



City of Malibu

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Sent via Email to commentletters@waterboards.ca.gov

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814



RE: City of Malibu Comments – National Pollutant Discharge Elimination System (NPDES) Statewide Storm Water Permit Waste Discharge Requirements (WDR) for State of California Department of Transportation (Caltrans) – MS4 Permit

Dear Members of the State Water Resources Control Board:

The City of Malibu welcomes the opportunity to comment on the Tentative Order No. 2012-XX-DWQ, CAS000003, NPDES Statewide Stormwater Permit Waste Discharge Requirements for the State of California Department of Transportation (Caltrans).

The City of Malibu is unique in that it is a rural, residential community that sits at the mouth of twenty natural stream or intermittent stream culverts near the ocean outlets, which commingle surface flows from a myriad of lands and facilities owned and operated by other agencies. These facilities include 21 miles of Pacific Coast Highway (PCH) maintained by Caltrans, and public parklands and beaches maintained by State Parks, the Santa Monica Mountains Conservancy, the Mountains Recreation and Conservation Authority, Los Angeles County and the Santa Monica Mountains National Recreation Area. These popular public areas attract more than 20 million annual visitors who access these public places via PCH by car, bus, bike, horse and on foot.

The City has no regulatory authority over the operation, maintenance or construction activities of these agencies. Thus, the City must rely on the State Water Resources Control Board (SWRCB) and the Los Angeles Regional Water Quality Board to (1) apply the same standards to protect water quality that apply to local municipalities (including the City's MS4 Permit requirements, Basin Plan and Ocean Plan requirements and Total Maximum Daily Load (TMDL) obligations); and (2) consider all of the specific regional issues that come from Caltrans' statewide operation. Without consistent regulations for all agencies in this region and regional collaboration, none of these agencies will be able to successfully achieve compliance with water quality standards.

The proposed SWRCB order notes that many details of the Caltrans permit will be resolved in coordination with other Los Angeles Regional Water Quality Control Board permit conditions and the incorporation of TMDLs or Area of Special Biological Significance (ASBS) regulations into the Basin Plan. With that understanding, these comments raise general concerns about Caltrans' impact on local water quality in the North Santa Monica Bay region.

The City supports SWRCB staff recommendations with respect to addressing the complex management issues associated with overlapping jurisdictions in these watershed or drainage areas. For example, the proposed provisions for developing and managing a Municipal Coordination Plan as part of the Storm Water Management Plan (SWMP) are essential to meeting California's water quality objectives. The City would like to emphasize the importance of collaboration with the City of Malibu prior to Caltrans submittal of the Plan to the SWRCB for approval.

This early consultation is imperative because the agencies need to identify precisely where Caltrans' MS4 facilities operate within the City limits. For example, Appendix 5 to the EIR for the recently adopted ASBS Exception and Special Protections indicated that Caltrans only owned/operated culverts that pass under PCH and convey natural streams to the ocean in Malibu. This drain inventory fails to identify dozens of existing Caltrans storm drains that either directly discharge to the ASBS or commingle with municipal or private facilities that discharge to the ASBS. Without an accurate, comprehensive drain inventory, it will be impossible for Caltrans, and the City of Malibu, to develop the required compliance and monitoring plans necessary to comply with MS4 permit requirements, as well as the ASBS Special Protections.

Next, the Stormwater Management Plan/Municipal Coordination Plan must cover both dry and wet weather management coordination. Malibu recognizes that Caltrans does not typically engage in activities, such as irrigation that generate significant dry-weather (non-stormwater) runoff within the City of Malibu; however, Caltrans does have hundreds of PCH drains that discharge wet weather runoff directly to Santa Monica Bay or Malibu Creek. None of the agencies in the North Santa Monica Bay region work in a vacuum, and the agencies must collaborate on wet- and dry-weather runoff strategies to ensure program success.

With respect to the North Santa Monica Bay Region specifically, Caltrans' storm drain facilities are located in watersheds with applicable bacteria and marine debris TMDLs. Most of the facilities are currently without trash/marine debris capture devices. Year-round transportation along PCH creates litter accumulation along the highway and, without trash capture devices, the litter can be conveyed directly to Santa Monica Bay and Malibu Creek. Both structural and non-structural BMPs will be required on Caltrans MS4 facilities in order to meet these regional marine debris TMDL objectives and the ASBS Special Protections. The discharge of trash is prohibited under the TMDL (Provision A. 2. C); however, Caltrans is currently constructing new drainage facilities in Malibu without any trash or marine debris capture devices. Given the complex drainage patterns in Malibu and commingled drainage, regional collaboration is critical to successful TMDL compliance. For these reasons, the City of Malibu expressly requests that Regional Water Quality Control Board staff include the City of Malibu in its collaboration with Caltrans to develop any TMDL-specific permit requirements (as set forth in Provision 39).

The TMDL and ASBS regulations applicable in Malibu allow for independent or regional approaches to monitoring and implementation plans to meet regulatory standards. Because many of the Caltrans facilities could impact the shared receiving waters and because many Caltrans drains commingle with City of Malibu facilities, collaboration between Malibu and Caltrans to develop a coordinated action plan will allow the agencies to share costs, potentially increase the chances for early success and reduce both agencies' total projected compliance costs. The City



has identified SWRCB and other grant programs for which Caltrans is eligible for funding and Malibu welcomes the opportunity to quickly address specific sites where there are commingled facilities to take advantage of these funding programs.

The Municipal Coordination Plan is important for other reasons. For the past two years, Caltrans has incrementally increased impermeable paved areas in Malibu that may cumulatively result in more than 1 acre of surface areas, and created new curbs that, post-construction, may generate and transport more pollutants to critical water bodies.

In addition, new facilities were installed at multiple drainage facilities that could significantly alter the existing runoff hydrograph without any design pollution prevention BMPs. Caltrans did not consult with the City prior to creating these new impervious areas. Increased pollutant loads and alteration of the runoff/sediment balance have the potential to negatively impact the beneficial uses of receiving waters. Collaboration with the City can only benefit all of the agencies in the region, as each agency has a unique understanding of its drainage patterns and is planning MS4 Permit and ASBS Compliance activities accordingly.

Transportation facilities can also impact bacteria TMDL compliance. Pooling of natural stream flows associated with existing PCH culverts is an impediment to unrestricted natural stream flows which have been identified as the source of elevated bacteria levels in two streams in Malibu (Ramirez Creek and Escondido Creek Microbial Source Identification Study, Year 2 Progress Report, Southern California Coastal Water Research Project, December 2008). Since every natural stream in Malibu crosses under PCH before discharge to the ocean, these physical barriers have the potential to cause or contribute to bacteria or other pollutant loads at compliance monitoring sites at each of the creek discharge locations. This is just another example of why agency collaboration is imperative.

Lastly, the City supports comments submitted by the Statewide Stormwater Coalition regarding compliance with water quality objectives in the permit through the iterative BMP process.

In conclusion, the City of Malibu welcomes the opportunity for Caltrans to collaborate with all agencies operating in the region through the proposed mechanism described in the **Municipal Coordination Plan** in the SWMP and supports any action by the State and Regional Boards to require such collaboration. The most pressing topics for that collaboration include:

- ASBS regional integrated water quality monitoring and Compliance Plan for ASBS with core discharge monitoring and ocean receiving water and reference site monitoring,
- Water quality monitoring and implementation of TMDL-specific permit requirements, including deliverables, actions and compliance due dates,
- New development and re-development design standards for Caltrans facilities and highways,
- Standard Urban Storm Water Mitigation Plans (SUSMP) that would include Caltrans activities that receive no oversight by any other agency,

- Emergency highway spill response and illegal dumping,
- Dry-weather and wet-weather pollution prevention, and
- Public education and outreach.

If the State Water Board staff or Caltrans representatives have any questions or suggestions, please feel free to contact Jennifer Brown, Senior Environmental Programs Coordinator, at (310) 456-2489 extension 275 or jbrown@malibucity.org.

Sincerely



Reva Feldman

Assistant City Manager

cc: Mayor Rosenthal and Honorable Members of the Malibu City Council
Jim Thorsen, City Manager
Christi Hogin, City Attorney
Jennifer Brown, Senior Environmental Programs Coordinator
Scott McGowen, P. E., California Department of Transportation
Sam Unger, Executive Officer, Los Angeles Regional Water Quality Control Board