

July 11, 2011

Dear Mayor Javandel and Members of the City Council:

I am writing to ask you to authorize Mayor Javandel to sign on to a first round of comments that the law firm Earthjustice is preparing on the Statewide Plant Pest Prevention Programmatic Environmental Impact Report (Pest PEIR).

As many of you know, the California Department of Food and Agriculture (CDFA) on June 23 issued a Notice of Preparation (NOP) for the Pest PEIR, which is being prepared to obtain advance approval for future pest management programs, using CDFA's current (outdated) approach to pest management, which most recently brought us the threat of aerial spraying for the light brown apple moth over the Bay Area.

PEIR scoping comments are due **July 25**; a draft of the comments will be circulated to potential signatories a few days prior. Because the Council's meeting schedule would not permit the full Council to review the draft comments before submission, it would be helpful if the Mayor were authorized to review and sign the comments on behalf of the City.

Earthjustice is preparing the comments on behalf of a coalition of groups that recently signed a letter (attached) to the Governor and CDFA Secretary opposing the Pest PEIR and asking for an alternative process that would update the state's approach to pests, to eliminate wide-area quarantines that harm farmers and chemical treatments that endanger public health and the environment. Mayor Javandel signed that letter on behalf of Albany.

Earthjustice does not yet have a draft of the scoping comments although I have discussed the content with them in detail. The comments will address several legal deficiencies in the NOP for the PEIR, including the breadth of the proposed "project" (the NOP indicates that CDFA intends to seek CEQA approval for current and unknown future pest programs, anywhere in the state, now and in the future), and CDFA's stated intent that there will be no additional CEQA compliance required for future programs (which means there would be no legal means for a community such as ours to stop a program like the apple moth aerial spray in the future).

The City of Albany was represented in comments Earthjustice prepared about the light brown apple moth EIR and is a party to the lawsuit challenging the apple moth EIR. The Pest PEIR, as currently outlined by CDFA in the NOP, suffers from many of the same flaws, including considering individual pest treatment methods (backpack spray, truck spray, aerial spray, etc.) as if they were "alternatives" under CEQA when in fact they are simply components of CDFA's existing program. A true CEQA alternatives analysis would look at programmatic approaches that would have fewer health and environmental impacts than CDFA's current "quarantine and spray" approach.

I would be happy to answer any questions you have about the comments and hope you will join with the other cities and groups in being represented by Earthjustice's scoping comments.

Sincerely,  
Nan Wishner

