City of Malibu

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December 29, 2010

Mr. Sam Unger, Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

RE: Quarterly Progress Report No. 3 (Resolution No. R4-2009-007) and Milestone Update

Dear Sam:

Below find the City of Malibu's Quarterly Progress Report No. 3. At this time, the City is submitting this quarterly report to become fully compliant with the above mentioned resolution and to update your records for the last 3 months. It should be noted that nothing in this report or its transmittal waives any rights the City has to challenge the legality or appropriateness of the proposed ban and the City expressly reserves all its rights in that regard.

Quarterly Progress Report No. 3:

Discussion:

The City Manager and the Executive Officer of the RWQCB have met on a near weekly basis since the State Board hearing in September 2010. The purpose of the meetings is to provide continual communication updates on the prohibition plans and ensure that all opportunities are discussed and mutual resolutions to the wastewater issues are reached.

On November 23, 2010, City staff met with the Charlie Hoppin, Chair of the State Water Resources Control Board (SWRCB), Jonathan Bishop, SWRCB Chief Deputy Director, and Sam Unger, Executive Officer of the LARWQCB. The meeting was productive and discussions of how the City could meet the intent of the Prohibition and construct a wastewater treatment facility were evaluated. The main topics included the potential for the City to use "deep well injections" in lieu of percolation fields as the means for dispersing treated Title 22 effluent and how to appropriately phase the assessment districts to ensure the highest degree of success.

In order for the design to move forward, the City strongly feels that deep well injections would be its best opportunity to ensure that all treated effluent can be properly dispersed without impact to existing groundwater. Deep well injection provides an environmentally safe dispersal alternative and would alleviate the necessity to have an ocean outfall or the extreme costs of pumping effluent to a distant treatment center. In addition, it is known that the percolation limitations within the Winter Canyon area would most likely limit the amount of service area to

be treated. It is anticipated that deep well injection will meet the dispersal needs for this region for years to come. The RWQCB is reviewing the option of deep well injection and will let the City know if this is an acceptable dispersal method and how best to proceed on this issue if it is acceptable. The City still fully intends to maximize recycling of the Title 22 water within the Civic Center area to reduce dispersal needs.

The second major issue that the City and RWQCB are discussing is phasing options. At the State Board hearing, the City presented a 2-phase approach to design a wastewater treatment system and implement assessment districts. The RWQCB had similar 2-phased approach, but the RWQCB phasing included many more residential areas and a few additional commercial areas. The City is working cooperatively with the RWQCB to determine if a compromise can be reached in order to achieve our mutual objectives. It is known that many commercial owners are supportive of the City's efforts and are likely to support a sewer treatment assessment district. Approvals of assessments from the residential areas will be much more difficult to obtain. It is believed that the residential Serra Canyon area is most likely to benefit from recycled water as many properties have large landscaped areas. Options include utilizing a 3-phased approach, so that time could be given to monitor the effects of Phases 1 and 2.

The City continues to have monthly stakeholders meetings with involved citizenry. In addition, the City Manager and Executive Officer met with the president of Heal the Bay and discussed/presented current options. Conceptual but cautious support for deep well injection and potential phasing alternatives was provided by Heal the Bay.

The City's consultant has provided flow estimates from each of the different phasing options. In addition, the City's consultant is preparing a preliminary conceptual design report, as directed by the RWQCB. The report is to be completed by January 11, 2011. Finally, the City has been working with USGS to complete the investigation of the water quality within Malibu Creek and near shore ocean waters. The City has had discussions with the RWQCB on how best to proceed with a peer review to ensure that everyone is acceptable to completing the peer review process.

I trust this Progress Report No. 3 is fully sufficient in accordance with the resolution and demonstrates that the City of Malibu continues to be in compliance with Resolution No. R4-2009-007.

Sincerely,

Jim Thorsen
City Manager

cc: Mayor Wagner and Honorable Members of the Malibu City Council
Christi Hogin, City Attorney
Bob Brager, Public Works Director
Vic Peterson, Environmental and Community Development Director