



SUMMARY REPORT

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**Agenda Date:** 7/19/2022

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**To:** Board of Supervisors

**Department or Agency Name(s):** Emergency Management, Office of Equity, Agriculture/Weights & Measures, Sheriff's Office

**Staff Name and Phone Number:** Chris Godley / 565-1152; Alegria De La Cruz / 565-8980; Andrew Smith / 565-2370; James Naugle / 565-2781

**Vote Requirement:** Majority

**Supervisorial District(s):** Countywide

**Title:**

Evacuation Zone Access for Agriculture and Livestock Producers Ad Hoc Committee Workshop

**Recommended Action:**

- A) Receive Ad Hoc Committee Report Update on Evacuation Zone Access for Agriculture and Livestock Producers.
- B) Review program options, select preferred choice, and direct staff to develop and implement a County Agriculture and/or Livestock Access Program.
- C) Provide program development input for the Immediate Needs Disaster Fund; and t the creation of an Agriculture/Livestock Low Wage Worker Disaster Pay Program.

**Executive Summary:**

As wildfires in Sonoma County continue to increase in frequency and intensity, the threat to life, property and infrastructure has resulted efforts to provide agricultural producers with access to evacuated areas while also ensuring resident and worker safety.

To date, there is no uniform approach by California counties to develop or administer county-level Agriculture/Livestock Access Programs. The development and implementation of an access program may require both near- and long-term efforts. In early 2022, the Board established an Ad Hoc Committee made up of Supervisors Hopkins and Coursey to "identify local and state efforts that address evacuation zone access with a focus on farmworker protections and other access issues (livestock and animals, commercial activities, etc.). The Ad Hoc will look at Ag pass programs and state legislation. Engage with stakeholders." (See Board Assignments Ad-Hoc description at <https://sonomacounty.ca.gov/administrative-support-and-fiscal-services/board-of-supervisors/assignments/ad-hoc-committees>.)

With the support of staff, the Evacuation Zone Access Board Ad Hoc Committee, Supervisors Coursey and Hopkins, will provide an overview on the efforts undertaken towards developing a County Agriculture and/or Livestock Access Program.

In addition, the workshop is intended to collect public input that may inform the Board's direction to staff to regarding development of an access program as well as the proposed Immediate Needs Disaster Fund and

Agriculture/Livestock Low Wage Worker Disaster Pay Program.

As of June 15, 2022, the Ad Hoc Committee had conducted six meetings to review recent County efforts, review existing guidance/practices, identify and assess potential options, address media communications, and prepare this subject for discussion by the Board of Supervisors. Staff conducted a scan of relevant authorities, requirements, and guidance. Results have been incorporated into a staff report (Attachment 1). Prior to this effort, the Office of Equity and Agriculture/Weights & Measures invited 43 stakeholder groups to meet and provide feedback on previous access program efforts and conducted 18 stakeholder meetings.

In sum, staff seeks the Board's guidance and recommends establishing a formal Agriculture/Livestock Access to Evacuation Zone program and separately seeks the Board's guidance regarding development of farmworker protections and/or support.

**Discussion:**

Background

See Attachment 1 (Staff Report) for a complete discussion of Agriculture/Livestock Evacuation Zone Access practices and legislation, as well farmworker protections and support. □

AGRICULTURE/LIVESTOCK EVACUATED AREAS ACCESS

In relatively rare circumstances, a hazard (such as wildfire or flood) may no longer threaten an area that has been subject to mandatory evacuation or conditions have changed which may reduce the immediate life safety threat but where key personnel have not had the opportunity to conduct necessary work to ensure complete safety and widely re-open the area to all residents.

At this point, it may be possible to allow limited re-entry for agricultural and livestock producers. Thus, a pre-established access program could potentially provide agricultural farm owner-operator or livestock producers and their employees with limited access to areas that may otherwise be restricted to the public, in order to:

1. Evacuate, transport, shelter, feed, water, administer veterinary or other care to livestock and/or irrigate crops;
2. Fuel emergency generators (CR) necessary to maintain water supply, refrigeration, ventilation, dairy functions, or animal health;
3. Conduct critical agricultural activity\*; and/or
4. Provide auxiliary support to peace officers and emergency personnel (such as identifying access roads and water points).

\*Critical agricultural activity needs to be defined or staff needs to be directed to define.

Under an established program, agriculture/livestock operators are vetted and provided with identification cards before a disaster incident. During a disaster - and when public safety officials determine it is safe to provide limited entry into an evacuated area - the agriculture/livestock operators present their identification cards to law enforcement in the field. Law enforcement will verify the identification card holder's identity and connection to and the existence of a bona fide commercial agriculture operation, as well as the location of such operation. It is important to underscore that an access identification card does not grant permission to ignore evacuation orders, nor does it grant free passage into evacuation areas.

There are a number of new and potential government authorities that may apply to any access program the County may consider developing. Chief among these is Assembly Bill (AB) 1103 which was signed in October

2021. AB 1103 authorizes, but does not require, counties to establish a “livestock pass program” for issuing identification documents granting any qualifying livestock producer or a managerial employee, access to the qualifying livestock producer's ranch property, or to the ranch property owned by another holder of a livestock pass, during or following a flood, storm, fire, earthquake, or other disaster. Access is to only be granted for the “purposes of sheltering, moving, transporting, evacuating, feeding, watering, or administering veterinary care to livestock.” The new statutes require any program to comply with several mandates including documentation requirements, minimum training, and that only managerial employees may participate but that they are not required to obtain a pass or be present during a disaster.

### Program Options

- 1) Option 1: Restrict all access  
Do not adopt any access policy, program, or procedure for agricultural/livestock producers. Maintain hard closures during incidents and support re-entry once the area is made safe for all residents.
- 2) Option 2: Incident-Specific Access  
As with incidents in 2017, 2019, and 2020, continue to develop agriculture/livestock access procedures as needed for each specific incident as conditions and resources permit.
- 3) Option 3: Livestock Only Access Program  
Develop and implement a County Access Identification program as per the scope and requirements of AB1103. Serves as a stand-alone or companion access program for livestock producer operations only.
- 4) Option 4: Sheriff's Office Access Program  
Defer to the Sheriff's authority under PC 409.5 to determine if an Agriculture/Livestock Access Program is needed and to develop/implement an access program; or authorize the Sheriff to develop an Agriculture Agriculture/Livestock Access Program.
- 5) Option 5: Board of Supervisors Authorized Access Program  
Direct staff to develop policies, procedures, tools, and resources needed to support a comprehensive Agriculture/Livestock Access Program. Subsequently, take Board action to adopt policies and approve resources to implement the program.

### Access Program - Recommendations

Staff recommends Option #3 at a minimum and/or Option #4 or #5.

A fundamental consideration is which organizations and which individuals may participate in any access program. This determines both the scope of any program, as well as resulting consequences to worker safety and impacts to racial and social equity. Potential participants may be commercial plant agriculture producers/growers and/or livestock producers (includes apiary/bees). There are several measures used by counties and the state to determine if an agriculture enterprise is a commercial operation qualified to participate including legal status/registration, zoning, production permits, parcel size, or minimum number of animals (See Attachment 1). In the case that a program results in preventing non-managerial workers from working during a disaster (as in past years), farmworkers may experience lost pay. In the case that a program results in non-managerial employees' presence in evacuation zones, increased worker protections like hazard

pay, access for community safety observers, clean bathrooms and drinking water, additional personal protective equipment, and ensuring provision of training in relevant languages may be appropriate.

#### Participant Training

Training can address organizational and personal preparedness and can contain many subjects and delivery considerations. Training may be provided both for the initial participation in an access program as well as a modified version for ongoing or renewal of program participation.

AB 1103 requires the State Fire Marshal to develop a 4-hour training curriculum by January 1, 2023 for use by counties if they implement a Livestock Access Program. Additional training subjects could be added to existing or the new state training curriculum including Employer Emergency Action Plans, air quality and monitoring, health hazards, employee rights and labor protections, and health resources.

#### Program Administration

The authority for administering this program would be delegated to Agriculture/Weights and Measures and the Sheriff's Office.

During an emergency, resources needed to fully implement the program would be developed and coordinated as per the authorities and policies outlined in the County's Emergency Operations Plan. Depending on the nature and scope of a County access program, considerations for monitoring compliance with program requirements may need to be addressed as well as potential consequences for non-compliance.

#### Community Information/Engagement

Given the reasons for an access program and the issues to be addressed, stakeholder engagement and collaboration will be vital in the program's implementation and ultimate success. Consideration should be given to communication to all stakeholders, including growers and producers, livestock owners, farmworker and other advocacy/community groups.

Pursuant to the County is committed to translate all disaster preparedness and response information, all access program materials will be available in English and Spanish. Additional interpretation of materials and information into indigenous languages may also be appropriate. In addition, public information regarding the access program would be integrated *via* the County's Emergency Operations Plan.

#### FARMWORKER SUPPORT INITIATIVES

In addition to identifying and suggesting programs and resources that should be created to serve the broader farmworker community, farmworker advocacy groups have requested additional worker protections and support resources be implemented during wildfire emergencies.

During the FY22-23 Budget Hearings, the Board set aside a total of \$3,000,000 to support two different disaster support programs. Staff recommends programming uses as follows:

#### Immediate Needs Disaster Fund, \$2 million.

This fund would provide rapid financial assistance to Community Based Organizations (CBOs) at the outset of a major disaster in order to augment their capacities to serve communities disproportionately impacted by disaster. Policy and procedures would be developed by County departments including Human Services, Office

of Equity, and Department of Emergency Management in partnership with the Community Organizations Active in Disaster (COAD) and Community Urgent Response and Aid (CURA) organizations as a component of the Culturally Responsive COVID-19 Disaster Response and Long-Term Recovery project that will start in FY22-23. This fund is not intended to serve only farmworkers but could provide resources for that community. Further information will be presented to the Board on this program by the end of the calendar year.

Agriculture/Livestock Low Wage Worker Disaster Pay Replacement Program, \$1 million.

As part of the discussion of this request, Board members acknowledged the need to assist farmworkers during disaster along with the reality that pay replacement or unemployment insurance programs are the responsibility of the state. As a result, staff will incorporate the themes from that discussion with the development of the Immediate Needs Disaster Fund program and will return to the Board with a concept to address this interest in by the end of the calendar year, when further information on the Immediate Needs Disaster Fund is presented.

Legislative Advocacy Recommendations

- A. Address Unemployment Insurance/Insurance for Lost Pay for Undocumented Farmworkers by directing staff to pursue one or more of the following actions:
  - 1) Incorporate into the County's legislative platform, advocacy for expansion of current USDA insurance coverage provided to agricultural/livestock producers to provide for lost pay upon proclamation of a local or state disaster.
  - 2) Incorporate into the County's legislative platform, advocacy for expansion of the California Unemployment Insurance program to cover undocumented workers and lost or unavailable work due to a disaster. Assess pending legislation (AB2847) to determine if that would provide the same protections and if so, advocate for its adoption.
  - 3) Evaluate the potential to team with and/or lead other California counties (ex. CSAC or RCRC or with Monterey, Santa Barbara, and Ventura counties) on an initiative to seek legislation to address farmworker health and safety protections.
  - 4) Amend the County's Strategic Plan and add an objective for this advocacy in the Equity Pillar.
- B. Address Hazard Pay for Farmworkers in Areas Subject to Mandatory Evacuation by directing staff to pursue one or more of the following actions:
  - 1) Evaluate the potential to team with and/or lead other California counties on an initiative to address farmworker protections through legislation.
  - 2) Amend the County's Strategic Plan and add an objective for this advocacy in the Racial Equity and Social Justice Pillar.

Note: Responsible departments may need resources to support the policy and advocacy work associated with these recommendations.

**Strategic Plan:**

This item directly supports the County's Five-year Strategic Plan and is aligned with the following pillar, goal, and objective.

**Pillar:** Racial Equity and Social Justice

**Goal:** Goal 3: Ensure racial equity throughout all County policy decisions and service delivery.

**Objective:** Objective 2: Collaborate with community members and stakeholder groups to develop racial equity strategies for County emergency response, economic recovery and resiliency planning efforts.

**Prior Board Actions:**

June 15, 2022 Budget Hearings: Board set aside \$2,000,000 to support an Immediate Needs Disaster Fund and \$1,000,000 to support a proposed Low Wage Disaster Pay Program.

May 3, 2022: Received a status report on efforts to date by the Evacuation Zone Access Ad Hoc Committee.

February 1, 2022: Established an Evacuation Zone Access Ad Hoc Committee.

**FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY 21-22 Adopted</b>	<b>FY22-23 Projected</b>	<b>FY 23-24 Projected</b>
Budgeted Expenses			
Additional Appropriation Requested			
<b>Total Expenditures</b>			
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
<b>Total Sources</b>			

**Narrative Explanation of Fiscal Impacts:**

Fiscal impacts and budget measures needed to support the access program and the \$3M in disaster resources funds will be developed by staff upon receipt of guidance from the Board. Staff will present fiscal and budget considerations upon returning to the Board for approval of the access program (if needed). Staff will present fiscal and budget considerations upon returning to the Board for review of the \$3M in disaster resources funds by the end of the calendar year.

<b>Staffing Impacts:</b>			
<b>Position Title (Payroll Classification)</b>	<b>Monthly Salary Range (A-I Step)</b>	<b>Additions (Number)</b>	<b>Deletions (Number)</b>

**Narrative Explanation of Staffing Impacts (If Required):**

Staffing changes may be needed to support access program development and implementation depending on the access program option indicated and/or as part of the \$3M disaster resources funds yet to be developed.

**Attachments:**

1. Staff Report: Evacuation Zone Access for Agriculture and Livestock Producers
2. PowerPoint Presentation

**Related Items "On File" with the Clerk of the Board:**

None.