

County of San Luis Obispo Agricultural Liaison Advisory Board

2156 Sierra Way, Suite A, San Luis Obispo, CA 93401



**Agricultural Liaison
Advisory Board (ALAB)**

Positions/Members/Terms

CHAIR: Dan Rodrigues
VICE CHAIR: Lisen Bonnier

District One: Peschong Appt.
Craig Pritchard (1/25)

District Two: Gibson Appt.
Lisen Bonnier (1/23)

District Three: Ortiz-Legg Appt.
Tom Ikeda (1/23)

District Four: Compton Appt.
Daniel Chavez (1/23)

District Five: Arnold Appt.
Jerry Diefenderfer (1/25)

Ag. Finance Rep.
Sarah Kramer (8/26)

Cattlemen Rep.
Seth Scribner

Coastal San Luis RCD Rep.
Jean-Pierre Wolff (8/26)

Direct Marketing/Organic Rep.
vacant

Environmental Rep.
Camilla Posson (1/23)

Farm Bureau Rep.
Randy Diffenbaugh

Nursery Rep.
Butch Yamashita (4/24)

Upper Salinas-Las Tablas RCD Rep.
Mary Bianchi (4/23)

Vegetable Rep.
Claire Wineman (4/24)

Wine Grape Rep.
Dan Rodrigues (4/24)

Strawberry Rep.
vacant

County Agricultural Commissioner
Marty Settevendemie
Ex-Officio

U.C. Coop. Extension, Farm Advisor
Mark Battany

DATE: November 18, 2022

TO: San Luis Obispo County Board of Supervisors

SUBJECT: ALAB Recommendation on the Paso Basin Land Use Planting Ordinance

Honorable Supervisors,

On November 7, 2022, the San Luis Obispo County Agricultural Liaison Advisory Board (ALAB) held a meeting to discuss the proposed Paso Basin Land Use Planting Ordinance and the Planning Commission's recent recommendations on that ordinance stemming from their October 27, 2022 hearing. At ALAB's November meeting, members unanimously voted their support for the Planning Commission's recommendation to oppose the adoption of the proposed Paso Basin Planting Ordinance. ALAB adamantly opposes the proposed planting ordinance and concurs with the reasons provided by the Planning Commission on why this ordinance is ill advised and potentially counterproductive.

ALAB has met and discussed this matter thoroughly and on numerous different occasions. ALAB's input has consistently advised against moving forward with the Planting Ordinance and provided detailed explanations behind those concerns. We are including our previous comment letters on this subject for your reference.

Thank you for your consideration.

Sincerely,

Dan Rodrigues
ALAB Chair
dan@vinaquest.com

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Marty Settevendemie
Ex-Officio

U.C. Coop. Extension, Farm Advisor
Mark Battany

DATE: July 8, 2022

TO: San Luis Obispo County Board of Supervisors

SUBJECT: ALAB Comments on the Agricultural Offset Requirements for the Paso Basin – July 12, 2022 Board Meeting (Item #33)

Dear Supervisors,

On June 27, 2022, the San Luis Obispo County Agricultural Liaison Advisory Board (ALAB) voted unanimously to submit the following comments associated with the upcoming July 12, 2022 Board of Supervisors hearing on the Agricultural Offset Requirements for the Paso Basin.

On behalf of ALAB, we are providing this letter in support for extending the current Agricultural Offset Requirements for the Paso Basin through 2027. This extension would allow for the Sustainable Groundwater Management Act (SGMA) Groundwater Sustainability Plan (GSP) process to be implemented without the need for creating additional new requirements. ALAB feels that the current ordinance is the more appropriate vehicle to serve as a stopgap measure to allow time for GSP implementation, which can best look at local needs and circumstances as intended by SGMA.

While we understand the concerns driving the desired development of the Paso Planting Ordinance, we feel that it creates more problems than it solves, as detailed in separate letters on the Draft Ordinance and Draft PEIR and recommend the continuation of the current Offset Requirements instead. We also feel that the Board should work with State and Federal agencies to bring new water sources into the basin to meet the future needs of the Paso Robles agricultural community.

Sincerely,

Dan Rodrigues
ALAB Chair
dan@vinaquest.com

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U.C. Coop. Extension, Farm Advisor
Mark Battany

DATE: July 6, 2022

TO: San Luis Obispo County Department of Planning and Building and the San Luis Obispo County Board of Supervisors

SUBJECT: ALAB Comments on the Paso Basin Land Use Planting Ordinance Draft Program EIR

To Kylie Hensley, Department of Planning and Building, and Honorable Supervisors,

On June 27, 2022, the San Luis Obispo County Agricultural Liaison Advisory Board (ALAB) voted unanimously to submit the following comments on the Draft Program Environmental Impact Report (Draft PEIR) for the Paso Basin Land Use Management Area (PBLUMA) Planting Ordinance. In our comments we will reiterate certain important points raised in the ALAB comment letter dated November 23, 2021 regarding the Public Review Draft of the Paso Basin Land Use Planting Ordinance, as well as raise points more specific to the Draft PEIR.

We understand this Ordinance is attempting to provide relief for some property owners and farmers who face restrictions under the current Agricultural Offset program in San Luis Obispo County Code Title 8 and Title 22; however, ALAB has serious concerns about the entirety of this Ordinance and its implications countywide, including the implementation of the mitigation measures presented in the Draft PEIR.

This process is duplicative of the Sustainable Groundwater Management Act (SGMA) and local development of the Paso Robles Subbasin Groundwater Sustainability Plan (GSP), which remains the better vehicle for considering and addressing local needs and circumstances without creating new requirements that have potential countywide implications. We further recognize the need for an extension of the current offset program to serve as a stopgap measure before the GSP can be

implemented. For these reasons and others in this letter, ALAB supports Alternative 2: Continuation of Existing Agricultural Offset Requirements Through 2025, although in a separate motion ALAB voted unanimously to recommend the Board of Supervisors extend the existing Agricultural Offset requirements through 2027. Overall, ALAB believes that the Ordinance and mitigation measures required in the Draft

PEIR as currently drafted would create more problems than it would solve in the short and long term, both in the Paso Basin and Countywide.

The following comments are more specific to the Draft PEIR:

1. We are concerned that the Ordinance could potentially induce growth and impact the conversion of lands to non-agricultural use if agricultural uses are not sustainable due to high costs of doing business and limitations on the types and means of agricultural activities. The Draft PEIR failed to discuss the significant economic impacts that will result from the Ordinance, including the direct cost of implementing mitigation measures and the potential loss of existing farm ground because of increased groundwater pumping.
2. We are concerned about the fundamental change in direction in the relationship between the County and agriculture, both in the Paso Basin in the context of this Ordinance and mitigation measures, as well as the potentially precedential implications Countywide. More specifically, we are very concerned with the introduction of new requirements and mitigation measures for normal and customary agricultural operations, which will continue to change the fundamental relationship between County Land Use and agriculture. The mitigation measures listed create a new era of increased regulations, potentially Countywide. For example, Mitigation Measure (MM) Air Quality (AQ)-1 is not just related to construction-is this intended to be in perpetuity? What are the unintended consequences of creating impermeable surfaces on other types of resources?
3. We are concerned with the introduction of MM BIO-1 Riparian and Wetland Habitat Setback through the County's land use authority. Currently, the Inland Land Use Ordinance Section 22.10.140 – Setbacks is specific to buildings, which have different physical and biological characteristics. We are concerned with evolving definitions of "riparian vegetation and wetland areas" and the feasibility for implementing this requirement depending on the site. There was also discussion at ALAB regarding food safety concerns with the introduction of this specific requirement.
4. We would like further clarification on whether a planting permit for replanting established plantings would be needed and if such a water-neutral replanting would be considered a new planting. We are concerned if subsequent changes in acreage or crop type, even if there are no increases in water use, would trigger the mitigation measures/development standards. We strongly oppose the Ordinance treating the replanting of existing crops as new plantings subject to the Ordinance, which would fundamentally change the relationship between County government and agriculture and create significant interference in the efficient implementation of normal, customary, and efficient agricultural operations (which would also have negative environmental consequences).
5. We understand that CEQA requires the disclosure of potential impacts. However, in several places the document makes general characterizations that are not necessarily supported by fact. In many locations, the impacts, especially cumulative impacts, are described as "would have a considerable contribution...". Given the speculative nature of these statements, we encourage the document to state that they "may have a considerable contribution." For example, the discussion of the Cumulative Impacts for Transportation achieves a better balance of disclosure and the multiple variables involved that should be reflected throughout the discussion of potential impacts if the Draft PEIR does proceed.
6. Mitigation Measure Greenhouse Gas Emissions 1 (MM GHG-1 Carbon Sequestration): We are concerned with the potentially narrow interpretation and implementation of this proposed measure. Does this consider or allow for offsets due to carpool, vanpool, vehicle emissions advancements,

purchase of offsets, or other mitigation opportunities now and in the future? Is this a one-time mitigation or an annual requirement?

7. We are concerned with the dangerous precedent implied in Impact LU-1 that normal and customary agricultural activities “would result in potential General Plan inconsistencies...” and be potentially detrimental to the environment. We do not agree with this characterization or change in direction.
8. Mitigation Measure Utilities and Service Systems 1-Well Metering and Reporting (MM UTIL-1). We are concerned with creating a new requirement through the County’s land use jurisdiction and an additional layer of regulation and annual burden and cost. We believe this is better addressed locally through SGMA.
9. Mitigation Measure Utilities and Service Systems 2-Hydrology Report (MM UTIL-2). Like MM UTIL-1, we believe this is better addressed through SGMA, or as is temporarily the case, through the County’s well permitting process in response to the California Executive Order, rather than through the County’s land use authority.

These comments represent the collective input that ALAB members have compiled from the agricultural community and the commodities and organizations we represent.

We know our farmers and ranchers will play a critically important role in getting the Paso Robles Subbasin into balance, and ALAB will continue to offer input to help guide your policy decisions. We implore you to recognize the current and long-term need for this County to pursue new water sources, and to work more closely with State and Federal leaders in developing critical water infrastructure.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Rodrigues", with a long, sweeping underline.

Dan Rodrigues
ALAB Chair
dan@vinaquest.com

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County Agricultural Commissioner
Marty Settevendemie
Ex-Officio

U.C. Coop. Extension, Farm Advisor
Mark Battany

DATE: November 23, 2021

TO: San Luis Obispo County Department of Planning and Building and the San Luis Obispo County Board of Supervisors

SUBJECT: ALAB Comments on the Public Review Draft of the Paso Basin Land Use Planting Ordinance

To Kylie Hensley, Department of Planning and Building, and Honorable Supervisors,

At a special meeting on November 15, 2021, the San Luis Obispo County Agricultural Liaison Advisory Board (ALAB) voted unanimously to submit the following comments on the Public Review Draft of the Paso Basin Land Use Planting Ordinance (Planting Ordinance).

We understand this ordinance is attempting to provide relief for property owners and some farmers who face restrictions under the current Agricultural Offset program in San Luis Obispo County Code Title 8 and Title 22, however ALAB has serious concerns about the entirety of this ordinance and its implications. This process is also duplicative of a simultaneous process going on at the statewide level, the Sustainable Groundwater Management Act (SGMA) and local development of the Paso Robles Subbasin Groundwater Sustainability Plan (GSP), which takes precedence over the County's efforts.

We hope County leaders will consider the collective input that ALAB members have compiled here from the agricultural community and organizations we represent. We know our farmers and ranchers will play a critically important role in getting the Paso Robles Subbasin into balance, and ALAB will continue to offer input to help guide your policy decisions. We implore you to recognize the current and long-term need for this county to pursue new water sources, and to work more closely with state and federal leaders in developing critical water infrastructure.

1. Implications of the Planting Ordinance's expanded timeline to the year 2045.

Certainly, the current Agricultural Offset program has created challenges for property owners in the Paso Robles Subbasin since it was first adopted in 2013. These restrictions have consistently been described by SLO County Supervisors as a temporary, stop-gap measure that would sunset with approval of the GSP. Given that this Planting Ordinance has an expiration of 2045, we are concerned about this significant and precedential expansion of the

County's land use authority to incentivize or disincentivize certain types of agricultural production.

The significantly expanded timeline and policy changes proposed here requires agricultural stakeholders to consider the countywide, long-term effects of this Planting Ordinance, rather than just comparing it to the current Agricultural Offset program intended for Paso Robles. While it may provide relief to some property owners in the near-term, this Planting Ordinance is also a 23-year ban on new or expanded irrigated crop production.

2. SGMA is the more appropriate regulatory vehicle to balance the Paso Robles Groundwater Subbasin.

San Luis Obispo County has multiple groundwater basins with varying needs and conditions. We are concerned that this new long-term land use ordinance sets a bad precedent for the County to regulate other basins through its land use authority rather than through the state mandated GSP process under the Sustainable Groundwater Management Act.

If this Planting Ordinance moves forward, farmers in the Paso Robles Subbasin will unnecessarily be subjected to two separate regulatory structures. That means two separate basin boundary maps, two separate agencies governing their activities, and two sets of rules governing their farming operations in the Paso Robles Subbasin or Paso Basin Land Use Management Area.

The expansion of irrigation the Planting Ordinance will now allow may subsequently be disallowed in coming years by the GSP. Conversely, the GSP is designed to be adaptive and could potentially allow for new agricultural planting in parts of the Paso Robles Subbasin where appropriate, but the Planting Ordinance would take away that flexibility.

The Planting Ordinance itself states this same point in section K. Limitation of Permit:

"Any issued permit or exemption shall not exempt, supersede or replace any requirements of federal, state, and local laws and regulations, including but not limited to California Water Code Section 10720 et seq. And any groundwater regulation adopted pursuant thereto (e.g., any regulation adopted pursuant to California Water Code Section 10726.4), California Water Code Section 1200 et seq. and Chapter 8.40 of the County Code of Ordinances."

Regulating groundwater resources is more efficient for agriculturalists and other stakeholders within the basin affected by this ordinance when handled through the GSP process. The Planting Ordinance will create additional administrative challenges and costs for the County for the next 23 years, all while making basin management more complicated, not less so.

Additional short-term extensions of the current Agricultural Offset program is preferable to the creation this new Planting Ordinance that has long-term implications for all of San Luis Obispo County agriculture.

3. Terms used in section C. Definitions are unclear and subject to interpretation and set dangerous countywide precedent.

The term "commercial crop" used to define "New or expanded crop production" (and also subsequently used throughout the Planting Ordinance) is unclear. If a farmer does not harvest and sell their crop in a given time period, are they exempt from the Planting Ordinance?

The Planting Ordinance defines “Site” as “any legal lot or parcel of land or contiguous combination thereof having the same owner, the same lessee, or the same controlling entity in existence on the effective date of this section.” The creation, interpretation, and enforcement of this definition is of concern to agriculturalists countywide and is crucial to the overall impact of the Planting Ordinance.

This definition seems to be arbitrary and based on preexisting ownership structures and will likely have many unintended consequences. If the intent of the ordinance is to ensure a more equitable distribution of water, each parcel should stand on its own merits. We are further concerned with the presumptions and expansion of County land use authority involved in the creation and application of this definition.

4. Precedent of giving County Planning and Building Department staff authority to conduct annual inspections on farms and ranches.

Section E. Procedures gives County Planning and Building Department staff authority for the next 23 years to "conduct annual site inspections for sites with an approved planting permit or exemption verification....to monitor the planting status before and after confirmation of final planting." Giving new long-term, open-ended authority for farmers and ranchers to have their property inspected annually under the County's land use authority is a new and dangerous precedent. We are concerned with this significant expansion of authority and the long-term implications of this fundamental change in approach. This expansion is not needed, as the County retains its current authority and code enforcement mechanisms to address complaints should they arise.

5. Confusing language regarding what sort of permitting will be required for well construction.

We are further concerned with the potential expansion of the County's authority regarding permitting for well construction. The Planting Ordinance implies that permitting for well construction is now subject to a discretionary permit. New language added at the end of section 8.40.030 – Acts Prohibited, permit required subsection c states:

“Without limiting the foregoing, no person shall be issued a permit to construct a groundwater well located within the Paso Basin Land Use Management Area to irrigate new or expanded plantings where said plantings do not meet the requirements of Section 22.30.205 and where the necessary planting permit or exemption has not first been approved.”

As Chapter 8.40 of the existing County Code contains rules for agricultural wells, the aforementioned new language seems to contradict the Planting Ordinance's Section K. Limitation of Permit, which states:

“Any issued permit or exemption shall not exempt, supersede or replace any requirements of federal, state, and local laws and regulations, including but not limited to California Water Code Section 10720 et seq. And any groundwater regulation adopted pursuant thereto (e.g., any regulation adopted pursuant to California Water Code Section 10726.4), California Water Code Section 1200 et seq. and Chapter 8.40 of the County Code of Ordinances.”

6. The potential increase in pumping could result in the State taking over management of the Paso Robles Groundwater Subbasin.

Under the proposed ordinance, an estimated 4,800 property owners in the Basin will be allowed to expand pumping from five acre-feet per year (AFY) to 25 AFY without a permit. This could increase the burden on the basin by 96,000 AFY; for context, the current total water use for the Basin is estimated at 68,000 AFY.

Such a large increase jeopardizes local control of the Paso Robles Subbasin and could cause the California Department of Water Resources to take over management of the GSP process. As the lead Groundwater Sustainability Agency in the Paso Robles Subbasin, the County will ultimately have to account for this significant new groundwater extraction, complicating and delaying GSP implementation. Local control is preferable to state control.

7. Confusing language regarding what sort of agricultural activity requires or does not require a permit or an “exemption verification.”

It is unclear whether or not the routine replanting of the same crop, such as replanting a vineyard after the commercial useful life of the wine vines has expired, requires farmers to receive a permit. This is important to clarify as this will be the most common activity of farmers and ranchers under the Planting Ordinance.

It is unclear what the process will be for property owners who are currently limited to zero AFY or five AFY. While the term “exemption verification” is used, this is essentially a permit to use up to 25 AFY. All of the cumbersome procedures and red tape outlined in Section E. Procedures “apply to both planting permits and exemptions.” Using the terms “exemption verification” instead of “planting permit” appears to be trying to mask the bureaucratic process farmers and ranchers will have to undergo to use 25 AFY under this Planting Ordinance and is confusing to stakeholders.

It is also unclear why the “exemption verification” does not “run with the land if the property is conveyed” as is the case for other permits. If a family member or other party purchases the land, can they not continue to irrigate the existing crops on site?

8. The process and eligibility for “planting permit applications claiming supplemental irrigation of dry cropland” is unclear.

Under “Table 2: Crop-Specific Water Duty Factors,” the criteria for assigning a water-duty factor for Supplementally Irrigated Dry Crop Land is described as follows:

“The applied water factor for supplementally irrigated dry cropland shall be based on the average annual water usage over the six-year period preceding the application date, as substantiated by applicant-provided information outlined in Section G.”

The application date cannot be any earlier than the Planting Ordinance’s effective date of August 31, 2022. If a property owner claiming a water credit for Supplementally Irrigated Dry Cropland submits an application under this Planting Ordinance, they are saying they have been irrigating a certain amount each year since 2016. This implies that irrigation being done over the past six years in violation of the existing Agricultural Offset program will now be used to establish a baseline for future irrigation. The current Agricultural Offset program allows for such pumping on a “case by case basis.” Is the intent here to remove discretion by the “joint committee of representatives from the department of planning and building, department of public works, and the department of agriculture/weights and measures, in consultation with UC Cooperative Extension” review process?

Section “B. Intent” of the Planting Ordinance states: “This section is not intended to incentivize the conversion of historic grazing and dryland farming areas to irrigated crop production. Therefore, allowed exemptions are based on site configuration as of the effective date of this section.” This new process for claiming a water credit for Supplementally Irrigated Dry Cropland seems to contradict the intent, as it

would allow conversion of these dryland crops to other crops. Additionally, ALAB is concerned with the County dictating the type and production methods of agricultural production through its land use authority.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Rodrigues", is centered below the word "Sincerely,". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Dan Rodrigues
ALAB Chair
dan@vinaquest.com

FINAL COMMENT LETTER APPROVED BY ALAB APRIL 5, 2021

##

April 5, 2021

San Luis Obispo County Board of Supervisors
1055 Monterey Street Suite D430
San Luis Obispo, CA 93408

Comments submitted by phone from ALAB Chair Dan Rodriguez

Re: April 6, 2021 Board of Supervisors Agenda Item 26: Proposed Paso Basin Planting Ordinance

On behalf of the 16 representatives of the San Luis Obispo County Agricultural Liaison Advisory Board (ALAB), I write to you today to express our serious concern with the proposed Paso Basin Planting Ordinance.

We appreciate the intention of this proposed ordinance is to provide relief for property owners and some farmers who face irrigation restrictions under the Water Neutral New Development (WNND) Standards in Title 22 and Title 19 of San Luis Obispo County Code of Ordinances. Without question, provisions in the WNND have negatively impacted some property owners in the Basin. However, the proposed planting ordinance will have far-reaching impacts on the majority of property owners, assisting the few farmers, while impacting the many.

It is the opinion of ALAB that this proposed ordinance is bad for San Luis Obispo County's \$2.5 billion agricultural economy, and sets a dangerous precedent for expanding regulatory burdens on our local farmers and ranchers. Additionally, the ordinance will create significant administration challenges for the County, with concomitant costs. We feel the proposed ordinance will make basin management more complicated, not less so. We know our farmers and ranchers will play a critically important role in getting the Paso Robles Basin into balance, and ALAB will continue to offer input to help guide your policy decisions.

Regulating groundwater resources is more efficient for taxpayers and effective for stakeholders when handled through the proper regulatory channel, the Sustainable Groundwater Management Act (SGMA). As the lead Groundwater Sustainability Agency in the Paso Basin, the County could begin addressing groundwater access issues today, rather than creating a new planting permit system under the County's land use authority. We do not have to wait until the California Department of Water Resources (DWR) approves the Paso Robles Subbasin Groundwater Sustainability Plan (GSP) to get started on work we already know has to be done.

Under the proposed ordinance, an estimated 4,800 property owners in the Basin will be allowed to expand pumping from 5 acre-feet per year (AFY) to 25 AFY without a permit. This could increase the burden on the basin by 96,000 AFY; for context, the current total water use for the Basin is estimated at 68,000 AFY. Such a large increase jeopardizes local control of the Paso Basin and could cause DWR to take over management of the GSP process. As the lead Groundwater Sustainability Agency in the Paso Basin, the County will ultimately have to account

for this significant new groundwater extraction, complicating and delaying GSP implementation. Furthermore, while this proposed ordinance could provide relief for some property owners under WNND restrictions, forthcoming implementation of the GSP could impose new restrictions on the same property owners. That is, what the County may now allow under land use authority, the GSP will likely have to restrict in the future.

Finally, this proposed ordinance opens the door for unprecedented regulation on agriculture in San Luis Obispo County. Like many local organizations in the agriculture and business community have already done in recent weeks, ALAB opposes this ordinance as presented, and will oppose any ordinance requiring a discretionary land use permit and California Environmental Quality Act (CEQA) review for planting crops. CEQA will cost these farmers tens of thousands, if not hundreds of thousands, of dollars. While some Supervisors argue they would never allow this type of regulation to expand outside of the Paso Basin or to other routine agricultural practices, this is no guarantee that future Boards of Supervisors will not view this action as a basis for regulatory expansion in the future. We know all too well that regulations creep into new areas and expand over time. For the first time in our County's history, a costly planting permit structure is being proposed that requires farmers and ranchers to undergo an arbitrary and public discretionary review process. This is unacceptable to the agriculture community.

Based on comments submitted at the January 26, 2021 Board of Supervisors meeting, some in our community are calling for all agricultural activities in San Luis Obispo County to undergo an environmental impact review. As this Board of Supervisors has justified a CEQA review to regulate agricultural irrigation, future boards will now have a policy rationale to extend discretionary permitting for other farm and ranch activities like grazing livestock, applying materials, operating farm equipment, or tilling the soil.

The current WNND certainly impacted a select group of property owners who had not irrigated crops within the previous 5 years when the Urgency Ordinance on this issue was adopted. We support working through the GSP process to find a way to address water access for these property owners and all stakeholders in the Basin. It seems very unlikely that the County will be able to complete this new proposed ordinance before the expiration of the current Agricultural Offset Requirements on January 1, 2022. Another short-term extension of the WNND ordinance is preferable to rushing the creation of a new permanent ordinance that has long term implications for all of San Luis Obispo County agriculture.

Dan Rodriguez, Chair
San Luis Obispo County Agricultural Liaison Advisory Board

##