

# SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Agenda Number:**  
**Prepared on:** 5/21/02  
**Department Name:** Planning and Development  
**Department No.:** 053  
**Agenda Date:** 6/4/02  
**Placement:** Departmental  
**Estimate Time:** 1.5 hours  
**Continued Item:** NO  
**If Yes, date from:**

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**TO:** Board of Supervisors

**FROM:** John Patton, Director  
Planning and Development

**STAFF CONTACT:** Lisa Plowman, Supervising Planner, 568-2025  
Peggy Burbank, Planner, 568-2019

**SUBJECT:** Technical Advisory Committee and Rural Resource Protection Program Options

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## Recommendation(s):

That the Board of Supervisors:

1. Receive the attached report on the Rural Resource Protection Program and the Technical Advisory Committee (TAC).
2. Direct staff on how to proceed with the Rural Resource Protection Program.

## Alignment with Board Strategic Plan:

The proposed Rural Resource Protection Program is consistent with the following adopted Strategic Goals:

- A High Quality of Life for All Residents.
- A Community that is Economically Vital and Sustainable. [{Double-click here}](#)

## Executive Summary and Discussion:

### I. BACKGROUND

The Board received an update on the Rural Resource Protection Project and on the Technical Advisory Committee (TAC) process at its meeting on April 9, 2002. With respect to the TAC the issue addressed then was the resignation from the committee of the five agricultural representatives in February 2002. Staff reported to the Board the strong preference of the remaining TAC members to continue their work to

complete their mission and produce a fully defined two-track program. Seven options for continuing the public process for the Rural Resource Protection Project were outlined to the Board: the first three options were proposed by the TAC and involved bringing agricultural interests back to the table. Other options involved disbanding the TAC.

Staff also indicated support for the two-track approach being completed by the TAC on the basis that, to protect remaining important rural resources (archaeological sites, riparian corridors, wetlands, sensitive species habitat and oak trees), it would take more than regulations alone.

The Board took the following action:

*Directed staff to invite the original members of the Technical Advisory Committee (TAC) to return to the TAC and continue work on the Rural Resource Protection Program after review of the April 9, 2002 discussion by the Board. Request that the TAC focus on agricultural land conversions only. Invite the original TAC members to continue on as members. Return to the Board in the event the original members of TAC decline membership.*

On April 22, 2002 a meeting of the TAC was held to discuss with the former members the potential for them to return. Of the five who had resigned, four agriculturists attended the meeting. Their intent, however, was not to discuss terms under which they would be willing to return to the TAC. Rather, they came to explain why they preferred to pursue a purely voluntary resource protection program through their own industry organizations (Farm Bureau, Central Coast Wine Grape Growers Association, Cattlemen's Association and Growers & Shippers) in conjunction with the Natural Resource Conservation Service (NRCS).

The programs that the agricultural organizations are attempting to develop in conjunction with NRCS is in the incipient stages yet. No details or a schedule was presented. They did not want to commit to returning to the TAC to present their program and receive feedback. They acknowledged that, at least at the moment, they were not including any natural resource scientists or representatives from the environmental community in their discussions and the development of the program. The main benefits they see for landowners in pursuing this avenue are confidentiality, working with an organization that understands farming, and the potential for financial assistance for conserving resources. Nevertheless, the fact that these organizations see one of their roles to be natural and cultural resource stewardship and are taking on this responsibility, is a very positive event. Some of the agricultural representatives acknowledged that the Grading Ordinance could be used as a regulatory backstop to "police" those agriculturists that do not follow their voluntary program.

The underlying concept for their programs is to bring peer pressure to bear on landowners to incorporate resource protection into their farming and ranching practices on a voluntary basis, thus avoiding regulations individually and on the industry. Most people would agree that the best resource protection is achieved when landowners, armed with knowledge about the natural or cultural resources on their land, take the initiative to protect the resources. There are pitfalls associated with such programs, which includes restricted access to the knowledge, the financial ability to successfully protect resources and the inevitable non-cooperative landowners who will appear from time to time. Such programs implemented elsewhere have provided mixed results. But it is not the purpose of this report to evaluate their programs, given that the programs have yet to be developed. The agricultural organizations are to be commended for taking action to develop the voluntary program.

## II. ACCOMPLISHMENTS OF THE TAC PROCESS

Before turning to the question of where to go from here, it is useful to reflect on what the TAC process has accomplished to date. At the hearing in April, staff mentioned the partial draft notebook containing pieces of the no-permit management plan track of the 2-track approach that the TAC had developed over the previous year. The conception of the two-track approach, and the portions of the management plan option that had been sketched out is an accomplishment in itself.

Staff also mentioned the dialogue that had begun between agriculturists and resource scientists through the TAC and is continuing, now, outside that process, for example, between the Agricultural Advisory Committee and environmental groups with respect to oak protection. All sides on the resource protection issue have stated how much they are learning and that they understand better the reasons behind each other's positions. It may also be an outgrowth of the TAC process that the agricultural organizations are developing their own voluntary resource protection programs. The TAC has also raised awareness of the need to implement resource monitoring including criteria and methods for measuring loss or gain, and the need for more widespread education for all parties about resource sensitivities, management and benefits.

Also as a result of these conversations, P&D staff is pursuing greater coordination and cooperation with other regulatory agencies to simplify and expedite the multiple permit requirements that effect agricultural land conversions. This will be pursued (to the extent resources allow) regardless of which option is selected. The history of the TAC, which started with an atmosphere of creative cooperation (which drew a Grand Jury commendation) shows the need for building trust to change the status quo between agriculturists, environmentalists, and the County.

## III. OPTIONS

Staff is now returning to the Board as directed for further direction on the Rural Resource Protection Program and the Technical Advisory Committee based on further review of the options and information gained at the April 22nd TAC meeting. Staff has narrowed down and refined the program options. All of the options assume that oak tree removal is dealt with under the Oak Tree Protection Program and oak tree removal is no longer part of any of these options.

The table gives a preview of how the options differ with respect to the TAC and to the prospective regulations for agricultural conversion and non-agricultural grading.

OPTIONS	CONTINUE TAC	MANAGEMENT PLAN TRACK	AG CONVERSION	NON-AG GRADING VEG REMOVAL
<b>1. 2-Track Program</b> (Management Plan & New Ordinance) focusing on conversions	Yes	Yes, Optional	New Ordinance	Existing Grading Ordinance
<b>2. Guidelines for Grading Ordinance</b>	No	No	Grading Ordinance Guidelines	Grading Ordinance Guidelines
<b>3. 2-Track Program</b> (Management Plan & Grading Ordinance) focusing on conversions	Yes	Yes, Optional	Grading Ordinance Guidelines	Grading Ordinance Guidelines
<b>4. New Ordinance</b> focusing on conversions	No	No	New Ordinance	Existing Grading Ordinance

Each of the options is more fully described and discussed below.

### **Option 1**

#### **Continue the TAC with new farm representatives; complete development of the 2-track program with a reduced scope.**

- Two to five new members for the TAC would be sought from the agricultural community and Cachuma Resource Conservation District to provide technical input to the management plan track. Agricultural experts may also be tapped on specific topics.
- The scope of the management plan component of the 2-track program would be reduced to:
  - Focus on agricultural conversions only.
  - Exclude an overlay map of resources (but still have a map of existing cultivation, which is exempt from the program, and use the resource maps as reference materials.)
- Create the structure for implementing the program, to include the RCD and NRCS, or possibly a new non-profit administrative entity.
- Staff would complete the regulatory track and the TAC would review them, if it wishes to.

This option would continue the TAC process to complete the 2-track program. The program would only address protection of archaeological resources, riparian corridors, wetlands and sensitive species habitat on open or grazing land that is the subject of agricultural conversion<sup>1</sup>, above some minimum acreage. Existing cultivation<sup>2</sup> or a change of crop on existing cultivated land would still be exempt from the program. To implement the program, the County's maps of existing cultivation would need to be published and kept up-to-date on a regular basis.

The program would no longer require a resource overlay map because all agricultural conversion would be covered. Both the agricultural and resource representatives of the TAC generally favor eliminating the resource overlay. The resource scientists are concerned about the difficulties in mapping the resources accurately and comprehensively, and correlating the maps to what is found on the ground. The farmers had become increasingly concerned about the overlay, despite having suggested the approach early in the consultation process, because they presumed the sensitive species component would result in practically all land being included in the overlay. The resource maps would be valuable in the preparation of management plans under the management plan track and would be used by staff to focus the issues in processing permits under the regulatory track.

One of the main components of the 2-track program that the TAC would complete is the structure for implementing the management plan track. The TAC has envisioned an oversight committee to review and approve management plans, supported by a field team of agricultural and resource experts who would evaluate the resources within the proposed conversion area and assist the property owner to prepare the management plan. Administration of the management plan track of the program could be undertaken by the County (Agricultural Commissioner), the Cachuma Resource Conservation District (CRCD)/Natural Resource Conservation Service (NRCS), a combination of county and federal agencies, or a new entity such as a non-profit organization. It remains for the TAC to detail roles, responsibilities, funding, monitoring, information needs and other aspects of this structure.

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<sup>1</sup> Agricultural conversion is the cultivation of open or range land or land that has not been cultivated within the preceding 10 years.

<sup>2</sup> Existing cultivation is land that is currently under cultivation or land that has been cultivated within the preceding 10 years.

Staff would finish drafting the regulatory backstop (an ordinance requiring a permit for conversions greater than a certain size, and prepare new policies for inclusion in the Conservation Element), which would be reviewed by the TAC if they elected to do so.

To protect resources in areas of earthwork and vegetation clearance not associated with agricultural conversion, such as road building or clearing vegetation for non-agricultural purposes or development, the provisions of the grading ordinance would need to be retained.

Because of the hiatus in the TAC's work since January, it is anticipated that even with the reduced scope, it would be necessary to extend the TAC for six more meetings, or until October 2002, to complete development of the two-track program. Since January, the TAC has not been able to focus on any substantive issues and three meetings have been canceled in deference to the Board's hearings on the matter. The issues yet to be addressed by the TAC include: sensitive species habitat, the implementation structure, and the regulatory back-stop. It may also be necessary to devote a meeting to orient any new members. Some members of the TAC stated a desire to also review the voluntary programs prepared by the agriculturists. The environmental review could then commence which would take about nine months. Planning Commission hearings could begin about August 2003 and a hearing before the Board of Supervisors about December 2003.

While it is anticipated the 2-track program would provide benefits (incentives) to the landowner choosing to prepare a management plan, it can be expected that the program will be costly because of the management plan track, complex to administer and may not draw many farmers into the program because they may be reluctant to allow a field team to visit their land.

## **Option 2**

### **Disband the TAC; abandon management plans; prepare guidelines for the Grading Ordinance**

- Continue to administer the grading ordinance as at present, but provide administrative guidelines for resource protection to clarify when and how it applies. The grading ordinance would continue to apply to all earthwork and vegetation clearance, except for oak tree removal.
- After one more meeting, the TAC would be disbanded.
- Existing cultivation would be exempt from the "significant impact" clause.
- Work with CRCD and NRCS to see if there is a role for them in implementation of the guidelines for the Grading Ordinance.

Under this option, staff would prepare administrative guidelines for the Grading Ordinance, which would provide definitions and descriptions of the resources (archaeological, riparian, wetland and sensitive species, but excluding oak trees), methods for avoiding or protecting them, and the activity thresholds that would trigger the regulations. The guidelines would assist County planning staff and landowners to determine when a grading or land use permit would be required. Information generated during the TAC process along with the resource maps could be used to prepare the guidelines.

The Grading Ordinance and guidelines would apply to any earthwork or vegetation that has the potential to result in a significant impact or that trips one of the other permit triggers, except an exemption would be added for oak tree removal as it would be covered under the Oak Tree Protection Program. As with the other options, existing cultivation would continue to be exempt.

After one final meeting, the TAC would cease to meet, and the 2-track approach would not be pursued.

As previously noted, some of the representatives of the Farm Bureau, Growers & Shippers, Cattlemen's Association and Central Coast Wine Grape Growers Association are working separately on a voluntary resource protection program. They acknowledged that from time to time there may be a non-compliant farmer for whom a regulatory backstop is necessary. It was suggested that the existing grading ordinance could serve this purpose. But the issues of clarity and certainty in conjunction with county administration of that ordinance remain. At the time a program is fleshed out staff would review it and determine consistency with the grading ordinance and guidelines and the potential for cooperating on policing "bad actors".

The role of the CRCDD and NRCS could be more formally acknowledged and promoted in conjunction with the guidelines, to encourage the use of best management practices to conserve soil and minimize erosion as well as to protect important natural and cultural resources. This may allow a property owner to avoid the need for a grading or land use permit or expedite permit processing.

Preparation of the guidelines would require more staff time, but time that would have been spent on the TAC could be redirected to the guidelines. The guidelines might be completed sooner than the other options because administrative guidelines would not require environmental review under CEQA.

Under Option 2 there would be little flexibility or incentives for landowners. However, the program would be the least costly and complex to administer, yet still result in resource protection.

### **Option 3**

#### **Continue the TAC with new farm members; complete development of the 2-track program with a reduced scope and prepare guidelines for the Grading Ordinance to constitute the regulatory track**

- Two to five new members for the TAC would be sought from the agricultural community and Cachuma Resource Conservation District to provide technical input to the management plan track. Agricultural experts may also be tapped on specific topics.
- The scope of the management plan component of the 2-track program would be reduced to:
  - Focus on agricultural conversions only.
  - Exclude an overlay map of resources (but still have a map of existing cultivation, which is exempt from the program, and use the resource maps as reference materials.)
- Create the structure for implementing the management plan program, to include the RCD and NRCS, or possibly a new non-profit administrative entity.
- Staff would prepare guidelines for the Grading Ordinance and the TAC would review them, if they wished to.
- Grading Ordinance would continue to address all earthwork and vegetation removal, except where management plans have been prepared for agricultural conversions.

This option teams the management plan track from Option 1 with the guidelines of Option 2. As for Option 1, this option would continue the TAC process to complete the 2-track program. The program would only address proposed new cultivation, above some minimum acreage. Existing cultivation or a change of crop on existing cultivated land would be exempt from the program. To implement the program, the County's maps of existing cultivation would need to be published and kept up-to-date on a regular basis.

The program would no longer require a resource overlay map because all new cultivation would be covered. The resource maps could be used in the preparation of management plans under the management plan track and would be used by staff in processing permits under the regulatory track.

The TAC would complete the structure for implementing the management plan track which could be administered by the County (Agricultural Commissioner), CRCDC/NRCS, a combination of county and federal agencies, or a new entity such as a non-profit organization.

Staff would finish drafting the regulatory track. Like Option 2, the regulatory track would consist of guidelines for the Grading Ordinance. The guidelines would be prepared by staff.

The Grading Ordinance and guidelines would apply to any earthwork or vegetation that has the potential to result in a significant impact or that trips one of the other permit triggers, except an exemption would be added for the management plans and for oak tree removal as it would be covered under the Oak Tree Protection Program. As with the other options, existing cultivation would continue to be exempt. As with Option 1, the TAC process would be extended and environmental review may be required.

The resulting program would provide landowners with flexibility through a choice of preparing a management plan or applying for a permit. The guidelines for the Grading Ordinance would comprise the regulatory track and apply to all earthwork or vegetation removal. It is anticipated the management plan track would provide benefits (incentives) to the landowner choosing to prepare a management plan. It can be expected that the program will be costly because of the management plan track, moderately complex to administer, and may not draw many farmers into the program.

#### **Option 4**

##### **Disband the TAC; abandon management plans; prepare only the new policies and regulations**

- Staff would complete the new regulatory program.
- Program would apply to agricultural conversions only.
- After one more meeting, the TAC would be disbanded.
- Eliminate the resource overlay, but retain maps of existing cultivation, which would be exempt from the regulations.
- Existing Grading Ordinance would remain intact to address non-conversion-related earthwork or vegetation removal.

This option is similar to what the BOS originally directed staff to prepare in February 1999 prior to appointment of the TAC, except, as most recently directed by the Board, it would focus on agricultural conversions only. The regulations would be the same as the regulatory component of the 2-track program under Option 1 above. It would focus on the four original resources (archaeology, riparian corridors, wetlands and sensitive species habitat) only. The overlay would be eliminated and the resource maps would be used to determine which resources are located within an area of proposed new cultivation and in processing any permits required. The County's maps of existing cultivation would need to be published and kept up-to-date on a regular basis. The existing Grading Ordinance would regulate earthwork and vegetation clearance that is not associated with an agricultural conversion.

Staff would review the voluntary programs provided by the agricultural organizations to determine their consistency with the grading ordinance and the potential for cooperating on policing "bad actors".

At this point it is not clear what role either the CRCDC or NRCS would have in the new regulatory program. Staff would strive to maximize their involvement in a non-regulatory capacity, but at a minimum they would continue to work with applicants on grading permits.

This option would require less time than options 1 and 3 but more than Option 2. With termination of the TAC, staff time would be redirected to completing the regulatory track. As options 1 and 3, environmental review would likely be required. It can be expected that the program would be moderately costly and more complex to implement and administer.

#### IV. RECOMMENDATION

Option 2 would be the least costly and the least complex. The guidelines for the Grading Ordinance would provide some of the certainty and clarity desired by agriculturists. In addition, the clarity will assist in providing improved resource protection than currently exists. A single set of regulations would be the most comprehensible to the public. Staff time saved by pursuing this option could be diverted to updating the ag preserve uniform rules, efforts to build trust between the County, agricultural and environmental communities and promote sustainable agriculture. This would also build on the gains made by the TAC to create a dialogue between the County, agriculturists, scientists and environmentalists. These efforts could include permit coordination and streamlining with state and federal agencies, an educational series on sustainable agriculture and integrating resource management, and searching and obtaining funds for conservation or restoration projects.

#### **Mandates and Service Levels:**

State Law mandates the preparation and adoption of a Conservation Element of the General Plan. Its purpose is to describe how the County will protect resources within its jurisdiction. The County has an adopted Conservation Element. The Resource Protection Program will serve to clarify and refine how resource protection is addressed by the County.

Changes to levels of service will depend on what option is selected.

#### **Consistency with the Five Year Work Program:**

The Resource Protection Program is included in Comprehensive Planning's five-year work program. However, the program schedule did not originally include the formation of a TAC. Incorporating a TAC into the program and extending its original timeline extended the program's schedule by approximately one and one half years, which resulted in the delay of the project's schedule in the Five-Year Work Program. The departure of the agriculture representatives has now further delayed the project and, under options 1 and 3, would again extend the TAC process. It is estimated that six more meetings would be required to complete the work of the TAC under options 1 and 3, which would extend it to October 2002 which ultimately results in even further delay of other projects in the Five-Year Work Program. Options 2 and 4 may take less time to complete, but would still cause further delays in work on other projects in the Five-Year Work Program.

#### **Fiscal and Facilities Impacts:**

While a TAC was not specifically anticipated, the project budget in the Five-Year Work Program did provide for an extensive public participation program. However, the extension of the TAC to complete its work on



the innovative two-track program beyond its original schedule resulted in the expenditure of the funding originally identified to complete the required environmental analysis. The cost of the TAC in FY 01-02 was originally expected to total \$20,000 in consultant costs and \$23,000 in staff time, travel, and other expenses. Costs as of May 1, 2002 for the facilitator and staff time total approximately \$108,000 due to the addition of meeting dates. Depending on the Board's direction, it may be necessary to extend the contract for the consultant working with the TAC into the new fiscal year. The cost to extend the TAC meetings to October 2002 is \$20,500 for the facilitator. This funding for this could be provided from remaining FY 01-02 budgeted funds for the EIR. Staff time on this project is already included in the Five-Year Work Program.

As described in the presentation of the Five-Year Work Program, the comprehensive planning program has been scaled back to help compensate for ISF cost increases. If the option chosen by the Board requires an EIR in FY 02-03, its completion will depend on funding a budget expansion or redirecting other components of the Division's work program.

### **Special Instructions:**

The Clerk of the Board to publish a legal notice ten days in advance of the hearing date.

### **Concurrence:**

N/A