

Filed OCT 06 2004
ROSA JUNQUEIRO, CLERK
By TRISA L. MARTINEZ
DEPUTY

Before the Board of Supervisors

County of San Joaquin, State of California

B-04- 965

MOTION: **Sieglock/Marenco**

Response to 2003-04 Grand Jury Report – Case #1202 (Environmental Health)

THIS BOARD OF SUPERVISORS DOES HEREBY:

1. Approve the proposed response to the 2003-04 Grand Jury Report regarding Environmental Health (Case #1202); and
2. Authorize the Chairman to sign and submit the response to the Presiding Judge of the Superior Court.

I HEREBY CERTIFY that the above order was passed and adopted on 9/21/04
by the following vote of the Board of Supervisors to wit:

AYES: **Sieglock, Gutierrez, Marenco, Ornellas**

NOES: **None**

ABSENT: **Mow**

ABSTAIN: **None**

LOIS M. SAHYOUN
Clerk of the Board of Supervisors
County of San Joaquin
State of California



Lois Sahyoun

c: County Administrator
Environmental Health Department Director
County Counsel
Presiding Judge of the Superior Court
Grand Jury Foreman
Clerk of the Board



LOIS M. SAHYOUN
Clerk of the Board

BOARD OF SUPERVISORS

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September 10, 2004

Honorable Bob W. McNatt
Presiding Judge of the Superior Court
County of San Joaquin
222 East Weber Avenue – Room 303
Stockton, CA 95202

**Subject: Response to Grand Jury Final Report - Case # 1202
Environmental Health**

Dear Judge McNatt,

Pursuant to Section 933.05 of the California Penal Code, attached is the County's response to Grand Jury Final Report, Case No. 1202 – Environmental Health.

Should you have any questions or need additional information, please contact Donna Heran, Environmental Health Department Director, at 468-3429.

Very truly yours,

Leroy Ornellas
Chairman, Board of Supervisors

Attachments

c: Foreperson of the 2003-04 Grand Jury
Manuel Lopez, County Administrator

GRAND JURY CASE #1202 – ENVIRONMENTAL HEALTH

SAN JOAQUIN COUNTY RESPONSE TO FINDINGS AND RECOMMENDATIONS

FINDINGS:

FINDING NO. 1:

“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.”

RESPONSE TO FINDING NO. 1

The County agrees with this finding.

FINDING NO. 2:

“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.”

RESPONSE TO FINDING NO. 2

The County agrees with this finding, in part. The Environmental Health Department does require a waste (manure) management plan, as specified in the County Development Title, Section 9-605.6(k)(4), for new or expanding dairy facilities in the form of a soil suitability/nitrate loading study, which contains information on dairy waste streams (corral areas, loafing and freestyle barns, manure separation basins, wastewater holding ponds, septic systems, and proposed manure or wastewater applications to cropland), how the wastes are processed, and whether there is a potential for nitrate accumulation in soil or groundwater. The dairy in this instance did submit a waste (manure) management plan (soil suitability/nitrate loading study) in 2000 that was approved by the department. This waste (manure) management plan was also utilized by the State Regional Water Quality Control Board to evaluate proposed discharges from the dairy wastewater holding pond(s) to assure protection of surface and groundwater sources.

FINDING NO. 3:

“There was a lack of communication between the Director and the Inspectors of Environmental Health regarding handling of complaints.”

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RESPONSE TO FINDING NO. 3

The County agrees with this finding, in part. The Director was aware of the circumstances of this complaint, and accompanied inspectors to the complainant's home and the dairy facility in June 2001. A survey of surrounding properties was also conducted to determine all potential sources of fly breeding in the area.

However, staff who received subsequent complaint calls did not document each new complaint on a separate complaint record form. They utilized the existing complaint record number and facility file to document complaint response activities.

Consequently, Section I.B. of the department's Complaint Abatement Policy was revised in October 2003, to reaffirm that each complaint received, including multiple complaints about the same condition or from the same complainant, be documented on a separate complaint form. This will assure accurate tracking and processing of all complaint calls received by the department.

In addition, Section II. B. (1)(2) of the Complaint Abatement Policy now requires that a list of any prior complaints regarding the same location be printed and attached to the Complaint Investigation Form prior to routing to the field inspection staff. Copies of all complaints with a complaint history showing three or more complaints at the same location within a 30-day period will be forwarded to the Supervisor and the Director.

FINDING NO. 4:

"In October 2003, the Complaint Abatement Policy and Procedures were revised."

RESPONSE TO FINDING NO. 4

The County agrees with this finding.

FINDING NO. 5:

"San Joaquin County Environmental Health does not require dairies to submit a written procedure for vector control."

RESPONSE TO FINDING NO. 5

The County agrees with this finding.

FINDING NO. 6:

"Counsel for San Joaquin County and lawyers representing the dairy came to an agreement to avoid potential litigation."

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RESPONSE TO FINDING NO. 6

The County agrees with this finding.

FINDING NO. 7:

“San Joaquin County Environmental Health Department has continued to monitor and record vector population at the complainant’s residence.”

RESPONSE TO FINDING NO. 7

The County agrees with this finding.

RECOMMENDATIONS:

RECOMMENDATION NO. 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.”

IMPLEMENTATION OF RECOMMENDATION NO. 1:

The recommendation has not yet been implemented, but is proposed for implementation by December 1, 2004, subject to Board of Supervisors approval. A vector control element will be incorporated into the existing waste (manure) management plan requirement for new or expanded dairies during the land use review process, integrating provisions of the newly amended San Joaquin County Right to Farm Ordinance as appropriate. The vector control element will include a description of proposed methods to control flies and rodents to a level that will not create a nuisance condition beyond those consistent with accepted agricultural practices and standards.

Existing dairy facilities out of compliance with State and local vector control requirements or not operating in accordance with accepted practices and standards, would be required to submit a waste (manure) management plan including a vector control element, integrating provisions of the newly amended San Joaquin County Right to Farm Ordinance as appropriate. For those facilities that utilize a licensed pest control service, verification from the pest control company of services provided could serve as evidence that the vector control element has been instituted.

RECOMMENDATION NO. 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.”

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IMPLEMENTATION OF RECOMMENDATION NO. 2:

The recommendation has been implemented. Section II. B. (1)(2) of the Complaint Abatement Policy now requires that a list of any prior complaints regarding the same location be printed and attached to the Complaint Investigation Form prior to routing to the field inspection staff. In addition, copies of all complaints with a complaint history showing three or more complaints at the same location within a 30-day period will be forwarded to the Supervisor and the Director.

RECOMMENDATION NO. 3:

“Environmental Health require dairies to submit a written five year solid waste plan for review and acceptance.”

IMPLEMENTATION OF RECOMMENDATION NO. 3:

The recommendation has not yet been implemented, but is proposed for implementation by December 1, 2004, subject to Board of Supervisors approval. A solid waste component outlining garbage, trash or other commercial waste storage and removal, along with the vector control element, will be incorporated into the existing waste (manure) management plan requirement for new or expanded dairies during the land use review process, integrating provisions of the newly amended San Joaquin County Right to Farm Ordinance as appropriate.

Existing facilities out of compliance with State and local solid waste requirements or not operating in accordance with accepted practices and standards would be required to submit a waste (manure) management plan including the solid waste and vector control components, integrating provisions of the newly amended San Joaquin County Right to Farm Ordinance as appropriate.