



Santa Cruz County
Civil Grand Jury

Santa Cruz Grand Jury <grandjury@scgrandjury.org>

RE: 7b_AgComm_AgComm_Invited

Juan Hidalgo <Juan.Hidalgo@santacruzcounty.us>

Fri, Sep 24, 2021 at 9:26 AM

To: "grandjury@scgrandjury.org" <grandjury@scgrandjury.org>

Cc: "Syda.Cogliati@santacruzcourt.org" <Syda.Cogliati@santacruzcourt.org>

Dear Foreperson Bilgere,

Responses to the Civil Grand Jury report, "Santa Cruz County Agricultural Commissioner's Office Can Get By with a Little Help from Its Friends," came before the Santa Cruz County Board of Supervisors for approval at their meeting on August 24, 2021 and the Chairperson of the Board may have already forwarded the responses to your office. However, in the event that there has been a delay please find attached copies of the responses and a link to the Board Item regarding the above referenced Civil Grand Jury Report:

https://santacruzcountyca.iqm2.com/Citizens/Detail_LegiFile.aspx?Frame=&MeetingID=1879&MediaPosition=17420.275&ID=11249&CssClass=

Please do not hesitate in contacting me should you have any questions.

Sincerely,

Juan Hidalgo

Agricultural Commissioner

Sealer of Weights and Measures

County of Santa Cruz

175 Westridge Drive

Watsonville, CA 95076

Phone (831) 763-8080

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Juan.Hidalgo@santacruzcounty.us

2 attachments

Ag Commission BOS Response.pdf
244K

Agricultural Commissioner Response.pdf
213K



The 2020–2021 Santa Cruz County Civil Grand Jury
Invites the

Santa Cruz County Agricultural Commissioner

to Respond to the Findings and Recommendations listed below
which were assigned to them in the Report Titled

**Santa Cruz County Agricultural Commissioner's Office
Can Get By with a Little Help from Its Friends**

Planting Seeds of Change Requires Help from Growers,
Community, and Board of Supervisors

by August 30, 2021

Responses are **invited** from appointed agency and department heads, appointed committees, and non-profit agencies contracted to the county which are investigated by the grand jury. You are not required to respond by the California Penal Code [\(PC\) §933\(c\)](#).

If you choose to respond, your response will be considered **compliant** under [PC §933.05](#) if it contains an appropriate comment on **all** findings and recommendations **which were assigned to you** in the report.

Please follow the instructions below when preparing your response.

Instructions for Respondents

Your assigned [Findings](#) and [Recommendations](#) are listed on the following pages with check boxes and an expandable space for summaries, timeframes, and explanations. Please follow these instructions, which paraphrase [PC §933.05](#):

- 1. For the Findings, mark one of the following responses with an “X” and provide the required additional information:**
 - a. **AGREE with the Finding**, or
 - b. **PARTIALLY DISAGREE with the Finding** – specify the portion of the Finding that is disputed and include an explanation of the reasons why, or
 - c. **DISAGREE with the Finding** – provide an explanation of the reasons why.

- 2. For the Recommendations, mark one of the following actions with an “X” and provide the required additional information:**
 - a. **HAS BEEN IMPLEMENTED** – provide a summary of the action taken, or
 - b. **HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE** – provide a timeframe or expected date for completion, or
 - c. **REQUIRES FURTHER ANALYSIS** – provide an explanation, scope, and parameters of an analysis to be completed within six months, or
 - d. **WILL NOT BE IMPLEMENTED** – provide an explanation of why it is not warranted or not reasonable.

- 3. When your responses are complete, please email your completed Response Packet as a PDF file attachment to both**

The Honorable Judge Syda Cogliati Syda.Cogliati@santacruzcourt.org and

The Santa Cruz County Grand Jury grandjury@scgrandjury.org.

If you have questions about this response form, please contact the Grand Jury by calling 831-454-2099 or by sending an email to grandjury@scgrandjury.org.

Findings

- F1.** Location information on the Notices of Intent provided by the growers and qualified applicators does not adequately describe the location of the pesticide application in a way that someone not intimately familiar with the farm could understand. This means that timely online posting of the current Notices of Intent, even if possible, would not be helpful to the public. The Department of Pesticide Regulation requires a map useful to the public on the Annual Notification of Pesticides Used Near Schools and Child Day Care Centers form.

AGREE
 PARTIALLY DISAGREE
 DISAGREE

Response explanation (required for a response other than **Agree**):

As a point of clarification, the map growers are required to submit as part of their annual schoolsites notification is provided directly to the school principal or school administrator and not directly to the public. The map also only provides annual notification of agricultural pesticides that may be used on fields within ¼ mile of a schoolsite.

- F2.** The Department of Pesticide Regulation's policies on application of pesticides near schools and its May 7, 2020 letter to California Agricultural Commissioners show its awareness of the changing need to inform and protect the public living near agricultural pesticide application sites.

AGREE
 PARTIALLY DISAGREE
 DISAGREE

Response explanation (required for a response other than **Agree**):

The Pesticide Use Near Schoolsites regulations and California Department of Pesticide Regulation's Enforcement Letter 20-03 address the fundamental regulatory requirement for pesticide applicators on commercial farms near schools to perform pest control in a safe, careful, and effective manner. The schoolsite regulations build upon existing regulatory requirements by prohibiting certain pesticide application methods and the use of certain pesticides that may pose a risk of drift when applied on commercial farms within a ¼ mile of a schoolsite during a period when school is in session. These regulations also require that commercial farm operators provide an

annual notification to schoolsites within a ¼ mile of the farm disclosing the names of any pesticides anticipated to be used on the farm for the ongoing year. While the notification provides transparency about pesticide products that may be used on the farm, it does not provide specific information about the dates and times those pesticide applications will take place. More importantly, the schoolsite regulations and DPR's letter address currently existing requirements that must be followed by pesticide applicators, including evaluating surrounding properties around the application site and following all pesticide label direction and safety precautions to prevent exposure to children, workers and bystanders. The letter in particular also reminds County Agricultural Commissioners of their responsibilities to hold pesticide applicators accountable for performing safe, careful and effective pest control around sensitive areas. This has been a priority for my office for many years prior to DPR's implementation of the schoolsite regulations and the COVID-19 pandemic. The letter also encourages County Agricultural Commissioners to have growers provide pesticide notices to nearby residents, something my office has been proactive in doing for several years by not only encouraging growers, but also by working with county residents interested in receiving this information.

F3. Department of Pesticide Regulation policy changes must be influenced by the Board of Supervisors. The Agricultural Commissioner cannot exert such influence. The Board of Supervisors are in the best position to lobby the Department of Pesticide Regulation.

AGREE

PARTIALLY DISAGREE

DISAGREE

Response explanation (required for a response other than **Agree**):

While local governments have the ability to make recommendations to state agencies regarding legislative and regulatory changes and proposals on behalf of the constituents they represent, California Department of Pesticide Regulation (DPR) policy changes have statewide effect and are established at the state level. Similarly, while an Agricultural Commissioner can provide recommendations and feedback addressing local issues and perspectives, this is generally insufficient to generate policy change by the California Department of Pesticide Regulation which operates on a statewide basis. Various stakeholders, including Agricultural Commissioners in other counties, impacted industries and non-profits, as well as the public also play key roles in influencing policy and regulatory change at the state level.

F4. The Agricultural Commissioner has the difficult job of reconciling conflicting interests. The Agricultural Commissioner must consider and protect the interests of the growers, the nearby community members, the county schools, and the Department of Pesticide Regulation.

AGREE

PARTIALLY DISAGREE

DISAGREE

Response explanation (required for a response other than **Agree**):

F5. There is a demonstrated capability for advance public notice of pesticide use.

AGREE

PARTIALLY DISAGREE

DISAGREE

Response explanation (required for a response other than **Agree**):

California has the most robust pesticide regulatory program in our nation. Our State's legislature recognizes that agriculture is a major component of our economy, that appropriate pesticide use is necessary for agricultural production, that timeliness of pesticide use is fundamental in pest management and that responsible pesticide use is essential to protecting people and the environment. Our State's regulatory program has been created to incorporate all of these elements. California is the only State where each county has an appointed Agricultural Commissioner required to enforce state laws and regulations at the local level and is also responsible for knowing local conditions and using that knowledge when determining the issuance of a California Restricted Material Permit. Notices of Intent (NOIs) are submitted to the Agricultural Commissioner's Office for proposed applications of California Restricted-Use Pesticides prior to the use of these materials. The NOI is part of the Restricted Material Permit process and is evaluated by the Agricultural Commissioner to ensure compliance with permit conditions and regulatory requirements. This review and evaluation process is not conducive to using NOIs to serve as a method of advance public notice, but rather is designed to allow the Agricultural Commissioner to determine whether the proposed pesticide application is safe, effective and in compliance with specified regulatory requirements. In the findings in F1, an NOI, "does not adequately describe the location of the pesticide application in a way that someone not intimately familiar with the farm could understand" and may also not contain the type of specific information that the public would want in order to make an informed decision with respect to a particular pesticide application. Simply adding more site-specific pesticide application information requirements on an NOI would not resolve other impediments that must be addressed if the intent is to create an effective and comprehensive pesticide notification program.

The capability to provide advance public notice for the use of California restricted use pesticides warrants a broader conversation about the feasibility and impacts of implementing such a program that should include stakeholders and the public, the agricultural industry, as well as state and local agencies. Consideration must be given to the costs and resources needed for a such a program, the impacts the program may have in allowing growers the ability to conduct timely and effective pest control, State regulatory oversight and support to attain consistency, equity and uniformity if such a program were to be implemented statewide, as well as the need for public feedback to ascertain the type of information that would be valuable to people when receiving such notification.

Other communities in California have expressed an interest in a pesticide notification program and we understand that DPR is in the early stages of analyzing the feasibility of implementing a statewide program, is receiving input from stakeholders, is soliciting feedback from communities and the public and is planning further review of this statewide issue. Given the interest in notification in other regions of the State and the efforts DPR is undertaking on this issue, the feasibility of a pesticide notification program is most appropriately evaluated and promulgated on statewide basis by DPR, rather than at the local level. If such a program is implemented in the future, equity and consistency will require a uniform approach which can only be accomplished if done at the state level.

Recommendations

- R1.** Within six months, the Agricultural Commissioner's Office should initiate a pilot program to train interested growers and applicators to use the CalAgPermits software. Goals of the pilot program should include recommendations enhancing the usefulness of the software program to growers and reducing the workload of the Agricultural Commissioner's Office. (F1, F2, F4)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain the scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Required response explanation, summary, and timeframe:

CalAgPermits was deployed for statewide use by Agricultural Commissioners in 2010 with full implementation occurring in 2011. Agricultural Commissioners conducted extensive outreach and education with growers during the early years of program deployment to discuss opportunities and benefits of creating a web-user account on CalAgPermits. A web-user account allows growers to access their permit or Operator Identification Number, permit history, their site maps, file monthly pesticide use reports and submit restricted material NOIs. However, it is important to note that not all NOIs can be submitted using this program and there are certain pesticide products which require additional documentation in addition to the NOI and these documents must be submitted via email or in person. My office continues to discuss opportunities annually with growers that do not yet have a CalAgPermits web-user account and we provide support and assistance to growers needing help with the program. Third party program options also exist for growers to submit monthly pesticide use reports or

NOIs and some of our growers have elected to use these other options.

My office will continue to remind growers of the benefits of using CalAgPermits and of creating a web-user account and we will conduct additional outreach as part of our continuing education efforts early this winter. We will also explore the option of posting tutorial videos on the Agricultural Commissioner's website that provide growers step by step instructions on how to access CalAgPermits, how to submit monthly pesticide use reports as well as certain NOIs using the program.