

**Gunnison County Environmental Health Board
Agenda: March 21, 2019**

- 1:15 p.m.** Call to order; determine quorum
- 1:17 p.m.** Organizational business
- Election of officers
 - Posting locations
 - Meeting times
- 1:30 p.m.** Approval of minutes from the March 29, 2018 meeting
- 1:35 p.m.** Unscheduled Citizens: A brief period in which the public is invited to make general comments or ask questions of the Board or County Staff about items which are not scheduled on the day's agenda.
- 1:40 p.m.** County Attorney's Office discussion
- 2:15 p.m.** **Public Hearing:** Eric and Kecia Replogle for an OWTS on a parcel less than one acre at 1310 Cove Road.
- 3:15 p.m.** **Public Hearing:** Cochran Family Trust for an OWTS on a parcel less than one acre at 1326 Cove Road.

Adjourn

NOTE: Unless otherwise noted, all meetings are conducted in the Blackstock Government Center Meeting Room at 221 N. Wisconsin Street in Gunnison, across the street from the Post Office. Anyone needing special accommodations please contact the Community Development Department (641-0360) before the meeting.

**GUNNISON COUNTY ENVIRONMENTAL HEALTH BOARD
MARCH 21, 2019**

The Gunnison County Environmental Health Board conducted the March 21, 2019 meeting, in the Planning Commission Meeting Room at the Blackstock Government Center.

Present Were:

Lucinda Lull, Chairperson	Crystal Lambert, Building and EH Official
Larry Parachini, Vice-Chairperson	Charlie Dominguez, Building and EH Inspector
Ashley Bembenek, EH Board Member	Beth Baker, Manager of Administrative Services
Lynn Cudlip, EH Board Member, Alternate	David Baumgarten, County Attorney
Corey Bryndal, EH Board Member, Alternate	

Absent were: Board members Eddy Balch and Bill Barvitski

Alternate members seated for the day: Board members Lynn Cudlip and Corey Bryndal

Other attendees as listed in text.

Call to order: A quorum was determined by Lull at 1:15 pm. The meeting was properly noticed and verified by Lambert.

Organizational business

Election of officers:

Moved by: Bryndal, **Seconded by:** Bembenek to appoint Lucinda Lull Chairperson and Larry Parachini Vice-Chairperson of the Environmental Health Board for 2019. Voting yes; Board members Bembenek, Cudlip, Bryndal, Parachini, and Lull.

Posting locations:

Moved by: Cudlip **Seconded by:** Parachini to designate the posting locations of the official meeting notice for 2019 will be the glass case outside the Clerk and Records office in the Blackstock Government Center, the bulletin board outside of the Planning Commissioners Meeting Room at the Blackstock Government Center designated as an advisory posting location, at the County Courthouse, and in the Gunnison Country Times newspaper or any paper where there may be applications for variance. Voting yes: Board members Bembenek, Cudlip, Bryndal, Parachini, and Lull.

Meeting Times:

Moved by: Cudlip **Seconded by:** Parachini to conduct Environmental Health Board meetings on the first and third Thursdays of the month at 1:15 P.M., as needed. There will also be two required meetings conducted one in the spring and one in the fall of the year. Voting yes: Board members Bembenek, Cudlip, Bryndal, Parachini, and Lull.

Approval of Minutes:

Moved by: Parachini **Seconded by:** Lull to approve the March 29, 2018 meeting minutes as amended. The motion passed unanimously with Board members Lull, Parachini, Bembenek, Bryndal, and Cudlip voting yes.

Unscheduled citizens: None present.

Bembenek said they are studying *E. Coli* and it is an emerging contaminant in our watersheds.

Lull asked when the updated OWTS regulations go into effect. Lambert explained the regulations were adopted by the Board of County Commissioners on June 19, 2018 and became effective on August 3, 2018. They went into effect that day, except the Transfer of Title component which will go in effect August 3, 2019.

Bryndal noted the EPA has tested wells in the Irwin area. They have found an elevated level of arsenic in the water.

Bembenek said there is a well testing grant available through the Delta County Board of Health. This is the final year of grant. There is no cost to the land owner, and the data will be made public. The grant will expire December 31, 2019.

County Attorney Office Discussion: Attorney Baumgarten explained the expected rules of behavior, the Colorado Sunshine law, that all meetings are a quorum with three or more members, executive sessions, ex parte communications and conflicts of interest.

No minutes were taken.

Eric Replogle, OWTS-18-00274: The Gunnison County Environmental Health Board conducted a Public Hearing. They discussed the Replogle variance application for an On-site Wastewater Treatment System on a parcel of less than one acre at 1310 Cove Road.

Chairperson Lull confirmed a quorum and opened the public hearing.

Alternate Board members Lynn Cudlip and Corey Bryndal were seated.

Environmental Health Official Crystal Lambert confirmed adequate public notice. The notice was published in the Gunnison Country Times, and the applicant submitted the certified mailing receipts, photo and affidavit.

Fulton Cochran representing applicant Eric Replogle, was present by phone. Engineer Bob Hurford representing Replogle was also present by phone. Replogle entered the meeting later by phone.

Cochran referred the Board to the County staff report for the explanation of the application.

Lambert briefly explained the application. Replogle had applied for an On-Site Wastewater System (OWTS) permit, for a property one-third acre in size, located at 1310 Cove Rd. The permit was denied based upon OWTS regulations which require one acre for an OWTS. Replogle then applied for a variance. The applicant does own another lot, but is not adjacent to this lot and cannot be clustered.

Lambert noted the application was for a two bedroom, single family dwelling that is tied to a public water supply system, using a dirt road for access. She added the State had recently expired the public water supply system permit, but the State is in the process of repermitting it. She said because the owner has access to a public water system, they could not drill a well. Fulton explained the State water engineer suggested they apply to withdraw the system, but now the State regulations have changed; any system serving more than 15 homes must be permitted. They are in the process of repermitting the system.

Lambert has conducted a site visit, but the property was and still is covered in snow. She was unable to conduct a soils profile test because of the snow cover. When the snow cover is gone, she will revisit the site.

Lambert explained the building plans include two bedrooms, a study and a bonus room. The OWTS regulations require the OWTS accommodate the possibility of the study and bonus room being used as bedrooms. This would mean it would be evaluated as a three to four bedroom house.

The Homeowners Association has approved the project, stating the owner will be responsible for the waterline installation.

Bryndal questioned how a replacement of the system would be handled, if it failed. Lambert explained because of the limited size of the parcel, the soils would have to be removed and replaced.

Cudlip pointed out this is for a two bedroom house. Lambert reiterated that there are factors that could change the field.

Lambert outlined the outstanding issues:

- The type of OWTS required can't be determined until the soil types can be verified.
- The number of bedrooms remains in question.
- The State repermitting of the public water system must be completed.
- The site plan should show the water line coming in, verifying the setbacks to the system.
- Clarify if the water cistern proposed will be placed inside or outside the home.
- The site plan should accurately reflect the system required, based on the soil type and the actual number of bedrooms.

Cochran explained the water cistern will be placed inside the house.

Lull asked what the tank size would be. Lambert said be no smaller than 1,250 gallons for four bedrooms and 1,000 gallons for three bedrooms but if a pump needs to be installed the size could increase.

Parachini asked how the rectangular infiltrators would adjoin. Lambert and Huford explained there are some rotational options. Parachini said they are using a distribution box which is old technology. He pointed out a manifold should be installed instead.

The Board members discussed the number of bedrooms the system should accommodate.

- Parachini – at least three bedrooms
- Bembenek – four is defensible

Cochran explained the public water system is supplied by a spring and a spring box, which flows underground into storage tanks. It is activated the last Saturday in April and turned off the last Saturday in October.

Bryndal noted the small size of the parcel exacerbates the problems. Parachini said because of the public water supply it is more likely. Cudlip agreed the water supply is a positive aspect.

Bembenek asked if there were any other water systems. Lambert said no.

Bembenek noted a concern that the soils test had not been completed yet.

The Board members discussed the option of continuing the public hearing, so the soils test could be completed. The consensus of the Board members was if the OWTS was designed for a three bedroom house, the public hearing could be closed.

There were no public comments made. There were two comment letters received, both in favor of the application.

The Board members agreed they supported the staff requirements as stated.

The Board. Lambert and Replogle continued to discuss the number of bedrooms. Replogle stated this will be a two bedroom home, but agreed to a three bedroom description, for the purpose of designing the OWTS. The Board agreed they are comfortable with a design for a three bedroom house.

The Board members reviewed the draft decision of approval.

Lull read the proposal and the findings into the record.

Lull closed the public hearing at 3:50 P.M.

Moved by Parachini, **seconded by** Bembenek to close the public hearing. The motion passed unanimously, with the Board Members Lull, Parachini, Bembenek, Cudlip and Bryndal voting yes.

MOVED: by Parachini **seconded by** Cudlip to approve the Replogle application (OWTS-18-00274), to include two additional conditions. The soils evaluation completed by staff and the OWTS design for a three bedroom house. The motion passed unanimously, with Board members Lull, Parachini, Bembenek, Cudlip and Bryndal voting yes.

ENVIRONMENTAL HEALTH BOARD VARIANCE REQUEST ACTION

APPLICANT: Eric and Kecia Replogle

DATE: March 21, 2019

SITE LOCATION: 1310 Cove Road, Site 48 Masden Lake Fork Cove

ACTION: Request for a variance to the Gunnison County OWTS Regulations for an on-site wastewater treatment system on a parcel less than one acre

PREPARED BY: Crystal Lambert, Building and Environmental Health Official

PROPOSED PROJECT:

The applicant is proposing a one-family dwelling served by an on-site wastewater treatment system (OWTS) and to be served by a public water service on a vacant parcel less than one acre within the Masden Lake Fork Cove Subdivision.

GUNNISON COUNTY ENVIRONMENTAL HEALTH OFFICE ACTION:

A site inspection was performed by staff at the parcel on November 28, 2018. A soil evaluation in accordance with the Gunnison County OWTS Regulations is needed in order to confirm that the proposed OWTS is designed for the soil type, once the soil type is determined.

The OWTS application was denied by the Environmental Health Office on November 30, 2018 because the proposed parcel does not meet the Gunnison County minimum standard of one-acre in accordance with *Section 3.A.9 of the Gunnison County OWTS Regulations*.

During review of the applications for OWTS and Building permits it was discovered that a State of Colorado permit for a public water service was not active for the subdivision. As of February 20, 2019, the permit has been re-activated and compliance with the State's requirements will be verified upon activation of the water service on or about April 30, 2019.

APPLICANT'S REQUEST FOR A VARIANCE:

A request for a Public Hearing with the Environmental Health Board for the consideration of a variance to *Section 3.A.9 of the Gunnison County OWTS Regulations* was received on January 9, 2019 and was prepared by the OWTS design professional, Bob W. Hurford, PE. The request for a Public Hearing was received within 60 calendar days after the application was denied.

PUBLIC HEARING:

March 21, 2019 EH Board Meeting

Approved: November 21, 2019

On March 21, 2019, the Gunnison County Environmental Health Board conducted a Public Hearing on this request for a variance.

FINDINGS:

Based on a review of all the information included with the OWTS application, the request for a variance, and staff reports for this project and consideration of any and all testimony and public input received relative to this application, the Gunnison County Environmental Health Board finds that:

1. Action on this request for a variance from the *Gunnison County OWTS Regulations* is property-specific and limited to the circumstances unique to this application.
2. The applicant has demonstrated that the requested variance from the *Gunnison County OWTS Regulations* is warranted by unique site-specific configuration and site size that make compliance with the Regulations technically infeasible.
3. The applicant has provided justification through specific conditions that exist which support a finding that approval of the requested variance will result in no greater risk than that associated with compliance with the requirements of the *Gunnison County OWTS Regulations*.
4. The applicant has demonstrated that approval of the requested variance will not be in violation of any minimum standards established in any other applicable federal or state rule or regulation.
5. The applicant has demonstrated that the proposed OWTS will not be a nuisance or injurious to public health, safety or welfare. The proposed development meets minimum horizontal distance requirements from water features, pertinent physical features and property lines.
6. The applicant has demonstrated that no substantial injury will result from the granting of the requested variance.
7. This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Department file relative to this application; including all exhibits, references and documents.

DECISION:

The Gunnison County Environmental Health Board, having reviewed the proposed application and supporting documentation, site observations and public testimony does approve the requested variance to Section 3.A.9 of the *Gunnison County OWTS Regulations* for Eric and Kecia Replogle at their parcel, Site 48 Masden Lake Fork Cove, under OWTS application 18-274, with the following conditions:

1. The OWTS shall be designed and installed in accordance with the *Gunnison County OWTS Regulations* and the *Gunnison County Land Use Resolution*, including but not limited to setback requirements, design standards, requirements for system components and general technical standards.
2. A visual and tactile evaluation of the soil, in accordance with *Section 5.D.* of the *Gunnison County OWTS Regulations* shall be conducted in the vicinity of the proposed soil treatment area in order to confirm the soil type in accordance with *Table 10-1*. An OWTS design shall be approved for an OWTS permit in accordance with Section 10.A.1 based on the site and soil evaluation, design criteria, and construction standards.
3. The OWTS sizing, associated with the proposed construction plans submitted with building permit application 19-00273 shall be for three bedrooms.
4. A State of Colorado permit for a Public Water Service shall be active and in compliance with the State's requirements and shall serve potable water to the proposed structure and OWTS prior to final approval of the OWTS.

5. Prior to the issuance of the OWTS and building permits, a plan showing the location of the proposed water supply line to the structure and cistern location and size shall be submitted in order to verify that the proposed setback distance requirements and general construction standards are met.
6. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
7. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.
8. Approval of this use is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

Cochran Family Trust, OWTS-18-00278: The Gunnison County Environmental Health Board conducted a Public Hearing. They discussed the Cochran variance application for an On-site Wastewater Treatment System on a parcel of less than one acre at 1326 Cove Road.

Chairman Lull confirmed a quorum and opened the public hearing.

Alternate Board Members Lynn Cudlip and Corey Bryndal were present.

Environmental Health Official Crystal Lambert confirmed adequate public notice. The notice was published in the Crested Butte News and Gunnison Country Times, and the applicant submitted the certified mailing receipts, photo and affidavit.

Applicant representative Fulton Cochran and engineer Bob Hurford were present by phone.

Lambert briefly explained the application. Cochran had applied for an On-Site Wastewater System (OWTS) permit, for a property one-third acre in size, located at 1326 Cove Rd. The permit was denied based upon OWTS regulations which require one acre for an OWTS. Cochran then applied for a variance. The applicant does own another lot, but is not adjacent to this lot and cannot be clustered.

Cochran referred to the Replogle public hearing and asked Hurford if there was room for a three bedroom OWTS design on the parcel. Hurford said there was.

Lambert noted this parcel is in Masden Lake Fork Cove. She explained the application was for a two bedroom, single family dwelling that is tied to a public water supply system, using a dirt road for access. She added the State had recently expired the public water supply system permit, but the State is in the process of repermitting it. She said because the owner has access to a public water system, they could not drill a well. She conducted a site visit on the same day as the Replogle site visit. The site was and still is covered in snow, so no staff soils evaluation could be done at that time.

Lambert explained the building plans submitted by Cochran describe the residence as a two bedroom, but the floor plans reflect between a three and four bedroom house. The exercise room and the office could each be a bedroom. She noted, staff does recommend that the soils be verified and the public water supply needs to be licensed. The general layout of the property is very similar to Replogle site. It shares the same access road.

Bryndal asked if there is enough room for a four bedroom OWTS. Lambert said it depends on the soils.

Bembenek asked if there is an additional bathroom too. Lambert said there was, but the size of the OWTS is number of bedrooms driven

Parachini pointed out a four bedroom system would be 30% larger.

Lull said it makes the most sense getting the extra size now, versus retrofitting later.

The Board members discussed the number of bedrooms:

- Bembenek – four bedrooms
- Cudlip- four bedrooms
- Bryndal- four bedrooms

Cochran questioned the description of four bedrooms instead of two, because it will only be used by him and his wife. Parachini explained the house was not designed that way. Bryndal noted the house could be sold and used differently. Lambert said she will work with the owner on design. Cochran was comfortable working with staff. Lambert will work with the owner on the final design, but would at the minimum require a three bedroom design.

The Board members reviewed the draft decision of approval.

Lull read the proposal and the findings into the record.

MOVED: by Parachini, seconded by Cudlip to close the public hearing. The motion passed unanimously, with Board members Lull, Parachini, Bembenek, Cudlip, and Bryndal voting yes.

MOVED: by Parachini seconded by Bembenek to approve the Cochran Family Trust variance application (LUC-18-00278) as amended. This is conditional approval based upon two additional conditions; the soils evaluation completed by staff and the OWTS design for a three bedroom house. The motion passed unanimously with Board members Lull, Parachini, Bembenek, Cudlip, and Bryndal voting yes.

ENVIRONMENTAL HEALTH BOARD VARIANCE REQUEST ACTION

APPLICANT: Cochran Family Trust; Fulton and Donna Cochran

DATE: March 21, 2019

SITE LOCATION: 1326 Cove Road, Site 71 Masden Lake Fork Cove

ACTION: Request for a variance to the Gunnison County OWTS Regulations for an on-site wastewater treatment system on a parcel less than one acre

PREPARED BY: Crystal Lambert, Building and Environmental Health Official

PROPOSED PROJECT:

The applicant is proposing a one-family dwelling served by an on-site wastewater treatment system (OWTS) and to be served by a public water service on a vacant parcel less than one acre within the Masden Lake Fork Cove Subdivision.

GUNNISON COUNTY ENVIRONMENTAL HEALTH OFFICE ACTION:

A site inspection was performed by staff at the parcel on November 28, 2018. A soil evaluation in accordance with the Gunnison County OWTS Regulations is needed in order to confirm that the proposed OWTS is designed for the soil type, once the soil type is determined.

The OWTS application was denied by the Environmental Health Office on November 30, 2018 because the proposed parcel does not meet the Gunnison County minimum standard of one-acre in accordance with *Section 3.A.9* of the *Gunnison County OWTS Regulations*.

During review of the applications for OWTS and Building permits it was discovered that a State of Colorado permit for a public water service was not active for the subdivision. As of February 20, 2019, the permit has been re-activated and compliance with the State's requirements will be verified upon activation of the water service on or about April 30, 2019.

APPLICANT'S REQUEST FOR A VARIANCE:

A request for a Public Hearing with the Environmental Health Board for the consideration of a variance to *Section 3.A.9* of the *Gunnison County OWTS Regulations* was received on January 9, 2019 and was prepared by the OWTS design professional, Bob W. Hurford, PE and submitted by the owner's representative, Eric Replogle. The request for a Public Hearing was received within 60 calendar days after the application was denied.

PUBLIC HEARING:

On March 21, 2019, the Gunnison County Environmental Health Board conducted a Public Hearing on this request for a variance.

FINDINGS:

Based on a review of all the information included with the OWTS application, the request for a variance, and staff reports for this project and consideration of any and all testimony and public input received relative to this application, the Gunnison County Environmental Health Board finds that:

1. Action on this request for a variance from the *Gunnison County OWTS Regulations* is property-specific and limited to the circumstances unique to this application.
2. The applicant has demonstrated that the requested variance from the *Gunnison County OWTS Regulations* is warranted by unique site-specific configuration and site size that make compliance with the Regulations technically infeasible.
3. The applicant has provided justification through specific conditions that exist which support a finding that approval of the requested variance will result in no greater risk than that associated with compliance with the requirements of the *Gunnison County OWTS Regulations*.
4. The applicant has demonstrated that approval of the requested variance will not be in violation of any minimum standards established in any other applicable federal or state rule or regulation.
5. The applicant has demonstrated that the proposed OWTS will not be a nuisance or injurious to public health, safety or welfare. The proposed development meets minimum horizontal distance requirements from water features, pertinent physical features and property lines.
6. The applicant has demonstrated that no substantial injury will result from the granting of the requested variance.
7. This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Department file relative to this application; including all exhibits, references and documents.

DECISION:

The Gunnison County Environmental Health Board, having reviewed the proposed application and supporting documentation, site observations and public testimony does approve the requested variance to Section 3.A.9 of the *Gunnison County OWTS Regulations* for the Cochran Family Trust at their parcel, Site 71 Masden Lake Fork Cove, under OWTS application 18-278, with the following conditions:

1. The OWTS shall be designed and installed in accordance with the *Gunnison County OWTS Regulations* and the *Gunnison County Land Use Resolution*, including but not limited to setback requirements, design standards, requirements for system components and general technical standards.
2. A visual and tactile evaluation of the soil, in accordance with *Section 5.D.* of the *Gunnison County OWTS Regulations* shall be conducted in the vicinity of the proposed soil treatment area in order to confirm the soil type in accordance with *Table 10-1.* An OWTS design shall be approved for an OWTS permit in accordance with *Section 10.A.1* based on the site and soil evaluation, design criteria, and construction standards.
3. The OWTS sizing, associated with the proposed construction plans submitted with building permit application 19-00277 shall be for four bedrooms minimum. If the proposed plans are revised to combine the proposed “office” and “exercise” rooms on the lower level, then the OWTS sizing shall be for three bedrooms minimum.
4. A State of Colorado permit for a Public Water Service shall be active and in compliance with the State’s requirements and shall serve potable water to the proposed structure and OWTS prior to final approval of the OWTS.
5. Prior to the issuance of the OWTS and building permits, a plan showing the location of the proposed water supply line to the structure and cistern location and size shall be submitted in order to verify that the proposed setback distance requirements and general construction standards are met.
6. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
7. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.
8. Approval of this use is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

Lull closed the meeting of the Environmental Health Board at 4:45 P.M.

/S/ Beth Baker
Manager of Administrative Services
Gunnison County Community Development Department