

Light Brown Apple Moth Eradication
Program Draft Environmental Impact Report

Comments and Questions

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Program Analysis

FACTS

The proposed eradication program is based the premise that the LBAM is a moth that is new to the California and is capable of mass destruction. This has been disputed on may levels. Experts Jim Carry, Darrel Chambers, and Dr. Daniel Harder as well as many others have refuted these assertions with creditable documentation. Experts have stated that the LBAM has been here for decades and some estimate that LBAM has been her for over half a century, It certainly had been in Hawaii and there is no wide spread damage over the last 100 years it has been in Hawaii. The urgency for the program has been overblown and a full scale pesticide program is unwarranted and there is no scientific basis for this conclusion nor is there any no scientific basis for the efficacy of the proposed treatments (NAS, 2009).

CDFA has stated that the LBAM has been reported to them by Jerry Powell in 2006 the following year the CDFA had stated that in order to control LBAM that a massive aerial assault needed to be initiated and insisted that a brand new pesticide would stop the LBAM. In 2007 the aerial spraying spanning two counties resulted in the following:

- A. Over 300 - 600 people reported adverse health reactions.

- B. Over 650 sea birds were found washed up dead on Monterey Bay beaches within hours after the aerial spray.
- C. The aerial spray was not to be sprayed when rain was expected, and hours after the aerial spraying in Santa Cruz it rained.
- D. The Santa Cruz County experienced the largest red tide since the 1960's.
- E. There were large deposits of yellow foam on the seashores immediately following the aerial spraying in Santa Cruz County.
- F. A large number of cats and rabbits died.
- G. Untold number of pollinators and bees died.
- H. The pilots aerially sprayed outside the treatment zone.
- I. The CDFA guaranteed residents that the particle size would not be hazard to our health and was proven wrong when independent researchers found the size of the particles sprayed was smaller than CDFA claimed (Haferman, 2008). The size of the particles sprayed was considered dangerous to humans admitted by EPA's standards (EPA, 1995).
- J. The company who made the pesticide Checkmate denied that the inert ingredients in Checkmate would be harmful and when inert ingredients were evaluated by a judge the use of that pesticide was



banned by a Monterey Superior Court Judge in October 2007.

- K. Santa Cruz City and Santa Cruz County filed legal actions against the CDFA for falsely claiming an emergency when there was no damage from LBAM and the aerial spraying was unjustified, Santa Cruz Superior Court Judge Burdock ordered the CDFA to follow the CEQA process and prepare an EIR.
- L. In 2008 over when the program spanned 9 nine counties the opposition to the program was over 3 million.
- M. Currently there are six current and pending legal actions over the CDFA's LBAM program.

Concerns

1. The CDFA has not clearly stated the program. They have stated a "program alternative" which means the alternate to a program but the CDFA has not stated their program. As required by CEQA it is mandatory that the proposed program be clearly defined. For this reason the Draft EIR is void.
2. The "No Program" option that the public requested for consideration was distorted and a false assumption was made by the CDFA. The public requested the CDFA to evaluate what would happen if the no action was taken. The CDFA falsely assumes that if they did nothing that the public would use massive amounts of pesticides. There are no facts, evidence,

or data that would lead to this conclusion. It is unreasonable and highly unlikely to assume that organic eco sensitive communities would go out purchase, and use massive amounts of highly toxic pesticides kill a moth that has caused no damage and that they cannot identify. The CDFA set up a false paradigm in this EIR providing no evidence that “doing nothing” will result in more pesticide use. The CDFA has not address a major area for evaluation by the residents. For this reason the Draft EIR is unacceptable, misleading, and inaccurate.

3. In the 2008 report to the California Legislator by the CDFA concerning LBAM it was stated by the CDFA that they cannot positively identify the LBAM with their current DNA testing process (CDFA, 2009).
4. CDFA's will not let an independent agency have access to the DNA data nor will they allow any independent oversight to the testing process.
5. The CDFA's trap placements and moth count per trap is kept secret from the public or independent investigating agencies. The public needs all available LBAM trapping data to the present date
6. CDFA's trapping finds do not accurately reflect the number of LBAM present. To accurately count moths the number of traps needs to remain constant and not to quadruple the number of traps. By dramatically increasing the number of LBAM traps provides an inaccurate LBAM count.
7. In the beginning of their EIR one pesticide was evaluated then the chemical formula was changed (EIR chapter 6) and a new pesticide was created thus requiring an entire new evaluation of efficacy and risk



assessment. A new evaluation and risk assessment of the new pesticide formula has not been conducted. For this reason the Draft EIR is void.

8. The EIR is factually illogical in the “no program” evaluation. There is the false assumption by the CDFA that communities will increase the use of permethrin. The draft EIR states many dangers of permethrin in the “no program” evaluation but when permethrin was evaluated for use by the CDFA as a “Program Alternative”, permethrin had little to no dangerous affects. How can the same active ingredient be safe when the CDFA uses it and when the residents use the same exact pesticide it is dangerous? This is factually illogical and for this reason the Draft EIR is void.
9. The proposed pesticides have not been tested for long term safety or efficacy.
10. The non chemical biological treatments (i.e. wasps and sterile moths) have never been proven effective in eradication of a pest this widely established.
11. The EIR has not clearly stated “the program” to eradicate the LBAM.
12. The treatment areas are not clearly defined; the aerial spray zones are vague and illusive.
13. The biochemical pheromone aerial spray zones, which is in clear opposition to the vast majority of residents, has not been a clearly defined. The terms used in the CDFA such as “essentially uninhabited”, “undeveloped areas”, and “agriculture zones” is not clearly defined. The areal spray zones for the SIT and Pheromone applications must be

clearly defined and the use of map requested to clearly define aerial spray zones and needs to be made available to the public and presented in this EIR.

14. California is experiencing a water shortage and is the third year of drought conditions (California, 2009) in some counties there are plans to build a desalination plant. A program that cannot control drift and provides only a 25 foot water buffer zone is not sufficient. The possible contamination of our most valuable resource; water should never be allowed to be implemented.
15. California as suffered severe wildfire damage, an unprecedented 336,000 acres were burned in California since August 2009 (wildfires2009) costing billions of dollars in damage. A program that would increase a fire risk even by 1 % cannot be allowed. The CDFA's eradication program will increase fire risk by more than 1%. The fire damage August of 2009 alone is more than the projected damage from LBAM.
16. We have concerns that the methodologies being used to identify LBAM may not be specific enough to differentiate true LBAM from other closely related native tortricids. Please provide the substantiation that the DNA methodologies you are using to identify the LBAM

The entire duration of this eradication program will be based on a computer model maintained and monitored only by the CDFA is unacceptable. The CDFA is holding the only key to important information and will not allow any independent oversight or analysis. Currently the CDFA are the only ones with:

- The exact location of traps and the number of finds per trap.



- The means of identify LBAM
- The ability to determine LBAM life cycle, the very basis for program termination. "Duration of LBAM life cycles is calculated using a local daily temperature-driven computer model maintained by the CDFA."

Questions

1. How was the temperature-driven computer model developed?
2. Who designed the program?
3. How does it calculate the temperature in all of the program counties and vastly different regions in the 58 counties?
4. What other information is needed for it to calculate the life cycle?
5. Where is the certification that this will be accurate?
6. How was this program designed? And using what formulas?
7. Who exactly or which department will maintain the computer?
8. How often will it be calibrated or checked for accuracy?
9. What other measures will be used for determining the LBAM life cycle? There must be an alternate method for determining the life cycle?
10. How will you know if any individual treatment modality is unsuccessful?
11. How will you know if the "eradication" plan is failing?
12. What are the signs that necessitate moving to control measures from eradication techniques?

13. How will you know when any application is having adverse effects on humans?
14. Under what conditions will you petition the USDA to lift the trade restrictions?
15. Under what conditions will you petition the USDA to move away from eradication techniques and to control measures?
16. How will you know is and when any applications is having adverse effects on animals, insects, bees, flowers or trees?
17. How often will you evaluate your methods?
18. What is your plan for assessment efficacy of program applications (include, frequency, criteria, and parameters) individually than by region?
19. What is the backup plan should the current methods fail? How long will technique be unsuccessful before it warrants a change?
20. How will you monitor the Monarch (and other insects) to see if they are suffering from the pesticides or the sterile moths or wasps?
21. Will you provide the necessary information to veterinarians to help them determine if an animal has been exposed and adversely affected by the pesticides? If so what tools will you provide to them?
22. Will you be periodically testing the salt water and freshwater to monitor the runoff and the possible contamination from the proposed pesticides? If so, how frequently?
23. When will you release all the inerts of the proposed pesticides?
This needs to be done well in advanced of the use. It was with the release of these inerts that independent experts were able to save



lives and prevent illnesses. (North Coast River Alliance et.al. vs. USEPA).

24. Do these chemicals accumulate in the food chain and then into humans? You have provided this type of analysis for animals but not nearly enough data or testing for risk assessments to humans in the way bioconcentration, bioaccumulation, and biomagnification.
25. What exactly is CDFA's program and not their "Program Alternatives"?
26. What is exact definition of "uninhabited areas" in reference to aerial spraying?
27. Considering both pesticide drift, how do you rationalize a buffer zone of only 25 feet as being adequate when drift is known to travel three miles or more?
28. How can this effectively prevent the applied substances from reaching our waterways, including in the Monterey Bay Marine Sanctuary?
29. What is the delivery mechanism for spraying wasps?
30. Given speed, velocity, and elevation what percent of moths are expected to survive the descent to ground level and how will you determine the number that survive?
31. Will the moths be encapsulated? In a gel, capsule, or carrier agent, and what are the ingredients (active and inert) and their risks? Please define exactly the age of the moth to be released?
32. Will a release of this "20 million moths per day" over load traps and falsely inflate the moth count?
33. How will you protect or prevent beneficial insects from exposure to the pesticides?



34. How long has the proposed pesticides been in use? State where they have been used, size of the applications and the efficacy.
35. What is the proven and projected success rate for each program alternative? And what are you basing your data on?
36. What percentage of accuracy is your current method for identification of LBAM and how many moths remain unidentified?
37. How are you able to distinguish SIT moths from normal LBAM when it was stated in the 2008 report to the California Legislator by the CDFA (CDFA, 2009) that they cannot positively identify LBAM.
38. It is stated in the EIR that some of the pesticides are insoluble and that "Once cured (2-3 hours after application), What will protect SPLAT before it becomes resistant to ultraviolet (UV) degradation and how much efficacy is lost in the 2 -3 hour curing time?
39. What are your backup measures should the need to change your application time and day to avoid rainfall and or prevent ultraviolet (UV) degradation?
40. How does your budget allow for the sudden change of program due to unexpected rainfall or intense ultraviolet degradation?
41. What measures are you taking to minimize runoff with SPLAT, Heron, and the several other pesticides you plan on using? Do you have catch buckets, traps or other devices to catch the pesticide should it not act as desired considering they are new products? Will there be monitor returning the next day for inspection?
42. Will you be placing warning ribbon or devices to prevent the accidental contact by residents and children?
43. How will you be able to tell the difference between peoples preexisting condition and their worsening conditions after the



- applications. Please detail the health monitoring techniques you plan to use and evaluate the possible adverse reactions.
44. Explain how you decide and which part of the human population is acceptable to be injured or killed by your program? Detail your decision making process.
45. How many people have to report adverse reactions before a pesticide is pulled from use or many people have to report adverse reactions for the program to be too dangerous for public health?
46. Given the product's potential to trigger asthma attacks, and given that you are spraying in the very areas which have the documented highest rate of asthma hospitalizations and asthma rates amongst children in the state, what additional steps will you take to address the environmental health risks that will disproportionately affect the children in the treatment zones?
47. Does the human body build resistance to the pesticides or weaken the body's resistance? For example, if you have inhaled the pesticide will your body be more able to tolerate the dermal exposure? Please address this scenario for cross contaminations for all the proposed pesticides and insect releases?
48. Where has an eradication plan covering the size as California ever worked in California, USA, or the planet?
49. Have you ever used any part or any combination these pesticides or methods? If so when and where?
50. You state "A summary of all federal T&E species in California, and their State of California status, is included in this report as Attachment F-1" Where is Attachment F-1? App F_ERA_508.doc F2-13 is missing.

51. What is on the exact list that you used to base your guilds on?

52. Can you expand on the difference between honey bees and pollinating bees and explain the differences and their individual reactions to each of the pesticides? we are concerned that there may be a difference in tolerance levels to each of the pesticides.



California State, U.S. Constitution and Human Rights

The LBAM Eradication Program violates a number of people basic constitutional and human rights. It also discriminatory when high moth counts are found in an area but the pesticide applications will not be applied to the wealthiest home owners with are in the same area the gets chemical treatments (CASS, 2008).

The aforementioned and many not mention above have and will be unfairly discriminated against for having disabilities, diseases, having chronic conditions, and or having severed our country in preserving our liberties and disproportionately affected by this program. These liberties and basic human rights recognized around the world have already and will be trampled upon and are in direct violation if you continue further with this program. These blatant disregards for our State and Federal Constitution and basic Human Rights are punishable by national and international courts.

Many residents made conscious life decisions based on health, economics and other factors have decided to live in locations based up on air and food quality, tranquility, and constitutional rights. These rights are and will be violated by this program. Many people who lived in Monterey and Santa Cruz County sold homes and closed businesses and moves out of the area and even out of the state to avoid having there persons, property, children, and businesses sprayed with unsafe pesticides for years to come. The CDFA's is accountable for the finical losses to these individuals and individuals administering this program are punishable under the law for violations to our State and Federal Constitution and our basic Human Rights.

Below is a **LISTING OF LEGAL AND MORAL VIOLATIONS** by USDA and CDFA excerpt taken from ECONOMIC IMPACTS AND SOLUTIONS report by the California Alliance to Stop the Spray.

- *United States Constitution “...No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”Article XIV*
- *California State Constitution – The very document that creates the state of California, guarantees safety for its residents: “All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.” Article 1 DECLARATION OF RIGHTS - Section 1*
- *“The people have the right of access to information concerning the conduct of the people’s business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.” CA Constitution, Article, 1, Section 3(b)(1)*
- *California Code requires consent before spray: “No person shall directly discharge onto a property without consent of the owner or operator of the property.” California Code, Division 6, Chapter 3, subchapter 2, Section 6616*



- *California Code requires protection of persons, animals and property Notwithstanding that substantial drift would be prevented, no pesticide application shall be made or continued when:*
 - *There is a reasonable possibility of contamination of the bodies or clothing of persons not involved in the application process;*
 - *There is a reasonable possibility of damage to nontarget crops, animals or other public or private property; or*
 - *There is a reasonable possibility of contamination of nontarget public or private property, including the creation of a health hazard, preventing normal use of that property.*

California Code, Division 6, Chapter 3, subchapter 2, Section 6614

- *CEQA – California Environmental Quality Act Protection of the environment consistent with the provision of a decent home and suitable living environment for every Californian shall be the guiding criterion in public decisions. CA. Public Resources Code, Div 13, Environment.*

This section states that it is necessary to provide a high-quality environment that at all times is healthful and pleasing to the senses and intellect of man. It further states that governmental agencies at all levels are required to consider qualitative factors, as well as economic and technical factors, and long-term benefits and costs, in addition to short-term benefits and costs and to consider alternatives to proposed actions affecting the environment.

- *Further, Title 14, California Code of Regulations, Chapter 3. Guidelines for Implementation of the California Environmental Quality Act, Article*



Statutory Exemptions, Section 15269. Emergency Projects. "The following emergency projects are exempt from the requirements of CEQA: Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term." An emergency is defined as: "A sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to life, property, or essential public services. "Emergency" includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage"

- *The Legislature had a chance to exempt CDFA from CEQA and purposefully chose not to do so.*
- *The legislature desired full CEQA review of projects undertaken to eradicate LBAM.*
- *Thematic Strategy on the Sustainable Use of Pesticides Expert Meeting on Aerial Spraying Minutes of the Meeting, March 31, 2004, European Commission*, wherein the Commission states that, due to inherent high risk (in particular from spray drift), aerial spraying should be banned...and would require member states to severely restrict or ban aerial spraying when the conditions for safeguarding bystanders or the environment cannot be fulfilled [and this statement was made in consideration of aerially spraying crops, not human populations] The Precautionary Principle is the guiding hand in the European Union's response to pesticides and genetically modified foods and animals, and is a reason U.S. agricultural products are rejected in these countries. The European*



Union Commission Communication notes “The Precautionary Principle applies where scientific evidence is insufficient, inconclusive or uncertain and preliminary scientific evaluation indicates that there are reasonable grounds for concern that the potentially dangerous effects on the environment, human, animal or plant health, may be inconsistent with the high level of protection chosen by the EU.”

- *CDFA has not yet obtained clearance to begin spraying from the US Fish and Wildlife Service as it relates to the impact of spraying on endangered species. APHIS has designated CDFA to find out if endangered species would be affected, also to see if minority populations and EO 13045, Protection of children from environmental risks is violated. NOT A THIRD PARTY, INDEPENDENT, UNBIASED AGENCY, APHIS and CDFA and EPA and USDA are all committed to this assault on citizens to further limit competition of interstate and foreign commerce, all components defined as violations under the RICO Act.*
- *CDFA’s actions act as a nuisance and a trespass (County of Santa Cruz vs CDFA Superior Ct. of California. County of Santa Cruz Case No. 158516, Oct. 31, 2007) Officials would uphold laws to forcefully blunt citizen nuisance and trespass on their homes and their properties. There would be no equal application of enforcement.*
- *CDFA has yet to provide the public with evidence of a permit from the Monterey Bay Marine Sanctuary. Undersecretary Gomes states that “The Department will not apply pesticides to water bodies, riparian habitat areas or areas lacking host insects.*



- *CDFA refuses to answer questions from citizen interest groups and legislators in compliance with CPRA and FOIA in a timely and complete manner, if at all.*
- *Section 18 of the Federal Insecticide, Fungicide, and Rodenticide ACT (FIFRA), EPA regulation 40 CFR Part 166 (ref. 10) has not approved pheromone products for chronic or repeated use or for aerial spraying or in any preparation, micronized or aeri ally delivered, even in times of true emergencies...*

The Americans with Disabilities Act protects people with chemical sensitivities and other disabilities from discrimination.

From: <http://www.healthcentral.com/asthma/index-3259-149.html>The Americans with Disabilities Act (ADA) is a civil rights law that gives you the right to ask for changes where policies, practices or conditions exclude or disadvantage you. As of January 26, 1992, public entities and public accommodations must ensure that individuals with disabilities have full access to and equal enjoyment of all facilities, programs, goods and services. The ADA borrows from Section 504 of the Rehabilitation Act of 1973. Section 504 Prohibits discrimination on the basis of disability in employment and education in agencies, programs and services that receive federal money. The ADA extends many of the rights and duties of Section 504 to public accommodations such as restaurants, hotels, theaters, stores, doctors' offices, museums, private schools and child care programs. They must be readily accessible to and usable by individuals with disabilities. No one can be excluded or denied services just because he/she is disabled or based on ignorance, attitudes or stereotypes. Does the ADA Apply to People with Asthma and Allergies? Yes. In both the ADA and Section 504, a person with a disability is described as someone who has a physical or mental impairment that substantially limits one or more major life activities, or is regarded as having such

impairments. Breathing, eating, working and going to school are "major life activities." Asthma and allergies are still considered disabilities under the ADA, even if symptoms are controlled by medication.

... Under Section 504, public schools and programs cannot avoid their responsibility by claiming to have limited funds or resources. Nor can they impose a "disparate impact" on people with disabilities. The ADA requires public accommodations to make changes, except in cases where an "undue burden" would result. This program violates the intent of the Light Brown Apple Moth Act (2)(C) which states, "Eradication activities undertaken pursuant to this article shall comply with all applicable laws and regulations and shall be conducted in a environmentally responsible manner."

If the CDFA had been operating in an "environmentally responsible manner," they would have allowed the necessary environmental impact reports to supersede their aerial pesticide spraying program. Instead, the State used its powers to push through a totally unproven, unsubstantiated false "emergency" in order to intentionally evade all environmental impact reports and spray residential areas with an untested pesticide that made hundreds of people sick. Damage to the environment, like the deaths of hundreds of birds from a "mystery oil" spill, and the worst "red tide" in the history of California, which made many surfers sick, were also the result of this careless act by the State.

*Secretary Kawamura of the CDFA appears to have a different definition of an "emergency" from that of a reasonable person when referring to a tiny light brown apple moth. Kawamura declared, "This emergency (LBAM) clearly poses such an immediate, serious harm that delaying action by providing five working days advance notice to allow public comment would be inconsistent with the public interest. This emergency action is to avoid serious harm to the public peace, health, safety or general welfare."**

There definitely IS an emergency. But it's the one created by the CDFA and Kawamura, supported by the USDA, APHIS and Governor Schwarzenegger, perpetrated against the people without their consent, endangering our health and safety, and without protection of the communities and environment being aerially assaulted with pesticides.

International Environmental and Human Rights Advisory Report

http://www.lbamspray.com/00_Documents/2008/EHRA.pdf

Some of the international human rights norms and documents that apply in the assault on privacy, health and human rights by the USDA and the CDFA. Daniel Taillant, Director of the Human rights and the Environment wrote: "Most of our basic human rights are affected by environmental degradation. The right to health is affected by environmental abuse, such as water, air, and noise contamination. The right to property is often violated by commercial exploitation... The value of our property is also affected by environmental pollution. The right to equality is greatly affected by the unequal burden shared by certain sectors of society who are the targets of environmental contamination... everything and anything that influences the environment directly influences our human condition, and a violation of the environment is a violation of our human rights."

- *Right to life, liberty and security of person. "Everyone has the right to liberty and security of person." UDHR - Universal Declaration of Human Rights <http://www.un.org/Overview/rights.html> CCPR – International Covenant on Civil and Political Rights http://www.unhchr.ch/html/menu3/b/a_ccpr.htm*
- *Right to privacy and home "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence..." UDHR Article 12 CCPR Article 17 (This entails the right to be secure in your*

home, to be able to enjoy the use of your property and to not have one's property devalued as a result of state actions.

- *Right to property UDHR Article 17 "No one shall be arbitrarily deprived of his property."*
- *Duty to protect the child (i.e. persons under age 18) "States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, [or] maltreatment..." CRC Article 19 - Conventions on the Rights of the Child (1990) <http://www.unhchr.ch/html/menu3/b/k2crc.htm> "Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions." CESCR – International Covenant on Economic, Social and Cultural Rights http://www.unhchr.ch/html/menu3/b/a_cesscr.htm*
- *Right of the child to the highest standard of health "State Parties recognize the right of the child to the enjoyment of the highest attainable standard of health." CRC Article 24*
- *Duty to encourage school attendance "States Parties shall take measures to encourage regular attendance at schools." CRC Article 28, 1 (e) (Average attendance in six monitored Santa Cruz County High Schools all more than doubled their absences in the three days immediately following the November aerial spray. *)*
 - *Right to compensation In 1985 the UN General Assembly spelled out the nature of indemnification in the Declaration of Basic Principles of Justice for Victims of Crime and Abuses of Power.*



http://www.unhchr.ch/html/menu3/b/h_comp49.htm This declaration insists that “victims are entitled to prompt regress for the harm that they have suffered” and that offenders should “pay fair restitution to victims, their families and dependents.”

- *Right to know*
- *Right to participation in decision-making in environmental issues* The Rio Declaration on Environment and Development* establishes citizens’ right to information about environmental toxics to which they may be exposed and to participate in the decision making process.
ttp://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=78&ArticleID=1163 “Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous material and activities in their communities, and the opportunity to participate in decision-making processes.” Rio Declaration on environment and Development - Principle 10
- *Right to equal protection of the law* “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law.” CCPR Article 26
- *In August 2005, Congress enacted a moratorium on EPA use of human pesticide experimentation until strict ethical standards were established. The intent of this moratorium was to protect pregnant women and infants from any sort of testing. “Such rules shall not permit the use of pregnant women, infants or children as subjects; shall be consistent with the*



principles proposed in the 2004 report of the National Academy of Sciences on intentional human dosing and the principles of the Nuremberg Code with respect to human experimentation...EPA will neither conduct nor support any intentional dosing studies that involve pregnant or nursing women or children for all substances EPA regulates.” The Federal “Common Rule” created requirements for the protection of human subjects from experiments done by the EPA and the USDA. <http://www.hhs.gov/ohrp/policy/common.html> <http://www.ens-newswire.com/ens/jan2006/2006-01-25-05.asp>.

- *FEDERAL AVIATION ADMINISTRATION - Planes are restricted to flying above 100 ft when over urban populations. * The CDFA itself admits that the planes from Dynamic Aviation have been flying as low as 500 ft. There are legal precedents in the Malathion case that should further help protect us from such a violation. The first successful lawsuit involving property damages resulting from the aerial spraying of malathion as part of the 1997 Medfly Eradication Program was settled in the Tenth Judicial Circuit court in Polk County, Florida, in May 2000. (230 people reported getting sick) In April 2007, a federal judge signed a settlement agreement in which New York City admits that the pesticides it sprayed may indeed be dangerous to human health as well as to natural environment. Mayor Rudolf Giuliani and other City officials had claimed that the spraying was safe. Damages were paid to five grassroots environmental and wildlife rehabilitation groups. The plaintiffs in the lawsuit were the No Spray Coalition, Beyond Pesticides, Disabled in Action and Save Organic Standards.*
- *A 1991 Supreme Court decision (Wisconsin Public Intervenor c. Mortier 90-1905) ruled that the Federal law regulating the manufacture, sale and*



use for pesticides permitted local governments to impose more stringent regulations of their own.

- ***The CDFA's aerial pesticide spraying program over heavily populated residential neighborhoods also violates the intention of two Executive Orders:***
EO 12898*: Federal Actions to Address Environmental Justice in Minority Populations and low-income populations. *The order was to prevent minority, low-income communities from being subjected to disproportionately high or adverse human health or environmental effects. The CDFA appears to have been selective in the areas they sprayed, by excluding communities where mostly wealthy people live. In Monterey County, most of Carmel, all of Carmel Valley, the exclusive gated enclaves of Monterra and Tehama and a portion of Pebble Beach, including the Lodge and Golf Course, were not sprayed. In Santa Cruz County, most of Rio Del Mar, Seascapes, most of the UCSC campus, and ocean front properties were not sprayed. Clearly, there is a pattern documented on the CDFA's own aerial spraying maps of not spraying some wealthy communities.*
Were the rich communities with political clout intentionally not screened for moths so that these communities would not be sprayed? No traps equals no moths caught which equals no spraying. While information on placement of traps is public record, and has been posted on other county's websites, like Sonoma County, our County Agricultural Commissioners refuse to tell us where the traps were placed. If this was not intentionally done to protect the wealthy communities, why won't the CDFA release trap placement information to the public?



By withholding public information about all other details of the aerial pesticide spraying program, like proof of an economic emergency and placement of moth traps, the CDFA has also violated the following State Constitutional right:

The second Executive Order violated by the CDFA is the following:

EO 13045*: Protection of Children from Environmental Health Risks and Safety Risks: *This Federal Order states that children may suffer disproportionately from health and safety risks. This EO requires each Federal Agency (USDA, APHIS, EPA, etc) to identify, assess and address environmental health and safety risks that may disproportionately affect children. Where are those government assessments of health and safety risks to children? The USDA's conclusion regarding this EO was that, since aerial spraying will be conducted overnight when children are inside, and since "pheromones" (no mention of the total Checkmate pesticide product) minimizes the risks to children, no other assessments were needed. It's again obvious that these federal agencies also violated the provisions of this Executive Order.*

DEFICIENCIES IN THE FEDERAL REGULATION OF CHEMICALS

The Toxic Substances Control act of 1976 (TSCA)
http://en.wikipedia.org/wiki/Toxic_Substances_Control_Act *is the only law that is intended to enable regulation of chemicals both before and after they enter commerce. And studies concluded that TSCA has not served to assess the hazards of chemicals or control those of great concern. TSCA DOES NOT REQUIRE chemical producers to disclose information on the health and environmental safety of these chemicals or on the approximately 2,000 new chemicals that enter the market each year. TSCA places legal and procedural burdens on the EPA. Since 1979 the*



EPA has used its authority to restrict only five chemical or chemical classes, though the agency reported in 1994 that about 16,000 chemicals in the U.S. were of some concern on account of their structure and volume in commerce.

EPA requires very little testing for the potential hazards of the combination of active and inert ingredients, even though humans and the environment are actually exposed to a chemical cocktail when a pesticide is used. Of the over 2300 substances EPA has identified as “inerts” in pesticide products, EPA classifies more than 1700 as “unknown toxicity” because EPA’s Office of Pesticide Programs does not have adequate information about their hazards. USA EPA 1998 List of inert pesticide ingredients www.epa.gov/opprd001/inerts

The scale of chemical product is immense and will continue to expand globally. Many chemicals that are useful to society are also hazardous to human biology and ecological processes. The EPA found just under 700 such chemicals in the blood of a nationwide survey of Americans in 1987. Animal studies indicate that these chemicals can disrupt the development of organ systems of fetuses and infants at very low doses.

In 2006 the European Parliament passed the REACH law, or Registration, Evaluation, Authorization, and Restriction of Chemicals. REACH requires a toxicity assessment of all those chemicals that are already on the market that have never been tested and plugs the loophole left open by TSCA. REACH also requires all chemicals manufactured or imported into the EU will have to be registered with the ECHA, European Chemicals Agency in Helsinki. U.S. citizens will have access to these databases and get a first-ever look at the potential health effects of some



toxins. Will the US become a dumping ground for hazardous chemicals if it's cheaper for manufacturers to keep making the more toxic version of a product for use here in the U.S.?

Just recently, Deborah Rice, an employee of the Maine Department of Health and Human Services was dismissed by the EPA from a toxicology review panel that was reviewing the safety of diphenyl ether (PBDE) also know as "deca." Rice was previously a recipient from the EPA of an award for "exceptionally high-quality research." The agency was pressured to remove her from the panel, which she had been selected to chair, by a lobbying group, the American Chemical Council. Apparently the group did not like her concerns about the toxicity of the chemical and the costs to the electronics industry if it were to be banned. The scary implication of this and other similar cases is that the EPA's first allegiance is to industry profits rather than to citizens' health and that any expert who dares to say that toxic chemicals and should be banned is removed from advisory panels.<http://www.naturalnews.com/z022773.html>

In 2006, six groups including the Pesticide Action Network and Physicians for Social Responsibility sued the EPA in the Second Circuit Court of appeals in New York City and the Ninth Circuit Court of Appeals in San Francisco for creating a new rule allowing pesticide companies to use intentional tests on humans to justify weaker restrictions on pesticides. They contended that the agency's human testing rule violates a law passed by Congress in 2005 mandating strict ethical and scientific protections for pesticide testing on humans.

<http://newstandardnews.net/content/index.cfm/items/2864>



PENALTIES FOR MEDICAL EXPERIMENTATION WITHOUT INFORMED CONSENT

California code (as well as the internationally signed and recognized Nuremberg Code) declares it is illegal to conduct medical experiments on people without their informed consent. The Environmental Protection Agency has acknowledged that the particulates in CheckMate chemicals are small enough to penetrate the body and have not been tested on humans, which means that the LBAM spray “program” qualifies as a medical experiment. Violations incur significant fines. Each person violated counts as a separate offense.

If penalties were enforced for conducting medical experiments on 1% of the population in all nine targeted counties, the penalties would be \$680M (at 1%) per perpetrator or, at 10%, they would total approximately \$6.8B

These penalties also carry jail time for those responsible, including representatives of pharmaceutical companies. These numbers quickly mount into the thousands of years.

REFERENCES AND CALCULATIONS

Right of experimental subjects to free and informed consent
“The voluntary consent of the human subject is absolutely essential.”

Nuremberg Code item 1 “The human subject should be at liberty to bring the experiment to an end if he has reached the physical or mental state where continuation of the experiment seems to him to be impossible.”

Nuremberg Code item 9

The Nuremberg Code (1940) International Principles for Human Experimentation (From Council Law No. 10, Nuremberg., Oct. 1946-April 1949, Wash. D.C.: USGPO. For Full Code:

<http://ohsr.od.nih.gov/guidelines/nuremberg.html>

*(The **Nuremberg Code of Ethics** in Medical Research and the **Declaration of Helsinki** have not been encoded into law and are therefore non-enforceable)*



The aerial application of pesticides is not just a pesticide experiment, but under State and Federal Laws, a medical experiment.

*Aerial applications fall under the legal definition of a human experiment under the California Health and Safety Code, section 24170-24179.5, and also falls under the legal definition of a drug. The CH&S Code defines **a medical experiment to include a biological substance or organism that can penetrate or damage human tissues. Checkmate formulations and Bt, Bacillus thuringiensis, a bacterium, are biological substances or organisms. The Federal Food Drug and Cosmetic Act (Section 201(g)(1). Aerial application of the pheromone pesticide chemical compound mixture constitutes human pesticide and medical experimentation.***

PROTECTION OF HUMAN SUBJECTS IN MEDICAL EXPERIMENTS ACT

State of California, USA, Chapter 1.3 Human Experimentation

The subject shall:

- *Be given an explanation of the procedures to be followed in the medical experiment, and any drug or device to be utilized.*
- *Be given a description of any attendant discomforts and risks reasonably to be expected from the experiment.*
- *Be given a disclosure of any appropriate **alternative procedures, drugs or devices** that might be advantageous to the subject, and their relative risks and benefits.*
- *Be given an **opportunity to ask questions** concerning the experiment or procedures involved.*
- *Be instructed that **consent to participate in the medical experiment can be withdrawn at any time...***
- *Be given a copy of the signed and dated written consent form...*
- *Be given the **opportunity to decide to consent or not to consent** to a medical experiment without the intervention of any element of force, fraud, deceit, duress, coercion, or*



undue influence on the subject's decision.

“Informed consent” means the authorization given pursuant to Section 24175 to have a medical experiment performed after each of the following conditions have been satisfied:...

“Medical experiment” means:

a. The severance of, **penetration or damaging of tissues** of a human subject or the use of a drug or device, as defined in Section 109920 or 109925, electromagnetic radiation, heat or cold, or a biological substance or organism in or upon a human subject in the practice or research of medicine in a manner not reasonably related to maintaining or improving the health of the subject or otherwise directly benefiting the subject.

b. The investigational use of a drug or device....

24176. Violations; damages; misdemeanor; waiver of rights

a. Any person who is primarily responsible for conduct of a medical experiment and who negligently **allows** such experiment to be conducted without a subject's informed consent, as provided in this chapter, shall be liable to such subject in an amount not to exceed one thousand (\$1,000) as determined by the court.

b. **“willfully fails to obtain the subject' informed consent”** = \$5,000

c. **“willfully fails to obtain... and thereby exposes a subject to a know substantial risk of serious injury, either bodily harm or psychological harm”** = \$10,000

d, Any **representative or employee of a pharmaceutical company**, who is directly responsible for contracting with another person for the conduct of a medical experiment and who has knowledge of risks or hazards with respect to such experiment, and who willfully withholds information of such risks and hazards... = one year or \$10,000 or both.

e. Each and every medical experiment performed in violation of any provision of this chapter is a **separate and actionable offense**.

g. Nothing in this section shall be construed to limit or expand **the right of an injured subject to recover damages** under any other applicable law.

Some calculations on potential fines and jail sentences for the perpetrators of a medical experiment without informed consent, in the form of aerial pesticide spraying with untested substances, on urban populations in Santa Cruz, Monterey and seven other San Francisco Bay Area counties:

*Santa Cruz County Population 255,602 x \$10,000(fine) = 2.6B x 10% = \$260M
Or x 1% = \$26M*

*+ up to one year jail term for each offence (each person violated)
= 255,000 years in jail*

*Monterey County Population 401,762 x 10,000(fine) = 4B x 10% = \$400M
X 1% = \$40M*

*+ up to one year jail term for each offence (each person violated)
= 402,000 years in jail*

*All 9 Counties Population 6,858,231 x \$10,000 = 68B x 10% = \$6.8B
X 1% = \$680M*

*+ up to one year jail term for each offence (each person violated)
= 6.9M years in jail*

And the same holds for representatives and employees of Pharmaceutical companies...

*Even the US military War and National Defense Code, Title 50, Chapter 32, Chemical and Biological Warfare Program prohibits testing on human populations without informed consent: "Sec. 1520a. Restrictions on use of human subjects for testing of chemical or biological agents
(c) Informed consent required The Secretary of Defense may conduct a test or experiment described in subsection (b) of this section only if informed consent to the testing was obtained from each human subject in advance of the testing on that subject."*



Questions

1. What gives you the power and/or the authority to suspend the California State and U.S. Constitution in order to implement the LBAM program?

What section of the law allows the CDFA to suspend basic human right recognized across the globe by World courts, conventions and treaties?

2. How do you justify the non use of pesticides for elite homes and the neighboring homes will get the full chemical treatment?
3. What authority and or laws give the CDFA to experiment on humans without their consent or knowledge?
4. What is your evaluation of the potential human rights violations as stated by the Geneva Convention and the other 23 human violations By Dr Kerns, which prohibits the exposure of chemicals to civilian populations when the civilian population has no advance knowledge and has not given their consent to apply?
5. Did you know that individuals are can and have been held accountable for implementing procedures that violate State Constitution, Federal Constitution, and Human Rights?
6. What multi-lingual information will be made available to the non-English speaking public?

Supporting Documents

The LBAM Aerial Spray Program and Human Rights, Thomas A Kerns, Environment and Human Rights Advisory

Lancelot S. Houston's email submission to the CDFA for the EIR sent to the CDFA on Thursday, March 20, 2008 3:12:09 PM

Anne Maiden Brown's email submission to the CDFA for the EIR sent to the CDFA on Thursday, March 20, 2008 10:30:05 AM

Letter to the CDFA from Mary-Ann Warmerdam, Director Joan Denton, Director Department of Pesticide Regulation Office of Environmental Health Hazard Assessment

Light Brown Apple Moth (LBAM) ECONOMIC IMPACTS AND SOLUTIONS, California Alliance to Stop the Spray

Graham 2008 email submission for EIR Scoping



Training, Educating and informing First Responder, Medical Professionals, County Medical Personnel, Residents and Tourists

Issues Not Addressed in the EIR

With the lack of preparedness by the CDFA and their inability adequately residents to the pesticide application and CDFA's their inability to inform and prepare first responder, medical professionals and county medical personnel about such a large scale program being administered and the potential adverse health reactions many residents had no idea where to report their symptoms., and those that did seek medical assistance it was clear that medical providers in the program area were uninformed and unprepared to administer the correct tests and or treatments for pesticide poisoning.

It was with this experience by residents, county medical personnel, and city and county officials in the treatment zones of 2007 explicitly requested that the CDFA establish procedures and plans to remedy these situations and have them evaluated in the EIR. In the EIR Draft this has not been done. It is not adequate to simply state that you have subcontracted that job to another agency. This is unacceptable. It was requested by many that this be an important part of the EIR. This was seen as a more important issue than noise by many residents and you have devoted an entire chapter to noise and completely ignored the many requests by residents, county medical personnel, and city and



county officials and event state officials asking for clear procedures and evaluations in this area. See attachments.

Considering that the CDFA has made huge errors in their assumptions of safety with Checkmate in regards to human and environmental health it is essential that emergency procedures be laid out in case the CDFA is wrong again. As stated in the EIR, inert ingredients will not be tested for safety nor disclosed to the public. Therefore it is even more important that first responders, medical professionals and residents be trained and provided with treatment plans and equipment.

There has never been a pesticide application of this size in CA with no actual end date, so training first responder, medical professionals, and county medical personnel is critical. Since you have stated that with little certainty that the long term cumulative, additive, and exponential implications are not known this gives even more credence to the need for the emergency procedures and training.

And because of these facts above where there were a number of miscalculations and wrong assumptions with the relatively small applications compared to what is proposed it is not acceptable not create definitive monitoring, tracking and training procedure in addition to emergency plans.

Since many of the counties, cities and millions of residents are strongly opposed to the program it is unacceptable to force these municipalities



to incur all costs related from your program in regards to civil unrest, medical treatment and training, and environmental cleanup.

While the CDFA is occupied with shameless self-promotion as stated in the EIR, “the {CDFA’s LBAM] Program will initiate a statewide public education effort on California’s initiative to manage LBAM and other invasive species” this type of education effort is not at all what was requested by medical personnel and residents.

Impact of Travel on State Economies

Highlights Taken from CALIFORNIA

TOURISM STATISTICS

<http://www.beachcalifornia.com/stats2.html>

Beaches are one of the most popular travel activities. One in ten person-trips (10%) includes going to a beach, equating to 109.5 million domestic person-trips taken in the U.S. in 2003. Long trips are popular with beach-goers as 36 percent of beach person-trips last a week or longer. Among household trips including beaches, 41 percent include children.

California is a popular tourist destination zone. People come to California from across the globe. In 2003 Domestic and International Travelers Spent \$68.23 billion dollars, and was



the number one U.S. States of Destination for Traveling Residents in 2002. California is the most visited state in America, and accounts for 11.5 percent of all domestic travel in the U.S. Millions of families Travel to California every year. It is essential to the California economy that be informed about application dates and locations, possible adverse reactions and how to treat and report symptoms.

- California is the most visited state in America, and accounts for 11.5 percent of all domestic travel in the U.S.
- Los Angeles County receives the most domestic tourism in the state with approximately 53 million person trips.
- Californians themselves are the mainstay of the state's travel and tourism industry, comprising 86 % of domestic travel, or 265 million person-trips. Out-of-state visitors account for 44 million person-trips.
- As the number one travel destination in the United States, California annually



generates more than \$75 billion in direct travel spending into the economy.

- Travel directly supports jobs for more than 1 million Californians and generates \$5 billion in direct state and local tax revenue.
- Tourism is California's 3rd largest employer and 5th largest contributor to the gross state product.

Questions

Resident and officials want to know:

1. Why should municipalities incur all costs related from your program in regards to civil unrest, medical treatment and training, and environmental clean up?
2. What will your plan be should this bankrupt city and county governments?
3. Explain in detail why you will not take responsibility for your program? Since you are so confident that there will be no adverse reactions you should not have a problem laying out basic procedures for the issues mentioned above so why not do it?



4. Where is the sound science by experts that are not on the CDFA, USDA, and DPR payroll to testify that the program will be effective using the proposed pesticides and methodologies, and that eradication can be achieved?

5. What improved methods technologies will you now use to insure that mistakes similar to those that occurred in the LBAM aerial spraying of 2007 when pilots using “state of the art Global Positioning System (GPS)” aeri ally sprayed out of the targeted areas, and what clean up measures do you have should this happen again?

6. What disciplinary actions will you take for repeated mistakes by either ground or air personnel?

7. Since you did not follow the directions of the product label and sprayed within hours of rain it is critical that you develop water safety procedure. Many cited recycle gray water so How do you plan to educate local water municipalities to treat recycled water and to recognize if the water becomes contaminated?

8. How will you educate and prepare doctors, nurses, first responder, homeopathic and natural medicine practitioners to the possible adverse reactions from the ever changing pesticides in use for this program?

9. How will medicine practitioners obtain the necessary testing tools to determine the adverse effects of the pesticides on humans i.e.



blood sampling kits? Who will then have to pay for these kits and tests? And how will you educate lab technicians?

10. How exactly will you monitor adverse and potential adverse reactions? What baseline will you use esp. years later when the original data, pre application statistics become “old” or outdated?
11. Who will collect his information? How will it be evaluated?
12. Resident also want to know exactly how many adults, children, seniors or disabled have to die or experience severe, moderate or mild reactions for the program to be either cancelled, postponed, or a new product is used?
13. How will the CDFA systematically contact medical personnel to update them on the use and possible reactions to techniques, pesticides and dates of applications?
14. Our landfills are open and not self contained and most are at or near maximum capacity. Birds and other animals come and go freely and can also bring residue, containers and runoff of pesticides into neighboring areas. How will the CDFA monitor and clean up these and other inadvertent contaminations to humans and the environment?



15. What type of protective clothing/ gear will you make available to the public as preventive measures?
16. Will the CDFA provide safe locations for people not able or choose not to be exposed to pesticides?
17. What additional measures will you take to *inform* chronically ill, asthma, and chemically sensitive residents?
18. How will you protect the biologically sensitive (e.g. asthmatics, babies, nursing mothers, pregnant woman, the immunocompromised, and elderly) from adverse effects from your spray?
19. What are the possible and likely effects of the various parts of the eradication program on vulnerable populations including but not limited to the following:
 - a. homeless people
 - b. children, including toddlers who spend much time on the ground
 - c. incarcerated persons
 - d. night-time workers
 - e. pregnant women and their fetuses
 - f. people with immune system disorders
 - g. asthmatics
 - h. elderly people
 - i. people with cancer



j. people with post-traumatic stress disorder

20. What percentage of residents' families and tourists include at least one person in one of these high-risk groups?



ECONOMIC COSTS TO COMMUNITIES, RESIDENTS AND MUNICIPALITIES

Comments

In the EIR chapter 3 did not evaluate the actual cost from enforcing quarantines, and requiring farmers and nurseries to purchase special products for treatments and preventions, and the cost of increased CDFA inspectors and their equipment. The chapter lumps *possibilities*, *maybes*, and *coulds* together and attempts to derive facts from these hypotheticals. As you have stated there has been no crop damage. Please present actual costs and losses and exactly where they are attributed to in the EIR.

It is misleading at best to attribute “costs” of your programs as damage from LBAM as you have done in the Draft EIR. It is eradication program that is costing farmers money and undue hardship for the agriculture industry. It is not damage from LBAM that is costing the agriculture industry money please clearly separate these differences and detail them out.



Light Brown Apple Moth (LBAM) ECONOMIC IMPACTS AND SOLUTIONS — Foster Gamble for California Alliance to Stop the Spray excerpt:

POTENTIAL ECONOMIC COSTS TO COMMUNITIES

In other recent documents, scientists and citizen researchers have reported thoroughly on the health and environmental damages of this spray program. With the CDFA public relations focus on projected losses to farmers, the potential negative impacts on the revenue of other major businesses in the affected communities have been almost completely ignored by both the Government and the populations themselves. These looming losses are only now beginning to become a part of the community awareness and media reporting. Projected drops in revenues to our communities if the spraying resumes could easily dwarf losses due to crop damage, *should any actually occur*.

California is the most visited state in America, earning over \$88 billion in travel-related income per year. There are already reports of tourists opting to stay away from the Monterey and San Francisco Bay areas if the spray is resumed. Tourism is San Francisco's number one revenue generating industry, with visitor spending reaching \$7.37 billion in 2005. Now there have been discussions on a premier travel web site cautioning against travel plans to Northern California. Local residents would be



going out less and if aversion to being involuntarily sprayed with pesticides decreased the tourism (including entertainment and hospitality) industry even 1%, the lost revenues would be deeply felt. These figures, as well as an accompanying calculation at 10%, are outlined in this document. (The dot.com bust and September 11 attacks dropped the tourist revenues by 16.3% in 2002.

Our most conservative estimates project **annual losses of \$198 million (1%) to \$1.98 billion (10%) for the tourist industry of the nine counties** for which aerial spraying is planned.

Some home buyers are hesitating to purchase in the nine county spray zone and real estate agents are beginning to realize the challenge of selling homes that will be immersed in toxins for years on end if CDFG proceeds with their plan. Agents will need to disclose this new hazard or risk liability suits. The Marin Association of Realtors has already voted to oppose the planned spraying and to amend disclosure advisory forms to notify homebuyers of potential spraying. **Real estate commissions at the same rates of loss could drop between \$17.8 -178 million dollars.**

A 1% -10% drop in housing prices would translate into a \$25.7 – 257 billion drop in the value of housing assets.

Not only are houses the primary repository of most people's



equity, but if people choose to leave the sprayed counties, their houses could be difficult to sell.

in the US. Even though the USDA has technically allowed organic growers to continue to qualify their food as organic even after it's exposed to the pheromone-pesticide spray, discerning shoppers are not buying it - the logic or the food. Buyers are asking for labeling of sprayed produce at the markets. The result is a projected loss of revenue for organic farmers. The California Certified Organic Farmers (CCOF) officially reversed their initial support of the spray and has joined efforts to implement a safe alternative.

Organic farming could lose \$2.8 M million to \$28.8 million annually in just these two counties, if the spray resumes.

The discovery of E-Coli in California Spinach from the Monterey area quickly dropped the revenues for the spinach growers from \$258.3M by \$74M, a loss of 28%).¹⁹

Estimated total annual losses in revenue for all 9 counties for the combined areas of:

- 1) Tourism and related construction and tax revenue
- 2) Losses to Organic farming
- 3) Losses in Real Estate Commissions

total: **\$200M (estimated at a 1% reduction due to spray)**
or \$2 Billion in losses (at 10%)



(See Appendix A)

Taxpayer Costs - Paying to Spray Ourselves

These figures do not include the hundreds of millions of taxpayer dollars that are intended to be used for funding the spray (\$100-500M+), the CDFA's public relations efforts and the legal fees

to fight the vast socio-political and legal backlash that is emerging among the nearly 7 million people targeted for immersion in the pheromone pesticide spray. If the moth is not eradicated, the next five years of the 10-year license could run the cost to taxpayers close to a billion dollars. Remember, no such program, out of 274, has ever successfully eradicated a species.

Compensation Costs

Not included here are the economic losses are the costs associated with evacuating, housing and caring for the chemically sensitive, disabled, pregnant, elderly and infant residents as well as those who rationally choose to leave to avoid the risk of serious damage to their health.

Miscellaneous Costs

As we begin to imagine the predicament of large urban areas continually immersed in toxins, other potential areas of lost revenue arise. A few examples: lost work days/productivity as people get sick, outside workers who



might skip their shifts on the nights sprayed, resulting in lost weddings, sporting events, emergency room visits from sick residents without insurance, lost revenue to schools due to increased absenteeism. (In a sampling of six high schools in Santa Cruz County after the spray, average absences in the three days following the spray were more than double the average of the three prior months. The Berkeley Unified School District Board of Directors has recently passed a resolution opposing the LBAM aerial spray program.

Citizens Taking a Stand for No Spray

Citizens have persuaded political representatives to file numerous legislative bills and city resolutions against the spray. Already 19 cities and two counties, representing over 1.8 million people [this figure has grown to 33 municipalities representing over 3 million residents], have formed a coalition with resolutions against the spray. Over 20,000 citizens have already signed petitions to stop the spray. All this despite the CDFA awarding a no-bid contract for close to one half million taxpayer dollars (from the USDA) to a high-powered PR firm, Porter Novelli, to convince the public that this spray is safe and necessary. (After the Associated Press exposed Schwarzenegger's ties to Porter Novelli, the CDFA began the process of suspending the contract after already spending close to \$100,000.22)



Questions to be addressed in the EIR

1. What is the costs comparative analysis of the economic costs to communities, residents and municipalities compared to that of actual the agriculture costs?
2. What are the program costs separate from crop damage? i.e. staff, enforcing quarantines etc?
3. Considering that the pest has been here for years and some experts say as much s 50 years and has been in Hawaii for over 100 years, what is the actual plant damage in both Hawaii and California number and value for produce and ornamental include dates? And,
4. What where the treatments for LBAM over the last 100 years in Hawaii (include dates)?
5. There are pesticides that are effective at the agriculture level so grower can effectively treat LBAM and codling moths. What is the cost of your required pesticides when a LBAM is found on a crop?
6. What are the costs to organic growers when their consumers choose to no longer buy their crops because the CDFA continues to water down CCOF and or organic standards to approve any new pesticide that the CDFA wants to use in another pest programs. As

one consumer wrote, “*I will no longer buy organics in the spray zone.*”

7. What will the cost in loss of real estate?

What is the financial lost to the real estate industry since they are legally required to disclose the CDFA’s bombardment of pesticides on private and commercial properties?

8. What is the financial loss to property owners when no one wants to buy their land, homes or businesses that will have pesticides on their land every 14 – 30 days?

9. What is the financial loss to private and business owners’ property with mandatory disclosure law in the real estate industry since many people will not want CDFA on their private property every 14-30 days and this will result in owners having to lower the sale prices to offset the CDFA program?

10. What is the financial loss to private and business owner’s property owners when they move out of the state in property and business taxes?

11. What will be the unemployment costs, loss of health care when these businesses move out of state?



12. Currently magazines, travel websites, and travel agents are preparing to inform travelers about the intense pesticide applications in California should this program be implemented. What will be the cost loss of tourism, restaurants, hotels and theme parks? Please include the cost loss to transportation include losses for air, bus, train, boat and car travel.
13. In 2007 many residents left the area seeking safety in other areas. What are the costs of people leaving to avoid applications days to our workforce and to our schools when parents remove their children from school to avoided being sprayed? What are the costs to the person and families leaving gas, hotels, food etc.?
14. What are the potential problems for the housing market as people don't want to buy in spray zones and any other possible costs / losses?
15. What are the cost to communities, residents and municipalities of legal actions against the state for implementing a program that violates people's safety and rights? You have a good basis considering there have been three applications in two counties and there are six current and pending legal actions that we know of at this moment?
16. What is the legal defense cost for the CDFA of current, pending and potential future legal actions? And who ultimately pays for these costs?



17. What is the cost loss of the CDFA when they are no longer seen as an honest reliable agency and people call for the eliminations of that agency and when the CDFA try to act in another aspect of their agency and resistance greets them at every level?
18. Considering that 300 - 700 hundreds individuals reported having adverse reactions from three rounds of sprayings and include the fact that people become more a wear of symptoms/ reactions and how to report them and treat them, What are the projected health costs to individuals and the projected costs for each year as the program progresses for each year? And, What are the costs for municipalities considering that some will have no insurance or ability to pay for health care services.
19. Considering that there three application series and there were three “accidents” that the community is a wear; planes spraying out of target zone, spraying the day before it rains, and spraying near and in some cases in bodies of water, what is the cost to communities, residents and municipalities for clean up and mitigation of CDFA’s accidents?
20. Considering the extreme opposition to this program by residents and protest and demonstrations have already occurred at an alarming rate **what** is the past and projected costs to communities, residents and municipalities for this type of community resistance.



21. Since this is a new program using new techniques, new pesticides, spanning over 150 thousand sq miles, What are the potential costs to agricultural losses due to unintended consequences of pest management actions taken?
22. What are the potential loss of revenues from large events needing to be moved or rescheduled do to the aerial spraying of insects and any other part of the program? For example, conferences, sports events, concerts, etc. may be cancelled and moved to other areas, out of state or out of the areas being sprayed?



Particle Size, Air Pollution, Pesticide Drift, Inadequate Testing in humans and Animals

Facts and Comments:

The adverse reactions to human health from *Bacillus thuringiensis kurstaki* (Btk) are number numerous. “People can be exposed to Btk either by breathing in the bacteria while it is being sprayed, by ingesting it after touching sprayed objects.” (Ginsburg, 2006)

It is unacceptable that you have not tested Btk because of a false claim “*Btk is not dermally absorbed. Exposure via dermal absorption is not evaluated” in append d table D4-2 is inaccurate. When there are a number of reports that indicate that adverse reactions from dermal exposure are possible. The EPA states that a possible dermal can occur. (EPA E. P.) Further the Michigan Department of Community Health states BTK “And can irritate the eyes and skin”. (MDCH, August, 2004) Since your program states that “the target vegetation would be trees or shrubs on private or public land” and it “would be applied by hydraulic spraying using either truck-based or backpack-based equipment.”

In Append CDFA of the Draft EIR you state “PM10 emissions due to hydraulic spraying” and “hydraulic spraying (which has drift)”. “In 1987, EPA replaced the earlier Total Suspended Particulate (TSP) air quality standard with a PM-10 standard. The new standard focuses on smaller particles that are likely



responsible for adverse health effects because of their ability to reach the lower regions of the respiratory tract. The PM-10 standard includes particles with a diameter of 10 micrometers”... (EPA, 1995).

Major concerns for human health from exposure to PM-10 include: effects on breathing and respiratory systems, damage to lung tissue, cancer, and premature death. The elderly, children, and people with chronic lung disease, influenza, or asthma, are especially sensitive to the effects of particulate matter.” (EPA, 1995)

Contrary to your inaccurate assumption that that because it is almost “pure water” it is not pure water and that according to the American Lung Association it would make no difference because particulate matter (PM) “can also be completely liquid aerosols or solids suspended in liquid mixtures” and are harmful to extremely harmful. (AMA, 2007) Hydraulic spraying will be applied to urban and residential area at a rate of “3 acres per day”.

American Lung Association’s 2009 report states that out of 58 counties in California 36, well over half received an “F” in the number of high ozone days and 20 out of 39 counties’ Air Quality Index that EPA developed to help the public understand daily air pollution forecasts and protect themselves. (ALA)



American Lung Association State of the Air 2009 report that “People at Risk In 25 Counties Most Polluted by Long-term Particle Pollution” across the nation California Counties has six of top eight of the most polluted by long-term particle pollution and California Counties ranked 5 of top eight of the for the most polluted by short-term particle pollution (24-hour PM2.5) across the nation. This report continues the break down the number of people affected by Particle Pollution and their conditions for a combined total people at risk in the 25 counties with the most adversely effected short term and long term equaled to over 42 million effected by Short-term Particle Pollution alone. (ALA) “In recent years, scientists have shown that air pollution from cars, factories and power plants is a major cause of asthma attacks. And more than 159 million Americans -- over half the nation's population -- live in areas with bad air. A research study published in 2002 estimated that 30 percent of childhood asthma is due to environmental exposures, costing the nation \$2 billion per year. And studies also suggest that air pollution may contribute to the development of asthma in previously healthy people. (NRDC, 2005)

Since reports show that 30 percent of childhood asthma is due to environmental exposures, costing the nation \$2 billion per year (NRDC, 2005) estimating a conservative linear relationship for increased air pollution and not acquiring asthma then a 5% increase air pollution would equate to a 5% increase in the cost of asthma in children. More realistically as the particulate



percentage increase the number of asthma cases would increase more than proportionally.

And, the multibillion dollar cost from environmental exposure of children is but a small portion of the actual costs that our state occurs for the entire population which has asthma. Additionally, the medical expenses are small fractions of to the non monetary costs are far greater than the medical. This is segment of society which suffers from asthma is only a small fraction of the population that will suffer adverse health effects from increase particulate matter in the air.

“In court filings, statements, and letters released by the CDFA, the public has been falsely assured that aerial spraying of CheckMate would create only minor, negligible amounts of PM10 in the air ... [when in fact it was] 7 times more dangerous” than the CDFA admitted (Haferman, 2008).

Air patterns and air quality vary greatly from different sections with in each county in California as you have agreed in Appendix C of the EIR Draft, it is not adequate that you hand select a on a handful of the 58 counties and predict particulate matter based on the few select counties.

Pg & E acknowledges 16 different climate regions (Guide to California ClimateZones) and you have only considered 5 regions. Residents will readily testify that there are many different climates in one county.



Cancer and Animals

Cancer accounts for about 10 percent of all human deaths. If you think that sets us apart, scientists have news for you: Wild animals die of cancer at about the same rate, and it threatens some species with extinction.

"Cancer is one of the leading health concerns for humans," Dr. Denise McAloose, a pathologist for the Wildlife Conservation Society, said in a statement. "But we now understand that cancer can kill wild animals at similar rates." (LiveScience, 2009). "Cancer is the second leading cause of death in Beluga whales living in the Saint Lawrence River estuary, collector of smelting effluents and known to have elevated levels of cancer causing polycyclic aromatic hydrocarbons (PAHs). Higher rates of cancer in bottom feeding fish point to the potential dangers of carcinogens lurking in the sediments at the bottom of lakes and waterways." (Discovery.com, 2009)

"Sea lions found off of California suffer widespread metastasizing genital carcinomas which prevent them from mating. Rarely seen before the 1980's, such cancers were found in over 18% of sea lions washed up on California beaches. In a separate study of sea lions killed during an unusual algal bloom, 6.3% were found to have cancer.



Fortunately, sea lion populations have been growing in spite of the simultaneous increase in observed cancers. Ocean-going dolphins are also showing increased rates of genital cancers.” (Newton, 2009)

It is essential that the proposed inert and active ingredient be evaluated for the potential to cause cancer in animals as you have done for humans. This is a important area that has not been thoroughly evaluated nor considers before wide spread systematic implementation of any of the program chemicals. Also there is little to no mentions of the toxicity taken up from Bioconcentration, Bioaccumulation, and Biomagnification of the cross contaminations in the full spectrum of you're the pesticides. For example, the Great Blue Heron gets aerially sprayed, inhalation exposure, then fly and eats SPLAT runoff in a residents pond, then eat, worms that have ingested and the worms have soil that is loaded with Spinosad.

The above example has not been evaluated for humans either. For example, a human get aerially spray while doing outdoor labor, then goes into an area that is surrounded by twist ties for the first half of his job, then eats fish that accumulated drift from the aerial applications, then walks in some water which is also exposed to drift and then returns home that is surrounded by SPLAT and Btk. Since there is no escape from the eradication program for animals or humans it is critical that these and similar scenarios are evaluated esp. since the MMA is already



proved by your documents in the EIR to be a highly carcinogenic. These are realistic scenarios since the vast majority of people and (and animals) do not stay, live, or work in the same exact location every day.

QUESTIONS:

1. You have stated that there will be drift associated with the applications of Sinosad and Btk so, and that it will drift from 1000 feet to three miles depending on humidity, wind and other factors for up to two to three hours so, What is your rationale that residents, children, and animals will not come into contact with the pesticide? How do you plan to place the appropriate caution signs around the treated areas?
2. Since you state there is drift associated with hydraulic spraying how will you warn park users, residents, children and tourists not to touch trees, shrubs?
3. How will you warn park users, residents, children and tourists not to touch, grass flowers and or anything like cars toys playground equipment in the drift zone?
4. Where and how will you post notices and warnings for public, commercial and residential areas that will be subjected to the pesticide?



5. What precautions will you use to not spray either by backpack or hydraulic spraying when people and pets are near and in the drift zone?
6. What is your evidence to disprove the EPA standards on harmful particle size?
7. How do you explain the EPA's grading system and that your will have no significant influence on the air quality?
8. How can you justify your program when will the pesticide and the additional particulate matter you will be adding to an already failing state?

ARE YOU STATING THAT THE EPA IS WRONG WITH THEIR FACTS AROUND PARTICULATE MATTER? IS YOUR RESEARCH IS MORE ACCURATE THAN THE EPA?

1. Where is the data and evaluation of particulate matter and the effects on animals?]
2.
In table appendix c-9 you state that the particulate matter for Btk and Spinosad are PM10. And this size particle is known to cause serious adverse health reactions what sound science do you have to contradict the Environmental Protection Association and the American Lung Association?
3. Referencing email communications that are then used as sound science is not an appropriate for the gravity of the proposed program and email communications are not factual data to support your claims around particulate matter. What are title, authors and the data from the studies

that supports the statements between ENVIRON and the CDFA in reference to drift, particulate size and the increased level of particulate matter from the program for each of the proposed treatments.

4. Considering how the CDFA was so wrong in their statements of safety surround an application that assurances can you provide that this will not happen again. What extra steps have you taken now that you did not do with checkmate.
5. Why is checkmate still in the EIR?
6. Are you still considering using Checkmate?
7. What will you do if any of these products are not effective?
8. How will you handle if there is a reaction to the public from your products is observed?
9. What is your plan if the products are not as safe as projected?
10. Where is the monitoring plan for adverse health effects from your program?
11. Simply stating the DPR will handle it is not at all sufficient. The DPR has never had to monitor a program of this magnitude. It has been repeatedly asked by residents and city officials that you state your monitoring plan, medical personnel education outreach and emergency procedures, public education plan and exposure procedures. I have not seen you address any of these issues and they need to be clearly addresses and answered. Again, where are your health monitoring plans, medical personnel



education outreach and emergency procedures, public education plan including tourists, and exposure procedures and plans?

12. Considering the 42 plus million people in that are already effected by Short-term Particle Pollution alone and the 45 plus million who suffer from long-term Particle Pollution what cost formula do you use when analyzing the expenses to the States health care system and the cost of a shortened life span verses the “potential” damage from a moth - LBAM that has been here for decades and still has causes not significant crop damage?
13. Since the ALA has noted 38 air quality monitoring station in California and you state 35 why are not being monitored and the five monitoring stations you chose to evaluate and rare and exceptional air quality compared to the rest of California? What is considered south coast?
14. Considering the drift perimeter explain exactly what equipment will workers wear during the application process?
15. Considering your projected drift calculations, which I object on the basis to the lack of sound science, how do you figure your workers will be protected without special protective clothing?
16. Considering that the over 40% (stated in the EIR) of the applications of Btk will be administered via backpack and the close proximity of the person administering these pesticides will be at a lower elevation than the pesticide being administered and that gravity will bring these pesticide down towards the worker, and this is the same scenario with the truck based application, and the well noted expert’s opinions of adverse health



effects, as stated above and in the Appendix C of the Draft EIR, associated with hydraulic spraying of Btk what extra precautions are you taking to protect workers, and the community to the harmful side effects of respiratory and dermal contact of the product? Are you going to discount the known toxins and adverse effects of administering Btk and the other pesticides proposed for use as stated in the EIR?

17. Since the evidence and experts have well established the toxic effects of your pesticides including but not limited to Btk explain exactly why your claim that your data is more valid than the nationally and internationally known experts on this subject? Since you are not evaluating the many different regions, Are you trying to take short cuts to fully evaluating the LBAM Eradication Program or are you not sure what the effects of particulate matter will be on the vast regions of California?
18. How long will each of the pesticides, both active and inert ingredients stay in the soil, vegetation, and water and the various body tissue for each of the proposed pesticides and combinations of the pesticides? Include analysis over months, years and decades because this program has no end date and each month there will be a cross accumulation, a cross bioconcentration and a biomagnification of active and inert ingredients added to the previous application.
19. How will you monitor the adverse effects they be monitored?
20. Some of the chemicals planned for use are "insoluble," what percentage of these chemicals will remain in the environment and for how long? Detail for each pesticide.



21. In chapter 12 permethrin might be used is the CDFA backs off this program and you evaluated a moderate to server ecological risk to animals but when permethrin is listed under your “program alternative” and evualated there is little to no risk?
22. How is that you can conclude in the chapter that there is little to no risk to bees and yet in the appendix it is clear that the test result state a different conclusion?
23. How have you tested and evaluated for this “higher rates of cancer in bottom feeding fish point to the potential dangers of carcinogens lurking in the sediments at the bottom of lakes and waterways.” (Discovery.com, 2009)? Have you considered, planned for and or evaluated this?
24. How come when permethrin is listed in the “No program” the IER states it is considered as a “carcinogen”, “highly toxic to fish”, and “Acute and chronic exposure in humans can respiratory tract irritation and neurologic effects, CNS depression, arrhythmias, upper respiratory-tract irritation, dermatitis, ulcerated and vesicular lesions, and desquamation” along with a whole host of other adverse effects and when permethrin is listed as a “program alternative is does not mentions any of the adverse characteristic as in the “No program”?



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Light Brown Apple Moth Eradication Program Draft Environmental Impact Report

[Comments and Questions](#)

September 28, 2009



Air Craft, Aerial Spraying, Inaccurate Conclusions, Product Waste, Lack of Information

Facts and Comments

Bird/aircraft conflicts are becoming more common this is due to increased numbers of both aircraft taking flight and species bird have quadrupled in population. Between 1990 and 1998, there were an estimated 22,000 bird-aircraft collisions in the United States, which cost an annual \$400 million in aircraft repairs (Sodhi, 2002).

“Incidents, on average, the aircraft of the U.S. Air Force incur 2,500 bird strikes annually (APHIS.USDA, 1997). Most air crashes occur when a bird hits the windshield or is inducted into the engine. In terms of civilian aircraft, over 5,000 bird strikes were reported in the United States during 1999 alone. (airc, 2002)

In 2007 the U.S. Air Force reported more than 5,000 bird strikes to their plane. “A 12-pound Canada goose striking an aircraft going 150 mph at lift-off generates the force of a 1,000-pound weight dropped from a height of 10 feet, according to Bird Strike Committee USA... Even smaller birds, such as starlings, can cause engine failure.” (MSNBC, 2009)

Aerial spraying of pesticides is an inaccurate form of administering and targeting an insect population. Only 1-2% of the sprayed chemicals actually reach the target pests.⁶ And the US National Research Council characterizes the amount of aerial drift as “considerable”– from 5% under optimal-low wind conditions to 60% under more typical conditions.



The following is taken from *20 Reasons to Ban Aerial Spraying*
http://www.dirtybananas.org/index.php?option=com_content&task=view&id=38&Itemid=27

According to the National Research Council in the US, only 10% of pesticides in common use have been adequately assessed for hazards. We do not know the long-term effects of most of them. Pesticides are like time bombs killing a lot of people. In fact according to the World Health Organization and United Nations Environment Program, as many as 25 million people are seriously poisoned by pesticides every year.

Aerial spraying of pesticides is banned in some countries. Total ban exist currently in Denmark, Estonia, Slovenia, with partial bans in Italy, Cyprus, Austria and Belgium.

Stephan Muller and Thomas Bucheli of the Swiss Federal Institute for Environmental Science showed in their research that pesticides could also evaporate and become absorbed into clouds. The highest concentrations of such pollutants are found in the first rainfall after long dry periods.⁵ Some people still get water from rain for drinking and other household use.



In virtually every study available and reviewed in the Journal of Pesticide Reform (16 articles), pesticides were detected as far away from the area of application as samples were taken. "a predictable percentage of spray will transport potentially as far as 2 or more miles from the treatment site" according to a 1994 report from the US-EPA Ecological Effects Branch.

Drift can contaminate open/exposed bodies of water such as river, wetlands and springs where people get drinking water. Spray drifts also contaminate the roofs of houses within and adjacent to plantation areas there by endangering more the health of those still dependent on rainwater.

Aerial spraying is strongly opposed by the vast majority of Californians. So why do insist on using a method is riddled with controversy and has an extremely low efficacy?



Questions

1. What is the potential for bird crash collision?
2. What is the risks associated with aerial spraying and the fire potential for bird-craft-crash consider the amount of fuel exploding over forest and homes during peak fire season and non peak times?
3. The EIR does not address the reality and implications of bird-plane crash, what is the assessment of accidents in relations to bird – crashes?
4. Has your fire risk assessment been evaluated by any fire fighting units or agency?
5. Have you ever consulted a fire fighting agency to review your eradication plan?
6. Since is it is not uncommon for Redwood tree grow to heights over 300 feet and birds live and fly to and from these trees. How do you compare the risks of Birdaircraft conflicts vs an unknown unproven in LBAM?
7. How often will the nozzles be checked for proper dispersal and function?
8. How will you monitor the particle size of aerial chemical applications?
9. How often will the nozzles for aerial spraying be replaced?
10. What is the dispersal system being used for both insect release and pesticide aerial spraying?
11. How will you know your target area was treated?



12. How will you prevent birds from getting directly aerielly sprayed?
13. In 2007 non aerial sprayed zones were sprayed how will this be avoided in the future?
14. Who did you contract with to do the aerial spraying?
15. How will you evaluate their performance?
16. What is the cost of the aerial spray portion include figures for both insect release and pesticide spray of the eradication program?
17. In the aerial spray in 2007 for LBAM there was technical difficulties. What exactly made the pilot return to the airport and not finish? Will there be transparency in the aerial spraying portion of the eradication or will information like the pilot trouble be hidden or will you work to build trust and thus provide transparency?
18. What factors will render the aerial spraying ineffective?
19. Aerial spraying is strongly opposed by the vast majority in the treatment zones so how will you notify those in the aerial spray zones, and what type of advance notice will be provided to the residents in the affected areas?
20. How will you monitor the efficacy of aerial spraying?
21. Aerial Spraying violate California and U.S. Constitution and many basic human right, what section of the law grants you the power to suspend the US and California Constitution? Site the actual code this as you have sited codes for other aspects of this program.



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In 2008 there were several submissions to the CDFA's scoping session asking the CDFA to consider a number of issues pertaining to the LBAM Eradication Program that were not addressed in the Draft EIR.

Psychological Impacts

During 2007 the counties of Monterey and Santa Cruz suffered extremely high level of anxiety and stress. This was attributed to the CDFA's Eradication Program. Residents reported being in an extreme state of fear, they reported sleep loss, in ability to concentrate and in some cases residents reported needing medical attention for their depression, high anxiety, and post traumatic stress disorders a result from being aerielly sprayed against their will. These adverse reaction stems from a variety of aspects initiated by the CDFA's Program.

Questions

1. What are the psychological impacts of aerial spraying to residents?
2. Considering that Santa Cruz like many other counties in California have a high homeless population, how will you warn or offer protection to them this growing segment of our community?
3. As documented below there are a disproportionate high number of homeless veterans, over "55,000 homeless California veterans live on the streets or in shelters" (CVB, 2002), living in and out of the urban and residential areas. The Canadian Federal Court even ruled veterans should receive a military pension for the multiple sclerosis... caused by PTSD, (Scott, 2009) what are the psychological impacts likely to be on that community? How will this affect their overall health? How do you plan to educate them about



adverse health reactions and alert them to spray areas and spray days for both ground and aerial applications?

4. Post-traumatic stress disorder (PTSD) is a type of anxiety disorder that's triggered by a traumatic event. You can develop post-traumatic stress disorder when you experience or witness an event that causes intense fear, helplessness or horror (MFMER, 2009). Just a low flying plane can cause extreme states of fear let alone one that is releasing unknown substances on the population, "I'm a therapist, and I actually had a panic attack." When seeing a low flying plane", Garcia-Rose, who works with nearly two dozen post-traumatic stress disorder patients ages 15 to 47, said she was inundated with phone calls from patients Monday morning. "They're traumatized. They're asking 'How could this happen?' They're nervous. Their anxiety levels are high." (CNN)
5. "Scientists know that psychological stress can affect the immune system, the body's defense against infection and disease including cancer" (NCI, 2008), How will this increased psychological stress and duress affect disabled and healthy immune systems of individuals and their ability to combat adverse reactions from the pesticides? Have you evaluated these with especially considering carcinogenic characteristic of the proposed pesticides?
6. Mandatory entrance to private property to use of pesticides on residents property when they have chose to live without the use of such chemicals on their property.
7. Where exactly are the geographical areas for each treatment method?



8. Define what is an urban, rural area, agriculture and commercial areas for the proposed program?
9. What exactly are “essentially uninhabited areas” for aerial spraying
Where are these areas on a precise map?
10. In 2007 the CDFA stated that “we have a small window of time to act and eradicate unless the crop damage will devastate California agriculture industry” Now three years later and there is “no damage”, as stated in the EIR, and it is clear that the “small window” to act is expired, how has your program changed? Or do you not change your program when new information becomes available?
11. Why have you not considered what several residents suggested in 2008 scoping sessions using the Precautionary Principle In order to protect human health, safety , and the environment to the greatest extent possible, the State should adopt The Precautionary Principle (Wingspread statement 1998) and apply it to the LBAM eradication program.(1)?
12. Why were the majority of the questions by Lancelot S. Houston (attached to this document) submitted in 2008 never addressed?

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California Endangered Trees

Comments

The Coastal Redwood tree grows taller than any other tree in the world. A Coastal Redwood called Hyperion is said to hold the new record for the tallest living redwood tree reaching a height of 378.1 feet tall. Hyperion is taller than the Statue of Liberty. (Nursery, 2009) The threatened Marbled Murrelet and the threatened Northern Spotted Owl is a small seabird which flies inland to nest on the mossy limbs of old-growth trees.

These animals and redwoods are a national treasure and visitors travel across the globe to see the might redwood and hope to catch a glimpse of the Marbled Murrelet and the rare Northern Spotted Owl. 1999, the federal government and the state of California bought 7,472 acres of redwoods for \$380 million because redwoods and old growth redwoods are a national treasure.

The California Red Tree Vole (*Arborimus pomus*) status is and “endangered” tree living only in the coastal areas. These areas are in the primary zones of the LBAM eradication program. These threatened and endangered trees and animals will be exposed to large amounts of pesticides. What tests have you conducted to evaluate the risks to these and other trees and animals?

California's Joshua Tree National Park Makes Top-10 Endangered List and many other of California's National Park and State parks have that



threatened and endangered trees, flora and fauna. What is your sound science to prove that your pesticides will not hurt or endanger trees, floral and fauna in and out of our national parks?

Questions

What tests have you conducted to assess the risks to the California Red Tree Vole, Coastal Redwood, the Sierra Redwood, and the Dawn Redwood chestnut, flowering dogwood, American elm and California oak or any of the other trees in the program area?

What tests have you conducted to assess the risks to the threatened Marbled Murrelet and the threatened Northern Spotted Owl that live in these majestic redwoods?

While there is no documented proof that the LBAM will hurt a redwood because of its very nature; LBAM is a leaf roller and cannot and has not survived or damaged a pine needle tree anywhere in the world. The real threat to these trees and animals is the monthly bombardment of brand new, never before used pesticide applications that will span years and decades. How will you insure the safety and nation's investment in these trees?



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