

1 STEPHAN C. VOLKER (CSB #63093)
JOSHUA A.H. HARRIS (CSB #222886)
2 CAITLIN S. SISLIN (CSB #254526)
LAW OFFICES OF STEPHAN C. VOLKER
3 436 14th Street, Suite 1300
Oakland, CA 94612
4 Tel: 510.496.0600
Fax: 510.496.1366

5 Attorneys for Plaintiffs
6 NORTH COAST RIVERS ALLIANCE, a non-profit, unincorporated
association, FRANK EGGER, TIMOTHY WILCOX, in his own behalf
7 and on behalf of his 1-year old son, JACK WILCOX, KRISTA MARIE
ALONGI ARON, on her own behalf and on behalf of her minor daughter
8 NORA ARON, SANDIE SCHMAIER, SHARON LUEHS, GAYLE
McLAUGHLIN, WHITNEY MERCHANT, ROBERT LIEBER,
9 MICHAEL LYNBERG, and TONY MADRIGAL

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 NORTH COAST RIVERS ALLIANCE, a non-profit,)
unincorporated association, FRANK EGGER,)
13 TIMOTHY WILCOX, in his own behalf and on behalf of)
his 1-year old son, JACK WILCOX, KRISTA MARIE)
14 ALONGI ARON, on her own behalf and on behalf of her)
minor daughter NORA ARON, SANDIE SCHMAIER,)
15 SHARON LUEHS, GAYLE McLAUGHLIN,)
WHITNEY MERCHANT, ROBERT LIEBER,)
16 MICHAEL LYNBERG, and TONY MADRIGAL,)

CASE NO.: 08-05328-SBA

DECLARATION OF COUNSEL

17 Plaintiffs,)

18 v.)

19 LISA P. JACKSON, Administrator, United States)
20 Environmental Protection Agency, and the UNITED)
STATES ENVIRONMENTAL PROTECTION)
21 AGENCY,)

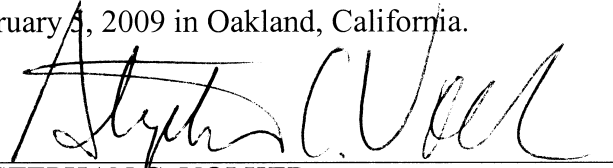
22 Defendants.)
23

24 I, Stephan C. Volker, hereby declare:

- 25 1. I am counsel for plaintiffs and have personal knowledge of the following matters.
26 2. Annexed as Exhibit 1 hereto is a true and complete copy of a News Release issued by the
27 California Department of Food and Agriculture on October 20, 2007.

28 I declare under penalty of perjury that the foregoing facts are true of my personal knowledge,

1 and that this declaration was executed on February 3, 2009 in Oakland, California.



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4 STEPHAN C. VOLKER
Attorneys for Plaintiffs NORTH COAST RIVERS
5 ALLIANCE, et al.
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EXHIBIT 1

News Release

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE



Media Contacts:

Jay Van Rein, CDFA Public Affairs, (916) 654-0462 or (916) 502-7447

Arnold Schwarzenegger, Governor

A. G. Kawamura, Secretary

LIGHT BROWN APPLE MOTH ERADICATION PROGRAM UPDATE:



Release #07-086

[Print This Release](#)

MONTEREY COUNTY SUPERIOR COURT LIFTS TEMPORARY RESTRAINING ORDER, GOVERNOR ORDERS ERADICATION PROGRAM TO RESUME AND INGREDIENTS TO BE MADE PUBLIC

SACRAMENTO, October 20, 2007, Saturday, October 20, 2007 - Following the lifting of a temporary restraining order on the Light Brown Apple Moth (LBAM) eradication program, Governor Arnold Schwarzenegger directed California Department of Food and Agriculture (CDFA) to immediately resume eradication efforts for this dangerous pest. The Governor also directed CDFA to make public the list of ingredients in the pheromone being used for this program.

Monterey County Superior Court Judge Robert O'Farrell lifted a restraining order yesterday after determining that the ingredients used in the pheromone Checkmate LBAM-F made by Oregon-based Suterra did not contain chemicals known to be harmful to the public.

"The Governor and Suterra have upheld a commitment to keep Californians and the foods we eat safe and healthy," said Secretary Kawamura. "My department will ensure a safe eradication of a pest that has the capability of crippling our agriculture and nursery industries, damaging our environment and raising the cost of putting fresh food on our families' tables."

The ingredients in Checkmate LBAM-F are:

Water

(E)-11-Tetradecen-1-yl Acetate

(E,E) -9,11 Tetradecadien-1-yl Acetate

Crosslinked polyurea polymer

Butylated Hydroxytoluene

Polyvinyl Alcohol

Tricaprylyl Methyl Ammonium Chloride

Sodium Phosphate

Ammonium Phosphate

1,2-benzisothiazoli-3-one

2-hydroxy-4-n-octyloxybenzophenone

"Governor Schwarzenegger made it very clear that, to the maximum extent possible under US trademark law, the list of ingredients in the product used to eradicate the Light Brown Apple Moth should be disclosed to the public," said Secretary Kawamura. "The Governor supports the public's right to know every ingredient in the product and is confident that full disclosure will confirm what my Department, the California Environmental Protection Agency and California Department of Pesticide Regulation established before treatment began—that Checkmate LBAM-F is non-toxic to humans, plants, animals and insects."

“California has what is considered the strictest and most comprehensive state pesticide regulatory program in the nation,” said Mary-Ann Warmerdam, Director of Cal-EPA’s Department of Pesticide Regulation. “My department will continue to assist the LBAM task force in performing further analysis and monitoring to ensure that the community’s concerns are fully considered.”

Next Steps in the Eradication Program

The release of the ingredient list in Checkmate LBAM-F follows an announcement on Friday, October 19, by the Monterey County Superior Court that a temporary restraining order was lifted, allowing aerial treatment on the Monterey peninsula to resume. The treatment will be applied on the nights of October 24-27, from 8 p.m. to 5 a.m., weather permitting. Notices including these new dates will be mailed to all known addresses in the treatment area by U.S. mail in advance of the treatment.

CDFA has arranged to send e-mail updates to subscribers announcing intended areas of treatment, weather permitting. And on mornings following treatment, CDFA intends to e-mail subscribers with results of the just-completed application. E-mails will include a link to a map showing the progress of the treatment. Those interested in receiving e-mail updates may sign up at: http://www.cdfa.ca.gov/phpps/PDEP/lbam/lbam_main.html.

Public meetings remain scheduled next week to inform residents and respond to concerns about the aerial pheromone treatments. The meeting schedule is as follows:

Santa Cruz - Monday, October 22

Cocoon Grove Grand Ballroom
400 Beach Street.

5 pm to 7 pm - Informational Open House

7 pm to 10 pm - Presentation and Public Comment

Santa Cruz -Tuesday, October 23

University Inn and Conference Center
611 Ocean Street

4:30 pm to 7:30 pm - Informational Open House

7:30 pm to 11 pm - Presentation and Public Comment

Salinas - Wednesday, October 24

Echo Valley Elementary School 147
Echo Valley Road

5 pm to 7 pm - Informational Open House

7 pm to 9 pm - Presentation and Public Comment

Salinas - Thursday, October 25

Salinas Community Center - 940 N. Main Street

4 pm to 6 pm - Informational Open House

6 pm to 9 pm - Presentation and Public Comment

Salinas - Friday, October 26

Salinas - Cesar E. Chavez Elementary School - 1225 Towt Street

5:30 pm to 7:30 pm - Informational Open House

7:30 pm to 10 pm - Presentation and Public Comment

The issue-neutral moderators are former state Assembly Member and current Santa Cruz County Treasurer Fred Keeley who will serve as moderator of the Santa Cruz meetings, and Monterey County public affairs specialist Candace Ingram who will facilitate the Salinas meetings.

The light brown apple moth is of particular concern because it can damage a wide range of crops and other plants including the Central Coast’s prized cypress, as well as redwoods, oaks and many other varieties commonly found in our urban and suburban landscaping, public parks, and natural environment. The list of agricultural crops that could be damaged by this pest includes grapes, citrus, stone fruits (peaches, plums,

nectarines, cherries, apricots) and many others. The complete host list contains well over 1,000 plant species and 250 crops. The pest damages plants and crops by feeding on leaves, new shoots and fruit.

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The California Department of Food and Agriculture protects and promotes California's \$36.6 billion agricultural industry. California's farmers and ranchers produce a safe, secure supply of food, fiber and shelter; marketed fairly for all Californians; and produced with responsible environmental stewardship.

California Department of Food and Agriculture Office of Public Affairs
1220 N St., Ste. 214, Sacramento, CA 95814
916-654-0462, www.cdfa.ca.gov