### THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS ACTION AGENDA SUMMARY

DEPT:ENV	IRONMENTAL	RESOURCES KMA	<u>/</u>	BOARD AGENDA#B	-12
Urg	gent	Routine X	<u>-</u>	AGENDA DATE July 8	, 2003
CEO Concurs	s with Reco	mmendation YES(Information	NO on Attached)	4/5 Vote Required YES	NO
SUBJECT:	RECOMM	ENDATIONS OF TH	E NUISANCE	CATION OR REJECTION OF ABATEMENT HEARING BO AR ROAD, CERES, CALIFOI	OARD
TAFF RECOMMEN- PATIONS:	ADOPT, M			ON OF THE NUISANCE ABA ICE AT 4362 ESMAR ROAD,	/ <del>-</del>
	CALIFORN	<b>IIA.</b>			
ISCAL MPACT:	There is no	fiscal impact associat	ed with this ite	m.	
OARD ACTIO	ON AS FOLL	OWS:		<b>No.</b> 2003-652	· · · · · · · · · · · · · · · · · · ·
d approved by res: Superviso res: Superviso cused or Abs	y the followir ors: <u>Paul, May</u> ors: <u>None</u> ent: Supervis	ng vote, dield, Grover, Caruso, d cors: None	and Chairman S	nded by Supervisor <u>Simo</u> imon	·
Appı Deni	roved as reco ed	mmended			
AD IN CERES, CAL GS ON THEIR FAR NG AS THERE WAS ERATION BUT THA D, AMENDED THE	PT:  OARD UPHELD TO  IFORNIA; BASED  M PRIOR TO THE  S NO EXPANSION  IT THERE HAD BE  RECOMMENDATI	HE NUISANCE ABATEMENT H ON ORAL TESTIMONY AND I ZONING ORDINANCE OF 197 OF THE HOG FARM, THE BO EN NO EXPANSION OF THAT	DOCUMENTS PRESE 75; AFTER THE ZONI DARD FINDS THAT TI TUSE; THE BOARD N	COMMENDATION REGARDING CE NO. 01 INTED, THE BOARD FINDS THAT THE FER NG IN 1975 THE HOG FARM WAS LEGAL N HERE HAD BEEN IMPROVEMENTS MADE A VILL ALLOW THE FERNANDES' FAMILY TO LAGOON) WOULD BE COVERED WITHIN A	NANDES' FAMILY RAIS NON-CONFORMING USE AT THE HOG FARM O CONTINUE TO FARM;

1010-08

ATTEST:

CHRISTINE FERRARO TALLMAN, Clerk

File No.

#### DISCUSSION:

This is a zoning enforcement case regarding properties at 4342 and 4362 Esmar Road in Ceres. The properties are owned by Gloria Fernandes. Code Enforcement staff investigated complaints regarding a pig farm at 4342 Esmar Road and, on November 20, 2002, issued a Notice of Violation to the property owner. That Notice of Violation listed two violations: (1) unlawful keeping of hogs, and (2) unlawful lagoon or pond for animal waste.

On April 17, 2003, the Nuisance Abatement Hearing Board (NAHB) held a hearing to consider case CE 01-1899. The Department of Environmental Resources (DER) asked the NAHB to find that the pig farm had an expansion of a legal non-conforming use and the illegal installation of a lagoon in a Rural-Residential (RA) zone, and with that finding, under Section 2.92 of the Stanislaus County Code, declare the hog farm and lagoon at 4342 and 4362 Esmar Road a nuisance. All zoning violations are considered a nuisance, under Section 2.92 of the Stanislaus County Code. The Nuisance Abatement Hearing Board denied the request of DER in a four to one vote.

In accordance with Stanislaus County Code § 2.92.070, subdivision (B)(2), the recommendation of the NAHB is forwarded to the Board of Supervisors. That section states: "The Board of Supervisors may adopt, modify or reject the recommendation without further notice of hearing or, in the discretion of the Board of Supervisors, may set the matter for a de novo hearing."

The evidence presented at the hearing showed that Ms. Fernandes' residence is at 4362 Esmar Road and sits on a nine acre parcel. Esmar Road is a two-lane, paved highway. Service Road is to the north of the subject property and Redwood Road is to the south. To the east are almond trees and light density ranchettes that front Faith Home Road. To the south are medium density ranchettes and almond trees. To the north is a TID lateral and the one-acre parcel, 4342 Esmar Road.

The property at 4342 Esmar Road contains an older ranchette. To the north of this property is the TID lateral, to the south is 4362 Esmar Road and to the east is an almond orchard belonging to the Fernandes.

The evidence presented at the hearing showed that Ms. Fernandes purchased the properties in March 1974, when the properties were zoned general agriculture. There was a zoning change in 1975. The zoning was

changed to A-2-10, with the General Plan designation of UT (Urban Transition). The UT designation restricts the use of the agricultural property to an R-A (Rural-Residential) zone. Lagoons and hogs are not permitted in an R-A zone. However, if hogs were being maintained on the property at the time of the zoning change in 1975, the Fernandes' could continue to maintain that same number of hogs as a legal non-conforming use. The use could not be enlarged or increased, nor be extended to occupy a greater area. (Stanislaus County Code § 21.80.020).

After the hearing was closed, Jack Doering, Assistant County Counsel, advised the NAHB that they should first determine what is the legal nonconforming use. That legal nonconforming use, he said, could be determined on the basis of area, magnitude or number of hogs. Then, he advised, the NAHB should consider the evidence presented at the hearing to determine whether there had been an expansion. The NAHB determined that it was a legal non-conforming use and that there had been no expansion.

The owner's attorney, Betty Julian, who appeared at the hearing, and the owner's son, Paul Fernandes, said that since 1974, Mr. Fernandes has continuously maintained 300 to 400 pigs each year on the property at 4342 Esmar Road. Some neighbors testified that there were only four or five pigs kept on the Fernandes' property prior to the 1975 zoning change. Zoning Enforcement Officer Dave Hodges, who cited the owners for unlawful keeping of hogs in 1996, reported seeing only four sows in 1996. Mr. Hodges issued a violation notice by way of a letter dated July 19, 1996. That letter informed the owner that his investigation revealed that hogs were being kept on the subject property in violation of the Zoning Ordinance. The letter informed the owner that in order for her to bring her property into compliance, the animals must be removed. The pigs were not removed.

As cited above, there was conflicting evidence as to the number of pigs kept on the property prior to the zoning change. If there has been an increase in the number of pigs maintained on the property, it would constitute an expansion of the legal non-conforming use.

At the hearing, the NAHB heard of the following other concerns from Code Enforcement staff with regard to 4342 Esmar Road:

- 1.) There is a garage and hog barn, that was originally 22'x 32', which was expanded to 24'x 72' in 2002. Mr. Fernandes obtained a building permit for this expansion. Approximately 24'x 40' area of this hog barn is enclosed and contains 14 stainless steel raised farrowing crates. (Farrowing crates are used to allow a pregnant sow to enter in the middle of this crate, to rest, eat and nurse newborn piglets. It also allows for the sow to be separated from the piglets so the sow's movement does not crush them. Most crates are heated in some fashion.) The building permit was issued after an erroneous determination by the Planning and Community Development Department of permitted land uses of the property.
- 2.) Between the TID lateral and the expanded garage is a "hog barn", approximately 57' wide and 40' long. This hog barn is used to house older piglets. It is sectioned off to keep older piglets from the younger ones. This barn has had the interior modified to accommodate numerous piglets. The modification includes separate stalls, electric fans, watering devices, and an upgraded interior. The expansion of this hog barn was done without building permits from Stanislaus County.
- 3.) Adjacent to the "hog barn" are three semi-trailers without tires and axles. Each of these trailers house farrowing crates, are electrified for heating and vented with large fans. A building permit should have been obtained for these. There are no permits on file with Stanislaus County. The owner's attorney told the NAHB that these trailers were set in place in 1995, 20 years after the zoning change. However these trailers were not noted by Zoning Enforcement Officer Dave Hodges during an inspection of the property in 1996. Mr. Hodges recalls seeing only four or five pigs, an old barn, a residence and a garage on this property (see Zoning Enforcement Officer Hodge's letter, Attachment "B").
- 4.) Between the trailers and hog barn is a grain silo for feed and a water supply. Approximately 50' east of the trailers is an open lagoon where all the pig excrement from the pigs is deposited. This lagoon is within 15 feet of the TID lateral and less than 300 feet from the residence. This lagoon, approximately four to five feet in depth, 20 feet wide and 100 feet long is unlined. Mr. Fernandes flood irrigates his almond orchard with a mixture of water from the lagoon and water from the adjoining TID lateral. This lagoon is not regulated by the Regional Water Quality Control

Board. The possibility of ground water contamination from this lagoon is of concern. This lagoon was in place, according to the owner's attorney, in 1978. At the NAHB hearing, Code Enforcement staff introduced aerial photographs taken in 1980, 1985 and 1989. These do not show evidence of a lagoon on the property. A 1998 photograph does show the lagoon. In addition, a neighbor testified that the lagoon was put in place in 1997 or 1998. Whether the lagoon was placed on the property in 1978 or in 1998, everyone agrees that it occurred after the zoning change in 1975.

5.) This area of Esmar Road is within the sphere of influence for the City of Ceres. The City has expressed concern about an expansion of this non-conforming use. Further, the Ceres School District also has expressed concern about the pig farm, as it is located within two blocks of a planned school site.

Finally, please see Attachment "A", which contains a summary of pertinent "disputed" and "undisputed" facts, Attachment "B", the documentation to the NAHB, Attachment "C", documents from the Fernandes family and the NAHB transcript.

POLICY ISSUES:

The Board should decide whether acceptance, modification or rejection of the recommendations of the Nuisance Abatement Hearing Board is consistent with the Boards' priority of ensuring a safe and healthy community.

STAFFING IMPACT:

There is no staffing impact associated with this request.

#### INTRODUCTION

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The Fernandes family has maintained a hog farm in Stanislaus County for nearly thirty (30) years and is now being asked to stop their operation due to a mix up between the County departments and neighbor complaints. Stanislaus County Code Enforcement continues to pursue the unfounded claim that the Fernandes hog farm is a nuisance even after the Stanislaus County Nuisance and Abatement Board found no existing nuisance and determined that the hog farm was not in violation of any zoning ordinance. The facts, regarding the Fernandes hog farm, should persuade this Board to find in favor of the Fernandes family and dismiss any charges that a nuisance exists because any other decision would cause great hardship on these individuals and would in turn render a unjust result.

#### **FACTS**

Paul Fernandes and his family have maintained a hog farm at 4362 Esmar Road, Ceres, California since they purchased that parcel of land in March of 1974. In 1974 the zoning was General Agriculture, since that time, the zoning ordinance has changed to what is referred to as General Agricultural District (A-2), Urban Transit. However, the Fernandes family has been allowed to continue to operate under pre-1975 laws due to their pre-existing nonconforming use status (also referred to as a grand-fathered status).

The hog farming industry has changed drastically over the last twenty nine (29) years causing the Fernandes family to make improvements and upgrades in the equipment and the procedures used in their business. By existing as a "nonconforming use" status, the Fernandes family has been limited in expansion of their operation. Any substantial "expansion" would cause the Fernandes family to loose their non-conforming use status. Therefore, the Fernandes family has continuously been cautions regarding their business practices to ensure they comply with any and all Stanislaus County Code sections.

In April of 2002, the Fernandes family was given a permit by the Stanislaus County Public Works Department to remodel their hog barn and to change the roof on the garage (which was being used as the hog barn). The hog barn had a tin roof that need to be changed. However, Paul Fernandes was told that the hog barn was not stable enough to hold a comp roof. The structure had dilapidated over the years due to moisture. The only solution would be to tear down the structure and

put up new dry wall and a new roof. Paul knew that he had difficulty with the County and Code enforcement regarding his hog farm in the past so he was very hesitant in making any changes. Paul took his plans to change the barn to the Public Works department. During a meeting with a County employee, Paul explained his situation regarding the hogs located on his property. He informed the County employee that he did not want to make any changes to the hog barn structure if it would cause him any problems or put him in violations of any Code Section. The County employee assured Paul that the plans to upgrade and remodel the barn would be reviewed and approved by all appropriate County departments prior to any issuance of approval on changing the structure. Paul waited nearly six (6) months before he was allowed to make the said change. Paul never tried to hide anything from the County. He was very honest and forthcoming regarding the changes he wanted to make and he made those changes in the good faith belief that he was not "expanding" his operation.

The remodeling encompassed turning part of the hog barn back into a garage (its original purpose) and then adding space to the other end of the barn to make up for the lost garage space. The actual square footage of the barn has increased by very little. Such increase was merely to allow the sows to enter and exit the structure facing forward to reduce the amount of noise the sows made when they were moved.

Paul Fernandes has spent nearly \$60,000 to remodel and to refurnish the hog barn with modern equipment. He took such measures in the good faith belief that he was permitted to do so. Paul was aware that he was not permitted, under the Code, to expand his operation because of the hog farm's nonconforming use status. However, he relied on the Stanislaus County Public Works Department and the permit they issued to make the changes. He was given the impression that the County would only issue a permit for such changes after ensuring that the changes would not violate any Stanislaus County Code sections. He had no idea that one department could give him permission to do something that would cause another department to bring a nuisance action against him.

Code Enforcement is arguing that the hog farm is a "nuisance" because it has "expanded", yet they have failed to provide any conclusive evidence regarding the farm's prior condition. The Fernandes family has not in any way expanded the hog farm operation nor have they expanded the actual number of the hogs on the premises. In fact, the number of sows on the farm has decreased over the years. The technology and modernization of the hog farming industry allows farmers to

decrease the number of hogs while maintaining their production. Since remodeling, the hog farm has actually been a cleaner and more efficient operation promoting a healthier environment, which causes less odor and less sound.

In 1974, the hog farm had over 100 sows on the property along with 200 babies. The sows were constantly being bred due to the high volume of deaths among the babies caused by disease. Since that time, the Fernandes family has converted to the "all in all out" system. This process impregnates the sows all at the same time, once a month (not every day) to ensure that the babies are all the same age and not infecting one another. In the past, when the babies were all various ages disease was more rampant. Therefore, the number of babies born a year has not increased but the actual numbers that live and are sold has.

Since 1974 the Fernandes family has not increased the operation, production, or size of their hog farm. In fact, they have actually decreased the number of sows on their farm by nearly 100. Over 100 sows that lived on an open gestation lot have been long removed. Any structures that they have added to the farm have been to modernize the operation and to bring the farm up to date on the new and improved technology. Such structures have not expanded the operation they have merely replaced the various other outdoor facilities that are no longer in use.

The hog farm is also used to help maintain the 10 acres of organic almonds located on the Fernandes farm. The manure from the lagoon is used as nutrients for the almonds. Outside sprays and fertilizer (which could be potentially more environmentally unsafe and cause more odor) are not used on the property.

#### **ARGUMENT**

The Fernandes family should be permitted to continue to operate their hog farm under the nonconforming use status because they have not enlarge or increased the use nor have they extended the use to occupy a greater area than was occupied by such use prior to the date the use became nonconforming. They have merely upgraded the facility to alleviate and decrease disease, noise, smell and flies. Technically the argument Code Enforcement is making regarding an alleged "expansion" merely qualifies as a modification, upgrade and replacement of areas of the hog farm that are no longer in use or that have been drastically down sized.

In the alternative, if changes made to the property are considered additions or an expansion, the Fernandes family should not be penalized for the County's mistake in issuing a building permit. The Fernandes family detrimentally relied on the permit they received from the County Public Works Department and spent nearly \$60,000 to renovate their hog farm. Stanislaus Zoning Code section 21.96.060(B) states:

No building permit shall be issued in any case where a use permit is required by the terms of this title unless and until the use permit has been granted by the planning commission or board of supervisors and then only in accordance with the terms and conditions of the use permit so granted.

If the County Public Works Department issued a building permit contrary to this Code Section how can we blame the Fernandes family for rely on such actions. Paul Fernandes was told by the Public Works Department that the building permit would only be issued if the Planning Department reviewed and approved the modifications. Now Code Enforcement is arguing that a use permit was needed for such changes and is claiming that the Fernandes family is in violation of the Zoning Code because of the changes the County previously approved.

A use permit would only be necessary if these changes are deemed an actual "expansion". It is the Fernandes family's position that the changes made are not and should not be categorized as an "expansion" because they do not constitute an enlargement, an increase, or an occupation of a greater area than occupied prior to the date the use became nonconforming. However, if the Board determines that an "expansion" has in fact occurred, we ask that the Board ratify such changes under section 21.80.070 of the Zoning Code because the Fernandes Family acted in good faith and detrimentally relied on the County's Building Permit and Public Works Department in implementing such changes.

Dave Hodges, Zoning Enforcement Officer, has admitted that he investigated the Fernandes hog farm in April 1996 through September 1996. At that time the County did not find any zoning violations. Mr. Hodges has states that he does not recall seeing a lagoon on the property and that his zoning violation notice dated 7/19/1996 does not address an unlawful lagoon or pond for animal waste. However, Mr. Hodges failed to mention, in the report he prepared for the Nuisance Abatement Hearing Board, that in 1996 the issue was not regarding the lagoon or an alleged "expansion" issue but was regarding the actual acres the farm was on. Code Enforcement was notified that the farm was on one

(1) acre as opposed to the ten (10) acres it is located on. Therefore, there would be no reason for Mr. Hodges' notice to mention a lagoon. Furthermore, Mr. Hodges did not inspect the hog farm in 1996. He states he only recalls seeing a few pregnant sows. However, Mr. Hodges merely spoke to Paul and Gloria Fernandes at their front door. He never inspected the property nor did he enter the barns. Therefore, his recollection of what the farm's condition was in 1996 is irrelevant. Furthermore, Code Enforcement has aerial pictures of the farm and the lagoon form 1980, 1985 and 1998. They claim that in the first two photographs there is no lagoon but that in the 1998 photograph there is a lagoon and therefore it must have been "added" recently. A mere examination of the pictures reveals that the 1980 and 1985 photographs were taken from a much greater distance than the 1998 photograph. Furthermore, the lagoon has obviously grown over the years. The waste from the animals does not all evaporate. Just because it was not as large as it is in the 1998 photograph does not mean it did not exist in 1978.

The only recent photographs Code Enforcement has of the hog farm were taken during a tour of the facilities given to then by Paul in April 2003. Paul is very proud of his operation. He opened his doors to the County employees to explain any and all changes ever made to the facility. Furthermore, just because Mr. Hodges does not recall seeing something back in 1996 does not mean it was not there. For example, a neighbor who complained at the Nuisance and Abatement Hearing testified that he drove up and down the road several times before buying his house and never even notices a hog farm. Therefore, without conducting a full investigation prior to this years tour, the County and Code Enforcement have no real basis for alleging the farm has "expanded".

A lagoon has been present on the property since 1978. Of course, the lagoon has grown over the years. However, such growth has been ordinary and natural growth. The growth related to the lagoon has nothing to do with any type of "expansion". Such growth is attributable to nearly thirty (30) years of accumulated waste. Prior to having a lagoon the feces from the hogs was just dumped on the ground. This procedure caused much more odor and flies than having a lagoon. Code Enforcement may argue that since the lagoon was not present pre-1975 it is an "expansion". However, the fact is that the operation of the hog farm did not and has not expanded by the lagoon. the lagoon is just a modernization of the hog farming industry. It is a tool that is used ti decrease odors and flies.

In October 2002, the lagoon changed its shape and size at the request of Turlock Irrigation District (TID). The Fernandes family had no desire to move the lagoon. However, TID complained that the lagoon was located too close to the bordering canal. TID requested that the Fernandes family move the lagoon further back to prevent the possibility of overflow into the canal. The Fernandes family used their own resources to accomplish this move in order to ensure that the canal would not be contaminated. In the process of the move, the lagoon was also lowered to further prevent any possibility of overflow. The lagoon was expanded by twenty (20) feet in length. However, it was also decreased in height by four (4) feet all the way around. Attached is a letter from TID regarding dairy waste.

Several neighbors that spoke at the Nuisance and Abatement Board Hearing stated that the odor at the hog farm had recently increased. The Fernandes Family does not deny that the odor from the lagoon has increased since it was moved in October 2002. The fact is that anytime you disturb the gestation process, odor will change. It takes at least six (6) to eight (8) months for a lagoon and bacteria in it to settle. The Fernandes Family should not be punished because they followed TID's request and moved the lagoon.

The establishment of the defense of laches requires a showing of unreasonable delay and prejudice. See People v. Ramey, 45 Cal.App. 3d 185, 195 (1975). The County has waited nearly thirty (30) years to bring a nuisance action against the Fernandes hog farm. The Fernandes family has invested its time, energy, and money on modernizing, maintaining, and establishing their business. If the Board decides to find the farm in violation of a zoning ordinance, it would be as if the County gave with one hand (the permit to build) and took with the other (Code Enforcement). The Fernandes family should not be subjected to such an unreasonable delay of action by the County. The Fernandes family will greatly be prejudiced if the Board does not follow the Nuisance and Abatement Board's recommendations. Important evidence regarding the hog farm's status in 1974 and 1975 are no longer available due to the unreasonable amount of delay in the bringing of this action.

#### CONCLUSION

In conclusion, we ask that you find that the Fernandes hog farm has not expanded its production or operation and can maintain its nonconforming use status.

The issue before the Board is not whether some neighbors feel that the hogs are a nuisance or that they do not like the smell. This a hog farm and there is going to be some amount of smell. The only issue is whether or not the hog farm has "expanded" which may or may not have affected its nonconforming use status.

There is no question that the Fernandes hog farm has changed over the past thirty years, but so has the hog farming industry. The hogs use to be located outdoors and are now indoors. The farm used to house much more sows than babies and now it houses more babies and a lot less sows. The farm use to cause a lot more noise, odor and flies and now the Fernandes family has eliminated much of those problems. Furthermore, the Zoning Code does not preclude farmers from changing or upgrading their operations. The only question is whether or not the hog farm has "expanded" its operation.

The decision the Board makes in this case is very important. If the Board decides to shut down the Fernandes hog farm it will be creating a terrible precedent. Any farmer who existed prior to a zoning change will be vulnerable for attack by neighbors who decide that they no longer want to live in a farming area. If the changes made by the Fernandes family over the years are considered "expansions" all farmers in an urban transit zoned area that maintain a non-conforming use status must be investigated and shut down for any improvements and modernization which caused change.

We ask that you not be persuaded by the emotions of the neighbors who may object to the existence of this farm. But that you examine the facts in this case and find in favor of keeping the Fernandes hog farm in operation.

#### FERNANDES FAMILY HOG FARM SINCE 1974

#### **STATUS IN 1974**

1. Hog Barn located in garage and in an extending structure. Twelve (12) farrowing crates were located in that barn. Sows were forced to back out of the farrowing crates because of the lack of space causing extensive amount of noise.

- 2. Older farrowing barn. This structure contains four (4) farrowing crates. This structure use to be in use at all times.
- 3. Outdoor gated area for the sows. Over one hundred (100) sows located outside on a dirt lot facing the front of Esmar Road. This caused constant flies, smell and noise.

4. Grower barn that held over three hundred (300) babies at one time of all various age groups. Contained sixteen (16) very large pins where the various age groups were crowded in together until sold.

#### **STATUS TODAY**

- 1. Hog Barn renovated due to the dilapidation of the garage. Converted some of the hog barn space back into a garage. Renovated and upgraded the existing hog barn structure and added additional space to the existing hog barn to replace the converted garage space. Fourteen (14) farrowing crates are now located in the existing structure. Approximately two (2) feet of space was added in between the farrowing crates so that the sows could enter and exit facing forward. This has greatly decreased noise caused by the sows having to enter and exit the barn backwards.
- 2. This structure is no longer in daily use. Only holds sows if there is an over flow. Therefore, the nonuse of this barn is replaced by the two additional farrowing crates in the hog barn.
- 3. This structure was removed and is no longer located on the farm. Over one hundred (100) sows that were kept outdoors have now been removed. This has decreased the amount of flies, smell and noise coming from the farm. Thus, the operation has decreased in number. This change occurred at or about the same time the trailers began being used.
- 4. Grower barn is now only used for overflow of babies that are not sold on any given week at the market. On average, it is either empty or holds less than twenty (20) babies.

New system of "all in all out" allows the farmers to keep all the same age group

babies together.

Three (3) trailers were converted into nurseries in 1995 to implement the "all in all out" system.

Code enforcement has indicated that these trailers are a problem. However, Dave Hodges inspected the property in 1995 and found no problem with the trailers. The trailers have been on the property and have been used in the current capacity since 1995.

The baby pigs are kept in separate pins based on their age group. Two of the trailers contain eight (8) pins each to house babies. There were only ninety-six (96) babies in those pins on April 4, 2003.

One of the trailers contains five (5) farrowing gates that holds the older baby pigs.

If the square footage of the three trailers was added together the total size would be less than the size of the old Grower Barn. In addition, the amount of babies kept in the trailers, including any overflow that may or may not be in the Grower Barn at any given time, is less than the amount of babies that use to be kept in the Grower Barn prior to converting to the "all in all out" system.

5. In 1978 a lagoon was created to decrease the smell coming from the feces on the property. Water prevents bacteria from breeding.

There was no need or desire to expand or move the lagoon. However, Turlock Irrigation District (TID) began complaining that the lagoon was located too close to the bordering canal. TID asked that the lagoon be moved further back to prevent the possibility of overflow into the canal.

5. There was no lagoon located on the property. Any and all feces, from the over one hundred (100) sows and three hundred (300) babies on the property, was just dumped on the open land. This caused much smell and disease.

6. There were nineteen (19) farrowing crates located on the farm.

7. The maximum number of babies and sows on the farm was four hundred (400). There were more sows than babies and almost all of the animals were kept outdoors.

Disease was rampant. Therefore, sows needed to be pregnant more often to make up for the dying babies.

8. No process to alleviate pest control problems.

In October 2002, the lagoon was moved back away from the canal. In that process it was also lowered to prevent any possibility of overflow. The lagoon was expanded by twenty (20) feet in length but it was also decreased in height by four (4) feet all the way around.

- 6. There are currently twenty three (23) farrowing crates on the farm. This is only an increase in equipment not an expansion of the operation. The reason for the additional crates is due to the "all in all out" system. More sows are impregnated once a month verses the old system where sows were continuously impregnated every day of the week. This has not caused an increase in the number of pigs on the farm.
- 7. The maximum number of babies and sows on the farm today is also four hundred (400). There are more babies than sows and all of the animals are kept indoors.

The system has decreased disease, noise, smell and flies.

8. Clark Pest Control is contracted to spray for any pest control problems including flies every seven (7) days.





March 21, 2002

#### Development Services

George Stillman Director

(209) 525-6557

1010 10TH Street, Suite 3500, Modesto, CA 95354 Phone: 209.525.6550

Gloria P Fernandes 4362 Esmar Rd Ceres, CA 95307-9791

Address: 4342 Esmar Rd

Subject: ADDITION - 22'-3" X 40 HOG BARN / REPLACE ROOF ON REMAINDER OF EXISTING GARAGE BUILDING

Permit #: BLD2001-03424

#### Dear Property Owner:

Your building permit is ready to issue. The following items must be provided prior to issuance of the permit.

N/A Release from the CERES UNIFIED School District.

PROVIDE SIGNATURE OF SPECIAL INSPECTION AGENCY ON SPECIAL INSPECTION Other Documents:

Building Permit Fees:	AGREEMENT	PRIOR	TO	ISSUANCE.
Building Permit Issuan	ce\$20			\$20.00
Public Works Review				\$10.00
Plan Check				\$0.00
Building Permit(Valuation)				\$240.70
Strong Motion Tax				\$4.99
ADJUST Plan Check				\$37.41
Electrical Equipmen/Ite	emst			\$72.00
Mechanical Items				\$9.00
Plumbing Equipment/If	ems			\$20.00

PERMIT FEES

\$414.10

County Impact Fee

TOTAL PAYMENTS DUE

\$414.10

The property owner or licensed contractor may pick up the permit Mon - Fri 8am to 5pm.

Please pick up before:

April 20, 2002

"Pursuant to Government Code 66020 you may protest the imposition of any fees, reservations, or other exactions imposed in this development project within 90 days after the date of this letter or the date the development project was initially approved, whichever comes first."

CC:

**GLORIA FERNANDES** 4362 ESMAR RD **CERES, CA 95307** 



APPLICATION APPROVAL This Permit Does Not Become Valid Until Signed By The Building Official Or Their Deputy

I agree to comply with all city and county ordinances and state laws relating to construction, and hereby authorize representatives of this county to enter upon the above mentioned

I certify that I have read this application and state that the above information is

And All Fees Are Paid.

property for inspection purposes

correct.

SIGNED

#### Stanislaus County **Public Works Department**

**Development Services Division** blic Works 1010 10th Street, Ste.3500, Modesto, California 95354

THIS PERMIT WILL EXPIRE IF WORK IS NOT STARTED WITHIN 180 DAYS OF ISSUE OR IF THERE IS A WORK STOPPAGE OF 180 DAYS DURING CONSTRUCTION.

> Phone (209) 525-6557 24 Hr. Inspection Request 525-7550

> > Valuation: \$10,039.20 \$13,705.20 \$23,744.40

LICENS	ED CONTRACTOR'S DECLARATION	Permit #: BLD2001-03424	Issued: 4/5/02	By: <b>JT</b>
section 7000) of Division 3 of the	n licensed under provision of Chapter 9 (commencing with the Business and Professions Code and my license is in full	Received by: RODRGSR	Plan Chk By:	RR
force and effect. License Number	Olmen	APN: 041-21-30		
Ficetise id diliper	Class	Job site: 4342 Esmar Rd		
Signature	Date	Ceres		
<u>ov</u>	VNER-BUILDER DECLARATION	Job Description: ADDITION -	· 22'-3" X 40 HOG BAR	N/REPLACE
	enalty of perjury that I am exempt from the Contractor's	ROOF ON REMAINDER OF		
	reason (Sec 7031.5 Business and Professions Code: Any permit to construct, alter, improve, demolish,or repair any	C/S SERVICE RD		
	also requires the applicant for the permit to file a signed	Owner:	Contractor:	
	nsed pursuant to the provisions of the Contractor's License	Gloria P Fernandes		
	with section 7000) of Division 3 of the Business and or she is exempt therefrom and the basis for the alleged	4362 Esmar Rd		
exemption. Any violation of S	Section 7031.5 by any applicant for a permit subjects the	Ceres, CA 95307-9791		
	t more than five hundred dollars(\$500): property, or my employees with wages as their sole	00100, 074 00007 0701		
	and the structure is not intended or offered for sale (Sec.			
	s Code: The Contractors License Law does not apply to an	538-8502		
	or improves thereon, and who does the work himself or own employees, provided that the improvements are not	Architech/Engineer: 974		
intended or offered for sale. If, h	nowever, the building or improvement is sold within one year	Architech/Engineer: 874		
of completion, the owner-builde or improve for the purpose of sa	er will have the burden of proving that he or she did not build	GORDON M. HART		
	roperty, amexicusively contracting with Icensed contractors	P.O. BOX 4746		
	7044, Business and Professions Code: The Contractors any owner of property who builds or improves thereon, and	MODESTO, CA 95352		
	with a contractor(s) licensed pursuant to the Contractors			
License Law.)		522-3835		
[ ] I am exempt under	Sec B. & P.C.			
for this reason:	1	Type of Constr: VN	Occupancy: U-3	
Owner's Signature	COMPENSATION DEPLACATION Date 4-5-02	Use:	Sq. Ft.	Valuation
WORKERS'	WOMP ENSATION DEPLARATION	Stable/Barn	890.00	\$10,039.20
I hereby affirm under penalty of	perjury one of the following declarations:	Garage	648.00	\$13,705.20
	naintain a certificate of consent to self-insure for workers' by section 3700 of the Labor Code, for the performance of	, J	Total Valuation:	\$23,744.40
the work for which the permit is		(Not all may be shown)	Total Valuation.	Ψ20,7
[ ] I have and will m	naintain workers' compensation insurance, as required by			
	de, for the performance of the work for which this permit			
issued. Ivry workers compensa	ation insurance and policy number are:	-		
Carrier		Work Included:	Setbacks:	
Policy Number		Electric:	Front:	
	pleted if the permit is for one hundred dollars (\$100) or less)	Plumbing:	Right:	
5 All I annilli, dheat in the ne	and a supplied the second of t	Mechanical:	Left:	
not employ any person in a	erformance of the work for which this permit is issued, I shall any manner so as to become subject to the workers'		Rear:	
compensation laws of California	a, and agree that if I should become subject to the workers'		Mean.	
those provisions.	action 3700 of the labor code, I shall forthwith comply with	Total Face: 522 44		
$\sim 119$	9-K-03	Total Fees: 533.14		
Applicant	Date 1 3-0	Conditions: (Not all may be	shown)	
	SECURE WORKERS' COMPENSATION COVERAGE IS	Tariana (Not all may be		
	BJECT AN EMPLOYER TO CRIMINAL PENALTIES AND			
	NDRED THOUSAND DOLLARS (\$100,000), IN ADDITION ATION, DAMAGES AS PROVIDED FOR IN SECTION 3706		•	
OF THE LABOR CODE, INTER	REST, AND ATTORNEY FEES.			
	NSTRUCTION LENDING AGENCY  of perjury that there is a construction lending agency for the			
	ich this permit is issued (Sec. 3097, Civ. Code.).			
Lender's Name				
Lender's Address	· ·			

<sup>]</sup> Did contractor show valid workers' compensation insurance

certificate? (Lab Code, sec. 3800 (b).)

Is Contractor's name absent from Contractors' State License Board non-payment list? (Health & Saf. Code, sec. 19825 (b).)



## Stanislaus County

DEVELOPMENT SERVICES DIVISION

Department of Public Works



1010 10<sup>th</sup> Street, Suite 3500 Modesto, CA 95354 (209) 525-6557, FAX (209) 525-7759

## STANISLAUS COUNTY SPARTMENT OF BUILDING INSPECTION SPECIAL INSPECTION AND TESTING AGREEMENT

Project: Addition to Existing Hog Barn and roof replacement.
Address: 4342 Esmar Rd. City: Ceres
Building Permit #: BLD 2001-03424
Occupancy: Hog Barn
Type of Construction: Addition to Existing Hog Barn and roof replacement
Owner: Paul Fernandes Ir
Address: 4362 Esmar Rd. City: Cares
Contractor: Self
Contractor: Self
Contractor: Self  Address: 4362 Esmar Rd. City: Ceres



## Stanislaus County DEVELOPMENT SERVICES DIVISION Department of Public Works



1010 10<sup>th</sup> Street, Suite 3500 Modesto, CA 95354 (209) 525-6557, FAX (209) 525-7759

#### SPECIAL INSPECTION AND TESTING AGREEMENT

The Uniform Building Code Chapter 17, Section 1701.1 requires that in addition to inspections required by Section 108 "Special Inspections and Testing" be made when specific types of construction occur unless exempted by Section 1701.1.

Special inspection and testing shall meet the minimum requirements of UBC Section 1701. Special Inspections are to be performed on a continuous basis, meaning that the Special Inspector is on site in the general area at all times observing the work requiring special inspection. Periodic inspections if any, must have prior approval by the Building Official based on a separate written plan reviewed and approved by the Building Official and the project engineer or architect.

#### BEFORE A PERMIT CAN BE ISSUED:

- 1. The owner, or the engineer or architect acting as the owner's agent, shall complete this agreement and the attached "Special Inspections and Tests Schedule" (FS2) by indicating the necessary inspections as required by the UBC, Section 1701.5.
- 2. Each Inspection/Testing Agency, Special Inspector shall be approved by the Building Inspection Division prior to performing any duties. Each agency or Special Inspector shall submit their/his/her qualifications to the Building Inspection Division for review and approval.
- 3. Each Special Inspector involved with the project shall be able to provide an approved identification, when performing the function of a Special Inspector.
- 4. A pre-construction conference with the parties involved will be held to review the special inspection requirements, procedures and sign the "Special Inspection and Testing Agreement" (FS3). The pre-conference may be waived when determined by the Building Official.
- 5. The contractor is responsible for notification to the Special Inspector or agency regarding individual inspections on the attached Schedule (FS2) and as noted on the Building Inspection Division approved plans. Adequate notice shall be given to allow the Special Inspector to become familiar with the project.

- 6. Duties of the Special Inspector are:
  - a. Observe the work for conformance with the Building Inspection Division approved (stamped) design drawings, specifications.
  - b. The Special Inspector shall furnish inspection reports as required and all discrepancies shall be brought to the immediate attention of the contractor for correction, then, if uncorrected, to the proper design authority and the Building Official.
  - c. The Special Inspector shall furnish weekly inspection reports to the Building Official, the engineer or architect of record and other designated persons.

Reports shall include the following:

- The date of the inspection or test.
- The name of the agency providing the inspection services.
- The name, address, and building permit number of the project.
- The signature and typed or printed name of the person making the inspection or test.
- Describe inspections and tests made with applicable locations.
- List all non-conforming items.
- Indicate how non-conforming items were resolved or indicate unresolved items.
- Itemize changes authorized by the architect, engineer and Building Official if not included in the non-conforming items.
- d. The Special Inspector shall provide a daily hand written report in a format acceptable to the Building Inspection Division to remain on the job site with the contractor for review by the Building Inspection Division's Inspector. Contents shall be as stated in item c. above.
- e. The Special Inspector shall submit a final signed report stating whether the work requiring special inspection was to the best of his/her knowledge, in conformance with approved plans and specifications and the applicable workmanship provision of the UBC. The report must be received and approved prior to the issuance of the required Certificate of Occupancy.
- 7. Building Inspection Division responsibilities are:
  - a. Approve Special Inspectors.

The Building Inspection Division shall approve all Special Inspectors and special inspection requirements.

b. Monitor special inspection.

The Building Inspector shall monitor special inspections and the performance of the Special Inspector. His/her approval must be obtained prior to placement of concrete or other similar activities in addition to the Special Inspector.

#### c. Issue Certificate of Occupancy

The Building Inspection Division may issue a Certificate of Occupancy after all special inspection reports, including the final report, have been submitted and accepted.

#### **ACKNOWLEDGMENTS**

I have read and agree to comply with the terms of this agreement.

Owner:	11 James	<u>ls f</u> By:		Date: <u>_2</u> _	6-02_
	4				
Contractor:	;	By:		Date:	
Special Inspector Agency:	Quality Col 1295 NORTH E MODESTO, CA	ntrol Inspection, Inc MERALO, BLOG, Q LIFORNIA 958 By:	Jess Wer.	P.E Date:_ 4 -	5-02
		./		1	
Project Engineer/ 9 Architect:9	force M!	Ву:		Date: 2	-4-02
Accepted for ti	he Building Inspect	tion Division			,
ву:	MuMu		Date: 4-5	10)	



# Stanislaus County DEVELOPMENT SERVICES DIVISION Department of Public Works



1010 10<sup>th</sup> Street, Suite 3500 Modesto, CA 95354 (209) 525-6557, FAX (209) 525-7759

#### SPECIAL INSPECTION AND TESTING SCHEDULE

BUILDING	G PERMIT NUM	BER
4 Courron	Inso.	Inc.
INSPECTION AGENC	Y or SPECIAL IN	SPECTOR
AL STEEL / WELDII	NG: .	
e and Test (List spec	•	below)
Material Identification		•
ass on Fillet Welds	5/16" or Small	er .
g Inspection	☐ Shop	Field
onic Inspection	☐ Shop	Field
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spection	]⊠ Shop	<b>⊠</b> Field
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☐ A490	_	
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Stud Welding Inspec		
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Wall Nailing Inspec	tion .	
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ction of Truss Joist F		
ole and Test Compor		
<u></u>		



## STANISLAUS COUNTY BUILDING INSPECTIONS DIVISION

1010 10<sup>TH</sup> STREET SUITE 3500 MODESTO, CA. 95354

Phone: (209) 525-6557

Fax: (209) 525-7759

# APPROVED SPECIAL INSPECTION AGENCIES

AIM TESTING

2900 Standiford Ave. Modesto, CA. 95350 (209) 523-0754 QUALITY CONTROL INSPECTION, INC.

1295 N. Emerald Ave. Modesto, CA. 95351 (209) 527-4940

ANDERSON, NEIL AND ASSOCIATES

22 N. Houston Lane Lodi, CA. 95240 (209) 537-3701 – Lodi (209) 472-1091 – Stockton BROWN & MILLS, INC.

9940 Business Park Dr. Suite 140 Sacramento, CA. 95827 (916) 362-5541 (916) 362-3658

ARROWHEAD CONSULTANTS

142 N. 9<sup>th</sup> St., Suite 12 Modesto, CA. 95350 (209) 574-0851 NORTH AMERICAN TECHNICAL SERVICES

4218 Technology Dr. Suite 4 Modesto, CA. 95356 (209) 545-1108 (209) 545-3658 - Fax

CONDOR EARTH TECHNOLOGIES, INC.

1125 Golden State Blvd. Turlock, CA. 95381 (209) 668-9234 KLEINFELDER, INC.

2825 East Myrtle St. Stockton, CA. 95205-4794 (209) 948-1345

EARTHTEC LTD.

1830 Vernon St., Suite 7 Roseville, CA. 95678 (916) 786-5273 KRAZEN & ASSOCIATES, INC.

1025 Lone Palm Ave., Suite 8G Modesto, CA. 95351 (209) 572-2200



#### **Stanislaus County**

#### Department of Planning and Community Development

#### ZONING ENFORCEMENT DIVISION

1100 H STREET

**MODESTO, CALIFORNIA 95354** 

PHONE: (209) 525-7664 FAX: (209) 525-5911

Deed of Trust 2/19/14

July 19, 1996

Gloria P. Fernandes 4362 Esmar Road Ceres, CA 95307-0000

RE: **ZONING VIOLATION - EXCESSIVE LIVESTOCK** REFERENCE NO. Z96-5060

This office is conducting an investigation regarding your property at 4342 Esmar Road, Ceres, California, APN 041-21-30. The property is within the zoning designation of General Agriculture District Urban Transition (A-2 UT) and Chapter 21.20.020 of the Stanislaus County Zoning Ordinance regulates permitted uses in your zone.

Investigation of the subject property reveals that hogs are being kept on the subject property, which is a violation of the Zoning Ordinance. In accordance with the Zoning Ordinance Chapters 21.20.020(A) and 21.24.020(B) the keeping of hots is not an allowed use in an urban transition zone.

To bring your property into compliance with the Regulated Land Use Laws, the animals must be removed.

Please contact this office within seven (7) calendar days after the receipt of this notice and present an acceptable plan of correction and abatement, with completion time parameters not to exceed thirty (30) calendar days. Failure to comply may result in enforcement procedures.

If there are any questions concerning this situation, the best time to contact me is weekdays between 8:00 a.m. and 9:00 a.m.

Dave Hodges

Zoning Enforcement Officer

15/ Late. 11/73



July 3, 2002

Gloria Fernandes 4362 Esmar Rd. Ceres, CA 95307

Dear Mrs. Fernandes:

Re: Compliance With District Policies Regarding Dairy Waste

As part of Turlock Irrigation District's on-going dairy waste monitoring program, an inspection of your dairy facility was made on February 11, 2002, to determine your compliance with the District's rules concerning dairy waste. During that inspection, TID staff determined that under your current operating practices, you have the necessary means to prevent your nutrient water from coming in contact with any District or improvement district facility.

TID does not regulate the use of dairy waste in private pipelines or ditches. However, TID does require that such use not jeopardize District or improvement district facilities. It is the District's understanding that you are operating your facilities to ensure that your lagoon water does not come in contact with District or improvement district facilities.

This letter is to notify you that your facilities are currently considered in compliance with the District's rules concerning dairy waste. This does not imply compliance in the future, nor does it imply compliance with any State or Federal regulations.

In recent years, there has been increased regulatory emphasis on water quality issues, including those dealing with confined animal facilities. TID is responding with an increased effort to monitor lagoon water use as it effects our facilities. We feel it is very important to protect both District and improvement district facilities so that we can continue to provide vital irrigation services to our customers. We appreciate your cooperation, and look forward to your continued support of this important program.

Should your operating practices change, please notify me so a visit to your dairy can be made to ensure your on-going compliance with the District's rules regarding dairy waste.

If you have any questions regarding this matter, please contact me at (209) 883-8386.

Sincerely,

Keith Larson

Water Resources Analyst

RECORDED AT\_ STANSLAUS/TITLE MOI 2617 PAGE 514 THE RECUIEST OFFI RECORDS STAN-WHEN RECORDED, RETURN TO: ISLAUS CO. CALIF. George Vierra SYEVE R. INFLSON. 4342 Esmar Road Ceres, California RECORDER 32726-DC Escrow No.\_ 37136 MAR 22174 RECORDER A SITA SEES PHONE IT Deed of Trust (SHORT FORM) 19th February \_\_. 19.74\_\_\_, BETWEEN THIS DEED QF TRUST, made this. \_day of\_ PAUL/FERNANDES and GLORIA P. FERNANDES, Husband and Wife 4342 Esmar Road, Ceres, California 95307 herein called TRUSTOR. STG HOLDING COMPANY, a corporation herein called TRUSTEE, and GEORGE VIEIRA and VIOLET VIEIRA, Husband and Wife as Joint Tenants herein called BENEFICIARY,
WITNESSETH. That trustor irrevocably GRANTS, TRANSFERS AND ASSIGNS to TRUSTEE, INTRUST, WITH POWER OF that t described as follows: SALE, that certain real property situate in the County of Stanislaus, State of California, Parcel 1 as shown upon that certain Parcel Map filed June 16, 1967 in Volume 3 of Parcel Maps, page 92, Stanislaus County Records; being a portion of Lot 14 of ESMAR TRACT. In the event of sale or transfer of all or any part of the property described herein, all amounts remaining unpaid under the terms of the note or note s secured by this Deed of Trust shall become immediately due and payable. TOGETHER WITH the rents, issues and profits thereof, SUBJECT, HOWEVER, to the right, power, and authority given to and conforred upon Beneficiary by Paragraphs 5 of Part B of the provisions incorporated herein by reference to collect and apply such rents, issues and profits, for the Purpose of Securing payment of the indebtedness evidenced by a promissory note, of even date herewith, executed by Trustor in the sum of s. 42,500.00 any additional sums and interest thoroun which may hereafter be loaned to the Trustor or his successors or assigns by the Beneficiary, and the performance of each agreement herein contained. Additional loans hereafter made and interest thereon shall be secured by this Deed of Trust only if made to the Trustor while he is the owner of record of his present interest in said property, or to his successors or assigns while they are the owners of record thereof, and shall be evidenced by a promissory note reciting that it is secured by this Deed of Trust. By the execution and delivery of this Deed of Trust and the note secured hereby the parties hereto agree that there are adopted and included herein for any and all purposes by reference as though the same were written in full line in the provisions of Section A, including paragraphs I through 6 thereof, and of Section B, including paragraphs I through 10 thereof, of that certain fictitious Deed of Trust recorded in the official records in the offices of the County Recorders of the following counties on January 20, 1958, unless otherwise indicated by \*, in the books and at the pages designated after the name of each county: Book Page 154 324 39 237 1842 388 561 140 241 417 Book Page County Book Page County County County | Sonoma | 1568 | Stanis laus | 1463 | Sutter | 482 | Tehama | 322 | Trinity | 772 | 773 | 773 | 774 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 775 | 8573 236 "H" 170 74 387 907 571 983 545 130 514 2876 205 San Diego 6914
\*San Francisco 7216
San Joaquin 2034
San Luis Obispo 924 Modoc Alameda Imperial 262 79 210 Mono Monterey Inyo Alpine Amador Kern Butte Kings 699 108 Napa 135 664 421 84 16 97 495 502 374 337 425 113 750 3105 Nevada Oranze Placer 275 161 408 288 \*San Mateo 472 407 483 25! 117 268 428 3!1 3334 Lake 334 219 49 Tulare Lucium ne 2032 1583 532 1497 3976 1167 Colusa Contra Costa Lagge Sonta Barbara \*Santa Clara T-21 709 1166 Los Angeles

Plumas

\*Riverside

Sacramento San Benito

San Bernardino 4417

\*Hiverside, #anuary 21,-1958; \*San Francisco; January 13, 1938; \*San Mateo; January 16, 1958; \*Santa Clara; January 7, 1958; A copy of said provisions so adopted and included herein by reference is set forth on the reverse hereof.

Haul 1 The undersigned Trustor requests that a copy of any notice of default and of any notice of sale herounder be mailed to him at his address given shove. PAUL J.FERNANDES Fernondes **GLORIA F. FERNANDES** 

Ventura Yolo

March 18, 1974

STATE OF CALIFORNIA

Del Norte

El Dorado

Glenn Humboldt

before me, the undersigned, a Notary Public in and for said

Stanislaus

Madera Marin Marinosa Mendocino

Merced



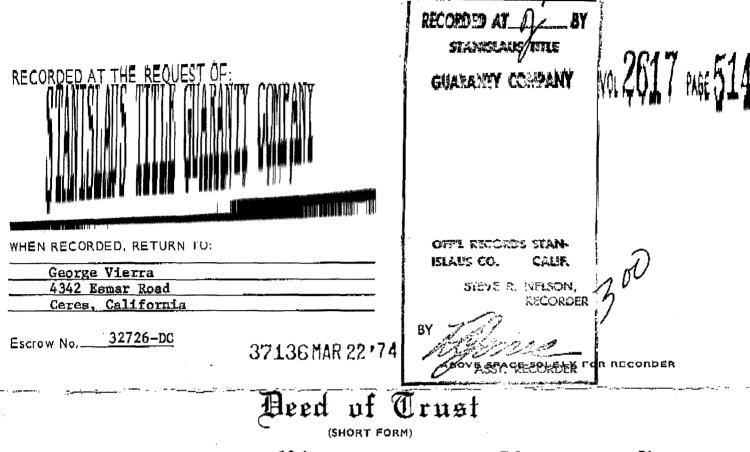
Santa Cruz

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19th February \_. 19.<u>74</u>\_\_\_\_ BETWÉEN THIS DEED QF TRUST, made this ... \_\_\_\_day of\_\_\_ PAUL/FERNANDES and GLORIA P. FERNANDES, Husband and Wife 4342 Esmar Road, Ceres, California 95307 herein called TRUSTOR, STG HOLDING COMPANY, a corporation herein called TRUSTEE, and GEORGE VIEIRA and VIOLET VIEIRA, Husband and Wife as Joint Tenants herein called BENEFICIARY, WITNESSETH. That trustor irrevocably GRANTS, TRANSFERS AND ASSIGNS to TRUSTEE, INTRUST, WITH POWER OF SALE, that certain real property situate in the County of Stanislaus, State of California, described as follows: Parcel 1 as shown upon that certain Parcel Map filed June 16, 1967 in Volume 3 of

Parcel Maps, page 92, Stanislaus County Records; being a portion of Lot 14 of ESMAR

TRACT.

#### **DISPUTED & UNDISPUTED FACTS**

#### A. UNDISPUTED FACTS

FACT	OWNER'S EVIDENCE	DEPARTMENT'S EVIDENCE
Gloria Fernandes purchased the subject property in March 1974.	<ul><li>(1) Undisputed statements of owner's representative at the hearing.</li><li>(2) Deed submitted by owner.</li></ul>	Undisputed by the Department of Environmental Resources (DER).
The zoning for the subject property changed to A-2-10, with a General Plan designation of UT (Urban Transition) in 1975.	Undisputed by owner.	Testimony of Mike Newton, DER, at hearing.
The lagoon was placed on the property <u>after</u> 1975.	(1) Owner's attorney testified that the lagoon was placed on the property in 1976 (Hearing Transcript, p. 7, line 25). (2) Handout from owner's attorney entitled "Fernandes Family Hog Farm Since 1974," stated that the lagoon was created in 1978.	(1) Aerial photos from McHenry Museum taken in 1980 and 1985 show no evidence of a lagoon on the property. 1989 photo from records of the Assessor's Office shows no evidence of a lagoon on the property. 1998 photo shows lagoon on the property. (2) Testimony of neighbor Estalene Augustine that lagoon was put on the property in 1997 or 1998. (Hearing Transcript, p. 14, line 8).
A garage/hog barn on the subject property was expanded from 22' x 32' to 24' x 72' in 2002.	The property owner applied for a building permit in November 2001 and it was issued April 5, 2002. A copy of the permit was submitted into evidence at the hearing.	The building permit, allowing the expansion, should not have been issued. The Department of Planning and Community Development approved it after an erroneous determination for the land use.
Three trailers/cargo vans were placed on the property after 1975 to house pigs.	Owner says that the trailers were placed on the property in 1995.	Staff Report submitted at the Nuisance Abatement Hearing Board (NAHB) hearing in April states, under "Prior History," that Zoning Enforcement Officer Dave Hodges inspected the property in 1996 and that he does not recall seeing the trailers.
Zoning Enforcement Officer Dave Hodges issued a notice of violation via a letter dated July 19, 1996, informing Gloria Fernandes that the keeping of hogs in "UT" designated area was not allowed and that the hogs must be removed.	Undisputed by owner.	Copy of July 19, 1996 letter submitted by DER as evidence at the NAHB hearing.

#### **B. DISPUTED FACTS**

FACT	OWNER'S EVIDENCE	DEPARTMENT'S EVIDENCE
There were 300 to 400 pigs regularly kept on the subject property from 1974 up to the time that the zoning changed in 1975.	Statement of owner's attorney at hearing.	When asked by NAHB if Mr. Fernandes could product documentation in the form of sales records or production records, he stated he could not. (Hearing Transcript, p. 9, line 6 and p. 25,
There were three to five pigs on the subject property at the time that the zoning changed went into effect in 1975.	Statement of owner and owner's attorney.	lines 13-24).  (1) Staff Report statements by Dave Hodges when he visited the property in 1996 there were four pregnant sows and no piglets seen on the property, including the barn.  (2) Testimony of neighbor Estalene Augustine that when she bought her property in 1975, Paul Fernandes was a small boy and that there were only four or five pigs on the property. Hearing Transcript, p. 14, lines 1-8 and p. 33, lines 15-23).  (3) Testimony of neighbor Nancy Pacheco that when she bought her property in 1986 there were only three or four pigs on the subject property. (Hearing Transcript, p.
		20, lines 2-8). (4) Testimony of neighbor David Jones, who represented the Fernandes' as a real estate broker when they purchased the subject property, that there was no hog farm on the subject property in 1975. (Hearing Transcript, p. 23, lines 6-11 and 1921).
The reason that the neighbors did not see the pigs on the property was because the pigs were inside.	Statement by owner's attorney (Hearing Transcript, p. 24, lines 26-28).	Owner purchased property in March 1974. Owner's attorney previously said that the pigs in 1974 or about 1974 were all kept outdoors (hearing Transcript, p. 6, line 21) and that over 100 sows were kept in a dirt lot on their property. (Hearing Transcript, p. 6, lines 22-24).
Dave Hodges did not inspect the property in 1996.	Statement of owner's attorney that Mr. Hodges did not see the pigs in the barn in 1996 because he did not inspect the property. "He stood outside the property and the only discussion was whether or not this was on a one-acre". (Hearing Transcript, p. 7, line 13).	Zoning Enforcement Officer Dave Hodges inspected the property in 1996 and found four pigs and no trailers. (handout, p. 2 Item No. 4, right-hand side).



### **Stanislaus County**

#### **Department of Planning and Community Development**

#### ZONING ENFORCEMENT DIVISION

1100 H STREET

**MODESTO, CALIFORNIA 95354** 

PHONE: (209) 525-7664 FAX: (209) 525-5911

July 19, 1996

Gloria P. Fernandes 4362 Esmar Road Ceres, CA 95307-0000

RE:

**ZONING VIOLATION - EXCESSIVE LIVESTOCK REFERENCE NO. 296-5060** 

This office is conducting an investigation regarding your property at 4342 Esmar Road, Ceres, California, APN 041-21-30. The property is within the zoning designation of General Agriculture District Urban Transition (A-2 UT) and Chapter 21.20.020 of the Stanislaus County Zoning Ordinance regulates permitted uses in your zone.

Investigation of the subject property reveals that hogs are being kept on the subject property, which is a violation of the Zoning Ordinance. In accordance with the Zoning Ordinance Chapters 21.20.020(A) and 21.24.020(B) the keeping of hops is not an allowed use in an urban transition zone.

To bring your property into compliance with the Regulated Land Use Laws, the animals must be removed.

Please contact this office within seven (7) calendar days after the receipt of this notice and present an acceptable plan of correction and abatement, with completion time parameters not to exceed thirty (30) calendar days. Failure to comply may result in enforcement procedures.

If there are any questions concerning this situation, the best time to contact me is weekdays between 8:00 a.m. and 9:00 a.m.

Dave Hodges

Zoning Enforcement Officer

DH:kh\Z25



Recording Requested By And For The Benefit Of: and When Recorded Mail To:

County of Stanislaus Environmental Resources Attn: M. Newton, Manager 3800 Cornucopia Way, #C Modesto, CA 95358-9492 DEPARTMENT ENVIRONMENTAL RESOURCES 3800 Cornucopia Way, Suite C Modesto, CA 95358-9492 Phone: 209.525.6700 Fax: 209.525.6774

Stanislaus, County Recorder
Lee Lundrigan Co Recorder Office
DOC- 2003-0009798-00

Acct 113-Environmental Resources
Thursday, JAN 23, 2003 11:21:01
Ttl Pd \$10.00 Nbr-0001111415
AAE/R3/1-2

#### NOTICE AND ORDER TO ABATE

TO: GLORIA P. FERNANDES 4362 ESMAR ROAD CERES, CA 95307 RE: File No. DER CE 01- 1899 Assessor's Parcel No. 041-21-30 Address: 4342 Esmar Road, Ceres,

California

NOTICE IS HEREBY GIVEN, pursuant to Stanislaus County Code § 2.92.030, that conditions described on Attachment A which, by this reference is made a part hereof, exist on the above-referenced real property in the County of Stanislaus, State of California, which conditions are in violation of Stanislaus County Code. These conditions exist to an extent that endangers, the life, health, property, safety or welfare of the public and, as such, constitute a nuisance under Stanislaus County Code § 2.92.010.

YOU ARE HEREBY ORDERED to commence the abatement of the aforementioned nuisance within forty-five (45) days from the date of this Notice and Order to Abate, and to thereafter diligently prosecute and complete such abatement. If corrective action is not undertaken and diligently pursued within the time allotted, then the responsible County department may (1) impose an administrative penalty (§ 2.92.060); (2) initiate abatement proceedings pursuant to Government Code sections 25845 or 26528 (§ 2.92.070); (3) commence criminal prosecution (§ 2.92.080); (4) file a civil lawsuit for injunctive relief (§ 2.92.090); and/or (5) initiate any other remedy available under the law (§ 2.92.100).

In the event that abatement proceedings are initiated, all costs incurred by the County to abate the nuisance will be charged to the owner of the property and shall become a lien against the property under Government Code 25845.

In the event that an administrative citation is issued, the fine or penalty imposed, as confirmed by the Board of Supervisors, shall become a lien against the property under Stanislaus County Code § 2.92.060 E.

For further information concerning this Notice, please contact the Department of Environmental Resources, 3800 Cornucopia Way, Suite C, Modesto, California 95358-9492 or call (209) 525-6700.

Dated: November 20, 2002

DEPARTMENT OF ENVIRONMENTAL RESOURCES

DAVE HODGES

ZONING ENFORCEMENT OFFICER

ATTACHMENT /

#### COUNTY OF STANISLAUS





#### NOTICE OF HEARING TO ABATE NUISANCE

TO: Gloria P. Fernandes 4362 Esmar Road Ceres, CA 95307

**RE:** File No. DER-CE 01-1899 Assessor's Parcel No. 041-21-30 Address: 4342 Esmar Road Ceres, CA 95307

NOTICE IS HEREBY GIVEN TO APPEAR, before the Planning Commission sitting as the Nuisance Abatement Hearing Board on April 17, 2003 at the hour of 6:00 p.m., or as soon thereafter as the matter may be heard, in the Joint Chambers, Basement Floor, 1010 Tenth St. Modesto, CA, then and there to show cause or give legal reason, if any there be, why such conditions listed on Attachment A should not be condemned as a nuisance and why such nuisance should not be abated by the undersigned enforcement official.

At the time and place specified in this Notice, the Hearing officer or Hearing Board appointed to review the decision of the Director of the responsible County department ordering cessation or abatement of a nuisance occurring at or upon the subject property, shall proceed to hear the testimony of the undersigned enforcement official, his or her deputies, the testimony of the owner or his or her representatives, and the testimony of other competent persons concerning the conditions constituting such nuisance, the estimated cost of abatement and other matters which the Hearing Office or Hearing Board may deem pertinent.

Upon the conclusion of the hearing, a decision will be rendered as to whether substantial evidence supports a determination that a nuisance exists upon the property. If a nuisance is found to exist, the Hearing Officer or Hearing Board may order you to abate the nuisance, prescribing the requirements of such abatement and prescribing a reasonable period of time for the completion of such abatement. Such order may further provide that, in the event that such abatement in not commenced, prosecuted or completed within the terms set in the order, the undersigned enforcement official shall be authorized to abate said nuisance and to recover the costs incurred by the County to abate the nuisance. The materials, equipment, vehicles or other personal property or materials contained in the nuisance abated by the enforcement official may be disposed of in any manner deemed appropriate by the enforcement official, including, but not limited to sale or transfer to another department in the same manner as surplus County personal property, and the proceeds from such sale shall be paid into the County general fund and shall offset the cost of abatement.

For further information concerning this Notice, please contact the Department of Environmental Resources, 3800 Cornucopia Way, Ste C, Modesto, CA 95358 or call (209) 525-6700.

Dated: April 7, 2003

DEPARTMENT OF ENVIRONMENTAL RESOURCES

CODE ENFORCÉMENT OFFICER

ATTACHMENT

### **NUISANCE ABATEMENT HEARING BOARD**

#### STAFF REPORT

**DATE OF HEARING:** April 17, 2003

TITLE: Nuisance Abatement Hearing: CE #01-1899

#### **STATEMENT OF VIOLATION:**

1. Unlawful keeping of hogs.

2. Unlawful lagoon or pond for animal waste

#### **LOCATION OF PROPERTY:**

Address: 4342 Esmar Rd., Ceres, CA

APN: 041-21-30

Supervisory District: 2

#### **INTERESTED PARTIES:**

Gloria P. Fernandes

#### **CURRENT ZONING:**

A-2-10 UT (General Agriculture Urban Transition)

#### **GENERAL PLAN DESIGNATION:**

General Agriculture

#### **PRESENT LAND USE:**

Hog farming

#### **SURROUNDING LAND USE:**

General Agriculture Urban Transition

#### PHOTOGRAPHIC EXHIBITS AND/OR OTHER EVIDENCE:

ATTACHMENT\_B

Exibit "A" -11/15/02. Top - Photo shows the proximity of the animal waste lagoon to the T.I.D. lateral. Bottom photo shows hog barns location to T.I.D. lateral and three storage vans.

Exhibit "B" – 01-15-03. Top-left - Photo of T.I.D. lateral and a pile of earth behind storage van. Top right- Photo of site taken from Esmar Road.. Bottom left – Photo of waste lagoon and the top of T.I.D. lateral. Bottom-left – Photo shows a portion of hog barn and three storage vans with electrical service.

Exhibit "C" - 04/18/1980 - Aerial photo of 4342 Esmar Rd. - no animal waste lagoon.

Exhibit "D" – 03/15/1985 – Aerial photo of 4342 Esmar Rd. – no animal waste lagoon.

Exhibit "E" - 1998 – Aerial photo shows animal waste lagoon.

Exhibit "F" 04/5/02 - Plans from building permit number 2001- 03424 which identify cargo vans with hogs.

Exhibit "G" 04/05/02 – Copy of building permit for 22 ft.3 inch hog barn/ replace roof on existing garage building.

#### **RECOMMENDATION:**

It is the Department's recommendation that after considering the facts and testimony you find in favor of the County that a nuisance exists at 4342 Esmar Road in Ceres. It is requested that you forward this case to the Board of Supervisors for adoption of the recommended decision as set forth in attachment A, which includes:

- Ordering the interested parties to abate the nuisance and return the property to its permitted use as defined in the Stanislaus County Code.
- That the Board authorizes the County to abate the nuisance and charge the cost of abatement to the owner if the owner does not comply.
- Authorize the County to dispose of material removed from the property and charge the cost of removal to the owner.
- Order that a lien be recorded against the property if the owner fails to pay the County for the Abatement.

The Board may accept, modify or reject the recommendations of the Nuisance Abatement Hearing Board.

#### **REPORT PREPARED BY:**

Dave Hodges – Zoning Enforcement Officer

Department of Environmental Resources, Code Enforcement Unit

### ITEM A COMPLIANCE EFFORTS:

October 15, 2001 – The Code Enforcement Unit first received a complaint for 4362 Esmar Road in Ceres. The alleged complaint consisted of a pig farm and waste lagoon on the property. Subsequent complaints were received on 6-6-02 and 10-21-02. The initial investigator left the Code Enforcement unit and the case was assigned to Dave Hodges.

November 15, 2002 - I verified the allegations. I also noted that the property was 4342 Esmar Road, Ceres

November 20, 2002 - A Notice of Violation was mailed to the property owner. Attachment #1

November 26, 2002— I spoke with Paul Fernandes concerning the hog farm. Mr. Fernandes stated he thought everything was ok as he got a building permit for a 40'x 22'3 structure. I advised him that I felt that this was an expansion of what appears to be a lawful nonconforming use as a hog farm and suggested that he forward any and all evidence to me to show he was lawful nonconforming and then we could schedule a meeting to discuss the matter.

December 2, 2002 - Our office received a signed certified receipt card from the post office. Green receipt card was signed by Gloria Fernandes on November 28, 2002. Attachment #2

#### \*\*PLEASE NOTE\*\*

Prior History - April through September 1996 – I investigated a complaint of hog farming at the subject address. As a result of the investigation I determined that the hog farm was lawful nonconforming (§21.80 Stanislaus County Code). The hog farm was for the birthing of piglets only and not for maintaining them. I recall seeing approximately one to four pregnant sows inside a barn located on the subject property. I do not recall seeing any piglets. The cargo vans were not on the property . I do not recall seeing any lagoon nor does my zoning violation notice dated 07/19/1996 address an unlawful lagoon or pond for animal waste. Additional investigation determined that the zoning designation of urban transition did not take effect until 1975. The property was purchased by Gloria Fernandes in February 1974 when the zoning was General Agriculture.

The owner has received adequate and sufficient notice of the violations. The condition of this property is a Nuisance as defined in §2.92.010 of the Stanislaus County Code and is also a health and safety issue.

#### Attachment "A"

RE: File Number CE01-1899

Assessor's Parcel Number: 041-21-30

Address: 4342 Esmar Road, Ceres, California

#### A. CONDITIONS OF VIOLATIONS:

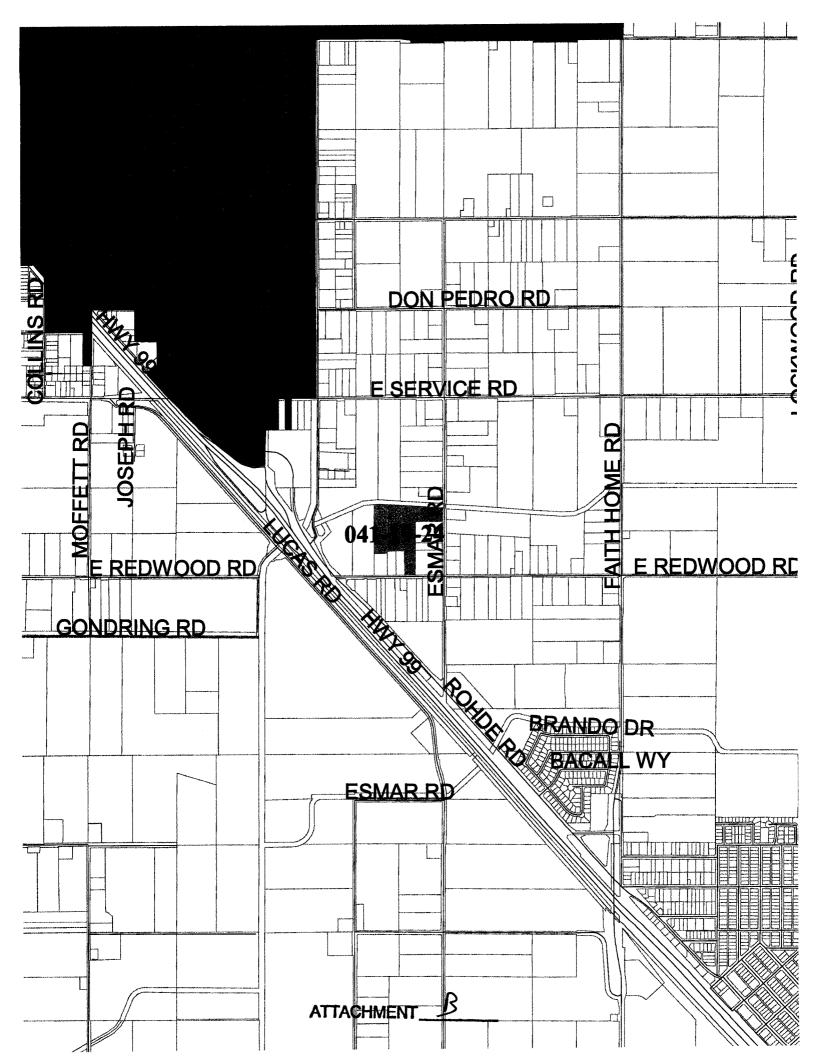
1. § 21.20.020 - Stanislaus County Code: Unlawful keeping of hogs

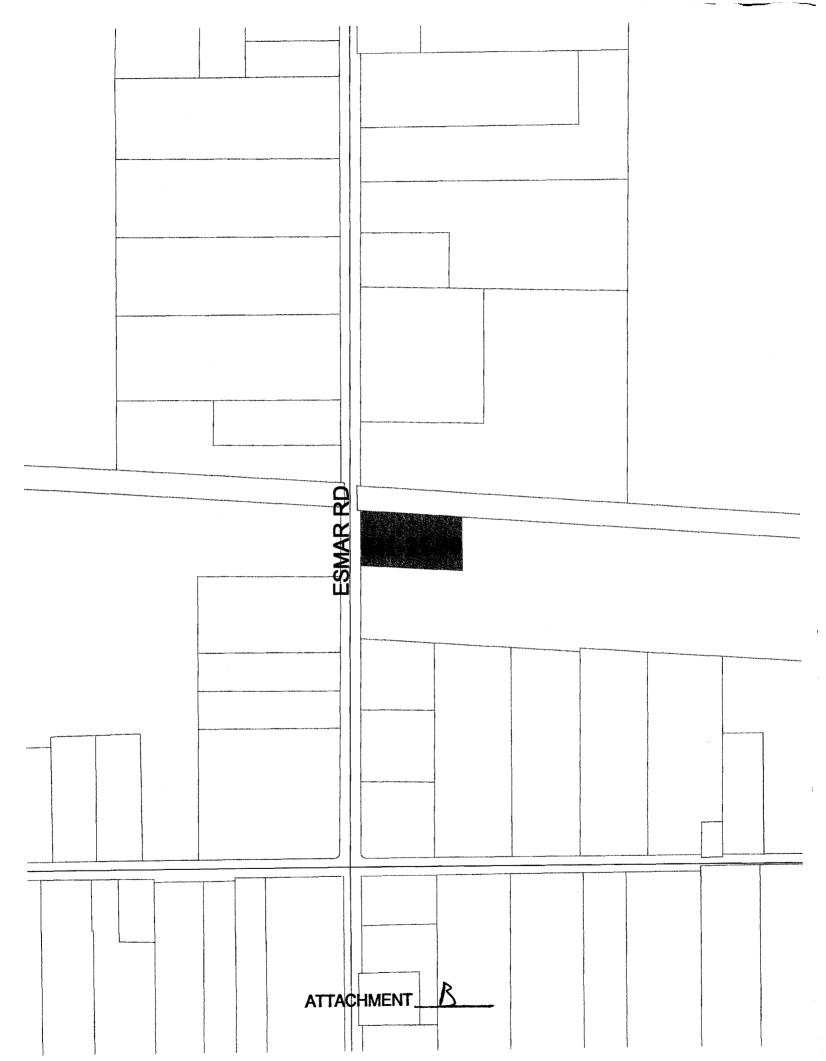
2. § 21.20.020 - Stanislaus County Code: Unlawful lagoon or pond for animal waste.

#### **B.** CORRECTIVE ACTION REQUIRED:

- 1. Cease hog farming activities on and from the subject property.
- 2. Remove the animal waste lagoon or pond or relocate it so that it conforms with the County Zoning Ordinance.

Enclosure(s): Copies of Stanislaus County Code provisions.





### **FERNANDES FAMILY HOG FARM SINCE 1974**

### **STATUS IN 1974**

1. Hog Barn located in garage and in an extending structure. Twelve (12) farrowing crates were located in that barn. Sows were forced to back out of the farrowing crates because of the lack of space causing extensive amount of noise.

- 2. Older farrowing barn. This structure contains four (4) farrowing crates. This structure use to be in use at all times.
- 3. Outdoor gated area for the sows. Over one hundred (100) sows located outside on a dirt lot facing the front of Esmar Road. This caused constant flies, smell and noise.

4. Grower barn that held over three hundred (300) babies at one time of all various age groups. Contained sixteen (16) very large pins where the various age groups were crowded in together until sold.

### STATUS TODAY

- 1. Hog Barn renovated due to the dilapidation of the garage. Converted some of the hog barn space back into a garage. Renovated and upgraded the existing hog barn structure and added additional space to the existing hog barn to replace the converted garage space. Fourteen (14) farrowing crates are now located in the existing structure. Approximately two (2) feet of space was added in between the farrowing crates so that the sows could enter and exit facing forward. This has greatly decreased noise caused by the sows having to enter and exit the barn backwards.
- 2. This structure is no longer in daily use. Only holds sows if there is an over flow. Therefore, the nonuse of this barn is replaced by the two additional farrowing crates in the hog barn.
- 3. This structure was removed and is no longer located on the farm. Over one hundred (100) sows that were kept outdoors have now been removed. This has decreased the amount of flies, smell and noise coming from the farm. Thus, the operation has decreased in number. This change occurred at or about the same time the trailers began being used.
- 4. Grower barn is now only used for overflow of babies that are not sold on any given week at the market. On average, it is either empty or holds less than twenty (20) babies.

New system of "all in all out" allows the farmers to keep all the same age group

babies together.

Three (3) trailers were converted into nurseries in 1995 to implement the "all in all out" system.

Code enforcement has indicated that these trailers are a problem. However, Dave Hodges inspected the property in 1995 and found no problem with the trailers. The trailers have been on the property and have been used in the current capacity since 1995.

The baby pigs are kept in separate pins based on their age group. Two of the trailers contain eight (8) pins each to house babies. There were only ninety-six (96) babies in those pins on April 4, 2003.

One of the trailers contains five (5) farrowing gates that holds the older baby pigs.

If the square footage of the three trailers was added together the total size would be less than the size of the old Grower Barn. In addition, the amount of babies kept in the trailers, including any overflow that may or may not be in the Grower Barn at any given time, is less than the amount of babies that use to be kept in the Grower Barn prior to converting to the "all in all out" system.

5. In 1978 a lagoon was created to decrease the smell coming from the feces on the property. Water prevents bacteria from breeding.

There was no need or desire to expand or move the lagoon. However, Turlock Irrigation District (TID) began complaining that the lagoon was located too close to the bordering canal. TID asked that the lagoon be moved further back to prevent the possibility of overflow into the canal.

5. There was no lagoon located on the property. Any and all feces, from the over one hundred (100) sows and three hundred (300) babies on the property, was just dumped on the open land. This caused much smell and disease.

6. There were nineteen (19) farrowing crates located on the farm.

7. The maximum number of babies and sows on the farm was four hundred (400). There were more sows than babies and almost all of the animals were kept outdoors.

Disease was rampant. Therefore, sows needed to be pregnant more often to make up for the dying babies.

8. No process to alleviate pest control problems.

In October 2002, the lagoon was moved back away from the canal. In that process it was also lowered to prevent any possibility of overflow. The lagoon was expanded by twenty (20) feet in length but it was also decreased in height by four (4) feet all the way around.

- 6. There are currently twenty three (23) farrowing crates on the farm. This is only an increase in equipment not an expansion of the operation. The reason for the additional crates is due to the "all in all out" system. More sows are impregnated once a month verses the old system where sows were continuously impregnated every day of the week. This has not caused an increase in the number of pigs on the farm.
- 7. The maximum number of babies and sows on the farm today is also four hundred (400). There are more babies than sows and all of the animals are kept indoors.

The system has decreased disease, noise, smell and flies.

8. Clark Pest Control is contracted to spray for any pest control problems including flies every seven (7) days.

# Heed uf Urust

whose address is 4342 Esmar Road, Cares, California 95307 herein called TRUSTO STG HOLDING COMPANY, a corporation herein called TRUSTEE, and  GEORGE VIEIRA and VIOLET VIEIRA, Husband and Wife as Joint Tenants  herein called BENEFICIARY, WINNESSETH. That trustor irrevocably GRANTS, TRANSFERS AND ASSIGNS to TRUSTEE, INTRUST, WITH POWER CALE, that certain real property situate in the  County of Stanislaus, State of Californi described as follows:  Parcel 1 as shown upon that certain Parcel Map filed June 16, 1967 in Volume 3 of Parcel Maps, page 92, Stanislaus County Records; being a portion of Lot 14 of ESMAR TRACT.  In the event of sale or transfer of all or any part of the property described herein, all amounts remaining unpaid under the terms of the note or note s secured by this Deed of Trust shall become immediately due and payable.  TOGETHER WITH the rents, issues and profits thereof, SUBJECT, HOWEVER, to the right, power, and authority given to and conform upon Beneficiary by Paragraphs 5 of Part B of the provisions incorporated herein by reference to collect and apply such rents, issues at profits, for the Purpose of Searying payment of the indebtedness evidenced by a promisory note, of even date herewith. exceused a Trustor in the sum of s. 42,500.00 may additional aums and interest thereon shall be accured by this Deed of Trust only if made to the Trustor while he is the owner of record of his present i terest in said property, or to his successors or assigns while they are the owners of record thereof, and shall be evidenced by a promisory note reciting that it is secured by this Deed of Trust and the note secured hereby the parties hereto agree that there are adopted as included hegein for any and all purposes by reference as though the same were writuen in full hauseling the certain ficialities. Deed of Trust payable through 6 thereof, and of Section B, including paragraphs I through 10 thereof, of that certain ficialities Deed of Trust payable through 6 thereof, and of Section B, including paragraph	THIS D	EED QF	TRUS	T, made this.		19	9th	(	day of		ebruary	<u></u>	19.74	BETWEE
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TOGETHER WITH the rents, issues and profits thereof, SUBJECT, HOWEVER, to the right, power, and authority given to and conform upon Beneficiary by Paragraphs 5 of Part B of the provisions incorporated herein by reference to collect and apply such rents, issues are profits, for the Purpose of Securing payment of the indebtedness evidenced by a promissory note, of even date herewith, executed in Trustor in the sum of s. 42, 500.00.  Any additional auma and interect theorems which may hereafter be loaned to the Trust or his successors or assigns by the Beneficiary, and the performance of each agreement herein contained. Additional loans hereafter may and interest thereon shall be secured by this Deed of Trust only if made to the Trustor which he is the work or faced of his present it are set in said property, or to his successors or assigns while they are the owners of record charge of his present it expects in said property, or to his auccessors or assigns while they are the owners of record charge of his present it expects in said property, or to his auccessors or assigns while they are the owners of record charge of his present it expects in said property, or to his auccessors or assigns while they are the owners of record charge of his present it expects in said property, or to his auccessors or assigns while they are the owners of record charge of his present it expects in said property, or the parties hereafter may and interest the parties hereafter may and interest the parties hereafter and the evidenced by a promisory of feature are adopted at instance of the parties hereafter and the note secured hereby the parties hereafter the are dependent in the official records in the official present in fault human the parties of the following counties in fault human the parties of the following counties in fault human the parties of the following counties on January 20, 1986, makes otherwise indicated by ", in the books and at the pages designated after the name were written in full human the page of the fault huma											or note	s sec	ured by	this
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By the execution and delivery of this Deed of Trust and the note secured hereby the parties hereto agree that there are adopted at included herein for any and all purposes by reference as though the same were written in full intention the provisions of Section A. Included herein for any and all purposes by reference as though the same were written in full intention the provisions of Section A. Including paragraphs I through 10 thereof, of that certain ficticitions Deck of Trust recorded in the official records in the official re	profits. Trustor or his st and inter terest in	for the Pur in the sum accessors rest therect a said prop	rpose of of 5 4 or assig on shall serty, or	Securing paym 2.500.00 ns by the Bend be secured by to his success	aficiar; this Description	the in an y, and eed of assig	debtedness evi y additional au the performanc Trust only if r ns while they s	denced in ma and e of eac	by a pr interes h agree the Tr	omissory t thereon w ement here ustor while	note, of evhich may lincontaine the is	ven date pereafter d. Addition owner of r	herewith, be loaned to mailloans he ecord of his	executed in the Trust preafter made present in
included herein for any and all purposes by reference as though the same were written in full hurchin the provisions of Section A, include paragraphs I through 10 thereof, of that certain fictitious Decod of Trurecorded in the official records in the offices of the County Recorders of the following counties on January 20, 1958, unless otherwise indicated by **, in the books and at the pages designated after the name of each county:  County Book Page County Book	·	_		·										
County Book Page County	included ing para; recorded	herein for graphs l in the off	any an- through icial rec	d all purposes 6 thereof, and ords in the of	by refe of Sec fices o	tion B f the (	as though tho , including par Jounty Recorde	same we agraphs rs of the	through follow	tten in full igh 10 ther ving count	irerein the oof, of tha	i provisio t certain i	ns of Sectio fictitious D	n A, included of True
Abrine  William  Amador 74 397 Kern 2896 205 Monterey 1842 388 San Jaquin 2034 538 Surger 482 505 Butte 907 571 Kings 699 108 Napa 561 140 San Luis Obispo 924 192 Tehama 322 27 Calaveras 113 472 Lake 288 97 Nevada 241 417 San Mateo 3334 275 Trinity 77 13 Calaveras 1750 407 Lassen 136 495 Oranse 4169 334 Santa Clara 3750 407 Contra Costa 3105 483 Los Angeles 7-21 502 Placer 752 219 Santa Clara 3976 408 Lucium 85 405 Contra Costa 3105 483 Los Angeles 7-21 502 Placer 752 219 Santa Clara 3976 408 Lucium 85 405 Contra Costa 3105 483 Los Angeles 7-21 502 Placer 752 219 Santa Clara 3976 408 Lucium 85 405 Contra Costa 3105 483 Los Angeles 7-21 502 Placer 752 219 Santa Clara 3976 408 Lucium 85 405 Contra Costa 3105 483 Los Angeles 7-21 502 Placer 752 219 Santa Clara 3976 408 Lucium 85 405 Contra Costa 3105 483 Los Angeles 7-21 502 Placer 752 219 Santa Clara 3976 408 Lucium 85 405 Contra Costa 3105 483 Los Angeles 7-21 502 Placer 752 219 Santa Clara 3976 408 Lucium 85 405 Contra Costa 3105 483 Los Angeles 7-21 502 Placer 752 219 Santa Clara 3976 408 Lucium 85 405 El Dorado 424 117 Marin 1166 337 Riverside 2209 560 Shasta 555 290 Yolo 532 I Fronne 4017 258 Maripasa 189 194 Yuba 252 I Humboldt 475 318 Mendodino 476 427 San Bernardino 4117 170 Solamo 1918 101  -*Niverside, Jenuary 31 1958 Santa Clara 3976 408 Siakiyou 398 315 Value 252 I San Bernardino 4117 170 Solamo 1918 101  -*Niverside, Jenuary 31 1958 Santa Clara 3976 Santa Clara January 7, 1958 Acopy of said provisions so adopted and included herein by reference is set forth on the reverse hereof.  The undersigned Trustor requests that a copy of any notice of default and of any notice of said provisions so adopted and included herein by reference is set forth on the reverse hereof.  STATE OF CALIFORNIA  COUNTY OF Stanislaus Santa Clara 3976 408 Santa Clara 3976	County	Book	Page	County	Book	Page	County	Book	Page	County		_		Book Pag
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Glenn Humboldt 475 311 Merced 1350 139 San Benico 237 358 Siskiyou 398 325  - *Hiverside, January 31, 1958; *San Francisco; January 13, 1938; *San Mateo; January 15, 1958; *Santa Clara; January 7, 1958; *A copy of said provisions so adopted and included herein by reference is set forth on the reverse hereof.  The undersigned Trustor requests that a copy of any notice of default and of any notice of sale hereundar be mailed to him at his address given shove.  STATE OF CALIFORNIA COUNTY OF Stanislaus  Stanislaus  Stanislaus  Stanislaus  Stanislaus  Stanislaus  Stanislaus  Stanislaus  A COFFICIAL SEAL DENNIS L. CHANDLES  DENNIS L. CHANDLES  NOTARY INDICAL SEAL DENNIS L. CHANDLER NOTARY INDICAL SEAL DENNIS L. CHAND	El Dorad	lo .424	117	Marin		337	*Riverside	2209	560		5	55 290	Yolo	532
A copy of said provisions so adopted and included herein by reference is set forth on the reverse hereof.  The undersigned Trustor requests that a copy of any notice of default and of any notice of sale hereundar be mailed to him at his address given above.  STATE OF CALIFORNIA COUNTY OF Stanislaus ss  On March 18, 1974  before me, the undersigned, a Motary Public in Andrews aid  State, personally appeared and Cioria P. Fernandes  State, personally appeared so the barrang whose name stanishaus county by Comm. Expires Nov. 1, 1975  Note that they executed the same.  WITNESS my hapd and official seal.	Glenn	364	428	Mendocino	476	425	San Benito	237	358	Siskiyor	. 3	9B 325	Yuba	252 !
The undersigned Trustor requests that a copy of any notice of default and of any notice of sale hereundar be mailed to him at his address given shove.  STATE OF CALIFORNIA COUNTY OF Stanislaus ss GLORIA F. FERNANDES  On March 18, 1974  before me, the undersigned, a Notary Public in and fax said State, personally appeared Family Fernandes  State, personally appeared Fernandes  State, personally appeared Fernandes  whose name is are subscribed to the within instrument and acknowledged that they executed the same.  WITNESS my hapd and official seal.	-												- 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1	- 4.57 B
STATE OF CALIFORNIA COUNTY OF Stanislaus  Stanislaus  Stanislaus  Stanislaus  Stanislaus  On March 18, 1974  before me, the undersigned, a Notary Public in and for said State, personally appeared and Gloria P. Fernandes  State, personally appeared and Gloria P. Fernandes  Stanislaus Said  OFFICIAL SEAL DENNIS L. CHANDLER NOTARY PUBLIC - CALIFORNIA PRINCIPAL OFFICIAL SEAL DENNIS L. CHANDLER NOTARY PUBLIC - CALIFORNIA PRINCIPAL OFFICIAL SEAL DENNIS L. CHANDLER NOTARY PUBLIC - CALIFORNIA PRINCIPAL OFFICIAL SEAL DENNIS L. CHANDLER NOTARY PUBLIC - CALIFORNIA PRINCIPAL OFFICIAL SEAL DENNIS L. CHANDLER NOTARY PUBLIC - CALIFORNIA PRINCIPAL OFFICIAL SEAL DENNIS L. CHANDLER NOTARY PUBLIC - CALIFORNIA PRINCIPAL OFFICIAL SEAL DENNIS L. CHANDLER NOTARY PUBLIC - CALIFORNIA PRINCIPAL OFFICIAL SEAL DENNIS L. CHANDLER NOTARY PUBLIC - CALIFORNIA PRINCIPAL OFFICIAL SEAL DENNIS L. CHANDLER NOTARY PUBLIC - CALIFORNIA PRINCIPAL OFFICIAL SEAL DENNIS L. CHANDLER NOTARY PUBLIC - CALIFORNIA PRINCIPAL OFFICIAL SEAL DENNIS L. CHANDLER NOTARY PUBLIC - CALIFORNIA PRINCIPAL OFFICIAL SEAL DENNIS L. CHANDLER NOTARY PUBLIC - CALIFORNIA PRINCIPAL OFFICIAL SEAL DENNIS L. CHANDLER NOTARY PUBLIC - CALIFORNIA PRINCIPAL OFFICIAL SEAL DENNIS L. CHANDLER NOTARY PUBLIC - CALIFORNIA PRINCIPAL OFFICIAL SEAL DENNIS L. CHANDLER NOTARY PUBLIC - CALIFORNIA PRINCIPAL OFFICIAL SEAL DENNIS L. CHANDLER NOTARY PUBLIC - CALIFORNIA PRINCIPAL OFFICIAL SEAL PRINCIPAL OFFICIAL SEA	- =1 <del>tive</del> A cop	erside, dead by of said	provisio	ns so adopted	and in	ic lude	noary 13; <del>1 958.</del> I herein by refe	erence	ateo.~1 s set f	orth on the	reverse be	ntarciara Preof.	. January . r	, 17307
STATE OF CALIFORNIA  COUNTY OF Stanislaus  Stanislaus  On March 18, 1974  before me, the undersigned, a Motary Public in and for said  State, personally appeared Fernandes  State, personally appeared Fernandes  State, personally appeared Fernandes  State, personally appeared Fernandes  Wincipal official seal.  Witness my hard and official seal.  Witness my hard and official seal.	The u	ındersigne	d Trusto	or requests tha	at a col	by of s	ny notice of de	fault an	ıd '	$\mathcal{P}_{i}$	11	. *	-Dan	*
STATE OF CALIFORNIA  COUNTY OF  Stanislaus  Stanislaus  On March 18, 1974  before me, the undersigned, a Motary Public in and for said  State, personally appeared  And Gloria P. Fernandes  State, personally appeared  And Gloria P. Fernandes  Stanislaus County  My Comm. Expires Nov. 1, 1975  Witness my hapd and official seal.  Witness my hapd and official seal.	of any n	elice of an	ila heret	inder be mailw	# to hir	n at h	s address give	n Anove.		ישע די יווע	EM MINES	U UWA	NWC-XXU Y	/4
On March 18, 1974  before me, the undersigned, a Notary Public in and for said  State, personally appeared Fernandes  State, personally appeared Fernandes  State of the series of the series subscribed to the within instrument and acknowledged that they executed the same.  WITNESS my hapd and official seal.	CTATE :	<b>ne calte</b>	ORNIA		· ·				. 1.5			) Free	1344 M	les
State, personally appeared  State, personally appeared  Fernandes  Fernandes  And Gloria F.  Fernandes  Fernandes  Are  Subscribed to the within instrument and acknowledged that they  WITNESS my hand and official seal.		/ or		laus	<b>5</b> 5				_		,	<b>SLORIA</b>	F. FERN	ANDES
State, personally appeared Fernandes  State, personally appeared Fernandes  Fernandes  Subscribed to the within instrument and acknowledged that they  WITNESS my hand and official seal.  OFFICIAL SEAL DENNIS L. CHANDLER NOTARY PUBLIC - CALIFORNIA PRINCIPAL OFFICE IN STANISLAUS COUNTY My Comm. Expires Nov. 1, 1976  WITNESS my hand and official seal.	•	·			)									
State, personally appeared  Fernandes  Fernandes  DENNIS L. CHANDLER  NOTARY PUBLIC - CALIFORNIA  PRINCIPAL OFFICE IN  STANISLAUS COUNTY  My Comm. Explies Nov. 1, 1976  Subscribed to the within instrument and acknowledged that  they  Executed the same.  WITNESS my hapd and official seal.	A:1 ——									no Yha				
subscribed to the within instrument and acknowledged that  they  executed the same.  WITNESS my hand and official seal.	before m State, pe	reconsily and Glob	ersigne ppeared	Fernande	blifen s	al Mark	Res <sup>aid</sup>			7. O.J	DENNIS L ROTARY PUDI PRINCIPA STANISIA	CHAND!	RNIA	
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# Stanislaus Striving to be the Best

March 21, 2002

## Development Services

1010 10TH Street, Suite 3500, Modesto, CA 95354 Phone: 209.525.6550

**EPARTMENT OF PUBLIC WORKS** 

(209) 525-6557

Gloria P Fernandes 4362 Esmar Rd Ceres, CA 95307-9791

Address: 4342 Esmar Rd

Subject: ADDITION - 22'-3" X 40 HOG BARN / REPLACE ROOF ON REMAINDER OF EXISTING GARAGE BUILDING

Permit #: BLD2001-03424

Dear Property Owner:

Your building permit is ready to issue. The following items must be provided prior to issuance of the permit.

N/A Release from the CERES UNIFIED School District.

Other Documents:

PROVIDE SIGNATURE OF SPECIAL INSPECTION AGENCY ON SPECIAL INSPECTION

Building Permit Fees:	AGREEMENT	PRIOR	TO	ISSUANCE.	
Building Permit Issuar	rce\$20			\$20.00	
Public Works Review				\$10.00	
Plan Check				\$0.00	
Building Permit(Valuat	tion)			\$240.70	
Strong Motion Tax				\$4.99	
ADJUST Plan Check				\$37.41	
Electrical Equipments				070.00	

DJUST Plan Check	\$37.41
Electrical Equipmen/Itemst	\$72.00
Mechanical Items	\$9.00
Plumbing Equipment/Items	\$20.00

PERMIT FEES

\$414.10

County Impact Fee

TOTAL PAYMENTS DUE

\$414.10

The property owner or licensed contractor may pick up the permit Mon - Fri 8am to 5pm.

Please pick up before:

April 20, 2002

"Pursuant to Government Code 66020 you may protest the imposition of any fees, reservations, or other exactions imposed in this development project within 90 days after the date of this letter or the date the development project was initially approved, whichever comes first."

CC:

**GLORIA FERNANDES** 4362 ESMAR RD **CERES, CA 95307** 

ATTACHMENT



# Stanislaus County **Public Works Department**

THIS PERMIT WILL EXPIRE IF WORK IS NOT STARTED WITHIN 100 DAYS OF ICCUE OR IF THERE IS A WORK 5TOPPAGE OF 180 DAYS DURING CONSTRUCTION.

**Development Services Division** 1010 10th Street, Ste.3500, Modesto, California 95354

Phone (209) 525-6557 24 Hr. Inspection Request 525-7550

By: JT

Valuation: \$10,039.20 \$13,705.20 \$23,744.40

# PERMIT

to the second	CIVII I .		
LICENSED CONTRACTOR'S DECLARATION	Permit #: BLD2001-03424	Issued: 4/5/02	By: J1
I hereiby affirm that I am licensed under provision of Chapter 9 (commencing with section 7000) of Division 3 of the Business and Professions Code and my Itemse is in fulf	Received by: RODRGSR	Plan Chk By: RF	-
force and effect.	APN: 041-21-30		
SignatureDate	Job site: 4342 Esmar Rd	**	
OWNER-BUILDER DECLARATION	Ceres		
	Job Description: ADDITION	- 22'-3" X 40 HOG BARN /	REPLACE
I hereby affirm under penalty of perjury that I am exempt from the Contractor's Licence Law for the following reason (Sec 7031.5 Business and Professions Code; Any	ROOF ON REMAINDER OF	EXISTING GARAGE BUI	LDING
City or County that requires a parmit to construct, alter, improve, demolish or repair any	C/S SERVICE RD		
structure prior to its issuance, also requires the applicant for the permit to file a signed statment that he or she is licensed pursuant to the provisions of the Contractor's License	Owner:	Contractor:	
Law (Chapter 9 (commending with section 7000) of Division 3 of the Business and	Gloria P Fernandes	•	
Professions Code) or that he or she is exempt, therefrom and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the	4362 Esmar Rd		
applicant to a civil penalty of not more than five hundred dollars (\$500);	Ceres, CA 95307-9791		
[V] I, as owner of the property, or my employees with wages as their sole companisation, will do the work, and the structure is not intended or offered for sale (Sec.			
7044, Business and Professions Code: The Contractors License Law coes not apply to an owner of properly who builds or improves thereon, and who does the work himself or	538-8502		<i>*</i>
herself or through his or her own employees, provided that the improvements are not	Architech/Engineer: 874		
Intended or offered for sale, if, however, the building or improvement is sold within one year of completion, the owner-buildor will have the building or proving that he or she did not build	GORDON M. HART		
or improve for the purpose of sale.)	P.O. BOX 4746		
[ ] I, as owner of the property, amexidualized contracting with ticensed contractors to construct the project (Sec. 7044, Business and Professions Code: The Contractors	MODESTO, CA 95352		
LICENSE LEW does not apply to any owner of property who builds or improved thereon, and			
who contracts for the projects with a contractor(s) licensed pursuant to the Contractors License Law.)	522-3835		
[ ] I am exempt under Sec B. & P.C.	322-3033		
for this reason;	Type of Constr; VN	Occupancy: U-3	
Owner's Signature Workers' SOMPENSATION DEPLACATION	Use:	Sq. Ft.	Valuation
WORKERS OMPENSATION DEPLARATION	Stable/Barn	890.00	\$10,039.20
I hereby affirm under penalty of porjury one of the following decisrations:	Garage	648.00	\$13,705.20
[ ] I have and will maintain a certificate of consent to self-insure for workers' compensation, as provided for by section 3700 of the Labor Code, for the performance of the work for which the permit is issued.	(Not all may be shown)	Total Valuation:	\$23,744.4
[ ] I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit leaved. My workers' compensation incurance and policy number are:			
Carrier	Work Included:	Setbacks:	
	Electric:	Front:	
Policy Number (This section need not be completed if the permit is for one hundred dollars (\$100) or less)	Plumbing:	Right:	
	Mechanical:	Left:	
I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers'		Rear:	
compensation laws of California, and agree that if I ahould become subject to the workers' compensation provisions of Section 3700 of the Talger code, I shall forthwith comply with		102,	
those provisions.	Total Fees: 533.14		
Applicant Date 4-5-02	Conditions: (Not all may be	shown)	
WARNING: FAILURE TO SECURE WORKERS COMPENSATION COVERAGE IS		•	
UNLAWFUL AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION	}		
TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706	}		
OF THE LABOR CODE, INTEREST, AND ATTORNEY FEES.  CONSTRUCTION LENDING AGENCY			
I hereby after under penalty of perjury that there is a construction lending agency for the	}		
performance of tah work for which this point is issued (Sec. 3037, Civ. Code.).  Lender's Name			
Lender's Address		P	
APPLICATION APPROVAL	ATTACHMEN	т —	
This Downt Door Not Decome Valid Limit Stance By The Building Official Or Their Deputy	ATTACHIVEN		

- 1	Did couttactor show Asild workers, comb austrion rusmance
•	certificate? (Lab Code, sec. 3800 (b).)
_	The state of the s

I certify that I have read this application and state that the above information is

Lagree to comply with all day and equally ordinances and state laws retaining to construction, and hereby authorize representatives of this county to enter-upon the above mentioned property for inspection purposes.)

And Al Fees Are Paid.

Is Contractor's name absent from Contractors' State License Board non-payment list? (Health & Saf. Code, sec. 19925 (b).)



This Permit Does Not Become Valid Until Signed By The Building Official Or Their Deputy

I agree to comply with all city and county ordinances and state laws relating to construction, and hereby authorize representatives of this county to enter upon the above mentioned

I certify that I have read this application and state that the above information is

And All Fees Are Paid.

property for inspection purposes.

# Stanislaus County **Public Works Department**

**Development Services Division** 1010 10th Street, Ste.3500, Modesto, California 95354

THIS PERMIT WILL EXPIRE IF WORK IS NOT STARTED WITHIN 180 DAYS OF ISSUE OR IF THERE IS A WORK STOPPAGE OF 180 DAYS DURING CONSTRUCTION.

Phone (209) 525-6557 24 Hr. Inspection Request 525-7550

	KIVII	•	*	
	I VIVII I			_
LICENSED CONTRACTOR'S DECLARATION	Permit #: BLD2001-03424	Issued: 4/5/02	By: JT,	
I hererby affirm that I am licensed under provision of Chapter 9 (commencing with action 7000) of Division 3 of the Business and Professions Code and my Icense is in full	Received by: RODRGSR	Plan Chk By:	RR A	
rce and effect. cense Number Class	APN: 041-21-30			
cense NumberClass	Job site: 4342 Esmar Rd			
ignatureDate	Ceres			
OWNER-BUILDER DECLARATION	Job Description: ADDITION -	22'-3" X 40 HOG BAR	N/REPLACE	
I hereby affirm under penalty of perjury that I am exempt from the Contractor's icence Law for the following reason (Sec 7031.5 Business and Professions Code: Any	ROOF ON REMAINDER OF			
ity or County that requires a permit to construct, after, improve, demolish,or repair any	C/S SERVICE RD: Owner:	Contractor:	*	
tructure prior to its issuance, also requires the applicant for the permit to file a signed satment that he or she is licensed pursuant to the provisions of the Contractor's License	1 2.1 2 3.2 2 3. 3. 3.	Contractor.		
aw (Chapter 9 (commending with section 7000) of Division 3 of the Business and	Gloria P Fernandes 4362 Esmar Rd			
rofessions Code) or that he or she is exempt therefrom and the basis for the alleged xemption. Any violation of Section 7031.5 by any applicant for a permit subjects the				
pplicant to a civil penalty of not more than five hundred dollars(\$500):	Ceres, CA 95307-9791			
[V] I, as owner of the property, or my employees with wages as their sole ompanisation, will do the work, and the structure is not intended or offered for sale (Sec.			•	
044, Business and Professions Code: The Contractors License Law does not apply to an wner of property who builds or improves thereon, and who does the work himself or	538-8502		,	
erself or though his or her own employees, provided that the improvements are not stended or offered for sale. If, however, the building or improvement is sold within one year	Architech/Engineer: 874			
f completion, the owner-builder will have the burden of proving that he or she did not build	GORDON M. HART			
rim prove for the purpose of sale.)  [ ] I, as owner of the property, am exclusively contracting with idensed contractors	P.O. BOX 4746			
o construct the project (Sec. 7044, Business and Professions Code: The Contractors icense Law does not apply to any owner of property who builds or improves thereon, and	MODESTO, CA 95352	•		
the contracts for the projects with a contractor(s) licensed pursuant to the Contractors				
icense Law.) [ ] I am exempt under Sec B. & P.C.	522-3835			
or this reason:	Type of Constr: VN	Occupancy: U-3		
owner's Signature Paul   Date 4-5-02	1 **	• • •		
owner's Signature Data	Use:	Sq. Ft.	Valuation:	
	Stable/Barn	890.00	\$10,039.20	
hereby affirm under penalty of perjury one of the following declarations:  [ ] I have and will maintain a certificate of consent to self-insure for workers!	Garage	648.00	\$13,705.20	
ompensation, as provided for by section 3700 of the Labor Code, for the performance of ne work for which the permit is issued.	(Not all may be shown)	Total Valuation:	\$23,744.40	
[ ] I have and will maintain workers compensation insurance, as required by section 3700 of the Labor Code, for the performance of the work for which this permit sued. My workers compensation insurance and policy number are:				
Carrier	Work Included:	Setbacks:		
	Electric:	Front:		
clicy Number	Plumbing:	Right:	•	
	Mechanical:	Left:		
I certify that in the performance of the work for which this permit is issued, I shall of employ any person in any manner so as to become subject to the workers'	Weet latifical.			
om pensation laws of California, and agree that if I should become subject to the workers'		Rear:		
compensation provisions of Section 3700 of the labor code, I shall forthwith comply with nose provisions.	Total Fees: 533.14	e e		
Applicant DI Handel 1Date 4-5-02				
VARNING: FAILURE TO SECURE WORKERS COMPENSATION COVERAGE IS	Conditions: (Not all may be	shown)	•	
INLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND SIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION				
O THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706		•		
F THE LABOR CODE, INTEREST, AND ATTORNEY FEES.  CONSTRUCTION LENDING AGENCY				
hereby affirm under penalty of perjury that there is a construction lending agency for the				
erformance of teh work for which this permit is issued (Sec. 3097, Civ. Code.).				
ender's Nameender's Address				
ADDI IOATION A DEPONAL	,			

ATTACHMENT

[	1	Did contractor show valid workers' compensation insurance
-	-	certificate? (Lab Code, sec. 3800 (b).)

[ ] Is Contractor's name absent from Contractors' State License Board non-payment list? (Health & Saf. Code, sec. 19825 (b).)



July 3, 2002

Gloria Fernandes 4362 Esmar Rd. Ceres, CA 95307

Dear Mrs. Fernandes:

Re:-Compliance With District Policies Regarding Dairy Wasto

As part of Turlock Irrigation District's on-going dairy waste monitoring program, an inspection of your dairy facility was made on February 11, 2002, to determine your compliance with the District's rules concerning dairy waste. During that inspection, TID staff determined that under your current operating practices, you have the necessary means to prevent your nutrient water from coming in contact with any District or improvement district facility.

TID does not regulate the use of dairy waste in private pipelines or ditches. However, TID does require that such use not jeopardize District or improvement district facilities. It is the District's understanding that you are operating your facilities to ensure that your lagoon water does not come in contact with District or improvement district facilities.

This letter is to notify you that your facilities are currently considered in compliance with the District's rules concerning dairy waste. This does not imply compliance in the future, nor does it imply compliance with any State or Federal regulations.

In recent years, there has been increased regulatory emphasis on water quality issues, including those dealing with confined animal facilities. TID is responding with an increased effort to monitor lagoon water use as it effects our facilities. We feel it is very important to protect both District and improvement district facilities so that we can continue to provide vital irrigation services to our customers. We appreciate your cooperation, and look forward to your continued support of this important program.

Should your operating practices change, please notify me so a visit to your dairy can be made to ensure your on-going compliance with the District's rules regarding dairy waste.

If you have any questions regarding this matter, please contact me at (209) 883-8386.

Sincerely,

Keith Larson

Water Resources Analyst

ATTACHMENT\_\_\_\_\_

### CHAPTER 21.20

# **GENERAL AGRICULTURE DISTRICT (A-2)**

### SECTIONS:

21.20.010	PURPOSE
21.20.020	PERMITTED USES
21.20.030	USES REQUIRING USE PERMIT
21.20.040	USES REQUIRING BOARD OF SUPERVISORS APPROVAL
21.20.045	USES ON LANDS SUBJECT TO WILLIAMSON ACT CONTRACTS
21.20.050	DIVISION OF LAND
21.20.060	SITE AREA
21.20.070	YARDS
21.20.080	HEIGHT LIMITS

### 21.20,010 PURPOSE

It is the intent of these district regulations to support and enhance agriculture as the predominant land use in the unincorporated areas of the county. These district regulations are also intended to protect open-space lands pursuant to Government Code Section 65910. The procedures contained in this chapter are specifically established to ensure that all land uses are compatible with agriculture and open space, including natural resources management, outdoor recreation and enjoyment of scenic beauty. (Ord. CS 106 Section 2 (part), 1984).

### 21.20.020 PERMITTED USES

Uses permitted in the A-2 districts:

- A. All agricultural uses not requiring a staff approval or a use permit pursuant to Sections 21.20.030 and 21.20.040; provided, however, that within areas designated on the land use element of the general plan as urban transition the maintenance of animals shall be limited to the provision of Chapter 21.24 (R-A rural residential zoning regulations) unless approval of additional animals is first obtained from the director of planning and community development;
- B. One single-family dwelling; is permitted on all parcels that meet or exceed the minimum area requirements of the zoning district; however, in the A-2-3, A-2-5, A-2-10 and A-2-20 acre zones, one single-family dwelling shall be allowed, if the parcel meets the building site criteria set forth in Section 21.08.050 and on parcels twenty acres or more, regardless of the zoning requirement, there may be constructed and maintained two single-family dwellings. The second dwelling's placement shall be approved by the Director of Planning and Community Development and be designed to minimize disruptions of agricultural land and to take maximum advantage of existing facilities including utilities and driveways;

(CS Ord. 741 effective November 24, 2000).



### **CHAPTER 21.24**

# **RURAL RESIDENTIAL DISTRICT (R-A)**

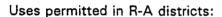
### **SECTIONS:**

21.24.010	APPLICABILITY
21.24.020	PERMITTED USES
21.24.030	USES REQUIRING USE PERMIT
21.24.040	HEIGHT LIMITS
21.24.050	LOT WIDTH
21.24.060	<b>BUILDING SITE AREA</b>
21.24.070	<b>BUILDING SITE COVERAGE</b>
21.24.080	YARDS
21.24.090	OFF-STREET PARKING

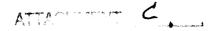
### 21.24.010 APPLICABILITY

The regulations set forth in this chapter shall apply in all R-A districts and shall be subject to the provisions of Chapter 21.08. (Ord. CS 106 Sec. 3 (part), 1984).

### 21.24.020 PERMITTED USES



- A. One single-family dwelling on any one parcel;
- B. Small livestock farming, on parcels of one acre or more, but excluding hogs and turkeys;
- C. On parcels containing one acre or more, there may be maintained two horses or two cows (termed "large animals"), or four sheep or four goats (termed "small animals"), or a combination of one large animal and two small animals. The maximum number of large animals per parcel shall not exceed two per acre, or the maximum number of small animals per parcel shall not exceed four per acre. In the case where large and small animals are kept in combination, the total number of animals per parcel shall not exceed three per acre;
- D. Home occupations as regulated by Chapter 21.94;
- E. Accessory uses normally incidental to a single-family dwelling or light farming, but this shall not be construed as permitting any commercial use;
- F. One sign, not over six square feet in area and unlighted pertaining only to the sale, lease or rental of the property on which the sign is located;
- G. On parcels containing more than two acres, the storage of petroleum products for use on the premises by farm equipment, as governed by law and ordinances;





# Stanislaus County DEVELOPMENT SERVICES DIVISION Department of Public Works



# JOB GOPY

1010 10<sup>th</sup> Street, Suite 3500 Modesto, CA 95354 (209) 525-6557, FAX (209) 525-7759

# STANISLAUS COUNTY SPECIAL INSPECTION AND TESTING AGREEMENT

Project: Addition to Existing Hos Barn an	droof replacement.
Address: 4342 Esmar Rd. Ci	ity: <u>Ceves</u>
Building Permit #: BLD 2001-03424	e de la companya de l
Occupancy: Hog Barn	
Type of Construction: Addition to Existing F	tog Barn and roof
Owner: Paul Fernandes Ir	rcprizement
Address: 4362 Esmar Rd. Ci	ity: <u>Cenec</u>
Contractor: Self	
Address: 4362 Esmar Rd. Ci	ity: <u>Ceres</u>
Project Engineer / Over Milat 5E	874
Inspection Agency: QUALITY CONTROL TUSPECT	·
Agency Inspector: Jess Wey P.E. — QCT	
ATTACHMEN	IT

### CHAPTER 21.24

# **RURAL RESIDENTIAL DISTRICT (R-A)**

### SECTIONS:

21.24.010	APPLICABILITY
21.24.020	PERMITTED USES
21.24.030	USES REQUIRING USE PERMIT
21.24.040	HEIGHT LIMITS
21.24.050	LOT WIDTH
21.24.060	BUILDING SITE AREA
21.24.070	BUILDING SITE COVERAGE
21.24.080	YARDS
21.24.090	OFF-STREET PARKING

### 21.24.010 APPLICABILITY

The regulations set forth in this chapter shall apply in all R-A districts and shall be subject to the provisions of Chapter 21.08. (Ord. CS 106 Sec. 3 (part), 1984).

### 21.24.020 PERMITTED USES

Uses permitted in R-A districts:

- A. One single-family dwelling on any one parcel;
- B. Small livestock farming, on parcels of one acre or more, but excluding hogs and turkeys;
- C. On parcels containing one acre or more, there may be maintained two horses or two cows (termed "large animals"), or four sheep or four goats (termed "small animals"), or a combination of one large animal and two small animals. The maximum number of large animals per parcel shall not exceed two per acre, or the maximum number of small animals per parcel shall not exceed four per acre. In the case where large and small animals are kept in combination, the total number of animals per parcel shall not exceed three per acre;
- D. Home occupations as regulated by Chapter 21.94;
- E. Accessory uses normally incidental to a single-family dwelling or light farming, but this shall not be construed as permitting any commercial use;
- F. One sign, not over six square feet in area and unlighted pertaining only to the sale, lease or rental of the property on which the sign is located;
- G. On parcels containing more than two acres, the storage of petroleum products for use on the premises by farm equipment, as governed by law and ordinances;

ATTACHMENT\_C\_\_\_\_





# **Stanislaus County**

**Department of Planning and Community Development** 

### ZONING ENFORCEMENT DIVISION

1100 H STREET

**MODESTO, CALIFORNIA 95354** 

13/13

PHONE: (209) 525-7664 FAX: (209) 525-5911

Deed of Trust 2/19/74

July 19, 1996

Gloria P. Fernandes 4362 Esmar Road Ceres, CA 95307-0000

RE: ZONING VIOLATION - EXCESSIVE LIVESTOCK REFERENCE NO. Z96-5060

This office is conducting an investigation regarding your property at 4342 Esmar Road, Ceres, California, APN 041-21-30. The property is within the zoning designation of General Agriculture District Urban Transition (A-2 UT) and Chapter 21.20.020 of the Stanislaus County Zoning Ordinance regulates permitted uses in your zone.

Investigation of the subject property reveals that hogs are being kept on the subject property, which is a violation of the Zoning Ordinance. In accordance with the Zoning Ordinance Chapters 21.20.020(A) and 21.24.020(B) the keeping of hots is not an allowed use in an urban transition zone.

To bring your property into compliance with the Regulated Land Use Laws, the animals must be removed.

Please contact this office within seven (7) calendar days after the receipt of this notice and present an acceptable plan of correction and abatement, with completion time parameters not to exceed thirty (30) calendar days. Failure to comply may result in enforcement procedures.

If there are any questions concerning this situation, the best time to contact me is weekdays between 8:00 a.m. and 9:00 a.m.

Dave Hodges

Zoning Enforcement Officer

DH:kh\Z25

ATTACHMENT

Dete. 11/73

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### HEARING TRANSCRIPT

### NUISANCE ABATEMENT HEARING BOARD

### **APRIL 17, 2003**

**PROPERTY:** 4342 ESMAR ROAD, CERES, CALIFORNIA

CODE ENFORCEMENT MANAGER MICHAEL NEWTON: This case is a little different than you have heard in the past and may take a little longer, so I'll try to hurry this up as best as I can. This case is CE No. 01-1899, located at 4342, 4362 Esmar Road in Ceres which are adjoining properties owned by Gloria Fernandes. Esmar Road is less than a mile south of the city limits for the City of Ceres. This area of Esmar Road is rural residential, populated with medium-sized ranchettes. There are two (2) issues at this property. The first issue is a lagoon for the storage of animal waste for pigs. This lagoon would be considered a legal, non-conforming use if it was in place prior to 1975. Please notice that we will show you three (3) aerial photographs taken in 1980, 1985 and one (1) supplied to us by the Tax Assessor's Office in 1989. First one in 1980, if you notice where the circle is, you cannot see where (it's right about here at the tip of my finger) the lagoon is currently (up, right about right here). Okay, that's where the lagoon is now. This picture was taken in 1980; we got this picture from the Mc Henry Museum. The next one we have was supplied to us by the Tax Assessor's Office. It's a little clearer and if you notice again where the red line is, it's a TID lateral, and if you notice right at the tip of my pen, there is no lagoon. There is also only one (1) out-building here and in a minute, we will talk about the three (3) trailers that are in place that aren't here in 1989.

- **COMMISSIONER BYRD-Q:** That's 89?
- **NEWTON-A:** This is from 1989, yes sir.
  - Now I will show you some photographs from 1998 on our Power Point that were taken in 1998.
- These will clearly show that...(you can stop there Dave)... If can notice up next to the TID lateral in
  - 1998, when this picture was taken, that indeed the lagoon is there. It is in that dark spot off the TID
- canal (there is no pointer available). See that dark spot...it's the black line...that's the lagoon that is
- in place now. To the left of that you will notice is the property in question. There has been an addition of three (3) trailers that we will talk about in a few minutes. This lagoon is approximately

12' from the TID lateral, as I said. The lagoon is approximately 4' deep, 75' long and 30' wide. Because of Property Zone A-2-10, with a General Plan designation of UT, certain restrictions are added to the use of the property. The County Zoning Ordinance states that where a UT is added to an ag property...designated land use element of the General Plan as Urban Transition. For instance, the maintenance of animals shall be limited to the provisions of R-A (Rural Residential) zoning regulations. A lagoon is not permitted in a RA zone. The second issue is the expansion of a legal, non-conforming use. The County does not possess the documentation to provide this Board use prior to 1975. We have reviewed records from the Assessor's Office, and there has been a residence in an old barn; however, there is no mention in the Assessor's notes of a pig farm. Looking at the aerial photos, as I pointed out to you earlier in the 1980's, there does not appear to be out-buildings as there are today. (Dave, if you will run that and show the out-buildings.) The out-buildings that I am talking about are these three (3) trailers that are on the property. Furthermore, on September 5, 1996, Zoning Officer Dave Hodges inspected this property regarding a complaint of foul odors from the pig farm. During that investigation, Paul Fernandes, who is the son of the property owner and operates the pig farm, told Dave Hodges that he had owned the property since February 1974. He said he only kept a few pregnant sows on the property until the piglets were born, then they would be moved to another location. At this time of Dave's visit, there were four (4) pregnant sows and no piglets. The sows were housed in an old structure. That structure has since been replaced or refurbished between 1996 and the time of this investigation. The Fernandes' have added to their pig farm operation. As I showed you earlier, the old aerial photographs and these cargo containers weren't there, and these cargo containers are some of the ones that are used to transport goods on the highway. These containers are used to house sows with piglets. There is also a 57'x 40' hog barn that houses piglets of various ages, and the interior of the barn has been refurbished. A garage with a separating wall is set up for 14 pregnant sows with piglets. The Fernandes' have added to a legal, non-conforming use without first obtaining a change in the Stanislaus County General Plan. Mr. Fernandes admitted at one time that he has at least 200 pigs housed at any given time within the noted structures. During an inspection today, Dave Hodges and I saw at least 100, maybe less. It is clear that Mr. Fernandes has expended his legal, non-

- 1 conforming use without a General Plan change and has installed a lagoon on the property.
- 2 | Finally, the property is within the sphere of influence of the City of Ceres. According to the Ceres
- 3 | Planning Department, this property is to be annexed into the city. It would be designated low-
- 4 density residential. Additionally, this property will be within two (2) blocks of a planned school by
- 5 the City of Ceres School District. The school district is opposed to having a hog farm with a lagoon
- 6 | for animal waste so close to their school. Therefore, it is our request that you find that this property
- 7 | is a nuisance as described in the Stanislaus County Code Section 2.92. I would like to mention that
- 8 I did appreciate that Dave Hodges and I went to the Fernandes' property and viewed it this morning.
- 9 | It is a nice operation, and Mr. Fernandes has taken a lot of time, care and effort to do what he has
- 10 done. It does have odors. You have odors with pigs, and I don't live out there, but it was clean. Mr.
- 11 Fernandes did have a number of pigs out there in all of the out-buildings and that's about it. Any
- 12 | questions?
- 13 COMMISSIONER POORE-Q: How big is this piece of property in total? Does it include the
- 14 orchard where the lagoon is, or is that lagoon on a different piece of property?
- 15 NEWTON-A: That lagoon is on their property as well. I think it is a little over 10 acres. It is two
- 16 (2) parcels. There is a one-acre parcel and then I believe that there is a 9 or 10-acre parcel that is
- 17 attached to it. They are adjoining.
- 18 **COMMISSIONER POORE-Q:** Mr. Fernandes also owns the orchard then?
- 19 NEWTON-A: That's correct.
- 20 COMMISSIONER R. SOUZA-Q: When was he issued the permit originally?
- 21 NEWTON-A: Pardon me?
- 22 COMMISSIONER R. SOUZA-Q: When was he allowed the legal, non-conforming use? When
- 23 was it designated?
- 24 NEWTON-A: The zoning changed in this area in 1975, and in 1975, it changed to A-2-10 with the
- 25 | Urban Transition, so after 1975, anything such as this would have required a General Plan update
- 26 request or a PD.
- 27 COMMISSIONER R. SOUZA-Q: But he didn't have hogs there prior to 1975, is that what you
- 28 | said?

**NEWTON-A:** We don't have any indication from the Tax Assessor's Office, nothing that would 1 2 indicate it from the aerial photographs, and we had a small farm there in 1996. 3 4 **COMMISSIONER ASSALI-O:** But as I understand in your report, Gloria Fernandes purchased 5 the property in February of 74, is that correct? 6 **NEWTON-A:** That's correct **COMMISSIONER ASSALI-Q:** When the zoning was just zoned "general agriculture?" 7 8 **NEWTON-A:** At that time, that's correct. A-1. 9 **COMMISSIONER R. SOUZA-Q:** Because at that time, a hog farm would have been all right. 10 **NEWTON-A:** That's correct. It would be an illegal, non-conforming use and prior to 1975 and any 11 expansion after 1975 would require a use permit or a plan development, or in this case, it would 12 require a General Plan change to the General Plan. **COMMISSIONER POORE-Q:** If this was a legal, non-conforming use prior to the expansion for 13 14 the birthing of piglets... NEWTON-A: ...Yes... 15 16 **COMMISSIONER POORE -Q:** ...if they were still just birthing piglets there and had not expanded, could they still operate there? 17 18 **NEWTON-A:** Yes, and the only thing that we have is in 1996, there is four (4) there, so they could 19 have four (4). 20 **COMMISSIONER POORE-Q:** Okay. I understand. **COMMISSIONER ASSALI-Q:** And they were notified in 1996, July of 1996, as I read your 21 22 report. Is that correct? 23 **NEWTON-A:** In 1996, Dave Hodges met with them and I don't know exactly what the extent of 24 the conversation was and the finality of his investigation. 25 **COMMISSIONER ASSALI-Q:** Well, it says to bring your property into compliance with the regulated land use laws. The animals must be removed. That's what it says in the documentation

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here.

**NEWTON-A:** That's correct.

**COMMISSIONER ASSALI-Q:** And this notice was given in 1996?

**NEWTON-A:** That particular letter was sent to them in 1996, that's correct.

**COMMISSIONER BYRD:** Any other questions to the Staff? I am going to open the Public Hearing so far as Staff is recommending that we forward this on to the Board of Supervisors, finding that there is a nuisance and a violation. I am going to first ask for anyone who wishes to speak in opposition of Staff's recommendation, in other words, in favor of the operation conducted by Gloria Fernandes, and if you could please state your name and address.

**BETTY JULIAN:** Good evening, my name is Betty Julian. My address is 2570 East Tuolumne Road in Turlock, California, and I am here representing the Fernandes family. I do have several documents that I wanted to distribute to the Commissioners, if that's possible.

### **COMMISSIONER BYRD:** Yes.

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**BETTY JULIAN:** I'd like to start by saying that the Fernandes family has maintained a hog farm at 4362 Esmar Road in Ceres, California, since 1974. Now we are here today because the county is alleging that certain alleged expansions have caused a zoning violations and that's why we're here today. Now sometime after 1974, when the Fernandes family purchased this property and began using it as a hog farm, the zoning did change. The zoning changed to general agricultural A-2, Urban Transit. However, because the Fernandes family was located at that property in 1974, they were given a non-conforming use status, also called the grandfathered status, and that status has continued from 1974 to the present. I'd just like to talk a little bit before I get into the argument that industry, the hog farming industry, has changed over the years, as have many other industries. Now, equipment has changed, processes have changed, systems have changed; however, change does not always amount to an expansion. We are here today because of a certain hog barn that was remodeled. Sometime in the year 2001, Paul Fernandes determined that his hog barn needed a new roof. What he did was he asked people to come in and evaluate, and that's the hog barn right behind you and also, if you'd like to turn to the Nuisance and Abatement Hearing Board Staff Report where the diagram is located, I can explain it in detail there. Now the hog barn I am talking about is located where the garage and also the proposed remodel of Document E, Hog Barn, the diagram, that's the hog barn I'm referring to. Now, when he brought people in to talk about changing the roof on this

1 hog barn, he was told that the building was dilapidated and that because of the damage to the 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26

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building, he could not change the roof without remodeling it. Now, Paul's first reaction was "No way. I'm not going to change anything and get in trouble with the County and make any expansion." Now what he did was he went to the County Department, he made a good faith effort to inform them that he needed to re-roof this building and make some changes. Now he was informed, and he was notified, that any and all approvals would go through the various different departments before he would receive a building permit. Paul Fernandes was being honest and forward with the County. He was not trying to expand his operation. What he did do to this hog barn was, a previous garage space used to be used as part of the barn. Now what he did was take that garage space, convert it back into a garage, because it was too old and dilapidated and in turn, he added space to the other end of the structure to make up for the space of the barn that was turned back into a garage. Now in this process, we do admit that possibly approximately 6' was expanded in that hog barn. However, that should not be considered an expansion because changing a size of a building is not necessarily an expansion under the Zoning Code, it's expanding your operation and Paul Fernandes has not done that. Now I would set forth that there are two (2) arguments why the Fernandes family should maintain their non-conforming use status; (1) they have not expanded their operation, they have merely upgraded and modernized their systems; and (2) any expansion, if the Commission determines that there has been an expansion, was made upon the County's approval. Now I argue that an expansion has not been made, and if you look through the document that I passed around which says 1974 and today, you'll learn that the system has changed. Now, in 1974, on or about 1974 when they had nonconforming use status, they maintained all of their pigs outdoors. Now, in this picture, in this diagram, where above the garage and next to the hog barn, there is an open space which used to be a gestation dirt lot that contained over 100 sows that are now no longer on this property. Now in addition, the hog farming industry changed from outdoor hogs to indoor hogs. Now Paul has always impregnated his hogs. He's always had a system where the hogs are impregnated. The only difference is back in 1974, the system was you impregnate the hogs on a daily basis. Now, the babies would be born in different groups. Age group would be one month old to one week old,

where disease would be rampant because of the different age groups. Now what he has done is bring all the hogs indoors, impregnate them once a month, and so they only have babies that are all in the same age group. That's why he needed to bring the trailers on. The trailers are actually nurseries that hold these babies, and I would also like to point out that these trailers are not an expansion because they are a replacement to the large hog barn which is labeled #E, which is called the "Grower Barn." Now, back in 1974, when they were non-conforming, that hog barn maintained up to 300 baby pigs. They were all crammed in there into 16 different large pins. Now, what he has done is instead of using that Grower Barn as the main source of where he holds the babies, he's moved them into the trailers and separated them by age. The Grower Barn is now only used to maintain any overflow of pigs that are not sold at market, and I can tell you myself, I was out there on April 4th, there was one pig in the Grower Barn, and today when the gentlemen came to visit, there was only 20 versus up to 300 that used to be in that Grower Barn. In addition, we do argue that in 1995, those trailers were put out there. Dave Hodges visited the site in 1996 and now I know statements have been made that their were only four (4) pigs on the property then, but my client does insist that Dave Hodges did not inspect the barns at that visit. He did not go into the various barns or the trailers. He stood outside of the property and the only discussion then was whether or not this was on a one-acre. What had happened was they have a 10-acre lot and they had broken it up into a one-acre and a nine-acre so that they could build a residence there. That was the only complaint back in 1996. Now, if the Board is to determine that there has been an expansion, we ask that you ratify the expansion based on Zoning Code Section 21.80.070, due to the county's approval of the remodelization of the hog barn. In addition, I would like to focus on the lagoon. The county's position is, the Code Enforcement's position is that the lagoon was never located on the property in 1974 and that's accurate. In 1974, the only system they had to deal with the feces was that it dropped to the ground and laid there. I submit that this is a larger nuisance, attracts more flies and smell than any lagoon ever would. Now, in 1976, my clients began a lagoon process and we admit that it was not the size that it is today, but a lagoon grows...it's an ordinary growth. The pigs have to have a place where their manure ends up. It's either going to be on the ground or it's going to be in the lagoon, and we submit that since 1996, there has been some type of lagoon on the property.

1 Now, I think the problem occurred, and the picture that shows the actual expansion of the lagoon 2 occurred sometime this last year and what happened was that T.I.D. requested that that lagoon be 3 moved back because it was butting up against a canal. Now, Paul Fernandes took it upon himself 4 to spend the time and money to move that lagoon to insure that no spillage would occur into the 5 canal. Now, in that process when he moved it back, he did expand it 20', but at the same time, he 6 lowered the depth by 4' all around the circumference to insure that there would be no more spillage. 7 He did not move the lagoon to make the lagoon any bigger for his own purposes. He did it merely to secure that no overflow would occur into the canal, and we also submit that the lagoon has been 8 9 there since 1976 and that the system was implemented back then and it may have grown, but the 10 lagoon growing is not a growth in the operation. It's not an expansion. The operation of the pig farm has been consistent since 1974, and it is consistent today. We also ask that the Zoning Code, 12 Section 21.80.020 be taken into consideration where it describes a non-conforming use and how you 13 can maintain a non-conforming use, and in that code section, it states that a non-conforming use may 14 be maintained so long as such there are no enlargements or increased nor be extended to occupy a 15 greater area than that occupied by such use prior to the date of the use becoming non-conforming. 16 Now, we are not alleging that we haven't changed. Times have changed and the procedures have 17 changed. The pigs have been moved around. However, the geographic area where the pigs are 18 located has not been expanded and, in fact, it has been decreased. There are 100 less sows on the property than there were back before the zoning was changed. There may be more baby pigs now 20 on the property, but the amount of pigs on the property is equal from non-conforming to now. In conclusion, we would just like to say that we do feel that it would be unjust to send this to the 22 Board of Supervisors. We believe that these citizens are not a nuisance, and also, I would like to address the Commissioners and indicate that I know that there are several residents here today that 24 would like to speak about an alleged nuisance on the hog farm, but I would like the focus to remain 25 on the fact that this is a zoning violation issue and not whether or not there are smells or flies. I am under the impression that that would be a nuisance issue and would be a separate issue. This is whether or not they actually expanded and pulled themselves out of a non-conforming use. We're arguing that they are still under the non-conforming use status and therefore, should not be forced

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to proceed with their hog farm under the A-2 status. We submit that they are a non-conforming use and that they should remain as a non-conforming use based on the fact that they have not expanded and based on the fact that they moved forward in all their actions with the county's approval. Do you have any questions for me?

**COMMISSIONER ASSALI-Q:** Yes, Betty, I have a question. I want it clarified. Mr. Fernandes received a building permit to remodel the barn from Stanislaus County, is that correct?

**BETTY JULIAN-A:** That's correct, and I have provided those documents. I've provided, also, a document from T.I.D. ...

**COMMISSIONER ASSALI-Q:** I saw that.

**BETTY JULIAN-A:** ...that states that they are conforming.

**COMMISSIONER ASSALI-Q:** So they did receive a building permit?

**BETTY JULIAN-A:** Yes they did. They did receive a building permit for the hog barn that was remodeled, and I do believe that the Code Enforcement's stance is that the trailers...there was no permit for the trailers; however, we don't believe that actually housing baby pigs in the trailer versus the Grower Barn is an expansion. If anything, it's a replacement. There are areas of the farm that we no longer use and now we have placed the babies in different areas. There has not been an expansion in the operation. There may have been changes. There may have been new equipment. I mean, adding equipment is adding equipment in expansion if you add a different lawn mower, if you add a different piece of equipment. That doesn't amount to an expansion. An expansion is an expansion in the operation, and that is how I interpreted the expansion definition in the Code.

**COMMISSIONER ASSALI-Q:** And as I understand it from this letter, the T.I.D. staff determined that you were in compliance, or that Mr. Fernandes was in compliance, with everything, is that correct?

**BETTY JULIAN-A:** Yes, and they didn't bring any actions against him. He did that voluntarily when they asked him to move the lagoon back. He is very open to compromising and insuring that he is not a nuisance to his neighbors. He has done everything he can to alleviate the noise, the smell and the flies. In fact, I have a copy here of his Clark Pest Control. Every seven (7) days, Clark Pest Control comes out to spray for pests, to alleviate the flies. I personally have been out their on two

COMMISSIONER BYRD-Q: How many people are planning on speaking this evening? Okay. I'm going to...I usually announce this at the beginning. There are a lot of people here, and people just reiterate what was said. We're going to be here a long time and we're not going to give other folks that want to speak a fair opportunity to be heard because we're going to be rumdum. So I just ask that you try to keep your comments as brief as possible, but tell us what you need to tell us and not repeat what other people are saying, if that's at all possible. Does anyone else want to speak in favor of the Fernandes?

WAYNE ZIPSER: Thank you, Mr. Chairman, and good evening to all. My name is Wayne Zipser and I am Interim Executive Manager of Stanislaus County Farm Bureau, and I reside at 1427 Stallion Way in Turlock. I am here tonight to talk to you about a very important issue impacting agriculture in Stanislaus County before you tonight. It has come to our attention that the Loin I Hog Farm, owned by Paul J. Fernandes, at 4362 Esmar Road in Ceres, has been ordered by the Department of Environmental Resources to cease hog farming operations on his property. I had the opportunity this morning to meet with Mr. Fernandes at his farm, along with Mr. Newton and Mr. Hodges from the Department of Environmental Resources. I must tell you I was in awe by what I

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saw. I'm from a long history of pork producers in Stanislaus County. I couldn't believe what I saw. This operation is fully enclosed, self-contained and environmentally sound integrated hog inorganic almond operation. His operation is one of the most sterile and efficient farms that I have ever seen in a hog-producing operation. I submit to you if you drive by there for many years, you would never know there were hogs being raised on this property.

After visiting with Mr. Fernandes this morning and reviewing the history of the operation, we at the

Farm Bureau have become very concerned about this and concerned about the precedents of the decision of the DER to shut down this hog farm. The Farm Bureau in the past usually has not taken up issues that come within the Urban Transition zones, but tonight we are. This farm has existed for over 30 years. Mr. Fernandes is what I consider a high-tech farmer, along with good common sense. He has built a state-of-the-art, very small pork-producing complex that anybody would be proud of. The only thing that has changed over the 30 years...it hasn't gotten bigger, it has just gotten a whole lot better. I'm not going to get into the complexity of whether or not he should have received a use permit or any other of the zoning laws, because that's what his counsel should do, but we believe that this is a common sense decision tonight. If you shut this operation down, what message does this send to the community? If you think about it for a minute, agriculture in this county will never survive if all you have to do is make a phone call to make ag go away. Twentyfive (25) years ago, Central Valley had 7.5 million acres under irrigation and today we still have 7.5 million acres. Why? Because they have pushed ag out into the fringes, the foothills, to lower productive soils. We have lost the deep well-drained soils that produce our food. One day our grandchildren and great-grandchildren will say, "You know, I heard this all used to be farms around here. What happened?" and we'll say, "I guess that's why we get our fruit from other countries. Please make a common sense decision tonight and let this man continue to farm.

**COMMISSIONER BYRD-Q:** Any questions for Mr. Zipser? Thank you very much. Is there anyone else that wishes to speak in favor of the Fernandes'? Name and address please.

**JOHN MENDES:** My name is John Mendes. I reside at 7142 Edsel Lane in Modesto, and by profession, I am an Animal Science Instructor at Modesto Junior College. I have been involved in the hog industry most of my life. I also currently serve as a Director of the Pork Producers

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Association of California. My relationship with Mr. Fernandes' family goes way back in terms of the swine industry. Without getting too redundant, I do recall many years ago when I first got to know Paul and his family, just like most hog farmers, you would drive along the road, you could tell that there were hogs, lots of hogs. In 1974, when we would consider reproduction in the swine industry, we would have boars that would mate with the sows and we had animals that would have to work. Today, Paul Fernandes hardly has a boar on the place because he uses artificial insemination, he has a very intensified management program, and he has what you would call an "all in/all out system" for the health reasons. A veterinarian that works very closely with the college made a claim several weeks ago in front of some people that Mr. Fernandes' herd is the healthiest in the county in terms of disease control. He is very conscientious about this. I do appreciate what people have said earlier about the right to farm. With agriculture, you wish there wasn't the attitude of odors and the attitude dealing with waste, but when I talk about farming today in terms of what Mr. Fernandes has done, I have brought to the attention of my students when I teach courses at the college that there is an example to follow. He and I both had an excellent mentor years ago, Mr. Ed Leal, who is my predecessor. He taught Paul a lot about farming, but back then, Mr. Leal didn't have the opportunity to use ventilation systems and enclosed housing to control the environment to make these pigs even more productive and over the years, Paul has taken advantage of that. I have even talked to Paul several times when it comes to ventilation problems at the college, and he has helped me solve problems there because of his expertise. I believe what he and his family are doing at his farm is consider to be a role model for small-scale operators in California. If any of you have a feel for agriculture today and we talk about family farming, small-scale farming is still very viable. We have been able to find niche markets here in California to allow us to continue to function. I do; obviously, respect the surrounding neighbors and people around, and I think Mr. Fernandes made a conscientious effort throughout his operation to respect that, but when I think of raising hogs in Stanislaus County, I think it's still very much a doable opportunity. A lot of times when you hear the word "nuisance," I cringe because it just says that agriculture just doesn't have a place. I would like to see us co-exist. I try to preach that in the classroom when I talk to my students, but the modern practices that are in

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27 28 place today, I've watched Mr. Fernandes transform that place into a very, very modern facility, whether it be the lagoon or the so-called containers that are used there, as was mentioned earlier. Those containers do house those nursery pigs in which Paul can monitor them very, very closely and do a better job of getting those pigs through the facility even in a shorter period of time. We have markets now where we don't have the animals on the farm as long as we used to. It used to be, years ago, that it would be six (6) or seven (7) months before an animal would reach its end point. Today, we have markets within 90 days; the animals can be marketed at a viable value onto the food chain and other areas. The other point I would like to make, in terms of what Paul does, and Mr. Zipser hit upon, the organic farming of his tree crops. He has done an excellent job trying to incorporate what's considered a waste product and maybe in some people mind a nuisance when we talk about the lagoon and yet made that a very valuable part of his almond orchard that he has had for many years and has made that a very productive site. One of my colleagues, Ron Ouse (sp?), who is a very big advocate of organic farming, has used Paul as a guest speaker and brought classes to his farm to point out that farming can co-exist and that we can utilize practices that relate to modern practices and also maintain a natural form of production of food for our society.

Again, I would like to reiterate the opportunity to take this into consideration and I appreciate you folks' time and as an advocate of agriculture, I would hope you consider his case. Thank you. I will answer any questions, if you have any.

**COMMISSIONER BYRD-Q:** Questions for Mr. Mendes? Thank you very much. Is there anyone else that would like to speak in support of the Fernandes'? Can you come to the podium real quick? Do they have any issues with the Regional Water Quality Control Board on the lagoon?

**BETTY JULIAN-A:** They have not.

**COMMISSIONER BYRD-Q:** They don't have any permits, no.

**BETTY JULIAN-A:** You'll notice a violation. They are under the impression that you do not need to have a permit or a license to have a lagoon. Since the lagoon has been there since the seventies, they haven't had any problem with it.

**COMMISSIONER BYRD:** Thank you. Is there anyone else that wishes to speak in favor of the Fernandes'? I see no one. Now those that wish to oppose the operation and support staff's

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recommendation regarding the nuisance. Does anyone want to speak in opposition to the operation? Please come to the podium and state your name and address please.

**ESTALENE AUGUSTINE:** I live directly across the street from him. We bought our house in 1975 and Paul was a small little boy. Our children grew up together and I have nothing against Paul or Gloria. They have been good neighbors as far as being neighborly. When we bought our place in 75' there were maybe four or five pigs. I'm not even sure there were any there at the time, but right away there were 4 or 5 pigs he raised for 4H and FFA, as he got older. Then he did get more pigs later and put in a little area that was North of the existing house. That would be right in front of those buildings there, whatever they are called. All that was there was a lean-to that the pigs were under and it was fenced in with a wire fence. The pigs would occasionally get out and the neighbors would help them get them back in. And then, Paul went off to school to Cal-Poly, I think, and then when he came back he started a pig farm. That's when he started putting things in and he didn't put in the lagoon until 1997 or 1998, it was during the time that I was living in Lake Don Pedro and my daughter was living in my house. And she only lived there 4 years and during that time he dug the lagoon. And that's when he put in these things for his piglets. I don't know how many pigs he has over there, I never went over there, but he told me one time they had a old two car garage behind their house and that when he got this permit from the county, he enlarged the garage and made it into a pig pin and made it double the size it was plus he enlarged the lagoon that was built in 97 or 98, I'm not sure which year. And that's when the lagoon was put in and the major part of the farming started. It is such a nuisance. We have a nice patio and we can't barbecue because we have flies out of this world. I have a little grandson that I watch and I pick up at school and he says grandma, you need to change your fly strips because I have fly strips hanging all in my garage. I just changed them yesterday, Tyler. That is how bad the flies are. You can't barbecue outside. You can't do anything outside. We have to go to one of our children's houses for all of our family get together that have anything to do with outside because we can't have them at our house. We have a nice yard and nice patio that we can't use because of the smell and the flies. We don't everyday have a smell because maybe the wind is blowing the other way, but when it comes our way which is most of the time you have the north wind. We get it and we get it bad. There are a lot of other neighbors here that will

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tell you the same thing. Mrs. Johnson has lived here longer than we have and she knows more about it that I do. The lagoon is just pig manure and you know how pig manure smells and it is very large. I don't know the dimensions of it, but it is very large. I was told the A-2 UT zoning was back in 73 when it was put in, I don't really know because we didn't buy our house until 75. I called the county and they said the property is 9.3 acres, 9.5 to the street and there is an acre cut off right where the pig farm is. I don't know, you guys should have maps of it from the assessors' office or somewhere. That's about all I can say.

**COMMISSIONER BYRD:** Any questions? Does anyone else wish to speak in opposition? **AMANDA JONES:** I am speaking on behalf of my mother tonight. I reside at 3833 East Redwood Road. She can't be present at this meeting tonight because she is student school board member or president and she has a meeting tonight. She wrote a letter and I have copies for you guys.

I regret my absence from this meeting and I apologize for not being able to attend. I am currently the president of the board of trustees for the Ceres Unified School District and due to an important meeting regarding the current budget crisis and possible layoffs facing our school district I cannot be present this evening at these hearings. Please accept my comments regarding the properties at 4342 Esmar Road, Ceres. My family and I reside at 3833 East Redwood Road, approximately 1000 feet from the current hog farm. When we purchased our property and had our home built we occasionally had problems with events of odor, now however the odor has increased to the point of our not being able to go outside at times. I respectfully ask that you stop the hog farm from expanding its operation or close it completely if possible. We live in a growing community that is primarily residential in nature. The odor here is becoming unbearable and the stench is indescribable. We often cannot hang out clothes out to dry or enjoy our pool. My major concern is for the health of my family and neighbors. We are on well water here and I have a legitimate concern about leakage and or seepage of hog manure into our drinking water, making it unsafe. Studies show that manure increases the level of nitrates in the water significantly. Our well currently draws water at approximately eighty feet, not far from the tons of manure being introduced into the soil. Expanding this farm not only endangers my family, but also the water table in our area.

Another concern is the TID lateral canal that once was close to the hog farm. Accidental breakage or leakage into this canal can cause a public health concern as well as a nuisance for residents in this area. I have a very real concern for the health of my children and other children in my neighborhood. We have three children of our own and there are also many young children here. There health may be affected not only by the odor, water and waste, but also by air pollution contaminants that have not been addressed. Other cities show emitted gases from hog farms contain many harmful chemicals that can have severe health effects. Attached please find a few articles describing the problems associated with pig farming. I will provide more upon request. Thank you for your time and consideration in this matter. I respectfully ask that you protect both my family and my neighborhood from stench, health concerns, and possible disease. Sincerely, Corrine Jones.

- **COMMISSIONER A. SOUZA-Q:** Can you give me the approximate year when your family moved to this location? 12
- **AMANDA JONES-A:** I was in 8<sup>th</sup> grade and I'm in 11<sup>th</sup> grade now, so approximately four or five 13 14 years ago.
- **COMMISSIONER A. SOUZA-Q:** Have you done any testing of the well water at this point? 15
- **AMANDA JONES-A:** I myself have not, but I'm not sure about my parents. 16
- 17 **COMMISSIONER BYRD-O:** Have you notice the odor getting worse in the last three years?
- 18 **AMANDA JONES-A:** I personally have. I don't even want to bring my friends outside because 19 it does stink.
- 20 **COMMISSIONER BYRD-Q:** It's gotten worse?
- 21 **AMANDA JONES-A:** Yes it has gotten worse over the past years that I have been living there.
- **COMMISSIONER BYRD:** Any other questions? Can we see the area map. (Looking at the GIS 22
- 23 map). Are these 20-acre parcels?
- 24 NEWTON-A: 3
- 25 **COMMISSIONER R. SOUZA-Q:** These are all ranchette type properties?
- **NEWTON-A:** Yes. 26
- 27 **COMMISSIONER R. SOUZA-Q:** And these properties surrounding may have horses or cows?

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10 UT. And the UT reverts it back to an R-A zone, rural ag.

**COMMISSIONER R. SOUZA-Q:** When you say a few what are we talking about on one of these ranchettes, a couple horses, a couple steers, what?

**NEWTON-A:** A few do, however there are restrictions on the number of animals because it's 8-2-

**NEWTON-A:** For the most part, I drove in the area a number of times, and a couple horses and maybe two or three head of cattle, but nothing more than that. A couple places, I believe the place across the street, had 4 or 5 horses.

JACK DOERING, ASSISTANT COUNTY COUNSEL-A: Under the R-A Zoning, small live stock farming is permitted on parcels of one acre or more, but excluding hogs or turkeys. And on parcels with one or more acre, there can be maintained two horses or two cows, which are termed large animal, or four sheep or four goat, which are termed small animals, or you can have a combination of one large animal and two small animals.

**COMMISSIONER BYRD:** Any other questions? Please state your name and address.

**TROY JONES:** 3833 East Redwood Road. I was going to show you were we are located on here. I'll show you how far away we are and we still get this odor. (Pointing at map) We didn't get the information in the mail. Not sure how far your mailing list was, but I feel that if you guys had sent more out you would probably had a bigger crowd in here because this smell is bad. Tonight it is really bad. Just leaving the house, tonight is a bad night. I noticed everybody that comes up here and talks; none of them live there on behalf of the Fernandes'. They say there might be one or two hundred pigs, but it smells like a million pigs. So I'd ask that you guys refer this to the county supervisors. I don't know zoning, so I don't know what they have done wrong, so I just tell you what I smell.

- **COMMISSIONER BYRD:** Any other questions for Mr. Jones?
- **COMMISSIONER BYRD-O:** For Staff, did we know notify on these matters up to a quarter mile or what's our notification range?
- **NEWTON-A:** 300 feet. Ours is different than the planning but we issued about 12, we passed out to neighbors, the school district, and the city of Ceres. But it was mainly the neighbors right in the particular area that we have contacted.

**COMMISSIONER A. SOUZA-Q:** so you are going by the legal limit?

2 NEWTON-A: Yes.

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**COMMISSIONER BYRD:** Thank you sir. Anyone else?

4 NEWTON: I just wanted to clarify that there is no legal limit for notifying neighbors, but the staff does notify neighbors as a courtesy.

**COMMISSIONER BYRD-Q:** Oh, okay. So it's not the same as a planning commission?

**NEWTON-A:** Correct.

**COMMISSIONER BYRD:** Okay. Name and address please.

STEVEN LOPER: My address is 4313 Esmar Road. If you look directly across the street and then go north across the canal, I live in the second house. It's the small lot. It's 1 acre. We moved to this location in July of last year. Went on the market one day, we bought it the next, and after we signed the papers we caught the smell. And had I known, it's wasn't disclosed to me that this was there, but I wouldn't have bought it. I don't want to belabor what others have said, but this place stenches, usually in the evenings but sometimes in the morning. We've had people visit and not want to come back. Also, at certain times when we are having dinner, I can smell that over my dinner. It's just unbearable. The flies are a problem. They are not bad in the winter, you heard someone say they hardly saw any flies, but in the summer time they are. I put up just after we moved there, I put up two strips and one day later there wasn't enough room for one fly on the strip. The person we bought the house from had done a water inspection, they had been drinking the water all along, but the water didn't pass. It wasn't passable, and I don't know exactly the problem with it, but we are required to put a reverse osmosis system on it in order to drink the water. So I obviously am not only concerned about the flies and the stink, but the water that is coming out of our well. I think it was a good point that whoever is saying that they don't have a problem with it doesn't live there. There are a lot of people that live up and down the street that do have a problem with it. It may be a high tech operation, but it is also a high nuisance and a potential hazard to the water. I can't really address the expansion because I haven't been there that long, but as far as the nuisance it is definitely a problem.

**COMMISSIONER BYRD:** Any questions for Mr. Loper?

- 1 COMMISSIONER POORE-Q: Question, you said that this place went on the market in one day
- 2 and you bought it the next day and you didn't do research about anything around you?
- 3 STEVEN LOPER-A: I didn't ask if there was a pig farm next door.
- 4 COMMISSIONER POORE-Q: I'm asking did you check schools and such. Did you check
- 5 | anything about the area you were buying?
- 6 | STEVEN LOPER-A: I had driven around the neighborhood plenty. But no I did not know there
- 7 was a pig farm next door and I seriously wouldn't have purchased the property had I known that I
- 8 was going to smell that.
- 9 COMMISSIONER R. SOUZA-Q: So you drove around extensively you say?
- 10 STEVEN LOPER-A: I drove around the neighborhood, yes.
- 11 COMMISSIONER R. SOUZA-Q: And you didn't smell the pig farm that day?
- 12 | STEVEN LOPER-A: Not that day. There are days sometimes two days in a row where you don't
- 13 | smell it, but usually in the evening it is real bad.
- 14 **COMMISSIONER BYRD:** Any other questions for Mr. Loper?
- 15 NEWTON: I would like to also state that the TID staff on July 3, 2002 determined that under their
- 16 current operating practices that they had met the necessary means to prevent any nutrient water from
- 17 | coming into contact with any district or improvement district facility. So that was stated in July 3,
- 18 \ 2002 in this report from the TID.
- 19 COMMISSIONER BYRD: Anything else sir? Thank you very much. We are going to take a 3
- 20 minute break. Be right back.
- 21 COMMISSIONER BYRD: Okay I want to reconvene the meeting. Is there anyone else that
- 22 | wishes to speak in opposition? Yes. Please come forward. State your name and address.
- 23 | NEWTON: If I could just bring something up. A couple of things, the TID report addresses the
- 24 possibility of contamination into their canal, not into the ground water. And, if this lagoon was
- 25 permitted in an Ag zone, it requires that the lagoon shall be a minimum of fifty feet from the
- 26 property line or three hundred feet from any dwelling or adjacent property. This particular lagoon
- 27 | is within 12-15 feet of the TID right of way or in fact right on top of the right of way and is within
- 28 | 300 feet of a residence, if it even was permitted in an Ag zone.

**COMMISSIONER BYRD:** Okay. Yes m'am. Name and address please.

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**NANCY PACHECO** 3643 East Redwood. If you look at your map, we are the first large piece of property. The back of our property butts up against their almond orchard. We bought our house in 1986. At that time we were aware that this was an agriculture area. I believe we were aware at that time, if not then shortly there after, that they had three or four pigs. No problem, they're nice people, good neighbors. I've been told they keep a very clean operation. However, I can also tell you that the lagoon, which according to the aerial maps was not there in 1980 or 1985, but did appear in 1988 and has been expanded, stinks. I know everyone has talked about this and I hate to bring it up again, but when you own property, and as a homeowner that is an investment. That is our major investment. We have a barn, we have a shop, we have a pool, and we have a huge yard. We can't use it. It smells. Not every day. I can honestly tell you that this year seems to be the worst. We've never had much of a problem in the spring with the odor. This year it is almost every day. We literally have to close the sliding glass door and the windows. The odor is bad. Now, Paul farms almonds and when he is out on his tractor and the dusk kicks up in the summer, we close the door anyway. No problem. He's an almond farmer. I did almonds for years, but the smell of the pigs is horrible. I've been told there is no expansion. I don't know how you go for 4 pigs to 100 or 200 pigs. I don't know how you can go from no lagoon to a large lagoon. I don't know how you can go from no trailers to three trailers...and not say there has been expansion, there has. I have no problem with a clean operation if he can cover that lagoon so that the odor is not coming our direction and I believe most of the neighbors here live on Redwood also. If there is a north, northwest wind...backyard is out. And it is a shame because we have a nice, large backyard with a pool. We can't use it. But again I have no problems with their almonds or anything else, they've been nice neighbors. The stench of the pond is horrible. Something should be done.

**COMMISSIONER BYRD:** Thank you Mrs. Pacheco. Anyone else?

**SHERRI BERTOLOTTI:** 1409 Strawberry Drive in Ceres. I'm here on behalf of my mom and dad, Jerry and Myrtle Johnson. I personally wrote a letter in 1996 complaining to the health department about the smell from this property. I've lived there since before I was eleven years old. I don't live there now. I knew that the smell has been getting worse and that is why we believe there

was a large expansion because it has gotten worse over the years, and this year is the worst. I'd like to read a letter from my parents.

We, Jerry and Myrtle Johnson live at 3701 Redwood Road, just southeast of 4342 Esmar Road. We have been complaining to Stanislaus County Health Department for approximately 6 years. The smell from the pig farm located at 4342 Esmar Road on a summer day is unbearable. By the way this letter was written Feb 4, 2003. The smell is constant year round, but it's more of a problem in the summer. We landscaped our backyard with a pool and entertainment area in hopes of enjoying our backyard, however, most days it is impossible to be outside because of the smell. Our guests even complain about the smell. We are also concerned about our water. We are aware that the pig dung is being distributed through the pig farmer's irrigation pipeline, which connects to our irrigation line. Therefore, the pig dung is washed onto our property at time of irrigation. We are concerned that our well water may be contaminated or may become contaminated due to the excessive amount of waste in our irrigation water. We have small grandchildren that play in our field and we are concerned about an unhealthy environment from the pig waste. Also, we believe the fly infestation on our property is due to the pigs. Every year we work at eradicating the fly population on our property. We are requesting that you forward this matter to the Board of Supervisors. Thank you for your consideration.

- 18 **COMMISSIONER BYRD:** Thank you. Anyone questions?
- 19 COMMISSIONER R. SOUZA-Q: I have one thing. You were talking about your parents pig
- 20 manure getting into their irrigation pipeline and somehow into your pipeline. Does a common
- 21 pipeline go from one property to the next? Is it a shared pipeline?
- 22 | SHERRI BERTOLOTTI-A: Yes, it is all connected.

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- 23 COMMISSIONER R. SOUZA-Q: Okay, you're in TID?
- 24 | SHERRI BERTOLOTTI: Yes, they have to fill up the line in order to get their water.
- 25 COMMISSIONER R. SOUZA-A: Okay you may want to talk to TID because they require
- 26 revocable license agreements if you are using an irrigation line that is shared to move that. You may
- 27 want to contact TID and I'm sure the Fernandes' family would work with you on that.
  - **SHERRI BERTOLOTTI-Q:** So there wouldn't be any need of...

COMMISSIONER R. SOUZA-A: Well it's a common practice as long as the state's water is protected. And if you're using a common line, TID requires a revocable license agreement for irrigators. So you may want to look into that that might help that problem.

- SHERRI BERTOLOTTI: Okay. Thank you.
- 5 COMMISSIONER BYRD: Anyone else that wishes to speak in opposition?
  - TONY MAESTAS: I live directly south of Paul and Gloria. I'm just here to say basically what everybody else did. They are really good people. Talk to Paul, talk to neighbors. I'm not going to get into the smell because you've seen it. It goes north, it goes south, it goes east. My main concern is him pumping in the TID line. Okay, he disconnected it this year, but I've got leaks in my TID line. I've had several people come out to look at it. I've asked Paul for help, not to fix it, but to find somebody to fix it. That hasn't happened. Nobody is willing to enter that line because they know there is pig manure in it. I got six-eight inches of sludge in the bottom of it. I had it repaired about 7 or 8 years ago and there was nothing in it. I've taken a sample of it right before irrigation season. I was going to take it in and have it sampled. I asked Paul to help me to see if he could find someone to come and fix it. He hasn't done that yet. That's my main concern.
- 16 COMMISSIONER A. SOUZA-Q: That's an improvement district line?
- 17 TONY MAESTAS-A: No it's actually a private line.
- 18 **COMMISSIONER A. SOUZA:** That's a private, oh okay.
- 19 TONY MAESTAS: All the neighbors on Redwood are on that line, all the way to the back of 20 Esperada.
- 21 COMMISSIONER R. SOUZA-Q: Well, that could still make an improvement district line. How often is the maintenance on that line?
- 23 TONY MAESTAS-A: I don't pay any maintenance. We pay TID 90 dollars a year.
- 24 COMMISSIONERS A. SOUZA, R. SOUZA AND M. ASSALI-A: Yes, that's an improvement district line. It's a TID Line.
- 26 COMMISSIONER R. SOUZA: There are ways of preventing that problem. That's the point I was
  27 trying to make earlier. TID can help you and provide you with mitigation measures. That should

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**TONY MAESTAS:** Okay. You guys have already talked about smell and all that stuff and this was my main concern.

**COMMISSIONER BYRD:** Thank you. Anyone else?

**DAVID JONES:** I live at 3837 East Redwood Road. I want to pick up the issue about the grandfather. I represented the Fernandes' when they purchased that property as a real estate broker. 1973 I moved in to my property. That property was in grapes at the time. They didn't buy it with the intention of being a hog farm. That one building was there with that old house. I didn't keep tabs on when the hogs went in there, but I know it was never intended to be a hog farm. Later, a few years later they had some hogs. But when you are talking about it being grandfathered in as a hog farm, I don't think so. Basically I have been there as long as they have and I go up and down that canal all the time. I never checked on permits. All the years I have been there, as far as the smell, I didn't noticed it as much because I'm quite a little ways on down, until last four years or so. Every year I have to irrigate in the back and I go down that canal I don't know how many times a year. There was no lagoon there for a long time. I didn't check whether it was right or not where they put that lagoon in. But I have noticed the smell very bad. I don't think they have anything grandfathered in, because that was not intended to be a hog farm to start with. It was a grape orchard, pulled them out, put almonds in. I don't really know when they started high production in the hogs. The grandfather issue is out, as far as I am concerned. You guys talked about dates of 75 or something. There was no hog farm there in 75. That is all I've got to say.

**COMMISSIONER BYRD:** Thank you, Mr. Jones. Are there any questions for Mr. Jones? Thank you. Anyone else wish to speak in opposition? Okay, I'm going to give the applicant a chance for a very short rebuttal.

**BETTY JULIAN:** I Do just want to state for the record that there was a hog farm at this location in 1974 and there were no almond orchards back then, there was a pasture and cattle that was located there that is no longer there. I want to focus on the lagoon. When they state that the lagoon was not there in 1974, and we admit that. What was there was manure that was sitting directly on the

ground. The lagoon actually decreases the bacterial growth and the flies that are there. Now we admit that the smell has increased within the last six month. Now the only reason why the smell has increased is because the lagoon was moved back. Now the lagoon was moved back at the request of TID because they were afraid that the lagoon was going to spill over into the canal. Now once you move the lagoon, you disturb the gestation, what is called I am told, an aerobic, therefore they need an opportunity to allow the lagoon to settle. Now the smell may have increased within the last six months, but that is only because the lagoon has been disturbed, it has been moved back. Mr. Fernandes did not move the lagoon because he wanted to expand it. He moved it to ensure that there was no spillage into the canal. Also, I would like to state that he no longer uses a common line to irrigate. This was changed sometime last year and we do believe that it is a private line. Additionally, one individual did comment about the garage and that it was not used as a barn. The garage was always used as a barn, including an extended area. The only thing that happened in the remodeling is that the garage went back to a garage and we added space to make up for the lost garage space that was always a hog barn. The system was changed. Mr. Newton explained that if a lagoon is there you need a use permit, it needs to be fifty feet away from every bordering line, however, that is only if you need a license to have a farm. Mr. Fernandes in a non-conforming use status, having a lagoon is just an extension of his farming practices. Having a lagoon in 1974 was not something that was practiced. The manure hit the ground. Having a lagoon today is just an extension of the farming practices, and we do submit that it has had some type of lagoon out there since 1976 and that the lagoon was at least the size that it was in the pictures you've seen. And also, the aerial pictures, the ones from 1980, they are much smaller than the aerial pictures from 1996. So therefore there may have been a lagoon there that we are not seeing in those smaller pictures. Also, one of the individuals mentioned that Paul went away to college and farming stopped. That is not true. His grandfather who is ill who is in his late eighties was not able to be here, but everyday that Paul was away he maintained the hog farm. And Paul came home from school every weekend to maintain his hog farming industry. Some of the neighbors have stated that they don't know how many hogs were on the farm at any given time, that they lost track. Well that is because the hogs

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went inside. Paul has been at all times honest and forthwith with Code Enforcement, with the

building inspectors, with the county. He's always maintained that he has had a hog farm. All he has done is change his practice from an outdoor hog farm to an indoor hog farm. As one of the residents said, he didn't notice a hog farm when he drove by. He didn't notice a smell. The smell has increased because the lagoon was moved. I just submit to this commission that this hearing is merely to determine whether or not Paul Fernandes and his family maintain a non-conforming use status. This hearing is not to determine whether or not there is too much smell or too many flies. This is to determine whether or not they have broken their non-conforming use status, which then would lead to other hearings. However, I would like to say that it is not fair to punish the Fernandes family just because the neighbors have decided that they no longer want to live in an agricultural area. It is also not fair to punish the Fernandes family because the county itself allowed them to remodel their hog farm. They have maintained a hog farm for 29 years and it is unfair to change the situation at this point. Thank you.

**COMMISSIONER POORE-Q:** Someone has said that there was not a hog farm there in 1975 and you or Mr. Fernandes claims that there has been a hog farm there since 1975. Does he have any production records back that far to show how many hogs were produced there on an annual basis? That would be typical sort of records, would it not?

**BETTY JULIAN-A:** May I have a moment. It's 30 years ago when his father maintained the farm.

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**COMMISSIONER POORE:** If it was a viable farm and they kept accounting records and paid taxes. If it was a farming operation, they should have records of what they were doing there.

**BETTY JULIAN:** We do apologize; we don't have any present with us. We can do an investigation to figure out what records we do or do not have. I personally believe that they have not maintained records for the past 30 years. There production, there system has changed. I'm not sure what kind of accounting system they have kept. We can look into that.

**COMMISSIONER BYRD:** Any other questions?

**COMMISSIONER R. SOUZA-Q:** Your points are well taken, but I wanted to get back to the point of odor in the lagoon. There are measures you can take to reduce odors, you can talk to the

County Farm advisor and I know there are additives that you can add to reduce the odors. Do you know if the Fernandes family has looked into doing those types of things?

BETTY JULIAN-A: I do know that the Fernandes family has taken every measure possible to reduce odor, smell, and flies in their hog farm. They are at the cutting edge of technology. Whatever is out there, they implement into their hog farm. If there's a way to reduce smell then he has done it. He has taken all measures. The only reason why he moved the lagoon was to be in compliance with TID. He didn't have to do that. They could have come after them first. He is not somebody who is trying to lie to the county or do things behind anyone's back. He's doing them the way he has always done them. He's maintained his hog farm and he has done everything to reduce the smell. Because the lagoon has been disturbed, there has been an increased smell within the last six months. He can't control that though. He has to allow the lagoon to settle. It's manure; it's a hog farm. It's going to smell. Whether you like it or not it is going to smell some. I'm not saying it's a drastic smell, but it's a hog farm. There is going to be some amount of odor. Now maybe the odor increased in the past six months, but that's because the lagoon has been moved back. I don't see why he should be punished for trying to make the canal safer or comply with TID.

- **COMMISSIONER BYRD-Q:** There are no aerators. Do you guys have those on your ponds? Fancy wineries have those.
- **COMMISSIONER R. SOUZA-A:** No, but new technology is beginning to happen now. There are new things we need to look at.
- 20 COMMISSIONER BYRD: I know on...
- 21 BETTY JULIAN-A: He's tried it.

- 22 COMMISSIONER BYRD: Waste water ponds there's aerators that try to keep it aerobic to keep in from going anaerobic where you have the odor problems.
  - **BETTY JULIAN:** If you want to ask specific farming questions, I'd have to defer to Paul, but I do know that he has various different things to decrease the smell. His mother lives on that farm. She's not trying to live in a place where it is not, where the odor is heavy. They are doing everything they can to clean it up. They are not individuals that are just farming pigs for money. It's basically something that has been in there life for the past 30 years. They are trying to maintain this hog farm

these bacteria to grow. This was October, so once it turned cold all the bacteria that I had shocked

it with were dormant and so until it started bubbly and percolating once it got about 65 this spring.

Now it is considerably better, it's not where it should be yet but Dianna said it is going to take a little

bit longer and that it should get better. I'm trying to do everything I possible can. I have my mother

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there. We have a rental on the property. I do not want to cause any type of discomfort. I'm in agriculture and I want people who in our culture to be proud of us, and the things that we do. We are always constantly trying to do things to make our environment better for us and our animals.

**COMMISSIONER BYRD:** You're within the sphere of influence within the city of Ceres.

**PAUL FERNANDES-A:** I do realize this.

**COMMISSIONER BYRD-Q:** Have you looked at alternative sites?

PAUL FERNANDES-A: Actually, I have spoken with lots of people that say that if you move from here and you go somewhere else, you just take your problem with you. We've been here and have done tremendous amounts of improvements because I realize where I'm at. I've brought all the hogs inside. I've done everything I possible can to conceal and contain the environment for them and their wastes and I've incorporated that into organic farming practices. I grow cover crops, I no longer burn because I realize that burning in this small of an area with all these houses and stuff is a huge environmental impact. So we no longer burn the orchard, we chip all the brush; we grow cover crops to reduce dust and erosion.

**COMMISSIONER BYRD-Q:** Do you calculate the nitrogen uptake? Do they help you say okay you are not overloading the orchard?

**PAUL FERNANDES-A:** We are into soil conservation program through the federal government and we were actually paid to plant the covered crops and chip all the brush and then we have to use nitrogen to actually decompose that brush. If you set the brush on top, it needs nitrogen to go into a decomposing process. So that's why we used the lagoon water to actually help decompose and get the microorganisms to eat the fiber from the cover crop and from the chipped brush that's on top of it.

**<u>COMMISSIONER BYRD-Q:</u>** And you irrigate with the?...

**PAUL FERNANDES-A:** We do. Right in the center of the property there is a valve and that is where this water goes to and it is mixed right there and then it disperses over a table top flat orchard. We utilizing all the nutrients to grow the cover crop and decompose the chips and also grow our almonds.

**COMMISSIONER BYRD-Q:** Have you done any calculations on the nitrogen uptake to see if you are overloading it?

**PAUL FERNANDES-A:** I have that being done right now. We are working on obviously readjusting the capacity. We are going to use the drop method to actually measure the lagoon and see how much we drop, so we are doing the calculations now to figure out what our capacity is. We are going to drop, hang off the side of that pipe, basically a ruler and we will be able to calculate how many inches or feet we put each irrigation. Obviously growing almonds, you can only put manure out twice in the spring and twice in the fall, so the rest of the time you can't have manure on your property. So the rest of the time it is there being stored, being held as the nutrients for that orchard.

**COMMISSIONER BYRD-Q:** But do you then disk it in before harvest and float it?

**PAUL FERNANDES-A:** No, there is no residue on pig manure, it's not like cow manure. We don't feed any hay or alfalfa or silage. It's just corn and soybean really finely ground. So therefore there is no particle matter on the property or on the surface.

**COMMISSIONER ASSALI-Q:** The concern about the underground water. Have you had your wells or anything tested for anything like that?

**PAUL FERNANDES-A:** There is only one well on the property. It hasn't been tested. The lagoon itself is four feet deep. So it's on basically on the surface of the ground. Most lagoons depending on the water table are much deeper than this. So this would be considered a surface lagoon. Not a traditional 20-20 feet deep lagoon like we see on some other properties. So this particular lagoon being on top of the surface would not have any problems because the water is at least 30 feet below that. And the law requires a 5-foot minimum from the ground water table to the lagoon floor. We are much lower than 5 feet. I basically built the lagoon like Dianna Meyers asked me to do. The reason why I did it as it was stated. The bank that we are looking at here was as tall as the canal bank and now it's you can see the lagoon line when it was full because that was all year, all winters manure. You can see the water line. That's how much lower we now have the lagoon. Before it would be right at the top of the canal or it could have gone into the canal. And that was TID's concern. When they brought that to my attention, I spoke with Dianna after class, I agree 100% that that liability was not worth taking at all. I didn't realize what I had opened up as far as a can of

worms that we have tonight when I made that decision, but I thought it was in the best interest of our community and liability of not dumping manure water into a canal. As you can see that's the capacity that we lost and therefore we came out and lowered it. And we didn't go deeper. That was the issue I didn't want to go any deeper. I want as much safety as I can. I drink that water. Obviously I work here and I drink this water and I'm not going to try to do anything to pollute the water.

## **COMMISSIONER ASSALI-A:** I understand.

**COMMISSIONER BYRD-Q:** How many hogs did you have in 75?

PAUL FERNANDES-A: We had anywhere from 40-60 sows. The market in the swine industry, I wish it was as stable as the dairy industry, it's not nearly stable enough to maintain the same amount pigs every year because for one reason a few years ago we experience 5 cent per pound pigs. I market right out 1000 pigs per year and have, but some years I'll go down to 4 or 5 hundred, some years I'll go to 1200, but you can never go above your ceiling because the facility just won't hold it. You can only have so many farrow crates. That is your limited factor. If you don't have a farrowing crate you can't have a baby and if you don't have babies you don't have any pigs to market. When you go to 5 cent a pound pig you do everything you can to cut your production because it's your losses when you're selling pigs for 30, 40 dollars a head loss, it's pretty self explanatory. We never, ever slowed down below 400 pigs per year marketed. What we had to do though is get different markets during those years of bad prices. The prices right now aren't great but we're still going to market right around 1000 pigs this year. We do that and have for as long as I can remember. My grandfather and mom have helped me. And that's what we do.

**COMMISSIONER BYRD-Q:** So in 75 you were marketing about 1000 pigs?

**PAUL FERNANDES-A:** No, we were marketing 400. The prices were really bad. It probably took us a three-year swing. The prices go in and out. In the old days it used to be a 3-5 year swing, now days with the mega, mega hog farms out there, the Murphy's and those particular people that own hundreds of thousands of sows, they basically dictate the market and they can crash it tomorrow.

**COMMISSIONER ASSALI:** He's right.

PAUL FERNANDES: We are just trying to be a small hog farmer. Basically we just serve our community; we raise lots of 4H and FFA pigs. We do lots in education with FFAs and colleges, Modesto Junior College comes out. We do lots of field tours and they use our farm as a teaching facility. A lot of people do. And we do lots of demonstrations for young kids. That's why I honestly...I thought it was a show palace and after today everyone thinking it's a dump. I feel bad but I try to take as much pride as I possibly can in the farm and try to keep it as clean as I can and take as much pride in that farm as somebody does in their boat.

- COMMISSIONER BYRD-Q: Now in 75 you marketed about 400 a year.
- 10 PAUL FERNANDES-A: Yes.
- 11 COMMISSIONER BYRD-Q: Before 75 did you market more than 400 a year or was that about 12 it in the early 70s?
  - PAUL FERNANDES-A: Yes. In the 70s the prices weren't good. We were doing 400, but we were raising them up to 240 pounds. It's a complicated story in marketing swine, but back then there was no market and all you could do is sell 240 pound pigs. Since that time, there is a Chinese market, China Town, that I have been able to sell pigs to. Back then I did haven't any markets really so I had to sell to...Johnny Lowe and I and Klaussen Meats in Turlock, California are two of the people that market the hogs for me. What I am trying to say is we used to raise 400 pigs up to 240 pounds, so that means that you would keep those pigs for 6 months. Today we kill everything before they get to 100 pounds. Most of them die at 50 or 60 pounds and then the rest die at 100 or they go for show pigs at 40 or 50 pounds.
- 22 COMMISSIONER BYRD-Q: Do you think you are generating the same amount of manure as in 75 with the 400 pigs?
  - **PAUL FERNANDES-A:** We should generate...I wish I had all the calculations with me because there's actual calculations. But an 80 pound or 50 pound pig will not consume nearly as much feed so if you were to mathematically calculate out what goes in must come out, obviously those animals, it's probably, you are looking at probably a 5 to 1 well no, you're probably looking at more than that, 8 to 1, so it would be eight (8) 240 pound pigs to one (1) 100 pound pig. It's a good question. It

- 1 depends on the various of sizes. Obviously when a baby pig only eats 1 pound of feed per day for
- 2 | the first 5 weeks of its being weaned, then it can't produce nearly as much manure as a pig that's
- 3 eating 12 pounds of feed per day.
- 4 COMMISSIONER ASSALI-Q: What percentage of your hogs or swines goes to 4H or FFA for
- 5 | their projects?
- 6 PAUL FERNANDES-A: We run at about 40 to 50 percent, obviously, depending on orders from
- 7 kids.
- 8 COMMISSIONER ASSALI-Q: Is that right...that much? Okay.
- 9 PAUL FERNANDES-A: At this particular time, we are looking at 40 to 50 percent of the animals.
- 10 Basically all the animals right now are going to 4H, but of our total production for the year we sell
- 11 between 400 and 500 show pigs and those are sold at 50, 60 pounds. I'm sure most of the neighbors
- 12 can testify to most of the kids and cars and vehicles on Saturdays that are out there.
- 13 COMMISSIONER R. SOUZA-Q: A couple questions I have. Does the Port Association or
- 14 | somehow is there a quality assurance program available for the producers?
- 15 PAUL FERNANDES-A: Yes.
- 16 COMMISSIONER R. SOUZA-Q: Is there an environmental component in that program?
- 17 PAUL FERNANDES-A: There is.
- 18 COMMISSIONER R. SOUZA-Q: And have you participated in that?
- 19 **PAUL FERNANDES-A:** I have not. I participate in the dairy program.
- 20 COMMISSIONER R. SOUZA-Q: Which would be similar?
- 21 | PAUL FERNANDES-A: Well that was probably about the best we could do since...west of the
- 22 Mississippi there not a lot of...
- 23 COMMISSIONER R. SOUZA-Q: And that's where Dr. Meyers got involved, was from the dairy
- 24 | side?
- 25 | PAUL FERNANDES-A: Correct.
- 26 COMMISSIONER R. SOUZA-Q: Well as you know, Dr. Meyers is probably the foremost expert
- 27 on lagoons in the country. She played a major role in mitigating the problem they had in

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the cheapest lagoon ever built?

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**COMMISSIONER BYRD:** Okay, thank you ma'm. I'm going to close public hearing. And bring it back to the Board for deliberation.

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**COMMISSIONER A. SOUZA-Q:** Uh, can I get some redefinitions from staff? Is a use permit

generally do this, but in fairness since I...

required for a lagoon?

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Okeechobee several years ago in Florida. So if you built a lagoon according to her specs, it wasn't

**PAUL FERNANDES-A:** No. This lagoon was designed to hold eight months worth of effluent.

The reason why is the law requires 6 months and we went 2 months over and she was right. We

went all winter and we didn't come close to filling it. Her calculations were right and it helps us

better manage the nutrients for the orchard so we don't do any ground water contamination or

pollutants of the surface soil. I obviously want my almond trees to be vigorous and growing and be

a very productive almond orchard and I do not, will not put enough manure on there to harm them

**COMMISSIONER BYRD:** I'm going to let one person from the opposition speak who is raising

their hand. If you could be fairly brief because I let them go long. Come forward ma'm. We don't

**ESTALENE AUGUSTINE:** Well first of all, ask Paul how old he is. How old was he in 75? He

wasn't a farmer; he was a little boy. There was only a few pigs there, 4 or 5, when we bought the

place in 75. He got more as he got into FFA and 4H, and he has another ranch somewhere. Yes,

Paul you do because you transport them back and forth all the time. He takes them by the truckload

and brings them back and puts them at another place, and then he brings them back after they are

pregnant to have their babies. He has told me that himself. So I know he has another place

somewhere, but he doesn't want obviously or anyone to know he has another place where he can

keep his pigs. They don't have to be at his mother's place. He doesn't live there. His mother lives

there. His mother works. She's not home all the time, so obviously they don't get the smell like we

or the cover crop. Anyone who's toured the orchard will testify to the production.

**PAUL FERNANDES:** Thank you for your time and consideration of this issue.

**COMMISSIONER BYRD:** Any other questions for Mr. Fernandes? Thank you sir.

- 1 | **NEWTON-A:** No.
- 2 COMMISSIONER A. SOUZA-Q: And again, what constitutes an expansion?
- 3 NEWTON-A: Any enlargement or alteration. Any change from the way it was when it was legal
- 4 | law conforming.
- 5 COMMISSIONER A. SOUZA-Q: Physical expansion or expansion of number of animals?
- 6 NEWTON-A: Yes to both.
- 7 COMMISSIONER A. SOUZA: Okay.
- 8 COMMISSIONER R. SOUZA-Q: So if he was to take the buildings down and turn the hogs loose
- 9 in the corral under less ideal conditions than they are in now, that would be legal?
- 10 NEWTON-A: If it was back to the number that he had before, yes.
- 11 COMMISSIONER R. SOUZA-Q: But have we established what that number was?
- 12 JACK DOERING, ASSISTANT COUNTY COUNSEL-A: I believe there is conflicting
- 13 | testimony as to what the number of pigs were that were on the premises in 1975.
- 14 COMMISSIONER ASSALI-Q: I have a real concern here on his addition 22 x 40 feet; it's called
- 15 | a hog barn, replace roof on remainder of existing garage building permit and he has the permit
- 16 | number. This was issued in April 5, 2002. Is that correct?
- 17 | NEWTON-A: That's correct it was issued in there and it should have been a public hearing in order
- 18 to allow this expansion to occur.
- 19 **COMMISSIONER ASSALI-Q:** Are you saying this was never approved then?
- 20 NEWTON-A: Issued in error.
- 21 COMMISSIONER ASSALI-Q: It was issued in error?
- 22 NEWTON-A: Issued in error, thus making that permit null and void. There should have been a
- 23 public hearing in order to conduct the expansion.
- 24 COMMISSIONER ASSALI-Q: Was he notified of this?
- 25 NEWTON-A: I don't know.
- 26 COMMISSIONER BYRD-Q: The nonconforming language, is it anywhere?
- 27 | **NEWTON-A:** Yes, if you look in 21.80.
- 28 COMMISSIONER BYRD-Q: 21.80, where is it?

the uses, such approval may include, conditions deemed necessary and reasonable to carryout the

- 7 COMMISSIONER R. SOUZA-Q: Does everyone agree that the Fernandes family was never notified that it was issued in error?
- 9 NEWTON-A: I can't speak for the planning department or the building department. I work for
  10 Environmental Resources and it was during the investigation that we found that it was issued and
  11 it was issued in error and brought to their attention.
- 12 COMMISSIONER R. SOUZA-Q: So we have no reason to believe that they did the expansion of the barn in bad faith?
- 14 JACK DOERING, ASSISTANT COUNTY COUNSEL-A: No, I don't believe there is any evidence at all that they have operated in bad faith.
- 16 **COMMISSIONER ASSALI-Q:** When it came to your knowledge that it was issued in error, was 17 he notified that he needed to have a use permit?
- DAVE HODGES-A: I spoke with Mr. Fernandes on the phone and asked him to provide any evidence he had to support a lawful nonconforming use and that we would meet and discuss the whole situation. That never took place. He was advised. In my notification I didn't actually say that the permit was null and void. I don't believe I did, not to him personally. Not at that point anyway.
- 22 COMMISSIONER ASSALI-Q: So my question is, was he notified that he had to have a use permit in order to operate his hog farm?
- 24 DAVE HODGES-A: Yes.
- 25 JACK DOERING, ASSISTANT COUNTY COUNSEL: He was notified in 1996 that his use was inappropriate, which is before the building permit was issued.
- 27 COMMISSIONER ASSALI-A: Yes, I saw that.

I don't know if that helps, but I can repeat the definition in the ordinance code which says that

you've pointed out several times now that the use shall not be enlarged or increased nor be extended to occupy a greater area than that occupied by such use prior to the date the use became nonconforming, which is 1975.

COMMISSIONER BYRD: We just have a fundamental conflict in the evidence. We have people who are credible that have been there a long time that says there were 4 hogs or very little hogs. We have testimony by the applicant or applicant's representative that they were virtually all outside during that period of time, so the testimony of the neighbors in the area seems to be credible as in the numbers. And then we have testimony from Mr. Fernandes, and I have no reason to doubt his, they all seem credible and straight and there is no reason to disagree with any of them that says they had 40-60 sows and they marketed 400 pigs and they...I don't know what the impact is, if it is more manure or less manure.

JACK DOERING, ASSISTANT COUNTY COUNSEL: I would also remind the board that that this is a recommendation to the Board of Supervisors. Whether to determine that there is a nuisance, i.e. that there has been an expansion of a legal nonconforming use, or that you conclude that there hasn't been an expansion of a legal nonconforming use. It still is a recommendation to the Board of Supervisors.

**COMMISSIONER BYRD-Q:** And it goes to the Board regardless. If we recommend that it's not, it goes to the Board of Supervisors?

JACK DOERING, ASSISTANT COUNTY COUNSEL-A: That's correct.

**COMMISSIONER BYRD:** Okay.

COMMISSIONER R. SOUZA: I have a question; I'm confused about something. Item 7, in the document that was given to us by Bette Julian, it says status in 1994 and status today, a maximum number of babies and sows on the farm was 400, there were more sows than babies, and almost all of the animals were kept outdoors. The max number of babies and sows today is also 400, but there are more babies than sows and all the animals were kept indoors. I thought we were talking about a larger number than that today?

- 1 COMMISSIONER ASSALI: He's looking on page 3 of her report, item number 7. The maximum
- 2 of babies and sows on the farm today...
- 3 COMMISSIONER POORE: But through the year they will roll more than that. That's where
- 4 | they get the 1000 marketable hogs.
- 5 COMMISSIONER ASSALI: That is correct.
- 6 COMMISSIONER R. SOUZA/Q: What were they doing back in 74?
- 7 COMMISSIONER BYRD-A: Well we asked that. They were marketing 400 pigs.
- 8 COMMISSIONER R. SOUZA: Well see the number of hogs on the farm is roughly the same
- 9 | number. They just turn it over quicker now.
- 10 COMMISSIONER POORE: They don't have near the death rate.
- 11 COMMISSIONER BYRD: That is the testimony.
- 12 COMMISSIONER ASSALI: And I believe the equipment is so modernized so that you also save
- 13 a lot more of piglets...am I correct in that?
- 14 COMMISSIONER A. SOUZA: We're not in a public hearing right now.
- 15 COMMISSIONER ASSALI: Oh, sorry.
- 16 COMMISSIONER BYRD: The bottom line is that we have to make a decision and get it off to
- 17 | the Board of Supervisors, one way or the other. And then everyone here is going to have an
- 18 popportunity to present their arguments to the Board of Supervisors.
- 19 COMMISSIONER R. SOUZA: Yes, let's pass it off to the Board of Supervisors, that's a good
- 20 lidea, Tim.
- 21 COMMISSIONER BYRD: Do we have to make a recommendation or can we just forward it?
- 22 | COMMISSIONER A. SOUZA-O: I do have one more question of staff. The containers or trailers
- 23 out there, are those considered vehicles?
- 24 | NEWTON-A: They would be if they were on a trailer, but since they are not on a trailer with
- 25 wheels, they are not considered part of a vehicle. Where they are, and how they are placed and
- 26 | because they are electrified and so on, they should have had a building permit for them as well.
- 27 COMMISSIONER A. SOUZA: Okay.
- 28 COMMISSIONER R. SOUZA: Well somebody has to make a, you ready to go?

**COMMISSIONER A. SOUZA:** Well there are parts that I can agree with and parts that I can't agree with.

COMMISSIONER R. SOUZA: It's difficult for all of us, but I'm going to go ahead and make a stab at it. I think the question it comes down to, as Andrew and counsel pointed out, it's expanded use. Is it expanded or is it improved? Is the community better served by improving it or is it not? I think Paul is right, that numbers fluctuate; they go up and down depending on the market at any given time. There is conflicting testimony, but I believe that if he is taking the initiative to compete, and this is a very competitive market that he is in, to compete you need to change, you need to make some improvements, and I think what he has done has been more toward improving his situation, rather than expanding it. I think by not making the improvements he's had and having 400 hogs running around in slop a foot deep would not have improved the smell or made it any better. So I'm going to look at is as an improvement rather than an expansion, and based on that and my faith that Paul will continue to work with and make every measure possible to reduce the odor, because let's face it, we wouldn't be here if it wasn't for odor. I guess there's always an odd chance, but generally the problem here is odor and especially over the last six months. So I'm going to go ahead and recommend that we deny or make the motion that we deny abating hog farm Esmar Road.

- **COMMISSIONER BYRD-Q:** That would be that your motion is to recommend to the Board of Supervisors that they find that this is not a nuisance?
- 19 COMMISSIONER R. SOUZA-A: Right.
- 20 COMMISSIONER BYRD-Q: So it would be a recommendation that goes to the Board of Supervisors that says that it is not a nuisance?
- 22 COMMISSIONER R. SOUZA: Correct.
- 23 COMMISSIONER BYRD-Q: Is that the motion that needs to be made if he wants to make it?
  - JACK DOERING, ASSISTANT COUNTY COUNSEL-A: I would recommend that the Board find that based upon the materials and the testimony and evidence presented this evening and in the staff report by the staff and by the public making presentations, that first of all that there were hogs raised on the premises prior to 1975 and that there has been an improvement, but not an expansion

of that use as a hog farm since 1975, and therefore conclude that there has not been an expansion of 1 a legal nonconforming use. **COMMISSIONER BYRD-Q:** Is that your motion? 3 4 **COMMISSIONER R. SOUZA-A:** I couldn't have said it better myself. 5 **COMMISSIONER ASSALI:** And I'll second that. **COMMISSIONER BYRD:** Moved by Commissioner R. Souza and seconded by Commissioner 7 Assali. Any other discussions or deliberations? **COMMISSIONER A. SOUZA:** I will probably vote against that motion. Only because I believe that there have been certain issues that are nuisances on here and certain issues that are not 10 nuisances. Not that I believe the whole situation is a nuisance. I'm not positive that there has been 11 an expansion of the hog farming practice, but we do have the nuisance of buildings out there that do 12 not have proper building permits on them. And I'll leave it at that. 13 **COMMISSIONER POORE:** I'm a little troubled Chairman Byrd with several things. No 1. I 14 guess you expect to hear conflicting testimony because you have two sides to an issue. I would like 15 to really know and somehow determine exactly when the lagoon went in. There is a conflict there as to when it actually was put in place. We really can't get our arms around how many hogs were 16 17 there other than testimony from one side or the other. It would seem to me there would be some sort 18 of records available, which could be produced to determine the number of hogs processed through 19 their operation over the years. I deal with a lot of clients and they keep records of this sort of thing. 20 The other thing that bothers me a little bit, I think Mr. Fernandes is operating in good faith, even to 21 the point that when he wanted to do the expansion or improvement, whichever way you look at it, 22 that he went down and sought out permits. The fact that they were issued in error is not his fault. 23 I think that he acted in good faith then, went through the process, had an architect involved. I don't

**COMMISSIONER BYRD:** Yes, this a difficult issue because I'm really sensitive to that this is an ag county. Our bread and butter, 4 million dollars a year with the multiplier effect and everything. It frightens me with the notion that we would shut down an ag operation of this nature. It creates a precedent that I'm a little concerned with because this could apply to a whole lot of ag operations

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know. I'm really in a quandary.

on the urban fringe, but at the same time it's unclear to me given the evidence whether it has been an expansion of a legal nonconforming use.

JACK DOERING, ASSISTANT COUNTY COUNSEL: If I might interject a comment regarding the permit, similar to the other issues that were discussed today about whether or not he had a top-notch quality operation that is high tech state of the art. We heard testimony to that effect. We heard testimony about the permit. We've heard testimony about nuisance conditions perceived by the neighbors. Those issues do not touch and concern whether or not there has been an expansion of the use.

COMMISSIONER BYRD: Right. Okay, we have a motion and a second. Any other discussion? There are none. All those in favor in support of the motion please raise your hand. Commissioners Ray Souza, Assali, Byrd and Poore vote in favor. All those opposed to the motion please raise your hand. Commissioner Andrew Souza is opposed to the motion. The motion passes 4:1 and that is a motion to recommend to the Board of Supervisors as stated by counsel, essentially finding that this is not a nuisance. Thank you very much. This will go before the Board of Supervisors so everyone will have an opportunity to present their arguments there.

#### DATE

(NAME) does hereby certify:

That I am (a Clerk Typist II or whatever title) at the Stanislaus County Department of Environmental Resources; and

That the meeting of the Stanislaus County Nuisance Abatement Hearing Board on April 17, 2003 was recorded by electronic sound recording; and

I typed a complete transcript of the tape recording of the Stanislaus County Nuisance Abatement Hearing Board hearing on April 17, 2003 regarding case CE 01-1988, 4342 and 4362 Esmar Road, Ceres, California; and

The foregoing transcript is a true and accurate transcript from the electronic sound recording of the above-referenced hearing.

Name			
Title			



## DEPARTMENT OF ENVIRONMENTAL RESOURCES

3800 Cornucopia Way, Suite C, Modesto, CA 95358-9492 Phone: 209.525.6700 Fax: 209.525.6774

May 19, 2003

Dianne Parkinson does hereby certify:

Parkinson

That I am an Administrative Clerk III at the Stanislaus County Department of Environmental Resources; and

That the meeting of the Stanislaus County Nuisance Abatement Hearing Board on April 17, 2003 was recorded by electronic sound recording; and

I typed a complete transcript of the tape recording of the Stanislaus County Nuisance Abatement Hearing Board hearing on April 17, 2003 regarding case CE 01-1988, 4342 and 4362 Esmar Road, Ceres, California; and

The foregoing transcript is a true and accurate transcript from the electronic sound recording of the above-referenced hearing.

Dianne Parkinson

Administrative Clerk III

M 15/19



# Damrell Nelson Schrimp Pallios Pacher & Silva **ATTORNEYS**

July 3, 2003

EGARD OF SUPERVISORS

1601 | Street

Modesto, CA 95354

Fax: (209) 526-3534

www.damrell.com

Direct E-mail for:

ssisco@damrell.com

Stacy L. Sisco

(209) 526-3500

Fifth Floor

A Professional Corporation

Duane L. Nelson Roger M. Schrimp Steven G. Pallios Matthew O. Pacher Fred A. Silva James F. Lewis Clinton P. Walker Michelle Burke McKenzie James M. Lindsay Thomas P. Hogan John K. Peltier Amy Elliott Neumann Stephen V. Imbura

Robert V. Garcia Kathy L. Monday Gene J. Stonebarger Maria Fatima Gioletti Stacy L. Sisco Grace Nerona Chan Betty L. Julian George P. Rodarakis Chad R. Vanisko

Ray Simon Board of Supervisors Stanislaus County 1010 Tenth Street, Suite 6500 Modesto, CA 95354

Re:

Fernandes Hog Farm

Frank C. Damrell (1898-1988)

Of Counsel Richard Douglas Brew Dear Mr. Simon:

The Fernandes hog farm, located at 4342 Esmar Road, Ceres, California, will be an item on the agenda for July 8, 2003, Board of Supervisors Meeting. It has come to our attention that the Board will be addressing some critical issues on another matter at that same meeting. Therefore, some concern has been raised as to the amount of attention that will be given to the Fernandes matter. We anticipate that there will be a significant number of individuals who would like to present testimony regarding the Fernandes hog farm. In order to ensure fairness and efficiency, we ask that you familiarize yourself with this case and review the relevant issues prior to the meeting.

The Fernandes family has maintained a hog farm at the same location for nearly thirty (30) years. The Stanislaus County Nuisance Abatement Hearing Board ruled in favor of the Fernandes hog farm after hearing testimony from Stanislaus County Code Enforcement officers, the Fernandes family and friends, and community members. Evidence was presented regarding an alleged "expansion" of use and violation of the Zoning Ordinance. Ultimately, the Nuisance Abatement Board members rejected the Department of Environmental Resources' staff recommendation that a nuisance exists at the Fernandes hog farm and determined that no "expansion" had taken place.

Michael Newton, Code Enforcement Manager, and various other County employees are determined to close down the Fernandes hog farm, despite the Nuisance Abatement Board's decision. They have refused to allow the Nuisance Abatement Board's decision to remain on the consent calendar and have requested a de novo review of the matter. An unfavorable decision regarding the Fernandes hog farm will not only detrimentally effect an entire family, it will also send a negative message to small business owners and farmers throughout Stanislaus County. Therefore, we ask that the

Board give this case the attention it deserves by considering all relevant testimony and evidence presented and basing it's decision on fairness, as did the Nuisance Abatement Board.

Enclosed is a complementary packet of information provided to the clerk of the Board of Supervisors for the July 8, 2003, agenda. Included is a summary of the case, a chart identifying the status of the hog farm in 1974 and the present, the Deed of Trust for the farm, the Public Works Building Permit, a letter from TID, a letter dated July 19, 1996 from Dave Hodges, Zoning Enforcement Officer, and pictures of the farm reflecting the history and existence of the farm.

If you have any questions or concerns that you would like to address prior to the meeting, please feel free to contact me.

Very truly yours,

DAMRELL, NELSON, SCHRIMP, PALLIOS, PACHER & SILVA

Betty L. Julian

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## INTRODUCTION

The Fernandes family has maintained a hog farm in Stanislaus County for nearly thirty (30) years and is now being asked to stop their operation due to a mix up between the County departments and neighbor complaints. Stanislaus County Code Enforcement continues to pursue the unfounded claim that the Fernandes hog farm is a nuisance even after the Stanislaus County Nuisance and Abatement Board found no existing nuisance and determined that the hog farm was not in violation of any zoning ordinance. The facts, regarding the Fernandes hog farm, should persuade this Board to find in favor of the Fernandes family and dismiss any charges that a nuisance exists because any other decision would cause great hardship on these individuals and would in turn render a unjust result.

## **FACTS**

Paul Fernandes and his family have maintained a hog farm at 4362 Esmar Road, Ceres, California since they purchased that parcel of land in March of 1974. In 1974 the zoning was General Agriculture, since that time, the zoning ordinance has changed to what is referred to as General Agricultural District (A-2), Urban Transit. However, the Fernandes family has been allowed to continue to operate under pre-1975 laws due to their pre-existing nonconforming use status (also referred to as a grand-fathered status).

The hog farming industry has changed drastically over the last twenty nine (29) years causing the Fernandes family to make improvements and upgrades in the equipment and the procedures used in their business. By existing as a "nonconforming use" status, the Fernandes family has been limited in expansion of their operation. Any substantial "expansion" would cause the Fernandes family to loose their non-conforming use status. Therefore, the Fernandes family has continuously been cautions regarding their business practices to ensure they comply with any and all Stanislaus County Code sections.

In April of 2002, the Fernandes family was issued a permit by the Stanislaus County Public Works Department to remodel their hog barn and to change the roof on the garage (which was being utilized as the hog barn). The hog barn had a tin roof that needed to be changed. However, Paul Fernandes was informed that the hog barn was not stable enough to hold a comp roof. The structure had

deteriorated over the years due to moisture and exposure to the elements. The only solution would be to tear down the structure and install new dry wall and a new roof. Paul knew that he had experienced difficulty with the County and code enforcement regarding his hog farm in the past so he was very hesitant in making any changes. Paul presented his plans to upgrade the barn to the Public Works Department. During a meeting with a County employee, Paul explained his situation regarding the hogs located on his property. He informed the County employee that he did not want to make any changes to the hog barn structure if it would cause him any problems or put him in violations of any Code Section. The County employee assured Paul that the plans to upgrade and remodel the barn would be reviewed and approved by all appropriate County departments prior to any issuance of approval on changing the structure. Paul waited nearly six (6) months before he was allowed to make the said change. Paul never tried to conceal anything from the County. He was very honest and forthcoming regarding the changes he wanted to implement and he made those changes in good faith believing that he was not "expanding" his operation.

The remodeling involved turning part of the hog barn back into a garage (its original purpose) and adding space to the other end of the barn to make up for the lost garage space. The actual square footage of the barn has increased by very little. Such increase was merely to allow the sows to enter and exit the structure facing forward to reduce the amount of noise the sows make when they are moved.

Paul Fernandes has spent nearly \$60,000 to remodel and to refurnish the hog barn with modern equipment. He took such measures in the good faith belief that he was permitted to do so. Paul was aware that he was not permitted, under the Code, to expand his operation because of the hog farm's nonconforming use status. However, he relied on the Stanislaus County Public Works Department and the permit they issued to make the changes. He was given the impression that the County would only issue a permit for such changes after ensuring that the changes would not violate any Stanislaus County Code sections. He had no idea that one department could give him permission to do something that would cause another department to bring a nuisance action against him.

Code Enforcement is arguing that the hog farm is a "nuisance" because it has "expanded", yet they have failed to provide any conclusive evidence regarding the farm's prior condition. The Fernandes family has not in any way expanded the

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hog farm operation nor have they expanded the actual number of the hogs on the premises. In fact, the number of sows on the farm has decreased over the years. The technology and modernization of the hog farming industry allows farmers to decrease the number of hogs while maintaining their production. Since remodeling, the hog farm has actually become a cleaner and more efficient operation, promoting a healthier environment and causing less odor and less sound.

In 1974, the hog farm had over 100 sows on the property along with 200 babies. The sows were constantly being bred due to the high volume of deaths among the babies caused by disease. Since that time, the Fernandes family has converted to the "all in all out" system. This process impregnates the sows all at the same time, once a month (not every day) to ensure that the babies are all the same age and not infecting one another. In the past, when the babies were all various ages disease was more rampant. Therefore, the number of babies born a year has not increased but the actual numbers that live and are sold has.

The Fernandes family has not increased the operation, production, or size of the hog farm Since 1974. In fact, they have actually decreased the number of sows on their farm by nearly 100. Over 100 sows that lived on an open gestation lot have long since been removed. Any structures that have been added to the farm have been to modernize the operation and to bring the farm up to date with new and improved technology. Such structures have not expanded the operation they have merely replaced the various other outdoor facilities that are no longer in use.

The hog farm is also used to help maintain the 10 acres of organic almonds located on the Fernandes farm. The manure from the lagoon is used as nutrients for the almonds. Outside sprays and fertilizer (which could be potentially more environmentally unsafe and cause more odor) are not used on the property.

## **ARGUMENT**

The Fernandes family should be permitted to continue to operate their hog farm under the nonconforming use status because they have not enlarge or increased the use nor have they extended the use to occupy a greater area than was occupied by such use prior to the date the use became nonconforming. They have

merely upgraded the facility to alleviate and decrease disease, noise, smell and flies. Technically the argument Code Enforcement is making regarding an alleged "expansion" is in reality a modification, upgrade and replacement of areas within the hog farm that are no longer in use or that have been drastically down sized.

In the alternative, if changes made to the property are considered additions or an expansion, the Fernandes family should not be penalized for the County's mistake in issuing a building permit. The Fernandes family detrimentally relied on the permit they received from the County Public Works Department and spent nearly \$60,000 to renovate their hog farm. Stanislaus Zoning Code section 21.96.060(B) states:

No building permit shall be issued in any case where a use permit is required by the terms of this title unless and until the use permit has been granted by the planning commission or board of supervisors and then only in accordance with the terms and conditions of the use permit so granted.

If the County Public Works Department issued a building permit contrary to this Code Section how can we blame the Fernandes family for relying on its actions. Paul Fernandes was told by the Public Works Department that the building permit would only be issued if the Planning Department reviewed and approved the modifications. Now Code Enforcement is arguing that a use permit was needed for such changes and is claiming that the Fernandes family is in violation of the Zoning Code because of the changes the County previously approved.

A use permit would only be necessary if these changes are deemed an actual "expansion". It is the Fernandes family's position that the changes made are not and should not be categorized as an "expansion" because they do not constitute an enlargement, an increase, or an occupation of a greater area than occupied prior to the date the use became nonconforming. However, if the Board determines that an "expansion" has in fact occurred, we ask that the Board ratify such changes under section 21.80.070 of the Zoning Code because the Fernandes Family acted in good faith and detrimentally relied on the County's Building Permit and Public Works Department in implementing such changes.

Dave Hodges, Zoning Enforcement Officer, has indicated that he investigated the Fernandes hog farm in April 1996 through September 1996. At

that time the County did not find any zoning violations. Mr. Hodges has states that he does not recall seeing a lagoon on the property and that his zoning violation notice dated 7/19/1996 does not address an unlawful lagoon or pond for animal waste. However, Mr. Hodges failed to mention, in the report he prepared for the Nuisance Abatement Hearing Board, that in 1996 the issue at hand was not regarding the lagoon or an alleged "expansion" issue but was regarding the actual acres the farm is located on. Code Enforcement was notified that the farm was on one (1) acre as opposed to the ten (10) acres it is located on. Therefore, there would be no reason for Mr. Hodges' notice to mention a lagoon. Furthermore, Mr. Hodges did not actually inspect the hog farm in 1996. He has stated that he only recalls seeing a few pregnant sows in 1996. However, Mr. Hodges merely spoke to Paul and Gloria Fernandes at their front door. He never inspected the property nor did he enter the barns where the pigs are kept. Therefore, his recollection of what the farm's condition was in 1996 is irrelevant. Furthermore, the County is relying on aerial pictures of the farm and the lagoon from 1980, 1985 and 1998 to support its case. They claim that in the first two photographs there is no lagoon but that in the 1998 photograph there is a lagoon and therefore it must have been "added" recently. A mere examination of the pictures reveals that the 1980 and 1985 photographs were taken from a much greater distance than the 1998 photograph. Furthermore, the lagoon has inevitably grown over the years. The waste from the animals cannot just evaporate. Even though the lagoon was not as large as it is in the 1998 photograph, there is no evidence it did not exist in 1978.

The only recent photographs Code Enforcement has of the hog farm were taken during a tour of the facilities given to them by Paul in April 2003. Paul is very proud of his operation. He opened his doors to the County employees to explain any and all changes ever made to the facility. Furthermore, just because Mr. Hodges does not recall seeing something back in 1996 does not mean it was not there. For example, a neighbor who complained at the Nuisance and Abatement Hearing testified that he drove up and down the road several times before buying his house and never even notices a hog farm. Therefore, without conducting a full investigation prior to this years tour, the County and Code Enforcement have no real basis for alleging the farm has "expanded".

The Fernandes family firmly sets forth that a lagoon has been present on the property since 1978. Of course, the lagoon has grown over the years. However, such growth has been ordinary and natural growth. The growth related to the

Case Summary 5

lagoon has nothing to do with any type of "expansion". Such growth is attributable to nearly thirty (30) years of accumulated waste. Prior to having a lagoon the feces from the hogs was just dumped on the ground. This procedure caused much more odor and flies than having a lagoon. Code Enforcement may argue that since the lagoon was not present pre-1975 it is an "expansion". However, the fact is that the operation of the hog farm did not and has not expanded by the lagoon. The lagoon is merely a modernization tool of the hog farming industry. It is a tool that is used to decrease odors and flies.

In October 2002, the lagoon changed its shape and size at the request of Turlock Irrigation District (TID). The Fernandes family had no desire to move the lagoon. However, TID complained that the lagoon was located too close to the bordering canal. TID requested that the Fernandes family move the lagoon further back to prevent the possibility of overflow into the canal. The Fernandes family used their own resources to accomplish this move in order to ensure that the canal would not be contaminated. In the process of the move, the lagoon was also lowered to further prevent any possibility of overflow. The lagoon was expanded by twenty (20) feet in length. However, it was also decreased in height by four (4) feet all the way around. Attached is a letter from TID regarding dairy waste.

Several neighbors that spoke at the Nuisance and Abatement Board Hearing stated that the odor at the hog farm had recently increased. The Fernandes Family does not deny that the odor from the lagoon has increased since it was moved in October 2002. The fact is that anytime you disturb the gestation process, odor in the lagoon will change. It takes at least six (6) to eight (8) months for a lagoon and bacteria in it to settle. The Fernandes Family should not be punished because they followed TID's request and moved the lagoon.

The establishment of the defense of laches requires a showing of unreasonable delay and prejudice. See People v. Ramey, 45 Cal.App. 3d 185, 195 (1975). The County has waited nearly thirty (30) years to bring a nuisance action against the Fernandes hog farm. The Fernandes family has invested its time, energy, and money on modernizing, maintaining, and establishing their business. If the Board decides to find the farm in violation of a zoning ordinance, it would be as if the County gave with one hand (the permit to build) and took with the other (Code Enforcement). The Fernandes family should not be subjected to such an unreasonable delay of action by the County. The Fernandes family will greatly

be prejudiced if the Board does not follow the Nuisance and Abatement Board's recommendations. Important evidence regarding the hog farm's status in 1974 and 1975 are no longer available due to the unreasonable amount of delay in the bringing of this action. Therefore, it is unreasonable to claim that the hog farm has "expanded" from its 1975 status twenty-eight years since such alleged fact. The Board should allow the Fernandes hog farm to maintain its nonconforming use status and continue its business under the doctrine of laches, due to the County's unreasonable delay and the tremendous amount of undue prejudice that will be caused otherwise.

#### CONCLUSION

The issue before the Board is not whether some neighbors feel that the hogs are a nuisance or that they do not like the smell. This a hog farm and there is going to be some amount of smell. The only issue is whether or not the hog farm has "expanded" which may or may not have affected its nonconforming use status.

There is no question that the Fernandes hog farm has changed over the past thirty years, but so has the hog farming industry. The hogs use to be located outdoors and are now indoors. The farm use to house much more sows than babies and now it houses more babies and a lot less sows. The farm use to generate much more noise, odor and flies and now the Fernandes family has eliminated much of those problems. Furthermore, the Zoning Code does not preclude farmers from changing, upgrading, and modernizing their operations. The only question here is whether or not the hog farm has "expanded" its operation.

The decision the Board makes in this case is very important. If the Board decides to close down the Fernandes hog farm it will be creating a terrible precedent. Any farmer who existed prior to a zoning change will be vulnerable to attack by neighbors who decide that they no longer want to live in a farming area. If the changes made by the Fernandes family over the years are considered "expansions" all farmers in an urban transit zoned area that maintain a non-conforming use status must be investigated and closed down for any and all improvements and modernization made to their operations.

We ask that you not be persuaded by the emotions of the neighbors who may object to the existence of this farm. But that you examine the facts in this case and find in favor of keeping the Fernandes hog farm up and running.

Thank you for your time and consideration.

We ask that you not be persuaded by the emotions of the neighbors who may object to the existence of this farm. But that you examine the facts in this case and find in favor of keeping the Fernandes hog farm up and running.

Thank you for your time and consideration.

## FERNANDES FAMILY HOG FARM SINCE 1974

#### **STATUS IN 1974**

1. Hog Barn located in garage and in an extending structure. Twelve (12) farrowing crates were located in that barn. Sows were forced to back out of the farrowing crates because of the lack of space causing extensive amount of noise.

- 2. Older farrowing barn. This structure contains four (4) farrowing crates. This structure use to be in use at all times.
- 3. Outdoor gated area for the sows. Over one hundred (100) sows located outside on a dirt lot facing the front of Esmar Road. This caused constant flies, smell and noise.

4. Grower barn that held over three hundred (300) babies at one time of all various age groups. Contained sixteen (16) very large pins where the various age groups were crowded in together until sold.

#### STATUS TODAY

- 1. Hog Barn renovated due to the dilapidation of the garage. Converted some of the hog barn space back into a garage. Renovated and upgraded the existing hog barn structure and added additional space to the existing hog barn to replace the converted garage space. Fourteen (14) farrowing crates are now located in the existing structure. Approximately two (2) feet of space was added in between the farrowing crates so that the sows could enter and exit facing forward. This has greatly decreased noise caused by the sows having to enter and exit the barn backwards.
- 2. This structure is no longer in daily use. Only holds sows if there is an over flow. Therefore, the nonuse of this barn is replaced by the two additional farrowing crates in the hog barn.
- 3. This structure was removed and is no longer located on the farm. Over one hundred (100) sows that were kept outdoors have now been removed. This has decreased the amount of flies, smell and noise coming from the farm. Thus, the operation has decreased in number. This change occurred at or about the same time the trailers began being used.
- 4. Grower barn is now only used for everflow of babies that are not sold on any given week at the market. On average, it is either empty or holds less than twenty (20) babies.

New system of "all in all out" allows the farmers to keep all the same age group

babies together.

Three (3) trailers were converted into nurseries in 1995 to implement the "all in all out" system.

Code enforcement has indicated that these trailers are a problem. However, Dave Hodges inspected the property in 1995 and found no problem with the trailers. The trailers have been on the property and have been used in the current capacity since 1995.

The baby pigs are kept in separate pins based on their age group. Two of the trailers contain eight (8) pins each to house babies. There were only ninety-six (96) babies in those pins on April 4, 2003.

One of the trailers contains five (5) farrowing gates that holds the older baby pigs.

If the square footage of the three trailers was added together the total size would be less than the size of the old Grower Barn. In addition, the amount of babies kept in the trailers, including any overflow that may or may not be in the Grower Barn at any given time, is less than the amount of babies that use to be kept in the Grower Barn prior to converting to the "all in all out" system.

5. In 1978 a lagoon was created to decrease the smell coming from the feces on the property. Water prevents bacteria from breeding.

There was no need or desire to expand or move the lagoon. However, Turlock Irrigation District (TID) began complaining that the lagoon was located too close to the bordering canal. TID asked that the lagoon be moved further back to prevent the possibility of overflow into the canal.

5. There was no lagoon located on the property. Any and all feces, from the over one hundred (100) sows and three hundred (300) babies on the property, was just dumped on the open land. This caused much smell and disease.

6. There were nineteen (19) farrowing crates located on the farm.

7. The maximum number of babies and sows on the farm was four hundred (400). There were more sows than babies and almost all of the animals were kept outdoors.

Disease was rampant. Therefore, sows needed to be pregnant more often to make up for the dying babies.

8. No process to alleviate pest control problems.

In October 2002, the lagoon was moved back away from the canal. In that process it was also lowered to prevent any possibility of overflow. The lagoon was expanded by twenty (20) feet in length but it was also decreased in height by four (4) feet all the way around.

- 6. There are currently twenty three (23) farrowing crates on the farm. This is only an increase in equipment not an expansion of the operation. The reason for the additional crates is due to the "all in all out" system. More sows are impregnated once a month verses the old system where sows were continuously impregnated every day of the week. This has not caused an increase in the number of pigs on the farm.
- 7. The maximum number of babies and sows on the farm today is also four hundred (400). There are more babies than sows and all of the animals are kept indoors.

The system has decreased disease, noise, smell and flies.

8. Clark Pest Control is contracted to spray for any pest control problems including flies every seven (7) days.

Υ·** ·	
•	RECORDED AT A BY
	STANSPAUS/UHE
RECORDED AT THE REQUEST OF:	GUARANTY CORPANY NO. 2617 PAGE 514
STANISLAUS TITLE GUARANTY COMPANY	MINIOTAL WOLDTA
WHEN RECORDED, RETURN TO:	OFFI RECORDS STAN-
George Vierra 4342 Esmar Road	STEVE R. NELSON,
Ceres, California	RECORDER 7
Escrow No. 32726-DC 37136 MAR 22'74	BY ABOVE SPACE-SOLELIN FOR RECORDER
والمراجعة والمستوالة والمنطق المنتار المنتان المنتان والمستار والمستار والمستار والمستار والمستار والمستار	ASSI, KROOKDER
Beed of C	
(SHORT FOR	m) _day ofFebruary, 1974 BETWEEN
THIS DEED OF TRUST, made this 19th PAUL/FERNANDES and GLORIA P. FERNANDES, Husb	•
whose address is 4342 Esmar Road, Cares, Calife	prnia 95307 herein called TRUSTOR,
STG HOLDING COMPANY, a corporation herein called TRUSTEE GEORGE VIEIRA and VIOLET VIEIRA, Husband and	
herein called BENEFICIARY, WITNESSETH, That trustor irrevocably GRANTS, TRANSFERS A	
SALE, that certain real property situate in the described as follows:	County of Stanislaus, State of California,
Parcel 1 as shown upon that certain Parcel M Parcel Maps, page 92, Stanislaus County Reco TRACT.	
In the event of sale or transfer of all or a	ny part of the property described herein.
all amounts remaining unpaid under the terms Deed of Trust shall become immediately due a	of the note or note s secured by this
Deed Of 11025 Bridge second Times are re-	
The second s	and the second s
TOGETHER WITH the rents, issues and profits thereof, SUBJECT, HOWI upon Beneficiary by Paragraphs 5 of Part B of the provisions incorporate	d barain by reference to collect and apply fuch follow. Issues and
upon Beneficiary by Paragraphs 5 of Part B of the provisions incorporate profits, for the Purpose of Securing payment of the indebtedness evidence Trustor in the sum of s. 42,500.00 any additional sums or his successors or assigns by the Beneficiary, and the performance of the provision of the profit	
and interest thereon shall be secured by this Deed of Trust only if made terest in said property, or to his successors or assigns while they are the sory note reciting that it is secured by this Deed of Trust.	
Butha avacution and delivery of this Deed of Trust and the note se	cured hereby the parties hereto agree that there are adopted and
included herein for any and all purposes by reference as though the same ing paragraphs (through 6 thereof, and of Section B, including paragraphs ecorded in the official records in the offices of the County Recorders of indicated by *, in the books and at the pages designated after the name of the county Records.	were written in full hardin the provisions of Section A, include his I through 10 theroof, of that certain fictitious Dood of Trust the following counties on January 20, 1958, unless otherwise if each county:
Alameda 6573 236 imperial 983 545 Modoc I	ock Page County Book Page County Book Page 54 324 San Diego 6914 262 Sonoma 1568 44 39 237 *San Francisco 7216 79 Stanislaus 1463 210
Amador 74 387 Kern 2876 205 Monterey 18 Butte 907 571 Kings 699 108 Napa 5	42 388 San Joaquin 2034 538 Sutter 482 503 61 140 San Luis Obispo 924 192 Tehams 322 277
Colusa 750 487 Lassen 136 495 Grange 41 Contra Costa 3105 483 Los Angeles T-21 502 Placer 7	69 334 Santa Barbara 1497 161 Tulara 2032 664 52 219 *Santa Clara 3976 408 Luciumne 86 421
Del Norte   42   25   Madera   709 374 Plumas   1   El Dorado   424   117   Marin   1166 337 *Riverside   22   Propre   4017 268   Mariposa   61   12   Sacramento   34	09 560 Shasta 555 270 Yolo 532 16 . 37 263 Sierra 18 194 Yuba 252 19
Glenn 364 428 Mendocino 476 425 San Benito 2 Humboldt 475 311 Merced 1350 139 San Bernardino 44	17 170 Solano 913 101
"Niverside, #anuary 31, 1956: "San Francisco: hamany 13, 1998. "Sai A copy of said provisions so adopted and included herein by referenc	e is set forth of the reverse most
The undersigned Trustor requests that a copy of any notice of default of any notice of sale herounder be mailed to him at his address given sho	we. Tout 1. Termonator
STATE OF CALIFORNIA	Slove & Farrondes =
COUNTY OF Stanislaus	GLORIA F. FERNANDES
On March 18, 1974	OFFICIAL SEAL
before me, the undersigned, a Morary Publish and for said State, personally appeared Fernandes	DENNIS L. CHANDLER  NOTARY FUNDE - CALIFORNIA  PRINCIPAL OFFICE IN  STANISLAUS COUNTY
	My Comm. Expires Nov. ), 1976
subscribed to the within instrument and acknowledged that	
WITNESS my hand and official seal.	
The same of the contract of th	(This area for official seal)





March 21, 2002

### Development Services

George Stillman Director

(209) 525-6557

1010 10TH Street, Sulte 3500, Modesto, CA 95354 Phone: 209.525.6550

Gloria P Fernandes 4362 Esmar Rd Ceres, CA 95307-9791

Address: 4342 Esmar Rd

Subject: ADDITION - 22'-3" X 40 HOG BARN / REPLACE ROOF ON REMAINDER OF EXISTING GARAGE BUILDING

Permit #: BLD2001-03424

Dear Property Owner:

Your building permit is ready to issue. The following items must be provided prior to issuance of the permit.

N/A Release from the CERES UNIFIED School District.

Other Documents:

PROVIDE SIGNATURE OF SPECIAL INSPECTION AGENCY ON SPECIAL INSPECTION

Building Permit Fees:	AGREEMENT	PRIOR	TO	ISSUANCE.
Building Permit Issuand	ce\$20			\$20.00
Public Works Review				\$10.00
Plan Check				\$0.00
Building Permit(Valuation	on)			\$240.70
Strong Motion Tax				\$4.99
ADJUST Plan Check				\$37.41
Electrical Equipmen/Ite	mst			\$72.00
Mechanical Items				\$9.00
Plumbing Equipment/Ite	ems			\$20.00

PERMIT FEES

\$414.10

County Impact Fee

TOTAL PAYMENTS DUE

\$414.10

The property owner or licensed contractor may pick up the permit Mon - Fri 8am to 5pm.

Please pick up before:

April 20, 2002

"Pursuant to Govenment Code 66020 you may protest the imposition of any fees, reservations, or other exactions imposed in this development project within 90 days after the date of this letter or the date the development project was initially approved, whichever comes first,"

CCI

GLORIA FERNANDES 4362 ESMAR RD **CERES, CA 95307** 



### Stanislaus County **Public Works Department**

Development Services Division 1010 10th Street, Ste.3500, Modesto, California 95354

THIS PERMIT WILL EXPIRE IF WORK IS NOT STARTED WITHIN 100 DAYO OF 100UE OR IF THERE IS A WORK STOPPAGE OF 180 DAYO DURING CONSTRUCTION.

Phone (209) 525-6557 24 Hr. Inspection Request 525-7550

LICENSED CONTRACTOR'S DECLARATION
I hererby affirm that I am licensed under provision of Chapter 9 (commencing with eaction 7000) of Division 3 of the Business and Professions Code and my loense is in full force and effect.  License Number Class
Signature Date
OWNER-BUILDER DECLARATION
I hereby attirm under penalty of perjury that I am exempt from the Contractor's Licence Law for the following reason (Sec 7031.5 Business and Professions Code: Any City or County that requires a permit to construct, elter, improve, demolish or repair any structure prior to its issuance, also requires the applicant for the permit to file a eigned statment that he or she is licensed pusuant to the provisions of the Contractor's License Law (Chapter 9 (commending with section 7000) of Division 3 of the Business and Professions Code) or that he or she is exempt therefrom and the basis for the elleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars (\$500):  [V] I, as owner of the property, or my amployees with wages as their sole companisation, will do the work and the structure is not intended or offered for sale (Sec. 7044. Business and Professions Code: The Contractors License Law does not apply to set owner of property who builds or improves thereon, and who does the work himself or herself or though his or her own employees, provided that the improvements are not improded or offered for sale, if, however, the building or improvement is sold within one year of competition, the owner-buildor will have the burden of proving that he or should not build or improve for the purpose of sale.)  [V] I, as owner of the property, amexicusively contracting with transed contractors to construct the project (Sec. 7044, Business and Professions Code: The Contractors to construct the project; with a contractor(s) licensed pursuant to the Contractors who contractors to represent the project; with a contractor(s) licensed pursuant to the Contractors
Who contracts for the project with a contractor(s) deened pursuant to the Contractors  License Law.)  [ ] I am exempt under Sec
for this reason:
Owner's Signature Workens' DOMPENSATION DEPLOTATION DOWN 4-5-02
I hereby affirm under penalty of perjury one of the following declarations:  [ ] I have and will mentaln a certificate of consent to self-insure for workers' compensation, as provided for by eaction 3700 of the Labor Code, for the performance of the work for which the penalt is leaved.  [ ] I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit
labeled. My workers' componention incurance and policy rumber firs:
(This section need not be completed if the permit is for one hundred dollars (\$100) or less)
is a certify that in the performance of the work for which this permit is lessed, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of Celifornia, and agree that if i should become subject to the workers' compensation provisions of Section 3700 of the labor code, I shall forthwith comply with those provisions.
WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS LINLAWFUL. AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY FEES.  CONSTRUCTION LENGING AGENCY
I hereby aftern under penalty of pajfury that there is a construction lending agency for the performance of the work for which this point is issued (Sec. 3007, Civ. Code.).  Lender's Name
APPLICATION APPROVAL
This Permit Does Not Become Valid Until Signed By The Building Official Or Their Deputy
And AT Fees are Paid.  I certify that I have rest this application and state that the above information is
regardy (that I have lead the application and state trial the above minimated to a dree to comply with all the suit usually ordinances and state liew releting to construction, and hereby authorize representatives of this county to enter upon the above mentioned property for happaction purposes.)

Received by: RODRGSR	Plan Chk By: F	RR By: J1	_
APN: 041-21-30 Job site: 4342 Esmar Rd Ceres	•		_
Job Description: ADDITION - ROOF ON REMAINDER OF CIS SERVICE RD: Owner: Gloria P Fernandes 4362 Esmar Rd Ceres, CA 95307-9791			
538-8502 Architech/Engineer: 874 GORDON M. HART P.O. BOX 4746 MODESTO, CA 95352			
522-3835			
lype of Constr: VN Use: Stable/Barn Garage (Not all may be shown)	Occupancy: U-3 Sq. Ft. 890.00 648.00 Total Valuation:	Valuation: \$10,039.20 \$13,705.20 \$23,744.40	
Work Included: Electric: Plumbing: Mechanical:	Setbacks: Front: Right: Left: Rear:	·	•
Total Fees: 533.14	. • <u>.</u>		
Conditions: (Not all may be			_

Did contractor show valid workers' compensation insurance certificate? (Lab Code, sec. 3800 (b).)
 Is Contractor's name absent from Contractors' State License Board non-payment list? (Health & Saf. Code, sec. 19825 (b).)



### Stanislaus County **Public Works Department**

Development Services Division 1010 10th Street, Ste.3500, Modesto, California 95354

THIS PERMIT WILL EXPIRE IF WORK IS NOT STARTED WITHIN 180 DAYS OF ISSUE OR IF THERE IS A WORK STOPPAGE OF 180 DAYS DURING CONSTRUCTION.

issued: 4/5/02

Phone (209) 525-6557 24 Hr. Inspection Request 525-7550

By: JT

Permit #: BLD2001-03424

	•
LICENSED CONTRACTOR'S	DECLARATION
I hereby affirm that I am licensed under presection 7000) of Division 3 of the Business and Proceed and effect.	ofessions Code and my Icense is in full
License Number	Class
Signature	Date
OWNER-BUILDER DEC	LARATION
i. hereby affirm under penalty of perjury to Licence Law for the following reason (Sec 7031.) City or County that requires a permit to constructive prior to its issuance, also requires the statment that he or she is licensed pursuant to the Law (Chapter 8 (commencing with section 700.) Professions Code) or that he or she is exempt exemption. Any violation of Section 7031.5 by applicant to a civil penalty of not more than five hum [17] i, as owner of the property, or my companisation, will do the work, and the structure 7044, Business and Professions Code: The Controwner of property who builds or improves there herself or though his or her own employees, intended or offered for sale, if, however, the building completion, the owner-builder will have the bur or improve for the purpose of sele.)	5 Business and Professions Code: Any t, alter, improve, demollet, or repair any applicant for the permit to file a signed e provisions of the Contractor's License (0) of Division 3 of the Business and therefrom and the basis for the aleged any applicant for a permit subjects the ndred dollars (\$500):  employees with wages as their sole is not intended or offered for sale (Sec. actors License Law does not apply to an on, and who does the work himself or provided that the improvements are not not or improvement is sold within one year
[ ] I, as owner of the property, am exclusito construct the project (Sec. 7044, Business a License Law does not apply to any owner of propwho contracts for the projects with a contractor License Law.)	erty who builds or improves thereon, and s) licensed pursuant to the Contractors
[ ] I arm exempt under Sec for this reason:	B, & P.C.
Own er's Signature WORKERS WOMP ENSATION C	Date 4-5-02
I hereby affirm under penalty of perjury one of the	following declarations: te of consent to self-insure for workers'
[ ] I have and will maintain workers of Section 3700 of the Labor Code, for the performissued. My workers compensation insurance and	
Carrier	·
Policy Number	is for one hundred dollars (\$100) or less)
i certify that in the performance of the not employ any person in any manner so compensation laws of California, and agree that compensation provisions of Section 3700 of the those provisions.  Applicant	as to become subject to the workers'
	RS' COMPENSATION COVERAGE IS OYER TO CRIMINAL PENALTIES AND ND DOLLARS (\$100,000), IN ADDITION S AS PROVIDED FOR IN SECTION 3706 RNEY FEES. DING AGENCY
performance of teh work for which this permit is is Lender's Name	
Lender's Address	noval :

This Permit Does Not Become Valid Until Signed By The Building Official Or Their Deputy

I agree to comply with all div and county ordinances and state laws relating to construction, and hereby authorize representatives of this county to enter upon the above mentioned

I certify that I have read this application and state that the above information is

And Al Fees Are Paid,

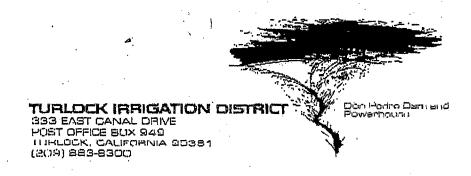
correct.

Received by: RODRGSR	Plan Chk By: R	R
APN: 041-21-30 Job site: 4342 Esmar Rd Ceres		
Job Description: ADDITION - ROOF ON REMAINDER OF I	EXISTING GARAGE BU	/REPLACE JILDING
Owner: Gloria P Fernandes 4362 Esmar Rd Ceres, CA 95307-9791	Contractor:	
538-8502	•	,
Architech/Engineer: 874 GORDON M. HART P.O. BOX 4746 MODESTO, CA 95352		
522-3835	,	
Type of Constr: VN Use: Stable/Barn Garage (Not all may be shown)	Occupancy: U-3 Sq. Ft. 890.00 648.00 Total Valuation:	Valuation: \$10,039.20 \$13,705.20 \$23,744.40
Use: Stable/Barn Garage	Sq. Ft. 890.00 648.00	\$10,039.20 \$13,705.20
Use: Stable/Barn Garage (Not all may be shown)  Work included: Electric: Plumbing:	Sq. Ft. 890.00 648.00 Total Valuation:  Setbacks: Front: Right: Left:	\$10,039.20 \$13,705.20
Use: Stable/Barn Garage (Not all may be shown)  Work included: Electric: Plumbing: Mechanical:	Sq. Ft. 890.00 648.00 Total Valuation:  Setbacks: Front: Right: Left: Rear:	\$10,039.20 \$13,705.20

<sup>]</sup> Did contractor show valid workers' compensation insurance

certificate? (Lab Code, sec. 3800 (b).)

Is Contractor's name absent from Contractors' State License Board non-payment list? (Health & Saf. Code, sec. 19825 (b).)



July 3, 2002

Gloria Fernandes 4362 Esmar Rd. Ceres, CA 95307

Dear Mrs. Fernandes:

-Re:-Compliance With District Policies Regarding Dairy Wasto

As part of Turlock Irrigation District's on-going dairy waste monitoring program, an inspection of your dairy facility was made on February 11, 2002, to determine your compliance with the District's rules concerning dairy waste. During that inspection, TID staff determined that under your current operating practices, you have the necessary means to prevent your nutrient water from coming in contact with any District or improvement district facility.

TID does not regulate the use of dairy waste in private pipelines or ditches. However, TID does require that such use not jeopardize District or improvement district facilities. It is the District's understanding that you are operating your facilities to ensure that your lagoon water does not come in contact with District or improvement district facilities.

This letter is to notify you that your facilities are currently considered in compliance with the District's rules concerning dairy waste. This does not imply compliance in the future, nor does it imply compliance with any State or Federal regulations.

In recent years, there has been increased regulatory emphasis on water quality issues, including those dealing with confined animal facilities. TID is responding with an increased effort to monitor lagoon water use as it effects our facilities. We feel it is very important to protect both District and improvement district facilities so that we can continue to provide vital irrigation services to our customers. We appreciate your cooperation, and look forward to your continued support of this important program.

Should your operating practices change, please notify me so a visit to your dairy can be made to ensure your on-going compliance with the District's rules regarding dairy waste.

If you have any questions regarding this matter, please contact me at (209) 883-8386.

Sincerely,

Keith Larson

Water Resources Analyst



# Stanislaus County DEVELOPMENT SERVICES DIVISION Department of Public Works



# JOB GOPY

1010 10<sup>th</sup> Street, Suite 3500 Modesto, CA 95354 (209) 525-6557, FAX (209) 525-7759

## STANISLAUS COUNTY SPARTMENT OF BUILDING INSPECTION SPECIAL INSPECTION AND TESTING AGREEMENT

Project: Addition to Existing Hog Barn	and	roof	replac-	ement.
Address: 4342 Esmar Rd.	City: _	Cer	<u> </u>	
Building Permit #: <u>BLD 2001-03424</u>			e in the second	
Occupancy: Hog Barn	•	1		
Type of Construction: Addition to Existing	Hoa	Barn	and ro	70
Owner: Paul Fernandes Tr	· ·			<u> </u>
Address: 4362 Esmar Rd.	City: _	Cen	05	
Contractor: Self		· · · · · · · · · · · · · · · · · · ·		
Address: 4362 Esmar Rd.	City: _	Cer	<u>e5</u>	
Project Engineer / Over Milat 5	ES	74 		
Inspection Agency: QUALITY CONTROL INSPE			<u>.</u>	•
Agency Inspector: Jess Wey P.E. — QCI	- -			



### **Stanislaus County**

DEVELOPMENT SERVICES DIVISION
Department of Public Works



1010 10<sup>th</sup> Street, Suite 3500 Modesto, CA 95354 (209) 525-6557, FAX (209) 525-7759

### SPECIAL INSPECTION AND TESTING AGREEMENT

The Uniform Building Code Chapter 17, Section 1701.1 requires that in addition to inspections required by Section 108 "Special Inspections and Testing" be made when specific types of construction occur unless exempted by Section 1701.1.

Special inspection and testing shall meet the minimum requirements of UBC Section 1701. Special inspections are to be performed on a continuous basis, meaning that the Special inspector is on site in the general area at all times observing the work requiring special inspection. Periodic inspections if any, must have prior approval by the Building Official based on a separate written plan reviewed and approved by the Building Official and the project engineer or architect.

### BEFORE A PERMIT CAN BE ISSUED:

- 1. The owner, or the engineer or architect acting as the owner's agent, shall complete this agreement and the attached "Special Inspections and Tests Schedule" (FS2) by indicating the necessary inspections as required by the UBC, Section 1701.5.
- 2. Each Inspection/Testing Agency, Special Inspector shall be approved by the Building Inspection Division prior to performing any duties. Each agency or Special Inspector shall submit their/his/her qualifications to the Building Inspection Division for review and approval.
- 3. Each Special Inspector involved with the project shall be able to provide an approved identification, when performing the function of a Special Inspector.
- 4. A pre-construction conference with the parties involved will be held to review the special inspection requirements, procedures and sign the "Special Inspection and Testing Agreement" (FS3). The pre-conference may be waived when determined by the Building Official.
- 5. The contractor is responsible for notification to the Special Inspector or agency regarding individual inspections on the attached Schedule (FS2) and as noted on the Building Inspection Division approved plans. Adequate notice shall be given to allow the Special Inspector to become familiar with the project.

### 6. Duties of the Special Inspector are:

- a. Observe the work for conformance with the Building Inspection Division approved (stamped) design drawings, specifications.
- b. The Special Inspector shall furnish inspection reports as required and all discrepancies shall be brought to the immediate attention of the contractor for correction, then, if uncorrected, to the proper design authority and the Building Official.
- c. The Special Inspector shall furnish weekly inspection reports to the Building Official, the engineer or architect of record and other designated persons.

### Reports shall include the following:

- The date of the inspection or test.
- The name of the agency providing the inspection services.
- The name, address, and building permit number of the project.
- The signature and typed or printed name of the person making the inspection or test.
- Describe inspections and tests made with applicable locations.
- List all non-conforming items.
- Indicate how non-conforming items were resolved or indicate unresolved items.
- Itemize changes authorized by the architect, engineer and Building Official if not included in the non-conforming items.
- d. The Special Inspector shall provide a daily hand written report in a format acceptable to the Building Inspection Division to remain on the job site with the contractor for review by the Building Inspection Division's Inspector. Contents shall be as stated in item c. above.
- e. The Special Inspector shall submit a final signed report stating whether the work requiring special inspection was to the best of his/her knowledge, in conformance with approved plans and specifications and the applicable workmanship provision of the UBC. The report must be received and approved prior to the issuance of the required Certificate of Occupancy.

### 7. Building Inspection Division responsibilities are:

a. Approve Special Inspectors.

The Bullding Inspection Division shall approve all Special Inspectors and special Inspection requirements.

b. Monitor special inspection.

The Building Inspector shall monitor special inspections and the performance of the Special Inspector. His/her approval must be obtained prior to placement of concrete or other similar activities in addition to the Special Inspector.

### c. Issue Certificate of Occupancy

The Building Inspection Division may issue a Certificate of Occupancy after all special inspection reports, including the final report, have been submitted and accepted.

### **ACKNOWLEDGMENTS**

I have read and agree to comply with the terms of this agreement.

Owner:	7 Januard	Ву:		Date: <u>_2</u> -	-6-02
Contractor:	!	By:		Date:	
Special Inspector Agency:	2 1905 NODTH EN	erald, BldG, Q Fornia 958 By:	Jess WRY,	P.E ,	-5-02
Project Engineer/ Architect:	ordin MI	By:			
Accepted for the	Building Inspection	on Division	•		
ву:	Bullu		Date: 4-5-	,0)	· · · · · · · · · · · · · · · · · · ·



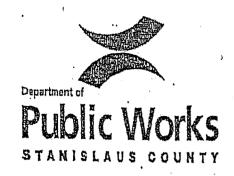
# Stanislaus County DEVELOPMENT SERVICES DIVISION Department of Public Works



1010 10<sup>th</sup> Street, Suite 3500 Modesto, CA 95354 (209) 525-6557, FAX (209) 525-7759

### SPECIAL INSPECTION AND TESTING SCHEDULE

	PROJEC	CT NAME	•	BUILDING PERMIT NUM	BER
			•	Quarity Courron Insp.	Inc
	PROJECT	ADDRES	S/CITY	TESTING INSPECTION AGENCY or SPECIAL IN	SPECTOR
EINFORC	CED CONCRETE, G	UNITE, Mortar	GROUT AND MORTAR:	STRUCTURAL STEEL / WELDING:Sample and Test (List specific members)	pelow)
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		<del>                                     </del>	Reinforcing Tests	Final Pass on Fillet Welds 5/16" or Small	er ·
		<del>                                     </del>	Mix Designs	Welding Inspection Shop	Field
		<del>                                     </del>	Reinforcing Placement	Ultrasonic Inspection	Field
7		. ;	Batch Plant Inspection	High-strength Bolting	
		1	Inspect Placing	Inspection K Shop	<b>⊠</b> Field
		<del> </del>	Cast Samples	™ A325	,
		<del>                                     </del>	Pick-up Samples		□F
		1	Compression Tests	☐ A490	
				Metal Deck Welding Inspection	
RE-CAS	T / PRE-STRESSEI	CONC	RETE:	Reinforcing Steel Welding Inspection	
Piles	Post-Tens Pre-Tens			Metal Stud Welding Inspection	
			Aggregate Tests	Concrete Insert Welding Inspection	
		+	Reinforcing Tests		
	<del></del>	1	Tendon Tests	FIREPROOFING:	
		<del>                                     </del>	Mix Designs	Placement Inspection	
		<del></del>	Reinforcing Placement	Density Tests	
		<del></del>	Insert Placement	Thickness Tests	
		<del>- </del>	Concrete Batching	Inspect Batching	·
				name of the second seco	
		3	Concrete Placement	•	
			Concrete Placement	INSULATING CONCRETE:	
			Installation Inspection	INSULATING CONCRETE: Sample and Test	
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1			Installation Inspection  Cast Samples  Pick-up Samples	Sample and Test Placement Inspection	
			Installation Inspection Cast Samples	Sample and Test	
IA CONE			Installation Inspection  Cast Samples  Pick-up Samples	Sample and Test Placement inspection Unit Weights	
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## STANISLAUS COUNTY BUILDING INSPECTIONS DIVISION

1010 10<sup>TH</sup> STREET SUITE 3500 MODESTO, CA. 95354

Phone: (209) 525-6557 Fax: (209) 525-7759

## APPROVED SPECIAL INSPECTION AGENCIES

AIM TESTING 2900 Standiford Ave. Modesto, CA. 95350 (209) 523-0754 QUALITY CONTROL INSPECTION, INC. 1295 N. Emerald Ave. Modesto, CA. 95351 (209) 527-4940

ANDERSON, NEIL AND ASSOCIATES 22 N. Houston Lane Lodi, CA. 95240 (209) 537-3701 – Lodi (209) 472-1091 – Stockton BROWN & MILLS, INC. 9940 Business Park Dr. Suite 140 Sacramento, CA. 95827 (916) 362-5541 (916) 362-3658

ARROWHEAD CONSULTANTS 142 N. 9<sup>th</sup> St., Suite 12 Modesto, CA. 95350 (209) 574-0851 NORTH AMERICAN TECHNICAL SERVICES 4218 Technology Dr. Suite 4 Modesto, CA. 95356 (209) 545-1108 (209) 545-3658 - Fax

CONDOR EARTH TECHNOLOGIES, INC. 1125 Golden State Blvd. Turlock, CA. 95381 (209) 668-9234

KLEINFELDER, INC. 2825 East Myrtle St. Stockton, CA. 95205-4794 (209) 948-1345

EARTHTEC LTD. 1830 Vernon St., Suite 7 Roseville, CA. 95678 (916) 786-5273 KRAZEN & ASSOCIATES, INC. 1025 Lone Palm Ave., Suite 8G Modesto, CA. 95351 (209) 572-2200 (200) 572-2206 - Fay



Stanislaus County
DEVELOPMENT SERVICES DIVISION **Department of Public Works** 



1010 10<sup>th</sup> Street, Suite 3500 Modesto, CA 95354 (209) 525-6557, FAX (209) 525-7759

## STANISLAUS COUNTY CEPARTMENT OF BUILDING INSPECTION L INSPECTION AND TESTING AGREEMENT

Project: Add tion to Existing Hon Barn and roof replacement.
Address: 4342 Esmar Rd. City: Coves
Building Permit #: BLb 2001-03424
Occupancy: Hog Barn
Type of Construction: Addition to Existing Hog Barn and roof replacement
Owner: Paul Fernandes Ir
Address: 4362 Esmar Rd. City: Censc
Contractor: Self
Address: 4362 Esmar Rd. City: Ceres
Project Engineer / Ozan (M) SE 874
Inspection Agency: Quality Control Inspection, Inc.
Agency Inspector: Jess Wey P.E. — QCI



### **Stanislaus County**

### DEVELOPMENT SERVICES DIVISION Department of Public Works



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I have read and agree to comply with the terms of this agreement.

The Building Inspection Division may issue a Certificate of Occupancy after all special inspection reports, including the final report, have been submitted and accepted.

### **ACKNOWLEDGMENTS**

Owner: James By: Date: 2-6-02

Contractor: By: Date: Special Policy Control Inspection, Inc. Jas West, P.E. Inspector Modesto, California 9522 By: Date: 4-5-02

Project Engineer/ Architect: By: Date: 2-4-02

Accepted for the Building Inspection Division

By: Manual By: Date: 4-5-02



# Stanislaus County DEVELOPMENT SERVICES DIVISION Department of Public Works



1010 10<sup>th</sup> Street, Suite 3500 Modesto, CA 95354 (209) 525-6557, FAX (209) 525-7759

### SPECIAL INSPECTION AND TESTING SCHEDULE

		PROJEC	TNAME	•	BUILDING I	PERMIT NUMB	ER
		•			Qualty Courror I	CEN	The
	i	PROJECT A	DDRESS	/ CITY	TESTING INSPECTION AGENCY	r SPECIAL INS	PECTOR
TNEAD	CED COM	PETE O	INSTE C	ROUT AND MORTAR:	STRUCTURAL STEEL / WELDING		•
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1				Aggregate Tests	Shop Material Identification	- 10.1-01	,
				Reinforcing Tests	Final Pass on Fillet Welds 5/	16" or Smalle	r ·
			,	Mix Designs	Welding Inspection	□ Shop	Field
				Reinforcing Placement	Ultrasonic Inspection	☐ Shop	Field
,			)	Batch Plant Inspection	High-strength Bolting	•	
				Inspect Placing	Inspection	区 Shop	<b>Field</b>
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				Compression Tests	☐ A490		
					Metal Deck Welding Inspecti	on	•
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Piles	Post-Tens	Pre-Tens	Claddin		Metal Stud Welding Inspection		
				Aggregate Tests	Concrete Insert Welding Ins	pection	•
				. Reinforcing Tests		•	
				Tendon Tests	FIREPROOFING:		
				Mix Designs	Placement Inspection		
				Reinforcing Placement	Density Tests		
				Insert Placement	Thickness Tests		
		·		Concrete Batching	Inspect Batching		
				Concrete Placement	•		
				Installation Inspection	INSULATING CONCRETE:		
		7		Cast Samples	Sample and Test		
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### STANISLAUS COUNTY BUILDING INSPECTIONS DIVISION

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### ANDERSON, NEIL AND ASSOCIATES 22 N. Houston Lane Lodi, CA. 95240

(209) 537-3701 - Lodi (209) 472-1091 - Stockton BROWN & MILLS, INC. 9940 Business Park Dr. Suite 140 Sacramento, CA, 95827 (916) 362-5541 (916) 362-3658

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NORTH AMERICAN TECHNICAL SERVICES 4218 Technology Dr. Suite 4 Modesto, CA. 95356 (209) 545-1108 (209) 545-3658 - Fax

### CONDOR EARTH TECHNOLOGIES, INC. 1125 Golden State Blvd. Turlock, CA. 95381 (209) 668-9234

KLEINFELDER, INC. 2825 East Myrtle St. Stockton, CA, 95205-4794 (209) 948-1345

### EARTHTEC LTD. 1830 Vernon St., Suite 7 Roseville, CA. 95678 (916) 786-5273

KRAZEN & ASSOCIATES, INC. 1025 Lone Palm Ave.; Suite 8G Modesto, CA, 95351 (209) 572-2200



July 3, 2002

Gloria Fernandes 4362 Esmar Rd. Ceres, CA 95307

Dear Mrs. Fernandes:

Re: Compliance With District Policies Regarding Dairy Waste

As part of Turlock Irrigation District's on-going dairy waste monitoring program, an inspection of your dairy facility was made on February 11, 2002, to determine your compliance with the District's rules concerning dairy waste. During that inspection, TID staff determined that under your current operating practices, you have the necessary means to prevent your nutrient water from coming in contact with any District or improvement district facility.

TID does not regulate the use of dairy waste in private pipelines or ditches. However, TID does require that such use not jeopardize District or improvement district facilities. It is the District's understanding that you are operating your facilities to ensure that your lagoon water does not come in contact with District or improvement district facilities.

This letter is to notify you that your facilities are currently considered in compliance with the District's rules concerning dairy waste. This does not imply compliance in the future, nor does it imply compliance with any State or Federal regulations.

In recent years, there has been increased regulatory emphasis on water quality issues, including those dealing with confined animal facilities. TID is responding with an increased effort to monitor lagoon water use as it effects our facilities. We feel it is very important to protect both District and improvement district facilities so that we can continue to provide vital irrigation services to our customers. We appreciate your cooperation, and look forward to your continued support of this important program.

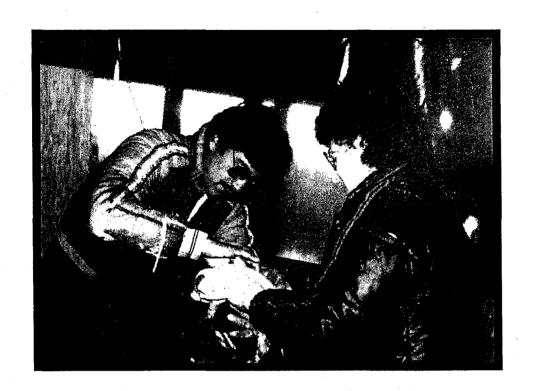
Should your operating practices change, please notify me so a visit to your dairy can be made to ensure your on-going compliance with the District's rules regarding dairy waste.

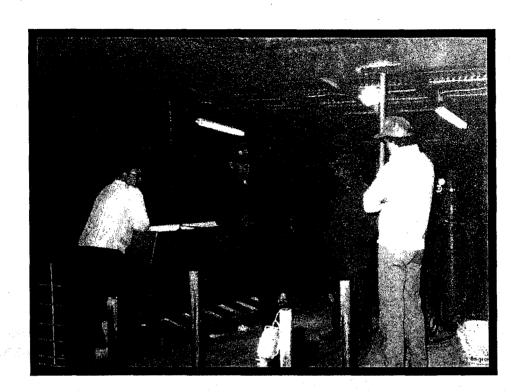
If you have any questions regarding this matter, please contact me at (209) 883-8386.

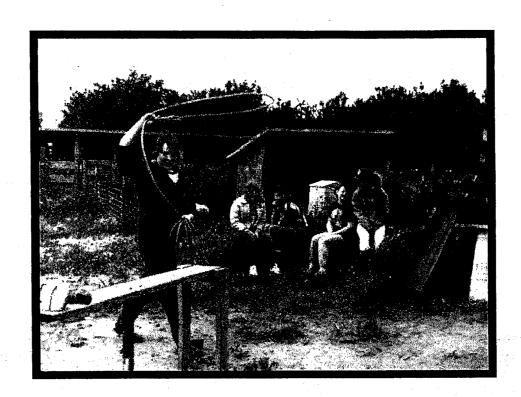
Sincerely,

Keith Larson

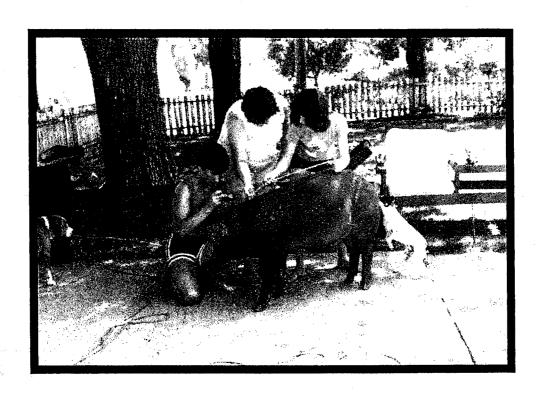
Water Resources Analyst











### 60 MINUTES

Section Front

E-mail This Story A Printable Version

### **Pork Power**

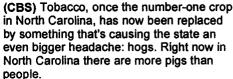
June 22, 2003



(CBS)

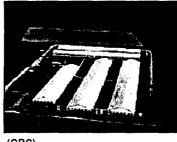
A QUOTE

"I think this is industrial production. I don't even refer to it as farming." Larry Cahoon, scientist at the University of North Carolina



Correspondent Morley Safer first reported on this story from North Carolina in 1996. Now, seven years later, nothing seems to have changed.

In fact, it appears to be worse, and new studies reported a few weeks ago by the New York Times indicate that there might be very serious health problems for people living close to the fumes from hog wasterabig problem for a state that right now has more pigs than people.



(CBS)

At any given moment, North Carolina houses 10 million hogs in barns as large as football fields on huge industrial farms. These are corporate hogs, bred, born and raised in these indoor pens. Their future: just 165 days before the slaughter.

Americans want to think of pigs as cute and cuddly enough to be nominated for Academy Awards.

But real-life "Babes" see no sun in their limited lives, no hay to lie on, and no mud to roll in and do not talk. The sows live in tiny cages, so narrow they can't even turn around. They live over metal grates, and their waste is pushed through slats beneath them and flushed into huge pits.

It's the waste that's the problem. Pigs excrete four times as much waste as humans, and it's turning North Carolina into one vast toilet.

"The smell is so offensive that on the first whiff, you get a headache," says concerned citizen Gary Grant."

"it's primarily ammonia that you notice. The hydrogen sulfide smells more like, rotten eggs," says Larry Cahoon from the University of North Carolina.

The stench comes from what the industry politely calls "lagoons." But retired hog farmer Don Webb calls it something else: "Cesspools, not lagoons. A relagoon is something a beautiful girl in a South Sea island swims in. A cesspool is something you put feces and urine in."

Cesspools or lagoons are just holding places for the 9.5 million tons of hog manure that's produced in North Carolina every year. There's real potential for damage when the manure is liquefied, and then sprayed as fertilizer onto the company's fields.

"The caveman – he used to go to the rest room inside the cave in a wooden bucket he carved," says Webb.

"And when he got through with that bucket, he would go out in front of the cave if it was real cold and just chuck it and spray it all out, and that's the same thing they're doing now."

There is so much manure that the fields of North Carolina can't absorb it all — and it's beginning to poison the groundwater and contaminate drinking wells.

There have been other problems. Lagoons have leaked and overflowed. Lagoon walls have broken, spilling out millions of gallons of hog manure and saturating fields even more.

And where does all this hog dung end up? In the streams and rivers of North Carolina, creating a growth in green algae that has closed rivers for swimming and killed thousands upon thousands of fish.

In fact, Webb got so mad when one hog operation threatened to build a factory near his place that he started his own Watch-Hog group.

"We're the cesspool of the United States," says Webb. "I mean, all you got to do is see a map somewhere and put a commode on North Carolina, and that's what you got."

Webb accuses the industry of reckless disregard of the law, of illegal dumping when it thinks no one is looking. He's always looking and finding dead animals simply dumped in open pits.

What possesses a grown man to go out and slog through that stuff?

"This is God's water. This is God's land," says Webb.

And this is going into public waters in North Carolina.

"I heard all this stuff about, 'Oh, you'll get used to the odor, we don't pollute, the cesspools don't leak," says Webb. "Well, you know, I had sense enough to know I didn't need a rocket scientist to tell me that cesspools would leak. But a good neighbor would never stink up his neighbors homes with feces and urine."

Gary Grant mobilized his neighbors when seven hog farms were proposed for his community. His community of Tillery in Halifax County is poor, black, and rural — a prime target for hog expansion.

"And they are saying that there will be 410 new farms built in North Carolina by the end of 1997," says Grant, who holds community meetings to reinforce resistance.

"And they can get away with it. Poor people are less prone to participate in voting. It's the avenue of least resistance."

Five years ago Halifax County got the strictest laws in the state passed — tough rules about lagoons and groundwater monitoring systems, laws that are too tough for many companies.

But Grant deesn't believe this helped provide better jobs for the community. "They're all dirty boots jobs," he says. "All of the management comes from outside leaves — doesn't have to live in the community."

And the response of the industry to Grant's plan has been negative.

"Well, when we first started there, I would go home evenings and get on my answering machine, and there would be threats like, 'Nigger, you're going to get killed,' and all of that," says Grant.

More than \$1 billion is at stake here, and North Carolina has gone from the seventh-largest pork producer in the country to the second, with most of the hogs belonging to a few large corporations. It's also replaced a declining,

even dying industry - tobacco. And it's put the small hog farmer out of business.

Now, corporations are using science to produce millions of carbon-copy pigs: high on pork, low on cost.

"How do you call it farming when you have an assembly line producing animals, which is the same way that we produce automobiles," asks Grant.

"I think this is industrial production. I don't even refer to it as farming," says Larry Cahoon, a scientist at the University of North Carolina at Wilmington: "And I think that from start to finish, we have to consider this as an industry."

Hazardous industrial waste, Cahoon says. "Germs, bacteria, viruses such as flu virus, protozoan, various worm-type parasites."

The problem, says Cahoon, is that rural North Carolina depends on wellwater. But the state toxicologist says 30 percent of the wells tested near hog farms are already contaminated.

"It's slow-moving and it's not going to make the instant headlines that Love Canal made when the connection to toxic chemicals was established, but it's massive," says Cahoon.

It's difficult to get anyone in authority to talk about it. Bob Ivey, general manager of one of the largest hog farms in the country, is the only corporate hog farmer who would be interviewed, but only under the condition that we not mention the names of the companies he works with. He says the complaints about water pollution against his industry are all hogwash.

"Annually, we have someone from the Department of Water Quality come and review the operation," says Ivey.

"I'm happy that—and proud to be associated with an industry that is in the forefront of trying to design systems and have programs that work with farmers to be good environmental stewards."

But from 1993-1996, 115 farms have been caught illegally dumping hog waste into waterways, a number of them intentionally. In one farm there was a massive spill in 1995 when the walls of an eight-acre lagoon collapsed, spewing out 25 million gallons of liquid manure into rivers, farms and highways.

"I think that—that the industry has operated for many, many years, and to my knowledge, this was the first spill of that particular kind," says Ivey.

Neuse River Keeper Rick Dove disagrees. An environmental group hired him to monitor the waterways, and he's dismayed by the effect of so much manure being poured into the rivers.

"It looks like something — like a green slime, something you might expect in a movie like the 'Creature From the Black Lagoon' or something. It's just ugly," says Dave.

"Right now, in this time of year, in this river, I would not swim," says Dave, who also claims he wouldn't eat or touch anything in the river.

Why did it happen? Where was the legislature? Where were the county commissioners?

"The county commissioners, the hog industry, was smart enough to get to them real quick," says Webb. "And, also, the legislators here in North Carolina, most all of them have received money from the pork producers."

In fact, the largest pork producer in the world, Wendell Murphy, was a North Carolina state senator for 10 years. Some would say he's also responsible for

creating dozens of laws protecting the pork industry. And the part owner of this farm is none other than North Carolina's U.S. Sen. Lauch Faircloth, who chairs a subcommittee on the environment. He also owns a \$ 19 million stake in the hog business.

"So that's how well they are protected," says Grant. "It's like a sacred cow, it's a sacred hog, is what it is."

"It's big-time money. I mean, it's bigger than I realized," says Webb. "You've got some of the most powerful companies and corporations in the world involved in this thing, and it's been a real battle for middle-class and poor – grass-roots people to fight these people. But we're not quitters."

And back in Tillery, the fight could be on again.

Gary Grant's strict regulations might not be enough to keep an industry out that is looking to expand.

"Then we'll go back and strengthen the regulations," says Grant. "We will not allow you to come in and pollute our community and to kill off our people and to come in under the disguise of economic development and bringing destruction to us. We will not allow it."