with the BPA and outside the scope of the BPA's coverage.</p>	
24.4	La Paz	July 1	The tentative MOU therefore conflicts with La Paz's WDR/WRR and the City's Agreement with La Paz. La Paz requests that the tentative MOU be revised so that it is made consistent with the provisions of the La Paz Development Agreement and La Paz's WDR/WRR.	See response to comment 24.2 and 24.3.
25.1	Ozzie Silna	July 1	The most troubling issue regarding the Memorandum of Understanding is the fact that there has not been	Sufficient time has been allotted for review. Please also see response to comment 10.2.

**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)**  
**Part 2**

No.	Author	Date	Comment	Response
			sufficient time to discuss the most pertinent issues regarding the implementation of the proposed sewer system with the property owners within the Serra Canyon. This is particularly disturbing in light of the fact that there was virtually no linkage disclosed at the Water Quality Symposium regarding any contribution of pollution from the Serra Canyon area into the "Surfrider Beach" area.	
25.2	Ozzie Silna	July 1	Several years ago, the "Private Easement Roads" in the Serra Canyon were required to be upgraded to meet State paved road requirements. After the matter was reviewed, it was determined that the major contributor to the destruction of the roads was the District 29 water lines. Said destruction occurred as a result of tremors caused by earthquakes. The county agreed to contribute in excess of \$80,000 toward the repair of said roads. There was no indication that the Septic systems caused any destruction	Your comment is noted.
25.3	Ozzie Silna	July 1	Installing miles of sewer lines both to remove sewage and to deal with the wastewater disposal needs could subject the entire canyon area to unwarranted additional damage and greater pollution to the "Surfrider Beach" area. We don't even know where the Wastewater Treatment facility will be located. Many of the Phase Two properties in the Serra Canyon are much further away from the creek and from Surfrider Beach than those properties in Phase Three. Before we require inclusion of those properties in the Sewer system, it should be determined that they, IN FACT, are contributing to the alleged pollution.	The Prohibition is in full effect and has identified the Serra Canyon as a source of bacteria and nutrients to the Lagoon and Malibu Creek.

**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)**  
**Part 2**