To: Chair Jennings and Members of the Planning Commission

Prepared by: Tyler Eaton, Assistant Planner

Approved by: Bonnie Blue, Planning Director

Date prepared: March 26, 2020

Meeting date: April 6, 2020

Subject: De Minimis Waiver No. 20-003 — An application for a new onsite wastewater treatment system (Continued from March 16, 2020)

Location: 29848 Harvester Road, not within the appealable coastal zone

APN: 4469-013-032

Owners: Guy and Jana Lynn Blake

**RECOMMENDED ACTION:** Receive Planning Director's report on De Minimis Waiver (DMW) No. 20-003 for a new onsite wastewater treatment system (OWTS) to replace the existing OWTS.

**DISCUSSION:** This agenda item is for informational and reporting purposes only. Pursuant to Malibu Local Coastal Program Local Implementation Plan (LIP) Section 13.4.11, the requirement for a coastal development permit may be waived through a De Minimis Waiver issued by the Planning Director for the items described in General Requirements for De Minimis Waiver below that are not located within the Appealable Jurisdiction of the California Coastal Commission as depicted on the Post-LCP Certification Permit and Appeal Jurisdiction Map of the City of Malibu.

On March 5, 2020, the Planning Director issued DMW No. 20-003. Pursuant to LIP Section 13.4.11(A), the Director’s decision on whether to issue a De Minimis Waiver is not locally appealable.

LIP Section 13.4.11(C) further states that the Planning Director shall report in writing to the Planning Commission any De Minimis Waiver that has been issued by the City.
If, after consideration of the De Minimis Waiver and any public objections to it, the Planning Commission requests that the waiver not be effective, then the applicant shall be advised that a coastal development permit is required if the applicant wishes to pursue the application.

*LIP Sections 13.4.11(A) (General Requirements for De Minimis Waiver)*

Where the improvements are not otherwise exempt pursuant to LIP Section 13.4 and the required findings of LIP Section 13.4.11(B) are met, the Planning Director may issue a de minimis waiver for: 1) improvements to an OWTS serving a structure that was damaged or destroyed as a result of a natural disaster where the improvements involve installing a new system or upgrading an existing system to an advanced system on the same lot; and 2) minor improvements to existing driveways or access roads that are required by the Los Angeles County Fire Department after a natural disaster, such as minor changes to the width or grade of driveways or access roads.

The project and required findings are more specifically described in the Planning Director’s decision (DMW No. 20-003) attached hereto.

**PUBLIC NOTICE:** A Notice of De Minimis Waiver Application was posted on the subject property.

**ATTACHMENT:** DMW No. 20-003
NOTICE IS HEREBY GIVEN that the City of Malibu has APPROVED an application from EPD Consultants on behalf of the property owner, Guy and Jana Lynn Blake, for a De Minimis Waiver (DMW) for a new onsite wastewater treatment system (OWTS).

Proposed Project Description

The previously existing single-family residence was destroyed by the 2018 Woolsey Fire. In order to meet the requirements for the newly proposed replacement home, a new OWTS must be installed. The proposed project involves the installation of a new OWTS, described below, to replace the existing OWTS (Attachment 1 – Department Review Sheets including OWTS Plot Plan):

- 2,493-gallon MicroSepTec ES6 treatment tank with Ultraviolet (UV) disinfection unit;
- 3,141-square foot (sq. ft.) total drip dispersal field in three zones:
  - Zone 1: 1,634 sq. ft.
  - Zone 2: 1,050 sq. ft.
  - Zone 3: 457 sq. ft.

The new OWTS will be located to the south of the proposed single-family residence. The existing OWTS, that is proposed to be abandoned, was also located to the south of the residence. The proposed new system will not result in any non-exempt grading.

Local Coastal Program (LCP)

The Malibu LCP consists of a Land Use Plan (LUP) and Local Implementation Plan (LIP). The LUP contains programs and policies to implement the California Coastal Act in Malibu. The purpose of the LIP is to carry out the policies of the LUP. The LIP contains specific policies and regulations to which every project requiring an entitlement must adhere.

California Environmental Quality Act

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Director has analyzed the proposed project. The Planning Director has found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to Section 15303(d) – New Construction or Conversion of Small Structures. The Planning Director has further determined that none of the six exceptions to the use of a categorical exemption applies to this project (CEQA Guidelines Section 15300.2).
De Minimis Waiver Requirements

The Planning Director may waive the LCP’s requirement for a coastal development permit (CDP) for a project that is not otherwise exempt from a CDP under LIP Section 13.4 and process a DMW if the DMW findings discussed below can be made, if the development is not in a location where an action on the development would be appealable to the California Coastal Commission (CCC) (See LIP Chapter 2 – Definitions), and the proposed project consists of:

a. improvements to an OWTS serving a structure that was damaged or destroyed as a result of a natural disaster, where the improvements involve installing a new system or upgrading an existing system to an advanced system on the same lot, or

b. Minor improvements to existing driveways or access roads that are required by the County of Los Angeles Fire Department after a natural disaster, such as minor changes to the width or grade of driveways or access roads.

The replacement OWTS is eligible for a DMW because it served a structure that was destroyed as a result of a natural disaster that is not otherwise exempt from a CDP under LIP Section 13.4, it is not located in the CCC appeal zone, and the required DMW findings are made below.

De Minimis Waiver Findings

Based on the foregoing evidence contained within the record and pursuant to LIP Section 13.4.11, the Planning Director hereby makes the following findings of fact.

Onsite Wastewater Treatment System De Minimis Waiver (LIP Section 13.4.11)

Finding 1. That the OWTS or driveway/road improvements have no potential for adverse effects, either individually or cumulatively, on coastal resources.

The City Environmental Health Administrator, City geotechnical staff, City Planning Department, and City Public Works Department have reviewed the proposed OWTS and found it to meet the requirements of the Malibu Municipal Code (MMC) and LCP. The proposed project is for the abandonment of an existing OWTS and installation of a new 2,493-gallon MicroSepTec ES6 Treatment Tank, and 3,141 sq. ft. total drip dispersal field. The project will upgrade and improve treatment effectiveness compared to the existing system. The Applicant is required to record a covenant requiring the proper operation and maintenance of the OWTS. In addition, conditions of approval have been included to require continued operation, maintenance and monitoring of the subject system. The conditions and requirements will ensure that the new OWTS does not have the potential for adverse effects, either individually or cumulatively, on coastal resources.

Finding 2. That the OWTS or driveway/road improvements are consistent with the certified Malibu Local Coastal Program, including the resource protection policies, as applicable.

As discussed in Finding 1, the project as conditioned has been found to meet the requirements of the MMC and LCP. The project is consistent with the certified LCP, including the resource protection policies, in that no native trees, environmentally sensitive habitat area, public scenic views or cultural resources will be affected by the project.

Finding 3. If an OWTS is to be relocated on the lot, that the Director, in consultation with Environmental Health Administrator, has determined the relocation is necessary to better protect coastal resources.

The site of the existing septic tank was to the south of the single-family residence. The new septic tank will be located in the same area. The existing seepage pits that serviced the existing tank are located to the north of the single-family residence, they will be maintained and used for effluent overflow. The proposed dispersal fields will be located to the east and west of the proposed residence.
Finding 4. If driveway/road improvements are proposed, that: a) they are in the same general alignment as the existing road, b) they are not located in environmentally sensitive habitat area (ESHA), c) they do not remove or encroach within the protected zone of native trees, and d) they do not adversely impact visual resources.

There are no driveway/road improvements necessary to accommodate the proposed work. Furthermore, none of the work proposed encroaches into environmentally sensitive habitat area, nor does it impact any native trees or visual resources.

Finding 5. That the development is not in a location where an action on the development would be appealable to the Coastal Commission (See Chapter 2 – Definitions).

The subject property is not located within the CCC Appeal Jurisdiction and therefore action on the development would not be appealable to the CCC.

Project Timeline: De Minimis Waiver Application

- Application Date: January 21, 2020
- Posting of Property: January 23, 2020
- Notice of Determination: March 5, 2020
- Planning Commission Reporting: March 16, 2020

Public Notice Requirements

Pursuant to LIP Section 13.29.1, public notice shall be provided for an OWTS outside of the Appeal Zone by posting a notice on the project site at a conspicuous place easily read by the public. The notice was posted on the subject property’s front yard fence on January 23, 2020.

The Planning Director hereby issues a notice of determination on the application which shall be reported to the Planning Commission. The notice of determination will be provided to all known interested parties, including the executive director of the California Coastal Commission, at least ten (10) days prior to the waiver determination being reported to the planning commission.

Approval of DMW No. 20-003

Based on the foregoing findings and evidence contained within the record, the Planning Director hereby approves DMW No. 20-003, subject to the conditions of approval.

Conditions of Approval

Standard Conditions

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City’s actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City’s actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City’s expenses incurred in its defense of any lawsuit challenging the City’s actions concerning this project.

2. This approval is for the abandonment of an existing OWTS and installation of a new 2,493-gallon MicroSepTec ES6 treatment tank and 3,141 sq. ft. total drip dispersal field. This approval does not involve any non-exempt grading.
3. Subsequent submittals for this project shall be in substantial compliance with plans on file with the Planning Department, dated as received on **January 21, 2020**. In the event the project plans conflict with any condition of approval, the condition shall take precedence.

4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs, notarizes, and returns the **Acceptance of Conditions Affidavit** accepting the conditions set forth herein. The applicant shall file this form with the Planning Department within 10 working days of this decision and/or prior to issuance of any development permit.

5. The applicant shall submit three (3) complete sets of plans to the Planning Department for consistency review and approval prior to the issuance of an OWTS permit.

6. This decision, signed Affidavit of Acceptance of Conditions, and all attached Department Review Sheets shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the Building Safety Division for plan check.

7. A de minimis waiver shall expire and be of no further force and effect if the authorized OWTS or driveway or access road improvements are not commenced pursuant to a valid grading and/or building permit, as applicable, within five years of the effective date of the waiver. If expired, a coastal development permit or another waiver shall be required.

8. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.

9. All development shall conform to requirements of the City geotechnical staff, City Environmental Health Administrator, City Public Works Department, Los Angeles County Waterworks District No. 29 and the Los Angeles County Fire Department, as applicable. Notwithstanding this review, all required permits shall be secured.

10. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Director, provided such changes achieve substantially the same results and the project is still in compliance with the Malibu Municipal Code (MMC) and the LCP. An application with all required materials and fees may be required.

11. Pursuant to LIP Section 13.4.11, this permit shall not become effective until the project is reported to the Planning Commission and the Planning Commission does not request that the project be processed as a CDP.

12. The property owner must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.

13. The use of pesticides, including insecticides, herbicides, rodenticides or any toxic chemical substance which has the potential to significantly degrade biological resources shall be prohibited throughout the City of Malibu. The eradication of invasive plant species or habitat restoration shall consider first the use of non-chemical methods for prevention and management such as physical, mechanical, cultural, and biological controls. Herbicides may be selected only after all other non-chemical methods have been exhausted. Herbicides shall be restricted to the least toxic product and method, and to the maximum extent feasible, shall be biodegradable, derived from natural sources, and use for a limited time.
Cultural Resources

14. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in MMC Section 17.54.040(D)(4)(b) shall be followed.

15. If human bone is discovered during geologic testing or during construction, work shall immediately cease, and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

Environmental Health

16. The final plans must show the proposed OWTS, all dispersal area zones, and all lines of connection.

17. Prior to final Environmental Health approval, a final OWTS plot plan prepared by a City Registered OWTS Designer shall be submitted showing an OWTS design meeting the minimum requirements of the MMC and the LCP, including necessary construction details, the proposed drainage plan for the developed property and the proposed landscape plan for the developed property. The OWTS plot plan shall show essential features of the OWTS and must fit onto an 11 inch by 17 inch sheet leaving a five inch margin clear to provide space for a City applied legend. If the scale of the plans is such that more space is needed to clearly show construction details and/or all necessary setbacks, larger sheets may also be provided (up to a maximum size of 18 inches by 22 inches). All minimum required setbacks from the residence, deck, and exterior stairs to the OWTS components must be maintained and clearly demonstrated on the final OWTS plans.

18. A final OWTS design report and large set of construction drawings with system specifications (four sets) shall be submitted to describe the OWTS design basis and all components proposed for use in the construction of the OWTS. All plans and reports must be signed by the City Registered OWTS Designer and the plan stamped by the project Geologist, Coastal Engineer, and Structural Engineer as applicable. The final OWTS design report and construction drawings shall be submitted with the designer’s signature, professional registration number, and stamp (if applicable). The final design report shall contain the following information (in addition to the items listed above).

a. Required treatment capacity for wastewater treatment and disinfection systems. The treatment capacity shall be specified in terms of flow rate, gallons per day, and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing drainage fixture equivalents, and the subsurface effluent dispersal system acceptance rate. The drainage fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design;

b. Sewage and effluent pump design calculations (as applicable).
c. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for "package" systems; and conceptual design for custom engineered systems;

d. Specifications, supporting geology information, and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit subsurface drip, etc.) as well as the system’s geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day and gallons per square foot per day. Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gallons per day). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units and building occupancy characteristics; and

e. All final design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the scale of the plan is such that more space is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18 inch by 22 inch, for review by Environmental Health). Note: For OWTS final designs, full-size plans are required for review by the Building Safety Division and/or the Planning Department.

19. Final plans shall clearly show the locations of all existing OWTS components (serving pre-existing development) to be abandoned and provide procedures for the OWTS' proper abandonment in conformance with the MMC.

20. The following note shall be added to the plan drawings included with the OWTS final design: "Prior to commencing work to abandon, remove, or replace the existing OWTS components, an 'OWTS Abandonment Permit' shall be obtained from the City of Malibu. All work performed in the OWTS abandonment, removal or replacement area shall be performed in strict accordance with all applicable federal, state, and local environmental and occupational safety and health regulatory requirements. The obtainment of any such required permits or approvals for this scope of work shall be the responsibility of the applicant and their agents."

21. All final project plans shall be submitted for Environmental Health review and approval. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.

22. Prior to final Environmental Health approval, the applicant shall provide engineer's certification for reduction in setbacks to buildings or structures: All proposed reductions in setback from the OWTS to structures (i.e., setbacks less than those shown in MMC Table 15.42.030(E)) must be supported by a letter from the project structural engineer and a letter from the project soils engineer (i.e., a geotechnical engineer or civil engineer practicing in the area of soils engineering). Both engineers must certify unequivocally that the proposed reduction in setbacks from the treatment tank and effluent dispersal area will not adversely affect the structural integrity of the OWTS, and will not adversely affect the structural integrity of the structures for which the Table 15.42.030(E) setback is reduced. Construction drawings submitted for plan check must
show OWTS components in relation to those structures from which the setback is reduced. All proposed reductions in setback from the OWTS to buildings (i.e., setbacks less than those shown in Table 15.42.030(E)) must also be supported by a letter from the project architect, who must certify unequivocally that the proposed reduction in setbacks will not produce a moisture intrusion problem for the proposed building(s). If the building designer is not a California-licensed architect, then the required architect’s certification may be supplied by an engineer who is responsible for the building design with respect to mitigation of potential moisture intrusion from reduced setbacks to the wastewater system. In this case, the engineer must include in his/her letter an explicit statement of responsibility for mitigation of potential moisture intrusion. If any specific construction features are proposed as part of a moisture intrusion mitigation system in connection with the reduced setback, then the architect or engineer must provide associated construction documents for review and approval during Building Safety Division plan check. The wastewater plans and the construction plans must be specifically referenced in all certification letters.

23. Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.

24. An operations and maintenance manual specified by the OWTS designer shall be submitted to the property owner and maintenance provider of the proposed OWTS.

25. Prior to final Environmental Health approval, a maintenance contract executed between the owner of the subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed OWTS after construction shall be submitted. Also, a certified copy issued by the City of Malibu City Clerk shall be submitted.

26. Prior to final Environmental Health approval, a covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the City of Malibu City Clerk's Office. Said covenant shall serve as constructive notice to any future purchaser for value that the onsite wastewater treatment system serving subject property is an advanced method of sewage disposal pursuant to the City of MMC. Said covenant shall be provided by the City of Malibu Environmental Health Administrator. In addition, the applicant shall submit a certified copy issued by the City of Malibu City Clerk.

27. A covenant running with the land shall be executed by the property owner and recorded with the Los Angeles County Recorder's Office. Said covenant shall serve as constructive notice to any successors in interest that: 1) the private sewage disposal system serving the development on the property does not have a 100 percent expansion effluent dispersal area (i.e., replacement disposal field(s) or seepage pit(s)), and 2) if the primary effluent dispersal area fails to drain adequately, the City of Malibu may require remedial measures including, but not limited to, limitations on water use enforced through operating permit and/or repairs, upgrades or modifications to the private sewage disposal system. The recorded covenant shall state and acknowledge that future maintenance and/or repair of the private sewage disposal system may necessitate interruption in the use of the private sewage disposal system and, therefore, any building(s) served by the private sewage disposal system may become non-habitable during any required future maintenance and/or repair. Said covenant shall be in a form acceptable to the City Attorney and approved by the City Environmental Sustainability Department.

28. The project geologist/geotechnical consultant final approval shall be submitted to the City Environmental Health Administrator.

29. In accordance with MMC Chapter 15.44, prior to Environmental Health approval, an application shall be made to the Environmental Sustainability Department for an OWTS operating permit.
Geology

30. Two sets of OWTS plans (approved by City Environmental Health) incorporating the project geotechnical consultant’s recommendations must be reviewed, wet stamped, and manually signed by the project engineering geologist and project geotechnical engineer prior to the issuance of an OWTS permit.

31. All recommendations of the consulting certified engineering geologist or geotechnical engineer and/or the City geotechnical staff shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City geotechnical staff prior to the issuance of a grading permit.

32. Final plans approved by the City geotechnical staff shall be in substantial conformance with the approved DMW relative to construction, grading, sewage disposal and drainage. Any substantial changes may require a new entitlement.

Public Works

33. A Local Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the grading/building permits for the project. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

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34. Best Management Practices (BMPs) shall be in accordance to the latest version of the California Stormwater Quality Association (CASQA) BMP Handbook. Designated areas for the storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.

35. The developer’s consulting engineer shall sign the final plans prior to the issuance of permits.

Construction

36. Construction hours shall be limited to Monday through Friday from 7:00 a.m. to 7:00 p.m. and Saturdays from 8:00 a.m. to 5:00 p.m. No construction activities shall be permitted on Sundays or City-designated holidays.

37. Construction management techniques, including minimizing the amount of equipment used simultaneously and increasing the distance between emission sources, shall be employed as
feasible and appropriate. All trucks leaving the construction site shall adhere to the California Vehicle Code. In addition, construction vehicles shall be covered when necessary; and their tires rinsed prior to leaving the property.

Prior to Final Inspection

38. Prior to a final Building inspection, the applicant shall provide a final Waste Reduction and Recycling Summary Report (Summary Report) and obtain the approval from the Environmental Sustainability Department. The final Summary Report shall designate all material that were land filled or recycled, broken down by material types.

39. The applicant shall request a final Planning Department inspection prior to final inspection by the Building Safety Division.

Deed Restrictions

40. The property owner is required to execute and record a deed restriction which shall indemnify and hold harmless the City, its officers, agents, and employees against any and all claims, demands, damages, costs and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property. The property owner shall provide a copy of the recorded.

Fixed Conditions

41. This DMW runs with the land and binds all future owners of the property.

42. Violation of any of the conditions of this approval may be cause for revocation of this permit and termination of all rights granted thereunder.
Appeals and Reporting

APPEALS – The planning director’s decision on whether to issue a de minimis waiver is not locally appealable. If, after consideration of the waiver and any public objections to it, the Planning Commission requests that the waiver not be effective, then the applicant shall be advised that a Coastal Development Permit is required for the OWTS or road improvements. Otherwise, the waiver is effective immediately after the Planning Commission meeting where the matter is heard.

REPORTING – Pursuant to LIP Section 13.4.11, this permit shall be reported to the Planning Commission and is tentatively scheduled to be reported at the March 16, 2020, Regular Planning Commission meeting. Copies of this report will be available at the meeting and to all those wishing to receive such notification by contacting the Case Planner. This permit will not become effective until completion of the Planning Commission review of the permit pursuant to California Code of Regulations Section 13153.

Please contact Tyler Eaton in the Planning Department at (310) 456-2489, extension 273, for further information. Copies of all related documents can be reviewed by any interested person at City Hall during regular business hours.

Date: March 5, 2020

Prepared by: Approved by:

Tyler Eaton Bonnie Blue
Assistant Planner Planning Director

Attachments: Department Review Sheets including OWTS Plot Plan

All reports referenced are available for review at City Hall.
ACCEPTANCE OF CONDITIONS AFFIDAVIT

The undersigned property owner(s) acknowledges receipt of the City of Malibu’s decision of approval and agrees to abide by all terms and conditions for De Minimis Waiver No. 20-003, dated March 5, 2020, for the project located at 29848 Harvester Road, Malibu, CA 90265. The permit and rights conferred in this approval shall not be effective until all property owner(s) signs and returns this notarized affidavit to the City of Malibu Planning Department within ten (10) working days of the decision and/or prior to issuance of any development permit.

________________________________________  ______________________________________
Date                                             Signature of Property Owner

________________________________________  ______________________________________
Print Property Owner Name

________________________________________  ______________________________________
Date                                             Signature of Property Owner

________________________________________  ______________________________________
Print Property Owner Name

ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
County of Los Angeles      } SS

On __________________, before me, Notary Public, personally appeared ____________________________, who proved
(date)
(name)

that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Notary Public's signature in and for said County and State) (seal)
TO: City of Malibu Environmental Health Administrator DATE: 2/18/2020
FROM: City of Malibu Planning Department

PROJECT NUMBER: DMW 20-003
JOB ADDRESS: 29848 HARVESTER RD
APPLICANT / CONTACT: Kevin Poffenbarger, EPD Consultants
APPLICANT ADDRESS: 20722 Main Street
Carson, CA 90745
APPLICANT PHONE #: (310) 241-6565
APPLICANT FAX #: kevin@epd-net.com
APPLICANT EMAIL: kevin@epd-net.com
PROJECT DESCRIPTION: NOWTS DeMinimis Waiver

TO: Malibu Planning Department and/or Applicant
FROM: City of Malibu Environmental Health Reviewer

☑ Conformance Review Complete for project submittals reviewed with respect to the City of Malibu Local Coastal Plan/Local Implementation Plan (LCPLIP) and Malibu Municipal Code (MMC). The Conditions of Planning conformance review and plan check review comments listed on the attached review sheet(s) (or else handwritten below) shall be addressed prior to plan check approval.

☐ Conformance Review Incomplete for the City of Malibu LCPLIP and MMC. The Planning stage review comments listed on the City of Malibu Environmental Health review sheet(s) shall be addressed prior to conformance review completion.

OWTS Plot Plan: ☐ NOT REQUIRED
☑ REQUIRED (attached hereto) ☐ REQUIRED (not attached)

Signature: Melissa Talos Date: 2-20-2020

The applicant must submit to the City of Malibu Environmental Health Specialist to determine whether or not an onsite wastewater treatment system (OWTS) Plot Plan approval is required.

The Environmental Health Specialist may be contacted Tuesday and Thursday from 8:00 am to 11:00 am, or by calling (310) 456-2489, extension 364.
ENVIRONMENTAL HEALTH REVIEW SHEET

PROJECT INFORMATION

| Applicant: | Kevin Poffenbarger, Civil Engineer, EPD Consultants kevin@epd-net.com |
| Project Address: | 29848 Harvester Road Malibu, California 90265 |
| Planning Case No.: | DMW 20-003 |
| Project Description: | NOVTS DMW |
| Date of Review: | February 20, 2020 |
| Reviewer: | Matt Janousek/Melinda Talent Signature: [Signature] |
| Contact Information: | Phone: (310) 456-2489 ext. 307 Email: mjanousek@malibucity.org |

SUBMITTAL INFORMATION

| Architectural Plans: |  |
| Grading Plans: |  |
| OWTS Plan: | EPD: OWTS plan dated 1-14-2020 |
| Geology Report: | GeoConcepts: OWTS report dated 6-17-2019; Revised OWTS report dated 2-4-2020 |
| Miscellaneous: | City of Malibu: EH approval for PWVF 19-055 dated 9-9-2019; EH approval for septic tank abandonment dated 2-11-2020; Sewer/Septic Permit 20-5004 for septic tank abandonment issued 2-11-2020 |
| Previous Reviews: | 1-23-2020 |

REVIEW FINDINGS

Planning Stage: ☑ CONFORMANCE REVIEW COMPLETE for the City of Malibu Local Coastal Program/Local Implementation Plan (LIP) and Malibu Municipal Code (MMC). The listed conditions of Planning stage conformance review and plan check review comments shall be addressed prior to plan check approval.

☐ CONFORMANCE REVIEW INCOMPLETE for the City of Malibu LIP and MMC. The listed Planning stage review comments shall be addressed prior to conformance review completion.

OWTS Plot Plan: ☑ REQUIRED (not attached) ☐ REQUIRED (attached hereto)

Based upon the project description and submittal information noted above, a conformance review was completed for a new advanced onsite wastewater treatment system (OWTS) proposed to serve the onsite wastewater treatment and disposal needs of the subject property. The proposed advanced OWTS meets the minimum requirements of the Malibu Municipal Code (MMC) and the City of Malibu Local Coastal Program (LCP)/Local Implementation Plan (LIP). Please distribute this review sheet to all of the project consultants and, prior to final approval, provide a coordinated submittal addressing all conditions for final approval and plan check items.
The conditional conformance findings hereby transmitted complete the Planning stage Environmental Health review of the subject development project. In order to obtain Environmental Health final approval of the project OWTS Plot Plan and associated construction drawings (during Building Safety plan check), all conditions and plan check items listed below must be addressed through submittals to the Environmental Health office.

**Conditions of Planning Conformance Review for Building Plan Check Approval:**

1) **OWTS on Architectural and Grading Plans:** The final Architectural Site Plan and Grading Plans must show the OWTS, including the treatment tank, all dispersal area zones, and all lines of connection to the residence.

2) **Final Onsite Wastewater Treatment System (OWTS) Plot Plan:** A final plot plan prepared by a City Registered OWTS Designer shall be submitted showing an OWTS design meeting the minimum requirements of the Malibu Municipal Code (MMC) and the Local Coastal Program (LCP)/Local Implementation Plan (LIP). The plans must include all necessary construction details, the proposed drainage plan for the developed property, and the proposed landscape plan for the developed property. The OWTS Plot Plan shall show essential features of the OWTS, existing improvements, and proposed/new improvements. The plot plan must fit on an 11" x 17" sheet leaving a 5" left margin clear to provide space for a City-applied legend. All minimum required setbacks from the residence, deck, and exterior stairs to the OWTS components must be maintained and clearly demonstrated on the final OWTS plans.

3) **Final OWTS Design Report, Plans, and System Specifications:** If the OWTS design and/or bedroom/drainage fixture unit counts are modified in any way subsequent to the Planning-stage review, then a final OWTS design report and large set of construction drawings with system specifications (four sets) shall be submitted to describe the OWTS design basis and all components proposed for use in the construction of the OWTS. All plans and reports must be signed by a City Registered OWTS Designer and the plans stamped by the project Geologist, Coastal Engineer, and Structural Engineer as applicable. The final OWTS design report and construction drawings shall be submitted with the designer's signature, professional registration number, and stamp (if applicable).

The final OWTS design submittal shall contain the following information (in addition to the items listed above).

a. Required treatment capacity for wastewater treatment and disinfection systems. The treatment capacity shall be specified in terms of flow rate, gallons per day (gpd), and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing drainage fixture units, and the subsurface effluent dispersal system acceptance rate. The drainage fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design.

b. Sewage and effluent pump design calculations (as applicable).
c. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter, ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for "package" systems; and the design basis for engineered systems.

d. Specifications, supporting geology information, and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit, subsurface drip, etc.) as well as the system's geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day (gpd) and gallons per square foot per day (gfps). Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gpd). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units, and building occupancy characteristics.

e. All OWTS design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the plan scale is such that more space than is available on the 11" x 17" plot plan is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18" x 22" for review by Environmental Health). [Note: For OWTS final designs, full-size plans for are also required for review by Building & Safety and Planning.]

5) Existing OWTS to be Abandoned: Final plans shall clearly show the locations of all existing OWTS components (serving pre-existing development) to be abandoned and provide procedures for the OWTS' proper abandonment in conformance with the Malibu Municipal Code.

6) Worker Safety Note and Abandonment of Existing OWTS: The following note shall be added to the plan drawings included with the OWTS final design: "Prior to commencing work to abandon, remove, or replace existing Onsite Wastewater Treatment System (OWTS) components an "OWTS Abandonment Permit" shall be obtained from the City of Malibu. All work performed in the OWTS abandonment, removal, or replacement area shall be performed in strict accordance with all applicable federal, state, and local environmental and occupational safety and health regulatory requirements. The obtainment of any such required permits or approvals for this scope of work shall be the responsibility of the applicant and their agents."

7) Reference Plans: Reference architectural and grading/drainage plans shall be submitted to Environmental Health during building plan check review of the proposed OWTS.

8) Architect / Engineer Certification for Reduction in Setbacks to Structures: All proposed reductions in setbacks from the OWTS to structures or other features less than those shown in Malibu Municipal Code (MMC) Section 15.42 must be supported by letters from the project consultants. The wastewater plans and the construction plans must be specifically referenced in all certification letters. The construction plans for all structures and/or buildings with reduced setback must be approved by City of Malibu Building Safety prior to Environmental Health final approval. The architectural and/or structural plans submitted for Building Safety plan check must detail methods of
City of Malibu

Environmental Health Review Sheet

DMW 20-003
29848 Harvester Road
February 20, 2020

construction that will compensate for the reduction in setback (e.g., waterproofing, concrete additives). For complex waterproofing installations, submittal of a separate waterproofing plan may be required. All plans must show the location of OWTS components in relation to those structures from which the setback is reduced, and the plans must be signed and stamped by the architect, structural engineer, and geotechnical consultants (as applicable).

- Structures – All proposed reductions in setback from the OWTS to structures (i.e., setbacks less than those shown in MMC Section 15.42) must be supported by a letter from the project Structural Engineer and a letter from the project Soils Engineer (i.e., a Geotechnical Engineer or Civil Engineer practicing in the area of soils engineering). Both engineers must certify unequivocally that the proposed reduction in setbacks from the treatment tank and effluent dispersal area will not adversely affect the structural integrity of the OWTS, and will not adversely affect the structural integrity of the structures for which the setback is reduced.

9) Proof of Ownership: Proof of ownership of subject property shall be submitted.

10) Operations & Maintenance Manual: An operations and maintenance manual specified by the OWTS designer shall be submitted to the property owner and maintenance provider of the proposed advanced OWTS.

11) Maintenance Contract: A maintenance contract executed between the owner of subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed advanced onsite wastewater treatment system shall be submitted prior to Environmental Health approval. Please note only original “wet signature” documents are acceptable.

12) Advanced Onsite Wastewater Treatment System (OWTS) Covenant: A covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the City of Malibu Recorder’s Office. Said covenant shall serve as constructive notice to any future purchaser for value that the OWTS serving subject property is an advanced method of sewage disposal pursuant to the City of Malibu Municipal Code. Said covenant shall be provided by the City of Malibu Environmental Health Administrator. Please submit a certified copy issued by the City of Malibu Recorder.

13) Covenant to Forfeit 100% Expansion Effluent Disposal Area: A covenant running with the land shall be executed by the property owner and recorded with the City of Malibu Recorder’s Office. Said covenant shall serve as constructive notice to any successors in interest that (1) the private sewage disposal system serving the development on the property does not have a 100% expansion effluent dispersal area (i.e., replacement disposal field(s) or seepage pit(s)) and (2) if the primary effluent dispersal area fails to drain adequately, the City of Malibu may require remedial measures including, but not limited to, limitations on water use enforced through an operating permit and/or repairs, upgrades or modifications to the private sewage disposal system. The recorded covenant shall state and acknowledge that future maintenance and/or repair of the private sewage disposal system may necessitate interruption in use of the private sewage disposal system and, therefore, any building(s) served by the private sewage disposal system may become non-habitable during any required future maintenance and/or repair. Said covenant shall be in a form acceptable to the City Attorney and approved by the Environmental Sustainability Department. Please submit a certified copy issued by the City of Malibu Recorder.
14) **Project Geologist/Geotechnical Consultant Approval:** Project Geologist/Geotechnical Consultant final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.

15) **City of Malibu Geologist/Geotechnical Approval:** City of Malibu geotechnical staff final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.

16) **City of Malibu Public Works Approval:** City of Malibu Public Works final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.

17) **City of Malibu Planning Approval:** City of Malibu Planning Department final approval of the OWTS plan shall be obtained.

18) **Environmental Health Final Review Fee:** A final fee in accordance with the adopted fee schedule at the time of final approval shall be paid to the City of Malibu for Environmental Health review of the OWTS design and system specifications.

19) **Operating Permit Application and Fee:** In accordance with Malibu Municipal Code, an application shall be made to the Environmental Health office for an Onsite Wastewater Treatment System operating permit. An operating permit fee in accordance with the adopted fee schedule at the time of final approval shall be submitted with the application.

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If you have any questions regarding the above requirements, please contact the Environmental Health office at your earliest convenience.

**cc:** Environmental Health file
Planning Department
**29048 HARVISTER ROAD (FIRE REBUILD) MALIBU, CA 90265 (DIST 20-003)**

- **S.F.D.:** 3 Bedroom/2 Bath Fixtures Units (B)
- **ACREAGE:** 2.43± acres
- **7AM:** w/IV Disinfection Unit (N)
- **ACTIVE:** 3,112± of Total Disposal Unit (D)
- **PERC RATE:** 0.19 gpd (peak)
- **DESIGNER:** Kevin Hoffman, PC 56569
- **REFERENCE:** GeoConcepts: 016 reports dated 6-16-2026, 6-12-2026

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**NOTES:**

1. This conformance review is for a fire rebuild of a 3 bedroom (2 fixtures units) single family dwelling. The advanced onsite wastewater treatment system conforms to the requirements of the Malibu Municipal Code (MMC) and the Local Coastal Program (LCP).
2. This review relates only to the minimum requirements of the MMC, and the LCP, and does not include an evaluation of any geological or other potential problems, which may require an alternative method of wastewater treatment.
3. This review is valid for one year, or until MMC, and/or LCP, and/or Administrative Policy changes render it noncomplying.

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**CITY OF MALIBU ENVIRONMENTAL SUSTAINABILITY DEPARTMENT**

**ENVIRONMENTAL HEALTH CONFORMANCE REVIEW**

**SIGNATURE:**

**DATE:**

**NOTE:** This is NOT an approval. Proof of approval and compliance with the requirements are necessary prior to the issuance of any construction permits.
# Geotechnical Review Sheet

## Project Information

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<th>Date:</th>
<th>February 19, 2020</th>
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<tbody>
<tr>
<td>Site Address:</td>
<td>29848 Harvester Road</td>
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<tr>
<td>Lot/Tract/PM #:</td>
<td>n/a</td>
</tr>
<tr>
<td>Applicant/Contact:</td>
<td>Kevin Poffenbarger, <a href="mailto:kevin@epd-net.com">kevin@epd-net.com</a></td>
</tr>
<tr>
<td>Contact Phone #:</td>
<td>(310) 241-6565</td>
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<tr>
<td>Fax #:</td>
<td>Planner: Shaveta Sharma</td>
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<tr>
<td>Project Type:</td>
<td>(N) OWTS – revised system</td>
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## Review Log #:

- **Review Log #:** 245
- **Planning #:** DMW 20-003
- **BPC/GPC #:**
- **Planner:**

## Submittal Information

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<thead>
<tr>
<th>Consultant(s) / Report</th>
<th>GeoConcepts, Inc. (Barrett, CEG 2088, DS-12003): 2-4-20, 6-17-19</th>
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<tr>
<td>Date(s):</td>
<td>EPD Consultants, Inc. (RCE 69089): 12-27-2019</td>
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<td>Previous Reviews:</td>
<td>2/1/20</td>
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## Review Findings

### De Minimus Waiver Review

- The OWTS project is **APPROVED** from a geotechnical perspective.
- The OWTS project is **NOT APPROVED** from a geotechnical perspective.

### Building Plan-Check Stage Review

- Awaiting Building plan check submittal. Please respond to the listed ‘Building Plan-Check Stage Review Comments’ AND review and incorporate the attached ‘Geotechnical Notes for Building Plan Check’ into the plans.
- The rebuild project is **APPROVED** from a geotechnical perspective, with the following conditions.
- The rebuild project is **NOT APPROVED** from a geotechnical perspective. The listed ‘Building Plan-Check Stage Review Comments’ shall be addressed prior to Building Plan-Check Stage approval.

## Remarks

The referenced OWTS design, percolation, and supporting geologic reports were reviewed by the City from a geotechnical perspective. Based on the submitted information, the system servicing the proposed residence will be serviced by an OWTS consisting of a Geoflow subsurface drip dispersal system. The existing pits are proposed to be used as overflow. Some of the existing OWTS and septic system components to abandoned or demolished as necessary. Per the Planning Department and Chief Building Official, the dispersal field configuration is approved as designed.
This project was reviewed under the City of Malibu Environmental Sustainability Department’s Woolsey Fire Rebuild policies, guidelines and geotechnical report considerations. These guidelines grant immediate approval of site feasibility from a geotechnical perspective for rebuilds with like-for-like construction and ten percent or less expansion. Geotechnical consultants prepare reports submitted under these guidelines evaluating and providing recommendations for foundation type and design parameters, retaining wall design parameters (as appropriate), site grading, site drainage, current CBC seismic design parameters, and geo-hazard disclosure. Quantitative evaluation and mitigation of slope stability, mud flow hazards, fault rupture hazard, and liquefaction potential and related hazards are considered outside the scope of the geotechnical consultant’s reports under these guidelines.

Building Plan-Check Stage Review Comments:

1. Please submit a fee of $226.00 to City geotechnical staff for final building plan check review.

2. Include a note on the OWTS plans stating, “The Project Engineering Geologist shall observe and approve the installation of the dispersal field and provide the City inspector with a field memorandum(s) documenting and verifying that the dispersal fields were installed per the approved OWTS plans.”

3. Two sets of final OWTS plans incorporating the Project Geotechnical and Environmental Health Specialists’ recommendations and items in this review sheet must be reviewed and wet stamped and manually signed by the Project Engineering Geologist. City geotechnical staff will review the plans for conformance with the Project Geotechnical Consultants’ recommendations and items in this review sheet over the counter at City Hall. **Appointments for final review and approval plans may be made by calling or emailing City Geotechnical staff.**

Please direct questions regarding this review sheet to City Geotechnical staff listed below.

**Geotechnical Engineering Review by:**

Lauren J. Doyel, G.E. BE2981, Exp. 6-30-21  
Geotechnical Engineering Reviewer (310-456-2489 x384)  
Email: ldoyel@malibucity.org

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This review sheet was prepared by representatives of Cotton, Shires and Associates, Inc. and GeoDynamics, Inc., contracted through Cotton, Shires and Associates, Inc., as an agent of the City of Malibu.
The following standard items should be incorporated into Building Plan-Check submittals, as appropriate:

1. One set of residence, grading, and foundation plans, incorporating the Project Geotechnical Consultant’s recommendations and items in this review sheet, must be submitted to City geotechnical staff for review. Additional review comments may be raised at that time that may require a response.

2. Show the address and phone number of the Project Geotechnical Consultant(s) on the cover sheet of the Plans.

3. Include the following note on all the Foundation Plans: “All foundation excavations must be observed and approved by the Project Geotechnical Consultant prior to placement of reinforcing steel.”

4. Foundation setback distances from descending slopes shall be in accordance with Section 1808 of the Malibu Building Code, or the requirements of the Project Geotechnical Consultant’s recommendations, whichever are more stringent. Show minimum foundation setback distances on the foundation plans, as applicable.

5. The Foundation Plans for the proposed structures shall clearly depict the embedment material and minimum depth of embedment for the foundations in accordance with the Project Geotechnical Consultant’s recommendations.

6. Show the proposed onsite wastewater treatment system on the Site Plan.

7. Please contact the Building and Safety Department regarding the submittal requirements for a grading and drainage plan review.

**Grading Plans (as Applicable)**

1. Grading Plans shall clearly depict the limits and depths of overexcavation, as applicable.

**Retaining Walls (As Applicable)**

1. Show retaining wall backdrain and backfill design, as recommended by the Project Geotechnical Consultant, on the Plans.

2. Retaining walls separate from a residence require separate permits. Contact the Building and Safety Department for permit information. One set of retaining wall plans shall be submitted to the City for review by City geotechnical staff. Additional concerns may be raised at that time which may require a response by the Project Geotechnical Consultant and applicant.
TO: Public Works Department
FROM: City of Malibu Planning Department
DATE: 1/21/2020

PROJECT NUMBER: DMW 20-003
JOB ADDRESS: 29848 HARVESTER RD
APPLICANT / CONTACT: Kevin Poffenbarger, EPD Consultants
APPLICANT ADDRESS: 20722 Main Street
Carson, CA 90745
APPLICANT PHONE #: (310) 241-6565
APPLICANT FAX #: 
APPLICANT EMAIL: kevin@epd-net.com
PROJECT DESCRIPTION: NOWTS DeMinimis Waiver

TO: Malibu Planning Department and/or Applicant
FROM: Public Works Department

The following items described on the attached memorandum shall be addressed and resubmitted.

The project was reviewed and found to be in conformance with the City’s Public Works and LCP policies and CAN proceed through the Planning process.

Signature

DATE 1/22/2020
To: Planning Department
From: Public Works Department
Jenna Sobieray, Assistant Civil Engineer

Date: January 22, 2020
Re: Proposed Conditions of Approval for 29848 Harvester Rd DMW 20-003

The Public Works Department has reviewed the plans submitted for the above referenced project. Based on this review sufficient information has been submitted to confirm that conformance with the Malibu Local Coastal Plan (LCP) and the Malibu Municipal Code (MMC) can be attained. Prior to the issuance of building and grading permits, the applicant shall comply with the following conditions.

**STORMWATER**

1. A Local Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading/Building permits for the project. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

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All Best Management Practices (BMP) shall be in accordance to the latest version of the California Stormwater Quality Association (CASQA) BMP Handbook. Designated areas for the storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.