

ITEM NO. 13

March 3, 2006

ERRATA SHEET

Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for
Subsurface Disposal System Use

Mario and Laretta Olivares
15053 San Bernardino Avenue, Fontana, San Bernardino County, APN 0235-011-14

(Language added is **boldface**)
(Language deleted is ~~struck out~~)

1. Page 2 of 2 of staff report, add the following to the last paragraph of the "Discussion" portion of the staff report:

Board staff has also advised Mr. & Mrs. Olivares about Provision I.K. of the MLSRs, which stipulates that the project proponent may propose an alternative treatment system for sewage disposal as the basis for an exemption from the minimum lot size requirement. On February 26, 2006, Mr. and Mrs. Olivares revised their plans and submitted a request for the use of an alternative disposal system (MicroFAST 1.5) to serve the proposed triplex.

According to materials provided to Board staff by Mr. and Mrs. Olivares and the manufacturer, this system is designed to provide advanced treatment of wastewater, including clarification, aeration, nitrification/de-nitrification and activated sludge. The documentation submitted indicates a total nitrogen reduction of approximately 70 percent. The treated wastewater will be discharged to a leachfield. Mr. and Mrs. Olivares propose to enter into a maintenance agreement with a qualified engineer for the operation of this alternative system. In addition, Mr. and Mrs. Olivares have also agreed to conduct quarterly monitoring of the system for nitrates. San Bernardino County has advised Regional Board staff that Mr. and Mrs. Olivares will be required to obtain an annual permit for the operation of the alternative system and that the County will annually inspect the system 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, Mr. and Mrs. Olivares will eliminate the alternative system and will implement three acceptable offsets so the triplex dwelling could remain on their property.

2. Page 2 of 2 of staff report, revise recommendation as follows:

RECOMMENDATION:

~~Deny Mr. & Mrs. Olivares' request for an exemption from the minimum lot size requirements for the use of a third septic system to serve the proposed triplex.~~

Approve Mr. and Mrs. Olivares request for an exemption from the minimum lot size requirements for the use of an alternative disposal system with the following conditions: 1) Mr. and Mrs. Olivares shall enter into an agreement with a qualified engineer for the operation and maintenance of the alternative system. A copy of this agreement shall be submitted to the Regional Board; 2) Quarterly sampling shall be conducted for one year to determine the nitrate (as N) concentration in the effluent. The results shall be submitted to the Regional Board office within 30 days after such sampling and analysis has occurred; and 3) Mr. and Mrs. Olivares shall continuously operate the alternative system to meet the groundwater quality objective for Total Inorganic Nitrogen of 6.67 mg/L and shall obtain an annual permit from the County Health Department for the operation of the alternative system.

California Regional Water Quality Control Board
Santa Ana Region

STAFF REPORT

March 3, 2006

ITEM: 13

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Mario and Laretta Olivares, 15053 San Bernardino Avenue, Fontana, San Bernardino County, APN 0235-011-14

DISCUSSION:

Mr. & Mrs. Olivares contacted Board staff to request approval for the use of a third septic tank-subsurface disposal system at 15053 San Bernardino Avenue, Fontana, San Bernardino County. The property is over one acre in size (49,223 sq. ft. or 1.13-acre net). Mr. & Mrs. Olivares own the lot and currently there are 2 single-family homes at the site, each served by a septic tank subsurface disposal system for the discharge of sanitary wastes. This area of the County is unsewered.

Mr. & Mrs. Olivares propose to construct on their property a detached triplex¹ and to install a new 6,000-gallon septic tank-subsurface disposal system to serve this triplex. Each dwelling unit of the triplex will consist of 3 bedrooms, two bathrooms, living area, dining area and a two-car garage. The fixture count for each dwelling unit is estimated at 20 fixture units. The total fixture count for the proposed triplex is 60 fixture units.

On October 13, 1989, the Regional Board adopted a Basin Plan amendment that requires new developments for which on-site subsurface disposal use is proposed to have a minimum of 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 groundwaters of the Region.

In adopting the minimum lot size requirements (MLSRs), the Board recognized that there would likely be proposals for additions to existing developments that would result in increased wastewater flow. The Board's MLSRs address these circumstances. Additions to existing dwellings (bedrooms/bathrooms) are exempt from the MLSRs. However, the MLSRs state that a proposal to add any freestanding structure that would result in additional wastewater flows must be considered a "new" development, subject to the MLSRs. Clearly, Mr. & Mrs. Olivares proposed triplex is a freestanding structure that would result in additional wastewater flows. As such, the development on the property as a whole (the two existing houses and the freestanding triplex) must now be considered a "new" development, to which the one-half acre minimum lot size requirement applies. With a density of 0.23 acres per dwelling unit, Mr. & Mrs. Olivares proposal does not comply with the Board's minimum lot size requirements.

¹ A freestanding building having three separate housing units all under one roof.

The minimum lot size requirements (MLSRs) also specify that the wastewater flow for each one-half acre of land may not exceed that from a three-bedroom, two-bath house as specified in the Uniform Plumbing Code. This is equivalent to approximately 300 gallons (20 fixture units) per one-half acre of land for commercial projects. Under the MLSRs, Mr. & Mrs. Olivares' triplex proposal is classified as a commercial project. The maximum permissible wastewater discharge from the Olivares' property as a whole would be approximately 678 gallons per day, which equates to 45 fixture units. Mr. & Mrs. Olivares are proposing an additional 60 fixture units beyond the fixture units in the two existing dwellings on the property.

Since Mr. & Mrs. Olivares' property is just over one acre, use of the existing two subsurface disposal systems conforms to the minimum lot size requirements. However, Mr. & Mrs. Olivares' proposed addition of a third subsurface disposal system does not. Staff therefore denied Mr. & Mrs. Olivares' request for a clearance for the project. Board staff advised Mr. & Mrs. Olivares that because the development does not comply with the minimum lot size requirements, we could not approve the use of the third septic system for the triplex. Mr. & Mrs. Olivares are appealing staff's denial of an exemption from the minimum lot size requirements.

Board staff has advised Mr. & Mrs. Olivares on numerous occasions of another option identified in the Board's exemption criteria, which allows project proponents to implement an acceptable offset. Mr. & Mrs. Olivares could continue with their proposed triplex at the property if they connected three septic systems (that would not otherwise be required to be connected to the sewer) to the sewer. To date, Mr. & Mrs. Olivares have declined to pursue this option.

RECOMMENDATION:

Deny Mr. & Mrs. Olivares' request for an exemption from the minimum lot size requirements for the use of a third septic system to serve the proposed triplex.

Comments were solicited from the following agencies

State Water Resources Control Board, Office of Chief Counsel – Jorge Leon
San Bernardino County Department of Environmental Health Services – Dean Holsonbake
San Bernardino County Department of Building and Safety – Barbara Johnston
San Bernardino County Planning – Ron Riley