

City Of Piedmont
COUNCIL AGENDA REPORT

DATE: April 21, 2008

FROM: Lawrence A. Rosenberg, Director of Public Works

SUBJECT: **Consideration of a Resolution Opposing Aerial Spraying to Eradicate the Light Brown Apple Moth Pending a Full Environmental Impact Report**

RECOMMENDATION

Approve the attached resolution opposing aerial spraying for the Light Brown Apple Moth pending completion of a full Environmental Impact Report (EIR) required by the California Environmental Quality Act.

BACKGROUND:

At the March 3, 2008 city council meeting, the California Department of Food and Agriculture (CDFA) made a presentation regarding plans to conduct an aerial spraying program to eradicate the Light Brown Apple Moth. Following council direction, staff sent a letter to CDFA on March 19 (copy attached) setting out many of the concerns expressed at the council meeting.

Since that time, many Piedmont residents have expressed concerns that the aerial spraying of encapsulated pheromones will have negative impacts on public health. The same concern has been raised in surrounding jurisdictions and several cities including Albany, Berkeley, and Oakland have adopted resolutions opposing the planned aerial spraying. In addition, State Assembly bills to ban, limit or require additional reviews before aerial spraying are pending in the legislature. See attached article from the Contra Costa Times dated 4/14/08.

The California Environmental Quality Act (CEQA) requires the circulation of an Environment Impact Report (EIR) if a project may have a potential impact on health and safety. The EIR must provide findings regarding project options including a “no project” alternative. The EIR provides comprehensive information regarding past experiences, current alternatives and possible future impacts. Unfortunately, the Department of Food and Agriculture has stated publicly that the aerial spraying will be undertaken prior to completion of the EIR utilizing an emergency exemption in the CEQA process.

The city administrator and staff believe that categorical opposition to the spraying should not occur unless all the facts are in evidence through an EIR process. Therefore, the attached resolution opposes LBAM spraying until a complete EIR can be prepared and evaluated by local jurisdictions, including Piedmont.

RESOLUTION NO. _____

OPPOSING AERIAL PESTICIDE SPRAYING FOR THE LIGHT BROWN APPLE
MOTH (LBAM) PENDING A FULL ENVIRONMENTAL IMPACT REPORT

WHEREAS, there is a confirmed presence of Light Brown Apple Moths (LBAM) in Alameda County and this pest is subject to federal and state quarantine/eradication orders; and

WHEREAS, the California Department of Food and Agriculture (CDFA) plans to begin an LBAM eradication program in Alameda County and surrounding areas in summer of 2008 during which aerial and other pheromone applications will occur; 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 an environmental review; and

WHEREAS, without a full and complete EIR process, local jurisdictions do not have sufficient information to respond to the concerns of their residents regarding past health effects of aerial pheromone spraying, the safest methods of pheromone distribution or the possible inhalation risks regarding microscopic plastic encapsulation; and

NOW, THEREFORE, BE IT RESOLVED, that the Piedmont City Council opposes the aerial spray program to eradicate the Light Brown Apple Moth until a full EIR process has been completed; and

BE IT FURTHER RESOLVED, that the Piedmont City Council directs the City Administrator to notify the Governor and other relevant state and federal officials of the city's position.

March 19, 2008

Mr. Jim Rains
Staff Environmental Scientist
California Department of Food and Agriculture
1220 N. Street
Sacramento, CA 95814

SUBJECT: City of Piedmont Response to Notice of Preparation (NOP) Draft Programmatic Environmental Impact for the Light Brown Apple Moth.

Dear Mr. Rains:

The City of Piedmont appreciates your staff's presentation to the Piedmont City Council on March 3, and the opportunity to comment on the Notice of Preparation of the draft EIR. Piedmont's response is predicated upon the city's responsibility to insure the health and safety of our residents under our city charter.

The city is requesting the following issues be addressed as part of the Environmental Impact Report.

1. A health hazard assessment of the specific pheromone formulation to be used in the aerial spray program which evaluates the relationship between past aerial spraying in Monterey and Santa Cruz counties and health reports of symptoms.
2. A comprehensive report on the potential effects of the formulation ingredients on humans.
3. A listing of the approved applications of the specific pheromone formulation that will be used in the aerial spraying in Alameda County.
4. A plan to monitor adverse health effects during the proposed spray program in August.
5. Exact details on the frequency and timing of the spray programs which demonstrates that the proposed spray program does not exceed that allowed for registered uses of the product.
6. Provide the rationale for using aerial spraying in a densely populated urban area for the first time.

Finally, it appears contrary to the basic tenets of the CEQA process that a project with a potential impact on the health and safety of a population would be undertaken prior to completion of the EIR. Our Council is being placed in the untenable position of being asked to make a decision on a program without full and complete information regarding the effects of that program on our residents.

We look forward to a response from the Department of Food and Agriculture to our concerns.

Sincerely,

CITY OF PIEDMONT

Lawrence A. Rosenberg
Director of Public Works

cc: Mayor & Council
City Administrator
City Attorney

Moth spraying's impact worries some

By GARANCE BURKE Associated Press Writer

Article Launched: 04/14/2008 02:15:41 AM PDT

SOQUEL, Calif.—As the state prepares to spray the San Francisco Bay Area with pesticides to fight an invasive moth, local officials are worrying not only about the potential impact on human health, but on local commerce as well.

State environmental health experts announced last week that illnesses reported by hundreds of residents after the first round of aerial spraying on California's central coast couldn't conclusively be linked to the pest eradication effort.

Still, public uncertainty alone could slow summer tourism, drive residents out of town and cause real estate agents to ask clients if they want to buy property in the proposed spray zone, local officials say.

"If there's spray residue on the grass, are people going to feel safe going to Golden Gate Park?" asked Mark Westlund, a spokesman for San Francisco's Department of the Environment. "Tourism is what keeps this city floating, and if people are worried about coming here because they could get sprayed on, that could have an impact."

Last fall, state agriculture officials sent up planes that dropped a chemical mist on Santa Cruz and Monterey counties, where the light brown apple moth population was quickly multiplying.

The campaign was meant to safeguard valuable crops and to help infested plant nurseries in Soquel and neighboring towns, which were losing millions of dollars after being quarantined.

After the first round of spraying, at least 487 people reported feeling symptoms ranging from itchy eyes to breathing trouble.

Despite the state's assurances that the symptoms can't be firmly linked to the spray—a low dose of a synthetic pheromone mixture approved for use on organically grown crops—residents and officials farther north are getting nervous.

In Marin County, real estate agents are considering amending their disclosure forms to tell future home buyers about the aerial sprays scheduled in the Bay Area this summer and advising them to consult a doctor for more information before closing a deal, said Levi Swift, president of the Marin Association of Realtors.

Though analysts say the spray is unlikely to have any lasting effects on properties in the spray zone or on the real estate market, attorneys say it is wise to notify buyers to ward off potential lawsuits.

"If my real estate agent had knowledge of the spraying activity and didn't tell me, I could certainly sue for misrepresentation," said Lewis Feldman, a senior partner with Goodwin Procter in Los Angeles. "The fact that the government says something isn't harmful doesn't prevent people from filing suit."

In Santa Cruz, Mayor Ryan Coonerty said he was hoping businesses wouldn't take a hit if a rush of people left town or if tourists stayed away in June, when the city is scheduled for a second aerial treatment.

Sunita Chethik, who lived in Santa Cruz for 30 years, said pheromone droplets drifted into her bedroom during spraying in November, causing her immune system to collapse. She recently moved to Santa Fe, N.M., to avoid further exposure, and activists with the California Alliance to Stop the Spray say dozens more people are considering similar relocations.

"The plane was making a pass, and (the spray) came in through an open window and landed directly on us. It smelled like Raid," recalled Chethik, who had a pre-existing case of chronic fatigue. "They're poisoning people, and the only choice they're giving us is to leave."

So far, the moth has had the most palpable effect on those who can't leave: farmers.

The Santa Cruz County Farm Bureau estimates that wholesale and retail nurseries lost \$2.8 million in forgone sales and investments toward fighting the moth from April to December 2007.

Chris Pavlos manages a nursery in Soquel, where seven larvae were found rolled into tiny sacs nestled in individual plant leaves.

The moths didn't visibly damage the plants. But the discovery led to a two-day shutdown of the nursery, which caused a \$50,000 loss in sales.

Pavlos said he's spent a similar amount hiring moth hunters to scour Soquel Nursery Growers' 14 acres, looking for larvae and treating shrubs with insecticides.

"It's very difficult to get any real rest when they're inspecting you every two weeks," he said. "Even so, we're just not seeing the kind of damages to plants they keep talking about."

According to the U.S. Department of Food and Agriculture, the Australian insect threatens more than 2,000 varieties of California plants and crops and could destroy up to \$560 million worth of fruits and vegetables in a year.

Spraying is to occur only in areas that can't be treated through ground-based strategies.

State Secretary of Food and Agriculture A. G. Kawamura said the effort was necessary not only to protect agriculture industry, but to save landmarks such as Golden Gate Park, home to many species the USDA considers host plants.

"One side says it's a voracious pest and the other side says it isn't," said Ken Corbishley, agriculture commissioner in Santa Cruz County. "The one thing that is true is that local folks are being impacted."