

July 31, 2008

From: Elected officials

To: Joan Denton, Director, OEHHA
Mary-Ann Warmerdam, Director, CDPR
Mark Horton, Director, CDPH

Cc: Governor Arnold Schwarzenegger
A.G. Kawamura, Secretary, CDFA
Ed Schafer, Secretary, USDA
House Speaker Nancy Pelosi
Senator Barbara Boxer
Senator Diane Feinstein
Congressman Sam Farr
Congresswoman Barbara Lee
Congresswoman Lynn Woolsey
Congresswoman Jackie Speier
Michael Leavitt, Secretary of US HHS
Michael McGeehin, Director, Environmental Hazards and Health Effects, CDC

Dear Directors Denton, Warmerdam and Horton:

As you are aware, your April 10 report on 643 illness complaints following the aerial spraying last fall in Monterey and Santa Cruz counties for the Light Brown Apple Moth (LBAM) was based on critical assumptions that we now know were false. We are writing to request that you immediately and publicly issue a clarification, correct the misrepresentations of the conclusions of that report that continue to be repeated by other state officials, initiate a thorough new study of the reports of adverse health effects of the 2007 LBAM spray, and ensure that this new research is part of the environmental assessments of the spray.

Your respective staffs affirmed, in a meeting with public leaders in Monterey on May 28, that the state had used inaccurate information provided by Suterra, the manufacturer of the pesticide, for the report your agencies issued on April 10. Suterra had submitted that all the microparticles in the aerial spray were greater than 25 micrometers in size.

However, a recent study by Dennis Knepp, Ph.D. and Jeff Haferman, Ph.D., both of Monterey, confirmed that half of the plastic microparticles in the spray (the time-release delivery mechanism of the pheromone-based pesticide) were 10 microns or smaller, making the spray potentially very dangerous to human and environmental health.

This error was also reported in the press and was the subject of correspondence between the California Department of Food and Agriculture (CDFA) and Drs. Knepp and Haferman, including an April 22 letter from CDFA's Dr. Robert Leavitt that includes a third-party analysis with a graph labeled "Figure 3" (see attached) that documents the

median particle size is 9.79 microns, based on the number of particles in the spray. The use of the erroneous data from Suterra negates the methodology and conclusions of your report and is a matter that you have an obligation to correct.

The miscalculation of PM10 (particles 10 microns and smaller) in the spray is critical because the claims regarding the safety of the state's LBAM eradication program rely on the assessments prepared by your agencies. The safety of the LBAM eradication program has drawn the attention of millions of citizens, their elected representatives, and the press. Therefore, to ensure that the public has accurate information about the safety of the LBAM eradication program in California and the health effects of the program we officially request that you:

1. Clarify to the public and to the agency/entity preparing CDFA's Environmental Impact Report (EIR) and the USDA's Environmental Assessment (EA) related to the LBAM eradication program that a) your report has always been inconclusive, and b) that you now know it was based on a critical false assumption and thus is invalid as a measurement tool.
2. Initiate a new report on the hundreds of illness complaints made last year, basing it on correct information about the percentage of microparticles in the spray that were smaller than 10 microns in size.
3. Study the potential health effects of the entire LBAM pesticide application program on the public, as aerial spraying and synthetic pheromone pesticide applications remain part of the CDFA's eradication efforts in populated areas of California, along with the use of other pesticides and methods.
4. Take into account recommendations made by independent physicians and public health experts when preparing your new report.
5. Make sure your new report is part of the CDFA's EIR (which is currently being written), and the USDA's Environmental Assessment related to the California LBAM eradication program. This is necessary if the EIR and EA are to be credible and complete. No EIR will be valid or complete until a new study of past illnesses is done. This time, the illness reports must be analyzed thoroughly (not just a statistical analysis) and must use correct information about particle size. In addition, all other potential health risks of pesticide application related to the LBAM eradication program proposed by the CDFA need to be studied.

As public officials, we have all taken an oath to uphold the California Constitution, which says the people of our state have a right to safety (see Article One, Section One attached). It is therefore incumbent on us to pursue accurate information about the past and future safety of the state's LBAM program.

Thank you for your attention to this urgent matter.

Sincerely,




Robert Lieber
Mayor, City of Albany



Keith Carson
Alameda County Board of Supervisors



Janet Lockhart
Mayor, City of Dublin



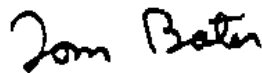
John P. Marchand
Vice Mayor, City of Livermore



Michael Sweeney
Mayor, City of Hayward



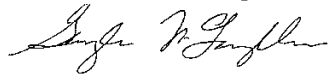
Ken Bukowski
Mayor, City of Emeryville



Tom Bates
Mayor, City of Berkeley



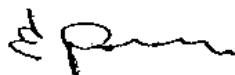
Beverly Johnson
Mayor, City of Alameda



Gayle McLaughlin,
Mayor, City of Richmond



Jeff Haferman
Monterey City Council



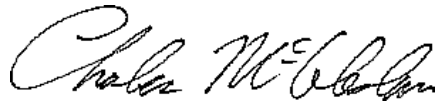
Ed Porter
Santa Cruz City Council



Dan Cort
Mayor, City of Pacific Grove



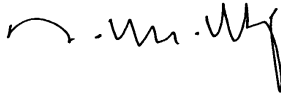
Larry Franzella
Mayor, City of San Bruno



Charles F. McGlashan
President, Marin County Board of Supervisors



Amy Belser
Mayor, City of Sausalito



Damon Connolly
San Rafael, City Council



Shawn E. Marshall
Mayor, City of Mill Valley



Michela Alioto-Pier
Supervisor, City & County of San Francisco

Attachments:

California Constitution, Article One, Section One

American Lung Association, "State of the Air 2007," on dangers of particulate matter
Study by Dennis Knepp, PhD and Jeff Haferman, PhD

Excerpts of letters expressing concerns about health impacts of aerial spraying, including
correspondence by Senator Diane Feinstein, Senator Barbara Boxer, Congressman Sam
Farr, Congresswoman Barbara Lee, and Congresswoman Lynn Woolsey

The Nuremberg Code