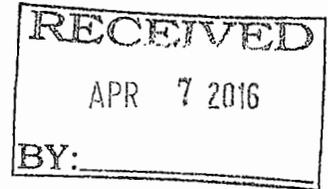




State of California • Natural Resources Agency  
Department of Conservation  
**Division of Land Resource Protection**  
801 K Street • MS 14-15  
Sacramento, CA 95814  
(916) 324-0850 • FAX (916) 327-3430

Edmund G. Brown Jr., *Governor*  
John M. Lowrie, *Assistant Director*



April 5, 2016

**VIA EMAIL: MEMOREAU@ATT.NET**

Ms. Mary Moreau  
PO Box 296  
Sierraville, CA 96126

Dear Ms. Moreau:

**APPROPRIATE METHOD FOR A COUNTY TO REMOVE LAND FROM A LAND CONSERVATION (WILLIAMSON) ACT CONTRACT**

Thank you for contacting the Department of Conservation (Department) regarding the appropriate method for a county to remove land from a Land Conservation (Williamson) Act contract. You stated in your letter dated March 10, 2016, that in 2004 you purchased a small ranch (APN's 013-110-094-0 and 015-010-005-0) consisting of 51.04-acres in Sierra County (County) that was under Williamson Act Contract No. 78-65. After your purchase, the Assessor at the time (Mr. Copren), immediately canceled your Williamson Act tax benefits while your land remained under contract. When you asked the County why the benefits had been removed, they sent a letter stating that "the minimum acreage requirement for Williamson Act contract is 80-acres for field crops or irrigated pasture."<sup>1</sup> You state that the County never sent any type of notification, other than the letter, that would indicate that a notice of nonrenewal had been recorded for your property, which would have allowed the tax benefits to steadily increase over a period of nine years.<sup>2</sup> Instead the tax benefits were unilaterally eliminated. Per multiple discussions with you regarding this issue, you stated that you originally accepted the letter from the County to be correct, and were given no other recourse from the County.<sup>3</sup>

In reviewing Sierra County Resolution No. 77-3, which allows the Board of Supervisors to approve smaller than average agricultural preserves, it appears that the letter the County sent you was incorrect. Sierra County Resolution No. 77-3 was incorporated into your contract, along with language that recognized the property as being only 51.04-acres in size.<sup>4</sup> You have stated in conversations with the Department that once you discovered the County was incorrect you started asking questions, which eventually led you to calling the Department for assistance in 2015.<sup>5</sup>

You also indicated in your letter that after several discussions with the current Assessor (Ms. Marshall), the County reinstated your full tax benefits for the 2015-2016 tax year, indicating that

<sup>1</sup> Donald Iverson, Appraiser, "Re: Assessor's Parcel Numbers 0131100940 & 0150100050", letter, November 11, 2004.

<sup>2</sup> Government Code Section 51245

<sup>3</sup> Comments made during various phone calls (July 2, 2015 – February 26, 2016) and during a meeting between Mary Moreau and Meri Meraz on March 4, 2016.

<sup>4</sup> Sierra County California Land Conservation Contract No. 78-65.

<sup>5</sup> Comments made ... (see footnote 3).

your contract was still active and that a notice of nonrenewal had never been served on your property. However, a period of eleven years had passed since the County's initial elimination of the Williamson Act tax benefits and the County had overcharged you \$28,410.26 in taxes.

A county has limited authority on removing land from contract without consent from the landowner. The first method available is through a notice of nonrenewal, which allows the taxes to increase over a period of nine years until they are equivalent to current tax rates and the contract terminates. The statute requirements for a Notice of Nonrenewal (Government Code section 51245) are as follows:

If either the landowner or the city or county desires in any year not to renew the contract, that party shall serve written notice of nonrenewal of the contract upon the other party in advance of the annual renewal date of the contract. Unless such written notice is served by the landowner at least 90 days prior to the renewal date or by the city or county at least 60 days prior to the renewal date, the contract shall be considered renewed as provided in Section 51244 or Section 51244.5.

Upon receipt by the owner of a notice from the county or city of nonrenewal, the owner may make a written protest of the notice of nonrenewal. The county or city may, at any time prior to the renewal date, withdraw the notice of nonrenewal. Upon request by the owner, the board or council may authorize the owner to serve a notice of nonrenewal on a portion of the land under a contract.

Within 30 days of the receipt of a notice of nonrenewal from a landowner, the service of a notice of nonrenewal upon a landowner, or the withdrawal of a notice of nonrenewal, the city or county shall deliver a copy of the notice or a notice of withdrawal of nonrenewal to the Director of Conservation.

No later than 20 days after a city or county receives a notice of nonrenewal from a landowner, serves a notice of nonrenewal upon a landowner, or withdraws a notice of nonrenewal, the clerk of the board or council, as the case may be, shall record with the county recorder a copy of the notice of nonrenewal or notice of withdrawal of nonrenewal.

The second method available is through the material breach procedures, which occur under very specific circumstances for commercial, industrial or residential building(s), exceeding 2,500 square feet that are not permissible under the Land Conservation Act, contract, local uniform rules or ordinances, and which were permitted or built after January 1, 2004. Termination of the contract is only one option. However, even under the material breach procedures a county must notify the landowner that such proceedings are to take place and hold a public hearing.<sup>6</sup> Based on the County's reasoning in their letter, this situation does not seem to apply.

Your letter also requested information on the public hearing requirements to remove land from contract. However, only a landowner may initiate cancellation of a land conservation contract, and the Department has no record of such a cancellation petition request from the County.<sup>7</sup>

<sup>6</sup> Government Code section 51250

<sup>7</sup> Government Code sections 51280 through 51287.

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To clarify, there is no provision in the Act which allows a county to remove a land conservation contract, or tax benefits from contracted land, without notifying the landowner through the nonrenewal process or through the material breach process outlined in the statute. Any other process used would be considered a circumvention of the statute and in violation of the Land Conservation Act.

Per your request, Government Code sections 51237.5 and 51284 are enclosed. If you have any questions concerning our comments please contact Meri Meraz, Associate Environmental Planner, at (916) 445-9411 or [mmeraz@conservation.ca.gov](mailto:mmeraz@conservation.ca.gov).

Sincerely,



Molly A Penberth, Manager  
Division of Land Resource Protection  
Conservation Support Unit

Enclosures: Government Code sections 51237.5 and 51284

cc: Laura Marshall, Sierra County Assessor  
Sierra County Board of Supervisors  
Sierra County Planning Department

**§ 51237.5. Filing annual map**

On or before the first day of September of each year, each city or county in which any agricultural preserve is located shall file with the Director of Conservation a map of each city or county and designate thereon all agricultural preserves in existence at the end of the preceding fiscal year.

**§ 51284. Public hearing; Notice and publication**

No contract may be canceled until after the city or county has given notice of, and has held, a public hearing on the matter. Notice of the hearing shall be published pursuant to Section 6061 and shall be mailed to every owner of land under contract, any portion of which is situated within one mile of the exterior boundary of the land upon which the contract is proposed to be canceled. In addition, at least 10 working days prior to the hearing, a notice of the hearing and a copy of the landowner's petition shall be mailed to the Director of Conservation. Within 30 days of the tentative cancellation of the contract, the city or county shall publish a notice of its decision, including the date, time, and place of the public hearing, a general explanation of the decision, the findings made pursuant to Section 51282, and a general description, in text or by diagram, of the land under contract, as a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the city or county. In addition, within 30 days of the tentative cancellation of the contract, the city or county shall deliver a copy of the published notice of the decision, as described above, to the Director of Conservation. The publication shall be for informational purposes only, and shall create no right, standing, or duty that would otherwise not exist with regard to the cancellation proceedings.