California Regional Water Quality Control Board
Santa Ana Region

November 30, 2007

STAFF REPORT

ITEM: *5

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Arturo Garcia, 32473 Wildomar Road, Lake Elsinore, Riverside County, APN 365-092-001

DISCUSSION:

On September 11, 2007, Arturo Garcia contacted staff requesting approval for the use of a second septic tank-subsurface disposal system at the above-referenced site. Mr. Garcia resides in a 2-bedroom, 1-bath house located at the site. An existing subsurface disposal system is utilized for the discharge of sanitary wastes from the house and is located at the south side of the house. The property is less than one-half acre in size (9,146-sq. ft. or 0.21 acre net). This area is unsewered and on-site septic tank-subsurface disposal systems are utilized for disposal of sanitary wastes.

Mr. Garcia proposes to extend his house and add 1 bedroom and 1 bathroom at the east side of the existing home. He proposes to install a new 750-gallon septic tank-subsurface disposal system to serve the proposed additions.

On October 13, 1989, the Regional Board adopted a Basin Plan amendment that requires new developments for which on-site subsurface disposal system 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. 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. Mr. Garcia's existing subsurface disposal system was installed prior to September 7, 1989 and is not subject to the minimum lot size requirements. The Board also exempted from the MLSRs the replacement of existing subsurface systems to accommodate additional flows resulting from additions to existing dwellings. However, Mr. Garcia's proposed addition of a second subsurface disposal system is not exempted from the MLSRs. Given the small size of Mr. Garcia's lot (0.21 acre), the proposed addition of a second system does not comply with the one-half acre minimum lot size requirement. Accordingly, Board staff denied Mr. Garcia's request for approval for the use of the second septic tank. Mr. Garcia seeks Regional Board consideration of this matter.

Mr. Garcia's existing septic tank is not adequately sized to accommodate the additional flows and would need to be replaced. Again, this would be exempt from the minimum lot size requirements. However, Mr. Garcia also advised Board staff that the new additions cannot be connected to the existing septic tank (or a larger replacement) because the required gradient (fall) for gravity flow of waste cannot be met due to existing ground slope and distance between the new additions and the existing septic tank.

The minimum lot size exemption criteria are based on the premise that the proposed addition of a second septic system would be necessitated only by the proposed addition of a freestanding structure, rather than additions to existing dwellings. The Regional Board did not exempt the addition of a second system based on concerns that use of an additional freestanding structure and a second septic system could result, over the long-term, in the addition of substantial wastewater flows beyond those resulting from additions to existing dwellings. Mr. Garcia's addition will not result in a freestanding structure; however, he is proposing the installation of a second septic system. Mr. Garcia points out that the additional flows that will occur as a result of the room additions will be no greater than those that would be allowed had the existing septic tank been replaced to accommodate them. Furthermore, the new additions cannot be connected to the existing septic tank (or a replacement) because the required gradient (fall) for gravity flow of waste cannot be met due to existing ground slope and distance between the new additions and the existing septic tank. In light of the circumstances of Mr. Garcia's proposal, Board staff believes that Mr. Garcia's arguments have merit.

RECOMMENDATION:

Approve Mr. Garcia's request for an exemption from the minimum lot size requirements for the use of a second septic system.

Comments were solicited from the following agencies:

Riverside County Environmental Health – Matt Riha
Riverside County Building and Safety – Steve Dondalski