

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

STAFF REPORT

March 11, 2016

ITEM: \*7

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Eloisa Gonzalez, 2995 N. State Street, San Bernardino, APN 0268-091-10

DISCUSSION:

Luna Hernandez, on behalf of Eloisa Gonzalez, property owner, contacted Board staff requesting approval for the use of an existing septic system to serve a proposed guest house at the above-referenced site. There are currently 2 existing single family homes on the lot that are served by individual septic systems. Ms. Gonzalez resides in one of these homes located at the site. The gross lot size is slightly more than one acre (44,187 square feet [sq. ft.] or 1.01-acre gross). This area is unsewered and on-site septic tank-subsurface disposal systems are utilized for disposal of domestic wastes.

Ms. Gonzales proposes to convert an existing 498 sq. ft. detached garage into a guest house. Ms. Gonzalez proposes to connect the new guest house to an existing septic system that currently serves one of the homes. Staff denied Ms. Gonzalez's request for approval to connect the proposed guest house to an existing septic tank. She is now proposing to install an alternative treatment system to serve an existing home and guest house.

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 groundwater basins within the Region. 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, Ms. Gonzalez's two homes and guest house would each require a one half-acre minimum lot size. With a density of 0.34-acres per dwelling unit/lot, Ms. Gonzalez's proposal to connect the proposed guest house (converted garage) to an existing septic system that serves one of the existing homes does 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. Gonzalez is proposing the use of an alternative treatment system to serve the existing house and guest house. The system being proposed is an aeration-type activated sludge treatment system called "retroFast

.375" which is designed to accommodate treatment of 375-gallons per day of residential wastewater.

Provided that the system is operated and maintained properly, use of this alternative system is expected to result in a nitrogen removal efficiency of approximately 70%, or more, and effluent nitrate-N quality of 10 mg/L or less. The product water would be discharged to a leachfield. Ms. Gonzalez has agreed to conduct quarterly monitoring of the system for nitrates to confirm that the treatment system is providing this level of nitrogen removal. Ms. Gonzalez will also be required to obtain an annual permit for the operation of the alternative disposal system from San Bernardino County Environmental Health Services, who will inspect the system annually to determine if the alternative system is operating as required.

#### RECOMMENDATION:

Approve Ms. Gonzalez request for an exemption from the minimum lot size requirement based on the use of an alternative disposal system, with the following stipulations: 1) Ms. Gonzalez will enter into an agreement with a qualified operator for the operation and maintenance of the alternative system. A copy of the agreement shall be submitted to the Regional Board; 2) Ms. Gonzalez 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) Ms. Gonzalez shall operate the alternative treatment system continuously so as to assure a consistent total nitrogen reduction of at least 70%; 4) Ms. Gonzalez shall obtain an annual permit from San Bernardino County Environmental Health Services for the operation of the alternative system; and, 5) Should Ms. Gonzalez sell her property, she is required to disclose all of the conditions stipulated in 1 through 4, above, to the new property owner(s). Ms. Gonzalez shall also advise the Regional Board and San Bernardino County Environmental Health Services in writing of new ownership and confirm the disclosures identified above have been made<sup>1</sup>. In the event that conditions 1-5 are not satisfied, Ms. Gonzalez 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. Gonzalez sell it.

Comments were solicited from the following agencies:

San Bernardino County Environmental Health Services – Jessica Ballesteros  
San Bernardino County Building and Safety – James Werner  
Luna Hernandez

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<sup>1</sup> 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.