

**Environmental Resources Department/Code Enforcement Unit
Grand Jury Case No. 04-34
2003-2004**

REASON FOR INVESTIGATION

A complaint was received regarding the use of parcels of agricultural land for commercial operations or other uses not permitted in agricultural zones.

BACKGROUND

In February 2001, the Code Enforcement Unit was formed and assigned to the Department of Environmental Resources. Prior to this date, all complaints were handled by the Planning Department.

PROCEDURES FOLLOWED

Interviewed Conducted:

- Staff from the Code Enforcement Unit

Documents Reviewed:

1. Policies and Procedures for the Code Enforcement Unit (letter dated 12/3/03.)
2. California Government Code Section 25845 authorizing the Board of Supervisors to establish procedures for abatement of a nuisance.
3. Stanislaus County Codes Title 2, Chapter 2.92, Public Nuisances, Title 21, Chapter 21.80, Nonconforming Uses, and Title 21, Chapter 21.116, Zoning Violation Abatement Hearing.
4. List of eight pending cases being investigated for zoning compliance.

Visited five of the eight properties under review.

FINDINGS

1. All County Zoning Ordinance violations are Nuisances per Title 2, Chapter 2.92 of the Stanislaus County Code.
2. The properties visited were seen to contain operations, such as commercial vehicle storage or material storage, which are not permitted in agricultural areas.
3. Procedure for code violations:
 - a. Notice and Order to Abate are sent to property owner. The notice states how compliance can be attained and allows the owner 45 days to comply.
 - b. If compliance is not gained, the case is sent to the Nuisance Abatement Hearing Board requesting the property be found a nuisance.

- c. If the property is found to be a nuisance, the case is sent to the Board of Supervisors authorizing forced compliance and/or action by County Counsel.
 - d. Upon authorization of forced compliance, there is a 19-day waiting period, followed by a bid process to start enforcement.
 - e. Once compliance is gained, the property owner will be billed for the action taken.
4. In January 2004, three attorneys in County Counsel's office were deputized by the District Attorney to expedite any case requiring legal action.
5. None of these cases were referred to court.
6. Forced compliance does not occur without court action in "difficult cases".
7. Four of the eight properties submitted by the Code Enforcement Unit involving zoning violations in agricultural zones, are in various stages of enforcement.
 - a. Four are pending.
 - b. Four have been closed.
8. In four of the cases, enforcement action has been on-going for up to five years.
9. California Government Code Section 25845 provides for the County to force code compliance and take whatever action is necessary to remove the nuisance without resorting to court action. These laws also authorize the County to charge all related costs, including attorney fees, to the owner of the property in question.
10. Stanislaus County Code Title 21, Section 21.116.060—Enforcement—provides that the Board of Supervisors may authorize County staff to abate a nuisance and charge the cost of abatement to the owner, even if it has to become a lien on the property.

CONCLUSIONS

1. Compliance with agriculture zoning regulations is not being attained.
2. Land use violations are being tolerated and not given priority by the County.
3. The County does not take advantage of mechanisms in the State Statutes or County Codes to adequately enforce the removal of land use violations.

RECOMMENDATIONS

1. Stanislaus County should use all means to terminate illegal uses on agriculturally zoned land.

2. Stanislaus County must initiate clean-up actions, keep track of all costs and charge such costs to the property owner.
3. Stanislaus County must place a lien on the property to collect all incurred costs, including fines, clean-up work, administrative costs and legal costs.