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CITIZENS FILE SUIT IN FEDERAL COURT TO BLOCK APPLE MOTH SPRAY PROGRAM

San Francisco – Environmental leaders from throughout the San Francisco and Monterey Bay areas today filed suit in the United States District Court to overturn the United States Environmental Protection Agency’s approval of the Apple Moth Spray Eradication Program proposed by the U.S. Department of Agriculture (USDA) and the California Department of Food and Agriculture (CDFA) in Monterey, Santa Cruz, Santa Clara, San Mateo, San Francisco, Marin, Alameda, Contra Costa, and Sonoma counties. Joining the lead plaintiff, North Coast Rivers Alliance, are Richmond Mayor Gayle McLaughlin, Albany Mayor Robert Lieber, Santa Cruz City Councilman Tony Madrigal, and leaders of the anti-spray movement in each of the affected counties together with victims of last Fall’s apple moth spray debacle in Monterey and Santa Cruz counties.

The basis for the lawsuit is that EPA ignored key public safety protections of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA) in granting an exemption from registration for the ingredients of the two apple moth sprays utilized last Fall in Santa Cruz and Monterey counties by USDA and CDFA. As a result, at least 643 citizens were injured and filed reports with CDFA, many documented by physicians. More than 650 seabirds were killed, and hundreds of upland birds, domestic pets, and other animals were poisoned. USDA and CDFA are threatening to spray these unsafe pesticides again in the San Francisco Bay Area even though EPA’s own regulations classify these pesticides as unsafe for spraying over residential and agricultural areas.

The spraying of the CheckMate pesticides in Monterey and Santa Cruz counties in the Fall of 2007 killed and injured thousands of wild and domestic animals in both counties. Within seven days of the all-night spraying that occurred in Santa Cruz County on the evening of November 8, more than 650 dead or injured birds had been found. This aerial spraying was followed by rainfall that washed a large concentration of pesticide runoff into Monterey Bay, a nationally protected marine sanctuary. Samples of the yellow froth that appeared at the ocean outlets of Santa Cruz rivers were examined and found to contain high levels of the CheckMate LBAM-F microcapsules. Many of the birds covered in this froth drowned or died from hypothermia, due to the pesticide’s surfactant, whose detergent action stripped oils from the birds’ feathers, impairing their buoyancy and insulation from cold. Immediately following the sprayings, numerous residents in both Monterey and Santa Cruz counties reported a sudden disappearance of songbirds in their

communities. Many residents also reported dead or sickened cats and dogs, dead rabbits, dead and injured fish, and a die-off in honeybees.

Frank Egger, Board member of the lead plaintiff, North Coast Rivers Alliance, stated that, “No governmental agency is above the law. We have no choice but to ask the Federal Courts to find the EPA in violation and to require it to enforce the environmental laws that protect the public and the environment from harmful pesticides. We must never allow this to happen again.”

Stephan Volker, attorney for the plaintiffs, stated that both CheckMate pesticides contain harmful chemicals that EPA had failed to register as required by applicable federal law. Mr. Volker pointed out that one of the “inert” ingredients in these pesticides, tricapyryl methyl ammonium chloride (“TMAC”), is a harmful chemical that EPA never approved for aerial spraying in urban areas. The Material Safety Data Sheet (“MSDS”) for TMAC warns that it is “harmful if swallowed or inhaled,” and that ingestion can cause “[b]urns to mouth, throat, and stomach.” The MSDS also warns that skin and eye contact with TMAC can cause “severe burns” and “damaged skin.” “We are asking the Federal Court to hold EPA accountable for its unlawful exemption of these hazardous pesticides from registration in direct violation of federal environmental laws,” stated Mr. Volker.

A copy of the federal court Complaint is attached.