

August 2, 2010

Santa Barbara County Board of Supervisors
105 E. Anapamu Street, Fourth Floor
Santa Barbara, CA 93101

**Re: Proposed Amendments to the Coastal Land Use and Development Code/August 3,
2010 Board Hearing**

Dear Honorable Supervisors:

Brownstein Hyatt Farber Schreck, LLP write this letter on behalf of the Santa Barbara County Cattlemen's Association (Association) to express the Association's continuing concern the California Coastal Commission (CCC) staff's proposal, even as most recently revised, for major changes to the County's Coastal Zoning Ordinance that will adversely impact coastal agricultural lands. The Association's rancher members represent 45,150 acres within the Coastal Zone and 21,070 acres adjacent to the Coastal Zone that would be adversely impacted by the amendments. Thank you for the opportunity to provide to you our position regarding this proposal.

First, we again urge the County not to agree to the new Principal Permitted v. Permitted use designations. That approach leads the County in a direction that deprives your Board of ultimate permit authority throughout the Coastal Zone. It is also contrary to the provisions of the Coastal Act. You can search the entire Coastal Act and you will find no distinction between primary permitted uses and other uses allowed within each zone district.

Second, if your Board believes that ANY of the proposed modifications might have merit, before agreeing to them, we ask that you propose the modifications as LCP amendments and conduct properly noticed hearings so the entire community will be aware. The process to date has consisted of a series of hearings, with staff reports coming out a day before the hearing with new revisions negotiated behind closed doors by the County and Coastal Commission staffs. This is not the proper way to amend the Coastal Zoning Ordinance. Instead, the public should be involved fully – as they were with the original LCP adoption, with the Toro Canyon Plan, the Summerland Community Plan, the Montecito Community Plan, and the Goleta Valley Plan. Rushing changes through without adequate public scrutiny deprives you of an opportunity to learn of unintended consequences before you take an irrevocable action.

Third, whatever you do, do not agree to throw any sector of agriculture under the bus. We see that the latest staff-proposed revision would require permits to expand cultivated agriculture, orchards, and vineyards, and to expand grazing into new areas. In short, staff's attempts at compromise result in only existing grazing being free of new permitting. The result is that

substantial sectors of our most viable agriculture now will be required to obtain permits just to conduct agriculture. These aren't structures or development – this is just plain agriculture.

Fourth, any substantive changes to the LCP require CEQA review and none has occurred to date.

Fifth, these restrictions on agriculture, along with many of the other provisions of the proposed modifications, constitute unconstitutional taking of private property rights without compensation. In fact, just to exercise their existing property rights, property owners would be charged money for permit fees, consultants, attorneys, and the like.

Sixth, as described in greater detail below, the proposed restrictions on agriculture violate the Coastal Act, the certified County Coastal Plan, and the County Agricultural Element.

The Amendments Proposed by Coastal Commission Staff Are Inconsistent with the Goals and Policies Stated in the Coastal Act, the Santa Barbara County Coastal Plan, and the Santa Barbara County Agricultural Element

Many of these proposed amendments directly conflict with the Coastal Act, the Santa Barbara County Coastal Plan, and the Santa Barbara County Agricultural Element, all of which include policies that ensure the long-term viability of agriculture. For example, Coastal Act sections 30241 through 30243 require that the maximum amount of prime agricultural land be maintained in agricultural production to assure the protection of the agricultural economy, that all lands suitable for agricultural use (not just prime lands) not be converted to non-agricultural uses unless continued or renewed agricultural use ceases to be feasible, and that the long-term productivity of our agricultural soils be protected. The Santa Barbara Coastal Plan has multiple policies prohibiting the conversion of rural agricultural land to non-agricultural uses except under severely limited circumstances (Policy 8-3), limiting land divisions to ensure that agricultural productivity won't be impaired (Policy 8-4), protecting the existing and future viability of large, non-prime agricultural operations (Policy 8-8), and even imposing requirements for agricultural conservation easements for certain land divisions (Policy 8-10). The Agricultural Element acknowledges that agriculture not only is vital to the needs of the nation and the world, but that agriculture is the largest production industry in the County. The first Goal in the Agricultural Element states that "Santa Barbara County shall assure and enhance the continuation of agriculture as a major viable production industry in Santa Barbara County. Agriculture shall be encouraged." The Policies adopted pursuant to this Goal include recognition of farmers' and ranchers' rights of operation, freedom of choice as to the methods of cultivation, choice of crops or types of livestock, rotation of crops and all other functions within the traditional scope of agricultural management decisions (Policy I.B). The Agricultural Element policies also include the increase in agricultural productivity through encouraging land improvement programs (Policy I.C.) and encouraging sustainable agricultural practices to preserve the long-term health and viability of the soil. In short, the State and the County have a

long history of favorable treatment toward agricultural operations to ensure the long-term viability of agriculture. The proposed amendments threaten agricultural viability, in the short term and the long term. Therefore, they conflict with established law and policy.

Potential Impacts upon Agricultural Viability

1. The Proposal Includes Unreasonable Constraints on Husbandry Practices. As noted above, the County’s Agricultural Element expressly provides that the County will preserve and protect our members’ freedom of choice over control and management of their agricultural operations. These amendments include the proposal that changing the agricultural use on a property from grazing to orchards, row crops or vineyards would require a Coastal Development Permit that could be appealed to the Coastal Commission, making such improvements too expensive and time consuming to even consider. As ranchers and farmers, we need flexibility to respond to market conditions and general economic climate to keep our operations viable.

2. The Proposal Unravels the Recently Approved Streamlining of Agricultural Permitting. The County’s ordinance amendments that create or recognize permit exemptions for certain agricultural structures, that reduces the permitting requirements and appeal potential for certain other structures, and that adjusts the threshold for Development Plans in agriculturally zoned land just became effective today. How can the Board consider accepting burdensome new restrictions that would completely defeat the purpose of the streamlining amendments? We realize that the streamlining amendments haven’t been adopted for the Coastal Zone, but the concepts included in this Coastal Commission proposal would ramp up permitting and appeals considerably at a time when the Board has made clear its intention of reducing our members’ permitting load to relieve them of the expense and lost time involved in unnecessary or excessive permitting.

For example, under the guise of providing more opportunity for public input, Coastal Commission staff proposes that an applicant for a Development Plan, or even an amendment to an existing Development Plan, not just undergo one appeal process, but that the appeal opportunity be provided a second time around for the same project when the CDP implementing the Development Plan or amendment is issued. Permitting demands already threaten agricultural viability, especially for the small farmer and cattle operator who lacks the capital to pay for permitting, let alone the cost of consultants, planners, engineers, surveyors, and attorneys. Yet these are all essential to success in the permitting process. Now we could be facing two appeals for the same project? If one of our members has the choice of spending capital to repair a leaking water storage tank essential to the operation or to spend the same capital on the permitting process, the result is obvious. The permit must be abandoned, yet the structure for which the permit is required may be equally essential to the operation. Having adequate roofed square footage to store hay, equipment, and materials isn’t a luxury for our members; it’s a necessity.

Even the application requirements proposed by the Coastal Commission will become so expensive that no commercial rancher can afford even to apply. Modification #7 of the proposal includes a requirement that every application for a permit or amendment, regardless of type, *at a minimum* include “all information and materials necessary for the review authority to make an informed decision regarding the consistency of the application with the Comprehensive Plan, the Local Coastal Program, and the regulations of the Development Code.” This language is so broad and open-ended that we envision thousands of dollars just for preparation of the application. Our members cannot afford to even get inside the door!

3. The Proposal Displaces the Priority of Agricultural Uses with the Coastal Zone.

Modification #8 of the proposal adds an entirely new section, entitled “Purpose of Development Code” that incorporates language found nowhere in the present Article II Coastal Zoning Ordinance. This new language states that the purpose of the ordinance is to protect, maintain, enhance and restore the natural and manmade resources of the Coastal Zone, not its agriculture. It also requires balanced utilization and conservation of Coastal Zone resources, maximizing public access to the coast and public recreational opportunities, assuring priority for coastal-dependent and coastal-related development, but completely fails to include the enhancement and protection of agriculture found elsewhere in existing County documents (and the Coastal Act) described above. When this kind of language emphasizes maximizing public access through our members’ ranches in lieu of emphasizing protecting agricultural land from the devastating results of public trespass, it sends a clear warning to us that the County is completely ignoring the need to secure our land against public access. The proposal does suggest adding one provision for protecting “the character and stability of agricultural areas,” but that language is so ambiguous that we fear it will be interpreted to require that existing agricultural operations be frozen in time and not enhanced, expanded, or altered to meet the changing needs of agriculture that occur naturally over time as agricultural operators adapt to competition and evolving market demand. Modification #9 discussed below confirms that our fears are well-founded. Maintaining a competitive edge in coastal California agriculture isn’t easy when competing with imports from foreign countries and even other states where regulations of all kinds are less stringent. California ranchers are able to compete solely by being adaptable. A regulatory scheme that impairs their adaptability in any way will destroy the future viability of agriculture in the Coastal Zone. Perhaps that is what the Coastal Commission staff seeks to accomplish over the long term. If our operations become unviable, we will be forced to sell our land either for conservation purposes or to speculators. Either way, we will be driven off our land and deprived of the agricultural traditions that we inherited from our parents, grandparents, and great-grandparents.

4. Proposed Modification #9 Places the County and the Coastal Commission Squarely in the Midst of Agricultural Operations. This proposal deprives retired family ranchers from continuing to live on the ranch after they cease to be the operators and places a 5,000-square foot cap on home size and 10,000 square foot cap on building site size, regardless of its lack of visibility from public viewing areas or the size of the ranch.

5. Modification #9 Adds the Concept that Intensification of Agricultural Activities Requires a Coastal Development Permit. This Will Impair the Viability of the Operations of Both Farmers and Ranchers. Most ranches also include some farming (cultivated ag, orchards, etc.) to provide some continuity and reliability of income so the ranch isn't starved out during a drought. Farming and ranching operations would not survive if they were not free to change their type of agricultural operation to survive. New and expanded agriculture is essential to survival of the operation. If market demand ceases for one commodity, our members must nimbly switch to another commodity. Intensification of agriculture is the sole reason that agriculture continues to exist in coastal California. Old farming and ranching techniques and crops have been replaced by new practices and new and innovative crops. Furthermore, any exempt agricultural structure or activity must be part of on-going agricultural operation so if a rancher starts operating on land that previously hasn't been in active agriculture, even if that land has agricultural zoning and land use designation, an otherwise exempt structure or activity isn't exempt. In fact, the revised modification doesn't allow a new agricultural operation to commence without permitting. Even the staff's proposal, that the modification simply exempt to **existing** grazing operations in **existing** grazed areas and leave any cattle rancher who is expanding into a new area to apply for a permit. This is not enhancement and preservation of agriculture.

6. The Introduction of the Principal Permitted Use and Permitted Use Classifications Increase Permitting Requirements and Result in General Confusion As to How They Impact Established Compatible Use Policies Applied within Agricultural Preserve Lands. The Williamson Act authorizes the County to establish its own list of compatible uses within Agricultural Preserve contracted land. The County of Santa Barbara recently underwent a major modification and restatement of its Uniform Agricultural Rules. Most of our members' lands are enrolled in the Agricultural Preserve Program and they live by these Rules. This proposal completely discards many of the uses designated as compatible under the Rules and places them into an entirely new "Permitted Use" category that requires special permitting or completely prohibits them. As a result of creating additional layers of permitting, family dwellings and many other facilities necessary to support the agricultural operations will be subjected to burdensome new permitting requirements, arbitrary application of policies in permit review, and a potentially extended approval process that ranchers can ill afford, if they are not prohibited altogether.

7. Adding Excessive Costs. Limiting the type of agriculture on the land and requiring a Coastal Development Permit to change or update agriculture programs, build a house or an

ancillary structure, or even maintain existing operations, will cost each of our members unreasonable time and money in permit fees, consultant fees, and added oversight of their properties. These costs will make it prohibitive to undertake these improvements to our ranches.

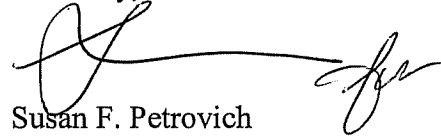
We Urge You to Listen to the Agricultural Advisory Committee and the GavPAC.

The Agricultural Advisory Committee (AAC) represents the diverse agricultural interests in the County, including Association members. The AAC has provided a list of its concerns regarding this proposal and we urge you to follow their lead. In addition, the Gaviota Coast has a local collaborative process currently underway with the Gaviota Planning Advisory Committee (GavPAC) to update the Gaviota Coast Plan. The process includes local and state government (State Parks and CalTrans), landowners, ranchers, business interests, and environmentalists. The GavPAC is an open process with many public meetings, including an Environmental Impact Report with public review. This GavPac process is addressing many of the issues critical to agriculture that the Coastal Commission staff is trying to preemptively modify including: 1) Long-Term Agriculture Viability; 2) Resource Protection, and, 3) Trails and Public Recreation. Absent any meaningful public process, the Coastal Commission staff recommendations should be tabled to provide a more logical and fair approach -- let the GavPAC complete its process and the public participate in crafting the final result.

Conclusion

We urge you to communicate to the Coastal Commission an unconditional rejection of all of the proposed substantive amendments. Avoiding unintended consequences is an important result of an open, inclusive public review process. Only after allowing the entire public to be alerted to this process and to provide input, following environmental review, will this process be orderly, well-reasoned, and a service to your constituents.

Sincerely,



Susan F. Petrovich