

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
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Agenda Number:
Prepared on: 9/12/02
Department Name: Planning and Development
Department No.: 053
Agenda Date: 9/24/02
Placement: Departmental
Estimate Time: 1 hour
Continued Item: YES
If Yes, date from: 8/6/02

TO: Board of Supervisors

FROM: Dianne Meester, Assistant Director
Planning and Development

STAFF CONTACT: Julie Harris, Planner II, Comprehensive Planning Division (568-3518)
Cathleen Garnand, Water Resources Division, Public Works (568-3561)

SUBJECT: Project Clean Water: P&D Program for Compliance with the National Pollutant Discharge Elimination System (NPDES) Phase II Storm Water Regulations

Recommendation(s):

That the Board of Supervisors:

1. Consider this report and the Board Agenda Letters for June 25, 2002 and July 2, 2002 on Planning and Development's program for compliance with the National Pollutant Discharge Elimination System (NPDES) Phase II Storm Water Regulations.
2. Approve CEQA Notice of Exemption for amendments to the County of Santa Barbara Environmental Thresholds and Guidelines Manual (Attachment H).
3. Adopt the following components of Planning and Development's program for compliance with the National Pollutant Discharge Elimination System (NPDES) Phase II Storm Water Regulations:
 - Policy Interpretive and Implementation Guidelines for Hillside and Watershed Protection Policies 3, 4, 5 and 7 (Coastal Plan Policy equivalents 3-15, 3-16, 3-17 and 3-19) (Attachment A);
 - A resolution to amend the County Environmental Thresholds and Guidelines Manual creating a new section addressing surface and storm water quality impacts (Attachments E and F);
 - Best management practices manuals for construction site runoff control identified in Attachment D.
4. Approve CEQA Notice of Exemption for the Grading Ordinance revisions (Attachment G).

5. Consider the introduction (First Reading) of an Ordinance amending Chapter 14 of the Santa Barbara County Code (Santa Barbara County Grading, Erosion and Sediment Control Ordinance) (Attachment B).

Alignment with Board Strategic Plan:

The recommendations are primarily aligned with Goal No. 2. A Safe and Healthy Community in Which to Live, Work, and Visit and Goal No. 5. A High Quality of Life for All Residents.

Background:

At the June 25, 2002 Board hearing, the Board of Supervisors directed staff to revise the proposed grading ordinance amendment adding language to clarify that the NPDES regulations do not apply to agricultural activities and to remove language that refers to the Environmental Thresholds Manual. The Board directed staff to return on July 2, 2002 with these changes and the remainder of Planning & Development's program for compliance with the NPDES Phase II Storm Water Regulations for adoption.

At the July 2, 2002 hearing, concern was raised by the agricultural community that changes proposed to the grading ordinance for NPDES Phase II compliance may have unintended consequences to agricultural practices. The Board directed staff to consult with the Agricultural Advisory Committee (AAC) and return to the Board on August 6, 2002. Staff attended the AAC meetings of July 17 and August 21, 2002. The committee and staff agreed that additional public outreach with the agricultural community should occur. The Board continued the August 6, 2002 Board hearing until September 24, 2002 to provide time for this effort.

Executive Summary and Discussion:

I. SUMMARY OF AGRICULTURE WORKSHOPS

Three focused public workshops were held with the agricultural community in Santa Barbara (August 7), Santa Maria (August 22) and Solvang (August 27). Staff listened to the concerns expressed by the community regarding the proposed changes to the grading ordinance to address NPDES Phase II compliance and concerns regarding the existing scope of the grading ordinance with respect to agriculture in general. Staff discussed proposed changes to the grading ordinance and presented a matrix (Attachment J) to illustrate that the changes would address construction sites, not agriculture grading.

With limited exceptions, most agricultural grading is not required to obtain a grading permit. The program for NPDES Phase II compliance does not propose any revisions to the grading ordinance that address the scope of the existing ordinance with respect to agriculture. Staff reiterated that the scope of this program is water quality protection related to NPDES compliance. The Board has not directed this staff to address the other issues the agricultural community has with the grading ordinance at this time. The comments received will be forwarded to appropriate County staff who will be addressing them in the context of other programs currently under way (RRPP).

II. GRADING ORDINANCE FOR ADDRESSING CONSTRUCTION SITE RUNOFF CONTROL MEASURE

Staff recommends that the Board adopt the full program, which includes measures to address post-construction runoff management for new development and redevelopment, as well as construction site runoff control. These measures include adoption of policy interpretive and implementation guidelines for the Comprehensive Plan's main water quality policies (Attachment A) and an amendment to the Environmental Thresholds and Guidelines Manual adding a section addressing storm water and surface water quality (Attachment F) (please refer to Board Agenda Letter for June 25, 2002 for full discussion). This new section provides thresholds and guidelines for determining significant impacts to water quality from construction sites and development projects; it does not consider or discuss potential impacts to water quality that could occur from agricultural grading. Adopting these components of the program will provide guidance to the public, planners and decision makers to encourage good site design, incorporate appropriate post-construction Best Management Practices and to determine when a project's surface and storm water quality impacts may be considered significant, less than significant or cumulatively significant.

The grading ordinance was chosen as the tool to address NPDES Phase II requirements for the construction site runoff control measure because many of the state requirements are already met by the existing ordinance, thus making it the simplest and most efficient mechanism to address this control measure. Placing the construction site requirements in the grading ordinance provides certainty to the public, contractors and County inspectors. In particular, the existing grading ordinance requires erosion and sediment control measures on all construction sites required to obtain a grading permit during the rainy season and on all hillside construction sites year-round and provides a method ensure compliance. The proposed revisions to the grading ordinance add additional requirements that are necessary to comply with the NPDES Phase II construction site runoff control measure.

At a minimum NPDES Phase II requirements must be applied to construction sites that disturb one or more acres of land. The County's existing grading ordinance requires grading permits on construction sites that move 50 cubic yards of earth, which is generally less than one acre. The advantage of addressing Phase II construction site measures with the grading ordinance is that it provides one set of rules that apply to all construction sites that require a grading permit, regardless of size or location. A separate set of rules for urban or rural construction sites and for sites larger or smaller than one acre would create greater confusion during implementation and could unnecessarily duplicate review requirements. Therefore, while the proposed revisions would apply to any construction site requiring a grading permit, staff believes that the measures to control pollution are not so difficult to implement as to cause undue hardship above and beyond what is already required under the existing ordinance. They are essentially simple in scope and are addressed below.

III. PROPOSED GRADING ORDINANCE REVISIONS

The attached grading ordinance amendment (Attachment B; Attachment C explains proposed revisions line by line) includes revisions recommended by your Board to remove any reference to the Environmental Thresholds and Guidelines Manual and to clarify that agricultural grading is not affected. The purpose and scope sections expressly state that NPDES regulations do not apply to agricultural grading. Additional revisions have been made in response to the agricultural community's concerns to further clarify that the NPDES Phase II revisions apply to construction sites only, including construction site Best Management Practices. In addition, staff has further reviewed the ordinance and removed most of the proposed definitions that are not used in the ordinance.

A. Erosion and Sediment Control

Essentially, NPDES requires erosion and sediment control measures year-round on construction sites that disturb one or more acres of land. The existing grading ordinance already requires erosion and sediment control measures on construction sites that move 50 cubic yards; year-round on projects on hillsides and on all projects during the rainy season. Thus, this requirement has nearly been met. To comply with NPDES proposed revisions would require that the measures be in place all year for construction sites that disturb one or more acres.

B. Mechanism to Ensure Compliance

NPDES requires that a method to ensure compliance be in place. The existing grading ordinance provides a method of implementation through the issuance of a grading permit, regular site inspections and procedures for compliance.

C. Non-Storm Water Construction Site Pollutant Control

NPDES requires control of non-storm water construction site pollutants such as concrete truck washout, proper disposal of discarded building materials (e.g. paint waste), proper vehicle maintenance and refueling, chemicals, litter, sanitary waste, etc. The proposed revisions to the grading ordinance would add this requirement to the erosion and sediment control plans for all construction sites requiring a grading permit. These measures would be in place all year.

D. Construction Site Pollution Control Best Management Practices

NPDES requires the implementation of appropriate construction site pollution control Best Management Practices (BMPs). The proposed revisions would include reference to construction site BMP manuals (to be adopted by this program) to address construction site runoff (Attachment D). The manuals' primary purpose would be as a reference that the public could consult when preparing the erosion and sediment control plans for a grading permit. The intent of referencing several manuals is to provide the public with the widest variety of options when choosing appropriate measures and on proper installation. An applicant would not need to apply all of the measures, but only those that are appropriate to the individual project and its specific site constraints. These BMPs would be applicable only to construction sites, not to agricultural grading.

E. Storm Water Pollution Prevention Plan

NPDES requires that construction sites that disturb one or more acres of land prepare a Storm Water Pollution Prevention Plan (SWPPP), submit a Notice of Intent to the Regional Water Quality Control Board and implement the plan on the construction site. Rather than force the applicant to produce two plans (a SWPPP for the State and an erosion and sediment control plan for the County grading permit), the County would accept the SWPPP in lieu of the erosion and sediment control plan to satisfy grading permit requirements. This would allow the applicant to avoid duplication of effort by producing one plan to satisfy both requirements.

IV. PUBLIC COMMENT

One particular concern expressed at the agriculture workshops is that the NPDES Phase II regulations do not exempt agriculture when the Phase I regulations do. This is incorrect. The EPA's Final Rule states that "storm water discharges and return flows from irrigated agriculture...is statutorily exempted from regulation as a point source under the Clean Water Act and is not discussed here" (*Federal Register* (64 FR 69722) December 8, 1999). It is construction sites that are regulated under the proposed changes to the grading

ordinance to address NPDES Phase II compliance. The purpose and scope of the revised grading ordinance contain specific language to provide certainty to the agricultural community that their agricultural grading practices will not be affected.

Fifth District Supervisor Tom Urbanske addressed a letter to Dianne Meester, Assistant Director of Planning and Development on July 3, 2002 with a number of questions regarding P&D's Program for Compliance with NPDES. This letter, along with its response, is provided in Attachment I.

Mandates and Service Levels:

Government Code Section 65400 requires local planning agencies to make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan that will serve as an effective guide for orderly growth, protection of open space and natural resources and the efficient expenditure of public funds relating to the subjects addressed in the General Plan.

Fiscal and Facilities Impacts:

Some additional costs will be incurred due to the need for staff training and to a slightly increased workload associated with application review for measures addressing storm water quality, plan check, site inspections (grading), and permit compliance. Staff training costs will be covered by the department's training budget. The remaining costs will be recovered through a marginal increase in the permit fees charged by P&D due to increased time expended per permit. No additional budgeted positions are requested.

Special Instructions:

Please send copies of the minute order to Julie Harris (Planning & Development) and Cathleen Garnand (Public Works). Clerk of the Board shall post Notice(s) of Exemption pursuant to CEQA Guidelines Section 15062(b)(2).

Concurrence:

County Counsel
Public Works Department

Attachments:

- A. Land Use Element Hillside and Watershed Protection Policies 7, 3, 4, and 5: Policy Interpretive and Implementation Guidelines
- B. Revisions to Chapter 14 of the Santa Barbara County Code (Grading Ordinance)
- C. Grading Ordinance with Explanation of Proposed Revisions
- D. Construction Site Best Management Practices Manuals
- E. Resolution to Adopt Amendments to the County of Santa Barbara Environmental Thresholds and Guidelines Manual
- F. Proposed Amendments to the Environmental Thresholds and Guidelines Manual for Surface and Storm Water Quality
- G. Notice of Exemption – Grading Ordinance Amendment
- H. Notice of Exemption – Environmental Thresholds and Guidelines Manual Amendment
- I. Response to Letter Dated July 3, 2002 from Tom Urbanske, Supervisor, 5th District.
- J. Matrix Outlining Proposed Changes to Grading Ordinance