

2/28/10

Dear Joan:

The Final EIR for LBAM has been released, and I ask that you intervene to publicly challenge those elements of the EIR that are not protective of the public's health or that of the environment. In reviewing the portion of Chapter 2 as released by the CDFA on 2/17/10, I also find that the document contradicts itself, potentially exposing a significant number of Californians to aerially sprayed pesticides - see point 4 below. I further ask that OEHHA request that the CDFA delay certification of the final EIR until public hearings have been held in all communities affected by the program. At this point, the CDFA has stated that it plans to certify the EIR as early as March 4. The EIR is over 1,400 pages, and it is impossible for the document to be reviewed and adequately critiqued before the document is certified. If certification takes place on March 4, the public's opportunity to respond will be foreclosed. The grounds for you to challenge the EIR as not protective of public and environmental health are:

1. The pesticides' inert ingredients (which are in reality adjuvants to the active ingredient and potentially harmful in their own right) contained in the new treatments are not being disclosed, so the public has no possibility of evaluating their adverse health effects. - Does OEHHA know what is in these chemical and polymer products? If so, what type of chronic exposure testing has OEHHA done of each of the adjuvants as well as on the combination of chemicals (and any other substances) in each pesticide formula, and what are the results?
2. The CDFA EIR dismisses concerns about children consuming the Hercon Bio-flake by stating "even if quantities of Hercon Bio-Flake were ingested, the material is expected to be readily digested and eliminated with no adverse effects on the individual." This is an unacceptable statement especially for a product whose adjuvants remain secret and for which we understand there has been no chronic exposure testing performed by OEHHA or anyone else. How can OEHHA consider it an acceptable public health risk that children would eat synthetic polymer flakes containing a synthetic moth pheromone and unidentified adjuvants?
3. In Chapter 2.2.8 of the EIR, and in response to concerns about the "Adequacy of Human Health Risk Analysis," the CDFA uses OEHHA's report on the illnesses reported after the CDFA sprayed in Monterey and Santa Cruz Counties in 2007. In this chapter, the CDFA states that "Respiratory symptoms were predominant in all of the reports received," and they mention that "The data upon which the report is based have limitations..." but what they carefully omit to state is that the data which was provided to OEHHA on the particle size was grossly overestimated and that, contrary to what OEHHA's scientists initially believed, a significant portion of the particles were under 10 microns and easily inhalable into the inner lung where they would deliver the Checkmate pesticide directly into the body.

OEHHA knew that the CDFA data was wrong and yet, even now, OEHHA has not objected to the Final EIR nor acknowledged that the OEHHA study was seriously flawed. This continued silence by OEHHA raises serious concerns about OEHHA's veracity and its commitment to the protection of the health of Californians and the environment in which we live.
4. In Chapter 2.2.4 on the subject of aerial applications, the EIR states "Water bodies and areas with

threatened/endangered insects would be avoided in addition to “essentially unpopulated” areas.” The EIR then proceeds to contradict itself by stating in Chapter 2.2.13 “Aerial application of LBAM pheromone in Hercon flakes or SPLAT may occur in areas in which other tools cannot be used. In general, this means areas with roads further than 1,000 feet apart and being essentially unpopulated, defined in this Program as having 100 or fewer people per square mile based on U.S. Census 2000 data.” - So aerial applications in essentially unpopulated areas are to be avoided but subsequently they are to occur? - And what about the 100 (or more, seeing as the data is from a 2000 Census) people who live in each square mile of these essentially unpopulated areas? Is their health of no concern to the state agencies responsible for protecting the health of all Californians? - Also, what type of scientific analyses, as well as chronic exposure testing, has OEHHA performed to ensure the protection of terrestrial animals and aquatic life in these essentially unpopulated areas?

When the CDFA released a portion of the Final EIR on February 17, the Santa Cruz Board of Supervisors immediately called for an emergency item to be added to their agenda and, on a unanimous vote, sent a letter to the CDFA requesting that public hearings be held prior to certification of the EIR. The City of Albany sent the same requests to the CDFA on 2/25, and other elected officials are currently preparing their own letters requesting a delay in certification and asking for public hearings.

In summary, I ask that you issue a public statement challenging this flawed EIR and that you ask the CDFA to postpone the certification of the final EIR until both the public and the responsible state agencies can adequately review the CDFA’s proposed programs.

Thank you. I look forward to your response before March 4th.

Jane Kelly 1809 San Ramon Ave. Berkeley, CA 94707

cc: County of Santa Cruz Board of Supervisors, Albany City Council, Berkeley City Council, Monterey City Council, Assemblymember Nancy Skinner, Senator Dianne Feinstein, Senator Barbara Boxer