

# 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:** 7/21/05  
**Department Name:** P&D  
**Department No.:** 053  
**Agenda Date:** 8/02/05  
**Placement:** Departmental  
**Estimate Time:** 30 minute total  
**Continued Item:** NO  
**If Yes, date from:**  
**Document File Name:** G:\GROUP\P&D\PIT\PIT II\FOCUSED 15  
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FINALS\NRCS-BOARD LETTER 8-2-05.DOC

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**TO:** Board of Supervisors

**FROM:** Dianne Meester, Assistant Director  
Planning and Development

**STAFF CONTACT:** Anne Almy, Supervising Planner (568-2053)  
Alex Tuttle, Planner (884-6844)

**SUBJECT:** Chapter 14 Text Amendments  
Case Number 05ORD-00000-00009

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## Recommendation(s):

That the Board of Supervisors adopt Chapter 14 ordinance amendments applicable County-wide to exempt Federal Cost Share projects from Santa Barbara County grading and land use permits, approved by the Natural Resources Conservation Service with a Finding of No Significant Impact under the National Environmental Policy Act and developed pursuant to the National Handbook of Conservation Practices.

Your Board's action on August 2, 2005 should include the following:

1. Approve the first reading of the proposed amendments to Chapter 14 of the County Code, Case No. 05ORD-00000-00009;
2. Set a hearing for August 16, 2005 for the second reading of the amendments to Chapter 14 of the County Code; and
3. Approve the Exemption pursuant to Section 15061(b) of the State Guidelines for Implementation of the California Environmental Quality Act.

## Alignment with Board Strategic Plan:

The recommendation is primarily aligned with Goal No. 1. An Efficient Government Able to Respond Effectively to the Needs of the Community.

## **Executive Summary and Discussion:**

The primary goal of the proposed Chapter 14 ordinance amendments is to eliminate duplicative agency permitting and streamline the local permit process as it relates to agriculture in recognition of the expertise available to agriculturists from Natural Resources Conservation Service (NRCS) staff. This will benefit landowners by eliminating the cost and time associated with obtaining a County grading and/or land use permit, and generally simplifying the process required to undertake NRCS-sponsored Federal Cost Share projects.

Section 14-6(a) of the Grading Ordinance provides the Planning and Development Director the discretion to require a grading and land use permit for work that is otherwise exempt in order to address significant environmental impacts identified. Section 14-8(c)(8) has a similar provision specifically for agricultural grading. The purpose of the proposed amendments to sections 14-6(a) and 14-8(c)(8) of the Grading Ordinance is to exempt certain Federal Cost Share projects, sponsored by the NRCS, from the provisions in these sections that authorize requiring a grading permit to address significant environmental impacts or damage identified. The applicable projects include, but are not limited to, those that are developed under the Conservation Reserve Program (CRP), the Wildlife Habitat Improvement Program (WHIP) and/or the Environmental Quality Incentives Program (EQIP). Projects within these programs are developed pursuant to the National Handbook of Conservation Practices, consistent with the mandated nine-step planning process, and approved by NRCS with a Finding of No Significant Impact under the National Environmental Policy Act. Accordingly, they are projects that do not have the potential to result in significant environmental impacts or damage and, therefore, no grading permit would be required for that reason. A proposed amendment to Section 14-10 of the Grading Ordinance would exempt such projects from requiring a land use permit when a grading permit is required for any reason other than having the potential to result in significant environmental impacts or damage (e.g. grading within 50 feet of the top of bank of a natural watercourse).

The proposed ordinance amendments were developed under the PIT II Agricultural Permit Streamlining effort through coordination between County and National Resource Conservation Service staff, as well as representatives from the public. This effort was forged out of a Department-wide process improvement effort that was initiated in 2003 to improve our interactions with the public and make our processes more user-friendly.

A subcommittee was formed to undertake the PIT II Agricultural Permit Streamlining effort and work on improvements in the County's regulation of agriculture, made up of Planning and Development staff, NRCS staff, and members of the agricultural community. The Oversight Committee that was formed in early 2005 to oversee the process improvement efforts identified the PIT II Agricultural Permit Streamlining effort as one of the top 5 priorities for progress in the near term. Those priorities were affirmed by your Board in May of 2005. This exemption for certain NRCS-sponsored projects represents the first phase of this ongoing effort.

As part of the overall PIT effort, this project represents the first PIT item that staff is bringing to your Board for review and action since your Board reprioritized the process improvement efforts in May. This item has been well received and supported by the agricultural community, as evidenced by the support expressed by the Agricultural Advisory Committee at their July 6<sup>th</sup> meeting.

**Mandates and Service Levels:**

Amending Chapter 14 is a legislative act under the jurisdiction of the BOS. Processing the ordinance amendments can be accommodated within existing staff workloads and will not impact current service levels.

**Fiscal and Facilities Impacts:**

Funding for the preparation of this report was provided in the adopted 05/06 fiscal year budget in the Planning Support Services, Permitting and Compliance, and the General Plan Elements programs on pages D-290, D-294 and D-292. It is anticipated that a minor reduction in permit work and permit revenues will result from these changes.

**Special Instructions:**

Clerk of the Board to place a legal ad in the Santa Barbara News Press at least 10 days prior to the Board hearing.

Clerk of the Board shall forward a copy of the Minute Order to Planning and Development, Hearing Support Section, Attention: Cintia Mendoza.

**Concurrence:** County Counsel

Attachments: Draft Ordinance No. 05ORD-00000-00009  
Draft CEQA Notice of Exemption  
Unapproved AAC Minutes, July 6, 2005

## NOTICE OF EXEMPTION

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Planning and Development

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

Project Title: Chapter 14 Amendments to Exempt NRCS Federal Cost Share Projects

Project Description: **Amendments to sections 14-6(a) and 14-8(c)(8) of the Grading Ordinance to identify Federal Cost Share projects, sponsored by the Natural Resources Conservation Service (NRCS), including, but not limited to, the Conservation Reserve Program (CRP), the Wildlife Habitat Improvement Program (WHIP) and the Environmental Quality Incentives Program (EQIP), developed pursuant to the National Handbook of Conservation Practices consistent with the mandated nine-step planning process and approved by NRCS with a finding of no significant impact under the National Environmental Policy Act, as projects which do not have the potential to result in significant environmental impacts or damage and therefore no grading permit would be triggered for that reason. In addition, amendment to Section 14-10(a) of the Grading Ordinance to exempt Federal Cost Share projects sponsored by the NRCS, as noted above, from requiring land use permits if a grading permit were otherwise required.**

Name of Public Agency Approving Project: County of Santa Barbara

Name of Person or Agency Carrying Out Project: Planning and Development

**Exempt Status:** (Check one)

- Ministerial
- Statutory Exemption
- Categorical Exemption
- Emergency Project
- Declared Emergency

Cite specific CEQA and/or CEQA Guideline Section:

Section 15061(b)(3) [General Rule], with reference to Sections 15307 and 15308 [Actions taken by a regulatory agency to assure the maintenance, restoration, enhancement, or protection of natural resources or the environment]

Reasons to support exemption findings:

The Natural Resources Conservation Service (NRCS) is a federal agency in the United States Department of Agriculture. Their mission is to provide leadership in a partnership effort with private landowners and managers to conserve, maintain, and improve their soil, water, and other natural resources. The Federal Cost Share programs including but not limited to, the Conservation Reserve Program (CRP), the Wildlife Habitat Improvement Program (WHIP) and the Environmental Quality Incentive Program (EQIP), are voluntary conservation programs that promote agricultural production and environmental quality as compatible goals. Through Federal Cost Share programs, farmers and ranchers may receive financial and technical help to install or implement structural and management conservation practices on their land. NRCS staff designs Conservation Management Systems directly from the NRCS Field Office Technical Guide pursuant to the National Handbook of Conservation Practices (NHCP), performing their mandated nine-step planning process including post installation field assessment. None of the Practices fall under

the adopted NRCS categorical exclusions from the National Environmental Protection Act (NEPA)<sup>1</sup> and hence they are all subject to environmental analysis under NEPA. It would add unnecessary redundancy to the process to require additional environmental review and a local agency permit for such Federal Cost Share projects that are approved by NRCS with a finding of no significant impact.

Given the mandate of Federal Cost Share programs, the strict standards and practices and the comprehensive environmental review to which these projects are subject, removing the requirement for grading and land use permits for such projects would not have the potential to result in significant effects on the environment. No added value in terms of environmental protection is provided by requiring County permits for these projects. Section 15061(b)(3) of the State CEQA Guidelines (the General Rule) states that “CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” Therefore, pursuant to this section, the proposed amendments to the Grading Ordinance can be considered exempt from environmental review under CEQA.

Sections 15307 and 15308 of the State CEQA Guidelines identify “actions taken by regulatory agencies to assure the maintenance, restoration, [enhancement or protection of a natural resource or the environment] where the regulatory process involves procedures for protection of the environment” as categorically exempt from environmental review under CEQA. NRCS is not a regulatory agency and landowner participation in NRCS-sponsored projects is voluntary, not a requirement. However, involvement in a Federal Cost Share project requires that a set process be followed and adhered to, which includes environmental review, the incorporation of best management practices to address any identified environmental concerns, and post installation field assessment. Therefore, while NRCS is not a regulatory agency, in practice the process is the same once an agreement is entered into since procedures for protection of the environment must be adhered to in order to receive the funding.

Consistent with the general exemption under 15061(b)(3), and by analogy to the categorical exemptions described in sections 15307 and 15308, it is reasonable to conclude that the proposed amendments to the Grading Ordinance could be considered exempt from environmental review under CEQA.

Lead Agency Contact Person: Alex Tuttle                      Phone #: (805) 884-6844

Department/Division Representative: \_\_\_\_\_ Date: \_\_\_\_\_

Acceptance Date: \_\_\_\_\_

Note: A copy of this form must be posted at P&D 6 days prior to a decision on the project. Upon project approval, this form must be filed with the County Clerk of the Board and posted by the Clerk of the Board for a period of 30 days to begin a 35 day statute of limitations on legal challenges.

distribution:           Hearing Support Staff  
                          Project file (when P&D permit is required)

Date Filed by County Clerk

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<sup>1</sup> NRCS Categorical Exclusions include the following: Soil survey; snow survey and water supply forecasts; plant materials for conservation; inventory and monitoring; river basin studies under Section 6 of Public Law (PL) 83-566 as amended.

## ATTACHMENT A

### ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNTY OF SANTA BARBARA AMENDING **CHAPTER 14** OF THE COUNTY CODE OF THE COUNTY OF SANTA BARBARA TO EXEMPT FROM GRADING AND LAND USE PERMIT REQUIREMENTS UNDER THE SIGNFICANT ENVIRONMENTAL IMPACT OR DAMAGE CLAUSES OF THE GRADING ORDINANCE FEDERAL COST SHARE PROJECTS APPROVED BY THE NATURAL RESOURCES CONSERVATION SERVICE WITH A FINDING OF NO SIGNIFICANT IMPACT UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT AND CONDUCTED PURSUANT TO THE NATIONAL HANDBOOK OF CONSERVATION PRACTICES, CONSISTENT WITH THE MANDATED NINE STEP PLANNING PROCESS.

Case Number 05ORD-00000-00009

The Board of Supervisors of the County of Santa Barbara ordains as follows:

#### **SECTION 1**

**Subsection (a) of Section 14-6 Scope; general** of Chapter 14 of the County Code of the County of Santa Barbara is hereby amended to read:

(a) Except as herein provided, these regulations, including the incorporation of relevant Best Management Practices, shall apply to all new grading, excavations, fills, cuts, borrow pits, stockpiling, compaction of fill, and land reclamation projects on privately owned land where the transported amount of materials individually for any of the abovementioned operation, exceeds fifty (50) cubic yards or the cut or fill exceeds three (3) feet in vertical distance to the natural contour of the land. Agricultural grading, whether exempt or required to be permitted hereunder, is not subject to NPDES Phase II storm water regulations or the local storm water requirements imposed by this ordinance. No work subject to the provisions of this chapter shall be commenced, maintained or completed, in violation of these regulations.

These regulations shall also apply to native oak tree removal that is subject to the Guidelines for Native Oak Tree Removal in Appendix A to this Ordinance.

Notwithstanding these regulations, no person shall cause or allow a significant environmental impact to occur as a result of new grading as defined herein, including grading that is otherwise exempt from these regulations. In the event that the Director determines that a significant environmental impact is likely to occur or has occurred as a result of new grading, the Director may deny or revoke a grading permit and a land use permit for such grading. If necessary, the Director may also require grading and land use permits for work that is otherwise exempt from these regulations in order to address the significant environmental impact identified. Grading that is undertaken as part of a Federal Cost Share project (including, but not limited to, projects under the Conservation Reserve Program (CRP), the Wildlife Habitat Improvement Program (WHIP) and/or the Environmental Quality Incentive Program (EQIP)), approved by the Natural Resources Conservation Service (NRCS) with a finding of no significant impact under the National Environmental Policy Act and conducted pursuant to the National Handbook of Conservation Practices, consistent with the mandated nine-step planning process including post installation field assessment, shall not be considered to result in a significant environmental impact under this section.

Native oak tree removal of protected and unprotected size, as defined in Appendix A, that is subject to and performed consistent with the Guidelines for Native Oak Tree Removal as set out in Appendix A to this Ordinance is not subject to the significant environmental impact clause above. All other oak tree removal that involves grading is still subject to the requirements of this Ordinance.<sup>1</sup>

The term "grading," for purposes of this chapter, shall not include surface mining or quarrying operations (including the extraction and stockpiling of excavated products and the reclamation of mined lands) carried out under a vested rights determination, or under a permit or reclamation plan approval issued pursuant to the county's surface mining and reclamation

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<sup>1</sup> The potential environmental impacts of removal of native oak trees of protected and unprotected size allowed under the guidelines have been analyzed in the EIR for the Oak Tree Protection and Regeneration Program (00-EIR-07 RV1). "All other oak tree removal" refers to removal of oaks in the urban areas and in zone districts in rural areas that are not subject to the Guidelines for Native Oak Tree Removal. The Guidelines apply to Agriculture I, Agriculture II, Mountainous Goleta, and Resource Management zone districts of Article III of Chapter 35 of the Santa Barbara County Code; Agriculture I and Resource Management zone districts of Article IV of Chapter 35 of the Santa Barbara County Code; and Unlimited Agriculture, Exclusive Agriculture, Watershed Agriculture, General Agriculture, Intensive General Agriculture, and Limited Agriculture zone districts of Article V of the Santa Barbara County Ordinance 661.

(SMARA) ordinances. The county's surface mining and reclamation ordinances contain provisions for the imposition of appropriate engineering and geologic standards and other environmental mitigation requirements for surface mining permits and reclamation plans, together with associated fees payable to the Director.

## **SECTION 2**

**Subsection (c)(8) of Section 14-8 Grading for agricultural practices** of Chapter 14 of the County Code of the County of Santa Barbara is hereby amended to read:

(8) Grading on agricultural land on slopes over thirty percent which does not meet the departmental regulations for an erosion control permit waiver and which is not deemed appropriate by the agricultural advisory committee, or any grading where there is potential for significant environmental damage. Grading that is undertaken as part of a Federal Cost Share project (including, but not limited to, projects under the Conservation Reserve Program (CRP), the Wildlife Habitat Improvement Program (WHIP) and/or the Environmental Quality Incentive Program (EQIP)), approved by the Natural Resources Conservation Service (NRCS) with a finding of no significant impact under the National Environmental Policy Act and conducted pursuant to the National Handbook of Conservation Practices, consistent with the mandated nine-step planning process including post installation field assessment, shall not be considered to result in significant environmental damage under this section.

The significant environmental damage clause does not apply to native oak tree removal of protected and unprotected size, as defined in Appendix A, that is subject to and complies with the guidelines for native oak tree removal in Appendix A to this chapter. All other oak tree removal that involves grading is still subject to the requirements of this section;

## **SECTION 3**

**Subsection (a) of Section 14-10 Grading for agricultural practices** of Chapter 14 of the County Code of the County of Santa Barbara is hereby amended to read:

(a) Except as provided in sections 14-6, 14-8 and 14-9 of this chapter, no person shall perform any grading, excavation or fill without first obtaining a grading permit and land use



permit for such work from the planning and development department of the County of Santa Barbara. Issuance of a land use permit by the planning and development department shall be subject to the application, processing and enforcement procedures provided in chapter 35 of the County Code of the County of Santa Barbara. A separate permit shall be required for each site and may cover both excavation and fills. Adjacent sites being graded as one integrated project may be considered one site for purposes of this section. Land use permits shall not be required for Natural Resources Conservation Service (NRCS) Federal Cost Share projects (including, but not limited to, projects under the Conservation Reserve Program (CRP), the Wildlife Habitat Improvement Program (WHIP) and/or the Environmental Quality Incentive Program (EQIP)), approved with a finding of no significant impact under the National Environmental Policy Act and conducted pursuant to the National Handbook of Conservation Practices consistent with the mandated nine-step planning process that includes post installation field assessment.

**SECTION 4**

Except as amended by this ordinance, Chapter 14 of the Code of the County of Santa Barbara, California, shall remain unchanged and shall continue in full force and effect.

**SECTION 5**

This ordinance shall take effect and be in force thirty (30) days from the date of its passage and before the expiration of fifteen (15) days after its passage it, or a summary of it, shall be published once, together with the names of the members of the Board of Supervisors voting for and against the same in the Santa Barbara News Press, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

\_\_\_\_\_  
Chair, Board of Supervisors

Board of Supervisors Chapter 14 Amendments

County of Santa Barbara

ATTEST:

MICHAEL F. BROWN  
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

SHANE STARK  
County Counsel

By \_\_\_\_\_  
Deputy Clerk

By \_\_\_\_\_  
Deputy County Counsel

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