



5/28/2014

Dear Stanislaus County Agricultural Advisory Board:

Thank you for the time to present to you a draft letter addressed *to* the Stanislaus County Board of Supervisors *from* the Board Members of the East and West Stanislaus Resource Conservation Districts (see below for draft letter).

I am specifically interested in feedback from local stakeholders regarding the following:

1. Are you, as a local stakeholder, interested in developing a more productive and less costly relationship with Federal and State agencies that wish to develop and implement conservation practices in Stanislaus County, especially related to how the conservation issues affect agriculture?
2. Federal and State priorities include water quality, flood management, salmon habitat, riparian habitat, and recovery of endangered and threatened species. What are the conservation and agricultural issues that you, as a local stakeholder, see as being important and need protected?
3. Are you, as the Stanislaus County Agricultural Advisory Board, willing to endorse the concepts behind the letter?

Sincerely,

A handwritten signature in cursive script that reads "Chester R. Anderson".

Chester Anderson,  
Conservation Coordinator, [East](#) and [West](#) Stanislaus Resource Conservation Districts  
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## Draft Letter to Stanislaus County Board of Supervisors

**Re:** Recommendation to develop and support a locally led conservation strategy for Stanislaus County

**From:** East Stanislaus Resource Conservation District (ESRCD) and West Stanislaus Resource Conservation District (WSRCD)

**To:** Stanislaus County Board of Supervisors

5/27/2014

Dear Stanislaus County Board of Supervisors:

The Resource Conservation Districts in Stanislaus County are special districts that prioritize local resource conservation concerns and the implementation of planned activities, providing technical, financial and administrative assistance to district cooperators, land users, and land owners in Stanislaus County and representation at workshops, meetings and public hearings. The RCD Board members and staff have direct ties to and knowledge about agricultural and conservation issues throughout the County.

Federal and State agencies have and will continue to develop conservation plans that require changes in land-use and water management in Stanislaus County. Agency goals are to improve water quality, expand riparian habitat, expand salmon spawning habitat, restore endangered and threatened species and improve management of flood waters.

Much of this work is being driven by legally binding mandates that will be pursued indefinitely by State and Federal agencies until some modicum of success is reached. To date, there has been millions of dollars spent to develop and implement conservation plans for land and water in Stanislaus County with little success at recovering endangered and threatened species, improving habitat or improving water quality. The cost to County stakeholders will continue to increase as long as national and State conservation goals are not attained.

To reduce the costs of these conservation efforts and to realize the positive benefits that these conservation plans may have for the local economy and stakeholders, the East and West Stanislaus Resource Conservation Districts recommend that the Stanislaus County Government take a proactive, locally led approach to addressing conservation issues by developing a locally led conservation strategy that prioritizes local needs and concerns and invites State and Federal entities to communicate and work through the locally led process.

To this end the Districts are asking the Stanislaus County Supervisors to recognize the Resource Conservation Districts as the go-to entity for conservation issues in Stanislaus County and for the County Supervisors to draft a letter addressed to State and Federal entities that wish to develop and implement conservation strategies in the County in which it be recommended that State, Federal and NGO entities vet their ideas through the Resource Conservation Districts. The Districts will work with those entities to: identify key, local stakeholders, identify critical sticking points in Federal and State conservation proposals, solicit and provide feedback from local stakeholders, assist in communicating the conservation ideas to critical entities in the County and help develop an implementation plan that minimizes impacts to County priorities.

The County Conservation Districts foresee several advantages to having a local entity that coordinates conservation activities in the County, including: identifying and communicating County priorities as they relate to State and Federal conservation goals, eliminating the scattered, uncoordinated approach to developing and implementing conservation plans in the County, minimizing the impacts of conservation plan implementation on County priorities, identifying and leveraging opportunities that may exist between local priorities and State and Federal priorities, identifying opportunities that may exist between the various conservation plans and, in general, striving towards and creating win-win situations. To date stakeholders have drafted goals and objectives and outlined a strategy to improve coordination and communication between all levels of government regarding conservation issues in Stanislaus County.

It is not the conservation goals of improved water quality, better management of flood waters or the recovery of endangered and threatened species that local stakeholders have resistance to. The resistance comes from the way the plans are developed and implemented. If the conservation plans were effectively communicated and coordinated with the needs of local stakeholders there would be a much greater potential for positive outcomes for all parties involved.

With County government support there would be many more opportunities to simultaneously address water quality, flood management, and wildlife habitat needs with minimal impact to the agricultural sector that is so important in Stanislaus County and to give a real voice to the local community about how the conservation plans affect their livelihoods, how the plans could be improved and what incentives exist for landowner participation.

The alternative is to continue to have State and Federal bureaucrats dictate how National and State conservation priorities are addressed in the County at the expense of, and regardless of, the needs and concerns of local stakeholders and with little, if any, progress towards achieving conservation goals.

Sincerely,

*To be signed by each Board Member*

**East Stanislaus Resource Conservation District**

Sherman Boone, Chairman

Darrell Cordova

Frank Coelho

Michael Passalaqua

Susan Harper

**West Stanislaus Resource Conservation District**

Norman Crow, Chairman

Thomas Maring

Edward Perry

Ray Murphy

Jarod Lara

Robert Brooks

## **PURCHASE AND SALE OF WALNUTS**

**Section 1.** Chapter 9.48 of the Stanislaus County Code is added to read as follows:

### **9.48.010 Short Title**

The ordinance codified in this Chapter may be cited as the "Stanislaus County Purchase and Sale of Walnuts Ordinance."

### **9.48.020 Authority, Purpose, and Intent**

In Chapter 8 of Part 1 of Division 1 of the Food and Agricultural Code, commencing with section 851, the legislature established minimal requirements concerning agriculture theft prevention. This Chapter is adopted pursuant to Article XI, Section 7 of the California Constitution, which authorizes the county to exercise the police power of the state by adopting regulations promoting the public health, public safety, and the general welfare of its citizens, and pursuant to Food and Agricultural Code section 866. In this Chapter Stanislaus County establishes additional requirements regarding the transportation and identification of the walnuts, including establishing a walnut buying period. It is the purpose and intent of this Chapter to establish a means of verifying ownership of walnuts in order to prevent and deter theft and to provide a means for local enforcement of the laws and regulations pertaining to the purchase and sale of walnuts.

### **9.48.030 Definitions**

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

- A. "Agricultural Commissioner" means the Agricultural Commissioner of Stanislaus County and designated representatives.
- B. "Buyer" means an individual or entity engaged in the purchase of walnuts, and who is licensed to engage in such business by the State.
- C. "Gleaning" means the process through which nuts, such as walnuts, remaining on the ground following the grower's completion of the harvest are gathered.

- D. "Grower" means the person who has personally, or through the employment of others, grown and harvested walnuts.
- E. "Non-processing walnut buying operation" means any buyer of walnuts that have not been dried or processed and who does not have on-site processing.
- F. "Person" means any individual, firm, partnership, joint venture, corporation or other entity who possesses, buys, transports or sells walnuts as a principal or as an agent of another.
- G. "Proof of ownership" means:
1. If the possessor of the walnuts is the grower of the walnuts, proof that the walnuts were 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 walnuts.
  2. If the possessor is a verified small grower, proof of ownership shall mean a small grower's certificate.
  3. If the possessor of the walnuts is someone other than the grower, a completed proof of ownership certificate in a form approved by the agricultural commissioner. The certificate utilized for this purpose shall be signed by the possessor of the walnuts and signed by the person who sold the walnuts to the person in possession.
- H. "Seller" means a person who sells or provides or attempts to sell or provide walnuts to a buyer or other person.
- I. "Verified small grower" means any grower who grows and harvests less than two thousand pounds of in-shell walnuts annually, and obtains a small grower's certificate issued by the agricultural commissioner.
- J. "Walnut buying period" means the period commencing the day after the date declared by the agricultural commissioner, after consultation with members of the walnut industry, to be the end of the harvest of walnuts. During this period non-processing walnut buying operations within Stanislaus County may lawfully purchase and receive walnuts that have not been dried or processed. Such period shall be proclaimed by the agricultural commissioner seventy-two hours in advance by press release and posted on the County website, and shall last until April 30 of the following calendar year.

- K. "Walnuts" means walnuts, of the English (*Juglans regia*) varieties grown in California, of any quantity, in a raw and unprocessed form.

**9.48.040 Proof of Ownership Certificates, Inspection, Registration and Retention**

- A. Every person who buys, sells, or possesses raw and/or unprocessed walnuts for commercial purposes, shall obtain and maintain proof of ownership, unless exempted in section 9.48.120. Proof of ownership shall be in the form of a proof of ownership certificate, small grower's certificate or other permit, order or certificate as approved by the agricultural commissioner.
- B. The buyer is responsible for making sure all the requisite information on the applicable certificate is obtained and the certificate is complete. The proof of ownership certificate or small grower's certificate shall not be valid as proof of ownership unless signed by both the person in possession of the walnuts and by the person from whom the possessor obtained the walnuts.
- C. Any person in possession of walnuts as a result of gleaning, undertaken with the permission of the grower, and who intends to sell the walnuts for commercial purposes, shall have a proof of ownership certificate(s).
- D. The proof of ownership certificate forms or small grower's certificate shall be issued directly to growers by the agricultural commissioner. Any grower who sells or otherwise transfers possession of any walnuts for commercial purposes to a gleaner or a buyer shall complete and sign a proof of ownership certificate and deliver it to the gleaner or the buyer at the time of transfer of possession to that gleaner or that buyer. The grower shall keep a copy of each proof of ownership certificate delivered to a gleaner or to a buyer for two years. The original proof of ownership certificate shall accompany the walnuts to which it pertains, while the walnuts are in any person's possession, while being transported, and until ultimately sold to a processor. Proof of ownership certificates will be used only to establish ownership for the prevention and deterrence of theft of walnuts.
- E. Upon probable cause to believe that walnuts are in the unlawful possession of any person, the agricultural commissioner or any peace officer may inspect the walnuts and request that the proof of ownership be

provided. The possessor of the walnuts shall permit inspection of the walnuts and the corresponding proof of ownership certificate(s), or alternative proof. If the possessor is the grower of the walnuts, or their employee or agent, such person shall provide information sufficient to verify that fact.

- F. To facilitate inspection by the agricultural commissioner, non-processing walnut buying operations shall register with the agricultural commissioner. These buyers shall keep all walnuts purchased or possessed for commercial purposes at an authorized location and/or facility, until transported for resale or processing. The buyers required to register with the agricultural commissioner shall designate a processor(s), to which sales will be made.
- G. Following any sale of the walnuts by the buyer to the designated processor, the proof of ownership certificate(s), or alternative written proof, and any records pertaining to the resale of the walnuts to which the proof of ownership certificate(s) apply, shall be retained by the buyer for a period of two (2) years from the date of such sale.

#### **9.48.050 Falsification of Proof of Ownership**

It is unlawful for any person to knowingly falsify, or cause the falsification of, any proof of ownership certificate(s) or other document presented as evidence of a person's proof of ownership of any walnuts.

#### **9.48.060 Walnut Buying Period**

Walnuts that have not been dried or processed shall not be sold to, provided to, purchased by, or received by a non-processing walnut buying operation except during the walnut buying period established by the agricultural commissioner in accordance with this Chapter.

#### **9.48.070 Walnut Buying Period—Exception for verified small growers.**

- A. Any grower who grows and harvests less than two thousand pounds of in-shell walnuts annually, may request that the agricultural commissioner inspect their growing premises, and issue a small grower's certificate verifying that the grower grows and harvests less than two thousand pounds of in-shell walnuts annually. Such certificate shall be valid for one year.
- B. Notwithstanding section 9.48.060, verified small growers may sell walnuts that they have grown and harvested, not to exceed the amount specified

in that year's small grower's certificate, which is issued by the agricultural commissioner, at any time with a small grower's certificate.

#### **9.48.080 Vehicle Inspection of Walnuts**

Any peace officer may, upon having probable cause to believe that a person is in unlawful possession of walnuts, stop and search and inspect the walnuts and request proof of ownership. If an agricultural commissioner has probable cause to believe that any walnuts are unlawfully possessed, he or she may request a peace officer to stop a vehicle for inspection.

#### **9.48.090 Seizure and Retention of Seized Walnuts**

Upon reasonable belief that a person is in unlawful possession of walnuts in violation of this Chapter, the walnuts, or any portion of which are reasonably determined to be unlawfully possessed, may be seized and held by the agricultural commissioner or any peace officer. The seized walnuts shall be held at such place and in such manner as is reasonable under the circumstances, and until disposed of as provided in section 9.48.110. The agricultural commissioner or peace officer shall record the date and place of seizure, information pertaining to the person from whom the walnuts were seized; and, to the extent practical, the quantity, type, condition and other information pertaining to the walnuts.

#### **9.48.100 Investigation to Ascertain Ownership**

The agricultural commissioner or any peace officer may investigate to ascertain the ownership of any walnuts that have been held pursuant to this Chapter. If the lawful owner is identified and located the walnuts shall be released to the owner or agent. The agricultural commissioner may require reasonable payment, not to exceed the value of the walnuts, to cover costs incurred for storage of the walnuts.

#### **9.48.110 Disposition of the Seized Walnuts**

- A. If for any reason the walnuts cannot be released to the rightful owner within 48 hours after coming into the custody of the agricultural commissioner, the agricultural commissioner may sell the walnuts by public auction or by private sale, at fair market value to a commercial packer or processor of the walnuts. Prior to any such sale the agricultural commissioner shall determine that the sale of the seized walnuts will not impair the prosecution of any person who is or may be charged with a crime related to these walnuts.



- B. All of the proceeds derived from the sale of the seized walnuts shall be held by the agricultural commissioner for a period of not less than six months. During this time the lawful owner of the walnuts must submit satisfactory proof of ownership to obtain possession of the proceeds. The agricultural commissioner may require payment by the owner, of an amount sufficient to cover the costs incurred for the storage and sale of the walnuts. This amount shall not exceed the value of the walnuts. If after a period of not less than six months, no demand is made or satisfactory proof of ownership is not supplied, the agricultural commissioner shall deposit the proceeds of the sale of the seized walnuts in the general fund of the County.
- C. If the seized walnuts remain unsold after being offered for sale pursuant to this section, the agricultural commissioner may donate the walnuts to a nonprofit organization.
- D. If the seized walnuts are unfit for human consumption, the agricultural commissioner may destroy them.

#### **9.48.120 Exemptions**

This Chapter shall not apply to the following:

- A. In-shell walnuts in excess of 2,000 pounds transported directly by a grower or the grower's agent from the farm or ranch where the walnuts are grown to a commercial packing or processing facility, provided that the possessor shall provide proof of ownership upon request by the agricultural commissioner or any law enforcement officer.
- B. Walnuts that are in possession of any person as a result of gleaning undertaken with the permission of the grower and are not to be sold for commercial purposes.
- C. Walnuts transported and accompanied by a valid permit, disposal order, or certificate issued by the agricultural commissioner for any reason other than to comply with this Chapter.

Notwithstanding the exemptions provided in this section, the agricultural commissioner and any peace officer may inspect any containment/possession of walnuts as provided in this Chapter, and may require that sufficient information be provided to permit verification that an exemption applies in the particular circumstances.

### **9.48.130 Violations**

Any person violating any of the provisions of this Chapter may be found guilty of a misdemeanor, which shall be punishable as provided in Chapter 1.36 of this County Code. This punishment is separate and independent from any other punishment or penalty provided for under any other law or regulation, including forfeiture.

### **9.48.140 Civil Penalties and Remedies**

Food and Agricultural Code section 885 provides that in lieu of pursuing a civil prosecution, the agricultural commissioner may levy a civil penalty against any person violating the provisions of this Chapter. The civil penalty for each violation shall be, for a first violation, a fine of not more than five hundred dollars (\$500). For a second or subsequent violation, the fine shall be not less than one hundred dollars (\$100), nor more than one thousand dollars (\$1,000). Before a civil penalty is levied, the person charged with the violation shall receive notice of the nature of the violation and shall be given an opportunity to be heard. This shall include the right to review the evidence and a right to present evidence on his or her own behalf.

Subdivision (e) of section 43003 shall apply to any fine levied pursuant to this section for purposes appealing the initial hearing. Subdivision (f) of section 43003 shall apply to any decision where a fine is levied and judgment to be entered.

### **9.48.150 Cumulative Remedies**

All remedies provided for herein are cumulative and not exclusive, and are in addition to any other remedy or penalty provided by law.