

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 4/14/2015	(3) CONTACT/PHONE Trevor Keith, Division Manager/805-781-1431	
(4) SUBJECT Hearing to consider an amendment to the Health and Sanitation Ordinance, Title 8 of the San Luis Obispo County Code relating to regulation of the exportation of groundwater. All Districts.			
(5) RECOMMENDED ACTION It is recommended that the Board adopt the ordinance in Attachment A.			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT { } Consent { } Presentation { X } Hearing (Time Est. <u>60</u>) { } Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS { } Resolutions { } Contracts { X } Ordinances { } N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: { } 4/5 Vote Required { X } N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? N/A	(16) AGENDA ITEM HISTORY { } N/A Date: <u>9/9/14, 11/25/14, 3/17/15, 4/7/15</u>	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa Howe			
(18) SUPERVISOR DISTRICT(S) All Districts			



County of San Luis Obispo

TO: Board of Supervisors

FROM: Public Works, Mark Hutchinson, Deputy Director of Public Works
Planning and Building, Trevor Keith, Division Manager
County Counsel, Erica Stuckey, Deputy County Counsel

VIA: Jim Bergman, Director of Planning and Building
Rita Neal, County Counsel
Wade Horton, Director Public Works

DATE: 4/14/2015

SUBJECT: Hearing to consider an amendment to the Health and Sanitation Ordinance, Title 8 of the San Luis Obispo County Code relating to regulation of the exportation of groundwater. All Districts.

RECOMMENDATION

It is recommended that the Board adopt the ordinance in Attachment A.

DISCUSSION

On January 28, 2014, the Board directed to staff to explore the technical and legal aspects of an ordinance regulating the exportation of groundwater.

On September 9, 2014, the Board directed staff to prepare an ordinance regulating the exportation of groundwater. Staff prepared a draft ordinance and solicited public feedback on the draft, including referrals to the Water Resource Advisory Committee, Agricultural Liaison Advisory Board, Paso Robles Groundwater Basin Advisory Committee, Community Advisory Councils, and others.

On November 25, 2015, the Board directed staff to move consideration of the proposed ordinance off calendar while staff revisited concerns raised by a number of stakeholder groups and individuals.

On February 3, 2015, the Board directed staff to bring the ordinance forward for Board discussion.

On March 17, 2015, the Board discussed the revised public review draft ordinance and directed staff to bring it back for introduction.

On April 7, 2015, the Board introduced the ordinance in Attachment A and directed the clerk to set for hearing and action on April 14, 2015.

Attached is an ordinance regulating the exportation of groundwater underlying the County as introduced on April 7, 2015. The ordinance will apply to all 22 Bulletin 188 groundwater basins within the County. It requires a permit to export water out of a groundwater basin or across County lines.

This staff report summarizes the changes made based on Board discussion regarding the draft language and public comments received. The comments received are attached (Attachment C).

Definitions – Section 8.95.20

Local Water Agency Definition

On March 17, 2015, the Board expressed concern that a joint powers authority or a Groundwater Sustainability Agency could be considered a local water agency under the exemption C, which allows movement of groundwater within the boundaries or service area of a single local water agency. The definition of “local water agency” has been amended in the ordinance in Attachment A to specifically exclude a collection of two or more local water agencies that form a joint powers agency or a Groundwater Sustainability Agency.

Exemptions – Section 8.95.40

Exemption for Contaminated Water

The public review draft included an exemption for contaminated water. Comments received expressed confusion about the need for this exemption and the need to define contaminated groundwater in great detail. In response, this exemption was removed from the draft ordinance prior to March 17, 2015.

During the discussion on March 17, 2015, your Board directed staff to include an exemption for contaminated groundwater along with a more clear definition. The ordinance in Attachment A defines contaminated groundwater as groundwater that has been altered by waste, seawater intrusion or other material to a degree which creates a hazard to public health through actual or potential poisoning or through actual or potential spreading of disease. The ordinance as proposed includes an exemption to allow movement of contaminated groundwater without first obtaining a permit if the release complies with discharge permits issued by the local, state, or federal resource agencies.

Removal of Exemption for County Flood Control and Water Conservation District

The ordinance language reviewed by your Board on March 17, 2015 included an exemption for exportation by the County or the San Luis Obispo County Flood Control and Water Conservation District. This exemption was removed in response to Board direction. Under the proposed language, the County and the Flood Control District would need to obtain a permit before engaging in the exportation of groundwater.

Procedures for Processing – Section 8.95.60

Paso Basin Advisory Committee to receive copies of applications

The Paso Robles Basin Advisory Committee has been added as an advisory committee that will receive copies of export permit applications. This addition was requested by Supervisor Mecham during Board discussion on March 17, 2015.

Findings Required for Export Permit Approval – Section 8.95.70

Well Interference

In response to Board direction on March 17, 2015, finding 2 has been changed to address well interference. As stated, the proposed export must not result in well interference with wells owned or relied upon by others or create a cone of depression that extends beyond the applicant’s land.

Export Permit Term – Section 8.95.120

In response to Board direction on March 17, 2015, a renewal process has been added to the draft ordinance language in section 8.95.120. No later than 90 days before expiration of the permit, a permittee may submit written request for a renewal. The permittee must demonstrate that there has been no significant change in circumstances from those which caused the approval of the previous export permit application. The Public Works Director may grant a renewal term not to exceed one year. Renewals can be granted an unlimited number of times provided the necessary findings can be made.

Termination Date – Section 8.95.180

The public review draft included a termination date of five years from the effective date of the ordinance unless the board voted after public hearings to extend it. This section has been removed in response to Board direction on March 17, 2015. The ordinance as proposed has no sunset date.

CEQA Exemption – Section II

Section II regarding CEQA has been added to the proposed ordinance text. This section explains that the ordinance is exempt from CEQA.

OTHER AGENCY INVOLVEMENT/IMPACT

This proposed ordinance has been approved by County Counsel as to form and legal effect.

FINANCIAL CONSIDERATIONS

Cost of developing the proposed ordinance was covered by the current County budget.

RESULTS

Adopting this amendment will require a permit to export groundwater out of any of the 22 Bulletin 118 Basins in the County or across County lines.

ATTACHMENTS

Attachment A: Ordinance Regulating the Exportation of Groundwater
Attachment B: Groundwater Basin Map
Attachment C: Comments Received