

Effective Date: _____

**TEMPLATE
MEMORANDUM OF UNDERSTANDING
BETWEEN
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION
AND
"LOCAL AGENCY"**

REGARDING ONSITE WASTEWATER TREATMENT SYSTEMS

I. BACKGROUND

Section 13260 of the California Water Code (CWC) requires any person discharging waste or proposing to discharge waste that may affect 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. 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.

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 where such waiver is consistent with any applicable state or regional water quality control plans and is in the public interest.

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

In 1952, the RB adopted Order 52-4, which waived the requirement of homeowners to obtain WDRs for residential septic systems in the Region. According to section 13269 of the CWC, the Regional Board must 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.

Onsite wastewater treatment systems have been used as a form of wastewater disposal for many decades. Currently, the number of individual residential systems 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.

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 onsite wastewater treatment systems. 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.

II. DESIGNATION AND AGREEMENT

The Regional Board designates the “*Local Agency*” as the QLA for the implementation of applicable siting, permitting, construction, inspection, monitoring, and performance requirements for certain onsite wastewater treatment systems within the “*Local Agency*”’s jurisdiction as detailed in section I.V. of this MOU. This MOU establishes (*Local Code Chapter...*), hereafter referred to as the Code, as the legal document governing applicable siting, permitting, construction, inspection, monitoring, and performance requirements for certain onsite wastewater treatment systems within the “*Local Agency*”’s jurisdiction as detailed in section I.V. of this MOU. The “*Local Agency*”, as QLA, agrees to enforce all applicable provisions of the Code pursuant to the provisions of this MOU. The “*Local Agency*” agrees to amend the Code within the timeframe established in this MOU to revise provisions for the siting, permitting, construction, inspection, monitoring, and performance requirements for onsite wastewater treatment systems to be substantially equivalent to any statewide standards adopted pursuant to CWC sections 13290 and 13291. Additionally, until statewide standards are adopted pursuant to CWC sections 13290 and 13291, the “*Local Agency*” agrees to take interim measures as noted below to increase the effectiveness of its permitting program to address water quality concerns.

III. PURPOSE

It is the joint goal of the “*Local Agency*”, and the Regional Board to protect water quality and public health. This MOU is intended to assist in the creation of a partnership between the “*Local Agency*” and the Regional Board to provide protection of water quality and public health in areas where onsite wastewater treatment systems are utilized. This MOU satisfies the requirements of section 13269 of the CWC and enables the Regional Board to issue waivers of WDRs for those onsite sewage treatment systems regulated by the “*Local Agency*” as detailed in this document.

IV. APPLICABILITY

1. This MOU is applicable for all onsite wastewater treatment systems within the “*Local Agency*”’s jurisdiction.
2. The “*Local Agency*” shall have lead responsibility for onsite wastewater treatment systems that:
 - a. generate 20,000 gallons per day or less, and
 - b. generate domestic or similar waste that is disposed of below the ground surface, and
 - c. discharge waste from single family residential structures not covered under item #3.b. below, or
 - d. discharge waste from non-food related commercial facilities that generate 2000 gallons per day or less.

Except that the Regional Board shall become lead agency on a specific project upon agreement by the “*Local Agency*” and the Regional Board.

3. The Regional Board shall have lead responsibility for onsite wastewater treatment systems 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 that generate over 2,000 gallons per day, or
 - e. dispose of sewage containing any industrial waste, or
 - f. are proposed to utilize above ground dispersal or storage of sewage effluent.

V. GENERAL PROVISIONS

“*Local Agency*” Responsibility:

1. The “*Local Agency*” shall enforce all applicable Code requirements for the siting, design, approval, installation, operation, maintenance, and monitoring of onsite wastewater treatment systems within the “*Local Agency*”’s jurisdiction.
2. The “*Local Agency*” shall amend the Code within six months of the effective date of any statewide standards adopted pursuant to sections 13290 and 13291 of the CWC, if necessary, in order to retain lead agency status over onsite wastewater treatment systems identified in section IV.2.
3. The “*Local Agency*” shall immediately begin an inventory of all onsite residential wastewater treatment systems within the “*Local Agency*”’s jurisdiction¹. The “*Local Agency*” shall prioritize this inventory based on potential threat to water quality in accordance with risk criteria identified in any Regional Board orders, Basin Plan requirements and any statewide standards adopted pursuant to CWC sections 13290 and 13291. The timeframe for submittal of the inventory to the Regional Board is:
 - All existing high-risk systems shall be inventoried in (*timeframe negotiable*)
 - All existing medium-risk systems shall be inventoried in (*timeframe negotiable*)
 - All existing low-risk systems shall be inventoried in (*timeframe negotiable*)

The inventory shall include:

- The total number of existing onsite wastewater treatment systems under the “*Local Agency*”’s jurisdiction.

¹ The “*Local Agency*” shall obtain the required information based on a review of *Local Agency* permitting records, Assessor records, through point of sale transactions, and by other means that do not require the *Local Agency* to gain access to private property.

- The location of each existing onsite wastewater treatment system, by street address, by parcel number, GPS location, or intersection.
 - The estimated depth to groundwater from each existing onsite wastewater treatment system. Regional groundwater data may be used to estimate depth to groundwater for individual onsite wastewater treatment systems.
 - The distance of the nearest point of any part of the onsite wastewater treatment system to any stream, channel, or other watercourse or water body. If exact location of the onsite wastewater treatment system is unknown, the “*Local Agency*” shall provide the distance between the nearest point of the property boundary to any stream, channel, or other watercourse or water body.
4. The “*Local Agency*” shall ensure that there is a local mechanism in place to notify the Regional Board within 30 days of receiving proposals to use onsite wastewater treatment systems that fall under the Regional Board’s responsibility as outlined in Section IV. Item #3.
 5. The “*Local Agency*” may review and act upon requests for exceptions to the Code requirements provided such exceptions will not violate any statewide standards adopted pursuant to CWC sections 13290-13291.7 and are consistent with the protocol for exceptions detailed in the Code. The “*Local Agency*” shall forward any exceptions requested to the Code requirements that would violate any statewide standards adopted pursuant to CWC sections 13290-13291.7 to the Regional Board for Regional Board action.
 6. The “*Local Agency*” shall issue permits for the commercial systems specified in section 4.2.d. in accordance with Regional Board Order No. 01-031 in order to retain lead agency status for these systems.

Regional Board Responsibility:

7. The Regional Board shall conduct an evaluation of the “*Local Agency*” at least once every five years to ensure the onsite wastewater treatment system program is in conformance with any statewide standards adopted pursuant to CWC sections 13290-13291.7 based upon the information submitted by the “*Local Agency*” as indicated in Appendix A.
8. The Regional Board shall provide adequate assistance to the “*Local Agency*” upon request from the “*Local Agency*”. This assistance may be in the form of technical guidance, training opportunities, and/or review of onsite wastewater treatment systems.
9. The Regional Board shall provide notice to the “*Local Agency*”, at the earliest point in the development of regulations, of any proposed or Basin Plan amendments, Regional Board Orders or policies that regulate onsite wastewater treatment systems.
10. The Regional Board shall invite input from the “*Local Agency*” and other stakeholders during the review of any statewide standards adopted pursuant to CWC, sections 13290-13291.7, or

during the Basin Plan amendment process or the development of Regional Board Orders or policies that regulate onsite wastewater treatment systems.

11. On projects requiring WDRs, the Regional Board shall ensure that the operator has obtained any additional required permits from the “*Local Agency*”.
12. The Regional Board shall provide the “*Local Agency*” copies of waste discharge requirements, notices of violation, and any other permitting and enforcement actions related to onsite wastewater treatment systems within the “*Local Agency*”.

VI. INTERIM MEASURES

(To be negotiated by individual local agencies)

VII. ALTERNATIVE SYSTEMS:

The “*Local Agency*” agrees to evaluate and amend its Code if appropriate to allow enhanced onsite wastewater treatment technologies in order to reduce threats to water quality.

VIII. EVALUATION:

This MOU shall be reviewed four and a half years after the effective date of Regional Board Order R4-2004-XXXX, adopting waivers of WDRs for onsite wastewater treatment systems, and every five years thereafter, and re-negotiated if either party desires modification to the terms and conditions contained herein. If neither party requests re-negotiation of the MOU at the five-year review period, the MOU will remain in effect for another five years.

Evaluation of the “*Local Agency*”’s onsite wastewater treatment system program is a cooperative process between the “*Local Agency*” 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.

The “*Local Agency*” shall submit information to the Regional Board as indicated in Appendix A, attached hereto and incorporated herein by reference. The Regional Board may provide comment and recommendations based upon the information submitted by the “*Local Agency*”. The Regional Board shall use this information to perform an evaluation of the “*Local Agency*”’s onsite wastewater treatment system regulatory program once every five years and provide constructive input. The Regional Board shall provide at least twenty-one days written notice to the “*Local Agency*” prior to performance of the evaluation. The evaluation process shall be in conformance with Appendix A.

The Regional Board shall provide the “*Local Agency*” for consideration a written summary of findings and recommended program modifications within thirty days of completion of the evaluation. Within thirty days of receipt of the report the “*Local Agency*” shall provide a written response detailing action taken or proposed regarding the findings and recommendations contained in the reports.

VIII. ENFORCEMENT OF THE MOU:

The Regional Board and the “*Local Agency*” shall be responsible for assuring that the terms of the MOU are enforced. If evaluation reveals that the Regional Board, or the “*Local Agency*” is not performing its duties as required by this MOU, and the Regional Board, or the “*Local Agency*” does not amend its process per agreement, the Regional Board, or the “*Local Agency*” may take action to terminate this MOU. This MOU may be renegotiated by request by the Regional Board or the “*Local Agency*”. Either party may terminate this MOU without cause upon thirty day prior written notice to the other party. Termination of the MOU by the Regional Board or the “*Local Agency*” may require that the Regional Board issue Order Nos. 01-031 or R4-2004-XXXX to each new or existing onsite wastewater treatment system within the boundaries of the “*Local Agency*”. The Regional Board shall make any determination to terminate the MOU at a publicly noticed hearing. The “*Local Agency*” shall have 30 days to submit a petition to the State Water Resources Control Board for review of any determination to terminate the MOU by the Regional Board in accordance with section 13320 of the CWC.

In addition to the foregoing, in the event that statewide standards 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 statewide standards, whereupon the Regional Board shall, at its discretion, have the right to terminate the MOU, or direct staff to renegotiate the MOU, or to take other actions as the Regional Board shall deem appropriate.

IX. ACCEPTANCE:

This Memorandum of Understanding is hereby approved by the parties on, and its effective date is,

[Insert the last date of the two signature dates below]

Date

[Insert individual’s name and title, and the name of the “*Local Agency*”]

Date

Executive Officer
Los Angeles Regional Water Quality Control Board

**DRAFT MEMORANDUM OF UNDERSTANDING
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION
AND
THE “LOCAL AGENCY”**

APPENDIX A

**INFORMATION REQUIRED FOR EVALUATION OF THE ONSITE WASTEWATER
TREATMENT SYSTEM PROGRAM OF THE “LOCAL AGENCY”**

1. The “*Local Agency*” shall submit the following information to the Regional Board once every five years upon request:
 - The number of permits issued for new construction, repairs, additions, and destruction of standard onsite wastewater treatment systems.
 - The number of permits issued for alternative, and experimental onsite wastewater treatment systems including the type of enhanced treatment device permitted.
 - The results of any monitoring program for onsite wastewater treatment systems including the number of changes of ownership, the number of monitoring inspections, the type of system monitored, flows in gallons per day for each system, the number of properly functioning systems, and those in failure or needing repair.
 - The number and type of complaints pertaining to onsite wastewater treatment systems in the “*Local Agency*”’s jurisdiction .
 - The number of corrective actions taken in the “*Local Agency*”’s jurisdiction for failing onsite wastewater treatment systems.
 - The number of enforcement actions taken in the “*Local Agency*”’s jurisdiction and the status of compliance with those enforcement actions.

2. Once every five years the Regional Board shall evaluate the “*Local Agency*”’s implementation of the onsite wastewater treatment system program. This five-year evaluation by the Regional Board may include:
 - Office review of the Code, local ordinances, laws, standards, and policies relating to the regulation of onsite wastewater treatment systems.
 - Field review of staff activity pertaining to the siting, permitting, and monitoring of onsite wastewater treatment systems.
 - Field review of various types of onsite wastewater treatment systems installed within the city.
 - Office review of files, inspection records, monitoring results and reports, plans or other information pertaining to onsite wastewater treatment systems.
 - Review of onsite wastewater treatment system owner outreach, education, and compliance assistance programs.
 - Review of groundwater monitoring program implemented by the “*Local Agency*”.
 - Review of the results of any pertinent water quality monitoring data.