

Grand Jury

Contra
Costa
County

725 Court Street
P.O. Box 431
Martinez, CA 94553-0091



May 5, 2023

Monica Nino
Contra Costa County
1025 Escobar Street
Martinez, CA 94553

Dear Monica Nino:

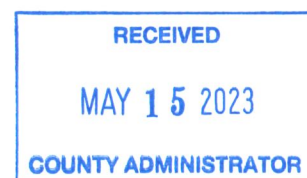
Attached is a copy of Grand Jury Report No. 2302, "The Long Wait for Agricultural Contract Approval in Contra Costa County" prepared by the 2022-2023 Contra Costa County Civil Grand Jury

Sincerely,

A handwritten signature in blue ink, appearing to read "C Roberts", is written over a horizontal line.

Cynthia Roberts, Foreperson
2022-2023 Contra Costa County Civil Grand Jury

Enclosure



**Contra Costa County
Department of Conservation &
Development (DCD)**

**The Long Wait for Agricultural
Contract Approval in Contra Costa
County**



2022–2023
Contra Costa County
Civil Grand Jury
Report #2302
May 4, 2023

A REPORT BY
THE 2022–2023 CONTRA COSTA COUNTY CIVIL GRAND JURY
725 Court Street
Martinez, California 94553

Report 2302

Contra Costa County Department of Conservation & Development (DCD)

The Long Wait for Agricultural Contract Approval in Contra Costa County

APPROVED BY THE GRAND JURY

Date 5-1-2023



CYNTHIA ROBERTS
GRAND JURY FOREPERSON

ACCEPTED FOR FILING

Date 4/28/23



HON. JILL C. FANNIN
JUDGE OF THE SUPERIOR COURT

Contact: Cynthia Roberts
Foreperson
(925) 608-2621

Contra Costa County Grand Jury Report 2302

Contra Costa County Department of Conservation & Development (DCD)

The Long Wait for Agricultural Contract Approval in Contra Costa County

To: Contra Costa County Board of Supervisors

Table of Contents

SUMMARY 1
METHODOLOGY 2
BACKGROUND 4
DISCUSSION 6
FINDINGS AND RECOMMENDATIONS..... 9
 FINDINGS: 9
 RECOMMENDATIONS: 9
REQUIRED RESPONSES 11
INVITED RESPONSES 12

SUMMARY

Cities within Contra Costa County typically have their own planning and/or building departments. These departments are responsible for accepting, evaluating, and approving several types of planning and building permits within the incorporated areas of their city. These permits can be for different scales of projects, such as the replacement of residential windows, a new roof, the addition of a swimming pool, or adding solar panels.

Building and planning departments also evaluate and approve larger projects such as new subdivisions, affordable housing, or a new office building.

In unincorporated Contra Costa County, the department that accepts, evaluates, and approves planning and building permit applications is the Department of Conservation and Development (DCD). In addition to unincorporated areas, the DCD provides building and planning services, under contract, to the cities of Clayton, Hercules, Lafayette, Moraga, and Orinda.

One of the specialized functions that the DCD performs under its planning umbrella is the recommendation to the board of supervisors for the approval of agricultural contracts. Agricultural contracts, often called Williamson Act Contracts, are agreements between the county and the landowner for the purpose of restricting specific parcels of land for agricultural or related open space use. This use can include growing certain crops, grazing of farm animals, or providing open space.

In return, landowners can receive a substantial reduction (often 20% to 75%) on their property tax assessment compared to full market value. The California Legislature passed the Williamson Act in 1965 to preserve agricultural and open space lands by discouraging premature and unnecessary conversion of open space to urban use.

As a result of this grand jury investigation, we found that the DCD process to review and recommend the approval of agricultural contract applications is lengthy compared to another county. This causes delays and the overpayment of property taxes by the applicants while awaiting contract approval. The grand jury also found that communication between the DCD and the applicant, which we reviewed, is inconsistent, and when it does occur, is often overly optimistic and inaccurate regarding the status of the application.

The grand jury recommends that the DCD consider revising their agricultural contract review and approval process, which currently takes several years, to a process similar to that employed by another county that approves their agricultural contract applications within a few months.

METHODOLOGY

The grand jury received a written complaint from a landowner whose family owns a land parcel in an unincorporated area of the county. The complainant stated that they had applied for an agricultural contract in late 2021, paid the required \$2,000 application fee, and had received no confirmation of approval from the DCD as of August 2022. The application is still pending as of April 2023.

During the inquiry into the complaint, grand jury investigators interviewed a second landowner whose family also owns several parcels in an unincorporated area of the county. This landowner had applied for an agricultural contract involving adjacent parcels. The application was filed in late 2019 at which time fees totaling \$2,000 were paid. This applicant has not received approval as of this writing in April 2023.

The grand jury also interviewed several individuals who possessed knowledge specific to our investigation. Our goal was to establish a timeline starting at the date of application, continuing through the major milestones of the application process, and culminating in the county Board of Supervisors' approval of the contract. We also analyzed the agricultural contract processes of another northern California county in order to gain a comparative perspective from their agricultural contract approval process. Our investigators obtained information from public websites, such as the DCD's ePermit portal, which is supposed to provide status on individual building and planning permits as well as generate summary reports. We accessed the county mapping website (CCMAP) to obtain information on land parcels. We accessed the county treasurer and tax collector's website to obtain property tax assessment information. We also obtained historical information from the California Department of Conservation's website regarding the Williamson Act.

We issued a Request for Information (RFI) to the DCD and two cities in Contra Costa that have their own planning and building departments. One was a large city by area and population (City A), and one was a medium sized city by area and population (City B).

Our RFI covered the years 2018 through 2022 and requested data on the following topics:

- What is the volume of planning and building applications?
- What are the staffing levels of the department?
- What are the average intervals for common building permit applications?
- Are estimates of intervals published?
- Can applicants obtain the status of their application online?
- Can applications be submitted electronically?
- What are the major causes of delay in processing applications?
- Are there written policies establishing response times to applicant's questions?
- Are employee workloads monitored and resources redirected?
- Are there methods for an applicant to contact management to raise concerns?

We compared the agricultural contract process of a similar sized county to the process in place at DCD. Our intent was to compare the overall building and planning processes within the county

**Contra Costa County Department of Conservation & Development (DCD)
The Long Wait for Agricultural Contract Approval in Contra Costa County**

and, more specifically, the agricultural contract process in our county compared to another county.

BACKGROUND

Our investigation revealed that the county DCD has a substantial workload. Processing, on average, 1,250 planning permits annually (which include agricultural contracts) and 13,700 building permits annually. As a comparison, the workload of our other two cities participating in the RFI is shown below.

Table 1 – Planning Department Overall Workload

	CCC DCD	City A (Large)	City B (Medium)
Planning Permit Annual Average	1,250	225	90
Building Permit Annual Average	13,700	5,300	750

In both Contra Costa, and the other county we compared, we found that agricultural contracts are not a significant part of their overall workload. The table below shows the average number of agricultural contracts applied for in each county.

Table 2 – Agricultural Contracts

	DCD	Another Northern California County
Average Number of Agricultural Contracts Applied for Per Year	4	20–25

Although agricultural contracts are a small portion of planning permits, averaging 3 or 4 contracts per year in Contra Costa, delayed processing can cost the applicant thousands of dollars in excess property taxes while waiting for contract approval and the reassessment of their property tax to a lower rate.

Agricultural contracts do involve more layers of review than adding solar panels, remodeling a kitchen, or installing an emergency generator. The guidelines for agricultural contracts were established in 1965 by the State of California under the Williamson Act. The California Department of Conservation governs the Williamson Act program at the state level, but the program is administered locally, through a combined effort of the DCD, county counsel, the county assessor, and the county recorder, and may require involvement by the planning commission, public works the Local Agency Formation Commission (LAFCO) and adjacent cities, with final approval by the county board of supervisors as recommended by the DCD.

Our objective for this investigation began as the singular task of determining why our complainant's application for a new agricultural contract had not been approved after nearly one year. During our interviews, we discovered that not only was our original complainant's application still pending, but eight additional contracts were pending approval as well.

**Contra Costa County Department of Conservation & Development (DCD)
The Long Wait for Agricultural Contract Approval in Contra Costa County**

We wanted not only to determine the root cause of the delays but determine if there were any contributing factors such as department training or staffing issues. Just as importantly, we also wanted to determine if the applicant could learn the status of their application and had an avenue to communicate with the DCD.

DISCUSSION

The Grand Jury reviewed the period from 2018 through 2022. During this time, the DCD received 18 agricultural contract applications. Of the 18 applications, seven were received in 2018. Of those received in 2018, two were incomplete from the applicant, 4 were approved, and one is still pending as of April 2023 (Table 3). Of the four that were approved in 2018, the average time from application date to approval was 105 days, just over three months (Table 4).

As of the writing of this report, in April 2023, there have been no applications approved since December 2018. There are currently 14 open applications, some of which are over five years old.

Table 3 – Williamson Act (Agricultural Contract) Applications 2018–2022

App. Number	Submitted	Approved	Current Status (as of April 2023)
AP18-0001	1/31/2018	-	Incomplete – Pending correction by applicant.
AP18-0002	1/31/2018	-	Incomplete – Pending correction by applicant.
AP18-0003	2/9/2018	8/7/2018	Approved by the board of supervisors.
AP18-0004	4/10/2018	8/22/2018	Approved by the board of supervisors.
AP18-0005	5/30/2018	9/12/2018	Approved by the board of supervisors.
AP18-0006	10/25/2018	-	Advanced by the planning commission in Feb. 2023.
AP18-0007	12/12/2018	12/17/2018	Approved by the board of supervisors.
AP19-0001	9/18/2019	-	Need new title report post-subdivision. Contract can't be completed without.
AP19-0002	9/18/2019	-	
AP19-0003	9/18/2019	-	
AP19-0004	9/18/2019	-	
AP19-0005	10/7/2019	-	Advanced by the planning commission in February 2023.
AP21-0001	2/16/2021	-	Draft contract accepted by applicant. Staff report for county counsel for review is next.
AP21-0002	2/16/2021	-	Need new title reports when subdivision is recorded (MS21-0015). Contract can't be completed without.
AP21-0003	2/16/2021	-	
AP21-0004	11/9/2021	-	Draft contract accepted by applicant. Staff report for county counsel review is next.
AP22-0001	5/10/2022	-	Need to draft contract.
AP22-0002	7/19/2022	-	Need to draft contract.

In contrast, our comparison county processes 20 to 25 agricultural contracts per year and uses a streamlined contract process to reduce the interval each county entity (e.g., community development, county recorder, tax assessor, board of supervisors, etc.) takes to review, advance, and approve the contract.

**Contra Costa County Department of Conservation & Development (DCD)
The Long Wait for Agricultural Contract Approval in Contra Costa County**

Table 4 – Agricultural Contracts Processed

	DCD	Nearby Northern California County
Average Agricultural Contracts Applied for Each Year	4	20–25
Average Application Interval from Application Date to Approval	<p>Pre 2019: 108 Days</p> <p>Post 2019: No contracts have been approved since December 2018.</p> <p>As of April 2023, the oldest contract has been in process for over 4 years and 6 months and counting.</p> <p>As of April 2023, the newest contract has been in process for over 9 months and counting.</p>	90 Days
Pending Contracts as of 4/1/23	14	0

Our interviews and RFI were focused on if the intervals associated with agricultural contracts in Contra Costa were comparable to another county. We have concluded that our county’s intervals are long in comparison.

We wanted to determine if processes are in place for DCD management to monitor employee workloads, application volume, and other factors, and whether corrective action is taken, if necessary, to keep intervals to an acceptable length. Although DCD indicated they have these processes in place, they were not applied consistently to agricultural contracts, resulting in lengthy intervals since 2018.

Our RFI also sought to verify that customers have a means of determining the status of their applications, either through an online portal or by verbal or electronic communication with department personnel. Regarding agricultural contracts, we concluded that the online system that DCD uses to provide application status (ePermit) contained inaccurate statements regarding the current status of the application and the planners estimate as to when the next step in the process would be completed. We also found evidence that emails and telephone calls to the department often went unanswered. On the occasions when the applicant’s inquiries were responded to, the response was often an inaccurate or overly optimistic assessment of the progress of the application.

Even though DCD management indicated they had customer service procedures in place, such as the monitoring of the planner’s workload, a backup planner assigned, and a goal of a 24 hour response time to applicant inquiries, these procedures were not consistently followed in the case of our complainants.

**Contra Costa County Department of Conservation & Development (DCD)
The Long Wait for Agricultural Contract Approval in Contra Costa County**

Based on our investigation, and data provided by DCD, there is not a systemic approval delay problem that extends beyond agricultural contracts. We therefore conclude that the excessive interval on agricultural contracts is an isolated problem within the DCD and can and should be corrected by implementing a streamlined process that is effective in another county.

Findings and Recommendations

Findings:

- F1. There is no formal procedure for the evaluation and approval of agricultural contracts in Contra Costa County by the DCD.
- F2. The current process to review and approve an agricultural contract takes over three years.
- F3. An agricultural contract has not been approved since 2018.
- F4. Delays in approving agricultural contracts require applicants to continue to pay higher property tax payments while awaiting approval.
- F5. The DCD ePermit online tool provides an overly broad status on agricultural contracts. As of April 2023, the status of all agricultural contract applications is “hearing prep”. This could indicate the application is under an environmental quality review or being prepared for the board of supervisors for approval.
- F6. Our interviews found that one planner is trained to work on agricultural contracts and is often compelled to spend a majority of their time on other tasks such as the general plan.
- F7. Inquiries for status via email and voicemail by agricultural contract applicants to the DCD are often not responded to.
- F8. When applicant email inquiries are responded to, they often provide a progress status that fails to materialize and/or is overly optimistic.

Recommendations:

- R1. The grand jury recommends that the DCD establish a written and publicized process for agricultural contracts, similar to what our comparison county has implemented, by October 1, 2023.
- R2. We recommend that the DCD establish a well-publicized deadline for all agricultural contract applications (e.g., October 1), process all agricultural contracts together and preschedule a standing item on the planning commission’s agenda (if required) and the board of supervisor’s agenda in late November or early December, with contract approval on or before December 31 of the same year, striving to approve agricultural contracts within 90 days.
- R3. We recommend that the DCD include an in-person or video teleconference meeting with the applicant to clearly define the required paperwork and the deadline for application submittal.
- R4. We recommend that the DCD agricultural contract process be agreed upon and shared with all involved entities, such as county counsel, the planning commission, public works, adjacent cities, LAFCO, and the assessor's office, to gain agreement on the process by all involved entities. Recommended date of agreement is October 1, 2023.
- R5. We recommend that the DCD update the ePermit status for agricultural contracts, within 48 hours of a status change, as the application progresses through the involved entities.

**Contra Costa County Department of Conservation & Development (DCD)
The Long Wait for Agricultural Contract Approval in Contra Costa County**

- R6. We recommend that the DCD train additional planners to process agricultural contracts in order to eliminate the current backlog by October 1, 2023 and meet the 90 day agricultural contract approval interval target for future applications.
- R7. We recommend that the DCD review and adhere to their stated goal that calls and emails from applicants be returned within two business days.
- R8. We recommend that the DCD implement an escalation process for agricultural contracts so that the applicant can request management intervention if key milestones and deadlines are in jeopardy of being missed.
- R9. The grand jury recommends that DCD management establish procedures to monitor the progress of agricultural contract applications to ensure progress deadlines are met by each involved entity.

REQUIRED RESPONSES

As required by California Penal Code section 933(b) et seq. and California Penal Code § 933.05, the Contra Costa County 2022–2023 Civil Grand Jury requires responses from the following governing bodies:

Responding Agency	Findings	Recommendations
Contra Costa County Board of Supervisors	F1–F8	R1–R9

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to ctadmin@contracosta.courts.ca.gov and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson
725 Court Street
P.O. Box 431
Martinez, CA 94553-0043

INVITED RESPONSES

The Grand Jury invites the following individual(s) to respond:

Responding Agency	Findings	Recommendations
Director of the Department of Conservation and Development – Mr. John Kopchik	F1–F8	R1–R9

These responses, if made, should be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to ctadmin@contracosta.courts.ca.gov and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson
725 Court Street
P.O. Box 431
Martinez, CA 94553-0043