

Santa Cruz City Councilman Tony Madrigal distributes free face masks in downtown Santa Cruz on Sunday.

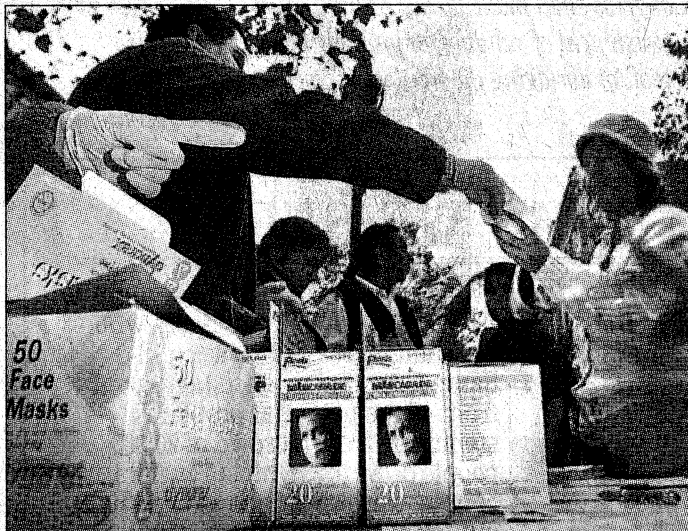
Lawsuit

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Santa Cruz City Councilman Tony Madrigal and other spraying opponents staffed a table outside the O'Neill shop on Pacific Avenue in Santa Cruz on Sunday. They handed out information on the spraying, as well as surgical masks, which they suggested people wear when the spraying occurs.

Opponents have criticized the state's eradication tactics, questioning its effectiveness and stressing that it's never been conducted over such a vast urban setting but rather only in rural parts of Australia, where the moth is a native and has been known to feed on some 250 fruits and vegetables.

Although the state was required to conduct an environmental impact report before it started spraying, it sought and received an EIR exemption in early October, arguing the presence of the invasive moths — spotted in California for the first time in February — constituted an emergency. If not stopped fairly soon, the state



Shmuel Thaler/Sentinel photos

Pacific Avenue pedestrians avail themselves to a free face mask Sunday in advance of aerial spraying for the light brown apple moth.

maintains, the moths could cause \$640 million a year in crop damages in California. As of Nov. 1, there were more than 8,600 moths in Santa Cruz County, the highest infested area in the state.

The state has said the pheromone found in LBAM-F is "virtually nontoxic" and merely mimics the scent of a female moth. It confuses the male moths and throws the mating cycle into disarray, eventually killing off the population.

Williams, who graduated from UCSC in 1983 with a bachelor of arts in biology, also has a master's degree in human nutrition. She called the spraying an "extreme situation."

"I am really concerned about the health of the people," said Williams, 47, who has lived in the county since 1979. "Our public officials are not doing their jobs. And it's my right as a private citizen to challenge them on it. The law says that if you are aggrieved by your government, then you have the right to redress, and that's what I'm doing here."

Nancy Lungren, deputy secretary for public affairs for the state Department of Food and Agriculture and one of the defendants listed in the lawsuit, acknowledged receiving a summons but declined further comment. However, the state spraying will proceed as planned, she said.

Others defendants listed in

the lawsuit were state Secretary of Food and Agriculture A.G. Kawamura; Mary Anne Warmerdam, director of the Pesticides and Environmental Program for the California Department of Pesticide Regulation; Helene R. Waters, director for the USDA's plant protection and quarantine.

Although the grievances listed in Williams' lawsuit appear to be the same as those listed in temporary restraining orders in Monterey and Santa Cruz County courts in the past month, what makes her case different, she said, is that it's going to be heard in federal court and it alleges that the state and federal governments have "breached their duty to serve the public and protect both the laws and the natural and agricultural resources of the United States and California."

"Respondents have claimed an emergency status based on falsehoods," Williams writes in her complaint. "Respondents have acted in concert to deprive citizens of due process and to circumvent all authorities pertaining to actual pesticide regulation by declaring a fallacious state of emergency."

She also alleges that the defendants "falsely claim" the pheromone is "not a pesticide."

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