

California Regional Water Quality Control Board  
Santa Ana Region

September 16, 2011

STAFF REPORT

ITEM: 6

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Michael and Kaysie Smith, 10966 Boulder Canyon Road, Rancho Cucamonga, San Bernardino County, APN 1074-491-14

DISCUSSION:

On June 24, 2011, Brad Robertson, on behalf of Michael and Kaysie Smith, contacted staff requesting approval for the use of an existing septic tank-subsurface disposal system at the above-referenced property to serve a new freestanding structure. Mr. & Mrs. Smith reside in a house located at the site. An existing subsurface disposal system is utilized for the discharge of domestic waste from the home. The property is one-half acre in size (21,820 sq ft or 0.50 acre gross). This area is unsewered and on-site septic tank-subsurface disposal systems are utilized in the area for disposal of domestic wastes.

Mr. & Mrs. Smith are proposing to construct a new detached pool house on their property. Mr. and Mrs. Smith propose to connect the pool house to their existing 2,000-gallon septic tank-subsurface disposal system.

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 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.

In adopting the minimum lot size requirements (MLSR), the Board recognized that it was appropriate to distinguish between "existing" developments using subsurface disposal systems (i.e., those already in place or approved at the time the MLSR 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 Board also recognized that there would likely be proposals for additions to existing developments that would result in increased wastewater flow. The Board's MLSR address these circumstances. The MLSR distinguish between the types of additions to existing dwelling units. Additions to existing dwellings (bedrooms/bathrooms) are exempt from the MLSR. However, the MLSR state that any proposal to add a freestanding structure that would result in additional wastewater flows must be considered a "new" development. The intent of distinguishing between additions that are attached to existing dwellings and freestanding structures was to guard against the use of the freestanding structure as a second single-family residence on the property, which would result in substantial additional wastewater flows. The proposed pool house on Mr. and Mrs. Smith's property would be a freestanding structure. As such, the project as a whole (the existing house and the pool house) must now be considered a "new" development to which the one-half acre minimum lot size requirement applies. The Smith's proposal does not comply with the Board's minimum lot size requirements. Accordingly, Board staff denied Mr. and Mrs. Smith's request for an exemption from the minimum lot size requirements.

The purpose of the pool house is to provide a convenient bathroom and entertainment area near the pool so that guests would not need to walk up to the house to use the facilities. The pool house will include a wet bar sink, toilet, bathroom sink and shower. Mr. & Mrs. Smith have assured staff that the 372 sq. ft pool house will not be used as a second dwelling. They note that the total flow that would occur on their property as a result of this project would be no greater than the flow that is currently occurring from their home. The existing septic tank-subsurface disposal system can accommodate the proposed pool house.

#### RECOMMENDATION:

Approve Mr. and Mrs. Smith's request for an exemption from the minimum lot size requirements based on the small size and limited possible use of the 372 sq ft pool house, which is not intended and cannot be permitted as a second dwelling unit.

Comments were solicited from the following agencies:

San Bernardino County Environmental Health Services – Josh Dugas/Hal Houser  
San Bernardino County Building and Safety – Henry Roe  
City of Rancho Cucamonga, Building and Safety – Trang Huynh/Matthew Addington  
Brad Robertson