

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

(1) DEPARTMENT Public Health Department		(2) MEETING DATE February 7, 2006		(3) CONTACT/PHONE Curt Batson (805) 781-5550	
(4) SUBJECT Interim Moratorium on the Land Application of Treated Sewage Sludge/Biosolids					
(5) SUMMARY OF REQUEST This ordinance establishes an interim moratorium on the land application of biosolids other than exceptional quality biosolids and assures the quantity of exceptional quality biosolids applied and distributed in the County shall not exceed historic levels. This interim ordinance shall remain in effect until a permanent ordinance is enacted by the Board of Supervisors or 48 months from its enactment, which ever occurs first. The ordinance requires notification of the Public Health Dept., Division of Environmental Health Services and places a cap of 1,500 cubic yards on the cumulative total of exceptional quality biosolids that can be applied in any 12-month period. It allows unused capacity to be carried over for a 12-month period.					
(6) RECOMMENDED ACTION Introduction of a proposed ordinance establishing an Interim Moratorium on the Land Application of Treated Sewage Sludge/Biosolids and set February 28, 2006 as the date for a public hearing to consider approval of the ordinance.					
(7) FUNDING SOURCE(S) Hourly Rate Charge of \$86/hr		(8) CURRENT YEAR COST estimate 40hrs * \$86/hr = \$3440		(9) ANNUAL COST estimate 40hrs* \$87/hr = \$3480	
(10) BUDGETED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/> NO					
(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST): Public Health Dept., Air Pollution Control District, Agriculture Dept., Cal Poly, Ecoslo, CSI, RWQCB, SLO County Farm Bureau, SLO City, South County Wastewater Treatment Facility, UC Extension, Health Commission, Sierra Club, other interested parties. The County Counsel's office has reviewed the ordinance as to form and legal effect.					
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? <input type="checkbox"/> Permanent _____ <input type="checkbox"/> Limited Term _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Temporary Help _____					
(13) SUPERVISOR DISTRICT(S) 1st, 2nd, 3rd, 4th, 5th <u>All</u>			(14) LOCATION MAP <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A		
(15) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Hearing (Time Est. _____) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business (Time Est. _____)			(16) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions (Orig + 4 copies) <input type="checkbox"/> Contracts (Orig + 4 copies) <input checked="" type="checkbox"/> Ordinances (Orig + 4 copies) <input type="checkbox"/> N/A		
(17) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input type="checkbox"/> Attached <input type="checkbox"/> N/A			(18) APPROPRIATION TRANSFER REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input type="checkbox"/> N/A		

(19) ADMINISTRATIVE OFFICE REVIEW	<i>ok - Dan Backshi</i>	<i>B-1 (2-7-06)</i>
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# County of San Luis Obispo • Public Health Department

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San Luis Obispo, California 93406  
(805) 781-5519 • FAX (805) 781-1048

Gregory Thomas, M.D., M.P.H.  
County Health Officer  
Public Health Director

To: Board of Supervisors

From: Gregory Thomas, MD, Health Officer/Public Health Administrator

Date: February 7, 2006

Subject: Introduction of a hearing to consider the amendment of the Expiration Date for Ordinance 3023: Moratorium on the Land Application of Treated Sewage Sludge/Biosolids

## Recommendation

Introduction of a proposal to amend the expiration date for Ordinance 3023: Moratorium on the Land Application of Treated Sewage Sludge/Biosolids from March 2, 2006 to February 28, 2010, and set February 28, 2006 as the date for a public hearing to consider approval of the amendment.

## Background

Since 1998, the issue of the land application of biosolids (for ease of readership, “treated sewage sludge/biosolids” is hereafter referred to as “biosolids”) has been the subject of two separate efforts to guide public policy in San Luis Obispo County. Both efforts included public and local agency participation in working groups. Concern over a proposal in 1998 to apply biosolids to ranch property near San Miguel led the County Health Commission to form a task force. The Health Commission Task Force explored wastewater treatment and disposal issues as it related to federal, state and local regulations, with specific interest in the land application of biosolids.

On February 8, 2000, the Board directed the Public Health Department to convene a public working group to consider options for managing the land application of biosolids. Pursuant to the Board’s direction, the Public Health Department convened a public working group that was referred to as the San Luis Obispo County Treated Sewage Sludge/Biosolids Land Application Task Force. The Task Force recommended creation of a local ordinance establishing more stringent requirements for the quality of land applied biosolids, as well as local control and oversight of how, when and where such material may be applied. The Task Force completed its recommendations on October 26, 2001. Presentations were made to the Health Commission on December 10, 2001, and the Planning Commission on December 13, 2001, and January 24, 2002.

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On March 12, 2002, the Board directed the Public Health Department to draft a local ordinance regulating the land application of biosolids based on the recommendations contained in the Task Force report. In order to comply with Board direction, the Task Force reconvened to draft an interim ordinance that would, among other things, limit the acceptance or processing of new land application projects beyond historical amounts of exceptional quality biosolids until a local ordinance is completed.

On March 12, 2003, the original interim ordinance was completed and sent to the Environmental Division of the Planning Department for California Environmental Quality Act (CEQA) review. The CEQA review process was completed on August 29, 2003, where it was determined that the ordinance could not have a significant adverse effect on the environment and a Negative Declaration was issued.

The proposed interim ordinance was then introduced to the Board for approval in February of 2004, and subsequently enacted on March 2, 2004.

In April of 2004, Environmental Health Services informed the Board that it was discontinuing development of a permanent biosolids ordinance in order to address higher priority public health issues, including the impending arrival of West Nile Virus into the county.

Environmental Health Services updated the County Health Commission on February 14, 2005 and January 9, 2006, regarding the performance of the ordinance since its inception.

#### Discussion

On March 2, 2004, the Board approved Ordinance 3023: Moratorium on the Land Application of Treated Sewage Sludge/Biosolids. The moratorium established by the ordinance was to remain in effect until such time as a permanent ordinance regulating the land application of biosolids and exceptional quality biosolids was enacted by the Board, or 24 months from the enactment of the ordinance, whichever occurred first. Exceptional quality biosolids are the highest quality of biosolids regulated under 40 CFR Part 503 Federal Regulations. A definition of exceptional quality biosolids is contained in the ordinance. Due to the prioritization of the mosquito abatement program, a permanent ordinance has not been developed, and the ordinance will sunset on March 2, 2006.

Alternatives to the above recommendation include allowing the ordinance to expire, make the ordinance permanent, and/or direct Environmental Health Services to resume development of a permanent ordinance.

Composted biosolids in 40-pound bags are currently available at most retail nurseries and large hardware stores with nursery sections. This material can be applied by any one without regulatory oversight. Consistent with the availability of commercially bagged composted biosolids, the ordinance exempts the land application of biosolids used in compost. This composted material is comprised of biosolids mixed with green waste. Laboratory tests conducted on locally composted biosolids have shown the product to be significantly below the Federal 503 Regulation limits, including levels for heavy metals, which have been a notable

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concern. Done properly, the use of high quality biosolids in compost has been shown to be a safe and effective way to recycle this natural resource.

If the recommendation is approved, it would result in the continuation of an interim ordinance that allows for the recycling of a natural resource at amounts that do not exceed historic levels of land application, protects the public health and the environment, and allows for the notification of the Public Health Department when biosolids are proposed to be applied to land.

The interim ordinance was developed to limit the acceptance or processing of new land application projects beyond historical amounts of exceptional quality (EQ) treated sewage sludge until a local ordinance could be completed. The purpose of the ordinance is to establish an interim moratorium on the land application of biosolids other than exceptional quality (EQ). Further, it is the intent of this interim moratorium to assure the quantity of exceptional quality (EQ) biosolids applied and distributed in San Luis Obispo County shall not exceed historic levels.

The ordinance:

- Defines biosolids, exceptional quality biosolids and persons regulated by the ordinance. Persons include any individual firm, association, partnership, political subdivision, government agency, municipality, public or private corporation, or any other entity whatsoever.
- Remains in effect for 48 months from its enactment or until a permanent ordinance is adopted, whichever occurs first.
- Requires notification of the Public Health Department, Environmental Health Services Division 30 days prior to the land application of biosolids exceeding or equaling 5 cubic yards.
- Places a cap of 1,500 cubic yards on the cumulative total of exceptional quality biosolids that can be land applied in any 12-month period beginning with the adoption of this ordinance.
- Allows unused capacity to be carried over for a 12-month period.
- "Biosolids" as used in this ordinance also excludes biosolids composted with other organic products such as green waste and sold in bulk form.

In summary, staff recommendation is to amend the expiration date for Ordinance 3023: Moratorium on the Land Application of Treated Sewage Sludge/Biosolids from March 2, 2006 to February 28, 2010, and set February 28, 2006, as the date for a public hearing to consider approval of the amendment.

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### Other Agency Involvement/Impact

County Counsel has been consulted and concurs with the proposed extension of the ordinance. Counsel has reviewed and approved the amended ordinance for form and legal effect.

Numerous other state and local agencies, as well as private citizens, non-profit agencies and other interested parties were involved in the development of the original ordinance. They include the Air Pollution Control District, Agricultural Commissioners Office, Cal Poly, Ecoslo, Environmental Division of County Planning Department, Center for Sludge Information, Regional Water Quality Control Board, San Luis Obispo County Farm Bureau, City of San Luis Obispo Wastewater Treatment Plant, South County Wastewater Treatment Plant, Synagro, University of California Cooperative Extension, San Luis Obispo County Health Commission, Sierra Club and other interested parties.

### Financial Considerations

It is unknown at this time what impact the ordinance might have on revenues for the Public Health Department. It will depend on the number of projects and the amount of time spent on the project approval process. As before, the department anticipates using existing staff to implement the ordinance. An hourly rate will be used to recover the costs of administering this program. Since the original interim ordinance was approved by the Board, there have been no proposals to land apply biosolids that are regulated by the ordinance. Therefore, there have been no expenses associated with this ordinance.

### Results

Since the enactment of the ordinance, no land application projects utilizing biosolids equal to or exceeding five cubic yards have occurred in the unincorporated area of the county. In addition, no complaints have been received associated with land applied biosolids.

Approval of the recommendation would result in the continuation of an interim ordinance that allows for the recycling of a natural resource at amounts that do not exceed historic levels of land application, protects the public health and the environment, and allows for the notification of the Public Health Department when biosolids are proposed to be applied to land.

Enclosures:

1. The existing Ordinance 3023: Interim Moratorium on the Land Application of Treated Sewage Sludge/Biosolids
2. An amended version of Ordinance 3023: Interim Moratorium on the Land Application of Treated Sewage Sludge/Biosolids

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ORDINANCE NO. \_\_\_\_\_  
**AN ORDINANCE TO ESTABLISH AN INTERIM  
MORATORIUM ON THE LAND APPLICATION OF TREATED SEWAGE  
SLUDGE/BIOSOLIDS**

The Board of Supervisors of the County of San Luis Obispo, State of California, ordains as follows:

SECTION I: That Chapter 8.13 of the County Code be added as follows:

**8.13.010 Purpose.**

The Board of Supervisors does hereby find, determine and declare the unregulated application of biosolids as defined in this chapter, also referred to as treated sewage sludge, may pose a risk to the health, safety and welfare of the citizens of San Luis Obispo County. Biosolids contain heavy metals, pathogenic organisms, chemical pollutants, and synthetic organic compounds, which may pose a risk to the public health and the environment if improperly handled. The purpose of this chapter is to establish an interim moratorium on the land application of biosolids other than exceptional quality (EQ). Further, it is the intent of this interim moratorium to assure the quantity of exceptional quality (EQ) biosolids applied and distributed in San Luis Obispo County shall not exceed historic levels.

**8.13.020 Definitions.**

The following words and phrases shall be interpreted as follows:

(1) "Treated Sewage Sludge/Biosolids" mean treated solid, semi-solid or liquid residues generated during the treatment of sewage in a wastewater treatment facility meeting 40 CFR Part 503 requirements specified in Section 503.32 for pathogen reduction, Section 503.33 for vector attraction reduction, and Section 503.13, Tables 1 and 3 for pollutant concentrations. These residues include, but are not limited to scum or solids removed in primary, secondary, or advanced wastewater treatment processes. "Biosolids" as used in this chapter excludes composted and other biosolids products packaged in a bag or container for routine retail sales through regular retail outlets primarily used for landscaping, and excludes those biosolids otherwise disposed of at a regulated landfill. "Biosolids" as used in this chapter also excludes biosolids composted with other organic products such as green waste and sold in bulk form.

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(2) "Exceptional Quality Biosolids" means Class A biosolids meeting the pollutant concentrations in 40 CFR 503.13 Table 3 and have achieved a level of vector attraction reduction required by 40 CFR 503.33. Additionally, Class A biosolids must meet either fecal coliform or *Salmonella* sp. bacterial limits contained in Alternatives 1 through 6 of 40 CFR 503.32(a) to be exceptional quality. For the purposes of this chapter, exceptional quality biosolids are in bulk form and shall not include compost meeting or exceeding exceptional quality criteria.

(3) "Person" means any individual, firm, association, partnership, political subdivision, government agency, municipality, public or private corporation or any other entity whatsoever.

**Section 8.13.030. Interim Moratorium.**

Except as otherwise provided herein, there shall be an interim moratorium on the application or distribution of biosolids and exceptional quality biosolids on any land within the unincorporated areas of San Luis Obispo County. The moratorium established by this Ordinance shall remain in effect until such time as a permanent ordinance regulating the land application of biosolids and exceptional quality biosolids is enacted by the Board of Supervisors, or ~~24~~<sup>48</sup> months from the enactment of this ordinance, whichever first occurs. The moratorium shall apply to any person applying or distributing biosolids in San Luis Obispo County, subject to the following requirements:

(1) Any person who desires to distribute or apply biosolids in a quantity equaling or exceeding 5.0 cubic yards during the period of the moratorium, shall notify in writing the San Luis Obispo County Public Health Department, Division of Environmental Health thirty (30) days prior to application or distribution; and

(2) The Division of Environmental Health shall not authorize more than a cumulative total of 1,500 cubic yards of exceptional quality biosolids to be applied or distributed within the unincorporated areas of San Luis Obispo County during any twelve-month period beginning with the adoption of this ordinance. If the cumulative total of exceptional quality biosolids land applied or distributed in a 12 month period is less than 1,500 cubic yards, the remainder shall be carried over to the subsequent 12 month period and added to the 1,500 cubic yards.

(3) The Division of Environmental Health shall be empowered to prohibit any application of biosolids, including exceptional quality biosolids under the following conditions:



- a. Biosolids failing to meet exceptional quality (EQ) standards as described in 40 CFR 503.13 Table 3 and have achieved a level of vector attraction reduction required by 40 CFR 503.33. Additionally, biosolids failing to meet either fecal coliform or *Salmonella* sp. bacterial limits contained in Alternatives 1 through 6 of 40 CFR 503.32(a).
- b. The application of biosolids is in excess of the cumulative total limitation set forth above in paragraph 2.
- c. The applicant cannot provide documentation of biosolids meeting EQ standards.

(4) The Environmental Health Division shall develop policies and procedures to implement the requirements of this ordinance.

Section 8.13.040. **Penalties**

Any person who violates any provisions of this chapter shall be guilty of a misdemeanor pursuant to chapter 1.04.010.

SECTION II: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or the constitutionality of the remaining portions of this ordinance. The Board of Supervisors hereby declares it would have passed this ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION III: Before the passage of 15 days after adoption of this ordinance, it shall be published with the names of the Board of Supervisors members voting for and against same, once in a newspaper of general circulation published in the County of San Luis Obispo, State of California.

Introduced at a regular meeting of the Board of Supervisors held on the \_\_\_\_ day of \_\_\_\_\_, 2006, and passed and adopted by the Board of Supervisors of the County of San Luis Obispo, State of California, on the \_\_\_\_ day of \_\_\_\_\_, 2006, by the following roll call vote, to-wit:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
Chairman of the Board of Supervisors of the  
County of San Luis Obispo, State of  
California

ATTEST:

\_\_\_\_\_  
County Clerk and Ex-Officio Clerk of the  
Board of Supervisors, County of San  
Luis Obispo, State of California

BY: \_\_\_\_\_

(SEAL)

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.  
County Counsel

By: \_\_\_\_\_  
Raymond A. Biering  
Deputy County Counsel

Dated: \_\_\_\_\_, 2006.

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(2) "Exceptional Quality Biosolids" means Class A biosolids meeting the pollutant concentrations in 40 CFR 503.13 Table 3 and have achieved a level of vector attraction reduction required by 40 CFR 503.33. Additionally, Class A biosolids must meet either fecal coliform or *Salmonella* sp. bacterial limits contained in Alternatives 1 through 6 of 40 CFR 503.32(a) to be exceptional quality. For the purposes of this chapter, exceptional quality biosolids are in bulk form and shall not include compost meeting or exceeding exceptional quality criteria.

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SECTION III: Before the passage of 15 days after adoption of this ordinance, it shall be published with the names of the Board of Supervisors members voting for and against same, once in a newspaper of general circulation published in the County of San Luis Obispo, State of California.

Introduced at a regular meeting of the Board of Supervisors held on the \_\_\_\_ day of \_\_\_\_\_, 2006, and passed and adopted by the Board of Supervisors of the County of San Luis Obispo, State of California, on the \_\_\_\_ day of \_\_\_\_\_, 2006, by the following roll call vote, to-wit:

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AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
Chairman of the Board of Supervisors of the  
County of San Luis Obispo, State of  
California

ATTEST:

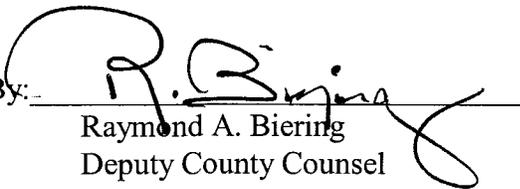
\_\_\_\_\_  
County Clerk and Ex-Officio Clerk of the  
Board of Supervisors, County of San  
Luis Obispo, State of California

BY: \_\_\_\_\_

(SEAL)

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.  
County Counsel

By:   
Raymond A. Biering  
Deputy County Counsel

Dated: 1/24, 2006.

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