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Chief Executive Officer/Clerk,
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BY STEPHANIE WONG



<http://www.sccagriculture.org>

August 8, 2013

To: Gary Graves, Chief Operating Officer, Office of the County Executive

Through: Amy Brown, Director of Agriculture and Environmental Management

From: Joseph Deviney, Agriculture Commissioner and Heather Forshey, Director of Consumer Protection Division, Department of Environmental Health

Subject: Response to Civil Grand Jury Report "Is There Effective Oversight of Certified Farmers' Markets in Santa Clara County"

Please accept this response to the Santa Clara Grand Jury report dated June 17, 2013.

Finding 1 Not all County Department of Agriculture CFM inspectors report the steps taken to correct the violations listed on the official Inspection Reports.

Recommendation 1: All County Department of Agriculture CFM inspectors should include the steps taken to correct violations on all of the Santa Clara County Farmers' Market Inspection Reports.

Response: Agree in concept, but the recommendation requires further analysis.

- Inspecting biologists can be trained and instructed to always include steps taken to correct each violation found that can be corrected immediately during the inspection.
- For violations that cannot be corrected immediately during the inspection, implementation of this recommendation is subject to factors outside the County's control and to budgetary constraints.
 - Some violations, such as confirming that products not listed on the certificate but offered for sale are actually being grown by the producer, will require a follow up inspection by the county of origin for the produce. Some counties do not prioritize CFM work and/or have not established any fee mechanism for inspections. We always inform and fax the home county involved of their grower's violations but we do not have any control over what, if any, action the other county takes, and we

may not receive any subsequent information. Therefore, we may never know whether the violation was a minor paperwork mistake or a major violation of buying and reselling. We could include “forwarded to Origin County” on our inspection reports to indicate the final step that we can take toward correction of this particular type of violation.

- Some violations would be best handled with a re-inspection to ensure that compliance has been achieved, and the inspector could then note this step taken and the end result. This is currently not taking place, however, because of budgetary constraints. The number of CFMs in Santa Clara County has increased from 13 in 1994 to 41 in 2013, increasing the number of inspections we must perform. We currently inspect each market once per every six months of operation as mandated by the State. In addition, many CFMs occur on nights and on weekends, which require overtime compensation to inspect. There is a cap of \$60 per hour in State regulations that we can charge for market inspections or any subsequent re-inspections needed to follow up on market violations. At \$60 per hour, the current program is not cost recovery for us and requires allocation of General Fund dollars to support it. Each additional market inspection would increase expenditures of the General Fund and therefore would be subject to budgetary constraints and the needs of competing programs.

Finding 2 The County Department of Agriculture Farmers’ Market Inspection Reports are not posted online at the County website.

Recommendation 2: The County’s Department of Agriculture should post all Farmers’ Market Inspection Reports online for easy customer review.

Response: Agree in concept, but the recommendation requires further analysis.

- As explained above, the County of Santa Clara Farmers’ Market program already is not cost recovery and requires subsidization by the General Fund. Posting will take additional time that we cannot invoice for. Adding and maintaining a copy of each inspection report on our website would add additional costs to a program that is already underfunded.
- Our inspections do not address immediate health issues, pesticide residue or food safety and therefore may not warrant the expense and time involved in posting.

- The Department of Agriculture has never received a request for inspection reports until this Grand Jury's inquiry. Based on this history, we believe that public interest in our market inspections would be very small and would not warrant the extra expenditures to list and maintain reports online. Instead, we suggest noting on our website that anyone interested in receiving any Market Inspection Reports should contact our office. If requests are high, then perhaps posting of all reports would be warranted and we could seek an increase in our General Fund allocation in order to achieve report posting online.
- The majority of Farmer's Market shoppers do not understand the definition of a "Certified Farmer's Market" or the regulations that we enforce. Posting of each CFM inspection report may cause more confusion and potential damage to those involved (producers & Market Managers).
 - One bad producer could potentially deter customers from many thoroughly compliant vendors.
 - The Market Manager is onsite at each market event and is the one, by regulation, who is primarily responsible for market and vendor compliance. If Market Manager is poor, customers may be deterred from compliant vendors
- Posting would be beneficial to the public when identifying a more egregious violator such as those selling as organic when they are not. This, however, is a rare occurrence statewide. We do often come across properly registered and certified organic growers that fail to have the required certification present at the market.
 - Note: One factual error that was missed upon first review of the Grand Jury report was this statement on the top of Page 5 that: "[one of the most common problems found is] selling products as organic when the products are not certified as organic". It should correctly be stated as "[one of the most common problems is] selling products as organic without having organic certification on site." This is significant to note as these vendors are actually certified organic but typically a substitute employee has forgotten or misplaced their certificate, so the violation we commonly see is documentary rather than substantive.
- We create a monthly spreadsheet lists violations found at all markets inspected. We could post this list each month if warranted.

Finding 3

All County Department of Environmental Health Specialists do not include the steps taken to correct violations on all of the Official Inspection Reports.

Recommendation 3: All County Department of Environmental Health Specialist should include the steps taken to correct violations on all the Official Inspection Reports.

Response: Agree with the finding, and the recommendation has been implemented.

On July 23, 2013, the Department of Environmental Health provided training to all Environmental Health Specialists on the proper method of report writing, which is to include documenting the steps which were or must be taken to correct each violation on the Official Inspection Report.

Finding 4

The County's Department of Environmental Health does not report the Environmental Health Specialist finding that lead to the violations cited on the Official Inspection Reports.

Recommendation 4 All County Department of Environmental Health Specialists should include the findings that lead to the violations cited on the Official Inspection Report.

Response: Agree with the finding, and the recommendation has been implemented.

On July 23, 2013, the Department of Environmental Health provided training to all Environmental Health Specialists on the proper method of report writing, which is to include the findings (observations) that are responsible for each violation cited on the Official Inspection Report.