

California Regional Water Quality Control Board  
Santa Ana Region

April 20, 2007

ITEM: \*5

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Jose Santos, 12943 McKinley Ave, Chino, San Bernardino County, APN 1019-031-19

DISCUSSION:

On February 7, 2007, Jose Santos contacted staff requesting approval for the use of two septic tank-subsurface disposal systems at the above-referenced site (identified as Parcel A). Mr. Santos is proposing to construct a 7-bedroom, 7-bath house, a 3-bedroom, 2-bath guest house and 2 pool houses. Mr. Santos proposes to install 2 septic systems. One will serve the 7-bedroom home and the other will serve the guest house and pool houses. The property is a little over one acre in size (44,869 sq ft or 1.03-acre net). This area of the County is unsewered and on-site septic tank-subsurface disposal systems are utilized for disposal of domestic wastes.

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.

In adopting the minimum lot size requirements (MLSRs), the Board recognized that it was appropriate to distinguish between "existing" developments using subsurface disposal systems (i.e., those already in place or approved at the time the MLSRs were adopted), and "new" developments. 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. The one-half acre requirement applies only to "new" developments.

The proposed project as a whole (main house, guest house and 2 pool houses) are considered a "new" development to which the one-half acre minimum lot size requirement applies. With a density of 0.325 acres per dwelling unit, the Santos' proposal does not comply with the Board's minimum lot size requirements. Accordingly, Board staff denied Mr. Santos' request for an exemption from the minimum lot size requirements.

The purpose of the 2 pool houses is to provide convenient bathroom and entertainment areas near the proposed pool and tennis courts so that guests would not need to walk up to the house to use these facilities. The pool houses will each have a toilet and sink. One of the pool houses will also have a shower and a wet bar sink (Attachment A). Mr. Santos has assured staff that these pool houses will not be used as additional dwelling units.

Mr. Santos has advised staff that he also owns the property (Parcel B) at 3557 Riverside Drive, Chino which is located adjacent to Parcel A (see Attachment B). This property currently has a small commercial office building with one bathroom and one septic system that also serves the existing nursery onsite. Parcel B is approximately 2.85 acres (124,416 sq ft). On February 13, 2007, Mr. Santos recorded in official Records, County of San Bernardino, a "Notice of Consent to Use Land" (Document # 2007-0094906 - see Attachment C) dedicating a 1-acre portion of Parcel B to Parcel A in order to satisfy the minimum lot size requirements for the additional structures (pool houses).

#### RECOMMENDATION:

Approve Mr. Santos' request for an exemption from the minimum lot size requirements based on the dedication of the property from 3557 Riverside Drive, Chino (Parcel B) to 12943 McKinley Avenue, Chino (Parcel A) as recorded by the Notice of Consent to Use Land on February 13, 2007 with the San Bernardino County Assessors office in order to satisfy the minimum lot size requirements.

Comments were solicited from the following agencies:

San Bernardino County Environmental Health Services – Corwin Porter  
San Bernardino County Building and Safety – Barbara Johnston