

California Regional Water Quality Control Board
Santa Ana Region

STAFF REPORT

June 15, 2012

ITEM: *9

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Jo Montoya, 858 West C Street, Colton, San Bernardino County, APN 0274-163-10

DISCUSSION:

Mr. Jo Montoya contacted Board staff to request approval for the use of an existing septic system to serve a proposed second home at 858 West C Street, Colton. The property is less than one-half acre in size (19,602 sq. ft. or 0.45-acre gross). Mr. Montoya owns the lot and currently resides in a single-family home at the site. The existing home is served by a septic tank subsurface disposal system for the discharge of sanitary wastes. This area of San Bernardino County is unsewered. Staff denied his request for approval of the second home and Mr. Montoya now proposes to install an alternative treatment system to serve his existing home and the new home.

On October 13, 1989, the Regional Board adopted a Basin Plan amendment to incorporate minimum lot size requirements (MLSR) for septic tank-subsurface disposal system use. 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 groundwaters of the Region. 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. Mr. Montoya's home was constructed prior to the minimum lot size requirements (MLSR) and is therefore exempted from the MLSR. However, the proposal to add a second home on the property constitutes a new development. The MLSR stipulate that new developments for which on-site subsurface disposal system use is proposed must have a minimum of one-half acre of land per dwelling unit. To satisfy these requirements, Mr. Montoya's proposed dwelling units would each require a one half-acre minimum lot size. With a density of 0.225 acres per dwelling unit/lot, Mr. Montoya's initial proposal to use the existing septic tank for the second dwelling unit did not comply with the MLSR. Consequently, staff denied his request.

The MLSR specify that project proponents may propose an alternative treatment system for sewage disposal as the basis for an exemption from the minimum lot size requirements. Such a proposal must be reviewed on a case-by-case basis and submitted to the Regional Board for consideration. As stated above, Mr. Montoya is proposing the use of an alternative treatment system to serve both the existing home

and the new single family home. The system being proposed is a "Norweco Singular Bio-Kinetic Wastewater Treatment System Model 960-1000" re-circulating disposal system with shallow drip dispersal for the treatment and disposal of sanitary wastes from the homes. The Norweco 960-1000 system includes a treatment capacity of 2,300-gallons and a 1,000-gallon dosing tank with a submersible pump and automatic distribution valve.

Provided that this system is operated and maintained properly, use of this alternative system is expected to result in a nitrogen removal efficiency of 70% or more and effluent nitrate-N quality of 10 mg/L or less. Mr. Montoya proposes to enter into a maintenance agreement with a qualified operator for the operation of this alternative system. In addition, Mr. Montoya has agreed to conduct quarterly monitoring of the system for nitrates. San Bernardino County staff has advised Regional Board staff that Mr. Montoya will be required to obtain an annual permit for the operation of the alternative system and that the County will inspect the system annually to determine if the alternative system is operating as required.

RECOMMENDATION:

Approve Mr. Montoya's request for an exemption from the minimum lot size requirements based on the use of an alternative disposal system, with the following stipulations: 1) Mr. Montoya will enter into an agreement with a qualified operator for the operation and maintenance of the alternative system. A copy of this agreement shall be submitted to the Regional Board; 2) Mr. Montoya will conduct quarterly sampling for one year to determine the nitrate (as N) concentration of the effluent and submit those analyses to the Regional Board office within 30 days after such sampling and analysis has occurred; 3) Mr. Montoya shall operate the alternative treatment system continuously so as to assure a consistent total nitrogen reduction of at least 70%; 4) Mr. Montoya shall obtain an annual permit from the County Health Department for the operation of the alternative system; and, 5) Should Mr. Montoya sell this property, he is required to disclose all of the conditions of approval stipulated in 1 through 4, above, to the new property owner(s). Mr. Montoya shall also advise the Regional Board and San Bernardino County Environmental Health Services in writing of new ownership and confirm that the disclosures identified above have been made.¹ In the event that conditions 1-5 are not satisfied, Mr. Montoya shall implement a program acceptable to the Executive Officer to offset septic system discharges; the program shall provide for the sewer connection of a dwelling unit that would not otherwise be required to connect. The substantive requirements of conditions 1, 2, 3, 4, and 5 (if one year of monitoring data are not available prior to the sale of the property) shall be fulfilled by new owners of the property should Mr. Montoya sell it.

¹ It should be noted that San Bernardino County requires the recordation of an alternative system with the property deed, providing additional assurance that disclosure to buyers is provided. Alternative systems are then permitted for the life of the system and the permit must be renewed annually by the property owner.

Comments were solicited from the following persons:

San Bernardino County Environmental Health Services – Josh Dugas / Hal Houser
San Bernardino County Building and Safety – Harmon Randall
