

California Regional Water Quality Control Board
Santa Ana Region

January 18, 2006

ITEM: 6

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Nyman & Debra Wilson, 32880 Bryant Street, Wildomar, Riverside County, APN 368-210-013-8

DISCUSSION:

On November 18, 2005, Debra Wilson contacted staff requesting an exemption from the Board's minimum lot size requirements for the use of a second septic tank-subsurface disposal system on a 0.76-acre lot at 32880 Bryant Street, Wildomar. Mr. & Mrs. Wilson wish to install a second mobile home on this lot. A second septic system is proposed to serve this second dwelling unit.

There is currently a mobile home on the lot that is connected to an existing septic tank-subsurface disposal system. This area of Wildomar is unsewered. Mr. & Mrs. Wilson purchased the lot/home with the intention of purchasing a second dwelling unit/mobile home to be placed on the lot, where they could care for their mother.

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. Mr. & Mrs. Wilson'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 0.38 acres per dwelling unit, the Wilsons' proposal does not comply with the Board's minimum lot size requirements. Accordingly, Board staff denied Mr. & Mrs. Wilson's request for an exemption from the minimum lot size requirements.

The Wilsons note that the additional flows that would occur as a result of this project would be no greater than the flows that would be allowed if they were to add on to the existing house (mobile home) and replace the existing septic tank to accommodate the increased flows, which would be exempt from the minimum lot size criteria. On this basis, Mr. & Mrs. Wilson are appealing to the Regional Board for reversal of staff's denial of an exemption from the minimum lot size requirements.

The minimum lot size exemption criteria to be used by Board staff specify that replacement of existing septic tank-subsurface disposal systems to allow additional flows resulting from additions to existing dwelling units is exempt from the one-half acre requirement. However, the Board's exemption criteria specifically state that such an exemption does not apply to the addition of freestanding structures, such as a second mobile home on the Wilson property. In establishing the exemption criteria, the Board made this distinction because of the potential that the addition of freestanding structures could result, either immediately or in the future, in substantially greater wastewater flows than would be expected as the result of additions to an existing dwelling.

While it is true that there would be no difference in wastewater flows on an immediate basis, i.e., while the Wilsons own the property and their mother resides with them, there can be no guarantee that wastewater flows would not increase considerably in the future. As stated above, it was on this basis that the Board determined not to exempt the addition of freestanding structures from the minimum lot size requirements. However, this is an exceptional case in that the proposed additional structure is a mobile home. Mr. & Mrs. Wilson have offered to remove the second mobile home and septic system from the property once it is no longer required and have agreed to enter into an Agreement of Restriction to be recorded with the property Chain of Title that stipulates that this property may not be sold until the second mobile home has been removed and the second septic system has been removed or properly abandoned.

Board staff has advised Mr. & Mrs. Wilson of an option identified in the Board's minimum lot size exemption criteria that allows project proponents to implement an acceptable offset project. If Mr. & Mrs. Wilson connect another septic system (that would not otherwise be required to be connected to the sewer) to the sewer, then it would not be necessary to remove the second mobile home and the second septic system from service. Mr. & Mrs. Wilson plan to continue to attempt to locate an offset that, if implemented, would allow septic tank discharges from the second dwelling unit to continue.

RECOMMENDATION:

Approve Mr. and Mrs. Wilson's request for an exemption from the minimum lot size requirement specified in Resolution No. 89-157 with the following conditions: 1) Once the second mobile home is no longer required for use of the Wilson family, it will be removed from the lot and the second septic system will be demolished or removed from service by filling the tank with sand after proper removal and disposal of septage; and, 2) Mr. and Mrs. Wilson must enter into an Agreement of Restriction, which shall become a part of the Chain of Title, that the second mobile home must be removed and the second septic system must be demolished or properly abandoned prior to sale of the property; and, 3) If Mr. & Mrs. Wilson locate and implement an acceptable offset, the Agreement of Restriction shall be removed, allowing the continued use of the second mobile home and second septic system on their property.

Comments were solicited from the following agencies:

State Water Resources Control Board, Office of Chief Counsel – Jorge Leon
Riverside County Environmental Health – Sam Martinez/Greg Dellenbach
Riverside County Environmental Health, Murrieta Office – Matt Rhia
Riverside County Building and Safety – Steve Dondalski
Riverside County Planning – Mark Balys