California Regional Water Quality Control Board
Santa Ana Region

September 17, 2004

ITEM: 6

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Don and Lucinda Kendrick, 19671 Grand Avenue, Lake Elsinore, Riverside County – APN 370-200-030-9

DISCUSSION:

On August 24, 2004, Lucinda Kendrick contacted staff regarding the proposed construction of a second dwelling unit on her lot at 19671 Grand Avenue, Lake Elsinore. Mr. and Mrs. Kendrick reside in a home located at the site. An existing subsurface disposal system is utilized for the discharge of domestic waste from the house. The gross size of the lot is slightly less than one acre (42,805 sq. ft or 0.98 acre). This area of the County is unsewered and on-site septic tank-subsurface disposal systems are utilized for disposal of domestic waste.

Mr. and Mrs. Kendrick propose to construct a second dwelling unit on their lot. A new septic tank-subsurface disposal system is proposed for the discharge of domestic waste from this second dwelling unit.

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. and Mrs. Kendrick'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 0.49 acres per dwelling unit, the Kendrick's proposal does not comply with the Board's minimum lot size requirements. Accordingly, Board staff denied Mr. and Mrs. Kendrick's request for an exemption from the minimum lot size requirements.

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.

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 second dwelling unit on Mr. and Mrs. Kendrick's property would be a freestanding structure. As such, the project as a whole (the existing house and the second dwelling unit) must now be considered a "new" development to which the one-half acre minimum lot size requirement applies. Mr. and Mrs. Kendrick's lot is slightly less than one acre in size (755 sq. ft short) and, therefore, staff was required to deny the Kendrick's request for a clearance for the project.

However, staff believes that since the lot is very close to the required 1-acre minimum requirement (0.98 acre), this factor would support granting an exemption for this proposed project.

RECOMMENDATION:

Approve Mr. and Mrs. Kendrick's request for an exemption from the minimum lot size requirements.

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 Building and Safety – Steve Dondalski
Riverside County Planning – Mark Balys