



Department of  
**Environmental Management**  
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**R E C E I V E D**

SEP 30 2003

SUPERIOR COURT, DEPT. 16  
SCOTT KAYS

Environmental Management  
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Birgitta E. Corsello, Director

September 29, 2003

Judge Scott Kays, Presiding Judge  
Superior Court  
C/O: Superior Court Executive Officer/ Clerk of the Court

**SUBJECT:** Response to the 2002/2003 Solano Grand Jury Final Report From the  
Department of Environmental Management

Dear Judge Kays:

Staff from the Department of Environmental Management has reviewed the 2002/2003 Grand Jury report and hereby provides our written responses to the findings and recommendations included in the report that pertain to programs the department is involved with. We have prepared our responses consistent with California Penal Code section 933.05 (a) & (b) and as stated the directions included on page vi of the 2002/2003 Grand Jury Final Report. There are five sections of the grand jury report that address areas for which the Department of Environmental Management, under the general direction and/or authority of the Board of Supervisors, has either lead or support responsibilities. We have organized our responses to address each section of the grand jury report and the associated findings and recommendations separately.

**Grand Jury Final Report 2002/2003  
Standardized Emergency Management System (pages 49-52)**

**III. Background**

**Departmental correction to statement Page 50 Statement #10:** This section includes the following statement" The Solano County Department of Environmental Management (DEM) is actively involved through its Hazmat Section. This Section has responsibility, as prescribed by. Law for regulatory compliance in storage, handling, and transportation of hazardous materials within the county and for emergency response capability."

**Departmental response:** The second sentence of this statement is not quite accurate. DEM is by county ordinance, state regulations and through State agreements the Certified Unified Permit Agency (CUPA) for the entire county (incorporated and unincorporated areas). This role deals with the responsibility for review, inspection, and oversight of

businesses that have reportable quantities of Hazardous Materials on the properties. (Reportable materials and quantities are defined state code.) The Hazmat staff from the County review and inspect businesses to insure proper storage, handling, training, disposal, and verify that emergency preparedness plans exist and are utilized by these businesses. As such the county provides information and support to the First Responders (Fire & Law Enforcement) with regards to hazardous materials and the businesses. The County Hazmat staff, however, is not and has not been responsible for emergency response capability beyond that of local support. There is no state mandate nor has past experience or have risk assessments overwhelming supported the need for a local Hazmat Entry Team, but that can and may change over time.

#### **IV. Findings and Recommendations (page 51- 52)**

**Finding #4-** Of 82 hazardous material incidents that occurred within Solano County since January 1998, five exceeded the capability of Solano County agencies. These incidents were satisfactorily controlled by trained Hazmat Entry Teams from the city of Sacramento and Napa County in accordance with Memorandum of Understanding (MOU)

**Departmental response:** The Department of Environmental Management agrees with the finding. The statistical information was collected and provided by the Department of Environmental Management.

**Recommendation #4-** The Solano County Board of Supervisors carefully evaluate the comparative financial and response advantages a certified Hazmat Entry Team, of developing multi-agency teams, or continuing Memorandums of Understanding with certified Hazmat Entry Teams from non-county resources.

**Departmental response:** Recently, the Department of Environmental Management has worked in cooperation with the County Sheriff's Department - Office of Emergency Services and the Solano County Fire Chief's Association, with the assistance of a consultant to conduct a desktop exercise testing the Solano Area Hazardous Materials Response Plan. The three groups continue to look at and evaluate the advantages of a local certified Hazmat Entry Team and how it might be staffed, funded, and maintained in light of the limited resources and relatively low demand here to for. It is expected that through the Office of Emergency Services and the current work in Bioterrorism preparedness, a report will be prepared and presented the Board of Supervisors.

#### **Grand Jury Final Report 2002/2003 Solano County Code Enforcement (pages 53-57)**

#### **IV. Findings and Recommendations (pages 55-56)**

**Finding #2-** The BOS increase and fund personnel authorizations to the level necessary to effectively enforce zoning codes.

**Recommendation #2-** The BOS increase and fund personnel authorizations to the level necessary to effectively enforce zoning codes.

**Departmental response:** The Board of Supervisors did fund and authorize an additional Code Enforcement Officer position in the FY01/02 budget. The Department Director opted to hold the new position vacant through June 2003 Budget hearings, rather than face the potential for a layoff situation as Board was forced in February 2003 to require all departments to prepare and submit up to 20% reduction plans for their operating budgets for FY02/03. These reduction plans were requested as a result of the anticipated county impacts from the State Budget shortfalls and budget crisis. Code Enforcement has been identified as an important function and program by the Board of Supervisors as evidenced by their willingness to continue to fund positions in FY02/03, despite the fact that it is not a state or federal mandated program and it does not directly generate funds to cover the operating costs of such a program. The BOS has a business responsibility to have a balanced operating budget, and has many mandated services and programs, consequently, when resources are limited, county services and programs must be prioritized. The Department of Environmental Management (DEM) also has mandated programs and services in addition to non-mandated programs that serve the public. The Board and the County Administrator have supported additional time for DEM to further review and evaluate the current code enforcement efforts and options, focusing on utilizing existing available resources more effectively to maximize the program impact on the communities in lieu of additional resources.

**Finding #3-** The BOS has not utilized the opportunity to study and learn zoning enforcement procedures from neighboring counties in order to incorporate any useful ideas.

**Recommendation # 3 -** The BOS direct the DEM, Solano County District Attorney (DA) and County Counsel to review enforcement procedures and interdepartmental coordination of the neighboring counties and provide changes to the county procedures.

**Departmental response:** While the BOS has not formally directed the three departments during 2002/03 to review enforcement procedures and the programs of several neighboring counties, discussion between the three departments began early in 2003. The three have met several times and have identified opportunities as well as a need to revise existing ordinance language to more effectively facilitate code enforcement.

**Finding #4-** One Third of the Businesses surveyed in the Homeacres area have no business license.

**Recommendation # 4 -** The BOS direct the revision of Solano County Code Chapter 14 to:

- Eliminate the Treasurer- Tax Collector from the Business License process.
- Assign the Administrative processes of receiving the application and issuing the license to DEM.

- Direct the development of computer interface between the offices of DEM, Solano County Assessor Recorder, Solano County Treasurer- Tax Collector and the Solano County Sheriff's office, so that license requirements can be quickly and accurately verified.

**Departmental response:**

The decision to remove the Treasurer- Tax Collector and transfer the duties to DEM is currently being evaluated as part of a group review effort lead by the County Administrator's office and County Counsel jointly, which began earlier the summer as part of an ordinance review & update of Solano County Code Chapter 14. Several departments including the Treasurer- Tax Collector, the Sheriff, the District Attorney, and DEM are involved in reviewing and suggesting revisions. The decision on whether to transfer the responsibility to DEM from the Treasurer-Tax Collector is still under consideration and would require discussions and decisions on staffing and costs or fees. The transfer of the duties, however, will not in and of itself address or resolve the Grand Jury's primary concern about businesses operating without permits or in inappropriate zoning districts and the need for enforcement. This would remain as a code enforcement issue, which is also under review presently.

DEM and the Assessor- Recorder already have an electronic interface utilizing the SCIPS secondary data screens, which enables the exchange information including business license. The Treasurer-Tax Collector also has access to this system, but the Sheriff does not. The Grand Jury recommendation, however, would fit more completely within the data fields in a countywide GIS. The Board of Supervisors funded a countywide GIS project in FY01/02. The project, which will include all parcels in the county and data about the parcels, is in its second year of development and it will be sometime before it is fully functional. In the interim the departments involved are meeting to develop a procedure and ordinance changes to better regulate businesses operating in the unincorporated county without a business license.

**Finding #7**– The BOS has not evaluated the direct cost to the County, economic cost to the residents, and the morale costs to the community, of sanctioned disregard of county zoning ordinances.

**Recommendation # 7** – The BOS direct a study to evaluate the referenced costs.

**Departmental response:** DEM is not aware if such a study has been conducted elsewhere that could be used as a model or sample, but if one exists we believe the BOS, CAO, and DEM would give it serious consideration. DEM staff is unclear what it would entail or how much a study of the economic cost to the residents, and the morale costs to the community from the current level of zoning ordinance enforcement cost to perform so we are not able to respond further to the recommendation at this time.

However, DEM does want to note that we disagree with the characterization that the BOS sanctioned disregard of county zoning ordinances and since 1993, the BOS has provided

dedicated staffing, including increases in dedicated staff for enforcement in both DEM and County Counsel. In addition, the Board of Supervisors has supported and provided funding to update the Zoning Ordinance, complete the Zoning Consistency program, develop automation tools to help staff compile and track complaints and identify violations.

**Grand Jury Final Report 2002/2003  
County Building Code Enforcement in Allendale Area (pages 58-60)**

**IV. Findings and Recommendations (page 59)**

**Finding #1** – The County requirement of providing direct notification of public hearings for permit procedures does not meet the needs of rural property owners. The current code only requires that property owners within 500 feet of the affected property are to be notified tens days prior to the hearing and notices be published in the local newspapers.

**Recommendation # 1** – All applicable county codes be changed for rural properties to require notification of all property owners within one-half mile of the affected properties.

**Departmental response:** Currently the zoning code and county subdivision code require that the county give 15 day notice to all adjacent property owners within 500 feet of the property line of the parcel on which a land use project is proposed. DEM has been working on updates for both the Zoning ordinance and the Subdivision Ordinance that we plan to propose to the Planning Commission and Board of Supervisors to consideration in FY03/04. DEM staff agrees that the current 500-foot notification is often inadequate in the rural residential, but may be sufficient in the Rural Estate zoning district. DEM staff is already looking at noticing needs for the Agricultural Zoning district and will include the Grand Jury recommendation in the updates presented to the Planning Commission and BOS for their consideration in FY03/04.

**Grand Jury Final Report 2002/2003  
Homeacres Housing Rehabilitation Program (pages 61-64)**

**IV. Findings and Recommendations (page 63)**

**Finding & Recommendation #1** – Grand Jury report indicates no further response required by department.

**Finding & Recommendation #2** – Grand Jury report indicates no further response required by department.

**Finding #3** - The response to the 2001-2002 Grand Jury Final Report and current testimony does not indicate any action by the County to revise contracting procedures to ensure contract enforcement by County Officials.

**Recommendation #3** – The Solano County Board of Supervisors take appropriate action to ensure its agents and contractors meet all contract requirements.

**Departmental response:** The recommendation will be addressed in FY2003-2004 and should be implemented prior to re-starting the loan program. This past spring (2003), the Board of Supervisors authorized DEM staff to suspend the loan program for up to two years to allow the County contractor to audit the status of participants that have an income eligibility requirement for the existing loans, as well as allowing staff time to review of the program elements, and the performance of the existing contractor. In addition, several of the Board members, requested that staff review of the program administration options, explore re-soliciting for program administration proposals before restarting a loan program outreach effort.

**Finding #4** – No alternate procedure regarding contract requirements for industry standards is established to provide homeowner assistance if the individual disputes the contract administrator inspection decision. .

**Recommendations #4** – The Solano County Board of Supervisors direct an addition to the program contracts that specifies an alternate procedure to resolve contract and industry standard disputes.

**Departmental response:** The Department of Environmental Management agrees with the 2002/2003 Grand Jury recommendations. DEM staff as part of the program review shall review and amend the program administration contract. The program administration contract should specify that there be an alternate dispute resolution process and it should clearly define what, how and who will be responsible for inspection of work for compliance with industry standards.

**Grand Jury Final Report 2002/2003  
Solano County Flood Control Study (page 65-72)**

**IV. Findings and Recommendations**

**Finding #1** – The Solano County Water Agency Act of 1988 identifies the need for flood control within Solano County but does not assign responsibility to any agency, regardless of the treat.

**Recommendation #1** – The Solano County Board of Supervisors and Solano County Water Agency request State legislation to establish direct responsibility on a County agency for fold control at specified levels of risk.

**Departmental response:** The Department Environmental Management would encourage the Board of Supervisors and the County Administrator to look at the model we have today and engage in a discussion about the level of flood control that is necessary or

appropriate between the SCWA and the County before pursuing clarifying state legislation.

**Finding #2** – Flood Control within Solano County is an optional responsibility of the SCWA that has received little attention. It has recently increased interest because of near loss of life from the December floods but continued long term interest against the more viable interest of water distribution in unlikely.

**Recommendation #2** – The Solano County Board of Supervisors and SCWA request state legislation mandating that flood control responsibility be assigned to the Solano County Department of Environmental management. (DEM)

**Departmental response:** DEM would encourage the Board of Supervisors and SCWA to evaluate and determine the level of flood control that is necessary or desired, and only then consider what government organization should be best suited to become the lead for this important public works function. This is currently a function that is shared by several agencies, however, it is a function that has in years past not been funded or staffed adequately to meet needs as they arose. The SCWA has increased its' resource commitments and the County has elevated the level of technical expertise of its' staff, but both legal and financial hurdles remain.

Furthermore, DEM respectfully disagrees with the Grand Jury recommendation that DEM be the lead agency. A comprehensive flood control program includes public education, implementation of regulations, and typically include the funding and oversight of a range of flood control projects, both small and large construction projects designed to resolve problems by removing or moving either the water or the structures that are in the path of the water. The Grand Jury recommendation is not consistent with the Board of Supervisor 2001 decision and indication that the Department of Environmental Management should not and would not be the county's public works operation, instead the Board indicated that County lead for public works should be assigned the Department of Transportation.

**Finding #3** – Solano County residents have no readily identified procedure for reporting flooding situations.

**Recommendation #3A** – The Solano County OES establish a single and clearly countywide telephone listing for receiving reports of flooding.

**Recommendation #3B** – The OES institute a public information program at the approach of each rainy season to insure the public is aware of the reporting procedures.

**Departmental response:** No comment or response is required from the Department of Environmental Management.

**Finding #4** – No agency within the county has procedures for recording a complete history and database for flooding within the county.

**Recommendation #4A** The OES upon receiving a report of flooding should record the event for long term analysis.

**Recommendation #4B** The County adopt the 1998 Flood Control Master Plan recommendation to obtain aerial photographs of all flooded areas immediately after a flooding event.

**Recommendation #4C** The DEM review all reports and photographs of flooding for long term analysis to determine appropriate flood prevention and control measures.

**Departmental response:** The Department of Environmental Management is not required to respond to 4 A. DEM supports the recommendation to obtain photographs to document flooding. (4B) DEM will review reports and photographs of flooding for long term analysis to determine appropriate flood prevention and control measures as part of DEM current responsibility to look at on site drainage and as part of the requirements for Storm Water Pollution Prevention, however the SCWA and the Board will need to review and determine lead agency responsibility for flood control planning and management.

**Finding #5** – Solano County has no ordinance that specifies flood prevention requirements (water runoff control) for homes constructed in subdivisions that is not required for homes constructed on individually owned sites.

**Recommendations #5** – The County establish or amend an ordinance to require equal flood prevention procedures for individually owned properties as for subdivision developments. (Funding through local assessment districts may be appropriate).

**Departmental response:** The staff from the Department of Environmental Management agrees that flood protection is appropriate and will re-evaluate the current ordinances language in light of the past years experience.

**Finding #6** – Solano County cannot require landowners in flood prone areas to install flood protection (berms & building pads) when building in areas not designated by FEMA as a flood plain.

**Recommendation #6** – The County establish or amend an ordinance to establish engineering requirements for new homes being built in areas defined by historical analysis as flood prone engineering requirements for new homes being built in areas defined by historical analysis as flood prone.

**Departmental response:** DEM agrees that this is desirable to avoid future property damage by encouraging property owners to build outside flood prone areas; however, we can only require improvements if the FEMA maps identify an area as such, consequently staff is investigating ways to both advise and document available historical information on parcels that currently are not shown as flood prone on the FEMA maps, so we can advise property owners. DEM will not be able to establish an ordinance to require additional engineering for new homes being built in areas defined by historical analysis as flood prone if they are not on the FEMA maps, but we can recommend that property

owners consider alternatives. This will require a change in our permit intake and review process which should be in place prior to the commencement of the 2004 grading and building season.

**Finding #7** – A small project grant program recipient cannot receive an additional grant for a similar project whether or not the condition was caused by factors beyond the landowner's control.

**Recommendation #7** Revise the small project grant program to permit additional grants when the condition was caused by factors beyond the landowner's control.

**Departmental response:** No response is required from the Department of Environmental Management; however, the Department of Environmental Management is supportive of the recommendation.

**Finding #8** – The large number of environmental agencies and a widespread lack of understanding environmental laws and procedures deters individual landowners and some governing officials from employing appropriate waterway maintenance.

**Recommendation #8A** – Appropriate agencies (SCWA, DEM, Irrigation Districts, and Resource Conservation Districts) coordinate the development of informative bulletins explaining environmental agencies' functions and require distribution to concerned landowners.

**Departmental response:** The Department of Environmental Management is supportive of the recommendation to develop informative bulletins for distribution, and will provide assistance as needed. Since drainage areas pass into and out of the cities, and residents move from cities or into the cities, the information developed could be done to serve more than one type of resident, but distributed by any of the agencies. We would propose that the work be coordinated through the existing Flood Control subcommittee lead by the SCWA. This group already includes the SCWA, DEM, the Resource Conservation Districts, and Solano Irrigation District as well as the cities. The SCWA has indicated in their response to this recommendation that it will lead the discussion and report back in 6 months.

**Recommendation #8B** – The Resource Conservation Districts promote a direct assistance program to help individuals complete required applications to the numerous environmental agencies. The DEM provide the same assistance for individuals not residing in a resource conservation district.

**Departmental response:** DEM currently provides assistance to property owners for applications that are processed by the County as part of processing the required permits and application. County staff are knowledgeable and able to provide assistance on the applications that the county requires and is responsible for. DEM is not currently staffed to provide assistance to individuals on other non-county permits and applications, nor do

we necessarily possess the expertise to do so. It should be noted that currently applicants to the county pay fees which cover the cost for the services or permit approvals when the primary benefit is to the property owner or the applicant. The Board's current cost recovery policy requires that departments strive to develop fees that recover 100% of the cost of services.

The Grand Jury recommendation that existing county staff also provide assistance to property owners to complete required applications to the numerous others outside environmental agencies would require evaluating the resource demands as well as the budgetary and legal implications of this additional service for DEM. While we agree that assistance may be desirable and needed for the property owner who is unfamiliar with the requirements or may lack the expertise to deal with state and federal agencies, it is premature to assign these duties until other decisions relating to the overall level of flood control and the administration/responsibility for Flood Control are addressed by the SCWA and the Board of Supervisors. (Please refer to the earlier DEM responses related to the other recommendations contained in the 2002-2003 Grand Jury report regarding Flood Control.) Typically, a lead agency, in this case the one designated for countywide flood control responsibility would identify funding and operating priorities to meet the needs of the community, and as part of this it would also address public information, outreach, and permit assistance.

**Finding #9** – Waterways on private urban and rural property are often not cleared of debris by the owners.

**Recommendation #9** – The Solano County Board of Supervisors established an ordinance to require the maintenance by the property owner of waterways for which public agencies have no easement granted.

**Departmental response:** The Department of Environmental Management agrees with the statement made in finding # 9, however, the passing of an ordinance does not insure that urban and rural water ways will be cleared properly. DEM and the Board of Supervisors will first need to determine who or how enforcement would occur if this were to go forward. DEM will have to report back in six months.

Should the Grand Jury or any of their committees require clarification or additional answers, they should contact either the staff identified below or myself at (707) 421-6765.

For Information on the Standardized Emergency Management System- Birgitta E. Corsello & Mathew Geisert, EH Supervisor Haz. Mat. Section, Homeacres Housing Rehabilitation and Loan Program – Matt Welch, Senior Planner or Harry Englebright, Principal Planner in the Planning Services Section. For information on the Flood Control Plan , County Zoning Code Enforcement, County Building Code Enforcement in Allendale Area – Cliff Covey, Acting Building Official, David James, Code Enforcement Officer, Matt Tuggle, Civil Engineer.

Sincerely,



Birgitta E. Corsello, Director  
Department of Environmental Management

CC: Board of Supervisors (each board member)  
Michael D. Johnson, County Administrator  
Dennis Bunting, County Counsel  
David Okita, SCWA  
Gary Stanton, Sheriff  
Bob Powell, OES

BC EM R:admin/current budget/0203/grandjury response final report