



Public Works Agency  
Engineering Services  
Department

# County of Ventura New Grading Ordinance

Presentation of Concept to  
the Board of Supervisors

December 15, 2009

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## Why We Are Here

- In Fall 2007 Your Board approved the existing Grading Ordinance and asked for the following revisions:
  - Make the County responsible for all permitting and enforcement, including HECO
  - Revise and incorporate the Hillside Erosion Control Ordinance (HECO) provisions into the grading ordinance
  - Improve the protection of waterways and wetlands from adjacent grading activities
  - Improve enforcement to include Civil Administrative Penalties and an appeal process
- Upon review of the existing Grading Ordinance it became clear that a complete rewrite of the Ordinance was needed to meet the objectives above
- **Purpose of today's presentation is to explain the concept of the new ordinance, present options for achieving stated objectives and receive comments/direction from your Board**

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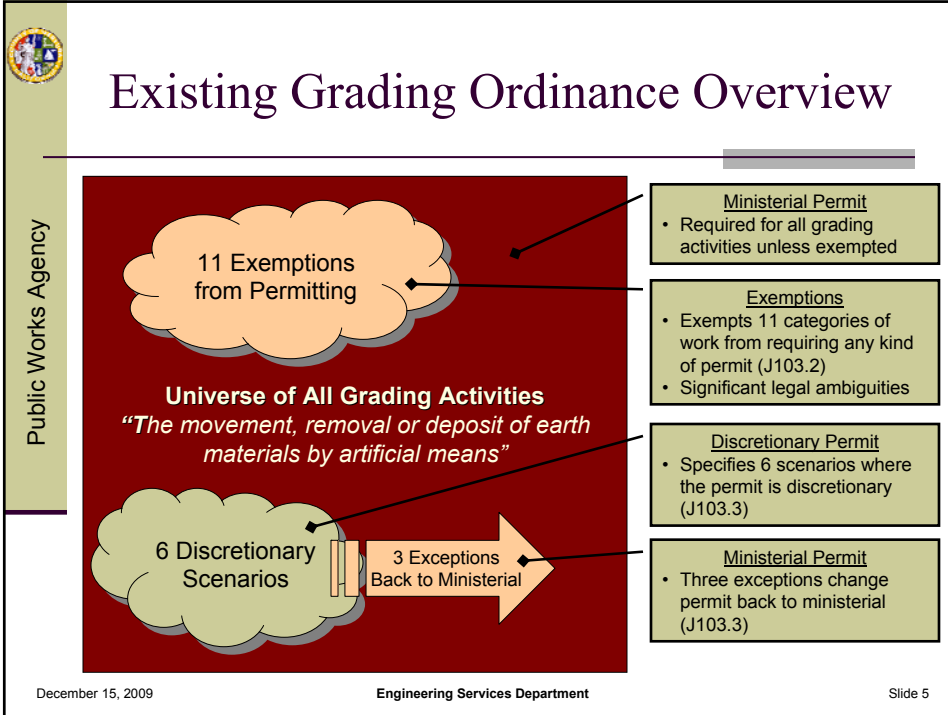
## Presentation Overview

- Background of the Existing Grading and HECO Ordinances
  - Grading and HECO
- Overview of the Existing Grading Ordinance
- Goals and Intent of the New Grading Ordinance
- Overview of the new Grading Ordinance
- Grading Standards
- Agricultural Grading
- Future Role of the Resource Conservation District
- Permitting Requirements
- Protection of Waterways and Wetlands
- Enforcement and Appeals
- Public Outreach
- Next Steps



## Background of Existing Ordinances

- Grading Ordinance
  - Included as Appendix J of the Ventura County Building Code and last updated in 2007
  - Although located in the Building Code the provisions are administered and enforced by the Director of Public Works
  - Contains subjectivity in ministerial process
  - Contains loopholes that allow higher risk activities to occur unpermitted
- Hillside Erosion Control Ordinance (HECO)
  - A separate, uncodified ordinance administered by the Resource Conservation District (RCD) and enforced by PWA
  - Authorizes agricultural hillside grading by permit issued by RCD known as HECO Plan (substitute grading permit from PWA)



- Goals of the New Grading Ordinance**
1. Move provisions from the Building Code to a single codified ordinance
  2. Incorporate hillside erosion control
    - Currently a separate ordinance (HECO)
  3. Establish and apply standards to all grading activities but not necessarily require a permit for all activities
    - Close loopholes
  4. Simplify process for determining permitting requirements
  5. Clearly define the intent of the ordinance and target grading standards to meet ordinance objectives
  6. Include Civil Administrative Penalties and an Appeal process
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## Intent of the New Grading Ordinance “What Are We Protecting”

### Do

- Protect Property Owners
  - Current and future owners of property being improved
  - Owners of adjacent & downstream properties
- Protect the General Public
  - Unsafe grading practices
  - Public nuisances
- Protect the Environment
  - Erosion of material into waterways
  - Promote natural contouring
- Alignment with County Policies

### Do Not

- Burden owners with administrative requirements for low risk activities
- Create duplication or potential conflict with other laws
- Unnecessarily increase the cost of compliance



## New Grading Ordinance Overview

**Universe of All Grading Activities**  
*“The movement, removal or deposit of earth materials by artificial means”*

### Grading Standards

- All grading activities must comply with Standards
- All non-compliant grading activities are subject to enforcement



## What Are Grading Standards?

- Methodologies tailored to specific grading activities that must be followed
  - Designed to meet the intent of the ordinance
  - Addresses all grading activities including agricultural, development, hillside, oil field, etc.
- Established based on:
  - Common practices
  - Input from established sources and stakeholders
  - Consistent with other County land use policies
- Incorporated by reference into the ordinance
- Will be readily available on the County web site

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## Sample List of Grading Standards

- |   |                                    |
|---|------------------------------------|
| ■ Agricultural  | ■ Reservoir And Basin Construction |
| ■ Blasting  | ■ Slope Construction               |
| ■ Clean-Ups (Pollutants, Debris, etc.)                        | ■ Stockpiles                       |
| ■ Contouring  | ■ Surface and Subsurface Drainage  |
| ■ Development   | ■ Swimming Pools                   |
| ■ Erosion Control   | ■ Temporary Excavations            |
| ■ Exploratory Excavations                                     | ■ Transportation                   |
| ■ Fill Placement  | ■ Travel Paths (Roads and Trails)  |
| ■ Oil Fields  | ■ Utility Excavations              |
| ■ Parking Lots  |                                    |
| ■ Permanent Impervious Surfaces (Patios, Tennis Courts, etc.) |                                    |

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## Agricultural Grading Standards


- Public Works will develop the draft standards using input provided by the Resource Conservation District based on the Natural Resources Conservation Service “Conservation Practice Standards”
- Standards will apply to all flatland and hillside grading but permits may not be required for all flatland and hillside grading
- The threshold of when a ministerial grading permit is required (if at all) will be determined in coordination with key stakeholders



## The Future Role of the Resource Conservation District (RCD)

- The County will have the lead on developing all standards, issuing all permits, and all enforcement actions
- The RCD will serve as a consultant to the County on flatland and hillside grading, as needed, in the following areas:
  - Standards Development
    - Assist in the creation of standards that apply to all agricultural grading
    - Conduct studies with cooperative property owners to validate and improve effectiveness of standards
  - Ministerial Permitting
    - Assist in grading plan review
    - Assist with inspections during grading
  - Enforcement
    - Refer violations of the standards to the Public Works Agency or RMA's Enforcement Division for enforcement

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## New Grading Ordinance Overview

Ministerial  
Permit

**Universe of All Grading Activities**  
*"The movement, removal or deposit of earth materials by artificial means"*

Grading Standards


- All grading activities must comply with Standards
- All non-compliant grading activities are subject to enforcement

Ministerial Permit

- County oversight to ensure compliance with Grading Standards
- County inspect project to ensure Standards are being met

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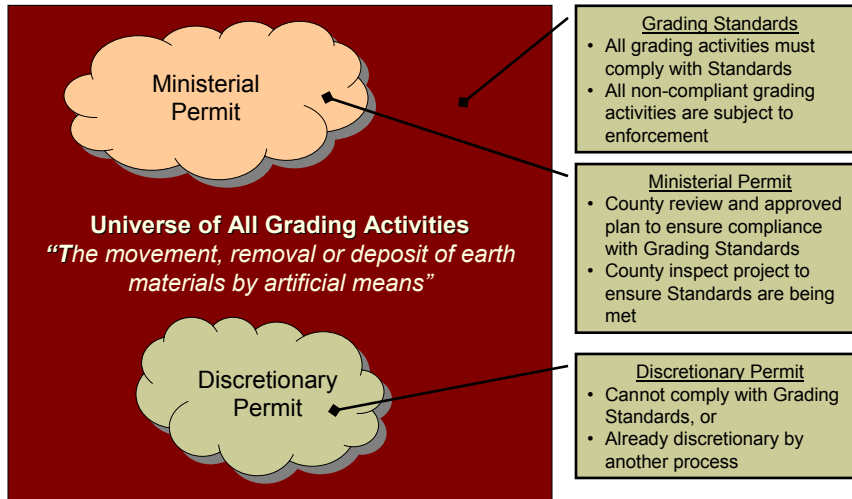
## Grading Activities Requiring a Ministerial Permit (Oversight)

Activity	Trigger
Development	Grading Associated with a Building Permit
Geostabilization	Projects Requiring Soils or Geology Reports
Cuts and Fill Slopes	Slopes steeper than 2:1 in gradient
Excavations	Excavations greater than 4 feet
Paths of Travel	All paths greater than 10' wide
Impervious Flatwork Areas (no Building Permit)	Areas Greater Than 400 sq. ft.
Agriculture (hillside)	New Agriculture
Blasting	All Blasting Operations
Reservoirs, Dams, and Water Impounding	All Projects
Waterways	All Projects - If F&G SAA is Required than Discretionary
Abatement of Violation as Necessary	Violation Without Prior Permit

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## New Grading Ordinance Overview



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## Examples of When a Discretionary Permit Would be Required

- Cannot comply with Standards
- Already Discretionary by Another Process
  - Subdivision Ordinance
  - Coastal Zoning Ordinance
  - Non-Coastal Zoning Ordinance

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## Recommended Protections to Waterways and Wetlands

- Comprehensive erosion control standards will apply to all grading projects (not just those requiring a permit)
  - Strict limits on erosion to meet NPDES requirements
- Grading within a wetland is discretionary
- Grading within a waterway that also requires a F&G Streambed Alteration Agreement is discretionary
  - Ministerial permit required for all other grading within a designated waterway
- All Ministerial Permits would include:
  - Permittee sign wetland acknowledgment statement
  - Fish & Game notification if near red or blue line channel
- Any Violation of the Standards (with or without a permit) would trigger an enforcement action



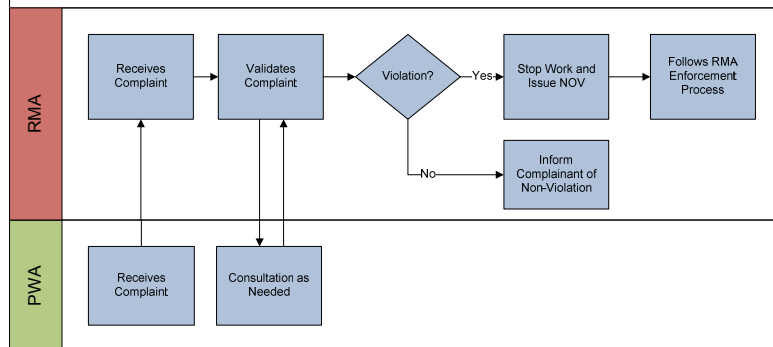
## Enforcement and Appeals

- Enforcement
  - Any violation of a Grading Standard is subject to enforcement regardless of whether or not a permit was required/issued
  - Knowledge of violations through complaint process and inspections
  - Coordinating with RMA to create single enforcement agent
- Appeals
  - Appellate process for permit decisions and enforcement actions



## Code Enforcement Process

### Code Enforcement Process (simplified)



Civil Administrative Penalties being addressed by separate ordinance



## Permitting Exceptions for Public Entities

- Some Public entities are excepted from having to obtain a ministerial permit but they are still required to follow all Grading Standards
  - Public Works Agency performing maintenance on County property
  - Public Utilities installing, repairing, or maintaining underground piping (facilities)
  - Cities and CALTRANS working within their own rights of way



## Public Outreach

- 10/20/09 – Met with RCD Board to present conceptual plan and receive comments
- Meetings with various stakeholders to review proposed grading standards
  - Agricultural Community
  - Property Owners
  - Developers
  - Environmental Groups
  - Oil Field Operators
  - Others



## Next Steps

Action	Date
Receive comments and direction from the Board	Today
Workshops on Standards for interested parties	Jan-Feb 2010
Finish draft ordinance and grading standards	Late Spring 2010
Present final ordinance and standards to the Board for adoption	Late Spring 2010



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Questions, Comments, and Direction

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## The Challenges With Wetlands and Buffers

- Public Works is not the lead agency on land use or environmental protection
- Consulted with many stakeholders
  - Resource Management Agency
  - CA Fish and Game
  - FEMA
  - County Counsel
  - Watershed Protection Agency

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## The Challenges With Wetlands and Buffers

- The General Plan wetland protection policies only apply to discretionary projects; not ministerial permits
- Identifying location of wetlands is cumbersome
  - There are no existing maps that reliably identify wetlands
  - Wetland locations change over time
  - Accurate identification of a wetland requires a specially trained professional (usually a biologist)
- Once the wetland is identified, should grading also be prohibited in a buffer zone around the wetland?
  - What distance from the wetland is necessary for a grading buffer?
    - 50', 100', 300', what is the basis?
  - Should there be any exceptions for grading within the buffer
    - Agriculture, existing agriculture only, others?

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## Identification of Wetland Locations

- County Wide Mapping
  - Current County maps identify watercourses, floodways, floodplains, and channel locations but not wetlands
  - County and National wetland inventory maps are not accurate enough to be used for regulatory purposes
  - RMA would need to create an overlay zone in GIS to identify all wetland areas within the County
    - Significant funding would be required
- Case-By-Case Basis
  - Qualified biologist evaluates to determine if grading project is in a wetland

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## Case-By-Case Basis

- Biologist determine if project is within a wetland (or buffer if adopted)
  - Estimated cost ~ \$600 to \$1000
- Which projects would need a determination?
  - Require all ministerial projects to obtain a biologist's determination?
  - Only ministerial projects within a "Probable Wetland Area"?
    - Options for defining "Probable Wetland Area" will be presented

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## Options To Determine "Probable Wetland Area"

- Use one of the following existing overlays in GIS that would show where wetlands are most likely to exist
  1. RMA Watercourse Buffers
  2. PWA Red Line Channels + FEMA Floodplain Maps
  3. PWA Red + Blue Line Channels + FEMA Floodplain Maps
- Probable Wetland Area would include all parcels that touch these overlay areas

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## Summary of Parcels Impacted By Option

Option	Probable Wetland Area Defined By	Parcels <sup>1</sup>
1	Red Line Channels <sup>2</sup> + Floodplain Maps	12,141
2	Red Line & Blue Line Channels <sup>2</sup> + Floodplain Maps	16,143
3	RMA Watercourse Buffer Map + Red Line & Blue Line Channels <sup>2</sup> + Floodplain Maps	17,165

Total unincorporated area parcels = 43,245

Notes:

<sup>1</sup> Approximate number of parcels in the unincorporated areas where any portion of the parcel is located within the area described.

<sup>2</sup> Red Line and Blue Line Channel Maps defined by center of channel plus 300' on both sides.

<sup>3</sup> Reducing the 300' buffer down to 50' does not appreciably change the parcel count.

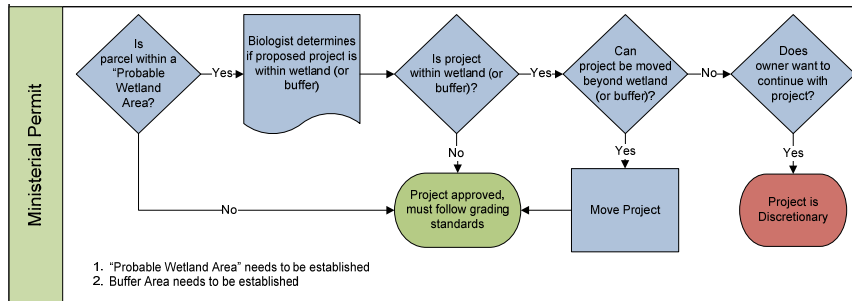


## Should a Wetland Buffer Be Adopted?

- The Grading Standards will protect against erosion and prohibit grading in a wetland unless authorized by a discretionary permit
- Should the prohibition also include a wetland buffer?
- If yes, then what size buffer should be used?
  - General Plan Policy 1.5.2-4 requires discretionary development be sited 100 feet from significant wetland habitat; buffers may be increased or decreased as recommended by a biologist
  - As noted, there is no General Plan wetland policy applicable to ministerial permits



## Optional Ministerial Permit Process with Affirmative Wetland Identification



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## Summary of Options for Addressing Wetlands

1. As Recommended in Presentation
  - Grading Standards prohibit grading in wetlands and protect against grading impacts to wetlands
  - No advance determination of wetland location required
  - If a ministerial grading permit is required
    - Project will be reviewed and inspected by staff
    - CA Fish and Game will be notified
    - Sign wetland acknowledgment statement
  - If project is discretionary then General Plan policies and CEQA apply
2. Affirmative Determination of Wetland Location
  - Develop Wetland Map – overlay grading activity on map
  - Case by Case - Biologist Letter to Identify if proposed grading activity is in wetland
    - All ministerial permits get biologist letter?
    - Only ministerial permits within "Probable Wetland Area" require determination
      - Which Probable Wetland Area should be used?
3. Should grading also be restricted in a buffer area around the wetland?
  - What size buffer should be adopted?

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