



**COUNTY OF SAN MATEO**  
**Inter-Departmental Correspondence**

County Manager's Office

**DATE:** September 1, 2009  
**BOARD MEETING DATE:** September 29, 2009  
**SPECIAL NOTICE/HEARING:** None  
**VOTE REQUIRED:** None

**TO:** Honorable Board of Supervisors  
**FROM:** David S. Boesch, County Manager  
**SUBJECT:** 2008-09 Grand Jury Response

**RECOMMENDATION:**

Accept this report containing the County's responses to the following 2008-09 Grand Jury report: San Mateo County's Agricultural Mismanagement: Williamson Act Non-Compliance.

**BACKGROUND:**

This activity contributes to the goal by ensuring that all Grand Jury findings and recommendations are thoroughly reviewed by the appropriate County departments and that, when appropriate, process improvements are made to improve the quality and efficiency of services provided to the public and other agencies.

**DISCUSSION:**

The County is mandated to respond to the Grand Jury within 90 days from the date that reports are filed with the County Clerk and Elected Officials are mandated to respond within 60 days. To that end, attached is the County's response to the Grand Jury report on San Mateo County's Agricultural Mismanagement: Williamson Act Non-Compliance, issued on July 9, 2009.



## **San Mateo County's Agricultural Mismanagement: Williamson Act Non-Compliance**

### **Findings:**

Staff agrees in part with the Grand Jury's findings.

**Grand Jury Finding Number 5:** Most non-prime acreage is used for grazing.

**Planning and Building Department Response:** There is insufficient information available to verify this finding. Determining whether agricultural land is prime requires an analysis of soil type, grazing capacity, and profit margin. The Department attempted to obtain the information needed to make such determinations in a 2008 survey of 292 contract holders. The results of that survey were inconclusive because of the approximately 120 returned, very few provided the precise information needed to confirm that most non-prime land is used for grazing.

**Grand Jury Finding Number 11:** The County Planning and Building Department and Assessor's Office have instituted a procedure to selectively audit 20% of WA properties annually.

**Planning and Building Department Response:** The Planning and Building Department would like to clarify that it has committed to verifying 20% of the WA questionnaire responses received each year. This verification could involve site visits, review of site maps, and other research. The verification process would not be considered an audit in the manner that the Assessor's Office conducts audits related to other matters.

### **Recommendations:**

**The Grand Jury recommends that the San Mateo County Board of Supervisors (Board), Assessor-County Clerk-Recorder, Treasurer-Tax Collector, and Controller should coordinate to:**

**2. Cancel the WA contracts with those owners who have failed to respond to the second notice to submit their surveys**

**Response:** The Department is in the process of implementing this recommendation. The list of properties that will be recommended for contract non-renewal is being compiled and will be forwarded to the Board of Supervisors for consideration and action in October 2009. The non-renewal list will include the contracts held by property owners that failed to respond to the second notice to submit WA questionnaires and those that have no apparent agriculture on the contracted lands.

**3. Identify properties that have no apparent agricultural, open space, or recreational use and determine which contracts are subject to nonrenewal.**

**Response:** Please see Department's response to GJ Recommendation Number 2 above. Whether contracts for open space or recreational uses will be non-renewed, replaced with an open space easement, or entered into in the future is a matter that will be considered by the Board of Supervisors in conjunction with the non-renewal process and the Program Update described below.

**4. Publish revised San Mateo County Land Conservation Act Uniform Rules and Procedures no later than December 31, 2009.**

**Response:** The Department is in the process of implementing this recommendation. The Department drafted revised Uniform Rules and Procedures and has submitted the document to the Agricultural Advisory Committee (AAC) for review and comment. The AAC anticipates completing its review in October 2009, after which the Department will hold public meetings with contract holders and interested parties and will forward final recommendations to the Board of Supervisors in December 2009.

**5. Commission an annual report from all agencies and not-for-profits acquiring and maintaining open space lands in the County, such as Midpeninsula Regional Open Space District and Peninsula Open Space Trust (POST), setting forth plans for the use of their lands for agricultural purposes.**

**Response:** Land that is not under Williamson Act contract is not required to be in agricultural use. Absent such a contract, there is no basis for the Department to commission a report from agencies or organizations regarding their intent to use open space land for agricultural purposes.

Agencies and non-profits that own contracted land are required to comply with the terms of the contracts and the provisions of the Land Conservation Act. This includes participating in County surveys that will be used to verify that these requirements are being met. In addition, the County reviews land acquisitions proposed by public agencies such as the Midpeninsula Regional Open Space District (MROSD) for conformity with the General Plan, which provides an additional opportunity to address agricultural use and open space preservation. It is also worth noting that MROSD and POST often provide the County and other interested parties with the opportunity to provide input on real estate transactions and land use practices, as they relate to agricultural and open space resource protection, on their own volition.

**8. The Assessor's Office and the Planning Department should jointly author an annual report stating the County's compliance with the provisions of the WA.**

**Response:** The Planning and Building Department prepares an annual Subvention Report, which is submitted to the State of California Department of Conservation (DOC). The DOC uses the report to determine the annual subvention amount. The report has not been prepared in the last two years while the County's WA program is undergoing a thorough review and update. The Department will resume the

preparation of the Subvention Report upon the completion of the program update. The report will document the County's compliance with the updated WA program and will be available to all interested parties.

**9. Subventions payments not used to defray the costs of the Planning Department's administration of the program should be assigned to the San Mateo Farm Bureau to be used to fund marketing programs to promote San Mateo County's locally produced agricultural products. Encourage local not-for-profit agencies acquiring and maintaining open space lands, such as the POST, to contribute to the funding of such marketing programs.**

**Response:** Historically there has been no unused portion of the subvention payment. In the past, the payment has been approximately \$57,000. As a result of the 2007 Department of Conservation audit of the County WA Program, the subvention amount will likely be reduced to approximately \$30,000. Administration of the revised WA Program will take approximately half of a Planner's time, which will equal approximately \$30,000. The Department does not anticipate having an unused portion of the County's subvention payment to assign to the Farm Bureau. □□As a reviewing and permitting agency for many types of discretionary applications, the Department does not involve itself in the financial decisions of other agencies. It would be inappropriate for the Planning and Building Department to solicit or encourage other agencies, public or private, to contribute to specific programs or causes.

**10. Convene a conference after all the commissioned reports have been received to develop a comprehensive agricultural lands strategy designed to increase the amount of prime agricultural acreage, establish additional Farmland Security Zones, maximize subvention payments by the State of California, fund marketing programs for locally produced products, and increase agricultural use of open space lands to the extent these strategies are consistent with acceptable environmental standards.**

**Response:** The Department is currently in the process of updating the Uniform Rules and Procedures for the Williamson Act Program. The Agricultural Advisory Committee, Farm Bureau, County Assessor's Office, contract holders and general public are all included in the update process. Income generation on contracted land is one method of determining prime soils and is being discussed as part of the update process. It is possible that a change in income thresholds may increase the amount of prime agricultural land within the County, which in turn will maximize the subvention payments from the State of California. Even with such an increase, however, the Department does not anticipate receiving more than approximately \$30,000 a year in subvention payments from the State.

A possible benefit of an increase in the amount of prime soil could be that a greater number of property owners will be interested in entering into Farmland Security Zone contracts. Initiating such a contract is an individual property owner's decision and is

not done by independent County action. The Department will continue to evaluate and process these contracts as private property owners submit them.

The Department anticipates that the entirety of subvention money will be needed to administer the revised WA Program and does not expect money to be available to fund the programs of other agencies.