

California Regional Water Quality Control Board  
Santa Ana Region

October 13, 2006

STAFF REPORT

ITEM: \* 8

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Phillip Gutierrez, 10704 Deer Canyon Drive, Alta Loma, San Bernardino County, APN 1074-331-21

DISCUSSION:

On August 29, 2006, Phillip Gutierrez contacted staff requesting approval for the use of a septic tank-subsurface disposal system at the above-referenced site. Mr. Gutierrez resides 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 (24,829 sq. ft. or 0.57 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. Gutierrez is proposing to construct a pool house on his property. The pool house will be connected to the existing on-site septic tank-subsurface disposal system that currently serves the home.

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 on Mr. Gutierrez'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 Gutierrez proposal does not comply with the Board's minimum lot size requirements. Accordingly, Board staff denied Mr. Gutierrez's request for an exemption from the minimum lot size requirements.

The purpose of the pool house 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 will have two sinks, one toilet and one shower. Mr. Gutierrez has assured staff that the 256 sq. ft pool house will not be used as a second dwelling. No living room or kitchen facilities are proposed, making it infeasible to permit the new facility as a dwelling unit.

**RECOMMENDATION:**

Approve Mr. Gutierrez'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, 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  
City of Rancho Cucamonga Building and Safety – Trang Huynh/Daniel To