

ADMINISTRATION, AUDIT AND COUNTY SERVICES COMMITTEE



**FRED GARCIA
CHAIRPERSON**



PORTIA RUSSELL



MARK SMITH

MISSION STATEMENT

The Administration, Audit, and County Services Committee, pursuant to California Penal Code §925(a) is responsible for reviewing County Departments and their officers in the management, performance, and execution of the County's fiscal responsibilities for the citizens of Kern County. The Committee assists other Grand Jury Committees with managerial and fiscal issues, and also investigates complaints related to these areas of responsibility.

ADMINISTRATION, AUDIT AND COUNTY SERVICES COMMITTEE

SUMMARY OF ACTIVITIES

The Admin and Audit Committee wrote the following reports that were approved by the Grand Jury and published:

- Kern County Code Compliance – Improving Neighborhoods One Property at a Time
- The Caliente Creek Watershed: Enforce Regulations to Mitigate Flooding
- In Times of Emergency: If the Electric Grid Fails, Are We Prepared?

Inquired into the following operations:

- KCERA- Kern County Employee Retirement Association
- County Administration Building – Security Enhancements

Reviewed Complaints:

Four complaints were referred to the Admin and Audit Committee. Three complaints were investigated and one was closed due to a lack of jurisdiction.

Further visits/inquiries made:

- Kern County Elections Department -Audited Kern County Voting Procedures including observation of ballot counting Nov. 3, 2016
- Kern County Public Works Department
- Kern County Assessor/Recorders Office
- Kern County Board of Supervisors

Other Activities

- Members served on Grand Jury operating committees
- Grand Jury Awareness Week
- Toys for Tots-Toy Drive
- Edmundson Water Treatment Plant Inspection
- Kern County Sheriff Department- K-9, Bomb Squad and Helicopter Units Demonstration
- Bakersfield Police Department – K-9 Unit Demonstration and BPD Headquarters Tour

IN TIMES OF EMERGENCY: If the Electric Grid Fails, Are We Prepared?

“While Americans are generally less prepared and less confident in the response of government, they still have high expectations for a quick response and recovery when disasters do strike” - Ready for Natural Disasters? Not so Much, by the Earth Institute at Columbia University, February 9, 2016.

PREFACE:

In the book, *Lights Out: A Cyberattack, A Nation Unprepared, Surviving the Aftermath*, regarding the failure of the electric grid, broadcast journalist Ted Koppel wrote:

“As power shuts down there is darkness and the sudden loss of electrical conveniences. As batteries lose power, there is the more gradual failure of cellphones, portable radios, and flashlights.... In cities with water towers on the roofs of high-rise buildings, gravity keeps the flow going for two, perhaps three days. When this runs out, taps go dry; toilets no longer flush.... Disposal of human waste becomes a critical issue within days. Supermarket and pharmacy shelves are empty in a matter of hours.... Medicines are running out. Home care patients reliant on ventilators and other medical machines are already dying.... The city has flooded the streets with police to preserve calm, to maintain order, but the police themselves lack critical information.”

The Kern County Fire Department (Fire Department) operates an Emergency Operations Center (EOC) whose objective is, during a disaster, to “*facilitate effective emergency management*.” When a disaster strikes, the Kern County Fire Chief (Fire Chief), who is also the Emergency Services Director for Kern County (County), and the fire staff, are ready to activate the EOC.

If there is a loss of electricity for an extended period of time (more than two weeks) in the region that includes Kern County, are the people living here, even with available County and other resources, ready and able to respond and survive?

PURPOSE OF INQUIRY:

The 2016-2017 Kern County Grand Jury (Grand Jury) investigated the preparation for, and the consequences of, a failure of the electric grid lasting for an extended period in Kern County. In the event of an unexpected and extraordinary disaster, would it overwhelm the responders, and put Kern County residents at risk?

Pursuant to California Penal Code §925, the Grand Jury has the authority to investigate the operations and functions of county departments.

PROCESS:

The book *Lights Out*, gives significant insight into the consequences and the lack of national preparation for a major failure of the electric grid system. Early in the inquiry, the Grand Jury reviewed a 2014-2015 Butte County Grand Jury Report that highlighted issues of preparation and response to an electricity failure.

The Grand Jury interviewed Fire Department staff and visited the EOC. The Grand Jury interviewed Kern County staff who have an emergency function at the EOC during a disaster, as well as other people in the community with particular knowledge of this subject. The *Kern County Emergency Operation Plan* (Plan) on the Fire Department website served as a source of considerable information on local disaster challenges and available resources. There is a substantial amount of useful information on the Internet on topics related to national disaster preparation and perspectives on what individuals should do in emergencies. The Grand Jury utilized the websites created by the Federal Emergency Management Agency (FEMA), the American Red Cross (Red Cross), and the Center for Disease Control (CDC), to name just a few, which contain a wealth of information on emergency preparedness.

BACKGROUND AND FACTS:

A. The Facts About Electricity

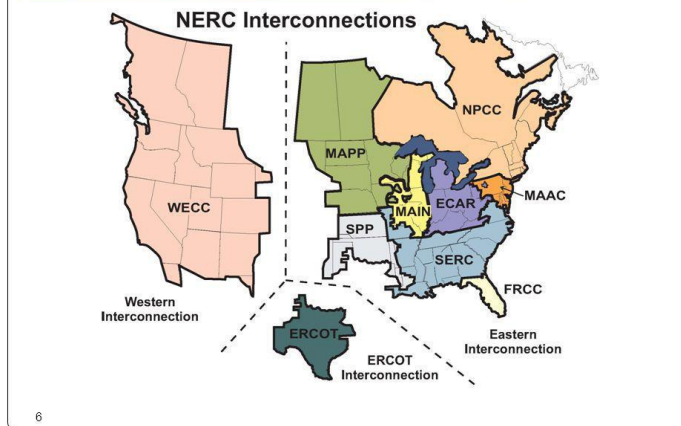
What is Electricity and How is it Delivered?

Most of the time we don't have to think about electricity; it is totally invisible but readily accessible.

Electricity generated from thousands of diverse sources, including wind and solar, feeds into and moves through a complex system, called the *grid*. In the United States, the electric grid consists of hundreds of thousands of miles of high-voltage power lines and millions of miles of low-voltage power lines with distribution transformers that connect power sources to customers. Roof-top solar might seem to power individual homes, but is actually part of the available electrical supply.

America's electric grid is comprised of three grid interconnections. The Western Interconnection includes California and all or most of eleven other States and two Canadian Provinces, as shown on the map that follows:

3 Interconnections / 10 NERC Regions



Map of Grid Interconnections

How Can a Grid Fail?

Vandalism aimed at disrupting power distribution could cause grid failure. The following incidents give insight into how major damage to a substation, which connects to the power grid, can be done very quickly.

- In 2013, a sophisticated armed group attacked a PG&E substation near San Jose, California. In less than an hour, the gunmen inflicted \$15 million worth of damage to the substation.
- In 2015, there was a break-in at the PG&E Westpark Substation in Bakersfield.

In each of these incidents, there was no loss of power to the communities, but the events pointed out that the substations are vulnerable to attacks. Hacking into a substation or the computer system of a small power plant could provide access to the grid, making it vulnerable to widespread disruption. Replacements for equipment damaged by such an event could be unavailable, meaning that repairs might take months to complete.

The Western Interconnection grid would also be vulnerable to other events:

- The cables carrying electric power to customers are generally found above ground. Power outages can result from fire, floods or seasonal storms.
- Severe weather events can damage electric power transmission and distribution infrastructure.
- A severe solar storm could damage power transformers.
- Physical attacks could interrupt the transmission of power.
- A nuclear weapon explosion at a high altitude would cause an electromagnetic pulse, which could destroy power transformers and critical components.

What Can Happen When There Is No Electricity?

The following actual incidents illustrate the impact of no electricity:

- In 2006, a large bird flew into a transformer at a Southern California Edison substation in Ridgecrest, California, blowing the transformer and creating a power surge that left as many as 26,000 residents without power for part of a day. The area experienced four outages as the blown transformer caused escalating damage. About 500 homes were without power overnight.

- In 2015, when an insulator failed at one PG&E substation in Butte County California, residents had no power for up to four hours.
 - ATMs were out of service.
 - The California State University, Chico, with its elevators and windowless hallways, was forced to close.
 - Medical clinics without backup generators were closed.
 - Stores accepted cash only, since debit/credit card machines and registers did not work.
 - Gas stations were unable to pump fuel.
 - Automated door locks did not function.

- In 2003, in Ohio, a high voltage power line fell onto a tree. Subsequently, an alarm system failed and triggered the largest power grid outage in North American history. Fifty million people, in southeastern Canada and eight northeastern states, were impacted for up to two days. There were eleven deaths and damages totaling \$6 billion.

A 2013 *New York Times* article described the electric grid as the “glass jaw” of American industry, stating, “If an adversary lands a knockout blow... it could black out vast areas of the continent for weeks; interrupt supplies of water, gasoline, diesel fuel, and fresh food; shut down communications; and create disruptions of a scale that was only hinted at by Hurricane Sandy and the attacks of September 11, 2001.”

The North American Electric Reliability Corporation (NERC) conducted its third biennial grid security and emergency response exercise, GridEx III, on November 18 and 19, 2015. NERC’s mission is to assure the reliability of the North American Electrical Grid. GridEx III provided an opportunity for industry and other stakeholders to respond to simulated cyber and physical attacks. The scenario was designed to overwhelm even the most prepared organization. More than 4,400 individuals from 364 organizations across North America participated in GridEx III, including industry, law enforcement, and government agencies.

Excerpts from the report describing some of the key findings are printed in Appendix A.

B. Are American Households Prepared?

INADEQUATE PREPARATION -

- Only 35% of American households have adequate plans and supplies for a disaster.
- As many as 94% of small business owners believe a disaster could seriously disrupt their business.

UNREALISTIC EXPECTATIONS -

- Over half of Americans think they can rely on local authorities to come to their rescue when disaster strikes.

The Earth Institute at Columbia University cited key survey findings in a 2016 article concerning disaster preparedness:

- Only 35% of American households have adequate plans and supplies for a disaster. This is virtually unchanged from 2011 (34%), but represents an improvement since 2003 (23%).
- Forty-one percent are not confident that their community has adequate plans in place for a disaster, a slight improvement from 2011.

An article published by Adelphi University in 2012, stated that 55% of Americans think they can rely on local authorities to come to their rescue when disaster strikes.

On July 22, 2016, an opinion article by a risk management consultant appeared in *The Bakersfield Californian*. The article titled “Adapt lessons of Erskine Creek to coming earthquake in Bakersfield”, included the following thoughts:

- Individuals and families need to be prepared. For example, everyone should have access to portable kits containing water, food, medications, flashlights, a radio and extra batteries. Cell phones and email or texting may not be available.
- Organizations need to have a Business Continuity Plan. Most have disaster response plans, to get employees through the event. Employees could be scattered throughout the area, and customers focused on other needs. The reserves to sustain business operations would eventually evaporate.

According to the California State University, Bakersfield, *Kern County 2012 Labor Market Study*, in 2011 private sector employees made up 79% of all employed persons in Kern County. Small businesses play a key role in the economy and in the nation’s supply chain, and are increasingly reliant on computers to store, process and communicate information. A loss of electricity for an extended period of time could be devastating.

According to a 2007 American Red Cross survey, 94% of small business owners believe that within the next two years, a disaster could seriously disrupt their business.

C. What Can Individuals Do?

In order to be prepared, individuals and organizations can find helpful resources on the internet.

- On the Red Cross website www.redcross.org, many emergency situations are discussed including a section on power outages.
- Community Emergency Response Training (CERT) is found at www.fema.gov (search for CERT) for individuals and includes:
 - Facts about what to expect following a major disaster in terms of immediate services
 - Personal responsibility for mitigation and preparedness
 - Training in life-saving skills with emphasis on decision making skills, rescuer safety and doing the greatest good for the greatest number
 - Groups who come together for training may remain in contact and hold periodic events
 - Training for emergencies can also help CERT groups to form in neighborhoods or among people with a common interest

See Appendix B for a list of emergency supplies, compiled by the Grand Jury from several internet sources.

D. What Can Local Authorities Do?

In accordance with the California Emergency Services Act, a Kern County Emergency Council (Emergency Council) was created by the Kern County Board of Supervisors, and accredited as the local Disaster Council by the State of California Emergency Council. The primary role of the Emergency Council is to develop and adopt the County's emergency plan, emergency services operation, mutual aid plans and agreements, and any other emergency management related rules and regulations. According to Kern County Code §2.66, Emergency Services (updated December 10, 2013), members of the Emergency Council are:

- County Administrative Officer (Chairman)
- Director of Emergency Services/Fire Chief (Vice Chairman)
- Sheriff/Coroner
- 14 Kern County Department heads (See Appendix C for the complete list)
- Non-voting members or their designees:
 - Chairman of the Board of Supervisors
 - County Counsel
 - Emergency Services Manager

The EOC is housed in a 6,965 square foot building. The perimeter is protected by a chain link fence. EOC refers to both a centralized location and an organizational structure that supports multi-agency and/or multi-jurisdiction disaster response coordination and communication. It also serves as the designated point of contact between the jurisdictions within Kern County, including cities and special districts, as well as between the State and FEMA.

The EOC contains a large command room with a central horseshoe shaped area, where key departments and organizations are represented. This central area is surrounded by additional workspaces for logistics specialists, and private meeting rooms for other support personnel and the media. Large TV monitors around the room are used to view local news reports or other pertinent data.



Kern County Emergency Operations Center

The EOC operates within the context of one overall plan and five contingency plans, also referred to as “annexes.” The five contingency plans concern specific risks, such as natural disasters or damage to the Isabella Dam. Each plan in its entirety can be found in the “Operations” link on the Fire Department website. Brief information on each plan can be found in Appendix D. Two plans most relevant for this discussion are:

- **Emergency Operation Plan**

The “Emergency Operation Plan” (Plan), adopted in 2008, is the overall plan and the most detailed. The Plan provides for the integration and coordination of planning efforts for the County/Operational Area with cities, special districts, and the State. It establishes policies, procedures, and the emergency management organizational structure. It also assigns roles and responsibilities to ensure the effective management of emergency operations within Kern County. The intent of the Plan is to facilitate emergency response and short-term recovery, by providing a framework for all significant emergencies regardless of the nature of the event. The Plan is comprised of four major parts as follows:

- **Basic Plan** – Overview of County/Operational Area's emergency management program, Emergency Management Organization, and concept of emergency operations
- **General Procedures** – Emergency procedures to be implemented by County employees at the time of a major emergency or disaster
- **Emergency Operations Center (EOC) Procedures & Annexes** – Procedures, annex and checklists for each major function, also resource and contact lists

- **Contingency Plans** – Event-specific information and emergency instructions, consisting of five separate documents, that may be implemented independent of the Plan, which are incorporated by reference
- **Terrorism Response And Recovery Contingency Plan**
This plan is concerned with Weapons of Mass Destruction (WMD).
 - Although a WMD attack could be very significant in a local area, this plan does not address the possibility that the electric grid could be damaged to the point that power is lost in a large region for an extended period.
 - Cyber-Terrorism is defined in this plan as the malicious use of communications and information technology to disrupt or intimidate.
 - This plan was adopted in 2003 and does not include current information on cyber-terrorism.

E. Additional Support

Federal Emergency Management Agency (FEMA)

This agency is a part of the Department of Homeland Security. FEMA's objective is to support citizens and first responders.

Information regarding resources and capabilities can be accessed through FEMA's website. One of the more pertinent subjects in the context of this inquiry concerns disaster planning. FEMA develops and carries out scenarios that are designed to *"identify ways to prepare, to respond, and to recover from a major incident."* A 2011 exercise was centered around a critical multi-state power failure. The impacts of this scenario were described as follows:

- Casualties in the hundreds
- Infrastructure crippled; sewer/water treatment facilities failed
- Water supply and beaches polluted
- Evacuations: Tens of thousands displaced, some permanently
- Economic Impact: Billions of dollars lost
- Recovery Time: Months

This exercise highlighted the need to improve the electrical grid on a national scale. A 2008 study titled, "Report of the Commission to Assess the Threat to the United States from Electromagnetic Pulse (EMP) Attack," estimated that it would cost billions of dollars to make the grid less susceptible.

The Fire Department has conducted scenarios to improve local planning and response, but not on the same scale as the FEMA exercise.

California Army National Guard (National Guard)

During an emergency, the National Guard has assets and personnel that could be deployed. The County could request that the Governor proclaim a State of Local Emergency, which could activate the National Guard.

Examples of National Guard resources consist of: communications – local, national, and international; transportation - trucks and aircraft; and armed security as necessary and others. (See Appendix E)

Once in the local area, the National Guard coordinates with local authorities. The Fire Chief is in charge of emergency operations and would coordinate National Guard resources.

Kern County Human Services Department

This Department's primary role at the EOC is to coordinate the opening of housing shelters when an evacuation order is issued. To reduce duplication, shelter resource orders come through this Department, which may make calls to activate the Red Cross, Salvation Army or Animal Services, to assure that shelters are opened.

The American Red Cross

In Kern County, this agency's role during an emergency or disaster is primarily the immediate activation of evacuation shelters. When contacted by Kern County Human Services, the Red Cross, with their contracted agreements for using facilities such as senior or youth centers, provides supplies and man-power to those evacuation shelters to get them operational immediately.

Kern County Aging and Adult Services Department

During an emergency, Aging and Adult Services provides services to older adults and disabled individuals. Staff helps clients access shelter and obtain duplicates of important documents.

The Fire Department and Aging and Adult Services are in the process of equipping three trailers with specialized supplies for older adults and disabled individuals. Funds for this project will be provided by a Homeland Security Grant.

Through its Meals on Wheels Program, Aging and Adult Services identifies seniors living in remote areas who may not be able to leave their residence. A supply of MREs (Meals, Ready-to-Eat) and a basic emergency kit are made available. The kit is shown in the following photo:



Basic Emergency Kit

Kern County Animal Services

Residents are emotionally attached to their pets, and during times of emergency, particularly evacuations, people do not wish to be separated from them. Temporary shelters operated by the County or Red Cross do not allow pets.

During the Erskine Fire, Animal Services set up two temporary pet shelters adjacent to the housing shelters. Some people chose to sleep in the pet shelter in order to be next to their pet. Animal Services provided shelter and care for evacuated and rescued pets that had been lost or left behind. They also checked on and provided care for pets left at home in areas threatened by the fire, where owners were prevented from returning. Evacuated large animals were kept at a separate location more appropriate for their needs.

The community and at least one corporation, generously donated food and feeding bowls, kennels, bedding and leashes. Volunteer veterinarians provided medical care to the pets in the shelters.

Animal Services was recently allocated funds from the Homeland Security Grant, enabling them to purchase and stock a trailer with supplies needed for a pet shelter. Animal Services is currently creating their own emergency plan to add to the County's Plan.

In an emergency, Animal Services is notified by Human Services after the decision has been made to open a housing shelter. Animal Services Staff stated that during the Erskine Fire, if they had been activated earlier, the need for Animal Control Officers to go into dangerous areas to rescue pets might have been reduced.

Community Emergency Response Training (CERT)

In major emergencies, first responders can be overwhelmed by the demand for aid and services. Based upon experience with disasters, a concept called the Community Emergency Response Training was developed to increase volunteer support. CERT is supported by FEMA to organize teams as an extension of first responder services, offering immediate help to victims.

The FEMA website lists CERT teams in Kern County:

- Bakersfield
- Kern River Valley
- Stallion Springs
- Greater Tehachapi Valley
- Rosamond
- Pine Mountain Club

Individuals must have completed CERT training, pass a background check, and be recognized by the County, to be activated to assist first responders.

Communication

In the event of an extensive power outage, traditional communications such as telephones, television and the internet may be unavailable, for both the public and emergency responders. The EOC has alternate communication strategies in place through the use of ham (amateur) radios. There are two ham radios at the EOC, and there are two groups of amateur radio operators in the County. They are the Radio Amateur Civil Emergency Services (RACES) and Amateur Radio Emergency Services (ARES).

During the Erskine Fire, AT&T assisted with communications in the area, after their cell tower became disabled, by quickly providing a portable antenna. The EOC has relationships with many private businesses that can be called upon.

Security

In Kern County, the Sheriff's Office has approximately 900 Deputies, and the Bakersfield Police Department has approximately 400 Officers. The smaller cities have their own staff or rely on the Sheriff's Office. In non-emergency times, and even during events like the Erskine Fire, these resources are sufficient to provide security. However, an electrical outage lasting weeks could produce a significant challenge to the safety of the population. Law enforcement may be unable to respond to emergencies, and because of limited communications, residents may be unable to report a situation. Protection of food supplies and resources would also be an issue. As mentioned earlier, the National Guard could assist with security.

The 2016 Erskine Fire was a major event for Kern County and for the people impacted. During the fire, there were mandatory evacuations. Law Enforcement staffed roadblocks in order to restrict entry into the affected area. Altercations took place when some people were determined to return to their residence.

State prisons in Kern County have a population in excess of 20,000 inmates. The California Department of Corrections and Rehabilitation requires each prison to have an emergency plan and supplies, including a generator and fuel, for at least two weeks.

Business and Industry

In most emergencies, small businesses and large industrial operations, could be asked to provide assistance to the County. The County has agreements with vendors in the community who have materials and resources that could be available to the EOC.

FINDINGS:

- F1. The Western Interconnection electric grid could fail and service might not be re-established for weeks or months.
- F2. It appears that many residents and businesses in Kern County are not prepared for an emergency that lasts for more than a few days. This lack of preparation indicates that many people may not survive a long term outage.
- F3. The strength of the EOC is in the technology available at the facility, and the flexibility within the organizational structure. It is impossible to practice for every conceivable emergency scenario. During an activation, the EOC is staffed with experienced personnel at a location where effective plans and decisions can be made and put into action.
- F4. If there is a regional electrical grid failure lasting more than two weeks, the staff at the EOC would struggle to prevent widespread disruption and threats to human life.
- F5. The County *Emergency Operation Plan* was adopted in 2008. This and two other County contingency plans on the Fire Department website have not been updated since inception, almost 10 years ago.
- F6. The County *Terrorism Response And Recovery Contingency Plan* was adopted in 2003. It does not include a realistic nor an up-to-date description of the risks associated with cyber-terrorism, such as an attack against computer systems, and methods to respond and recover.
- F7. The Emergency Council recently voted to recommend that the County Ordinance be modified to make the Fire Chief the Chairman, and the Sheriff the Vice Chairman of this Council. The County Administrative Officer would remain on the Council as a voting member.
- F8. The Emergency Operations Center has generator fuel on site for several days, and has access to additional supplies from County fire stations. The EOC has no sleeping facilities; food must be provided by outside vendors.

- F9. One of the lessons of the Erskine Fire was that specialized equipment, needed to help evacuate persons with disabilities, mobility or functional needs, was not readily available.
- F10. In an emergency, Animal Services would like to be notified at the same time as the first responders.
- F11. The *Emergency Operations Plan* does not describe setting up pet shelters adjacent to the housing shelters.
- F12. The County Emergency Operations Center does not have a plan to manage residents who come directly to the EOC seeking help.
- F13. The security of the EOC would be at risk during an electrical grid outage lasting for an extended period.
- F14. During an electrical grid outage, public safety would be a significant problem for residents and businesses.
- F15. Practice exercises for various scenarios such as fire, earthquake and the failure of the Isabella Dam, are carried out at the EOC.
- F16. The Fire Department has initiated a dialogue with the National Guard, and has an ongoing association with CERT teams.
- F17. State prisons may present a security challenge. Some guards might not be able to report to work, and on-site supplies could run out after two weeks.

COMMENTS:

The Grand Jury was impressed by the County Emergency Operations Center, and appreciates the significant assistance with this inquiry provided by the Fire Chief and other County staff, as well as members of the community.

RECOMMENDATIONS:

Using grant or General Fund monies, the Fire Chief, working with the Kern County Emergency Council, should:

- R1. Create and implement a plan to inform the public of their need to prepare for a long-term emergency. Consider holding an annual event, like the Great California ShakeOut, to bring attention to the need for residents and businesses in Kern County to take significantly more personal responsibility to prepare for emergencies. (Finding 2)
- R2. Complete a review, and update the Emergency Operation Plan within the next 12 months. Listed below are some of the specific areas of concern, but is not a complete list:
 - Update the Emergency Council membership
 - Invite knowledgeable support organizations and members of the public to be a part of the review and update process
 - Define the need for specialized equipment for evacuating those with disabilities, mobility or functional needs
 - Give consideration to Animal Services' objective of setting up pet shelters adjacent to the housing shelters
 - Consider notifying Animal Services along with first responders
 - Develop a plan to manage members of the public who come to the EOC for assistance during an emergency
 - Develop a plan to provide security at the EOC(Findings 2, 5, 6, 7, 9, 10, 11, 12, and 13)
- R3. Review the Emergency Operation Plan annually. (Finding 5)
- R4. Create a new Contingency Plan for a widespread and lengthy electrical grid outage. (Findings 1, 2, 4, 8, 12, 13, 14, 15, 16, and 17)
- R5. Include a realistic and up-to-date description of the risks associated with cyber-terrorism, and methods to respond and recover in the *Terrorism Response And Recovery Contingency Plan*. (Finding 6)
- R6. Develop and carry out an exercise centered on a regional power failure lasting for an extended period of time. (Finding 15)
- R7. Work with the California Army National Guard and CERT teams to increase readiness in an emergency. (Finding 16)

REFERENCES:

- Koppel, Ted, *Lights Out: A Cyberattack, A Nation Unprepared, Surviving the Aftermath*, 2015, Crown Publishers, New York
- 2014-2015 Butte County Grand Jury, *Solar Storms And Electromagnetic Pulses, Butte County Preparedness For Power Outages*
- October 10, 2015, KRON Television report entitled, “New development in South Bay PG&E substation attack”
- April 1, 2015, *The Bakersfield Californian* article, “FBI investigating break-in at PG&E substation”
- May 6, 2006, “Bird flies into transformer, leaving Ridgecrest dark,” *The Bakersfield Californian*
- August 13, 2013, *New York Times*, “As Worries Over the Power Grid Rise, a Drill Will Simulate a Knockout Blow”
- August 13, 2008, *Scientific American*, “The 2003 Northeast Blackout—Five Years Later”
- Grid Security Exercise-GridEx Report – March 2016 – North American Electric Reliability Corporation (NERC)
- Kern Economic Development Corporation, *Kern County 2012 Labor Market Study*, Prepared by Cheryl Holsonbake and Dr. Mark Evans of California State University, Bakersfield

NOTES:

- The Kern County Board of Supervisors, Kern County Administrative Office, Kern County Emergency Council and Kern County Fire Department should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.co.kern.ca.us/grandjury.
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.co.kern.ca.us/grandjury.

RESPONSE REQUIRED WITHIN 90 DAYS

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**

APPENDICES:

APPENDIX A: Excerpts from the March 2016 Report on the GridEx III Exercise conducted by the North American Electric Reliability Corporation (NERC)

NERC conducted its third biennial grid security and emergency response exercise, GridEx III, on November 18-19, 2015. NERC's mission is to assure the reliability of the bulk power system. GridEx III provided an opportunity for industry and other stakeholders to respond to simulated cyber and physical attacks affecting the reliable operation of the grid. The large-scale cyber and physical attack scenario was designed to overwhelm even the most prepared organizations. More than 4,400 individuals from 364 organizations across North America participated in GridEx III, including industry, law enforcement, and government agencies.

Unity of Messaging

Participants explored how industry and government assess a crisis event, and receive and share information with each other and the public. Managing the challenges and opportunities related to social media was of particular interest.

Assess the Situation. The industry and government need mechanisms to develop a common view of the evolving situation from two perspectives: the impact on the delivery of electricity to consumers, and the intelligence information needed by the industry to respond and recover, considering ongoing or follow-on attacks are likely.

Communicate with the Public. The industry and government need to provide the public with meaningful information so they are aware of the situation and what is being done about it. This helps individuals decide what they need to do to look after their own interests. Utilities and government at all levels, local, state/provincial, and federal, will need to communicate with the public. Social and traditional media capabilities drive an ever-increasing demand for timely and accurate information. Widespread and prolonged power outages will disrupt the ability of traditional media (television, radio, print) to function.

Unity of Effort

While both industry and government have considerable resources at the ready to respond to crisis events, participants considered how to improve coordination during severe emergency situations.

Resolve Physical Risks to Personnel. Industry needs to coordinate with local law enforcement to identify and assess the physical risks to electricity facilities. Utility workers will not begin to perform site assessments or begin repairs to electricity system facilities until they are satisfied their work environment is safe.

Resolve Cyber Threats and Malware. Industry needs to coordinate with government to identify and assess the cyber risks, likely by visiting the affected facilities. Unlike how industry responds to major storms through mutual assistance, industry's capability to analyze malware is limited and would require expertise likely available from software suppliers, control system vendors, or government resources. Electricity system recovery and restoration would be delayed or may not begin until the nature of the cyber risks are understood and mitigation strategies are available.

Extraordinary Measures

The industry operates within a regulatory framework designed within normal planning and operating criteria. Participants considered regulatory and legislative needs, as well as extraordinary government support, that could enhance timely and effective recovery under extreme circumstances that clearly exceed normal criteria.

Establish Priorities for Restoring Electricity Service. When restoring power following a large-scale outage, utilities' first priorities focus on supplying electricity to restart generation and energize transmission and distribution lines and equipment. Second priorities include "lifeline" customers such as communications, oil and gas, water supply/treatment and hospitals.

Simplify Electricity System Operation Under Emergency Conditions. North America's bulk power system is operated by highly trained staff using sophisticated technology systems to forecast load, monitor electricity flows, dispatch generation, remotely operate equipment, and administer markets. In the event that these normal processes are disrupted, it may be possible to simplify how the electricity system is operated to provide basic service but at reduced levels of reliability and less economically.

Consider Mechanisms to Prevent Financial Defaults. Utilities will need unprecedented levels of financial resources in order to restore their facilities and eventually resume normal operations.

Manage Personal and Corporate Liability Risks. North America's bulk power system is designed and operated to meet extensive legal and regulatory requirements (e.g., environmental, safety, financial, labor, commercial). Some of these requirements may delay or prevent restoration during a large-scale event.

APPENDIX B:

Emergency Supply Checklist

Stock up on enough supplies to last at least a week, and refresh them at least once a year. Put them in waterproof containers and store them in a place that is easy to reach.



Drinking Water
1 gallon per person,
per day



Utensils and Can Opener



Nonperishable Food
for all household members
including pets



Flashlights
Do not use candles



Radio
Battery powered or
hand-crank



Extra Batteries
At least two extra
sets



Portable Phone Charger
Solar chargers are available



First Aid Kit



**Medication and Spare
Eyeglasses**



Basic Toiletries



Cash and Credit Cards
At least \$100

Compiled by the 2016-2017 Kern County Grand Jury from several internet sources

APPENDIX C: EMERGENCY COUNCIL MEMBERS

As defined in the Kern County Ordinance Code §2.66.030 Emergency Offices and Entities, the following are members of the Kern County Emergency Council:

- County Administrative Officer (Chairman)
- Director of Emergency Services/Fire Chief (Vice Chairman)
- Sheriff/Coroner
- Director of Public Health Services
- Public Health Officer
- Director of Emergency Services
- Director of Waste Management
- Assistant County Administrative Officer for General Services
- Chief Executive Officer of Kern Medical Center
- Director of Personnel Department
- Director of Human Services Department
- Director of Mental Health Department
- Director of Aging and Adult Services Department
- Agricultural Commissioner/County Sealer
- Director of Engineering, Surveying, and Permit Services Department
- Director of Roads Department
- Director of Animal Services Department
- Chairman of the Board of Supervisors, County Counsel and the Emergency Services Manager or their designees are non-voting members of the council

APPENDIX D: Summary of County Emergency Plans

Title	Adoption Date	Purpose	Last Update
Emergency Operation Plan	April 30, 2008	This Emergency Operations Plan establishes policies, procedures and an emergency management organization, and assigns roles and responsibilities to ensure the effective management of emergency operations within Kern County and the Operational Area.	none listed
Terrorism Response And Recovery Contingency Plan	December 11, 2003	This Terrorism Contingency Plan is designed to establish responsibilities, and to coordinate preparedness, response and recovery from a terrorist initiated incident, with emphasis placed upon incidents involving Weapons of Mass Destruction (WMD).	none listed
Lake Isabella Dam Failure Evacuation Plan	December 2009	The purpose of this plan is to establish a process and procedures for the mass evacuation and short-term support of populations at risk below the Lake Isabella Dam from a potential failure of the dam.	none listed
Kern Multi Jurisdiction Hazard Mitigation Plan	2006	The purpose of hazard mitigation and this plan is to reduce or eliminate long-term risk to people and property from natural hazards and their effects in Kern County. More importantly, this plan update and planning process lays out the strategy that will enable Kern County to become less vulnerable to future disaster losses.	updated in 2012
Kern County (CA) EAS Plan Communication Operations Orders	October 2002	This is part of the California Emergency Alert System.	last revision on 6/25/2014
Kelso Creek Communities Flood Warning & Notification	December 2013 Draft	This plan describes monitoring actions, communications protocol, and alert and warning response to be taken by various organizations to potential or actual flooding in the Kelso Creek area.	none listed

APPENDIX E: California Army National Guard Resources

The County Emergency Operations Plan states that the National Guard “has an assortment of communications capabilities, with limited day-to-day in-place systems. Most communications systems serve National Guard operating forces, but some have reserve capability.”

More broadly, National Guard resources consist of:

- Care and Shelter
- Communications: Provides interoperable communications
- Computers Unit and equipment
- Construction and Engineering: Helps clear debris and rubble and can provide technical and engineering assessments
- Evacuation: Assists with evacuating populations, provides transportation, assists with casualty evacuation from hospitals and casualty collection points
- Fire and Rescue: Assists with air and land capabilities in support of civil authorities
- Hazardous Materials: Creates and maintains plans for radiological protection information
- Deploys Civil Support Teams
- Makes mobile laboratories available
- Assists with decontamination teams

Important points for an emergency in Kern County are:

- The Guard has significant mobile communications assets through ground to satellite technology that can be deployed to a local area
- Equipment may not be available locally, but the Guard has the capacity to move equipment quickly over long distances
- Security can be supplied by Guard personnel

Source: State of California Emergency Plan, July 2009

Kern County Board of Supervisors
Response to Grand Jury Final Report
In Times of Emergency

Response to Findings:

The Board of Supervisors notes that the Grand Jury's findings are substantially correct.

Response to Recommendation:

R1: Create and implement a plan to inform the public of their need to prepare for a long-term emergency. Consider holding an annual event, like the Great California Shake Out, to bring attention to the need for residents and businesses in Kern County to take significantly more personal responsibility to prepare for emergencies.

We concur with the Grand Jury's recommendation to increase public awareness. In general, we concur that greater public awareness and preparedness protects and builds sustainable communities. Although Kern County does not have the resources and funding to match efforts of the State's Great California Shakeout, the Fire Department has expended considerable efforts to host local preparedness events. Specifically, the County has longstanding efforts to promote registration in the County's emergency notification system, known as ReadyKern, whereas approximately 160,000 individuals have already registered. Unfortunately, public focus on disaster preparedness is closely linked to the actual occurrence of a direct disaster threat, such as the Erskine Fire when hundreds registered. To break pre-incident complacency with traditional outreach efforts, the Department is evaluating alternate methods such as smart phone applications and web-based training. The Fire Department is very successful reaching the community via its FaceBook and Twitter accounts.

R2: Complete a review and update the Emergency Operation Plan within the next 12 months.

We concur with the Grand Jury's recommendation to complete a review and update the Emergency Operations Plan (EOP). The Fire Department has applied for Homeland Security Grants to develop a Threat and Hazard Identification and Risk Assessment (THIRA) and to update the EOP. The Department is currently awaiting approval and then will retain a qualified consultant to assist with this effort.

Listed below are some of the specific areas of concern, but is not a complete list:

- *Update the Emergency Council Membership*

Membership has been discussed at several Council meetings. Additional stakeholders have been identified. Membership consideration to include the Kern Operational Area Advisory Committee Chair was on the June 26, 2017 agenda. The proposed modifications will be incorporated in a pending revision to Ordinance 2.66, which will be submitted to the Board of Supervisors for approval.

- *Invite knowledgeable support organizations and members of the public to be a part of the review and update process*

The Fire Department will invite key stakeholders and the public to be part of the update process.

- *Define the need for specialized equipment for evacuating those with disabilities, mobility or functional needs*

The Fire Department has an Access and Functional Needs Evacuation Plan and Memorandums of Understanding with the Superintendent of Schools and Golden Empire Transit for accessible buses and vans within the County. Evacuation requests from the 24/7/365 County hotline are sent to Kern Emergency Operations Center (EOC) to deploy from Road's Regional Transit. The Department also has three shelter trailers funded by a Homeland Security Grant with specialized equipment and supplies for those with Access and Functional Needs strategically staged for efficient deployment.

- *Give consideration to Animal Services' objective of setting up pet shelters adjacent to the housing shelters*

It is standard protocol to establish animal shelter operations. A Homeland Security Grant funded an environmentally controlled animal rescue trailer.

- *Consider notifying Animal Services along with first responders*

It is standard protocol for the Animal Services Department to automatically be notified for response during operations.

- *Develop a plan to manage members of the public who come to the Emergencies Operations Center for assistance during an emergency*

The EOC is located in a secured compound with restricted access for the purpose of field level incident response support. The EOC is not the appropriate location to provide individual general public assistance so they are appropriately referred to Local Assistance Centers or Shelters established for the incident.

- *Develop a plan to provide security at the Emergencies Operations Center*

The EOC is located in a secured compound with restricted access. The gates require authorization to open and doors require authorized badges for entry. An Emergency Management Performance Grant funded additional security cameras throughout the compound.

R3: *Review the Emergency Operation Plan annually.*

We do not concur with the Grand Jury's recommendation to update the EOP annually but rather with the Federal Emergency Management Agency's recommendation of two years. The EOP is scheduled for update in 2018 pending Homeland Security Grant funding and it is unlikely that it will need radical changes. It is a comprehensive project requiring participation from multiple departments and agencies

that takes several months to a year, depending on the level of effort, which includes assessing, planning, exercising, and training. Staffing limitations and competing priorities make it difficult to update more frequently.

R4: Create a new Contingency Plan for a widespread and lengthy electrical grid outage.

We concur with the Grand Jury's recommendation to create a new Contingency Plan to prepare the County for a widespread and lengthy electrical grid outage. This will be done in conjunction with the EOP update and would be included as an annex.

R5: Include a realistic and up-to-date description of the risks associated with cyber-terrorism, and methods to respond and recover in the Terrorism Response and Recovery Contingency Plan.

We concur with the Grand Jury's recommendation to update the Terrorism Response and Recovery Contingency Plan. It will be prepared using grant funds when they become available.

R6: Develop and carry out an exercise centered on a regional power failure lasting for an extended period of time.

We concur with the Grand Jury's recommendation to develop an EOP Annex to deal with regional power failure. Departments have completed the first phase of the Continuity of Operations Plan and are currently working on second phase which addresses critical failures.

R7: Work with the California Army National Guard and Community Emergency Response Training teams to increase readiness in an emergency.

We concur with the Grand Jury's recommendation to develop a relationship with the California National Guard and Community Emergency Response Teams (CERT). The Fire Department has already initiated discussions with the California National Guard, Department of Defense, and Edwards Airforce Base. The Department is seeking grant funding to coordinate the readiness of CERT across the County.

KERN COUNTY CODE COMPLIANCE

Improving Neighborhoods One Property at a Time

SUMMARY:

Kern County Code Compliance (Code Compliance) is a division of Public Works under the direction of the Director of Engineering, Surveying and Permit Services (ESPS). This division enforces several sets of ordinances concerning property conditions. These ordinances are based upon threats to health and safety and public nuisance, such as the lack of building and grading permits, abatement of excessive weeds, abandoned vehicles and illegal dumping.

Code Compliance is complaint-driven; in almost all cases, receipt of a complaint is the reason that an investigation is initiated. Code Compliance does not have enough resources to also target neighborhoods to identify unreported hazards.

The Code Compliance “Citizen Portal” website provides public access to submit a complaint. Opportunities exist for improving the website and expanding the identification of hazards beyond filed complaints. These hazards, once remedied, may enhance the quality of life for Kern County residents.

PURPOSE:

The 2016-2017 Kern County Grand Jury (Grand Jury) received a citizen Complaint concerning flooding from the Caliente Creek Watershed. As this Complaint involved Code Compliance, the Grand Jury decided to review Code Compliance operations. Under California Penal Code §925, the Grand Jury has the authority to investigate the operation and function of County Departments.

PROCESS:

The Grand Jury reviewed the 2012-2013 Kern County Grand Jury Report on Code Compliance; other information was available on the Internet including the Kern County Public Works Department (Public Works) website. The Grand Jury interviewed Code Compliance staff, reviewed documents, and obtained information concerning the processing of complaints and violations. Information from Code Compliance databases was accessed and analyzed.

BACKGROUND AND FACTS:

Code Compliance is a division of Public Works which includes other divisions: Roads, Building Inspection, Floodplain Management, GIS (Geographic Information System), and Engineering. These divisions generally concern the facilitation of development and maintenance of the physical environment. The mission of Code Compliance is to “*work in partnership with the people of Kern County to promote health and welfare and maintain community standards.*”

To carry out this mission, Code Compliance enforces ordinances concerning property conditions. These ordinances are based upon threats to health and safety, and public nuisance through adopted statutes. Code Compliance corrects violations related to these areas:

- Building and Housing
- Grading Without Permits
- Zoning and Land Use
- Abandoned, Wrecked, Inoperative, or Dismantled Vehicles
- Weed Control
- Public Nuisances
- Solid Waste Disposal
- Unlawful Dumping

Code Compliance has an excellent brochure on the website which illustrates many types of code violations. The following photos show a few examples:



Continuous yard sale



Grading without permits



Construction without building permits



Illegal dumping

Anyone can file a complaint, in writing, by telephone or through the Code Compliance website. The Code Compliance “Citizen Portal” website provides public access to complaint information as well as information from the Building and Planning Divisions. The database can be accessed in two ways:

- **Limited Access** – To search existing records, including:
 - Code Compliance - search all complaints
 - General Information - search for property information or search for a licensee
 - Building Information - search building permit applications
 - Planning and Natural Resources Information - search for gas and oil permits
- **Full Access/Personal Portal** – This access requires registration through the website. Registration requires a name, address, valid email address and the creation of a password. After logging on, additional information is available:
 - Code Compliance - create and submit a complaint, track complaints and create reports
 - Building Information - apply for a permit, schedule an inspection, pay fees, track the status of your application and print your final record
 - Planning and Natural Resources Information - apply for an oil and gas drilling/relocation permit or a permit for any construction involving existing wells or production lines

Since Code Compliance is complaint driven, in a vast majority of cases, receipt of a complaint is the reason that an investigation is initiated. In the case of an imminent threat to health or safety, staff will cite a property owner in the absence of a complaint. In an emergency, other County staff may assist in inspecting a property.

As shown in the chart that follows:

- Between September 22, 2015 to September 21, 2016, Code Compliance had a case load of 3,324 complaints.
- As a comparison, the 2012-2013 Kern County Grand Jury Report shows the Code Compliance case load as 2,726 complaints from June 1, 2011 to June 1, 2012.
- Code Compliance case load in the 2015-2016 period was 22% greater than in the 2011-2012 period.

- During the recent 2015-2016 period, fewer complaints were still pending after 90 days than in 2011-2012.

Additional data from those periods is provided below:

Case Status	2011-2012		2015-2016	
Total Cases Processed	2,726		3,324	
Closed	2,028	76.4%	2,348	70.6%
Pending less than 90 days	350	12.8%	723	21.8%
Pending after 90 days	280	10.3%	163	4.9%
Other		0.5%		2.7%

FINDINGS:

- F1. The Code Compliance caseload has increased in recent years, but the number of cases pending after 90 days has decreased. Staff has been more effective in processing routine complaints.
- F2. Code Compliance lacks the resources to evaluate neighborhoods for the discovery of hazards. As a result, some threats to health or safety remain unabated.
- F3. There are a number of cases with an “open” status in the Code Compliance database that are more than five years old with no indication of what action may be taken to close-out these cases.
- F4. Code Compliance does not routinely use staff from other County Departments to assist with the ongoing monitoring of possible code violations, particularly outside of Metro Bakersfield.
- F5. Regulations in the Kern County Ordinance Code allow Code Compliance to cite property owners in increasing amounts for first, second and third violations of the same code, within a one year period. Once the abatement has been verified, Code Compliance does not return to properties to see if new violations are evident. They must receive a new complaint to initiate a new investigation.
- F6. It is difficult to find information about properties with defined parameters using the Code Compliance “Citizen Portal” website. For example, a search on Lamont, using “city/community” did not result in the list of the complaints for the agricultural properties outside Lamont. Those properties were found by searching “Bakersfield”.

- F7. There are two ways to access information on the “Citizen Portal” website. However, the directions are not clear as to the data available or the benefits of either method.
- F8. On the “Citizen Portal” website, there is a link titled, “How do I Appeal an Administrative Citation?” On that page there is a statement that “The Appeal Forms may be obtained”...“By clicking here”. Clicking on that phrase does not lead to a form. Similarly, the “City of Bakersfield Code Enforcement” link is no longer valid.
- F9. The “Vacant/Abandoned Residential Property Registration Form” is on the website, but there is no indication of the purpose of the form and who should fill it out. The current form contains the name of a staff person who is retired.

RECOMMENDATIONS:

- R1. In addition to administering applicable codes through complaints, Code Compliance should routinely seek to identify health and safety hazards in areas for which many complaints are received:
- The focus should be on areas the size of a block or two in a neighborhood as well as on larger areas where there are frequent or ongoing code violations.
 - Additional staff may be required. General Fund monies and funds received from fines should be used.
- (Findings 2 and 5)
- R2. Unresolved complaints received months or years ago for which there is no ongoing activity should be examined quarterly for further action and/or closeout. (Findings 3 and 5)
- R3. Directions and updates on how to use the “Citizen Portal” website should include explanations for terms, links and forms. (Findings 6, 7, 8 and 9)
- R4. Code Compliance should concentrate on improving neighborhoods:
- Work with residents and local community service groups
 - Organize community yard and alley cleanup days
 - Schedule inspections in identified problem areas
 - Coordinate the pick-up of debris and major items that are abandoned
- (Finding 2)
- R5. Code Compliance should develop a process to effectively coordinate with other County Departments to utilize staff to help monitor possible code violations, particularly outside of Metro Bakersfield. (Finding 4)

NOTES:

- The Kern County Board of Supervisors and the Kern County Public Works Department should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.co.kern.ca.us/grandjury.
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.co.kern.ca.us/grandjury.

RESPONSE REQUIRED WITHIN 90 DAYS

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**

Kern County Board of Supervisors
Response to Grand Jury Final Report
Kern County Code Compliance

Response to Findings:

The Board of Supervisors notes that the Grand Jury's findings are substantially correct.

Response to Recommendation:

R1: *In addition to administering applicable codes through complaints, Code Compliance should routinely seek to identify health and safety hazards in areas for which many complaints are received:*

- *The focus should be on areas the size of a block or two in a neighborhood as well as on larger areas where there are frequent or ongoing code violations.*
- *Additional staff may be required. General Fund monies and funds received from fines should be used.*

We concur a proactive approach has benefits. However, current staffing levels are only adequate to respond to complaints, whereas a proactive approach would take significant additional resources that are not available. Services must be provided throughout the entire County to prevent a negative perception of selective neighborhood enforcement. The lighter Code "Compliance" rather than Code "Enforcement" approach is complaint-driven allowing the residents to drive their neighborhood standards. What may be acceptable in certain parts of the County, particularly rural areas, may not be acceptable for other neighborhoods types, and vice versa. The County will continue to assess and utilize available resources to provide the best quality of services throughout the County.

R2: *Unresolved complaints received months or years ago for which there is no ongoing activity should be examined quarterly for further action and/or close out.*

We concur with the Grand Jury's recommendation to close cases as soon as possible. Many old cases identified involved anticipated recurring violations, such as seasonal weeds or an occasional inoperable vehicle. Code Compliance will develop a process to either close or include updated case notes if open.

R3: *Directions and updates on how to use the "Citizen Portal" website should include explanations for terms, links and forms.*

We concur with the Grand Jury's recommendation to make the Citizen Portal more user-friendly by keeping forms current and providing instructions. Although it is a vendor-built module with limited opportunity to customize, Code Compliance has identified and is working on improved modifications.

R4: *Code Compliance should concentrate on improving neighborhoods:*

- *Work with residents and local community service groups*
- *Organize community yard and alley cleanup days*
- *Schedule inspections in identified problem areas*
- *Coordinate the pick-up of debris and major items that are abandoned*

We concur with the Grand Jury's recommendation to work with local groups for community clean-ups. The division has a Program Manager responsible for working with community groups and Public Works performs well-noticed alley and neighborhood clean-up events.

R5: Code Compliance should develop a process to effectively coordinate with other County Departments to utilize staff to help monitor possible code violations, particularly outside of Metro Bakersfield.

We concur with the Grand Jury's recommendation to utilize other available resources effectively. Although some situations are best left to trained Code Compliance Officers that understand limitations, legal requirements, due-process, and knowledge of progress made, occasionally other County staff such as building inspectors can be utilized to assist.

KERN COUNTY WASTE MANAGEMENT

PURPOSE OF INQUIRY:

The 2016-2017 Kern County Grand Jury (Grand Jury), investigated whether Kern County (County) is meeting the mandates of California State laws regarding the reduction of landfill volume. Pursuant to California Penal Code §925, the Grand Jury has the authority to investigate the operation and function of county departments.

PROCESS:

Kern County Waste Management (Waste Management) is part of the Operations & Maintenance Division of the Kern County Public Works Department (Public Works). Members of the Grand Jury interviewed the Assistant Director of Public Works, who oversees Waste Management, and spoke to other staff. Interviews were also conducted at the office of the County of Kern Department of Agriculture and Measurement Standards (Measurement Standards). Grand Jurors reviewed Waste Management documentation and their website, and visited the Shafter-Wasco Landfill and the Metro Kern County Special Waste Facility. Kern County Auditor-Controller-County Clerk staff provided related documentation. State laws and regulations governing landfills and scales were also reviewed.

BACKGROUND:

In the 1980s, California State legislators recognized that State waste volumes were increasing, while remaining landfill capacity was decreasing. In response, a series of laws were enacted, including:

- In 1989, AB 939 mandated that city and county jurisdictions meet waste diversion requirements of 25% by 1995, and 50% by the year 2000.
- Over the next twenty years, additional laws were enacted to increase recycling by decreasing certain types of residential and commercial waste going into the landfills.
- In 2008, SB 1016 required a change in landfill diversion rate calculations, from an estimated diversion percent to the number of pounds of waste per person per day.
- In 2011, AB 341 set the goal that by 2020, 75% of solid waste generated be source reduced, recycled, or composted. It also required businesses and multi-family residential dwellings to recycle.

In accordance with SB 1016, the California Department of Resources Recycling and Recovery (CalRecycle) sets an annual goal for each jurisdiction expressed in pounds of waste disposed of per person per day. For unincorporated areas of Kern County, the following measures represent the County's progress in meeting State goals:

- For 2015, CalRecycle's target for unincorporated areas of the County, was a maximum of 7.6 pounds per person per day. The actual result as reported to CalRecycle, was under the target at 5.6 pounds per person per day.
- Waste Management staff estimates that the unincorporated areas of the County have reduced, recycled, or composted about 60% of solid waste toward the AB 341 goal of 75% by 2020.
- Based on 2015 estimates of current and future disposal amounts, the County reported that landfill capacity was 33 years, exceeding the State's guideline of 15 years.

Calculating the pounds of waste per person per day involves many components. Some of the factors involved in this complex calculation are as follows:

- Waste, carried by large trucks and franchise haulers, is weighed at the landfill. Construction, demolition, and landscaping material, delivered in pickups, is also weighed.
- Residential waste in pickups or small trailers is not weighed. Waste Management does a quarterly survey of these loads at each landfill to calculate the average weights based on the volume and type of materials. Gate attendants use the average weights from the survey, to record each load instead of weighing each vehicle.
- Some materials are weighed when sold or transferred to a third party.
- Some of the useable products brought to the special waste facilities, such as latex paint, insecticides, and fertilizers, are made available to the public at no charge.
- Cities are the County's biggest landfill customers. The weight of waste collected from cities, brought to the County landfills, has to be reported back to each city for the city's report to CalRecycle. This is done by designating certain franchise hauler loads as coming from a particular city, or by zip code for individuals.
- In the County, there are over 100 private collection facilities, which recycle and redeem CRV (California Redemption Value) bottles and cans. Items from these facilities are not credited to the County or cities in the CalRecycle Reports.

Truck scales, at the landfills and transfer stations, play an essential part in the calculation of pounds of waste per person per day. Six of the seven County Landfills have at least one set of truck scales.

Measurement Standards does not have jurisdiction to test or certify scales at County-owned landfills. A 1978 State Attorney General Opinion interpreted sections of the State Business and Professions Code to mean that government-owned scales at landfills were not subject to oversight. Measurement Standards does check the scales at the Special Waste Facilities, which are registered with the County.

Waste Management has an agreement (purchase order) with a vendor to check the calibration of the six locations with truck scales *quarterly*. In addition, the County has a purchase order with the same vendor to check the smaller scales at the three County special waste facilities. Under these purchase orders, the vendor agrees to:

- Inspect and test each scale for an agreed price per location quarterly
- Repair scales as needed, based on agreed hourly rates, mileage, and parts (plus mark-up)
- Maintain scales for tolerance
- Furnish inspection certificates
- Furnish test weights
- Furnish a written report on the condition of each scale

The following table summarizes vendor activity based on claims submitted:

Vendor Visits to Landfills and Waste Facilities by Quarter, 2015-2017									
Facility	Number of Scales	2015			2016				2017
		2nd	3rd	4th	1st	2nd	3rd	4th	1st
Truck Scale Locations									
Bena Landfill	4	5/14/15					8/9/16	12/20/16	
Shafter-Wasco Landfill	2	5/7/15	8/27/15	12/2/15		5/16/16	8/9/16		2/1/17
Ridgecrest Landfill	1	5/28/15				5/19/16	8/18/16		3/13/17
Taft Landfill	1	5/25/15							
Mojave Landfill	1					5/25/16			
Kern Valley Transfer Station	1						8/18/16		
Small Scale Locations									
Metro Kern County Special Waste Facility, Bakersfield	1		9/9/15						3/10/17
Special Waste Facility, Mojave	1								
Special Waste Facility, Ridgecrest	1		9/17/15						

FINDINGS:

- F1. The County has successfully achieved and maintained the mandatory waste diversion goals established by AB 939, and is making progress toward meeting the year 2020 goal for AB 341.
- F2. There are numerous irregularities in both the vendor agreements and their administration, for calibration and maintenance of the landfill and transfer station scales, such as:
- Purchase orders #1778213 and #1670847, specify “Quarterly Maintenance of Landfill Platform Scales,” but actual claims submitted, as shown in the table above, indicate that:
 - No scales were checked four times a year
 - Three sites were only checked once during the past two years.
 - Purchase order #1778213 specifies the quarterly cost for maintenance visits to each site, however:
 - Vendor invoice #8077, for a quarterly visit to the Shafter Landfill on 2/1/17, charged \$333.34 instead of \$231.00 per the purchase order.
 - Vendor invoice #8110 for a repair visit to the same site (Shafter Landfill) the next day, charged another \$333.34, instead of

itemizing hours and mileage separately as the purchase order specifies for repair visits.

- The vendor inspected and tested scales at four locations before the purchase order for 2016/2017 was approved.

F3. Measurement Standards checks the scales at the three special waste facilities annually. Waste Management has a vendor purchase order, #1777877, for the calibration and maintenance of the same three scales, but the frequency of visits is not clear. The vendor tested the scale at the Metro Bakersfield Special Waste Facility on 3/10/17 and found it to be within tolerance. Five days later Measurement Standards found this scale to be out of tolerance.

RECOMMENDATIONS:

Kern County Public Works Department, Waste Management should take the following actions:

- R1. Review the purchase orders and amend them as needed to ensure that the specifications describe the work required for scale testing and maintenance. (Finding 2)
- R2. Require the vendor to submit a schedule of planned landfill inspections. (Finding 2)
- R3. Assure all work specified in the purchase orders is completed. (Finding 2)
- R4. Require invoices to be itemized to show labor, parts and mileage for all repair and maintenance. (Finding 2)
- R5. Compare each invoice to the purchase order requirements, and if there are discrepancies, withhold payment until the vendor submits an accurate and detailed invoice. (Finding 2)
- R6. Meet with the County of Kern Department of Agriculture and Measurement Standards to determine which County scales, if any, should be tested annually by Measurement Standards. (Finding 3)

NOTES:

- The Kern County Public Works Department and the County of Kern Department of Agriculture and Measurement Standards should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.co.kern.ca.us/grandjury.
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RESPONSE REQUIRED WITHIN 90 DAYS

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BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**

Kern County Board of Supervisors
Response to Grand Jury Final Report
Kern County Waste Management

Response to Findings:

The Board of Supervisors notes that the Grand Jury's findings are substantially correct.

Response to Recommendation:

R1: *Review the purchase orders and amend them as needed to ensure that the specifications describe the work required for scale testing and maintenance.*

We concur with the Grand Jury's recommendation.

R2: *Require the vendor to submit a schedule of planned landfill inspections.*

We concur with the Grand Jury's recommendation.

R3: *Assure all work specified in the purchase orders is completed.*

We concur with the Grand Jury's recommendation.

R4: *Require invoices to be itemized to show labor, parts and mileage for all repair and maintenance.*

We concur with the Grand Jury's recommendation.

R5: *Compare each invoice to the purchase order requirements, and if there are discrepancies, withhold payment until the vendor submits an accurate and detailed invoice.*

We concur with the Grand Jury's recommendation. The Department will specifically train staff on proper procedures to review and approve vendor invoices for services rendered.

R6: *Meet with the County of Kern Department of Agriculture and Measurement Standards to determine which County scales, if any, should be tested annually by Measurement Standards.*

We concur with the Grand Jury's recommendation. The Department will explore opportunities to streamline the certification and calibration of County scales servicing the public and develop and implement best practices with the advice of the Department of Agriculture and Measurement Standards.

THE CALIENTE CREEK WATERSHED: ENFORCE ORDINANCES TO LIMIT FLOODING

SUMMARY:

A June 2000 study by Kern County Engineering and Survey Services states: *“Within the Kern Lake Bed Drainage Basin, Caliente Creek poses the greatest threat to public health and safety and causes the most frequent, large scale damages.”*

The continuous unrestricted building of levees by agricultural property owners along roads in the natural floodplain of Caliente Creek (Creek), has resulted in flood waters and sediment being diverted onto Kern County (County) roads and into Lamont, a community with a population of approximately 15,000 people.

In the winter of 2015, as shown in the photo on the left below, modest rainfall caused the roads around Lamont to be flooded. Several roads flooded again in January 2017.



Panama Road – December 2015



Same section of Panama Road – December 2016

Kern County Code Compliance (Code Compliance) received complaints (Complaints), directed at owners of agricultural property in the floodplain where Lamont is located. According to the Complaints, levees have been constructed along County roadways without permits. Upon inspection of the properties, Code Compliance determined there were violations. These Complaints remain open.

The Kern County Board of Supervisors (Board of Supervisors) should direct County Staff to work with the property owners mentioned in the Complaints to bring the levees on their properties into compliance. The Board of Supervisors should also pursue longer term solutions to regional flooding.

PURPOSE OF INQUIRY:

The 2016-2017 Kern County Grand Jury (Grand Jury) received a Complaint alleging the lack of enforcement of certain County Ordinances. The Grand Jury Complaint states that this inaction has allowed the proliferation of levees leading to more frequent and destructive flooding of the community of Lamont. Under California Penal Code §925, the Grand Jury has the authority to investigate the operation and function of County Departments.

PROCESS:

The Grand Jury interviewed complaining parties, staff from Kern County Public Works (Public Works), a Member of the Board of Supervisors, and staff of various County Departments. The Grand Jury reviewed pertinent documents such as letters, past studies, records available through the Code Compliance “Citizen Portal” website and Supervisor records. A tour of the areas where floods have occurred and levees have been built was conducted.

GLOSSARY:

The following terms are used within this report:

Watershed: a region or area of land bounded by a divide and draining ultimately to a particular watercourse or body of water

Floodplain: an area of low lying ground formed mainly of river sediments and subject to flooding

Levee: an embankment for preventing flooding, or a continuous dike or ridge, composed of earth and other materials

Sump: a constructed basin where water is directed for retention

BACKGROUND AND FACTS:

Caliente Creek originates in a 142 square mile watershed located in the mountains forming the eastern side of the Southern San Joaquin Valley. It emerges from that watershed in a confined channel traveling southwest. Historically, the waters flowed into a broad floodplain and deposited silt and sand. Over time, the course of flowing water was naturally diverted as sediment built up.

Before the land was developed, areas inundated by waters from the Creek were flooded without significant consequence. During the 1932 Flood, and prior to extensive improvements, the flow from the Creek fanned out along the eastern side of the floodplain in a southerly direction through and around Arvin, a community located south east of Lamont, and to a lesser degree, in a westerly path toward Lamont.

As early as 1935, with the construction of the Tamarisk Dam (also known as the Tamarisk Tree Line), efforts were made to divert floodwaters in order to protect farmland and structures. As development progressed, more and more levees were built. By the time of the 1983 Flood, only a small portion of the flow proceeded along the eastern side of the floodplain toward Arvin. The largest portion of the flow went through and around Lamont.

Over time, levee construction has allowed County roads to become rivers, carrying the flood waters and sediment to downstream properties, and ultimately into the community of Lamont to the west. Flooded roads become impassable to traffic, impeding the ability of residents to move freely or evacuate. Ultimately, it is the responsibility of the County to clear and repair the roads after floods. Unless there is a declared emergency, the County bears the financial responsibility for these repairs.

Multiple solutions to the flooding by the Creek have been investigated. The U.S. Army Corps of Engineers and the Kern County Coordinated Resource Management and Planning Group each studied the flooding in and around Lamont. Most proposals from these studies were found to be too costly in relation to possible benefits. A flood warning system, maintained by the County, was put in place for early notification of flood conditions. The County built a system of basins, sumps and channels to divert water away from the roads and the community of Lamont.

The County formed the Lamont Storm Water District (LSWD) in 1984, with the mission *“to undertake improvements to protect the land in said district from damage from storm water and from waters of any unnavigable stream, canyon or wash.”* Using property tax revenue in 1988, LSWD funded a U.S. Army Corps of Engineers study. LSWD also owns and operates a sand bagging machine to provide residents with bags to protect their properties during floods.

Public Works includes the Code Compliance Division and Flood/Drainage/Grading Division (Floodplain Management), among others. These divisions are responsible for floodplain management and related ordinances. Code Compliance processes formal

complaints and referrals from other County Departments. Floodplain Management reviews permit applications for proposed construction in the floodplain to ensure compliance with applicable codes.

Between January 2014 and January 2016, Code Compliance received nine Complaints, directed at six agricultural properties near Lamont. One Complaint was filed in 2014, one Complaint at the end of 2015 and seven Complaints in January 2016. According to the Complaints, levees have been constructed along County roadways without permits. The Complaints allege that the existence of these levees have caused and will continue to cause flood waters from the Creek to be unnaturally diverted down County roads and into the Lamont community. Specifically, the Complaints allege violations of Kern County Ordinances which are excerpted in Appendix A.

Records available through the Code Compliance “Citizen Portal” website, indicate the following steps were taken in response to the Complaints:

The 2014 Complaint:

- On January 24, 2014, the location was inspected and violations were verified.
- Four different letters were sent in the next two months to the property owner.
- Citations were issued on February 27, 2014, and March 22, 2014.
- No further action was recorded after March 22, 2014; the current case status is “open”.

The 2015-2016 Complaints:

- Courtesy letters were mailed to the property owners. The letter explained that a complaint had been received and asked the property owner to respond within 14 days. The letter further stated that without a response, an inspection would be conducted on the property to determine if further investigation would be warranted. (See Appendix B as an example)
- On January 13, 2016, Code Compliance inspected the properties in question.
- One cited property owner met with Code Compliance staff on January 16, 2016. With the understanding that there is a violation, the owner was given a 45 day extension to March 18, 2016, to apply for a permit. There are no notes in the records to indicate that any action was taken to achieve compliance through a permit, or that the complaint had been dismissed.

The Board of Supervisors hired AECOM Technical Services, Inc. (AECOM) in June 2016, to examine two of the June 2000 recommendations made by the Kern County Coordinated Resource Management and Planning Group. These projects are the Caliente Creek Habitat Mitigation Project, which would mitigate sediment flow downstream, and the Caliente Creek Ground Water Recharge Project which would lessen the volume of water flowing into the floodplain. The AECOM contract stipulates that a final report would be completed in early 2017.

FINDINGS:

- F1. The property owners in the areas subject to flooding from Caliente Creek may not be informed of County Ordinances that apply to construction in the floodplain, including construction of levees.
- F2. The Grading Ordinance states that among the exemptions to requiring a permit for grading, is one for agricultural activities and other similar operations necessary to prepare a field for crop production. However, the Ordinance specifically states that no exemption gives authority for grading which *“modifies or obstructs a natural drainage course without a grading permit”*.
- F3. Code Compliance cannot easily identify levees that are newly built or prior permitted levees that have been enhanced beyond what was originally approved. As a result, property owners are not notified of possible ordinance violations.
- F4. Property owners in the areas subject to flooding have built or enhanced levees to protect their farmland and structures from flood water and sediment. These levees are not in compliance with Grading, Flood Plain Management and Public Nuisance Ordinances. Over time, these levees have channelized Caliente Creek. The photo on the left below shows where Caliente Creek flows onto Malaga Road. The levee visible on the far side of the road forces the flood water to divert north and south on the roadway.



Malaga Road



Panama Road

- F5. County roads in the areas of flooding are in poor condition, as shown in the photo above on the right.
- F6. In the absence of a complaint, Code Compliance procedures do not provide for the identification of conditions that may be a violation of applicable ordinances. In the case of an imminent threat to health or safety, staff will cite a property owner in the absence of a complaint.

- F7. Code Compliance has not closed the nine Complaints submitted between January 2014 and January 2016, and has not followed their procedures to enforce sections of the applicable ordinances that would require compliance.
- F8. The nine Complaints are still open; however, a complainant has been advised by County staff that no further action would be taken.
- F9. Public Works staff stated that one or more property owners had obtained legal advice regarding the violations.
- F10. The Kern County Public Works Department may take steps in an emergency to remove levees or otherwise divert flood waters in the event of serious flooding. The photo below shows a recent example of a temporary berm created across Malaga Road to redirect flood water. This type of emergency action could reduce flood water damage to some properties but could also result in liability to the County and additional clean-up expenses.



- F11. Implementation of the Caliente Creek Habitat Mitigation Project and the Caliente Creek Ground Water Recharge Project could mitigate some of the flooding from the Caliente Creek Watershed.
- F12. The Lamont Storm Water District has funds for operating expenses, but no source for project funding.

RECOMMENDATIONS:

- R1. Floodplain Management should notify all property owners in the Caliente Creek floodplain of the County Ordinances that apply to the grading of soil and diversion of water. (Finding 1)

- R2. Using County General Fund monies, Floodplain Management should develop and implement a process to document the unpermitted construction and enhancement of levees as follows:
- Use photography, videotaping, or a “Google-like” street level recording system to create a baseline visual database to document levees in the Caliente Creek floodplain.
 - Annually, create a new database using the same methodology.
 - Compare consecutive annual databases to identify properties where unpermitted levees have been built or enhanced during the year.
 - Notify and provide documentation to Code Compliance about possible code violations.
- (Findings 3 and 6)
- R3. Code Compliance should send a Courtesy Letter to property owners with new violations, and follow-up until each violation is corrected. (Finding 3)
- R4. The Board of Supervisors should require enforcement of all County Ordinances as they apply to the Caliente Creek floodplain.
(Findings 7 and 8)
- R5. Code Compliance should continue to process the nine Complaints per their policies and procedures. (Findings 2, 4, 7 and 8)
- R6. Public Works should hold public meetings to make the AECOM final report available for comment by the Lamont Storm Water District Board, community residents and property owners in the Caliente Creek floodplain. (Finding 11)
- R7. If projects are recommended by the AECOM final report, the County should pursue funds from California Proposition 1, “*The Water Quality, Supply, and Infrastructure Improvement Act of 2014*”, and other funds for implementation of the recommendations. (Findings 11 and 12)
- R8. The Board of Supervisors and the Lamont Storm Water District Board should consider forming a joint powers authority that may:
- Include an elected board representing local property owners and residents
 - Increase communication and problem solving
 - Facilitate project funding
- (Findings 1, 11, and 12)
- R9. The Board of Supervisors should adopt a plan of action for times of flood emergency to mitigate potential damage to property, including County roads, as well as private properties. The plan should designate the County department and position that would have the authority to act. The plan should be communicated to all stakeholders. (Finding 10)

NOTES:

- The Kern County Board of Supervisors and the Kern County Public Works Department should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.co.kern.ca.us/grandjury.
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.co.kern.ca.us/grandjury.

RESPONSE REQUIRED WITHIN 90 DAYS

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**

APPENDICES:

APPENDIX A: County of Kern, Excerpts of Ordinance Codes

- **17.48.140, 17.48.180 - Flood Plain Management Ordinance:** A development permit is required before any construction begins within any special area of flood hazards. A description is needed of the extent to which any watercourse will be altered or relocated as a result of the proposed construction.
- **17.28.040 - Grading Ordinance:** No person shall do any grading without first obtaining a permit. Levee construction in excess of 50 cubic yards on one site, which exceeds the depth and slope requirements outlined, is prohibited. One exemption to the Code is as follows: *“Accepted agricultural activities, including routine mowing, plowing, ditching, harrowing, disking, ridging, leveling, and other similar operations necessary to prepare a field or crop for production”*. However, the Code also states that *“Exemption from the permit requirements of this chapter shall not be deemed to grant authorization for any grading which modifies or obstructs a natural drainage course without a grading permit.”*
- **8.44.030, 8.44.050 Public Nuisance Ordinance and by reference, California Penal Code Part 1, Title 10, §370** – A nuisance is any condition of property which is injurious to health, safety and welfare of the public. This includes among other things, anything which unlawfully obstructs the passage or use, in the customary manner, of a highway.

APPENDIX B: Code Compliance Courtesy Letter

KERN COUNTY
CODE COMPLIANCE DIVISION
PUBLIC WORKS DEPARTMENT
CRAIG M. POPE, P.E., DIRECTOR
ADMINISTRATION & ACCOUNTING
OPERATIONS & MAINTENANCE
BUILDING & DEVELOPMENT
ENGINEERING



2700 "M" STREET
BAKERSFIELD, CA 93301-2370

Phone: (661) 862-8603
FAX: (661) 862-5149
TTY Relay: (800) 735-2929

KERN COUNTY CODE COMPLIANCE DIVISION

A Partnership to Promote Health and Safety and to Maintain Community Standards

DATE:
CASE ID:
APN:

SUBJECT: ALLEGED VIOLATION

CONTACT OFFICER IS:

This letter is being sent to you as a courtesy. Records maintained by the Kern County Assessor's Office indicate that you are the current owner of the property identified above, and/or it has been determined that you are the responsible party.

The Kern County Code Compliance Division has received a complaint alleging that violations of the Kern County Ordinance Code may exist at the identified address. Alleged violations include:

See Exhibit A

If you believe these allegations are false, or if the condition causing the violation has been corrected, please complete the attached Sworn Statement. If you have questions concerning this matter, contact the Officer upon receipt of this letter. **It is important that this office receives your Sworn Statement or that you call the investigator within fourteen (14) calendar days from the date in the top right corner of this letter.** If you do not contact this office within fourteen calendar days to clear the allegation, or if a time extension is not granted, an investigator will inspect the property to determine if further investigation is warranted. **If an investigation confirms that a violation exists, you will be charged investigation fees.**

Appointments with the Officer must be made in advance. Please contact the Officer for an appointment.

We find in many instances that property owners and/or proprietors either don't understand their responsibilities as such, or they simply are unaware of the current Kern County Ordinance Code regulations and/or any Zoning, Building or Housing laws. If it is determined that this complaint is valid and further involvement by the Code Compliance Division is necessary, we are available to meet with you to explain our investigation procedures and how you can comply with the laws. An extension of time may be granted upon request depending on the circumstances and the severity of the violation.

Within the allotted time stated on the front side of this notice you may request a meeting with the Building Official to present evidence that the violations described above do not exist. Or, in the case of a "Notice and Order" you may request an appeal with the Board of Supervisors providing this request is made in writing, and is received by this Department within the allotted time stated on the front side of this notice.

If the allegations are true, and the subject property is in violation of the Kern County Ordinance Code you will need to bring your property into compliance within the allotted time stated on the front cover of this notice and notify this office so that we can verify this. This will allow us to close out this case without any fines or penalties being assessed.

RECOVERY OF COSTS

It is the intent of the County to recover all costs incurred for the administrative time associated with this enforcement action, including but not limited to investigation time, site inspection and monitoring, reports, telephone contacts, correspondence, photography labs, consultants, and meetings with effected parties. Pursuant to provisions set forth by a Kern County Ordinance Code, you will receive a summary of administrative costs associated with the processing of this enforcement case at an hourly rate in effect at the time this case was initiated. All costs incurred with the investigation process will be billed to you and you are responsible for them. If you object to these charges, you may file a request for a hearing within the allotted time stated on the front of this notice.

FAILURE TO ABATE VIOLATION

If you fail to take adequate steps to abate the violations within the time allotted to you, the County may abate the violations indicated on this notice and bill you for those costs. To recover the costs, the County may record a lien against your property or place a special assessment on the tax bill to recover the costs incurred by the County.

NOTICE OF INTENT TO RECORD A NOTICE OF VIOLATION

Pursuant to the provision of the Kern County Ordinance Code, if after the property described above has been inspected and it is determined to be in violation of the Kern County Ordinance Code and you are not taking adequate steps to abate the nuisance, a "Declaration of Substandard Property" will be recorded with the Kern County Recorder's Office, basically clouding the title of the subject property. This will prohibit the sale or refinancing of the subject property until such time as the property has been brought into compliance and all incurred costs have been reimbursed.

ADMINISTRATIVE PENALTY

In addition, pursuant to the provision of the Kern County Ordinance Code, if the violations are not corrected within the allotted time stated on this notice, you will be subject to an Administrative Penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for the first violation, Five Hundred Dollars (\$500.00) for the second violation, and One Thousand Dollars (\$1,000.00) for the third and subsequent violations of this Code which occur upon the same property.

Illegal Dumping Penalties will be assessed at Two Hundred, Fifty Dollars (\$250.00) per day.

A "SWORN STATEMENT OF EVIDENCE" has been provided with this notice. If you feel these allegations are false, or if you have corrected the violations stated in this letter, simply check the appropriate box which pertains to your case, date and sign this document and return it to the Code Compliance Division within the allotted time stated on the front side of this letter.

We would like to thank you in advance for your cooperation in this matter. Please contact us if we can be of any further assistance.

KERN COUNTY
CODE COMPLIANCE DIVISION
PUBLIC WORKS DEPARTMENT
CRAIG M. POPE, P.E., DIRECTOR
ADMINISTRATION & ACCOUNTING
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KERN COUNTY CODE COMPLIANCE DIVISION

A Partnership to Promote Health and Safety and to Maintain Community Standards

DATE:
CASE ID:
APN:

SUBJECT: VIOLATION

SWORN STATEMENT OF EVIDENCE

PLEASE CHECK THE APPROPRIATE BOX WHICH PERTAINS TO YOUR CASE;
DATE AND SIGN THIS DOCUMENT AND RETURN IT TO THE KERN COUNTY
CODE COMPLIANCE DIVISION WITHIN THE ALLOTTED TIME STATED ON THIS
NOTICE.

- The alleged violation(s) noted in the attached letter is/are not true. The reasons listed on the reverse side support my claim. (You may attach additional pages and supporting documentation, if any.)
- Property has been vacated and all structures secured.
- All violations as noted on the attached letter have been corrected.

(Be advised, the above statements will be verified)

**I CERTIFY THAT THE AFORMENTIONED FACTS AND ATTACHMENTS, IF ANY,
ARE TRUE AND CORRECT UNDER PENALTY OF PERJURY.**

(Not valid if not signed and dated.)

SIGNED THIS _____ DAY OF _____, 20____, AT _____
(date) (month) (year) (city and state)

(daytime phone number)

(signature)

Kern County Board of Supervisors
Response to Grand Jury Final Report
The Caliente Creek Watershed

Response to Findings:

The Board of Supervisors notes that the Grand Jury's findings are substantially correct with minor clarification to Finding 7 and 8. There are only eight open cases. Two of the unpermitted berms involve more than one parcel, and a separate case is open for each parcel. The eight open cases essentially involve four unpermitted berms. The department was not aware of any County staff communicating that no further action would be taken on the open cases. The department does not support that statement and will continue working towards a solution to abate the violations with minimal negative impacts.

Response to Recommendation:

R1: *Floodplain Management should notify all property owners in the Caliente Creek floodplain of the County Ordinances that apply to the grading of soil and diversion of water.*

We concur with the Grand Jury's recommendation to increase public awareness. There are approximately 500,000 acres of floodplain in Kern County, including over 35,000 residents in the Caliente Creek floodplain alone, therefore all ordinances are available to the public on the County's website since it is not practical to individually notify all property owners.

R2: *Using County General Fund monies, Floodplain Management should develop and implement a process to document the unpermitted construction and enhancement of levees as follows:*

- *Use photography, videotaping, or a "Google-like" street level recording system to create a baseline visual database to document levees in the Caliente Creek Floodplain.*
- *Annually, create a new database using the same methodology.*
- *Compare consecutive annual databases to identify properties where unpermitted levees have been built or enhanced during the year.*
- *Notify and provide documentation to Code Compliance about possible code violations.*

We do not concur with the Grand Jury's recommendation. Cost-prohibitive equipment and staffing to use a "Google-like street level recording system" will not adequately identify potential violations. Many areas including the Caliente Creek channel are not adjacent to a public road. For that level of detail, the entire floodplain would need to be topographically surveyed, and the only method attempting to identify alterations is through very expensive detailed aerial photographs/surveys for staff to perform very time-consuming comparisons of subsequent surveys.

R3: *Code Compliance should send a Courtesy Letter to property owners with new violations, and follow-up until each violation is corrected.*

We concur with the Grand Jury's recommendation to process each new violation and follow-up until corrected.

R4: *The Board of Supervisors should require enforcement of all County Ordinances as they apply to the Caliente Creek Floodplain.*

Violations within this floodplain have occurred for decades. Most recent violations are “downstream” of the existing violations as those property owners are now trying to protect their properties and investments. A clear understanding of the potential ramifications of forcing a property owner to remove a berm that is protecting their property from floodwater diverted by upstream property owners and consequently impacting the downstream properties is needed before a decision and clear direction is provided for staff to pursue. Also, consideration must be given to legal challenges as well as County costs to abate the violation if the owner refuses to abate the violation on their own.

R5: Code Compliance should continue to process the nine Complaints per their policies and procedures.

We concur with the Grand Jury’s recommendation to continue processing the complaints until acceptable solutions are achieved. Public Works staff met with farmers and a water district in the area and are working towards a solution that will not adversely affect the involved parties.

R6: Public Works should hold public meetings to make the AECOM final report available for comment by the Lamont Storm Water District Board, community residents and property owners in the Caliente Creek floodplain.

We concur with the Grand Jury’s recommendation to conduct public meeting(s) after the AECOM’s report is completed.

R7: If projects are recommended by the AECOM final report, the County should pursue funds from California Proposition 1, “The Water Quality, Supply, and Infrastructure Improvement Act of 2014”, and other funds for implementation of the recommendations.

We concur with the Grand Jury’s recommendation to pursue appropriate funding sources if feasible projects are identified. Conceptual projects that appear feasible from AECOM’s report will require compliance with CEQA, most likely a full Environmental Impact Report, to reveal environmental and fiscal impacts and must be approved by the Board of Supervisors.

R8: The Board of Supervisors and the Lamont Storm Water District Board should consider forming a joint powers authority that may:

- *Include an elected board representing local property owners and residents*
- *Increase communication and problem solving*
- *Facilitate project funding*

We concur to work with the Lamont Storm Water District. However, further consideration is needed to determine if forming a joint powers authority would be beneficial for the County.

R9: The Board of Supervisors should adopt a plan of action for times of flood emergency to mitigate potential damage to property, including County roads, as well as private properties. The plan should designate the County department and position that would have the authority to act. The plan should be communicated to all stakeholders.

We concur with the Grand Jury’s recommendation. The County has adopted an Emergency Response Plan that includes flooding and identifies various departments’ responsibilities.