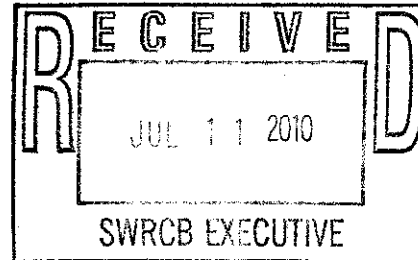


MALIBU KNOLLS
PROPERTY OWNER'S ASSOCIATION

MALIBU, CALIFORNIA 90265

June 26, 2010

Mr. Charles R. Hoppin, Chair
c/o Jeanine Townsend, Clerk of the Board
State Water Resources Control Board
P.O. Box 1000
Sacramento, CA 95812



RE: Comment Letter – Malibu Septic Prohibition

Dear Mr. Hoppin:

We understand the State Water Resource Control Board ("State Board") is accepting public comments on the "proposed approval of an amendment to the water quality control plan for the Los Angeles region to prohibit on-site wastewater disposal in the Malibu Civic Center area".

I am writing to express the Malibu Knolls Property Owners Association, (Malibu Knolls or The Knolls as it is known) opposition to the resolution the Los Angeles Regional Water Quality Control Board adopted on Nov. 5, 2009. First, one needs to understand the location and make-up of The Knolls. The Knolls is a residential area of 60 single family homes. It is on the ridgeline about 200 – 260 feet above the Civic Center Valley floor and located about ¼ - ½ mile from the impaired water bodies.

Malibu Knolls Property Owners oppose the ban for the following reasons:

1. **The water code 13280 has not been met for The Knolls to be included in the ban.** The LARWQCB is required by law to provide "substantial evidence in the record to support such a ban".
 - Proof has not been provided that The Knolls septic systems are the cause of bacteria in the impaired water bodies (the Lagoon, Malibu Creek and Surf rider beach). The travel time of dispersants from The Knolls OWDS takes 50 years to reach the ocean (Stone Report of 2004). In that time, bacteria are removed from the OWDS dispersants. The LARWQCB didn't take this fact into consideration nor mention this fact in their report.
 - At a meeting two (2) Knolls property owners were told by an Executive Officer at LARWQCB, that The Knolls was included in the ban to provide enough homes in the assessment area to pay for a sewer system. This is not evidence of pollution to an impaired water bodies or wells.
 - The Knolls elevation of 200 - 260 ft. provides enough separation from ground water and travel distance to the impaired water bodies. LARWQCB requires a 5 – 10ft. vertical separation between the OWDS dispersal and the groundwater. The Knolls with its elevation meets the LARWQCB vertical separation requirements and are not contributing to the impaired water bodies.
 - The Knolls area is generally ¼ - ½ mile from the impaired water bodies. Given its distance, elevation and length of time to reach the water bodies, The Knolls is not contributing bacterial pollutants to the impaired water bodies. The LARWQCB report does not discuss the above issues and unjustifiably included The Knolls in the ban.
 - The LARWQCB hasn't proven The Knolls dispersal is identifiable in the impaired water bodies. Data submitted hasn't been consistent or verifiable and calculations are made on

erroneous assumptions. Counting roof tops, assuming the number of residence per household and that Coliform bacteria come only from septic provides misleading conclusions which one of the peer reviewers mentioned. No proof has been submitted that The Knolls OWDS are the cause of bacterial pollution found in the impaired water bodies or wells.

2. **The Knolls area doesn't contribute to the water table (groundwater) in the Civic Center flowing to the Lagoon.** The LARQCB proposed ban boundaries were set based on the surface topography of the area and that The Knolls contributes to groundwater and pollution in the Lagoon. The LARQCB boundaries and the 2004 Stone Report are the same. The 2004 Stone Report provides a drawing of the underground water table in the Civic Center area and its relationship with the surrounding topography. The Stone Report adjusted their assumptions of the boundaries because the surface topography didn't match their findings on what affected the ground water. The Malibu Knolls has no impact on that water table in the Civic Center area from their OWDS. Again, there is no discussion of these facts in the LARWQCB documents. LARWQCB made an assumption and didn't validate it, an important step in conducting research.
3. **The proposed ban places an unnecessary financial burden on The Knoll residents when they are unable to obtain the market value for their property for an extended, unknown period of time.** The ban places a cloud of uncertainty resulting in diminishing property values for an undetermined period of time. In some cases, residents need to sell their home to provide the necessary finances for care facilities, and/or nursing care for the duration of their life. This ban diminishes a financial resource for the resident which many of them are depending on, later on in life.
 - At a meeting with an Executive Officer at LARWQCB, two (2) Knoll property owners were told it didn't matter if the residents couldn't financially afford a sewer assessment, the assessment district could put a lean on their properties.
4. **Banning septic systems in the Civic Center will not make the ground water (well water) potable.** The ground water was used prior to 1965, as a source of drinking water with restrictions for children to not ingest it due to the high fluoride and salt content. Since 1965 water has been brought in by the LA Water District 29 to residences and businesses in the proposed septic system ban area. The ground water wasn't potable in 1965; banning septic system in the Civic Center won't make it potable either.
5. **The water code 13823 has not been met with a review of other solutions.** The LARQCB or the State Board reports never discusses what alternatives are available to correct problems in the impaired water bodies. The above water code requires "the state board to include a preliminary review of possible alternatives". By proposing a ban on new and existing septic systems, the State Board implies there is only one solution; a waste water treatment facility. Some areas might benefit from bacteria and viral system upgrades to a septic system. Some areas should be excluded in this ban, like the Knolls. None of these alternatives are presented and with this proposed ban, the above solutions cannot be acted upon. Neither The State Board nor LARWQCB have reviewed, presented or discussed alternative solutions.

Malibu has committed to spend in excess of \$50 million dollars to improve water quality in our beaches. To this end the City of Malibu has undertaken several studies, at taxpayers' expense, to identify the specific cause of pollution. Many of these studies are being carried out at the request of LA Regional Water Control Board. While it is important to move forward on this issue, it is also important to make sure when we are done, we will see a significant improvement in water quality. The results from the studies underway in Malibu will provide us with information necessary to arrive at the proper solutions. LARQWCB and The City of Malibu should wait for the results and make their decisions according to the findings.

The State Board should remand the LA Regional Water Quality Control Board's resolution as some of the findings, as discussed above are incorrect. The City of Malibu should be allowed to present study results LARQCB requested, present its' ideas for a proposed treatment center and proposed boundaries, evaluate the effectiveness of Legacy Park for dry weather and storm water runoff on bacterial levels, and conclude studies that are in the process. Gathering scientific data will allow all parties involved to provide the best, most, comprehensive solution for elimination of pollution to impaired water bodies. Without thoughtful progress, the impaired water bodies might end up in stagnation. The Knolls desires an outcome which will provide a significant improvement in water quality.

Thank you for your time and consideration of The Knolls in this matter.

Sincerely,



Sally Benjamin,
President of Malibu Knolls Property Owners Association
3216 Colony View Circle

CC: California Governor Arnold Schwarzenegger
Linda Adams, Secretary, California Environmental Protection Agency