

California Regional Water Quality Control Board  
Santa Ana Region

August 25, 2006

ITEM: 7

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – David and Deborah O'Hara, 12799 Club Drive, Redlands, San Bernardino County, APN 0300-361-03

DISCUSSION:

On June 20, 2006, Brad Robertson, on behalf of David and Deborah O'Hara, contacted staff requesting approval for the use of a second septic tank-subsurface disposal system at the above-referenced site. Mr. & Mrs. O'Hara reside in a house located at the site. An existing subsurface disposal system is utilized for the discharge of domestic waste from the house. The property is just over one-half acre in size (25,138 sq ft or 0.58 acre gross). This area of the County is unsewered and on-site septic tank-subsurface disposal systems are utilized for disposal of domestic wastes.

Mr. & Mrs. O'Hara are proposing to construct a pool house/game room with covered patio on their property. An individual 500-gallon septic tank-subsurface disposal system is proposed to be installed to serve this pool house.

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 Board also 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. The MLSRs distinguish between the types of additions to existing dwelling units. Additions to existing dwellings (bedrooms/bathrooms) are exempt from the MLSRs. However, the MLSRs state that any proposal to add a freestanding structure that would result in additional wastewater flows must be considered a "new" development. The intent of distinguishing between additions that are attached to existing dwellings and freestanding structures was to guard against the use of the freestanding structure as a second single-family residence on the property, which would result in substantial additional wastewater flows. The proposed pool house/game room on Mr. and Mrs. O'Hara's property would be a freestanding structure. As such, the project as a whole (the existing house and the pool house) must now be considered a "new" development to which the one-half acre minimum lot size requirement applies. The O'Hara's proposal does not comply with the Board's minimum lot size requirements. Accordingly, Board staff denied Mr. and Mrs. O'Hara's request for an exemption from the minimum lot size requirements.

The purpose of the pool house/game room is to provide a convenient bathroom and entertainment area near the proposed pool so that guests would not need to walk up to the house to use the facilities. The pool house/game room will have a toilet, sink and shower in the bathroom. The covered patio area will have a wet bar sink. Mr. & Mrs. O'Hara have assured staff that the 256 sq. ft pool house (640 sq ft total with patio area) will not be used as a second dwelling. The small septic system proposed to be installed (500 gallons) reflects the intended limited use. No living room or kitchen facilities are proposed, making it infeasible to permit the new facilities as a dwelling unit.

**RECOMMENDATION:**

Approve Mr. and Mrs. O'Hara's request for an exemption from the minimum lot size requirements based on the small size and limited possible use of the 256 sq ft pool house/game room, which is not intended and cannot be permitted as a second dwelling unit.

Comments were solicited from the following agencies:

State Water Resources Control Board, Office of Chief Counsel  
San Bernardino County Environmental Health Services – Corwin Porter  
San Bernardino County Building and Safety – Barbara Johnston  
Brad Robertson