## Santa Cruz County Farm Bureau Monthly Publication

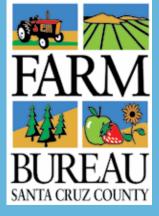
**MAY 2022 VOLUME 46, ISSUE 5** 

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### Calendar





# **OPINION**

### The Pajaro River Levee Reconstruction **Project Needs Your Support**

to Watsonville in the 1850s. Not long after they first arrived, they were introduced to one of our region's greatest threats to lives and livelihoods: flooding from the Pajaro River and its tributaries. Soon after arriving, my great-grandfather Stephano Martinelli, a farmer by trade, planted a wheat crop along the Pajaro River. Within a year, he lost his investment to a flood, so he went to work for his older brother Luigi, who was result in lost grocery shelf space that may

othmygreat-grandfathersimmigrated a 25-year flood event in the next 10 years. The Corps estimates a major flood on the Watsonville side would cause \$1 billion in damages. A flood of that magnitude would devastate our company by destroying our finished goods inventories, that cannot be replaced until the next apple harvest season. Damage to buildings and equipment could take over a year to rebuild, and the inability to supply product to the marketplace would

growing apples on what is now Martinelli Street. Although that twist of fate worked out for my family, many others were not so lucky. My grandfather Floyd Silliman farmed my mother's family ranch, between Riverside Road and the river, which flooded regularly over the first 100 years, rendering half the acreage unfarmable.

To prevent repeated flood events, the US Army Corps of Engineers built earthen levees

along the river and creeks in 1945, which are still in place and relatively unchanged today. ten short years later, people were rowing boats down Main Street following a levee failure caused by a 25-year storm on the Pajaro River and Corralitos Creek. Our Community has suffered seven significant flood events since 1955, with a very near miss on the eighth in 2017. The existing levees have proven time and again to be woefully inadequate, and are rated at among the lowest level of flood protection in the state and nation.



S. John Martinelli

never be regained. The resulting loss of our employees' homes and livelihood, multiplied across every employer in our downtown Community, would destroy our local economy for many years to come. Flood insurance simply cannot come close to covering the true cost of these damages, and when the project is completed, we will not be required to pay for flood insurance anymore.

Back in the day, my grandfather Silliman was a road builder, in addition to being a farmer. He and his farmer friends along the river, used massive bulldozers to clean out the river bottom every year, to maintain its designed flood water capacity. Even then, the flood control channel barely did its job. Today, we are no longer allowed to scrape the channel clean, due to environmental regulations and permitting. The growth of vegetation restricts the flow capacity, and rebuilding the levee system with increased width and height, is the only way to contain flood waters.

We have a 40 percent chance of suffering

#### **Continued on Page 6**

Community Foundation funds have been established for Susan Kim Am Rhein and Frank Prevedelli. Visit agri-culture-us for more details.

# President's Message



Arnett Young

# What Is Local?

farmers market and found myself in a discussion with several people on what it means to buy local, pertaining to agriculture. Although I always thought I understood the definition of what local agriculture meant, I was intrigued by the different thoughts on the subject. So, I thought I would explore and share some points discussed.

Once I got home from the market, I Googled the legal definition of "local agriculture" and was surprised to find that it did not exist. The USDA has no standard definition of what local agriculture is but a department in the USDA has a pseudo definition. The USDA's Rural Development Business and Industry considers food production within

400 miles or within the same state as a "locally or regionally produced agricultural food product". Another

his weekend I was at my local governmental agency, surprisingly the FDA, exempt some producers from labeling if selling directly to consumers within the same state or within 275 miles. In geographic terms, some may consider this very broad to be categorized as local.

> In the market conversation, some had considered that buying local simply meant purchasing product from sources as close to home as possible. This local definition could mean 1, 5, or 200 miles depending on the product. The general thought was to buy locally meant to keep the food chain to a minimum. Other terms of local agriculture discussed were locavore and hyper-local (they had to be explained to me). Locavore, a

> > What Is Local?- Continued on Page 5



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### **Pemphedron In Raspberries**

**Q** I've got some upper canes on my raspberries drying out, especially where we pruned earlier this year. When I open them up, I see galleries, some with what look like larvae in them. What is going on? Do I need to spray?

A. It is very likely that what you are dealing with is species of Sphecid wasp of the genus *Pemphedron*.

Evidence of Sphecid activity is just as you describe, with some raspberry canes drying out, especially the upper ones which have been pruned in the early part of the season. Beyond the hole in the top of the cane, Sphecid activity results in somewhat square galleries being formed in the pith of the affected cane (see photo below), and one can often see small, whitish larvae within these.

The adults of this wasp are small and a shiny black, and have all the distinguishing features of a wasp, including a narrow abdomen, narrow neck, short antennae and wings folded over the back. They are known to be aphid hunters, and outside of the early life stage activity inside of the canes of raspberry, are not considered to be much of a pest on plants. Growers should not worry too much about these aphid hunting wasps, which I have only encountered in low numbers in various raspberry fields around the valley. Although the galleries are being formed within the pith of the cane and subsequently one would not expect the water and food conducting elements to be affected too much, growers do report some of these canes drying out and dying.

The above has been a description of sphecid wasps, the damage they do in raspberries and the implications for the grower. For questions on this pest and other matters relating to caneberries and strawberries, please contact Mark Bolda at 831 763 8040 or mpbolda@ucanr.edu.

Photo below depicts some of the galleries formed in a raspberry cane affected by Pemphedron activity. Photo courtesy Max Laddon. ■





### Interesting California Trivia

California is home to the "giant sequoia" – arguably the largest living organism on earth and the world's most massive tree. It is also one of the longest-lived of all organisms on earth. The estimated life-span of the tree is between 1800-2700 years. A tree as old as 5,067 years was also found in California (it is the longest living non-clonal organism on Earth).

# Fake News

group of turkeys is called a rafter, a gathering of crows is a murder. This spring my house was besieged murders to the rafters, as both turkeys and crows seem to dominate avian wildlife. Maybe we have all done such a good job removing brush to create a defensible space around our homes that quail have been replaced with these noisy birds. Problems abound.

I have come up with a solution to this plague of turkeys; we just create a false demand for wild toms with an outrageous, bizarre and unbelievable homeopathic sex tonic. Social media, a highly efficient purveyor of fake news, will latch on to it and, voila, turkeys become endangered just like that. (see Between the Furrows 8/2007 for a delicious recipe for crow pie)



The New York Post, a tabloid with the most lurid celebrity gossip, has already addressed surging sex organ demand: "Wild turkeys have a deranged sex life. ... The titillated Tom will literally stand atop his

mate like a surfboard, while rubbing his engorged cloaca, a ventlike sex organ, against ..." (NY Post 11/25/20)

Drought and water rationing will create new waves of *size nor stamina*. ■ fake news. It is very true that we are in a serious drought and equally true that water use limits may cause individual hardship. Since farmers use 85% of the groundwater we are an easy target for a cascade of water discord, both true and fantastic.

**Farmers to blame:** People on rural parcels with poor wells, which never tapped any major aquifer, shout that farmers are to blame; yet they have water shortages due to limited groundwater even in a normal rain year. There are marches against almonds and hamburgers for excessive water use, with little data to support the rage. These aren't even issues here as we only have range fed cattle and water miserly apples. The same people who show up at the Board of Supervisors to complain about space lasers causing forest fires, jet contrails

spreading mind altering poison and 5G cell towers will conjure up new, and highly entertaining, stories about agriculture's use of water. The press will be all over it, after the tom turkey fad passes.

The facts make poor news: Central Valley water deliveries, depending on the district, have been cut by 90 to 100%. Growers throughout the Central Coast have changed irrigation from sprinklers to drip. Ongoing PVWMA conservation programs and water



deliveries have significantly reduced aquifer stress. Locally our largest crop is strawberries, followed by cane berries. Growers have cut irrigation on strawberries from over 3 af/yr to less than 2. Raspberries have likewise gone on a water diet without any loss of yield or quality.

**Be ready to counter with facts**: Arnett Young, our fearless president, will become a TV news celebrity with all of the interviews required to counter the false allegations of water use during the drought. If a farmer is interviewed, be prepared, bring colorful charts and don't stand in front of a muddy field with water runoff. Of course, as farmers we need to up our game to conserve, and for god's sake, don't wash car windows with sprinklers spraying the highway.

*Warning to Reader*: Turkey sex organs will neither improve size nor stamina.







# FAVORITE RECIPES

# Apple Juice BBQ Ribs

This recipe comes from Martinelli's, (www.martinellis.com) which has a great recipe section on their website. Be sure to check it out. Here is the first one you should try as the summer season rolls around. It sounds delicious!

#### INGREDIENTS

- 2 quarts Martinelli's Cider or Apple Juice
- 4 pounds pork spareribs
- 1 3/4 cups balsamic vinegar
- 1 1/2 cups ketchup
- 2/3 cups brown sugar

Instructions - Serves 4-6

Place ribs in a large stock pot, cover with apple juice and bring to a boil. Reduce heat. Simmer for 1 to 2 hours.

Combine vinegar through to pepper in a medium saucepan and stir until smooth. Simmer over medium heat until reduced by 1/3, about 15 to 20 minutes. Remove from heat.

#### What Is Local? - Continued from Page 2

term started in San Francisco, refers to people who eat food produced within 100 miles. The hyper-local food movement measures the food supply not in miles but feet. As our conversation continued, I was surprised about the range of what local meant.

One thing we all agreed on is a growing awareness of where people's food comes from. However, we also agreed that not all communities have the capability to produce the type and quantities of food necessary to sustain their populations. This is where the food supply chain is necessary. Food supply chains spanning county, state, region, national, or international levels are of vital importance to maintaining food security. This food security is what allows communities to grow and prosper, so we need to protect it at all costs. And protecting food security starts at the local level.

Santa Cruz County is unique in that the community actively protects farmland. By protecting the farmland, we support local agriculture. This local agriculture supports much of our needs year-round while contributing to the food supply chain. So, when you are buying locally, you are also supporting other communities which don't have that option. In return, we all have food security.

- 2 garlic cloves, minced
- 5 tablespoons Worcestershire sauce
- 2 tablespoons Dijon mustard
- 1 1/2 teaspoons salt
- 1 teaspoon ground pepper
- 1/2 cup prepared horseradish

Stir in horseradish and 3 tablespoons of the apple juice from the stock pot.

Brush underside of ribs with 1/3 of sauce. Place in pan facing up. Brush tops with 1/3 of sauce. Bake in a 350 degree F preheated oven for 25 to 35 minutes. Brush occasionally with sauce.

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# **Opinion - continued from page 1**

Levee maintenance services are currently underfunded. The newly formed Pajaro Regional Flood Management Agency is taking over responsibility for levee maintenance on behalf of the counties to provide long-term cost savings through economies of scale, and administrative efficiencies, and ensure an increased commitment to levee and channel maintenance. Toward that end, the Agency is proposing an annual assessment of 3,000 properties, that benefit from flood protection through levee maintenance activities, to bridge a \$1.2 million shortfall between existing and needed revenues dedicated to levee maintenance. This local guarantee to maintain the current and future levee system, is a requirement to obtain the capital funding needed to rebuild the levees.

Maintaining what we have is critical, but improving levees is key to a flood-free future. The US Army Corps of Engineers and the state are promising to fully fund the \$400 million Pajaro River Flood Risk Management Project, which will modernize levees along the river and creeks and provide protection against a 100-year flood event. Typically, projects like these require a 10 percent local cost share. But, our share is being covered by the state, thanks to legislation passed by our state delegation. As a result, this is the first project of its kind in California in which the state and federal governments

Levee maintenance services are currently underfunded. are paying 100 percent of the construction costs. However, ne newly formed Pajaro Regional Flood Management in order to sign the funding agreements, the Agency must gency is taking over responsibility for levee maintenance demonstrate its ability to adequately fund levee maintenance, n behalf of the counties to provide long-term cost savings now and in the future.

> If the assessment is not approved by property owners, the Agency can't sign the funding agreements and we'll lose a once-in-a-lifetime chance to protect our properties from flooding. Additionally, our current levee maintenance program will remain underfunded, so our existing levels of flood protection will continue to deteriorate.

> Assessment ballots were sent to affected property owners on April 22. When yours shows up, please protect your property and community by checking the yes box and sending it in.

Thank you, S. John Martinelli, Chairman of the Board, S. Martinelli & Company



### I'm a Farm Bureau Member/ Supporter because...



Farming is a full-time job — sunrise to sunset — and farmers don't often have time for much else. But the Farm Bureau can serve as the voice of agriculture in places such as city hall, Sacramento and Washington DC. A powerful voice can help keep farming viable for generations.

Louis R. Calcagno, Owner Moon Glow Dairy and Former County Supervisor

### Small Office for Rent in Watsonville

Small office for rent in Watsonville. Ideal for sole proprietor. The office is part of a larger shared office building, complete with two bathrooms and a shared conference room and copy room. The private office is approximately 80 sq. ft, with a window and private locking door. The building has its own parking lot with ample parking. An independent insurance agent and his assistant have used the office for over 25 years, but have retired.

\$695 per month, includes NNN. For more information, please call (831) 724-1356.

# NATIONWIDE NEWS

# **Keep The Farm Protected With Inflation Guard Coverage**



The following information is provided by Nationwide<sup>®</sup>, the #1 farm and ranch insurer in the U.S.\*

here's a lot happening around the world that's applying downward pressure to revenue prospects for farmers. Inflation, logistical hurdles, rising energy and crop input prices at home and conflict overseas could all continue to contribute to the erosion of farm revenue potential.

But maximizing farm revenue requires investment. That investment is likely to come with some sticker shock this spring and beyond. The right insurance coverage can help.

Staying on top of your insurance coverage can help keep unexpected expenses like rising replacement costs from cutting potential farm revenue. A close eye on your coverage and a call to your agent can help make sure these costs don't add to the financial pressure caused by inflation and other factors at home and abroad.

"All of these issues have a big impact on farm operational costs. We're seeing higher prices for energy, machinery and many other inputs," said Nationwide Senior Economist Ben Ayers. "It puts a lot of pressure on revenues many farmers are facing."

#### **CONNECTING WITH YOUR AGENT IS KEY**

During this time of uncertainty, Nationwide and your local Nationwide farm agent are working hard to help farmers maintain the right coverage levels without incurring too much additional cost. Now is time to talk with your agent.

"My immediate concern is making sure you have adequate coverage," said Nationwide Associate Vice President for Agribusiness Regional Sales Nick McCleish. "We have to make sure the amount of insurance is keeping pace with rising costs."

McCleish cites a recent example when a farmer had to replace a \$75,000 grain cart. But at the time of replacement, the price for that grain cart had surged to \$90,000. That meant the farmer paid the additional cost out-of-pocket. "Paying those types of increased costs become much more difficult if

you don't keep your policy updated," McCleish said.

#### ADDING INFLATION GUARD COVERAGE CAN HELP

The optional inflation guard coverage can help prevent such revenue losses by increasing dwelling and structure coverage limits at policy renewal. Also known as Construction Cost Adjustment, it helps to account for inflation in replacement or construction costs based on appraisals.

and the second

But inflation guard doesn't always cover all additional costs. It's important to have a good idea of costs for things like building materials and equipment ahead of time. Then match coverage levels to potential unexpected replacement or repair need. ■





Join the Santa Cruz County Farm Bureau



The Santa Cruz County Farm Bureau is a vital part of our community, providing an important voice for the Santa Cruz County and Pajaro Valley agriculture industry. Everyone is eligible to apply for Farm Bureau membership and receive the many benefits and services available. By joining the Santa Cruz County Farm Bureau you help support agriculture in Santa Cruz County and the Pajaro Valley.

### How to Join

Go to www.cfbf.com and click on the "JOIN" button. No need to log in on this page. Go to the bottom of the page and click on NEVER BEEN A MEMBER to set up a new account.

Questions? Contact the Santa Cruz County Farm Bureau 141 Monte Vista Avenue Watsonville, CA 95076 sccfb@sbcglobal.net (831) 724-1356

# AG COMMISSIONER

Juan Hidalgo, Agricultural Commissioner, Santa Cruz County

### **Fieldworker Safety Training Requirements**



Spring is here, and as agricultural production increases into the summer months so do the number of agricultural workers on farms needed to harvest commodities. This is a busy time of year as you begin the process of onboarding employees and getting them trained and ready for the season.

One important part of the training is fieldworker pesticide safety training as required by Title 3, California Code of Regulation, Section 6764. The regulation requires that each employee working in a "treated field" must have received training within the last 12 months in a manner the employee understands <u>before</u> beginning work in the treated field. A "treated field" is defined in 3CCR Section 6000 as a field that has been treated with a pesticide or had a restricted entry interval or entry restricted period in effect within the last 30 days. A treated field may also include roads, paths, and borders if the pesticide application was also made in those areas. To put it simply, employees must be trained before they are directed to enter an agricultural field that has been treated with pesticides in the previous 30 days.

The regulation includes a list of topics that must be covered with employees regarding pesticide safety and hazards that may be encountered in agricultural fields. A complete list of the topics that must be covered can be found by referencing the regulation (3CCR 6764) or by referencing the guide "Fieldworker-Employees Working in Treated Fields" published by the California Department of Pesticide Regulation (DPR) and available online at https://www.cdpr.ca.gov/ docs/enforce/cmpliast/treated\_fields.pdf or from the Agricultural Commissioner's Office.

Generally, the training information for fieldworkers must include the following key topics:

- Where pesticides may be encountered, including treated surfaces in the field, residues on clothing, personal protective equipment, pesticide application equipment, irrigation water and drift
- Potential hazards of pesticides including acute, chronic, delayed and sensitization effects
- Routes by which pesticide can enter the body

- Signs and symptoms of overexposure to pesticides
- Routine decontamination procedures when working in treated fields including:
  - Washing hands before eating, drinking, using the restroom and chewing gum
  - Thoroughly wash or shower with soaps and water, and
  - Change into clean clothes as soon as possible
- Wear work clothing that protects the body from pesticide residues and wash work clothes separately from other laundry before wearing it again
- Understanding of Restricted Entry Intervals and what field posting means
- First aid including decontamination, eye flushing and obtaining emergency medical care
- Employee rights:
  - To personally receive information about pesticides to which he/she may be exposed
  - For his/her physician or employee representative designated in writing to receive information about pesticides to which he/she may be exposed
  - To be protected against retaliatory action due to the exercise of any of these rights
  - To report suspected use violations to DPR or County Agricultural Commissioner

Remember that training must be conducted by a qualified person. Common qualifications include someone that has a California Certified Applicator license (QAL, QAC), a Private Applicator Certificate or a valid Train-the-Trainer certificate from the University of California, Integrated Pest Management Program. Additionally, training must be conducted in a manner the employee understands (i.e., in a language the employee speaks), orally from written materials or audio visually using posters or images, and the information must cover the required topics of the regulation. The trainer must be present for the duration of the training and respond to employee questions.

More information on training and training resources can be found at https://www.cdpr.ca.gov/docs/whs/worker\_ protection.htm

# LEGALLY SPEAKING

Written by/Ålan Smith, The Grunsky Law Firm PC

### Borrower Limited To Breach Of Contract Remedies Against Foreclosing Bank



n March 7, 2022, the California Supreme Court decided Sheen v. Wells Fargo Bank, N.A.. The case said that a lender owes a borrower no tort duty of care in considering a loan-modification request.

Alan Smith

The case arose from a dispute between Kwang and Wells Fargo

over a failed loan modification. Seven years after Kwang obtained a loan to buy a home, he used the home as collateral for two more loans from Wells Fargo. Kwang later defaulted on the new loans because of financial difficulties he experienced in the 2008 global financial crisis. Wells Fargo recorded default notices and scheduled a foreclosure sale. Kwang then submitted applications to change the new loans to delay the Wells Fargo foreclosure.

Wells Fargo cancelled the trustee's sale but allegedly never responded to Sheen's loan-modification requests. Instead, Wells Fargo sent Kwang an accelerated due date and demanded that Sheen repay the new loans. Kwang still believed Wells Fargo would change the terms of the new loans. Wells Fargo did not change the new loans and sold one of the new loans, and it was foreclosed four years later.

Kwang sued Wells Fargo, alleging Wells Fargo was negligent for failing to "process, review, and respond carefully and completely to his loan modification application".

The trial court ruled that Wells Fargo did not owe Kwang a duty to "respond timely to his request to modify the second trust deed." The Court of Appeal affirmed, joining most courts which have rejected negligence claims based on a lender's failure to consider a borrower's loan-modification request. Kwang appealed.

The California Supreme Court agreed to consider whether "Wells Fargo owed Kwang a duty to "process, review and respond carefully and completely to [his] loan modification applications". In analyzing Kwang's claim, the Court said whether a lender owes a borrower a *tort* duty for loan modifications has divided lower courts. After surveying the

# Save the Date

### Santa Cruz County Farm Bureau

**105th Annual Meeting** Rodgers House Patio, SCC Fairgrounds June 23, 2022

> **California State Fair** Cal Expo, Sacramento, CA July 15 through July 31, 2022

28th Annual Golf Tournament Pajaro Valley Golf Club July 15, 2022

Santa Cruz County Fair September 14 through September 18, 2022

> Annual Directors' Dinner November 3, 2022 5:45 p.m.

CFBF 104th Annual Meeting Monterey, CA December 4-7, 2022

## Agri-Culture

14th Annual Down To Earth Women Luncheon Driscoll's Rancho Corralitos

> May 12, 2022 11:30 a.m. to 1:30 p.m.

**14th Annual Testicle Festival** Estrada Deer Camp August 27, 2022 3:00 p.m. to 7:00 p.m.

26th Annual Farm Dinner Location to be determined October 22, 2022 4:30 p.m. to 8:00 p.m.

Legally Speaking - Continued on Page 11

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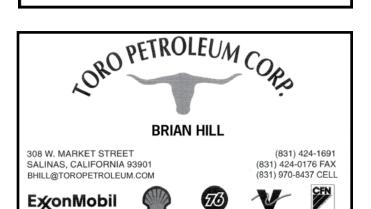
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#### Legally Speaking - Continued from Page 9

lower court decisions, it considered whether Wells Fargo owed Kwang a tort duty either by statute or by common law."

The Court found no statute required Wells Fargo to treat Kwang's loan-modification request with due care. And Kwang acknowledged Wells Fargo owed him no statutory duty of care as a junior lienholder.

The Court then addressed and rejected Kwang's common law duty, the second potential source for plaintiff's negligence claim. Kwang urged the *Sheen* Court to find that Wells Fargo owed him a common law duty in processing his loan-modification request. In analyzing Kwang's common-law-duty claim, the Court adopted the majority of courts' no-duty rule, citing three justifications.

First, the Court said Kwang's negligence claim against Wells Fargo clashed with California's economic loss rule. The Court noted the rule bars tort recovery for negligently inflicted "purely economic losses". Kwang's negligence claim arose from his mortgage contract with Wells Fargo, and the contract set forth rights about the loan and collateral securing the loan. The contract allowed Wells Fargo to "seize and sell the property in satisfaction of the debt should plaintiff stop making payments on the loan." Wells Fargo did not agree that should Kwang default and seek a loan modification, Wells Fargo would forgo foreclosure until after it "process[ed], review[ed] and respond[ed] carefully and completely to ... "Kwang's loanmodification requests. A duty in tort would create obligations "unnegotiated or agreed to by the parties" - and worse, it would dictate terms contradicting the parties' contractual allocation of rights and responsibilities.

Second, the Court supported its no-duty rule with another principle of California law that "a financial institution owes no duty of care to a borrower when the institution's involvement

in the loan transaction does not exceed the scope of its conventional role as a mere lender of money." The Court explained "a lender's involvement in the loan modification... is part and parcelofits assessment regarding how best to recoup the money it is owed." The Court said

California case law held that a lender owes no duty to a borrower in its processing of a loan modification application.

Third, the Court rejected Kwang's pleathat if he could not pursue a negligence claim, he would be left "without any remedy at all." The Court said Kwang had other claims to address Wells Fargo's alleged mishandling of his loan-modification request (negligent misrepresentation and promissory estoppel), but he did not bring those claims. The Court said it preferred a legislative response to recurring lenderborrower disputes. The Court said Congress and the Legislature were better able to decide "the obligations of lenders who handle mortgage modification applications."

So, the Court upheld the no-duty rule, and overruled four contrary lower court decisions. Farm Bureau (SCCFB) does not assume responsibility for statements by advertisers in Between The Furrows, nor for statements or expressions of opinion other than in editorials or in articles showing authorship by an officer of the SCCFB.

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### CALENDAR

THURSDAY - MAY 12 Down to Earth Women Luncheon 11:30 - 1:30

THURSDAY - MAY 26 Board of Directors' meeting

THURSDAY - JUNE 23 105th Annual Meeting

FRIDAY - JULY 15 28th Annual Golf Tournament

SATURDAY - AUGUST 27 14th Annual Testicle Festival

SATURDAY - OCTOBER 22 26th Annual Farm Dinner



anta Cruz County Farm Bureau Monthly Publication

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