

CITY OF ALAMEDA

Memorandum

To: Honorable Mayor and
Members of the City Council

From: Debra Kurita
City Manager

Date: April 15, 2008

Re: Consider a Resolution of Opposition to the Aerial Spray Program to
Eradicate the Light Brown Apple Moth

BACKGROUND

On April 1, the City Council heard a presentation from Mr. A.G. Kawamura, Secretary of the California Department of Food and Agriculture and Dr. Bob Dowell, Director of the Light Brown Apple Moth (LBAM) program. Secretary Kawamura and Dr. Dowell discussed the problems that the LBAM poses for California's crops and the Department's plans to eradicate the LBAM through a variety of means, including aerial spraying. Following the presentation, the City Council heard from a number of residents and people from other communities who are concerned about the aerial spraying and the effect it will have on their health and on the environment.

DISCUSSION

According to the California Department of Food and Agriculture (CDFA), the LBAM feeds on more than 2,000 different types of native and ornamental plants and trees including cypress, redwoods and oaks, and can attack more than 250 agricultural crops, threatening California's natural environment and food systems. The LBAM has been found in nine counties in the state. In order to combat the LBAM, CDFA and the United States Department of Agriculture have developed a program that uses pheromones to disrupt the mating cycle, thus reducing the moth population and eventually eradicating the pest. CDFA intends to spread the pheromones using a variety of methods, including repeated aerial spraying of the pheromones in Alameda, Contra Costa, San Francisco, Marin, and Santa Clara counties beginning this summer; Santa Cruz and Monterey counties were sprayed last year.

The reason behind the LBAM eradication program is concern for the damage to crops and other plant species and the potential for quarantine restrictions on California crops that could occur if the moth population continues to increase. The material sprayed is a synthetic pheromone-based solution, combined with other inert ingredients. While CDFA tested the pheromone and concluded that it would not cause any health effects, questions have been raised about the health effects of the inert ingredients that are

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sprayed with the pheromones, as well as the inhalation risks of the capsules that carry the pheromone. CDFA found that the substance used in the spray, CheckMate, could cause skin, eye and respiratory irritation but concluded that the amounts being sprayed would be unlikely to cause health problems.

Many members of the community have expressed their concerns about the potential health and environmental impacts from the spraying. According to the Health Officer for Santa Cruz County, the aerially spraying conducted in November 2007 resulted in "over 600 recorded complaints from residents of adverse health effects resulting from exposure to the spray."

Although cities have no jurisdiction over the aerial spraying program, a number of cities have passed resolutions of opposition to the spraying until the State has studied the public health implications and determined that there are no health or environmental risks. In addition, several bills are pending in the State Legislature related to the LBAM program.

- AB 2760 (Leno) requires an environmental impact report be produced before any eradication efforts are undertaken in an urban area.
- AB 2763 (Laird) requires CDFA to create a list of invasive animals, plants, and insects that have a reasonable likelihood of entering California and prepare a written assessment on the most appropriate method of eradication.
- AB 2764 (Hancock) prohibits the Secretary of Food and Agriculture from approving the application of a pesticide in an urban area unless the Governor has proclaimed a state of emergency.
- AB 2765 (Huffman) sets new limits on the emergency powers of CDFA and requires a public hearing to receive testimony and examine alternatives to aerial spraying prior to any decision to spray. It further bars emergency spraying in an urban area unless there is full disclosure of all elements in any pesticide product, and a certification of the safety of the product by state health officials.
- ACR 117 (Laird) calls on CDFA and a number of other state agencies to address unresolved health, scientific, and efficacy issues surrounding the LBAM eradication plans.
- SCR 87 (Migden) requests that CDFA impose a moratorium on any aerial spraying that may be a part of the Department's LBAM eradication campaign until it can demonstrate that the pheromone compound it intends to use is both safe to humans and effective at eradicating the LBAM.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Adopting a resolution of opposition to the aerial spray program and support for the various bills and concurrent resolutions related to the LBAM program will have no impact on the City's General Fund.

RECOMMENDATION

Consider a resolution of opposition to the aerial spray program to eradicate the Light Brown Apple Moth and support for the pending legislation that addresses this program.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lisa Goldman". The signature is fluid and cursive, with the first name "Lisa" and last name "Goldman" clearly distinguishable.

Lisa Goldman
Deputy City Manager

From: Beverly Johnson
To: CITY CLERK; Debra Kurita; Lisa Goldman
Date: 4/9/2008 5:40:43 PM
Subject: Fwd: Don't Spray California's LBAM resolution proposal

>>> "Max Ventura" <beneficialbug@netzero.net> 4/9/2008 9:24 AM >>>

Hello again,

You have received LBAM information from us over the months. It was suggested that we send you the proposal we drafted bringing together a significant number of the concerns around the CDFG/USDA pesticides program. Whether you want to draft a full resolution such as this, or a short one opposing the full program, not only the aerial spray aspect, especially as some of the other toxic methods are quietly being slipped in the back door in use already, this document and the citations accompanying it will give you the information and wording from which you can work. Please also refer to our website for more information. It is www.EastBayPesticideAlert.org (<http://www.eastbaypesticidealert.org/>). A reminder: we are known as Don't Spray California, also, the names we use more often working on statewide issues.

You can click on the LBAM section and from there click on the MS Word document which will give you photos of LBAM applications as well as much more detail about toxicity. By mid-April you will be able all the links should be pasted in by the web person so that the new page is up and running fully but for now it is still a wealth of useful information as you draft your resolution. We have been stressing to people, including other activists that, if the fixation only on aerial spraying continues, the rest of the program will march along unabated, and rapidly will drown us in toxics. As we predicted from experience, is so. We must have the full toxics program rescinded which is why we are approaching municipalities and unions with this message and this resolution. While the wording of the resolution is being verified, the Berkeley Peace and Justice Commission took this resolution and decided to draft something much shorter, knowing that we have provided much detail for the city of Berkeley and that they are familiar with our long resolution, with citations. Their recommendation is short and very much to the point of calling for no use of toxics, listing each of the basic methods (whether by aerial spraying, ground spraying, twist ties, permethrin, or other related methods, which was referring to chemical sticky traps), downgrading the pest classification to reflect the lack of risk it poses, and also they acknowledged that the legal action the city of Berkeley is spearheading comes with great responsibility to unite municipalities across borders, to make this about the whole program, not only trying to save our own local behinds from it, but others who have been harmed already in Monterey and Santa Cruz, and people around the state who are threatened by CDFG saying the moth will be all over the state, and asserting that it will take over the country. Kind of like a bad sci-fi novel they're trying to construct up in some office. But the damage in the two counties sprayed already is real, and continuing, including economic damage to farmers and nursery people suffering the crop damage due to excessive handling of their crops, and small farmers struggling under reams of paperwork, taking them out of the fields where they would, in fact, be monitoring the well-being of their farms, where they should be. The East Bay Regional Parks District union also used our resolution to craft a very strong resolution opposing the full program, referring back to some of their union language as well. As soon as we have the formal approvals of the exact wording of both those resolutions they will go up on our site.

Please know that people are crying for this whole program to be stopped, not only the aerial spraying which of course brings back memories of Medfly spraying. But especially in Alameda, the irony is that there is already aerial spraying by the bay, as part of the Spartina project, another terribly dangerous pesticides program about which we have information on our site.

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We look forward to assisting you in any way we can to see an end to the use of toxic pesticides by your municipality itself, in the form of pesticides used in parks, for instance, which we have confirmed, and possibly in city buildings, and on city streets, which we have not specifically confirmed, as well as in fighting pesticide use by outside agencies bringing them to your city beloved by so many. Please know that if you need a person to address any public health department or environmental health department on this, keep us in mind for such resources.

Honestly, Alamedans are suffering under staggering toxic circumstances, even once the city gives up its use; there is jet fuel toxicity, Port of Oakland particulate matter, drift from W. Oakland industry and San Leandro industry, the Spartina Project. You do not need CDFA's newest program affecting your residents and visitors. I spoke with a couple, both very sick, only this past Sunday, who have lived in Alameda years but have to leave due to this mix. They laughed that at least they get a break on Sundays when there are less Port of Oakland trucks running. That is the day they can go out and breathe reasonably, but they don't use city parks. Otherwise, they are in their home with air purifiers running nonstop, and have another in their car for when they need to leave.

Sincerely,
Maxina Ventura
Chronic Effects Researcher,
EastBay Pesticide Alert / Don't Spray California
510-895-2312 or if busy, try 798-5630

To: The ***** City Council or.....
From: East Bay Pesticide Alert / Don't Spray California
Re: Resolution opposing the California Department of Food and Agriculture (CDFA) and the U.S. Department of Food and Agriculture's (USDA) pesticide program to attempt to eradicate the Light Brown Apple Moth
Date: Spring, 2008

Whereas, the Light Brown Apple Moth (LBAM) is a pest subject to Federal and State quarantine and eradication orders; and

Whereas, there is a claimed presence of Light Brown Apple Moth (LBAM) in ***** County; and

Whereas, the CDFA plans to expand the LBAM pesticide program which began in 2007, to Alameda and surrounding areas in 2008; and

Whereas, pesticide applications have repeatedly been shown in the past to cause unintended, sometimes unpredictable, and often serious human health effects; and

Whereas, pesticide applications have repeatedly been shown in the past to upset natural ecosystem balance in sometimes unpredictable and often catastrophic ways; and

Whereas, botanists and entomologists have testified that pheromones, pesticides, and even sticky traps may threaten non-target organisms, including bees, which are currently in a global crisis due to Colony Collapse, in which pesticides have been implicated, and similar yet not fully understood moth species whose importance in the ecosystem is not yet fully understood; and

Whereas residents, workers, students and visitors to ***** , and people around the world, have recognized that the CDFA and USDA have manufactured a crisis and claimed an emergency

exemption under the California Environmental Quality Act (CEQA) in order to aerial spray without conducting an Environmental Impact Report (EIR); and

Whereas, the state has confirmed that it will produce an EIR after the resumption of aerial and ground pesticide applications; and

Whereas, the use of toxic chemicals results in reliance over time on more chemicals; and

Whereas, exotic plant experts, Dr. Daniel Harder and Jeff Rosendale, have testified and reported that purported damage attributed to the LBAM in New Zealand occurred only prior to 2001, and once the pesticide regime was stopped, the LBAM ceased to be a problem as LBAM predators which had been killed by pesticides were allowed to regenerate and keep the LBAM naturally-controlled; and

Whereas, according to the Hawai'i Department of Agriculture, the LBAM is not considered a significant pest but may even be considered beneficial, as a control measure for invasive gorse and blackberry; and

Whereas, biologists have testified that the LBAM is unlikely to be eradicable; and

Whereas, UC Davis entomologist James R. Carey has testified that the range over which LBAM has been detected in California indicates that it has been established in the state for some time; and

Whereas, the CDFA has stated that no physical crop damage has been attributed to LBAM; and

Whereas, the risk of economic damage alone does not justify the health and environmental risk of pesticide applications; and

Whereas, farmers have suffered economic damage not due to the presence of the LBAM on their farms, but due to the damage caused by the State's demands of extensive handling of delicate crops in search for the LBAM; and

Whereas, Organic farmers have suffered economic damage due to CDFA interfering with, and further diluting, Organic industry standards by allowing synthetic chemically-treated crops to continue to be labeled Certified Organic, resulting in consumers seeking produce from outside of application zones; and

Whereas, nursery owners have suffered economic damage not due to the presence of the LBAM in their nurseries, but due to temporary closure during and after pesticide applications, and the threat of permanent closure for refusal to comply with the pesticide program's pesticides protocol; and

Whereas, the CDFA has stated that, residents cannot refuse pesticide applications at their homes and properties; and

Whereas, hundreds reported health problems following pesticide applications, including headaches, gastro-intestinal pain, rashes, reproductive system irregularities including post-menopausal resumption of menses, asthma attacks and difficulty breathing, including respiratory arrest in an eleven month-old baby; and

Whereas, sicknesses reported were consistent with expected effects of ingredients of pesticides applied; and

Whereas, CDFA has not addressed the synergistic effects of combined chemicals, most of which are kept undisclosed, protected as “proprietary” by trade secret laws, are frequently far more toxic than the active ingredients, and are specifically designed to interact synergistically to achieve greater toxicity than any chemical by itself; and

Whereas, the pesticides that are part of this program are associated with gastro-intestinal illness, are harmful if absorbed through skin, are neurotoxic, carcinogenic, endocrine-disrupting, chromosome-damaging, cause damage to the immune and central nervous systems, hearing and memory loss, leukemia, genetic damage, and are associated with birth defects; and

Whereas, the pesticides that are part of this program are toxic to beneficial insects such as bees, ladybugs, parasitic wasps, including the Trichogramma (which is part of this program), non-targeted moths, as well as fish, oysters and other marine mollusks, a wide variety of other aquatic organisms, birds, cats, other mammals, and even plants; and

Whereas, other environmental impacts following pesticide applications were reported, such as the death of pets who died of identical symptoms to their affected guardians; and

Whereas, birds and honeybees disappeared for lengths of time after pesticide applications from gardens they frequented previously; and

Whereas, a red tide developed, more dramatic than any in the area in at least 40 years, blamed on surfactants consistent with inert ingredients in pesticides, resulting in the death of hundreds of birds; and

Whereas, pilots employed by CDFA to apply pesticides mistakenly sprayed outside of designated application zones; and

Whereas, the California Constitution guarantees the right not only to retain, but to obtain, health; and

Whereas, The Nuremberg Code, Directives for Human Experimentation, states that human experimentation without consent is illegal; and

Whereas, complicity in the commission of a crime against humanity as set forth in Principle VI of the Nuremberg Principles is a crime under international law; and

Whereas, claims of safety of synthetic chemicals classified as pesticides is illegal, but CDFA persists in calling some of the pesticides used in this program safe; and

Whereas, the burden of proof of safety must reside with the pesticide manufacturers; proponents; executors; and applicators; and

Whereas the State has relied almost entirely on its own scientists to address concerns about the LBAM pesticide program and has not employed independent, outside experts to evaluate and support the program nor address issues in a direct and impartial manner; and

Whereas Emeritus Professor of Pharmacology and Toxicology Richard Philp testified that the USDA and EPA documents “are suggestive of a poor understanding of basic pharmacological and toxicological principles”; and

Whereas, increasing numbers of municipalities have embraced the Precautionary Principle and passed resolutions to the effect; and

Whereas, CDFA insists that local governments have no control over this program's implementation; and

Whereas, the people residing within and visiting the boundaries of those local governments depend on protection by elected representatives; and

Now, therefore be it resolved and ordered that the ***** City Council opposes the USDA/CDFA pesticide program to eradicate the LBAM; and

Now, therefore be it resolved and ordered that the ***** City Council demands that the USDA downgrade the pest classification of LBAM to reflect the lack of risk it poses.

Documentation for Resolution opposing the California Department of Food and Agriculture (CDFA) and the U.S. Department of Food and Agriculture's (USDA) pesticide program to attempt to eradicate the Light Brown Apple Moth

Pheromone Search - 942 Monterey County Moths - Lancelot Houston: "Non-target" moth species in Monterey County, affected by the CDFA's supposedly "targeted pheromone"
<http://eastbaypesticidealert.org/Pheromone%20Search.pdf>

Pheromone Trap Colour Determines Catch of Non-target Insects - New Zealand Plant Protection Society
http://www.nzpps.org/journal/53/nzpp53_216.pdf

LBAM Status report from New Zealand by Dr. Daniel Harder and Jeff Rosendale - March 6, 2008
<http://democrats.assembly.ca.gov/members/a27/pdf/HarderNZReportFINAL.pdf>

Buckwheat study showing that flowering buckwheat sown in grape fields, attracts parasitic wasps and other beneficial insects, and extends the food supply of insect predators of the LBAM caterpillar, by days to over a month, also extending their effectiveness in managing the moth
<http://www.vineyardshop.com.au/modules/news/newsview.aspx?NewsID=TVSN0337>

List of natural enemies of the LBAM <http://www.hortnet.co.nz/key/keys/info/enemies/lba-enem.htm>

Hawaii Department of Agriculture Press Release in response to USDA quarantine – May 2007 – LBAM beneficial in some cases
http://www.lbamspray.com/00_Documents/2007/News%20Release%20-%20NR07-09%20-%20May%202,%202007%20%97%20Hawaii%20Department%20of%20Agriculture.htm

UC Davis entomologist James R. Carey statements regarding eradicability
<http://forum.stopthespray.org/viewtopic.php?f=10&t=61>

Dr. Carey's Presentation to the State Assembly Legislature Committee on Agriculture – March 2008
http://democrats.assembly.ca.gov/members/a27/pdf/AssemblyAg_Committee_LBAM2.pdf

Organic's Organics - on the natural food industry seeking organics grown outside the spray zones
<http://www.metroactive.com/metro-santa-cruz/12.12.07/nuz-0750.html>

Blue Bamboo nursery forced to close <http://www.bohemian.com/metro-santa-cruz/06.27.07/moth-0726.html>

Full report of 2007 health complaints including survey of impact on homeless residents of Monterey and Santa Cruz
<http://www.indybay.org/uploads/2008/01/05/spraycompl2.pdf>

No Spray Zone overview of Btk – used to hose down neighborhoods and private gardens
<http://eastbaypesticidealert.org/No%20Spray%20Zone%20paper%20on%20Btk.PDF>

Toxicological profile for Btk by Northwest Coalition for Alternatives to Pesticides (
<http://www.pesticide.org/btk.pdf>) <http://www.pesticide.org/btk.pdf>

Isomate LBAM Plus Twist Ties – manufacturer’s MSDS - “Harmful if absorbed through skin” – 250 per acre, 40 per property – low hanging in easy reach of children
http://www.pacificbiocontrol.com/Light%20Brown%20Apple%20Moth%20-%20LBAM_files/MSDS-LBAM.pdf

Dangers of Permethrin (<http://www.mindfully.org/Pesticide/Permethrin.htm>) **Fact Sheet by Caroline Cox – to be painted on minimum of 3000 utility poles and trees per square mile**
<http://www.mindfully.org/Pesticide/Permethrin.htm>

Most recent toxicological profile for Permethrin
<http://eastbaypesticidealert.org/Permethrin%20Safety%20Review.htm>

USDA quarantine exemption request (<http://eastbaypesticidealert.org/USDA%20quarantine%20exemption%20request.PDF>) **to use a new chemical, which has not been registered by the EPA. This is the “pheromone”, the “active” ingredient in CheckMate, the synthetic “pheromone” used in aerial applications.**
<http://eastbaypesticidealert.org/USDA%20quarantine%20exemption%20request.PDF>

Most recent indepth toxicological profile for CheckMate
<http://eastbaypesticidealert.org/Checkmate%20Chemicals%20Safety.htm>

Toxicological profile of Chlorpyrifos by NCAP – forced on nurseries
<http://www.pesticide.org/chlorpyrifos.pdf>

Chlorpyrifos Fact Sheet by Chemical Watch and Beyond Pesticides
<http://www.beyondpesticides.org/pesticides/factsheets/Chlorpyrifos.pdf>

Unidentified Inert Ingredients in Pesticides: Implications for Human and Environmental Health - Cox and Surgan <http://www.ehponline.org/members/2006/9374/9374.pdf>

Moss Landing Mystery Spill – Discussion about what killed the birds that washed ashore
<http://forum.stopthespray.org/viewtopic.php?f=7&t=83>

CDFA letter to property owners of areas sprayed accidentally
<http://www.ksbw.com/download/2007/1103/14501006.pdf>

Nuremberg Code – Directives for Human Experimentation - relevant to CheckMate, the synthetic “pheromone” containing pesticide, which has been untested on humans, and therefore its use over human population constitutes experimentation without consent.
<http://ohsr.od.nih.gov/guidelines/nuremberg.html>

Declaration of Richard Philp, toxicology professor, for county of Santa Cruz suit (<http://eastbaypesticidealert.org/philp.html>) <http://eastbaypesticidealert.org/philp.html>

CITY OF ALAMEDA RESOLUTION NO. _____

OPPOSING THE CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE AERIAL SPRAY PROGRAM TO ERADICATE THE LIGHT BROWN APPLE MOTH AND SUPPORTING LEGISLATION TO PLACE RESTRICTIONS ON THE PROGRAM

WHEREAS, the Light Brown Apple Moth (LBAM) is a pest subject to Federal and State quarantine and eradication orders; and

WHEREAS, there is a confirmed presence of these moths in Alameda County; and

WHEREAS, the California Department of Food and Agriculture (CDFA) plans to begin an LBAM aerial spraying program in Alameda County and surrounding areas in the summer of 2008; and

WHEREAS, aerial and other blanket pesticide applications have been shown in the past to cause unintended human health effects; and

WHEREAS, the State has claimed an emergency exemption under the California Environmental Quality Act (CEQA) in order to begin the LBAM aerial spraying program without conducting environmental review based on an emergency exemption; and

WHEREAS, the State has confirmed that it will begin preparation of an Environmental Impact Report after the aerial spraying program has begun; and

WHEREAS, the CDFA LBAM program sprays pesticides in microscopic plastic capsules that pose unknown inhalation risks; and

WHEREAS, reports of health effects such as asthma attacks, headaches, difficulty breathing, stomach pains, and skin rashes were reported following the LBAM aerial spraying in Santa Cruz and Monterey counties; and

WHEREAS, Assemblymembers Leno, Laird, Hancock, and Huffman and Senator Migden have introduced legislation that would place various restrictions on the LBAM eradication program.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Alameda opposes the CDFA aerial spray program to eradicate L BAM until the State has studied the public health implications and determined that there are no health or environmental risks.

Approved as to Form


City Attorney

BE IT FURTHER RESOLVED that the City Council supports AB 2760, AB 2763, AB 2764, AB 2765, ACR 117, and SCR 87, which are currently pending before the State Legislature.

* * * * *

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the 15th day of April, 2008, by the following vote to wit:

AYES

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the seal of said City this ____ day of April, 2008.

Lara Weisiger, City Clerk
City of Alameda