

July 1, 2011

Delivered via electronic mail to:  
ewu@waterboards.ca.gov, rvillar@waterboards.ca.gov  
Attn: Eric Wu, PhD

Eric Wu, PhD  
California Regional Water Control Board  
Los Angeles Region  
320 West 4th Street, Suite 200  
Los Angeles, California, 90013

**RE: MEMORANDUM OF UNDERSTANDING BETWEEN CITY OF MALIBU AND REGIONAL WATER QUALITY CONTROL BOARD, LOS ANGELES REGION AND STATE WATER RESOURCES CONTROL BOARD REGARDING PHASED IMPLEMENTATION OF BASIN PLAN AMENDMENT PROHIBITING ON-SITE WASTEWATER DISPOSAL SYSTEMS IN THE MALIBU CIVIC CENTER AREA**



Dr. Wu.

The Malibu Surfing Association (MSA) formed in 1961 as one of California's first surfing clubs. The MSA is an all-volunteer, nonprofit organization dedicated to the fellowship of surfing and to the stewardship of our home break, world-famous Malibu Surfrider Beach. In this 50th year of our club's founding, we remain intimately associated with the past, present, and future of Malibu surfing and of Surfrider Beach. Please accept the following comments to the Los Angeles Regional Water Quality Control Board ("Regional Board") regarding the Memorandum of Understanding ("MOU") between City of Malibu and Regional Board and State Water Resources Control Board ("State Board") regarding phased implementation of Basin Plan Amendment prohibiting on-site wastewater disposal systems in the Malibu Civic Center area.

MSA is a primary user group Surfrider Beach. We know of no other organization that has as many cumulative hours surfing, recreating, and working to protect this beach. We are joined with friends, family, and fellow surfers who recognize Surfrider Beach as an important recreational resource and a signature beach within the history and culture of our sport. We've claimed Surfrider Beach as our home break as part of our club's history but recognize surfing itself is a protected beneficial use (water-oriented recreation) recognized in the Los Angeles County Basin Plan and the Coastal Act.

Through this intimate association with Surfrider Beach we are also one of the groups that has been most affected by its severe, and well-documented, water quality impairments. For over 15 years MSA members have provided written and direct testimony to both the Regional Board and State Board regarding illnesses received from surfing at Surfrider Beach, including the dramatic 2009 testimony to the Regional Board of one member who contracted a life-threatening Coxsackie B4 heart virus (requiring pacemaker installation) following a session at Third Point, Surfrider Beach. Additionally, as early as 1970 the LA County Flood Control District LA County Department of Public Health wrote to the Regional Board expressing their concerns that septic systems in Malibu would pollute groundwater and create a serious potential hazard to health.

In short, we're in the water you're charged to protect, we're sick of being sick, and we supported the Basin Plan Amendment with the desire for commitments, clarity, and conclusion.

We readily grant memoranda of understanding are not legal settlements, but documents providing guidance and requiring flexibility. In this case, regrettably however, we've concluded the MOU does not provide a level of certainty needed to address the water quality impairments at Surfrider Beach. The MOU and supporting Basin Plan Amendment are founded upon five technical, peer-reviewed, memoranda. Together, these memoranda provide important tests of the MOU's definitions, timelines, and regulatory plans. We don't believe the MOU addresses, or addresses clearly enough, the results of these reports.

Technical Memorandum #1 ("TM-1"), "Permitted Dischargers Have Poor Records of Compliance with Regional Board Orders" reports over 600 violations for 19 Civic Center dischargers between 2004-2009. Equally, TM-1 also recognizes the City of Malibu's poor record in complying with the most recent, 2004 Memorandum of Understanding with the Regional Board. We've passed the time where optimism or