

Memorandum



Date: September 27, 2018

To: SOUTHERN NEVADA DISTRICT BOARD OF HEALTH

From: Daniel LaRubio, Jr., P.E., REHS, *Environmental Health Engineer/Supervisor* *DLR*
Herbert Luis Sequera, REHS, *Environmental Health Manager* *HLS*
Chris Saxton, MPH-EH, REHS, *Environmental Health Director* *CS*
Joseph P. Iser, M.D., DrPH, MSc, *Chief Health Officer* *JPI*

Petitioner: SNHD on behalf of Two Homeowners in St. Thomas Estates and Three Homeowners in Aspen Estates

Subject: Variance Request to allow the installation of a conventional septic tank where the Subdivision Map Review by NDEP required a Nitrogen Removal Septic System for 1131 & 1181 Thomas Bay Circle, Logandale, NV and 4711, 4712 & 4737 Aspen Falls Circle, Las Vegas, NV per Nevada Revised Statutes (NRS) 278.377 in Clark County, Nevada.

I. BACKGROUND

The ISDSs will be located at APN 041-26-410-012 & 010, further known as 1131 & 1181 Thomas Bay Circle, Logandale, NV 89021 and APN 126-25-810, 007, 008 & 006, further known as 5711, 5712 & 5737 Aspen Falls Circle, Las Vegas, NV 89149. The properties have had an American Environmental Resources, Inc. (AER) Nitrogen Removal Septic System (NRSS), since installation in 2005 and 2006. AER serviced the septic system until 2010 when the service was discontinued due to the lack of service contracts offered to the new homeowners. The AER Nitrogen Removal Septic System is a proprietary design that only employees of AER can service. Consequently, replacement of the Nitrogen Removal Septic System with a different Nitrogen Removal Septic System would cause a financial hardship, costing \$40,000 to homeowners.

II. DISCUSSION

The SNHD has requested a relieving of the requirement from the Nevada Division of Environmental Protection (NDEP) Nitrogen Removal Subdivision Review Requirement for a total of two homes in the St. Thomas Estates Subdivision and three homes in the Aspen Estates Subdivision.

The homeowners have not been able to employ a Maintenance Provider for their Nitrogen Removal Septic System which was installed and formerly serviced by American Environmental Resources, Inc. AER has demonstrated a lack of interest in re-establishing

their contract obligations and servicing the Nitrogen Removal Septic Systems. The AER Nitrogen Removal Septic System is a proprietary design and currently there are no service providers in Clark County other than American Environmental Resources, Inc. that can service their Nitrogen Removal Septic System.

The petitioner states the following regarding these requirements:

1. There must be circumstances or conditions which are unique to the petitioner, and do not generally affect other persons subject to the regulation:

1131 & 1181 Thomas Bay Circle of St. Thomas Estates and 5711, 5712 & 5737 Aspen Falls Circle of Aspen Estates have had a Nitrogen Removal Septic System (NRSS), since the property was developed, based on an NDEP recommendation. These properties have had an American Environmental Resources, Inc. (AER) NRSS that was installed and serviced by American Environmental Resources, Inc. Beginning in 2010, the Maintenance Provider for these NRSS failed to offer service contracts to the new owners, which resulted in services being terminated on these. As required by SNHD ISDS *Regulation Governing Individual Sewage Disposal Systems and Liquid Waste Management* Section 10.6.1 each property must maintain a Maintenance provider for the life of the septic system with yearly effluent testing as described in Section 10.6.3.

The AER NRSS is a proprietary design that only can be maintained by AER personnel. This NRSS can't be retrofitted inexpensively to allow for replacement. This posed a dilemma for these five homeowners. SNHD petitioned NDEP to use of a conventional septic tank, since there are no Maintenance Providers available.

2. There must be circumstances or conditions which make compliance with the regulation unduly burdensome and cause a hardship to and abridge a substantial property right of the applicant and the variance is necessary to render substantial justice to and preserve the property rights of the applicant.

To replace the AER NRSS with an Orenco Systems NRSS would cost approximately \$40,000 as quoted by PPS Plumbing and Pumping, a local Maintenance Provider. This cost is a tremendous hardship to have a working NRSS. The homeowners want to comply and are asking SNHD for a way to do so. This hardship makes the future use of the house without relief rather difficult. These homeowners are looking for fair guidance from SNHD.

3. Granting the variance will not be detrimental or pose a danger to the public health and safety.

In his letter to SNHD, dated June 13, 2018, Bruce Holmgren, P.E., Chief of NDEP Bureau of Water Pollution Control stated, "For the subdivision process, NDEP must have confidence that SNHD will implement a robust permitting and enforcement program for residential septic systems, particularly in un-sewered areas with high septic density. The potential for adverse impacts to groundwater

from septic-derived contaminants is greater in areas of high septic density”.

“Therefore, NDEP concurs with the SNHD proposal to allow the conversion of these five remaining AER Nitrogen Removal Septic System to conventional septic systems. However, as noted in your letter, future requests for conversion will be denied by SNHD and NDEP will not support denitrification system waivers”.

“NDEP is encouraged that SNHD will continue to enforce and optimize its management of the denitrification service, particularly with respect to the vetting of the capabilities of the contract Maintenance Providers, improved annual inspections, and the inclusion of parcels in the SNHD denitrification program, in order to protect groundwater quality in Clark County”.

III. RECOMMENDATION

The offsite water quality will not be affected by the proposed shallow absorption systems located in St. Thomas Estates, as stated by the Moapa Valley Water Authority which services Logandale, Nevada. The same will be true for the Las Vegas Valley where Aspen Estates exists and will not adversely effect groundwater. The closest neighboring building is twenty feet (20') from the proposed ISDS, equal to the normal eight feet (8') minimum required separation. The closest property line is ten feet (10') from the proposed ISDS. Since the AER NRSS doesn't have any viable Maintenance Providers as were required by SNHD and NDEP – Bureau of Water Pollution Control (Appendix D), SNHD and NDEP concurred that these five homes could have Conventional Septic Tanks. Staff recommends Approval with the following conditions:

IV. CONDITIONS

1. The ISDS will be limited to the proposed conventional two thousand (2,000) gallon septic tank with an existing shallow absorption leach field UNTIL Municipal sewer is available.
2. The ISDS may not be in an area subject to vehicular traffic, any area to be paved or within ten (10) feet of any tree.
3. Permitting of the ISDS must be commenced within one (1) year of the date hereof. If the construction has not been commenced within that period, this variance shall automatically expire and be of no further force and effect, unless application is made and approved for an extension of time prior to the expiration date by the applicant or the applicant's successor(s) in interest.
4. The applicant and his successor(s) in interest shall abide by all local governmental regulations requiring connection to community sewage systems. Use of the ISDS shall be discontinued and the structure it serves shall be connected to any community sewage system constructed in the future to within four hundred (400) feet of the

applicant's property line when connection can be made by gravity flow and the owner(s) are notified and legally required to do so.

Attachments:

- A. Assessor's Maps for St. Thomas Estates and Aspen Estates**
- B. Justification/Hardship Letter**
- C. Variance Candidate Worksheet**
- D. NDEP Subdivision Comment Letters for St. Thomas Estates and Aspen Estates**
- E. SNHD and NDEP Letters allowing conventional septic systems**
- F. SNHD Public Notice**

ATTACHMENT

A

ASSESSOR'S PARCELS - CLARK CO. NV
Michelle W Shale - Assessor

NOTES
 This map is for assessment use only and does NOT represent a survey. No liability is assumed for the accuracy of the data obtained herein from the Road Discontinuation Listing in the Assessor's Office. The map is compiled from official records, including surveys and deeds, recorded documents for more detailed information. See the Assessor's Office for more information.

MAP LEGEND

- Parcel Boundary
- Sub-Boundary
- Ready Assessed
- Match Assessed
- Historic Lot Line
- Historic Paved Boundary
- Section Line

Scale: 1" = 200'

Legend:
 100 100 100 100 100 100 100 100 100 100
 127 126 125 124 123 122 121 120 119 118
 136 137 138 139 140 141 142 143 144 145

Section 25

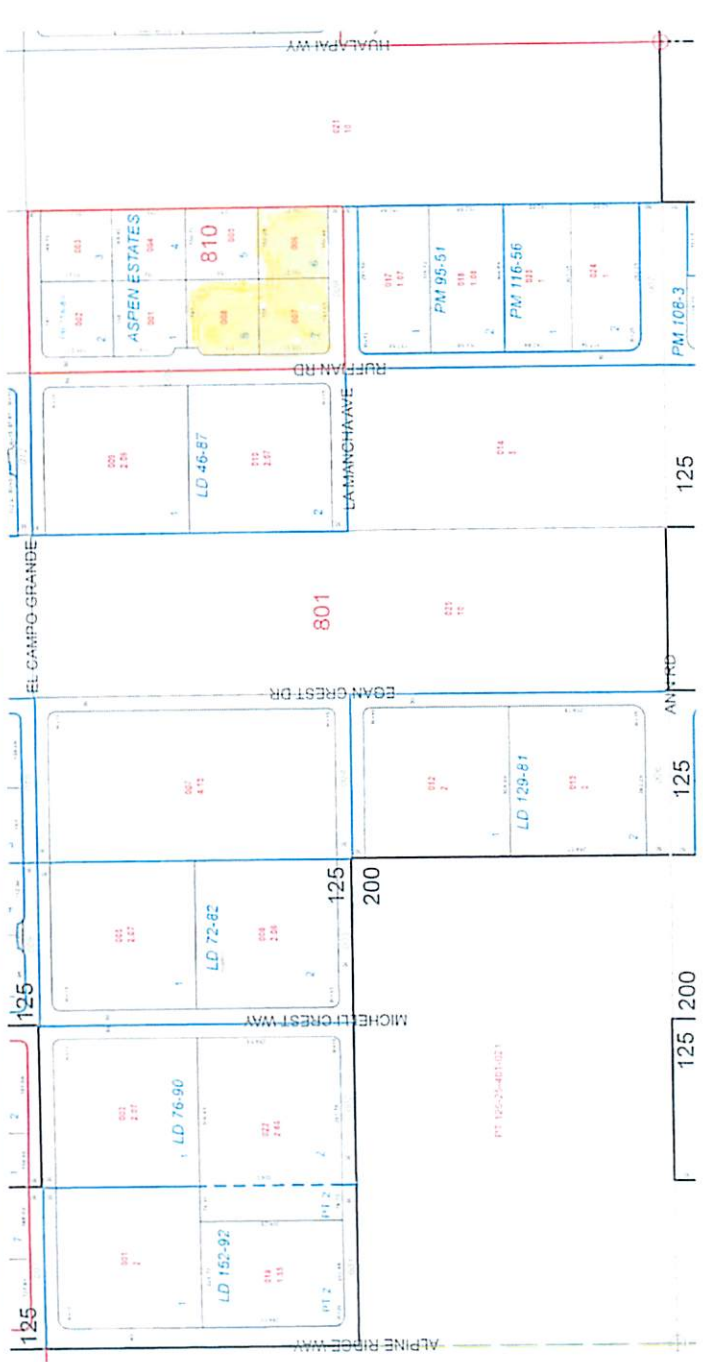
T19S R69E

126-25-8

S 2 SE 4

125

Rev. 7/6/2018



TAX DIST 125.200

ATTACHMENT

B

Justification/Hardship Letter

To: Southern Nevada District Board of Health
280 S. Decatur Blvd.
Las Vegas, Nevada 89107

From: SNHD on behalf of the Homeowners of the following parcels:
APN: 041-26-410-012, 041-26-410-010 St. Thomas Estates
APN: 126-25-810-008, 007, 006 Aspen Estates

To whom it may concern:

The SNHD Septic System Program Staff hereby make application and petition to the Southern Nevada District Board of Health on behalf of the homeowners of these parcels for a Variance to the Regulations Governing Individual Sewage Disposal Systems and Liquid Waste Management Section 10 and Nevada Division of Environmental Protection, Water Pollution Control Policy.

This Variance request is made to permit the conversion of the Nitrogen Removal Septic Systems located on these five parcels to Conventional Septic Tanks. These five homes have had American Environmental Resources, Inc. Nitrogen Removal Septic Systems that there aren't Service Providers available to serve now.

ATTACHMENT

C

PART II

Nevada Administrative Code 439.240 states in general that certain conditions or circumstances must be shown to exist in order for a Board of Health to approve a request for a Variance from adopted public health regulations. A variance application letter (as noted below in PART III) MUST specifically address each of the following issues:

1. There must be circumstances or conditions which are unique to the applicant, and do not generally affect other persons subject to the regulation. Please indicate how your request is unique to your situation and is, therefore, not likely to affect other persons subject to specific regulation:

1131 & 1181 Thomas Bay Ci. of St. Thomas Estates and 5711, 5712 & 5737 Aspen Falls Ci. of Aspen Estates have had a Nitrogen Removal Septic System (NRSS), since the property was developed, based on an NDEP recommendation. These properties have had an American Environmental Resources, Inc. (AER) NRSS that was installed and serviced by AER. Beginning in 2010, the Maintenance Provider for these NRSS failed to offer service contracts to new owners which resulted in the services being terminated on these.

SNHD ISDS Regulations Governing Individual Sewage Disposal systems and Liquid Waste Management Section 10.6.1 each property must maintain a Maintenance Provider for the life of the NRSS with yearly effluent testing as described in Section 10.6.3. The AER NRSS is a proprietary design that only can be maintained by AER personnel. The NRSS can't be retrofitted inexpensively to allow for replacement. This posed a dilemma for the five homeowners. SNHD petitioned NDEP to use a conventional septic tank, with no Maintenance Provider available.

2. There must be circumstances or conditions which make compliance with the regulation unduly burdensome and cause a hardship to and abridge a substantial property right of the applicant, and the variance is necessary to render substantial justice to and preserve the property rights of the applicant. Please indicate in what manner compliance with the regulation would be burdensome or cause a hardship on your business or how the free use of your property may be affected (if economic factors are an issue, please include estimates regarding the costs that would be incurred by compliance):

To replace the AER NRSS with an Orenco System NRSS would cost approximately \$40,000 as quoted by PPS Plumbing and Pumping, a local Maintenance Provider. The cost is a tremendous hardship to have a working NRSS. The homeowners want to comply and asked SNHD for a way to do so. The hardship makes the future use of the house without relief rather difficult. These homeowners are looking for fair guidance from SNHD.

3. Granting the variance will not be detrimental or pose a danger to public health and safety. Please provide evidence that the variance request, if approved, will not adversely affect the safe and sanitary operation of the applicant(s) pool, spa, or food establishment: In his letter to SNHD, dated June 13, 2018, Bruce Holgren, P.E. Chief of NDEP Bureau of Water Pollution Control stated, "For the subdivision process, NDEP must have confidence that SNHD will implement permitting and enforcement program for residential septic systems, particularly in un-sewered areas with high septic density. The potential for adverse impacts to groundwater from septic-derived contaminants is greater in area of high septic density". "However, as noted in your letter, future requests for conversion will be denied by SNHD and NDEP will not support denitrification system waivers". "NDEP is encouraged that SNHD will continue to enforce and optimize its management of the denitrification program, particularly with respect to the vetting of the contract service providers, improved annual inspections, and the inclusion of parcels in the SNHD denitrification program, in order to protect groundwater quality in Clark County".

NAC 439.240 Approval by board.

1. The state board of health will grant a variance from a regulation only if it finds from the evidence presented at the hearing that:
 - (a) There are circumstances or conditions which:
 - (1) Are unique to the applicant;
 - (2) Do not generally affect other persons subject to the regulation;
 - (3) Make compliance with the regulation unduly burdensome; and
 - (4) Cause a hardship to and abridge a substantial property right of the applicant; and
 - (b) Granting the variance:
 - (1) Is necessary to render substantial justice to the applicant and enable him to preserve and enjoy his property right; and
 - (2) Will not be detrimental or pose a danger to public health and safety.
2. Whenever an applicant for a variance alleges that he suffers or will suffer economic hardship by complying with the regulations, he must submit evidence demonstrating the costs of his compliance with the regulation. The board will consider the evidence and determine whether those costs are unreasonable. [Bd. of Health, Variances Reg. §§ 2.7-2.8, eff. 10-16-80; A 2-5-82; 1-19-84]

PART III:

A **Variance Application Letter**, which includes all information provided by the applicant on this worksheet, must be submitted in writing to Jacqueline Reszetar, Environmental Health Division (EHD) Director no later than six (6) weeks before the monthly Board of Health Meeting on the 4th Thursday except in November and December which is on the 3rd Thursday. **The Application letter must be on the owner's letterhead signed by the Owner/Corporate Officer specifically listing which part(s) of the Regulation the proposed Variance covers with this completed Worksheet as an attachment. The written Application Letter must take particular care in providing statements and evidence of circumstances or conditions and reasons why the District Board of Health should grant the Variance as listed in NAC 439.240 as shown at the top of this page. ALL information you have provided in PART I and II of this Worksheet must be included in the body of the letter.** The evidence required may include 8½" x 11" or 11" x 17" detailed drawings and/or photographs.

The Variance process is outlined in Nevada Administrative Code (NAC) 439.200 through 439.260 with the exception that an application fee is payable to SOUTHERN NEVADA HEALTH DISTRICT (SNHD).

Next closing date: _____ For: _____ Board of Health Meeting

Referred by: _____
(Print Name of APR or DEHS)

Completed by: Daniel LaRubio, Jr.
(Print Name of SNHD Supervisor)

Received by: Danniel LaRubio, Jr.
(Owner/Operator/Agent Signature)

Reviewed by: _____
(Signature of SNHD Manager)

COPY TO: Permit File
Division Director
Department Manager

VARIANCE PROCEDURE

WORKSHEET STEPS:

1. If the Assigned Plan Reviewer (APR) or District Environmental Health Specialist (DEHS), after reviewing a Plan Review Application or learning about an operational situation that is in apparent conflict with existing regulation(s), respectively, finds in the process of pursuing compliance that the owner/operator/agent claims circumstances or conditions described in NAC 439.240 that may support approval by the Board of Health for a Variance from said regulation(s), then the APR or DEHS first discusses the possible Variance with his Supervisor.
2. If the Supervisor, after exploring any other feasible possibilities to achieve compliance, fails to persuade the owner/operator/agent that at least one (1) of the possibilities is feasible due to the circumstances and conditions noted in Step 1, then the **Supervisor completes all applicable information on the “. . . VARIANCE CANDIDATE WORKSHEET” from existing file(s) and conference call(s) or meeting(s) with the Variance candidate’s representative(s), and forwards the completed WORKSHEET to the Department Manager. A Variance Candidate Worksheet Meeting fee will be required prior to completing the VARIANCE CANDIDATE WORKSHEET.**
3. If after the Manager reviews the WORKSHEET and researches any possible questions of policy and law with the Division Director and District Legal Counsel, respectively, he then signs and dates the WORKSHEET and either faxes it with confirmation or arranges to have in person owner/operator/agent sign and date for receipt of WORKSHEET.
4. After the WORKSHEET fax confirmation is received or is signed received in person, one (1) copy of each is sent to Permit File, Division Director, and Department Manager.
5. The Department’s Administrative Secretary establishes a new Variance Candidate File as the repository for ALL documents generated by EHD staff and received from the Variance candidate’s representative(s) during the Variance process.

VARIANCE APPLICATION STEPS:

1. When the Application for Variance as described at the bottom of the “. . . VARIANCE CANDIDATE WORKSHEET” is received by the Division Director and is date stamped received and the Variance Application Fee received, it should be forwarded as soon as possible to the appropriate Division Manager for determination of completeness.
2. If the Application is determined by the Manager to be incomplete, then the Manager must document communication of necessary additions and/or corrections to the Variance applicant’s representative(s) in a timely enough manner to allow for the possibility of a second submittal prior to the published “Closing Date” for the earliest available Board of Health Meeting date.
3. Once the Application for Variance is determined by the Department Manager to be complete, the Department’s Administrative Secretary prepares, on a blank sheet of paper, the letter petitioning the District Board of Health of Clark County, as drafted by the Manager for signature by the property owner/corporate officer or authorized operator/agent. (Operator/agent may sign this document only if written authorization on letterhead signed by property owner/corporate officer has been received.)

ATTACHMENT

D

ALLEN BIAGGI, *Administrator*

Administration
Water Pollution Control
Air Quality
(702) 486-2850

STATE OF NEVADA
KENNY C. GUNN
Governor



002-001
R. MICHAEL TURNIPSEED, *Director*

Federal Facilities
Corrective Actions
Waste Management
Facsimile 486-2863

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

(Las Vegas Office)

1771 E. Flamingo Road, Suite 121-A

Las Vegas, Nevada 89119-0837

October 21, 2003

Ms. Stacey Medina, Project Coordinator
Triton Engineering
9901 Covington Cross Dr., Suite 170
Las Vegas, NV 89144

**RE: St. Thomas Estates – Final Map
13-lot Subdivision in Logandale, Clark County, Nevada**

Dear Ms. Medina:

The Nevada Division of Environmental Protection (NDEP) has reviewed the above-referenced subdivision and hereby certifies said subdivision with respect to water pollution and sewage disposal. This subdivision plans to utilize individual sewage disposal systems consisting of nitrate removal wastewater treatment units.

The decision to utilize nitrate removal wastewater treatment units was predicated on the exceedence of the maximum density guideline of 162 equivalent dwelling units (EDUs) per square mile on conventional septic systems allowed in the hydrographic basin containing Logandale, Nevada. According to information received from Triton Engineering dated September 18, 2003, 214 EDUs are located within the 2,979-foot radius from the center of the proposed 13-lot subdivision. This exceeds the 162 allowed as charted from the NDEP State Study of Groundwater Hydrographic Basins.

Each nitrate removal wastewater treatment unit must conform with all applicable provisions of the Nevada Administrative Code and is subject to approval of the Clark County District Board of Health. Additionally, each owner of a nitrate removal wastewater treatment unit must submit to the health authority the following (NAC 444.8321 - NAC 444.8324):

1. Design plans of a nitrate removal treatment unit that has been approved by the National Sanitation Foundation International, other equivalent nationally recognized testing laboratory approved by the health authority, or the health authority.
2. Maintenance agreement with a service provider that covers the anticipated life span of the individual sewage disposal system. This agreement must include, without limitation, a yearly inspection of the system, and the components thereof, which verifies the system is functioning correctly, and producing effluent which has nitrate levels that are 10 mg or less per liter, measured as total nitrogen.
3. Plans detailing a 24-hour operating alarm system.

Ms. Stacey Medina, Project Coordinator
St. Thomas Estates – Final Map
October 21, 2003
Page 2

4. Manual for the operation and maintenance of the nitrate removal wastewater treatment unit.

In addition to the aforementioned requirements, the Division recommends that, in areas where absorption rates are greater than 5.12 gal/sq.ft/day, a minimum of two feet of the native soil below the proposed absorption field be replaced by loamy sand, and the system design be based on percolation tests made in the loamy sand.

Please be advised that inclusion under the Nevada Division of Environmental Protection Construction Stormwater General Permit is also required for any project involving land disturbances of **ONE or more** acres (please note the change in acreage, effective March 10, 2003). If the above-referenced subdivision falls in this category, a stormwater authorization letter must be obtained from this Division prior to commencement of land-disturbing activities at the site. To apply for permit coverage, a Notice of Intent form must be submitted along with a \$200 filing fee. For further details regarding this requirement, please contact Mr. Cliff Lawson of NDEP at (775) 687-9429.

If you have any questions, please feel free to contact me at (702) 486-2869.

Sincerely,


Nicole A. Everett, SEII
Technical Services Branch
Bureau of Water Pollution Control

cc :

Darrell Rasner	NDEP/Carson City
Nadir Sous	NDEP/Las Vegas
Lynn McNutt	CCHD
Robert Thompson	Water Resources/SoNV Branch
Shane Ammerman	Clark County Planning

ALIEN BIAGGI, *Administrator*

Administration
Water Pollution Control
Air Quality
(702) 486-2850

STATE OF NEVADA
KENNY C. GUINN
Governor



002 001
R. MICHAEL TURNIPSEED, *Director*

Federal Facilities
Corrective Actions
Waste Management
Facsimile 486-2863

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

(Las Vegas Office)
1771 E. Flamingo Road, Suite 121-A
Las Vegas, Nevada 89119-0837

October 20, 2003

Ms. Stacey Medina, Project Coordinator
Triton Engineering
9901 Covington Cross Dr., Suite 170
Las Vegas, NV 89144

**RE: St. Thomas Estates – Tentative Map
13-lot Subdivision in Logandale, Clark County, Nevada**

Dear Ms. Medina:

The Nevada Division of Environmental Protection (NDEP) has received your response to our letter dated October 7, 2003 denying the above-referenced subdivision. After reviewing this response, the Division hereby recommends **approval** of said subdivision with respect to water pollution and sewage disposal. This approval is predicated upon the decision to use individual sewage disposal systems consisting of nitrate removal wastewater treatment units.

Each nitrate removal wastewater treatment unit must conform with all applicable provisions of the Nevada Administrative Code and is subject to approval of the Clark County District Board of Health. Additionally, each owner of a nitrate removal wastewater treatment unit must submit to the health authority the following (NAC 444.8321 - NAC 444.8324):

1. Design plans of a nitrate removal treatment unit that has been approved by the National Sanitation Foundation International, other equivalent nationally recognized testing laboratory approved by the health authority, or the health authority.
2. Maintenance agreement with a service provider that covers the anticipated life span of the individual sewage disposal system. This agreement must include, without limitation, a yearly inspection of the system, and the components thereof, which verifies the system is functioning correctly, and producing effluent which has nitrate levels that are 10 mg or less per liter, measured as total nitrogen.
3. Plans detailing a 24-hour operating alarm system.
4. Manual for the operation and maintenance of the nitrate removal wastewater treatment unit.

In addition to the aforementioned requirements, the Division recommends that, in areas where absorption rates are greater than 5.12 gal/sq.ft/day, a minimum of two feet of the native soil below the proposed absorption field be replaced by loamy sand, and the system design be based on percolation tests made in the loamy sand.

Stacey Medina, Project Coordinator
St. Thomas Estates -- Tentative Map
October 20, 2003
Page 2

Please be advised that, in addition to existing requirements for final map approval, inclusion under the Nevada Division of Environmental Protection Construction Stormwater General Permit is also required for any project involving land disturbances of ONE or more acres. If the above-referenced subdivision falls in this category, a stormwater authorization letter must be obtained from this Division prior to commencement of land-disturbing activities at the site. To apply for permit coverage, a Notice of Intent (NOI) form must be submitted along with a \$200 filing fee. The NOI can be downloaded from our website at <http://www.ndep.state.nv.us/bwpc/storm01.htm>. For a hard copy of the NOI or for further details regarding this permit requirement, please contact Mr. Cliff Lawson of NDEP at (775) 687-9429.Ms. -

If you have any questions, please feel free to contact me at (702) 486-2869.

Sincerely,


Nicole A. Everett, SEII
Technical Services Branch
Bureau of Water Pollution Control

cc :

Darrell Rasner	NDEP/Carson City
Nadir Sous	NDEP/Las Vegas
Lynn McNutt	CCHD
Robert Thompson	Water Resources/SoNV Branch
Shane Ammerman	Clark County Planning

ATTACHMENT

E



May 29, 2018

Nevada Division of Environmental Protection
Bureau of Water Pollution Control
c/o Bruce Hologram
901 S. Stewart Street, Suite 4001
Carson City, Nevada 89701

Re: Conversion of American Environmental Resources, Inc. (AER) Nitrogen Removal Septic Systems to Conventional Septic Systems in Clark County, Nevada

Dear Mr. Hologram,

The Southern Nevada Health District, Individual Sewage Disposal Systems (ISDS) Regulations outline the requirements for a denitrification program. In 2014, twelve (12) properties having AER Nitrogen Removal Septic Systems were allowed to convert to conventional septic systems, in the Biasi Subdivision, due to financial hardship caused by a lack of a dependable service provider. The AER service provider is both the system owner and the only service provider for all AER Nitrogen Removal Septic Systems in Nevada. AER Inc. installed a total of seventeen (17) Nitrogen Removal Septic Systems in Clark County and currently the four (4) systems are classified as failed systems due to the lack of a dependable service provider.

SNHD is requesting support in authorizing the conversion of the remaining five (5) AER Nitrogen Removal Septic Systems; two (2) properties at St. Thomas Estates Subdivision in Logandale, Nevada, and three (3) properties at Aspen Estates Subdivision in Las Vegas, Nevada.

Clark County has 101 Orenco Nitrogen Removal Septic Systems currently permitted. As we are aware, all Orenco Nitrogen Removal Septic Systems are functioning properly and better than 80 percent have active service providers. If a homeowner with an Orenco System requests a conversion to a conventional system, it will be denied based on the fact that Clark County has two active service providers, certified to service and repair Orenco Nitrogen Removal Septic Systems.


SNHD will continue to enforce all regulatory statutes and regulations in managing the denitrification program through active system assessments, improved monitoring of homeowner contracts, better awareness of the service provider's technical support abilities, and improved annual system inspections. Future plans to update SNHD ISDS Regulations will also include parcels in the denitrification program.

If you have any questions, please contact Dan LaRubio at (702) 759-0617.

Sincerely,

ENVIRONMENTAL HEALTH DIVISION


Daniel LaRubio, Jr., P.E., RITIS
Environmental Health Engineer/Supervisor


Herbert Luis Saquera, RITIS
Interim Director of Environmental Health

-LSH

1000 S. Stewart Street
Carson City, NV 89701

P.O. Box 3992 | Las Vegas, NV 89127
702.739.1000 | www.southernnevadahd.org



STATE OF NEVADA
Department of Conservation & Natural Resources
Brian Sandoval, Governor
Bradley Crowell, Director
Greg Lovato, Administrator

June 13, 2018

Herbert Sequera, REHS
Interim Director of Environmental Health
and
Daniel LaRubio, Jr., P.E., REHS
Environmental Health Engineer/Supervisor
Southern Nevada Health District
P.O. Box 3902
Las Vegas, NV 89127

RE: SNHD Request for NDEP Support – Residential Septic System Conversions
St. Thomas Estates (Logandale) and Aspen Estates (Las Vegas), Clark County.

Dear Sirs,

The Nevada Division of Environmental Protection (NDEP) received the your May 29, 2018 letter requesting support for the Southern Nevada Health District (SNHD) proposal to allow conversion of five existing residential Nitrogen Removal Septic Systems to conventional septic systems. Two of the nitrogen removal systems are at the St. Thomas Estates Subdivision in Logandale and the other three nitrogen removal systems are at the Aspen Estates Subdivision in Las Vegas.

Your letter indicated that the five nitrogen removal systems in question are owned and serviced by American Environmental Resources, Inc. (AER). The SNHD believes that the historical lack of dependable service on the AER systems has resulted in failure of these systems elsewhere (twelve systems, Biasi Subdivision), causing financial hardship for the individual property owners. SNHD would like to allow the conversion of the remaining five AER nitrogen removal septic systems that are classified as failed systems by SNHD due to lack of proper maintenance.

NDEP does not regulate the permitting, construction, or operation of individual residential septic systems. Authority for regulating residential septic systems is vested in the local authority or State Health under NAC 444. In this case, SNHD is the regulatory authority with purview over residential septic systems in Clark County.

For the subdivision review process, NDEP must have confidence that SNHD will implement a robust permitting and enforcement program for residential septic systems, particularly in un-sewered areas with high septic density. The potential for adverse impacts to groundwater from septic-derived contaminants is greater in areas with high septic density.

That being said, NDEP recognizes the unique circumstances involving the ownership and servicing of the AER Nitrogen Removal Systems, along with the possibility of their failure and the financial hardships for the property owners at St. Thomas Estates and Aspen Estates. Therefore, NDEP concurs with the SNHD proposal to allow the conversion the five remaining AER Nitrogen Removal Septic Systems to conventional septic systems. However, as noted in your letter, future requests for conversion will be denied by SNHD and NDEP will not support denitrification system waivers.

NDEP is encouraged that SNHD will continue to enforce and optimize its management of the denitrification program, particularly with respect to the vetting of the capabilities of the contract service providers, improved annual inspections, and the inclusion of parcels in the SNHD denitrification program, in order to protect groundwater quality in Clark County.

If you have any further questions regarding this matter, please contact me at (775) 687-9433, or bholmgren@ndep.nv.gov.

Sincerely,



Bruce Holmgren, P.E., Chief
Bureau of Water Pollution Control

cc: Barrett Evans, REHS, Program Manager, Environmental Health Section, DHHS
Pat Mohr, P.E., NDEP

ATTACHMENT

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PUBLIC NOTICE

The Southern Nevada District Board of Health will conduct a PUBLIC HEARING on Thursday, September 27, 2018 at 8:30 a.m. during its regular monthly meeting in the Red Rock Conference Room at the Southern Nevada Health District at 280 S. Decatur Blvd., Las Vegas, Nevada, to approve or deny a variance request filed by SNHD to allow a deviation from the NDEP Subdivision determination which stated that the lots of St. Thomas Estates and Aspen Estates require a Nitrogen Removal Septic System. Some of the homes in these subdivisions have an American Environmental Resources, Inc. (AER) Nitrogen Removal Septic System that is proprietary and is not able to be serviced by any company other than AER. Replacement of the Nitrogen Removal Septic System is a financial hardship. A permit for a conventional replacement septic tank is being sought on the property located at 1131 & 1181 Thomas Bay Circle, also known as APN 041-26-410-012 & 010, Logandale, NV 89021 and 5711, 5712 & 5737 Aspen Falls Circle, also known as APN: 126-25-810-007, 006 & 008, Las Vegas, NV 89149.

The District Board of Health Regulations Governing Individual Sewage Disposal Systems and Liquid Waste Management Section 19.5 requires the Board to consider the relative interest of first, the public; second, other property owners likely to be affected; third, the applicant; in that order. No variance shall be granted in the absence of showing that: (1) The variance would not endanger or tend to endanger human health or safety. (2) Compliance with regulations from which the variance is sought would produce serious hardship without equal or greater benefit to the public.

The variance application request is available for review at the Southern Nevada Health District, 280 S. Decatur Blvd, Las Vegas, Nevada 89107. Please contact Mallory Jett-Edwards at 702-759-0660 to schedule an appointment to review the application request during normal business hours of 8:00 a.m. to 4:30 p.m. All interested persons may appear at the hearing and state their positions. Written comments will be considered by the District Board of Health and must be forwarded by September 14, 2018 to:

Daniel LaRubio, Jr., P.E., EHS
Environmental Health Engineer/Supervisor
Southern Nevada Health District
P.O. Box 3902
Las Vegas, Nevada 89127
larubio@snhd.org

All written and oral submissions will be considered by the District Board of Health of Clark County.

Chris Saxton, MPH-EN, REHS
Environmental Health Director

8-31-18
Date