

California Regional Water Quality Control Board  
Santa Ana Region

STAFF REPORT

April 24, 2009

ITEM: \*6

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Gilberto Galvan, 1103 Stevenson, Colton, San Bernardino County – APN 0274-093-35 and 36

DISCUSSION:

On March 24, 2009, the property owner, Gilberto Galvan, contacted staff to obtain approval for the conversion of an existing carport to a guest house and use of a second septic tank-subsurface disposal system on his lot located at 1103 Stevenson, Colton (APN 0274-093-36)(Parcel 1 in the Table below). The conversion of the carport to the guest house has already been completed. The guest house and the existing home on this lot are connected to an existing septic tank-subsurface disposal system. However, the County has required that the guest house be connected to a new subsurface disposal system. The use of the second system requires approval from the Regional Board. Mr. Galvan also owns an adjacent, vacant lot (Parcel 2 in the Table below). This area of the County is unsewered and on-site septic tank-subsurface disposal systems are utilized for disposal of domestic waste.

Assessor Parcel No. (APN)	Lot Size (net acreage)	Existing Structures
0274-093-36 (Parcel 1)	0.65	Single family home and converted guest house
0274-093-35 (Parcel 2)	0.27	Vacant

On October 13, 1989, the Regional Board adopted Resolution No. 89-157, which requires new developments for which on-site subsurface disposal system use is proposed to have a minimum of one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems found in the groundwater of the Region. Mr. Galvan's proposed development is a new development as defined in Resolution No. 89-157 and is therefore subject to the minimum lot size requirements specified therein. With a density of 0.325 acres per dwelling unit (Parcel 1), Mr. Galvan's proposal does not comply with the Board's minimum lot size requirements. Accordingly, Board staff denied Mr. Galvan's request for an exemption from the minimum lot size requirements.

In adopting the minimum lot size requirements (MLSRs), the Board recognized that it was necessary to distinguish between “existing” developments using subsurface disposal systems (i.e., those already in place or approved at the time the MLSRs were adopted), and “new” developments. The Board specifically exempted from the one-half acre requirement existing developments where septic tank-subsurface disposal systems had been installed by September 7, 1989 or for which conditional approval (e.g. conditional use permit, or conditional approval of tentative parcel or tract map) had been obtained by that date. The one-half acre requirement applies only to “new” developments.

The project as a whole (the existing house and the converted guest house is considered a “new” development to which the one-half acre minimum lot size requirement applies. Mr. Galvan proposes to merge the lots (Parcel 1 and 2). Mr. Galvan’s combined lot size is slightly less than one acre in size (3,366 sq. ft short) and, therefore, staff was required to deny the request for a clearance for the project. It should be noted that Mr. Galvan could have constructed one single family home on each lot as both lots had received approval prior to the minimum lot size requirement. Because Mr. Galvan constructed a second home (converted guest house) on Parcel 1, staff must now deem the project a new development

However, staff believes that since the lots had received approval prior to the minimum lot size requirement and the combined lot acreage is very close to the required 1-acre minimum requirement (0.92 acre), these factors support granting an exemption for this project, with certain conditions.

#### RECOMMENDATION:

Approve Mr. Galvan’s request for an exemption from the minimum lot size requirements provided that Mr. Galvan merges his two lots into one parcel and does not construct additional dwelling units using septic tank-subsurface disposal systems on the lot. Future development on the combined lot would be subject to County review and approval. The County would advise the Regional Board if additional dwelling units using septic tank-subsurface disposal systems were to be proposed for this combined lot if there were a concern regarding compliance with the Board’s minimum lot size requirements.

Upon approval by the Regional Board, the clearance letter approving the project shall only be issued when Mr. Galvan provides documentation that the two lots are merged.

Comments were solicited from the following agencies:

San Bernardino County Environmental Health Services – Mike Farrell  
San Bernardino County Building and Safety – Henry Roe/Terry Wellard