

Judge rejects spray lawsuit

Moth spraying foes steered

to state court

Light Brown Apple Moth
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SAN JOSE — A federal judge Tuesday dismissed a lawsuit aimed at the state and federal departments of food and agriculture filed by dozens of Santa Cruz County residents who claimed their civil rights were violated when the state sprayed an untested pesticide over the county to wipe out the light brown apple moth.

After hearing a half-hour of testimony in a scene that resembled a town hall meeting rather than a federal courtroom, Judge James Ware said he didn't think the case was within his federal jurisdiction — and suggested they fight their battle in the state courts where similar lawsuits are pending.

While Ware commended the plaintiffs for their tenacity and said there should be "no apologies" for their lack of legal sophistication, he said the judicial system is set up such to prevent him from intervening in certain state matters.

Under the 11th Amendment to the Constitution, he said, no state can be sued in a federal court, for example.

"This court was created by Congress," he said. "I don't want to exceed jurisdiction. And you don't want me making a decision based on how big the audience is. At the end of the day, I'm going to have to defer this case to the state. ...It might sound harsh to you, but my inclination is to dismiss the case."

The rejection of the lawsuit, brought by Edna Williams, a resident of north Santa Cruz County, an area that wasn't actually sprayed, was the latest in a series of legal fights by residents to stop the state Department of Food and Agriculture's aerial spraying of CheckMate LBAM-F, a pesticide whose long-term health effects are unknown.

Although the state has sprayed portions of Santa Cruz County