

## **ALAB APPROVED MEETING MINUTES**

**Monday, May 2, 2022**

**San Luis Obispo County Farm Bureau, 4875 Morabito Place, San Luis Obispo**

**Members and Alternates Present:** Lisen Bonnier, Tom Ikeda, Jerry Diefenderfer, Jean-Pierre Wolff, Randy Diffenbaugh, Claire Wineman, Dan Rodrigues, Brent Burchett, and Joe Plummer

**Staff Present:** Marc Lea and Ian Landreth – San Luis Obispo County Department of Agriculture, Leslie Terry – San Luis Obispo County Environmental Health Services, and Mark Battany – University of California Cooperative Extension

**Absent Members:** Craig Pritchard, Daniel Chavez, Mark Pearce, Seth Scribner, Camilla Posson, Butch Yamashita, Mary Bianchi

**Guests Present:** Dawn Ortiz-Legg – District 3 Supervisor, Patricia Wilmore – Paso Robles Wine Country Alliance

- I. **Call to Order, introductions, quorum determination:** The meeting was called to order by Chair Dan Rodrigues at 5:07 pm. There were enough members present to have a quorum.
- II. **Open Comment:**
  - Brent Burchett provided information on the Farm Bureau Candidate Forum (3<sup>rd</sup> and 2<sup>nd</sup> District Candidates) on May 3, 2022 @ 5:30PM open to the public. Those wishing to attend virtually can go to SLOFARM.ORG to register. Those attending in person do not need to register ahead of time.
- III. **Previous Minutes – November 1, 2021 (regular meeting) & November 15, 2021 (special meeting), and March 7, 2022**
  - Marc Lea reminded members that ALAB met on March 7, 2022, but not enough members were present to hold a quorum. The minutes for the November 1<sup>st</sup> regular meeting, and November 15<sup>th</sup> special meeting to discuss the planting ordinance were not approved as a result.

### **November 1, 2021 – Regular Meeting**

**Motion to Approve:** Tom Ikeda

**2<sup>nd</sup> Motion to Approve:** Lisen Bonnier

**Approved:** Unanimous decision; Abstained – Jerry Diefenderfer

### **November 15, 2021 – Special Meeting**

**Motion to Approve:** Randy Diffenbaugh

**2<sup>nd</sup> Motion to Approve:** Jean-Pierre Wolff

**Approved:** Unanimous decision; Abstained – Jerry Diefenderfer

### **March 7, 2022 – Regular Meeting**

**Motion to Approve:** Jerry Diefenderfer

**2<sup>nd</sup> Motion to Approve:** Lisen Bonnier

**Approved:** Unanimous; Abstained - Dan Rodrigues

#### **IV. ALAB Governance Membership Updates**

- Marc Lea reminded members that ALAB discussed the completion of Chair Dan Rodrigues and Vice-Chair Lisen Bonnier's two-year terms at the March 7, 2022, meeting. Both have agreed to serve another term as there is no limit on the number of terms they can serve. A vote for Chair and Vice-Chair was not held at the March ALAB meeting due to the lack of quorum. Marc explained that a vote was still needed to approve their second terms.

### **Chair and Vice-Chair Second Term**

**Motion to Approve:** Randy Diffenbaugh

**2<sup>nd</sup> Motion to Approve:** Claire Wineman

**Approved:** Unanimous decision

- Marc Lea informed the members that the next regularly scheduled ALAB meeting would be June 6<sup>th</sup>, 2022. However, the regular meeting places were booked because of the election. Marc explained that ALAB needed to identify another location; or change the meeting date to June 7<sup>th</sup>, 2022. Vice-Chair Lisen Bonnier was open to moving the meeting date to the 7<sup>th</sup>, and other members agreed. The meeting will be held at the UCCE Cooperative Extension Auditorium in SLO on June 7<sup>th</sup>.
- Marc Lea provided an update to Jerry Diefenderfer on the Drought Task Force and explained that he was able to get invited to the recurring meetings. The only pertinent update was that the Administrative Office would be going to the Board of Supervisors on May 17<sup>th</sup> with an update. Marc mentioned there was less involvement from the Drought Task Force based on how the drought is monitored with data being available in real time. At the last drought task force meeting, Leslie Terry with Environmental Health provided an update on the recent Governor Order No. 7-22 and its impacts with well drilling in the County of San Luis Obispo. Marc invited Leslie to provide the ALAB with an update.

#### **V. Presentation/Discussion: Local impacts of Governor Newsom's Executive Order (No. 7-22) on Drought, Leslie Terry – Department of Environmental Health**

[PowerPoint Presentation Weblink \(ca.gov\)](#)

- Leslie provided an overview of how the Department of Environmental Health (Department) processes well permits. Permits for water wells in San Luis Obispo County are ministerial and do not require discretionary action, staff report, public hearing, or public notice.
- When an application for a well is submitted the Department does a lot of verification to

ensure the application is accurate and complete. This can include things like ensuring the project is not located in the Coastal Zone as a discretionary permit would be required. Well applications are referred to other outside agencies depending on the project location. As an example, certain areas around Nacimiento Lake require a referral to be sent to Monterey County Department of Public Works.

- A determination of ministerial processing document was created because of a court determination that even though the Department does not exercise discretion, it could exercise discretion when it comes to contamination. The purpose of the ministerial processing document was to make it clear that no discretionary action was taken by the Department.
- Following acceptance of the application, an inspector conducts a site inspection with a GPS to verify no sources of contamination and to ensure the plot plan accurately reflects what is on site. The Department does not want any contamination at the surface level being connected to the aquifer.
- After passing the site inspection the well permit is issued and is valid for 6-months to have the well installed.
- A follow-up inspection is conducted after installation of the sanitary seal to ensure water cannot leech into the aquifer.
- Final approval is granted after a water quality report is submitted to and evaluated by the Department to ensure there are no contaminants in the water to complete the permitting process. For example, if there was arsenic in the water then a notification would go out to the landowner, well owner, and driller.
- Marc Lea asked who does the water quality testing. Leslie stated that the well drilling contractor would collect the sample and submit it to the lab of their choosing.
- Leslie explained that the Department handles permitting of the well, not the water use. County Counsel set it up this way so that discretionary approval is not required and can remain ministerial. This allows for the permitting process to be a matter of days rather than months or years.
- Leslie mentioned there were other Ag Offsets and Ordinances that were not regulated by the Department.
- Order No. 7-22 was signed on March 28<sup>th</sup>. Effective immediately. The Department temporarily stopped issuing well permits except a few that County Counsel allowed to be processed. The order requires enough rain to be able to lift the order.
- Order No. 7-22 subsection 9(a) is for wells proposed in a basin where the Sustainable Groundwater Act applies. These are medium and high-level basins or other basins that are not otherwise adjudicated.
- Jerry Diefenderfer asked Leslie if you are altering a well does it require a permit from the Department? Leslie explained that it depends. If you are modifying the casing, deepening the well, or modifying the sanitary seal a permit would be required. Basic maintenance of the well would not require a permit (like for like).
- Marc Lea recalled that the applicable groundwater basins include the Paso Robles, San Luis Obispo, and Cuyama groundwater basin. Leslie mentioned she would be touching on this in her presentation.

- The Department must obtain a written verification response from the Groundwater Sustainability Agency (GSA) that makes the following findings: (1) The proposed well would not be inconsistent with any management program the GSA has adopted, and (2) The well will not decrease the likelihood of the GSA from achieving its sustainability goals. It is very difficult to make the finding that an additional extraction will not decrease the likelihood of a GSA from meeting an identified sustainability goal.
- Jerry Diefenderfer asked if that meant the Department would not be issuing any permits. Leslie clarified that it was not the Department's decision but rather the GSA. A letter from the GSA that makes those findings is what the Department is looking for.
- Randy Diffenbaugh asked who notifies the GSA as part of the permitting process - Environmental Health or the Drilling Contractor. Leslie reiterated that the Department would refer the permit application to the applicable GSA, but also recommended to drilling contractors to contact their GSA ahead of time to avoid getting too far ahead and running into unforeseen issues.
- Blaine Reely is the County GSA contact. Marc Lea mentioned that Blaine would be invited to the next ALAB meeting.
- In order for the Department to issue a permit they require (1) A letter from the GSA approving of the proposed well permit application. (2) A hydrogeological report by a geologist stating the proposed well will not interfere with any nearby well.
- Leslie mentioned that at this time it is undetermined what will happen if an owner with an existing well wants to drill another well on the same property to increase overall production.
- Leslie summarized – anywhere in the County if you are drilling an Agricultural or irrigation well - a geologist must make the determination of no interference with another well and subsidence. If the well is within a GSA Boundary you must obtain written verification from that GSA. Marc Lea clarified further that section (b) of the order applied Countywide regardless of being located in a GSA or not.
- Jean-Pierre Wolff asked Leslie to explain the difference between a domestic well and an irrigation well. Also, what is a legal well in terms of minimum capacity. Leslie explained that Order No. 7-22 contained two exemptions: (1) a domestic well pulls < 2.5 AFY with an established domestic use on site (considered part of the exemption). Applicants must sign a declaration as part of the well permit application that the proposed well will only extract < 2.5 AFY and the well pump would only serving domestic needs.
- Jean-Pierre Wolff asked Leslie if the Department differentiates between the definition of an agricultural well and a drinking water well? Is a drinking water well a private domestic well? Wolff used the example of a drinking water well used by employees working for an agricultural operation. Leslie stated in that case it would not be considered a domestic well because it was serving a business; the Department would most likely ask some additional questions in that case to see if the proposed well fit into one of the exemptions of the order. It comes down to use for the Department. The Department's construction standards are the same for an agricultural well and irrigation wells. Leslie mentioned that in some counties they may require a shorter seal for an agricultural or irrigation well, however, by local ordinance the Department requires a 50-foot sanitary seal across the

board so there are no shorter agricultural wells or irrigation wells in the County of San Luis Obispo.

- Randy Diffenbaugh asked for clarification on the < 2.5 AFY being related to the well, not per acre. Leslie confirmed it was specific to the well and not a per acre basis. She reiterated the declaration that applicants must sign confirming the well would only be used for a domestic use, not any commercial use. This does not include trading commodities such as sharing fruit from a tree with a neighbor for their avocados
- Tom Ikeda asked how shared wells would be considered. Leslie stated shared wells are similar because they are a private agreement between property owners. When the well application came into the Department, it would be identified as a domestic well. The Department would not be aware of the shared well agreement. It becomes a matter of the person who pulled the permit to be in compliance with the use restriction. The use restriction expires at the expiration of Order No. 7-22.
- Lisen Bonnier asked a question on an earlier slide. If you are outside of an established GSA, you can proceed with submitting a well permit application? Leslie clarified that you would still be required to submit a letter from a geologist that looks at interference and subsidence. Bonnier asked if the geologist would also look to see if a GSA boundary was being crossed. Leslie stated no – they would only be looking at interference with nearby wells and subsidence.
- Claire Wineman mentioned that Santa Barbara County was developing an urgency ordinance to address Order No. 7-22, and asked if San Luis Obispo County was doing something similar. Leslie stated that nothing was in place to establish an urgency ordinance. After meeting with County Counsel, the Department is not changing anything regarding the permitting process itself. The responsibility is on the property owner/well owner to demonstrate certain things before the permit is issued. An ordinance amendment is not required to request additional information in terms of processing the permit. Leslie mentioned she heard that Monterey County was amending their ordinance.
- Claire Wineman asked Leslie to reiterate her comment and Leslie reiterated that the language in Order No. 7-22 is not looking at the overall basin health. The order is specifically speaking to interference with neighboring wells and subsidence that could result in negative impacts to infrastructure. Nothing new was created, rather, the language from the order was added to the existing permit application.
- Randy Diffenbaugh asked Leslie if there was any concern that because we are drawing a distinction between agriculture and domestic uses that there is fear of violation of reasonable and beneficial use per the California constitution because we classified one use over another. Or is it null and void because it is an executive order that there is no conflict with the CA Constitution? Leslie was unsure but mentioned her guess was that it was because of an executive order there was leeway.
- Dan Rodrigues asked what it would take to lift the executive order. Leslie mentioned that was a question for the Governor. Her best guess was a certain amount of rainfall.
- Claire Wineman asked if there was a resource or a list of geologists in the County that specialized in evaluating hydrology; and how many of them? Leslie reported that there is about 50 nearby that could make the determination. A list of qualified consultants is

available at <https://www.slocounty.ca.gov/Departments/Planning-Building/How-to-Apply-for-a-Permit-in-Unincorporated-SLO-Co/Land-Use-Zoning/Land-Use-Permits/Support-Services/Environmental-Review/Qualified-Environmental-Consultants.aspx>

- Leslie mentioned that Spencer Harris came to one of the well drillers meetings and was estimating under \$1,000 which is dependent on the site conditions.
- Terry demonstrated how to use DrillerView mapping software available on the Department website. The Department website also includes additional information on the executive order.
- Lisen Bonnier asked Leslie what happens if you were in the process of drilling a well when the executive order was issued. Leslie explained that the permit was issued then the executive order did not apply. The order would apply to well permit applications in process.
- Claire Wineman asked if there was consideration to extending the length of time a well permit is valid for (currently 6 months). She was hearing of drillers being super backlogged and was concerned that many would miss this window because of it. Leslie explained that the well drillers are the throttle for the Department. The well driller does not want to spend money on a permit if they do not have the time to complete it. Eventually the well ordinance needs to be amended, but the Department is waiting on the Department of Water Resources (DWR) who is revising the well standards, so it doesn't make sense to amend the ordinance when the DWR is amending the standards for wells.
- Leslie explained that this process is not new to most of the well drillers in the County. By ordinance, drilling more than 800-feet deep also requires a geo-letter.
- Wineman asked for leeway or other options so that cases in the extreme allow there to be no impediment on getting the well permit. Terry does not think that the EH Dept will be the bottleneck. Try to turn a well permit around within 5-days. The possible delays will be from obtaining the GEO report.

**VII. Presentation/Discussion:** Proposed Santa Maria River Levee Trail Extension, Claire Wineman – Grower-Shipper Association of Santa Barbara and SLO Counties

Claire informed members that the Santa Barbara County Board of Supervisors would be meeting on May 17, 2022, to hear the Santa Maria River Levee Trail Study to extend the existing levee trail. Claire explained the concerns (e.g., trespass, theft, liability) from a collective of farmers whose operations are near the levee east and west of the Santa Maria River Bridge where portions of the extension project is proposed. The project is being processed by the Santa Barbara County Flood Control and Water Conservation District (Flood Control), a branch of the Santa Barbara County Public Works Department. Additional information, including a copy of the study is available at [Santa Maria River Levee Trail \(arcgis.com\)](https://arcgis.com).

**Motion to Adjourn**

**Motion to Adjourn** Dan Rodrigues

**Motion Seconded** by Tom Ikeda

**Meeting Adjourned** 7:00 PM

**Next meeting** – June 7, 2022 UC Cooperative Extension Auditorium, 2156 Sierra Way, SLO

**The following agenda items will be discussed at one of ALAB's future meetings**

- VI. Presentation/Discussion:** New CIMIS Weather Stations in San Luis Obispo County,  
Mark Battany - University of California Cooperative Extension
  
- VIII. Presentation/Discussion:** Proposed Energy Storage Development Projects in San Luis Obispo  
County, Ian Landreth - County of San Luis Obispo Department of Agriculture

Respectfully submitted by Ian Landreth, San Luis Obispo County Department of Agriculture