

# KINGS COUNTY AGRICULTURAL ADVISORY COMMITTEE

CHARLES DRANLER – DAIRY INDUSTRY

JIM GREGORY – AG CHEMICALS & PETROLEUM

MICHELE COSTA – KINGS COUNTY FARM BUREAU

DON MILLS – WATER

BILL TOS – NUT CROPS

VACANT – SMALL FARMS

JOHNNY STARLING – AG PROCESSING

BOB PRYS – FEED/SEED & GRAIN

BRIAN POTTER – AG EQUIPMENT

SECRETARY: GREGORY GATZKA

STAFF: MARK SHERMAN (559) 852-2675

*In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Community Development Agency at (559) 852-2680 by 4:00 p.m. on the Monday prior to this meeting.*

## AGENDA

Thursday, October 11, 2012

12:00 P.M.

This meeting of the Agricultural Advisory Committee will be held in the AG Commissioner's Multi-Purpose Room, 680 N. Campus Drive, Hanford, California. **NOTE:** All attendees are invited to bring a lunch.

### I. CALL TO ORDER – Chairperson

A. Roll Call of Ag Advisory Committee Members: *(Gregory Gatzka – Secretary)*

B. Unscheduled Comments:

*Any person may address the Committee on any subject matter within the jurisdiction or responsibility of the Committee at the beginning of the meeting; or may elect to address the Committee on any agenda item at the time the item is called by the Chair, but before the matter is acted upon by the Committee. Unscheduled comments will be limited to five minutes.*

C. Approval of the Minutes of the April 12, 2012 meeting: *Chairman: Call for motion, second and voice vote.*

### II. OLD BUSINESS

A. **UPDATE ON THE DROUGHT SITUATION** – Johannah Hartley

Update for the Committee concerning the resolution declaring a local emergency due to drought conditions in Kings County.

1. Discussion

### III. NEW BUSINESS:

A. **WALNUT THEFT ORDINANCE**– Tim Niswander

Discussion of the impacts of walnut thefts on Kings County growers and the potential need for regulation.

1. Discussion

2. Action: Provide additional information to the BOS concerning walnut theft and determine if the Ag Advisory Committee should recommend regulation.

B. **IRRIGATED LANDS REGULATORY PROGRAM** – Dave Orth/Don Mills

Informational item concerning the the new groundwater monitoring rules that are scheduled for approval early next year. These new monitoring rules have the potential of affecting all large and small farm operations in the Tulare Lake Basin area.

1. Discussion

Agenda backup information and any public records provided to the Ag Advisory Committee after the posting of the agenda for this meeting will be available for public review at Kings County Community Development Agency 1400 W. Lacey Blvd., Bldg. 6, Hanford CA, or can be viewed online at: [www.countyofkings.com/planning/ag\\_adv\\_com.html](http://www.countyofkings.com/planning/ag_adv_com.html).

**IV. MISCELLANEOUS**

- A. Correspondence:
- B. Member comments:
- C. Staff Comments: Election of Officers is scheduled for the January 2013 meeting.

**V. ADJOURNMENT –**

The next regularly scheduled meeting is January 10, 2013.

# KINGS COUNTY AGRICULTURAL ADVISORY COMMITTEE

CHARLES DRAXLER - DAIRY INDUSTRY  
JIM GREGORY - AG CHEMICALS & PETROLEUM  
MICHELE COSTA - KINGS COUNTY FARM BUREAU

DON MILLS - WATER  
BILL TOS - NET CROPS  
VACANT - SMALL FARMS

JOHNNY STARLING - AG PROCESSING  
BOB PRYS - FIELD/SEED & GRAIN  
BRIAN POTTER - AG EQUIPMENT

STAFF: MARK SHERMAN (559) 562-3211 EXT. 2675

## MINUTES OF April 12, 2012

### Call to Order:

Chairman Mills called the meeting of the Agricultural Advisory Committee to order at 12:04 p.m. in the Ag Commissioner's Admin Multi-Purpose Room, 680 N. Campus 1400 W. Lacy Blvd, Hanford, California.

### Committee Members Present:

Don Mills, Michele Costa, Brian Potter  
Jim Gregory, Johnny Starling, Bob Prys

### Committee Members Absent:

Charles Draxler, Bill Tos

### Ex-Officio Members Present:

Tim Niswander

### Ex-Officio Members Absent:

Greg Gatzka, Kathy Sargent

### Auxiliary Members Present:

Kerry Arroues, Jay Salyer  
Jim Sullins

### Auxiliary Members Absent:

Charles Buhl, Carol Collar,

### Committee Coordinator Present

Joe Neves, Doug Verboon

### Committee Coordinator Absent

### County Staff Present:

Larry Spikes, Johannah Hartley,  
Chuck Kinney, Mark Sherman,  
Terri Yarbrough

### County Staff Absent:

### Visitors Present:

Stan Palm, Linda Palm, Dwayne Morine, Ryan Palm, Stephanie Palm, Hal Workman, Lance Workman,  
Jim Verboon, Lisa Flood

### Unscheduled Comments:

None

### Minutes: January 12, 2011 Meeting:

A Motion was made and seconded (Gregory/Prys) to approve the minutes of the January 12, 2012 meeting. The Motion carried unanimously with Draxler and Tos absent.

## OLD BUSINESS

### **Update on Drought Conditions in Kings County:**

Johannah Hartley updated the Committee on the Board of Supervisor's resolution declaring a local emergency due to drought conditions in Kings County on April 3, 2012 and that the declaration is required to be renewed every 30 days. Ms. Hartley reported that due to the most recent precipitation, Cal Fire had cancelled their alert on burning. She also reported that there is a seven percent reduction in the county's ground water levels. Chairman Mills gave an overview on groundwater useage and the potential for groundwater controls by the State and noted that California and Texas are the only two states without groundwater controls.

### **Commercial Solar Facilities on Williamson Act Land:**

Chuck Kinney provided an overview on solar projects on Williamson Act Land. He stated that the Board of Supervisors adopted a resolution on March 7, 2012 determining that commercial solar facilities are not compatible with the Williamson Act by right. Instead commercial solar facilities must either make findings of consistency with government code 51238.1.a or they must cancel the Williamson Act Contract where the commercial solar facility is to be located.

## NEW BUSINESS

### **Hail Cannon Use in the Agricultural Zones as Crop Protection:**

Larry Spikes provided an overview of what steps have been taken with regard to noise from the hail cannon concussions. He reported that surrounding counties have determined that the cannons fall under the right to farm. The general consensus in Kings County is that the cannons probably should not fall under the right to farm. Tim Niswander, Kings County Ag Commissioner stated that based on previous meetings a voluntary program of best management practices had been implemented and stated that some attempts to silence the cannons have actually created more noise. He also stated that he has no authority to enforce the noise issue with the hail cannons. The following members of the public spoke: Stan Palm, Larry Workman, Stephanie Palm, Lisa Flood, and Hal Workman with concerns about the quality of life and impacts on their children and animals. Mr. Palm stated that he started working with, past Supervisor, Alene Taylor several years ago and he provided information on how the hail cannons were being regulated in Brown County, Texas. Mr. Workman played a video, which was taken in his driveway approximately 600 feet from a hail cannon, he took the previous day while the hail cannons were firing. A second video showing the effects of the hail cannons at a residence was also shown to the Committee at the request of Stephanie Palm.

Chairman Mills recommended getting the home owners and the hail cannon owners together. At the recommendation of Larry Spikes, it was the consensus of the committee that the Community Development Agency and the Ag Commissioner would meet with Administration to explore options to address the noise from the hail cannons and make a recommendation for a resolution.

### **Meteorological Evaluation Towers and Aviation Safety:**

This topic was deferred to a later date since the presenter, Mr. Potter was unable to attend the meeting.

### **Central Valley Flood Protection Plan:**

Jim Verboon provided information to the Committee regarding potential impacts of the Department of Water Resource's plan for the Central Valley Flood Protection.

**Correspondence:** None

**Member Comments:** Michelle Costa extended an invitation to an agri terrorism seminar at 8:00 a.m. on April 19. Jim Sullins reported that a meeting was being held on May 3 at the Kearny Ag Center from 2:00 p.m. to 4:30 p.m. to discuss the impacts of the Department of Water Resources report on nitrates in the ground water.

**Staff Comments:** None

**Adjournment**

With no further business before the Committee, the meeting was adjourned at 1:30 p.m. The next regularly scheduled meeting will be July 12, 2012 at 12:00 noon.

Respectfully Submitted,



Chuck Kinney, Acting Secretary

AN ORDINANCE ADDING ARTICLE IX OF CHAPTER 14 OF THE  
CODE OF ORDINANCES OF THE COUNTY OF KINGS.

THE BOARD OF SUPERVISORS OF THE COUNTY OF KINGS ORDAINS  
AS FOLLOWS:

SECTION 1. Article IX of Chapter 14 of the Code of Ordinances of the County of  
Kings is hereby added to read as follows:

ARTICLE IX. PREVENTION OF THEFT OF NUTS.

Section 14-161. Purpose and Intent:

The ordinance codified in this Article is adopted under the authority of California  
Food and Agriculture Code Section 866. It is the purpose and intent of this Article to  
help protect the agricultural industry of this County, establish a means of verifying  
ownership of specified agricultural commodities in order to prevent and deter the theft of  
these commodities, and to provide a means for local enforcement of laws and regulations  
pertaining to the purchase and sale of these commodities.

Section 14-162. Definitions

Except where the context otherwise requires, the following definitions shall  
govern the construction of this Article:

(a) "Agricultural Commissioner" means the Agricultural Commissioner of  
Kings County and his or her designated representatives.

(b) "Agricultural Commodity" or "Commodity" means any nut crop of any  
quantity in a raw and unprocessed form.

(c) "Buyer" means an individual or entity engaged in the purchase of one or  
more Agriculture Commodities.

(d) "Gleaning" means the process through which nuts remaining on the ground  
following the grower's completion of the harvest are gathered with the permission of a  
grower and with the approved Proof of Ownership certification.

(e) "Grower" means the person who has personally, or through the employment  
of others, grown and harvested an Agricultural Commodity.

(f) The terms "Non-Processing Walnut-Buying Operation" and "Non-Processing Walnut-Buying Operator" both mean a Buyer who doesn't have on-site processing.

(g) "Person" means any individual, firm, partnership, joint venture, corporation or other entity possessing, buying, transporting or selling an Agricultural Commodity as a principal or as an agent of another.

(h) "Proof of Ownership" means:

(1) If the possessor of the Agricultural Commodity is the Grower of the Commodity, a completed Grower's Certificate in a form approved and established by the Agricultural Commissioner. Any form utilized for this purpose shall be completed and signed by the Grower of the Agricultural Commodity.

(2) If the possessor of the Agricultural Commodity is other than the Grower of the possessed Agricultural Commodity, a completed Proof of Ownership Certificate in a form approved by the Agricultural Commissioner. Any form utilized for this purpose shall be signed by the possessor of the Agricultural Commodity and signed by the person who sold the Agricultural Commodity to the person in possession.

(i) "Seller" means a person who sells or attempts to sell an Agricultural Commodity to a Buyer or other person.

(j) "Walnut Buying Period" means the period of time commencing the day after the date declared by the Agricultural Commissioner to be the end of the harvest of the Chandler variety of walnuts. The commencement of such period shall be proclaimed by the Agricultural Commissioner seventy-two hours in advance by press release. The Agricultural Commissioner shall consult with a committee of walnut growers prior to making such proclamation.

#### Section 14-163. Non-Processing Walnut-Buying Operations/Walnut Buying Period.

Non-Processing Walnut-Buying Operations shall not buy walnuts within the boundaries of Kings County until the commencement of the Walnut Buying Period as established by the Agricultural Commissioner.

#### Section 14-164. Proof of Ownership Certificate/Grower's Certificate.

(a) Proof of Ownership Certificate. The Proof of Ownership Certificate form shall contain the following applicable information:

- (1) Name, address, telephone number, and signature of the Seller.
- (2) Name, address, telephone number, and signature of the Buyer.

- (3) The vehicle license plate number of the Seller.
- (4) The driver's license number of Seller.
- (5) The weight of the Agricultural Commodity purchased.
- (6) The date and time of the transaction.
- (7) The variety and condition of the Agricultural Commodity.
- (8) Specific identification of the source of the Commodity being sold.

This shall mean, if the seller is the grower of the Commodity, the address at which the product was grown. This shall mean, if the seller is not the Grower of the Commodity, the name and address and phone number of the person from whom that seller obtained the Commodity, and, if known, the address where the Commodity was grown.

It is the responsibility of a Buyer to obtain the requisite information to permit completion of the Proof of Ownership Certificate forms. The Proof of Ownership Certificate forms shall not be valid unless signed by both the person in possession of the Commodity and by the person from whom the possessor obtained the Commodity.

(b) Grower's Certificate. The Grower's Certificate form shall contain the following information:

- (1) Name, address, telephone number, and signature of the Grower.
- (2) The vehicle license plate number of the vehicles being used by the Grower to transport the Agricultural Commodity.
- (3) The weight of the Agricultural Commodity being transported.
- (4) The date and time of the transport.
- (5) The variety and condition of the Agricultural Commodity.
- (6) Specific identification of the site upon which the Commodity was grown.

Section 14-165. Proof of Ownership Certificate/Grower's Certificate/Inspection, Presentation and Retention/.

The Proof of Ownership Certificate forms shall be issued directly to Growers by the Agricultural Commissioner. A Grower who sells or otherwise transfers possession of any quantity of an Agricultural Commodity to a Non-Processing Walnut-Buying

Operation shall complete and sign a Proof of Ownership Certificate and deliver it to the Non-Processing Walnut-Buying Operation at the time of transfer of possession to that Operation. The Grower shall keep a copy of each Proof of Ownership Certificate delivered to a Non-Processing Walnut-Buying Operation.

Upon reasonable notice, copies of Proof of Ownership Certificate forms or other proof shall be provided. To facilitate inspection by the Kings County Agricultural Commissioner, the Buyer shall register with the Agricultural Commissioner on an annual basis and comply with Business and Professions code section 12501.1. The Buyer shall purchase and keep the Commodity at a place of business in compliance with the Kings County Building and Planning/Zoning Ordinances, until transported for resale or other handling. At the time of registration, the Buyer shall designate a processor, to which sales will be made.

Following any sale of the agricultural commodity by the Buyer, the Proof of Ownership Certificate forms or alternative written proof shall be retained by the Buyer for a period of two years from the date of such sale. Buyers shall also retain any records pertaining to the resale of agricultural products to which the Proof of Ownership Certificate forms pertain for a period of two years.

Section 14-166. Falsification of Proof of Ownership.

It is unlawful for any person to knowingly falsify, or cause the falsification of, any Grower's Certificate, Proof of Ownership Certificate or other document presented as evidence of a person's Proof of Ownership under the provisions of this Ordinance.

Section 14-167. Vehicle Stops.

Upon probable cause to believe that any quantity of Agricultural Commodity is in the unlawful possession of any person, any Agricultural Commissioner or peace officer may inspect the Commodity and request that Proof of Ownership be provided. Upon being stopped, the possessor of the Commodity shall provide the Grower's Certificate or the Proof of Ownership Certificate, whichever is applicable to the particular Agricultural Commodity being transported. The possessor shall also permit inspection of the Commodity.

Section 14-168. Seizure of Commodities; Retention of Seized Commodity; Investigation; and Disposition of Seized Commodity.

(a) Seizure and Retention. Upon reasonable belief that a person is in unlawful possession of an Agricultural Commodity, the Commodity or any portion of it which is reasonably determined to be unlawfully possessed may be seized and held by the Agricultural Commissioner or any peace officer. The Commodity so seized shall be held at such place and in such manner as is reasonable under the circumstances, and until disposed of as provided in this Section. The Commissioner or peace officer shall record

the date and place of seizure and information pertaining to the person from whom the Commodity was seized, and, to the extent practical, the quantity, type, condition and other information pertaining to the Commodity.

(b) Investigation. The Agricultural Commissioner or any peace officer shall investigate to ascertain the ownership of any Commodity that has been held pursuant to this Section. If the lawful owner is located, the Commodity shall be released to the owner or the owner's agent. The commissioner may require reasonable payment, not to exceed the value of the Commodity, to cover costs incurred for storage of the Commodity.

(c) Disposition. If for any reason the Commodity cannot be released to the rightful owner within 48 hours after coming into the custody of the Agricultural Commissioner, or for any shorter period of time that the Commissioner deems necessary in the case of perishable Commodities, the Commissioner may sell the Commodity by public auction or by private sale at fair market value to a commercial packer of the Commodity. Prior to any such sale the Commissioner shall determine that the sale of the Commodity will not impair the prosecution of any person who is or may be charged with a crime related to the Commodity. All of the proceeds derived from the sale of the Commodity shall be held by the Agriculture Commissioner for a period of not less than six months, during which time the lawful owner of the Commodity may submit satisfactory proof of ownership and obtain possession of the proceeds. The Commissioner may require the payment by the owner of an amount sufficient to cover the costs incurred for the storage and sale of the Commodity, in an amount not to exceed the value of the Commodity. If, after retention of the proceeds for a period of at least six months, no demand is made or if proof of ownership is not supplied, the Commissioner shall deposit the proceeds of the sale of the Commodity in the general fund of the County.

(d) Donation to Nonprofit Organization. If any seized Commodity remains unsold after being offered for sale pursuant to this Section, the Agriculture Commissioner may donate the Commodity to a nonprofit organization.

(e) Destruction. If the Commodity is unfit for human consumption, the Commissioner may destroy it.

#### Section 14-169. Violations.

Any person violating any of the provisions of this Article shall be guilty of a misdemeanor, which shall be punishable as provided in section 125 of this Ordinance Code. This punishment is separate and independent from any punishment or penalty provided for under any other law or regulation, including forfeiture.

#### Section 14-170. Exemptions.

This Article shall not apply to the following:

- (a) Commodities transported by a Grower or agent from the farm or ranch where they are grown directly to a commercial packing plant within this state for processing or packing.
- (b) Commodities in possession of any person as a result of gleaning undertaken with the written permission of the grower.
- (c) Commodities transported and accompanied by a valid permit, disposal order, or certificate issued by the Commissioner for any reason other than to comply with this Article.
- (d) Commodities in possession of an agent of a nut processing plant registered with the Kings County Agricultural Commissioner in accordance with this Article.

Notwithstanding the exemptions provided in this section, the Agricultural Commissioner and any peace officer may inspect any Agricultural Commodity as provided in this Article and may require that information be provided sufficient to permit verification that the exemption applies in the particular circumstances.

SECTION 2. Declaration of Urgency

State law and the current local regulation do not adequately address the prevention of nut theft within Kings County. In order to protect the health and safety of the public, it is urgent and in the best interest of the residents of Kings County to adopt an ordinance regulating the buying of nut agricultural commodities in order to prevent and deter theft of these agricultural commodities, and such an ordinance cannot be enacted in the usual time, because that would make the ordinance effective after the walnut harvesting period has commenced.

SECTION 3. The foregoing ordinance shall take effect immediately upon adoption, and prior to the expiration of fifteen days from the passage hereof the text shall be published once in a newspaper printed and published in the County of Kings, State of California, together with the names of the members of the Board of Supervisors voting for and against the same.

THE FOREGOING ORDINANCE was passed and adopted by the Board of Supervisors of the County of Kings, State of California, on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, at a regular meeting of said Board duly and regularly convened on said day by the following vote:

- AYES: Supervisors
- NOES: Supervisors
- ABSENT: Supervisors
- ABSTAIN: Supervisors

\_\_\_\_\_  
Chairman of the Board of Supervisors  
County of Kings, State of California

WITNESS my hand and seal of said Board of Supervisors this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Clerk of said Board of Supervisors

DRAFT

h:\ord\Walnut Theft 2012-2.doc



## Tulare County Agricultural Commissioner/Sealer

---

Marilyn Kinoshita, Agricultural Commissioner  
Sealer of Weights and Measures  
Stevie McNeill, Assistant  
Commissioner/Sealer

Dear Walnut Grower,

As you know, the walnut industry is particularly vulnerable to theft due to the manner in which the nuts are harvested. In 2011, the Sheriff's Department prosecuted 25 walnut theft cases, but had over 4,800 square miles in the County to patrol. Exacerbating the theft problem is that roadside buyers set up temporarily and pay cash without proper proof of ownership.

On August 14, 2012, our Board of Supervisors will consider an amendment to an ordinance amending Sections 8000, 8010, 8020, 8030 and 8090 of Article 8 of Chapter 5, Part 6 of the Ordinance Code, pertaining to the theft of nuts. At that time, the item will likely be placed as a consent item and voted on with a large group of unrelated items. They would then direct the Clerk to publish and post a summary of the ordinance before the second reading as required by law. Then on August 28, 2012, the Board will either hear from concerned constituents, or may waive the second reading and adopt as an urgency ordinance under Government Code section 25123 the proposed ordinance, and direct the clerk to publish and post a summary of the ordinance after adoption as required by law (4/5ths vote required). You are welcome to attend the meeting, which starts at 9:00 a.m. at the Tulare County Board of Supervisor's Chamber at 2800 West Burrel Ave, Visalia.

### **SUMMARY OF CHANGES:**

- Would eliminate the 25-pound restriction on unprocessed nut possession
- Require proper documentation of such possession on a form distributed to growers by the Agricultural Commissioner
- Would establish a "walnut buying period", after which, non-processing walnut buying operations may take place.

Normal drying and processing transactions will not be affected. These ordinance changes would take effect immediately due to the fact that the walnut harvest begins after September 1st. You will be receiving an official proof-of-ownership booklet in the coming weeks in case you allow gleaning after your harvest. PLEASE use this form to help our office, the Tulare County Sheriff's department, and their Ag Crime Investigators who patrol the rural areas of our County.

Please contact me if you have any questions or concerns.

Marilyn Kinoshita  
Agricultural Commissioner/Sealer  
(559)684-3350  
(559)804-6067

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTIONS OF ARTICLE VIII OF CHAPTER V TO PART VI OF THE ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO NUT THEFT.

THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE ORDAINS AS FOLLOWS:

Section 1. 6-05-8000 is hereby amended to read:

6-05-8000 PURPOSE AND INTENT:

The ordinance codified in this Article is adopted under the authority of California Food and Agriculture Code section 866. It is the purpose and intent of this Article to protect the agricultural industry of this County, establish a means of verifying ownership of specified agricultural commodities in order to prevent and deter theft of these commodities, and to provide a means for local enforcement of laws and regulations pertaining to the purchase and sale of these commodities.

Section 2. 6-05-8010 is hereby amended to read:

6-05-8010 DEFINITIONS:

Except where the context otherwise requires, the following definitions shall govern the construction of this Article:

- (a) "Agricultural commissioner" means the Agricultural Commissioner of Tulare County and designated representatives.
- (b) "Agricultural commodities" or "commodity" means any nut crop of any quantity in a raw and unprocessed form.
- (c) "Buyer" means an individual or entity engaged in the purchase of one or more agriculture commodity, and who is licensed to engage in such business by the State.
- (d) "Gleaning" means the process through which nuts remaining on the ground following the grower's completion of the harvest are gathered with the permission of a grower and with the approved Proof of Ownership certification.
- (e) "Grower" means the person who has personally, or through the employment of others, grown and harvested an agricultural commodity.

(f) "Person" means any individual, firm, partnership, joint venture, corporation or other entity possessing, buying, transporting or selling an agricultural commodity as a principal or as an agent of another.

(g) "Non-processing walnut-buying operation" means buyers who don't have on-site processing.

(h) "Proof of ownership" means:

(1) If the possessor of the agricultural product is the grower of the commodity, proof that the commodity was grown by that grower. Proof of ownership in this context shall mean documents or information sufficient to verify that the possessor is the grower of the commodity.

(2) If the possessor of the agricultural commodity is other than the grower of the possessed agricultural commodity, a completed Proof of Ownership Certificate in a form approved by the Tulare County Department of Agriculture. Any form utilized for this purpose shall be signed by the possessor of the agricultural commodity and signed by the person who sold the agricultural commodity to the person in possession.

(i) "Seller" means a person who sells or attempts to sell an agricultural commodity to a buyer or other person.

(j) "Walnut Buying Period" means the declared conclusion of harvest of the Chandler variety of walnuts by the Agricultural Commissioner, after consultation with a committee of walnut growers, whereby non-processing walnut-buying operations may commence within the boundaries of Tulare County. Such period shall be proclaimed seventy-two (72) hours in advance by press release.

---

Section 3. 6-05-8020 is hereby amended to read:

6-05-8020 PROOF OF OWNERSHIP CERTIFICATE:

The Proof of Ownership Certificate form, shall contain, as applicable, the following information:

- (a) Name, address, telephone number, and signature of the seller.
- (b) Name, address, telephone number, and signature of the buyer.
- (c) The vehicle license plate number of the seller.
- (d) The driver's license number of seller.
- (e) The weight of the agricultural commodity purchased.
- (f) The date and time of the transaction.
- (g) The variety and condition of the agricultural commodity.

(h) Specific identification of the source of the commodity being sold. This shall mean, if the seller is the grower of the commodity, the address at which the product was grown. This shall mean, if the seller is not the grower of the commodity, the name and address and phone number of the person from whom that seller obtained the commodity, and, if known, the address where the commodity was grown.

It is the responsibility of a buyer to obtain the requisite information to permit completion of the Proof of Ownership Certificate forms. The Proof of Ownership Certificate forms shall not be valid unless signed by both the person in possession of the commodity and by the person from whom the possessor obtained the commodity.

Section 4. 6-05-8030 is hereby amended to read:

**6-05-8030 PROOF OF OWNERSHIP CERTIFICATE: INSPECTION, PRESENTATION, AND RETENTION:**

The Proof of Ownership Certificate forms shall be issued directly to growers by the Agricultural Commissioner and retained with the agricultural commodity to which they pertain while the commodity is in any person's possession, while being transported and until sold.

Upon probable cause to believe that any agricultural commodity is in the unlawful possession of any person, any Agricultural Commissioner or peace officer may inspect the commodity and request that proof of ownership be provided. The possessor of the commodity shall permit inspection of the commodity and of corresponding Proof of Ownership Certificates, or alternative proof. If the possessor is a grower, the grower shall provide information sufficient to verify that status. Upon reasonable notice, copies of Proof of Ownership Certificate forms or other proof shall be provided. To facilitate inspection by the Tulare County Agricultural Commissioner, the Buyer shall register with the Agricultural Commissioner on an annual basis and comply with Business and Professions code section 12501.1. The Buyer shall purchase and keep the commodity at a place of business in compliance with the Tulare County Building and Planning/Zoning Ordinances, until transported for resale or other handling. At the time of registration, the Buyer shall designate a processor, to which sales will be made.

Following any sale of the agricultural commodity by the Buyer, the Proof of Ownership Certificate forms or alternative written proof shall be retained by the Buyer for a period of two (2) years from the date of such sale. Buyers shall also retain any records pertaining to the resale

of agricultural products to which the Proof of Ownership Certificate forms pertain for a period of two years.

Non-processing walnut-buying operations shall not operate within the boundaries' of Tulare County until the Walnut Buying Period, as established by the Agricultural Commissioner.

Section 5. 6-05-8090 is hereby amended to read:

6-05-8090 EXEMPTIONS:

This Article shall not apply to the following:

- (a) Commodities transported directly by a grower or agent from the farm or ranch where they are grown to a commercial packing plant within this state for processing or packing.
- (b) Commodities in possession of any person as a result of gleaning undertaken with the permission of the grower.
- (c) Commodities transported and accompanied by a valid permit, disposal order, or certificate issued by the director or the commissioner for any reason other than to comply with this chapter.
- (d) Commodities in possession of an agent of a nut processing plant registered with the Tulare County Agricultural Commissioner in accordance with section 6-05-8030.

Notwithstanding the exemptions provided in this section, the Agricultural Commissioner and any peace officer may inspect any agricultural commodity as provided in this Article and may require that information be provided sufficient to permit verification that the exemption applies in the circumstances presented.

Section 6. DECLARATION OF URGENCY. State law and the current local regulation do not adequately address the prevention of nut theft within Tulare County. In order to protect the health and safety of the public, it is urgent and in the best interest of the residents of Tulare County to adopt an ordinance regulating the buying of nut agricultural commodities in order to prevent and deter theft of these agricultural commodities, and such an ordinance cannot be enacted in the usual time, because that would make the ordinance effective after the walnut harvesting period has commenced.

Section 7. The foregoing ordinance shall take effect immediately upon adoption, and prior to the expiration of fifteen (15) days from the passage hereof the text shall be published once in a newspaper printed and published in the County of Tulare, State of California, together with the names of the members of the Board of Supervisors voting for and against the same.

THE FOREGOING ORDINANCE was passed and adopted by the Board of Supervisors of the County of Tulare, State of California, on the \_\_\_\_ day of \_\_\_\_\_, 2012, at a regular meeting of said Board duly and regularly convened on said day by the following vote:

AYES: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOES: \_\_\_\_\_

\_\_\_\_\_  
Chairman, Board of Supervisors

ATTEST: JEAN M. ROUSSEAU  
County Administrative Officer/  
Clerk of the Board of Supervisors  
of the County of Tulare

By: \_\_\_\_\_  
Deputy

To Whom It May Concern,

On August 28, 2012, the Tulare County Board of Supervisors unanimously approved amendments to the existing nut theft ordinance. The following is a summary of those changes:

1. Eliminates the 25 pound restriction
2. Requires specific documentation of possession on a Proof of Ownership Certificate which has been distributed to the growers. Information for this form is required to be obtained by the buyer, including signatures of the buyer and seller.
3. Establishes a "Walnut Buying Period" after which, non-processing, walnut buying may take place. This period is established at the declared conclusion of the harvest of the Chandler variety of walnuts. The period shall be declared at least 72 hours in advance by press release.
4. Buyers of any nut crop in any quantity in a raw and unprocessed form shall register with the Tulare County Agricultural Commissioner on an annual basis (see form below).

---

## Tulare County Commodity Buyer Registration Form

(Tulare County Ordinance 6-05-8030)

Buyer's Name (print): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ Zip Code: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Location of Cash Buying Stand Where Agricultural Commodity are Purchased:

\_\_\_\_\_ City: \_\_\_\_\_

Location Where Agricultural Commodity Purchases are Stored:

\_\_\_\_\_ City: \_\_\_\_\_

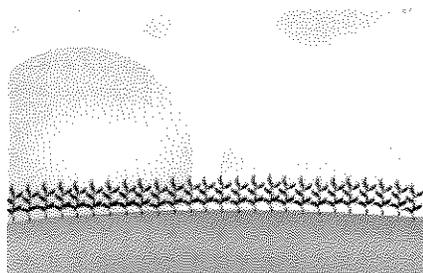
Name of Processor/Destination:

\_\_\_\_\_

Location of Processor/Destination: \_\_\_\_\_ City: \_\_\_\_\_

Buyer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Form shall be completed and turned into the Tulare County Agricultural Commissioner's Office.



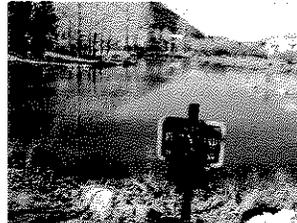
# FAMILIES PROTECTING THE VALLEY NEWSLETTER

VOLUME 4 ISSUE 62

SEPTEMBER 19 2012

**:: IN THIS ISSUE**

- » [EarlyWinter](#)
- » [MIDWaterSale](#)



## Water Regs for Ponds?



Water regulations for private ponds and lakes are coming to a farm near you soon. The laws have been on the books for years, but the enforcement is new. Also new, as a part of the 2009 California water package passed by the legislature, are additional significant penalties for failure to file a Statement of Water Diversion and Use (details in the article below). Also, GPS technology has made it easy to find private reservoirs and ponds. So we have 25 new enforcement personnel to track them down and hand out the tickets. As they say, follow the money. At FPV we say this is another reason money is leaving the state.

Board of Directors

- Denis Prospero
- Chester Andrew
- Bob Smittcamp
- Russ Waymire
- John "Dusty" Giacone
- Joe Marchini
- Mark Watte
- Kole Upton
- Piedad Ayala
- Tom Barcellos
- Jim Walls

### Commentary: Water board ramps up its water rights enforcement work

Jack Rice/Ag Alert/CFBF

A recent water rights enforcement effort by the State Water Resources Control Board has revealed that many reservoirs, including stockponds, may be out of compliance with the state Water Code. During the past month, the water board sent hundreds of letters to landowners in Humboldt, Marin, Mendocino, Napa and Sonoma counties, informing them that reservoirs have been identified on their property for which the board has no record. Although this enforcement effort currently focuses on these five counties, it likely will move quickly to other parts of the state.

Even though the enforcement effort is new, the laws being enforced have been on the books for decades. This has led many to wonder why the water board is ramping up enforcement now. While there are likely many reasons, especially concerns for protected fish and the overall increased pressure on all water resources, two recent changes are particularly pivotal to understanding the origin of this enforcement effort and what it means for water users throughout California.

The first change was that the Legislature, as part of a 2009 package of water legislation, added significant penalties for failing to file a Statement of Water Diversion and Use, and authorized the addition of 25 new enforcement personnel to enforce this and other requirements of the Water Code. Second, technological advancements in mapping aerial imagery made it relatively simple to find reservoirs, determine the owner of the parcel where they are located, and then determine whether the water board has a record of that diversion. Any member of the public can conduct a similar investigation, using Google Earth and reviewing the Electronic Water Rights Information Management System, eWRIMS, available on the water board website.

These changes contributed to increased water rights enforcement efforts, such as the letters sent to landowners. The letters explain how, under California law, the water board should have a record of every surface water diversion. For surface water diversions initiated after 1914, there must be a permit, license or registration obtained from the water board. This applies to all reservoirs that collect water from a stream, including stockponds. All other diversions, with a few minor exceptions, are required to file a Statement of Water Diversion and Use. Working together, these two requirements mean that the water board should have a record for nearly every surface water diversion. If there is no such record, that diversion may be violating longstanding provisions of the Water Code and the landowner could be subject to significant penalties.

The letters explain that any surface water diversion initiated after 1914 that does not have a permit, license or registration is unauthorized. Under the Water Code, failure to have such authorization is considered a trespass against the state and is subject to a \$500 fine for each day the unauthorized diversion or use occurs. Because the vast majority of reservoirs and stockponds were constructed after 1914, each must have the appropriate permit, license or registration if it diverts water from a stream. Based upon the board's letter and information learned from landowners in the five counties, it appears that there are a significant number of reservoirs and stockponds that may not have the proper authorization. This is probably true for other parts of California as well.

Failure to file a Statement of Water Diversion and Use with the state water board could result in a \$1,000 fine. Failure to file a statement within 30 days of notification by the board subjects the water user to fines of \$500 for each day the notice is late.

Anyone with a reservoir or stockpond subject to water board jurisdiction must make certain to comply with both requirements. While there are circumstances where a reservoir or stockpond may not be subject to water board jurisdiction—for example, sheet flow ponds, groundwater storage or wastewater ponds—these are the exceptions, not the rule. According to the letters, the process for bringing reservoirs or stockponds into compliance is to submit a Statement of Water Diversion and Use within 30 days of the date of the letter. Then, within 60 days, the landowner should inform the water board of what actions will be taken to correct any unauthorized diversion of water. Both steps must be taken to bring a pond into compliance with the Water Code.

It is very important that anyone receiving a letter regarding water diversion and use from the State Water Resources Control Board take the letter seriously and respond appropriately. Because there are potentially very significant penalties, anyone who believes they may be out of compliance should consider contacting an attorney or engineer familiar with water rights to assist them in the process. Additional information on this issue is available on the California Farm Bureau Federation website at [www.cfbf.com/issues/](http://www.cfbf.com/issues/); look under the Water subheading for information on reporting requirements for surface water diversions.

(Jack Rice is associate counsel for the California Farm Bureau Federation. He may be contacted at [jrice@cfbf.com](mailto:jrice@cfbf.com).)

More:

## **State Looking at Regulating Private Lakes, Ponds**

***If you enjoy our newsletter please send it to friends. If you're a member of an organization please feel free to send it to everyone on your list. If someone sent this to you and you'd like your own free subscription, sign up here. If you'd like to respond just click 'reply' or send to [john@familiesprotectingthevalley.com](mailto:john@familiesprotectingthevalley.com)***

[view email in browser](#) | [Unsubscribe Greg.Gatzka@co.kings.ca.us](mailto:Greg.Gatzka@co.kings.ca.us) | [Update your profile](#) | [Forward to a friend](#)

You subscribed to this email to keep up to date about news about the environment and water situation of California's Central Valley. Provided by Families Protecting The Valley at <http://www.familiesprotectingthevalley.com>

Families Protecting The Valley  
11409 Road 26 1/2  
Madera, California 93637