

**MEMORANDUM OF UNDERSTANDING
BETWEEN
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,
LOS ANGELES REGION
AND
THE CITY OF LOS ANGELES

REGARDING ONSITE WASTEWATER TREATMENT SYSTEMS**

I. RECITALS

WHEREAS, section 13260 of the California Water Code (CWC) requires any person discharging waste or proposing to discharge waste that could affect the quality of waters of the State, except to a community sewer system, to file a report of waste discharge with the local California regional water quality control board which has jurisdiction over the discharge;

WHEREAS, in accordance with section 13260 of the CWC, the California Regional Water Quality Control Board, Los Angeles Region, hereafter referred to as the Regional Board, issues Waste Discharge Requirements (WDRs) to dischargers covering specific waste discharges or types of waste discharge, including discharges from onsite wastewater treatment systems;

WHEREAS, section 13269 of the CWC authorizes a regional board to waive the requirement for a report of waste discharge or waive the need for the regional board to issue WDRs as to specific discharges or types of discharges where such waiver is consistent with any applicable state or regional water quality control plans and is in the public interest;

WHEREAS, sections 13290 and 13291 of the CWC require the State Water Resources Control Board (State Board) to establish statewide standards for the regulation of certain onsite wastewater treatment systems (OWTSs) and authorize the Regional Board to delegate implementation of these standards to a Qualified Local Agency (QLA);

WHEREAS, in 1952, the Regional Board adopted Order 52-4, which waived the requirement for homeowners to obtain WDRs for residential OWTSs in the Region. Section 13269 of the CWC required the Regional Board to review and renew these waivers by June 30, 2004. The waivers may not exceed five years in duration and may be terminated by the State Board or Regional Board at any time. At its regular Board meeting on June 10, 2004, the Regional Board voted to extend the waivers for 120 days in the City of Los Angeles (“City”), with the understanding that the City and other jurisdictions would enter into MOUs regarding the regulation of certain OWTSs;

WHEREAS, OWTSs have been used as a form of wastewater disposal for many decades. Currently, the number of individual residential OWTSs in the Region (Ventura and Los Angeles Counties) exceeds 100,000. In many instances, the discharge from these systems does not adversely affect the beneficial uses of groundwater or surface water quality;

WHEREAS, in some areas, the distance between the leach field or seepage pit and the groundwater may not be sufficient to provide adequate treatment of wastes discharged to OWTSSs. In some cases, the proximity of these systems to surface water bodies may result in surface water contamination from inadequately treated wastes. In other instances, the areal density and cumulative effects of numerous systems may result in inadequate waste treatment. Additional factors may also impede the effectiveness of these systems and create conditions that adversely affect water quality;

WHEREAS, the Regional Board and the City desire to protect water quality and the public health;

WHEREAS, the City, through the Los Angeles City Municipal Code (“Code”), establishes requirements for the design, siting and operation of OWTSSs that are in the City;

WHEREAS, the Regional Board wishes to designate the City as the QLA for the regulation of certain OWTSSs within the City, and the City is willing to accept such designation;

WHEREAS, the Regional Board has found that this Memorandum of Understanding (MOU) satisfies the requirements of section 13269 of the CWC and enables the Regional Board to issue waivers of WDRs for those OWTSSs regulated by the City as detailed in this document; and

WHEREAS, pursuant to Resolution R4-008, the Regional Board has delegated to its Executive Officer the power to negotiate and enter into this MOU on behalf of the Regional Board.

NOW, THEREFORE, THE REGIONAL BOARD AND THE CITY HEREBY AGREE AS FOLLOWS:

II. DESIGNATION AND AGREEMENT

1. The Regional Board designates the City as the QLA, and the City accepts that designation, for the implementation of applicable siting, permitting, construction, inspection, monitoring, and performance requirements pursuant to the Code and this MOU for certain OWTSSs within the City (“City-regulated OWTSSs”), as defined in section III.1 of this MOU.
2. The Regional Board and the City agree that the Code and Section IV of this MOU will govern applicable siting, permitting, construction, inspection, monitoring, and performance requirements for the City-regulated OWTSSs.
3. This MOU shall be effective for a term of five (5) years from the effective date hereof, in accordance with the provisions of Section VI hereof, and shall be renewable subject to the provisions of Section V hereof.

III. APPLICABILITY

1. “City-regulated OWTSSs” shall consist of those OWTSSs that generate 20,000 gallons per day or less of Domestic Sewage that is disposed of below the ground surface from single family residential structures not covered under Subsection III.2 below.

Notwithstanding the provisions set forth above, City-regulated OWTSSs shall not include those systems that, upon mutual agreement of the City and the Regional Board, require the issuance of a WDR by the Regional Board. In the event that the City requests the Regional Board to issue a WDR to the operator of such OWTSSs, the Regional Board shall not unreasonably delay such request or unreasonably delay issuance of the WDR.

2. This MOU shall not apply to any other OWTSSs within the City, including those that:
 - a. generate over 20,000 gallons per day, or
 - b. discharge wastes from residential developments of more than two homes, or
 - c. discharge wastes from multifamily residential facilities, or
 - d. discharge wastes from commercial facilities, or
 - e. dispose of sewage containing any industrial waste, or
 - f. are proposed to utilize above ground dispersal or storage of sewage effluent.
3. Nothing in this MOU shall in any way diminish or affect the ability of the City to exercise its authority through the Code or otherwise to regulate the type, siting, operation or any other aspect of OWTSSs to be operated in the areas of the City. Issuance of a WDR or other permit by the Regional Board shall not constitute authorization to any person or entity to construct, install or operate any OWTSS without City approval or otherwise in violation of the Code.

IV. GENERAL PROVISIONS

City Responsibility:

1. The City shall remain the agency responsible for the enforcement of all applicable Code requirements for the siting, design, approval, installation, operation, maintenance, and monitoring of City-regulated OWTSSs.
2. The City shall review the Code within the time required under applicable state law or regulation following the effective date of any statewide standards adopted pursuant to sections 13290 and 13291 of the CWC, if necessary, in order to retain its QLA status under this MOU.
3. Upon the effective date of this MOU, the City shall begin an initial inventory of all existing City-regulated OWTSSs, utilizing an electronic database¹. Such initial inventory shall be completed within one (1) year of the effective date of this MOU. The initial inventory shall consist of:
 - The total number of existing City-regulated OWTSSs.
 - The location of each existing City-regulated OWTSS by street address.

¹ The City shall obtain the required information through such means that do not require the City or its employees or contractors to gain access to private property. This may be accomplished using water meter computer records that do not pay sewer fees.

Notwithstanding the earlier termination or expiration of this MOU, the City shall continue to compile the inventory described above until it is completed.

3. The City shall mail out a verification survey to those properties that are identified as potentially having OWTSs based on the initial inventory. The survey shall inform the property owners of their responsibilities to properly maintain and operate their OWTS and shall include a questionnaire verifying the OWTSs records, including the type of subsurface disposal system in use, if that information is available to the property owner. The City shall consult with the Regional Board in the development of the survey. The initial inventory will then be updated based on the completed surveys. The time frame for mailing out the survey and updating the initial inventory will be two (2) years from the effective date of the MOU. The City shall provide annual updates of the inventory to the Regional Board.
4. Within one (1) year of the effective date of this MOU, the City shall provide the Board with estimated depths to groundwater based on available data in areas in which OWTS have been identified.
5. Within two (2) years of the effective date of this MOU, the City shall utilize the inventory to identify those properties with OWTSs that may pose a potential threat to water quality (defined thereafter as high-risk systems). High-risk systems shall be defined as those properties with OWTS that are within 900 feet of active water well or within 600 feet from water bodies identified as impaired due to high levels of nitrates and/or bacteria under section 303(d) of the Clean Water Act. The City shall submit the list of those high-risk systems to the Regional Board no later than two (2) years from the effective date of this MOU.
6. Within five (5) years of the effective date of this MOU, the City shall review and amend its Code by adopting an ordinance requiring an operating permit for high-risk systems in accordance with code. The operating permit will require the owner to submit an inspection certification once every three years. The period for enrolling all properties that are considered a high-risk system will be ten (10) years from the effective date of this MOU.
7. Within two (2) years of the effective date of this MOU, the City shall review its current enforcement procedures relating to OWTSs that are not properly installed, operated and maintained.
8. The City shall require any applicant for a Sewer Permit for a Private Sewage Disposal System ("Permit") to install or repair an OWTS that is required to obtain a WDR from the Regional Board pursuant to Section III hereof to notify the Regional Board and shall not issue any such Permit until the applicant has received a WDR from the Regional Board.

Regional Board Responsibility:

1. The Regional Board shall conduct an evaluation of the City's performance under this MOU at least once every five years to ensure that such performance is in conformance with the

statewide requirements. Such evaluation shall be based upon the information submitted by the City as set forth in Appendix A, attached hereto and incorporated herein by reference.

2. The Regional Board shall provide assistance to the City upon request from the City. This assistance may be in the form of technical guidance, training opportunities, notification of grant or other funding opportunities and/or review of OWTSSs.
3. The Regional Board shall provide timely notice to the City of the development of regulations, any proposed Basin Plan amendments, Regional Board orders or policies related to OWTSSs subject to this MOU.
4. The Regional Board shall invite input from the City and other stakeholders during the review of any statewide standards adopted pursuant to sections 13290-13291.7 of the CWC or during the Basin Plan amendment process or the development of Regional Board Orders or policies that regulate OWTSSs.
5. The Regional Board shall notify applicants for OWTSSs that require WDRs and are to be located in the City that the applicant will also need to obtain a Permit from the City.
6. The Regional Board shall provide the City copies of WDRs, notices of violation, and any other permitting and enforcement actions taken by the Regional Board related to OWTSSs located within the City.
7. The Regional Board shall inform the City of any available funding that can assist in managing and repairing OWTSSs. Also, the Regional Board shall provide assistance to the City and the property owners in applying for such available funds.

V. EVALUATION:

1. This MOU shall be evaluated pursuant to the factors set forth in Appendix A commencing no later than January 10, 2009, and every five years thereafter, and shall be re-negotiated if both parties agree to modification of the terms and conditions contained herein. If the MOU is not re-negotiated, it shall remain in effect for another five years. If re-negotiated, the re-negotiated MOU shall remain in effect for five years.
2. The evaluation of the City's performance under this MOU is a cooperative process between the City and the Regional Board. The intent of the evaluation is to identify those aspects of the program that provide desired results, and those that need improvement.
3. As part of the 5-year evaluation, the information obtained in section IV.4 of this MOU will be considered and reviewed as potential criteria for the identification of high-risk OWTSSs.
4. The information submitted to the Regional Board pursuant to Appendix A shall be used by Regional Board staff to evaluate the City's performance under the MOU. To the extent it has findings and recommended program modifications, Regional Board staff shall provide to the City

in writing such findings and recommended modifications within thirty days of completion of the evaluation. The Regional Board shall provide at least twenty-one days written notice to the City prior to performance of the evaluation.

5. Within sixty (60) days of receipt of any written findings and recommended program modifications from the Regional Board, the City shall provide a written response detailing any actions taken or proposed regarding the findings and recommendations.

VI. ENFORCEMENT OF THE MOU:

1. The Regional Board and the City each shall be responsible for enforcing its individual obligations under this MOU.
2. The City and the Regional Board will review the MOU after the adoption of statewide standards pursuant to sections 13290 and 13291 of the CWC.
3. The City may terminate this MOU, with or without cause, upon ninety (90) days written notice to the Regional Board. The Regional Board may terminate this MOU, with or without cause, by vote of the Regional Board at a regularly noticed hearing of the Board. The Regional Board shall provide the City at least thirty days notice prior to such hearing. The City shall be given reasonable opportunity to comment upon the requested termination.
4. In addition to the foregoing, in the event that regulations under CWC sections 13290-13291.7 are not adopted by July 1, 2005, the Regional Board staff shall provide information, at a public hearing, to the Regional Board as to the status of adoption of the regulations, whereupon the Regional Board shall, at its discretion, have the right to terminate the MOU, or direct staff to renegotiate the MOU, or take other actions as the Regional Board shall deem appropriate.

VII. ACCEPTANCE:

The parties hereby enter into this Memorandum of Understanding with the effective date being the date the City Clerk attests the MOU.

LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD

10/08/20004
Date

By: Original Signed on 10/8/2004
Jonathan Bishop, Executive Officer
Los Angeles Regional Water Quality Control Board

CITY OF LOS ANGELES

APPROVED AS TO FORM:

ROCKARD J. DELGADILLO, City Attorney
By: Original Signed on 3/12/05
Christopher M. Westhoff, Assistant City Attorney

3/12/2005
Date

By: Original Signed
Valerie Lynne Shaw
President, Board of Public Works

Date

By: _____
Commissioner, Board of Public Works

ATTEST:

Frank T. Martinez, City Clerk

By: Judi Clarke

Title: Deputy City Clerk

5/12/2005

C-108122

**MEMORANDUM OF UNDERSTANDING
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

**AND
THE CITY OF LOS ANGELES**

APPENDIX A

**INFORMATION REQUIRED FOR EVALUATION OF THE ONSITE WASTEWATER
TREATMENT SYSTEM PROGRAM OF THE CITY OF LOS ANGELES**

1. The City of Los Angeles (“City”) shall submit the following information to the Regional Board once every five years upon request:
 - The number of Permits (as that term is defined in the Memorandum of Understanding to which this Appendix A is attached (“MOU”)) issued for new construction, repairs, additions, and abandonment, organized by type (conventional or alternative) of City-regulated OWTSSs (as that term is defined in the MOU).
 - The results of any monitoring program for City-regulated OWTSSs.
 - A log containing complaints, directives to take corrective action and status of responses to directives for City-regulated OWTSSs.
2. The five-year evaluation of the City’s implementation of the MOU by the Regional Board may include:
 - Office review of the Code.
 - Field review of City staff activity pertaining to its performance under the MOU.
 - Field review of various types of City-regulated OWTSSs. Any inspection of such OWTSSs shall be done with the permission of the property owner or pursuant to appropriate legal process, the obtaining of which shall be the sole responsibility of the Regional Board.
 - Office review of files, inspection records, monitoring results and reports, plans or other information pertaining to City-regulated OWTSSs.
 - Review of City-regulated OWTSS owner outreach, education, and compliance assistance programs.
 - Review of any groundwater monitoring program implemented by the City for the purpose of monitoring discharges from City-regulated OWTSSs.