



**SOMACH SIMMONS & DUNN**

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

500 CAPITOL MALL, SUITE 1000, SACRAMENTO, CA 95814

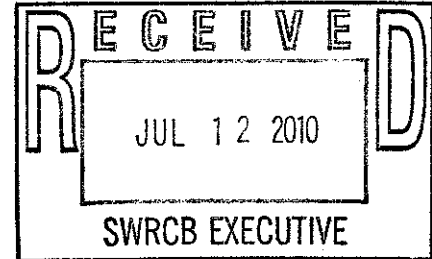
OFFICE: 916-446-7979 FAX: 916-446-8199

SOMACHLAW.COM

July 12, 2010

Via Electronic Mail and U.S. Mail

State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814  
Attn: Jeanine Townsend, Clerk to the Board  
[commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)



**Re: Comment Letter — Malibu Septic Prohibition**

Dear Chairman Hoppin and Board Members:

These comments are being submitted on behalf of Malibu Colony Plaza and the immediately adjacent commercial property parcel located across the street commonly known as "Web Way" in Malibu, California (containing Malibu Petroleum, the U.S. Postal Service, and Malibu Urgent Care) (collectively, the Shopping Center) with regard to the State Water Resources Control Board's (State Water Board) consideration of a resolution approving an amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan). The Basin Plan amendment would prohibit on-site wastewater disposal systems (OWDS) in the Malibu Civic Center Area, which encompasses Malibu Valley, Winter Canyon, and the adjacent coastal strips of land and beaches. We do not believe that the information in the record adequately demonstrates the need for an OWDS ban to protect water quality and beneficial uses, and respectfully request that you reject the Basin Plan amendment. At a minimum, however, we request that you direct the Los Angeles Regional Water Quality Control Board (Regional Water Board) to allow for the City of Malibu (City) and its property owners to continue its efforts to develop an alternative, viable, and community-based wastewater treatment solution.

The Shopping Center is located within the Malibu Civic Center Area and consists of a mixture of retail and commercial businesses. The Shopping Center stores its wastewater in septic tanks prior to off-site treatment and disposal at the Winter Canyon Treatment Facility (WCTF) in accordance with waste discharge requirements (Order No. 00-182). The Basin Plan amendment, adopted by the Regional Water Board on November 5, 2009, would immediately prohibit all new OWDSs, and establish a schedule to phase out all existing OWDSs, in the Malibu Civic Center Area. The amendment would require the Shopping Center to cease using its OWDS by November 5,

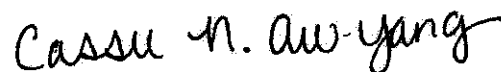
State Water Resources Control Board  
Re: Comment Letter—Malibu Septic Prohibition  
July 12, 2010  
Page 2

2015. The economic consequences of the Basin Plan amendment as proposed by the Regional Water Board to the Shopping Center and other City businesses are substantial.

In addition, the Shopping Center is concerned that the Regional Water Board's OWDS prohibition is geographically over-reaching, technically infeasible, and environmentally unsound. The prohibition covers an expansive zone of nearly 550 residences and businesses in the Malibu Civic Center Area, *including areas that do not affect the water quality for which the Regional Water Board has concerns*. As a result of the prohibition, the City would have to construct and operate a large wastewater treatment facility. Given the substantial geographic scope of the prohibition, the City anticipates that it would potentially have to construct and operate an ocean outfall or discharge into the Malibu Creek aquifer to dispose of the treated effluent. Further, the project would require full environmental review in accordance with the California Environmental Quality Act. This review may take several years to complete and is likely to encounter staunch environmental opposition to the project, delaying water quality improvements. Moreover, voters, including a large contingent of residential property owners unlikely to support the project, would have to approve assessments for the project.

For these reasons, we urge you to reject the proposed Basin Plan amendment. If you determine that a prohibition or further regulation of OWDSs may be appropriate, we also request that you remand the proposed amendment with direction to the Regional Water Board to afford the opportunity to the City and its property owners to complete its ongoing efforts in pursuit of an alternative, collaborative, and viable solution. We believe that options that better serve the community, avoid unnecessary adverse economic consequences, and address the Regional Water Board's concerns are available, but require additional time for development. We appreciate your consideration of our comments and look forward to your decision on the proposed Basin Plan amendment. Please contact me at 916-446-7979 if you have any questions or I can be of further assistance.

Sincerely,



Cassie N. Aw-yang

CNA:jm