

FINAL REPORT

CASE #1202 SAN JOAQUIN COUNTY ENVIRONMENTAL HEALTH

REASON FOR INVESTIGATION:

The 2002-2003 San Joaquin County Civil Grand Jury (Grand Jury) received a complaint dated April 2, 2003, from a resident who lived across the street from a dairy. It was determined that there was insufficient time remaining in their tenure for a full and complete investigation. The complaint was referred to the 2003-2004 Civil Grand Jury for investigation.

BACKGROUND:

The April 2, 2003 complaint alleged the San Joaquin County Environmental Health Department (Environmental Health) refused to enforce codes, laws and ordinances on fly control. Allegations were also made that Environmental Health refused to enforce codes and ordinances for waste management, noise, odor control and lighting. During the 18 years the complainants lived at their residence, no allegations were made about noise, odor or flies until the dairy opened in 2000. After careful review of the complaint, the newly impaneled Grand Jury voted to commence an investigation of Environmental Health for evidence of the reported allegations.

On October 23, 2000, the complainants attended a planning community meeting regarding the building of a dairy across the street from their residence. The complainants asked to have the placement of the dairy set back further from the property line. A decision was made by the planning community to approve the dairy's request as originally planned. County records validated that the dairy property is zoned for agricultural use.

Environmental Health made an inspection of the dairy in 2003 and discovered fly larva. The owners of the dairy denied access to their property for a follow-up inspection. The owners of the dairy obtained legal representation and threatened to file civil litigation for harassment.

METHOD OF INVESTIGATION:

The Grand Jury:

- Reviewed the complainants' allegations on the Environmental Health Regulations Codes for fly control, waste management, noise, odor control and lighting.

- Reviewed policies and regulations regarding Environmental Health complaint policy procedures, local and state requirements for dairy farms, Food and Agriculture Code, and State Regional Water Quality Control Board waste procedures.
- Viewed the complainants' home video of the fly population problem.
- Interviewed Linda Turkatte, Lead Senior Registered Environmental Health Specialist and Donna Heran, Registered Environmental Health Director.
- Subpoenaed the dairy's contracted pest control company responsible for spraying.

FINDINGS:

The Grand Jury Found:

- The San Joaquin County Environmental Health Department determined that the complainants' allegation of noise, odor control and excessive lighting was in the jurisdiction of the Community Development Department. The Community Development Department indicated in written correspondence the dairy was not in violation of their operating permit.
- A Waste Management Plan was reviewed by the State Regional Water Quality Control Board and approved. A written Waste Management Plan was not required by the Environmental Health Department.
- There was a lack of communication between the Director and the Inspectors of Environmental Health regarding handling of complaints.
- In October 2003, the Complaint Abatement Policy and Procedures were revised.
- San Joaquin County Environmental Health does not require dairies to submit a written procedure for vector control.
- Counsel for San Joaquin County and lawyers representing the dairy came to an agreement to avoid potential litigation. (See Exhibit A)
- San Joaquin County Environmental Health Department has continued to monitor and record vector population at the complainant's residence.

RECOMMENDATIONS:

The Grand Jury recommends that:

1. Environmental Health Department require dairies to submit a Vector Control Plan for review and acceptance. The Vector Control Plan and contracted service invoices should be made available upon request to Environmental Health Inspectors.

2. Environmental Health amend the Complaint Abatement Policy to reflect that multiple complaints be reported to the Supervisor and Director of Environmental Health, when received, for their review and investigation.
3. Environmental Health require dairies to submit a written five year solid waste plan for review and acceptance.

RESPONSE REQUIRED:

Pursuant to Section §933.05 of the Penal Code:

The San Joaquin County Environmental Health Department shall report to the Presiding Judge of the San Joaquin Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

As to each recommendation, a response indicating one of the following:

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of the analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.