

Helicopter launches battle on gypsy moth

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Felton citizens win appellate court test

FELTON — A single helicopter carried out phase one of the state's attack on the gypsy moth Saturday morning, spraying the downtown and nearby residential area for three hours with a bacterial solution that kills the moth's caterpillar.

The second phase of the California Department of Food and Agriculture's attack on the voracious moth will be to impose a loose quarantine on Felton.

The decision to go with a quarantine came after a local Superior Court denied the state the right to use carbaryl, a toxic insecticide that local residents and the county government argue has not been proved safe to people.

The local court ban on carbaryl withstood a higher court test Friday when the state was unable to get an "emergency" ruling from the Sixth District Court of Appeals in San Jose to put aside the lower court decision.

The appellate court is expected to hear the appeal in from six to nine months, but

it will be too late for the state to spray this year's crop of caterpillars.

It is the first time the state has been stopped from using carbaryl to go after the gypsy moth's tree-stripping caterpillar.

Carbaryl is sold over the counter under

the trademark "Sevin," and has been used at 10 other infestation areas in other counties by the state. It is presently being sprayed in Fremont.

Felton residents and the county have not contested the use of the bacterial solution, *Bacillus thuringiensis* (B.t.), which is be-

lieved harmless to just about everything but caterpillars.

Saturday's spraying was the first of four to six sprayings, which will be conducted on Saturdays. The next one will be this coming Saturday.

Attorneys for the state argued that B.t.

can't do the job alone, that it is also necessary to ground-spray carbaryl immediately.

The court ruled on the side of Felton residents, ruling the state had not proved it was "reasonably certain" that carbaryl is safe.

Without carbaryl in its arsenal, the state said it has to impose a quarantine in the coming week on the 250-acre area that was sprayed Saturday and will be sprayed the next three to five Saturdays.

State Food and Agriculture Public Information Officer Gera Curry said the quarantine will not employ roadblocks, but it will make it illegal to take gypsy-moth host-materials out of the area without getting them inspected first.

Inspections will be needed for trucks and cars hauling wood products, including firewood, patio furniture, as well as recreational vehicles that have been sitting around for awhile.

Such items are prime hosts for gypsy moth egg masses, which are expected to start hatching anytime, according to acting County Agricultural Commissioner Richard Nutter.

When the quarantine is imposed, inspectors can be contacted by calling the county Agricultural Commissioner's office.

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The quarantine is not welcome to those who fought against carbaryl.

"This is nothing more than an harassment tactic on the part of the state for losing twice in court over carbaryl," said County Supervisor Joe Cucchiara, whose Fifth District includes Felton.

He said the coming quarantine was "an unnecessary and drastic measure."

Don Haslam, one of the owners of People's Natural Food Store and a co-plaintiff along with the county against the state, added, "It seems like they are just trying to find ways to punish us for fighting them."

Curry maintained the quarantine is needed "because we still don't feel B.t. is an entirely effective eradication material, and we have to stop the spread of the gypsy-moth infestation to other areas. Gypsy moth caterpillars have the potential for widespread defoliation of forested areas."

Victor Sher, an attorney for the grassroots organization People for a Safe Felton — one of the co-plaintiffs — called the appellate ruling "vindication (and) a continuing step in the right direction toward holding the state accountable in the use of pesticides."

County Counsel Dwight Herr said that the county's case was overwhelming in advocating B.t. would do the job. "There simply was no compelling reason to use carbaryl on an emergency basis."

Deputy Attorney General Charles Getz

said, "We knew an emergency stay would be difficult to get. It would have allowed us to do something (spray carbaryl), while most are issued to prevent something from taking place."

Getz said the state's petition before the appellate court will be pursued.

Meanwhile there is cautious joy in Felton.

"We're celebrating again," said Haslam of People's Natural Food Store. He says, however, that the state will not give up its attempt to use carbaryl.

"I'm afraid the state is living in a box. They can't see beyond that box and the box is labeled poison all over it," said Haslam. "I simply can't see why they insist on poisoning us."

Cucchiara warned that his biggest concern is that the state may try "a more drastic, unnecessary measure," such as proposing different, toxic insecticides besides carbaryl.

The state declared Felton "infested" last summer after six moths were trapped, and decided a combination spray of carbaryl and B.t. is necessary because of Felton's mountainous terrain.

The county and its co-plaintiffs question whether there is an infestation at all. In addition, they've said that B.t. alone will do the job.

In the coming weeks, the case may be decided in the real world as the helicopter pumping its pale-yellow mist crosses back and forth over the town of Felton each Saturday morning.