

State of California  
California Regional Water Quality Control Board  
Santa Ana Region

STAFF REPORT

June 19, 2015

ITEM: \*6

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Minnie Cunning, 26120 1st Street, Hemet, Riverside County, APN 553-030-021

DISCUSSION:

Minnie Cunning is requesting approval for the use of a septic system for an unpermitted second home (mobile home) at 26120 1<sup>st</sup> Street, in the Hemet area of Riverside County. The property is less than one acre in size (33,105 sq. ft. or 0.76-acre gross). Ms. Cunning owns the lot and currently resides in one of the single-family homes at the site. Each of the existing homes is served by an individual septic tank subsurface disposal system for the discharge of sanitary wastes. This area of the County is unsewered. Staff denied Ms. Cunning's request for approval of the second septic tank and she is now proposing to install an alternative treatment system to serve the second 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 septic tank-subsurface disposal systems to control the nitrate quality problems found in the groundwaters of the Region. The MLSR stipulate that new developments for which on-site septic tank-subsurface disposal system use is proposed must have a minimum of one-half acre of land per dwelling unit. To satisfy these requirements, Ms. Cunning's proposed dwelling units would each require one half-acre minimum lot size. With a density of 0.38 acres per dwelling unit/lot, Ms. Cunning's initial proposal to use a septic tank for the second dwelling unit did not comply with the MLSR. Consequently, staff denied her 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, Ms. Cunning is proposing the use of an alternative treatment system to serve the second single family home. The system being proposed is an "Orenco Advantex" re-circulating disposal system with shallow drip dispersal for the treatment and disposal of sanitary wastes from the home.

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. Ms. Cuning proposes to enter into a maintenance agreement with a qualified operator for the operation of this alternative system. In addition, Ms. Cuning has agreed to conduct quarterly monitoring of the system for nitrates. Riverside County staff has advised Regional Board staff that Ms. Cuning 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.

It should also be noted that should the alternative disposal system not operate as required, Ms. Cuning will eliminate the alternative system and will implement an acceptable offset program, as provided by the MLSR.

**RECOMMENDATION:**

Approve Ms. Cuning'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) Ms. Cuning 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) Ms. Cuning will conduct quarterly sampling for one year to determine the nitrate (as N) concentration in the effluent and submit those analyses to the Regional Board office within 30 days after such sampling and analysis has occurred; 3) Ms. Cuning shall operate the alternative treatment system continuously so as to assure a consistent total nitrogen reduction of at least 70%; 4) Ms. Cuning shall obtain an annual permit from the County Health Department for the operation of the alternative system; and, 5) Should Ms. Cuning sell this property, she is required to disclose all of the conditions of approval stipulated in 1 through 4, above, to the new property owner(s). Ms. Cuning shall also advise the Regional Board and Riverside County Environmental Health in writing of new ownership and confirm that the disclosures identified above have been made.<sup>1</sup> In the event that conditions 1-5 are not satisfied, Ms. Cuning 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 Ms. Cuning sell it.

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<sup>1</sup> It should be noted that Riverside 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 agencies:

Riverside County Environmental Health – Matt Riha / Marc Haraksin  
Riverside County Department of Building and Safety – Chandra Thomas  
Samantha Fint