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May 2008



### **Recognizing a Nuisance**

There is a lot of speculation about how new development could affect agriculture in Humboldt County. You have likely seen agriculture give way to urbanization in Humboldt and in other counties. The area surrounding Sacramento is a harsh example of how agriculture land has been converted into residential development, business parks, and shopping malls. Whenever there is some limited conversion from farming to another use, creating mixed land uses in an area, the term nuisance comes up a lot and, usually, the context is that the occupants of new land uses will accuse long-standing agriculturists of creating or operating a nuisance.

Accusing your neighbor of being a nuisance and suing them for this in order to stop operations is one way to put your neighbor out of business. It has worked in the past and it adds to farmers' apprehension when development is approved not far away from their farm. The State of California anticipated this and in 1981 passed a civil code to assist farms in the wake of rising urbanization (Cal Civil Code 3482.5). The code is called a Right-to-Farm Ordinance or a Farm Enabling Act. It cannot prevent a neighbor from filing a lawsuit with a nuisance cause of action; however, it does provide the farmer with an affirmative defense, which is akin to saying, "So what of it?". The code is a State ratification that some operations cannot be deemed a nuisance as a matter of law.

Rather than display the entire code here, only the most relevant portions of the code [Cal Civil Code 3482.5 (a) and (e)] are included

here to demonstrate what steps the State has taken to shield farmers from growth wars or encroachment.

**“3482.5. (a) (1) No agricultural activity, operation, or facility, or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after it has been in operation for more than three years if it was not a nuisance at the time it began.**

**(2) No activity of a district agricultural association that is operated in compliance with Division 3 (commencing with Section 3001) of the Food and Agricultural Code, shall be or become a private or public nuisance due to any changed condition in or about the locality, after it has been in operation for more than three years if it was not a nuisance at the time it began.”**

...

**“(e) For purposes of this section, the term "agricultural activity, operation, or facility, or appurtenances thereof" shall include, but not be limited to, the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural commodity including timber, viticulture, apiculture, or horticulture, the raising of livestock, fur bearing animals, fish, or poultry, and any practices performed by a farmer or on a farm as incident to or in conjunction with those farming operations, including preparation for market, delivery to storage or to market, or delivery to carriers for transportation to market.”**

Natural Resources Management provides this information so that the  
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farmers, timberland owners, and other agriculturists - who are so vital to the economy and the excellent quality of life in our area, know that there is some support for their operations and have a reference to go to in the event of encroachment on their existing and long standing operations.



## What Other Counties Are Doing to Support Agriculture

Here is one way to support the local agriculture community and to help sustain our quality of life. Please contact the County of Humboldt Community Development Office and ask that they implement a Disclosure Notice like a majority of other California counties that contain and appreciate their agricultural heritage.

The following excerpt is a model disclosure notice provided by Farm Bureau Model Ordinance, Section 4 (b). This notice is currently provided by about a dozen other Counties in California and issued to landowners via their tax bill or real estate transaction disclosures. It notifies landowners that their land is located nearby agricultural activities. This notification is an indication that the County and the people in the community value and protect their agriculture by taking a measure that can prevent conflicts between landowners with different intentions for their land. The County of Humboldt does not currently issue this notice but could with enough support from the community.

Model Disclosure: "The County of \_\_\_\_\_ permits operation of properly conducted agricultural operations within the County. If the property you are purchasing is located near agricultural lands or operations or included within an area zoned for agricultural purposes, you may be subject to inconveniences or discomfort arising from such operations. Such discomfort or inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any 24 hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. One or more of the inconveniences described may occur as a result of any agricultural operation which is in conformance with existing laws and regulations and accepted customs and standards. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a county with a strong rural character and an active agricultural sector. This notice was provided by: UC Agricultural Center, Phone: 530-752-2320."

To contact the Humboldt Community Development Office, call (707) 445-7541.



## Maybe Voter-Approved Propositions Can Help You

The Integrated Regional Water Management Plan (IRWMP) was created in 2002 by the passage of Proposition 50 (Water Security, Clean Drinking Water, Coastal and Beach Protection Act). This act allotted \$500 million for IRWMP projects. In 2006, two additional acts were passed, Proposition 84 (Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act) which increased funding by \$1 billion, and Proposition 1E (Disaster

Preparedness and Flood Prevention Bond Act) which increased funding by an additional \$4 billion, of which \$300 million was allotted to storm water flood management projects.

The appropriations of the original 2002 funds were divided into two regions: Southern (San Diego, Imperial, Riverside, Orange, Los Angeles, San Bernardino, Santa Barbara, and Ventura counties) and Northern California (all California counties except the counties designated as Southern California). Different agencies dispense these grants, depending on the department the project falls into.

Departments include: Water Resources, Department of Health Services, State Water Resources Control Board, Resource Agency, California Conservation Corps., Wildlife Conservation Board, Department of Fish and Game, State Coastal Conservancy, Department of Parks and Recreation, California Department of Forestry and Fire Protection, and the Department of Conservation. Fund amounts ranging from \$10 million to \$1 billion are available for many different water related projects. These particular funds typically require that the applicant match the IRWMP funds with either personal funds or other non-State funds.

Funded programs include: Storm Water Flood Management, Integrated Regional Water Management, Small Community Grants, State Water Pollution Control Revolving Fund, Safe Drinking Water Revolving Fund, Emergency Safe Drinking Water Projects, Groundwater Cleanup Loans and Grants, Agricultural Pollution Reduction, River Parkways and Urban Streams, Restoration/Conservation Projects, Storm Water Cleanup, Forest Conservation and Protection, Wildlife Habitat Preservation, Working Landscapes, Natural Community Conservation Plans, Clean Beaches, State Coastal Conservancy, Nature Education Centers, Museums and Aquariums, Urban Greening and Joint Use Projects, Local and Regional Parks, and Planning Incentives for Resource Conservation.

To gain funds, an applicant would need to contact the appropriate department for information on the application process and its requirements. Once an application is filled out according to the expected manner and turned in, the department then scores the application according to the guidelines. This score determines whether or not the applicant will receive the grant money. Notably, Tracie Billington, P.E. of the Department of Water Resources - Division of Planning and Local Assistance, informed us that private land owners do not generally receive these funds, unless they are working with a government agency or a non-profit organization. However, local agencies are available and are usually willing to work with landowners to obtain a grant when resources under their jurisdiction can be improved. Natural Resources Management Corporation (NRM) is pleased to provide landowners with assistance in obtaining grant partnerships and to assist in grant writing to help landowners obtain the funding that they need and is available through these voter-approved propositions.

For additional information about available grants in California, please visit the CA Grants website, <http://www.ca.gov/Grants.html>. To view more information on Proposition 84 and 1E, visit the CA Bond Account-ability website, <http://www.bondaccountability.ca.gov/Bonds/>. Information on the North Coast IRWMP is available at <http://www.northcoastirwmp.net/>.

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