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Oct. 3, 2022

**By Email**

Clerk  
San Luis Obispo County  
Air Pollution Control District Hearing Board  
3433 Roberto Court  
San Luis Obispo, CA 93401

**Re: Comments of Friends of Oceano Dunes; SLO APCD Hearing Board Agenda Re Virtual Meeting; October 4, 2022**

Dear Clerk and Hearing Board Members:

This firm represents Friends of Oceano Dunes, a California nonprofit watchdog association, which represents approximately 28,000 users of Oceano Dunes SVRA (“Friends”).

Friends submits these comments with respect to the above-referenced agenda item.

First, Friends questions whether a state of emergency truly exists that would warrant a virtual meeting. As Joe Biden recently proclaimed “the pandemic is over.” Emergency powers should be invoked only in situations where there is truly an emergency. No such emergency presently exists that would warrant a virtual meeting.

Second, if the Hearing Board invokes the emergency virtual meeting procedures anyway, the Hearing Board’s procedures conflict with and are preempted by AB 361. AB 361 provides: “The legislative body shall **not** require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.”

With respect to the Hearing Board’s Oct. 4, 2022 meeting and its Oct. 14, 2022 meeting, the Hearing Board is directing the public to submit written comments and materials by 1 pm the day before said hearing. As stated above,

AB 361 prohibits any requirement that the public submit comments “in advance of the meeting.”

The Hearing Board’s requirement that the public submit comments in advance violates AB 361, and causes prejudice to Friends and the public. For instance, for the October 14, 2022 meeting, the hearing Board is releasing the agenda on Oct. 10, 2022 (which is a Holiday), and demands public comments no later than Oct. 13, 2022 at 1 pm. Thus, the Hearing Board’s procedures reduce the extremely short period of time for comment by a day. Given the complexity of these issues, that is significant and burdens Friends’ and the public’s ability to submit meaningful comments.

Any action taken by the Hearing Board with these unlawful procedures in place will be void.

Sincerely,

/s/

Tom Roth

cc: Jim Suty  
Tara Lynch

**ORDER TO TERMINATE PROCLAMATION OF  
LOCAL EMERGENCY  
COUNTY OF SAN LUIS OBISPO**

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a state of emergency due to the presence of and threat of corona virus (COVID-19); and

WHEREAS, on March 13, 2020, the Emergency Services Director of San Luis Obispo County proclaimed a local emergency pursuant to Emergency Services Act (Government Code, Sections 8558, subdivision (c) and 8630) and San Luis Obispo County Code Chapter 2.80 because of the worldwide COVID-19 pandemic; and

WHEREAS, on March 17, 2020, the Board of Supervisors for the County of San Luis Obispo ratified the Emergency Services Director's Proclamation of Local Emergency and delegated authority to terminate the local emergency at the earliest possible date that conditions warrant such termination; and

WHEREAS, the emergency powers necessary to respond to COVID-19, such as utilization of Disaster Service Workers, expedited contracting, and marshalling of supplies and services are no longer necessary to address COVID-19; and

WHEREAS, should COVID-19 conditions change such that cases and rate of community transmissions increase and hospitalizations rise to a level that there is a significant danger to the health and safety of the community and the ability to provide adequate healthcare, this Order will be reinstated and thereafter reviewed and ratified by the Board of Supervisors.

NOW THEREFORE, under the authority of California Emergency Services Act (Government Code, Section 8550 et seq.) and San Luis

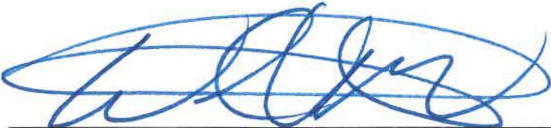
Obispo County Code Chapter 2.80, the Emergency Services Director of the County of San Luis Obispo orders:

1. That the Proclamation of Local Emergency dated March 17, 2020, is hereby terminated.

2. Nothing in this order is intended to affect, modify or alter any orders or guidance issued by the Governor of the State of California or the State Public Health Officer relating to COVID-19.

3. A copy of this Order shall be: (1) posted on all outside public access doors of the new County Government Center for a period of 30 days; (2) posted in one public place within any area of the County of San Luis Obispo for a period of 30 days; (3) provide copies to any member of the public and/or media requesting a copy.

IT IS SO ORDERED:



Wade Horton  
Emergency Services Director  
County of San Luis Obispo

Date: 25 FEB 2022

Time: 0940

**ORDER TO TERMINATE DECLARATION OF LOCAL HEALTH  
EMERGENCY  
COUNTY OF SAN LUIS OBISPO**

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a state of emergency due to the presence of and threat of corona virus (COVID-19); and

WHEREAS, on March 13, 2020, the County Health Officer of San Luis Obispo County declared a local health emergency pursuant to Health and Safety Code, Section 101080, because of the worldwide COVID-19 pandemic; and

WHEREAS, on March 17, 2020, the Board of Supervisors for the County of San Luis Obispo ratified the County Health Officers of Declaration of Local Health Emergency and delegated authority to terminate the local health emergency at the earliest possible date that conditions warrant such termination; and

WHEREAS, COVID-19 conditions continue to improve across the State of California as cases and rate of community transmission have steadily declined since early February; and

WHEREAS, the emergency powers necessary to respond to COVID-19, such as utilization of Disaster Service Workers, expedited contracting, and marshalling of supplies and services are no longer necessary to address COVID-19; and

WHEREAS, should COVID-19 conditions change such that cases and rate of community transmission increase, and hospitalizations rise to a level that there is a significant danger to the for the health and safety of the community and the ability to provide adequate healthcare,

this Order will be reinstated and thereafter reviewed and ratified by the Board of Supervisors.

NOW THEREFORE, under the authority of California Health and Safety Code section 101080 the Health Officer hereby orders:

1. That the Declaration of Local Health Emergency dated March 13, 2020, is hereby terminated.

2. Nothing in this order is intended to affect, modify or alter any orders or guidance issued by the Governor of the State of California or the State Public Health Officer relating to COVID-19.

3. Copies of this order shall promptly be: (1) posted on all outside public access doors of the new County Government Center for a period of 30 days; (2) made available at the Health Agency Division of Public Health located at 2191 Johnson Ave., San Luis Obispo, CA 93401 for a period of 30 days; (3) provided to any member of the public requesting a copy of this order.

IT IS SO ORDERED:



PENNY BORENSTEIN, M.D.

County Health Officer

Date: 2/25/2022  
Time: 09:40