

Spray

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with the pesticide, Williams and the rest of the plaintiffs, including Santa Cruz Councilmen Tony Madrigal and Ed Porter, tried to stop the spraying three days earlier by asking him to impose a temporary restraining order, which he denied.

The lawsuit, filed in late October, claims the state and the U.S. Department of Agriculture, in seeking to spray the pesticide in an urban area, violated the constitutional rights of county residents — foremost among them the right to liberty and privacy.

"My liberty has been infringed upon," said Williams, 47, a UCSC graduate who volunteers at the UC Santa Cruz Arboretum. "And it continues to be infringed upon as long as the state keeps spraying. The state is basically assaulting us with chemicals."

But attorneys for the U.S. Attorney Office, argued the grievances of the plaintiffs do not apply in federal court because the state is conducting the spraying, not the federal government.

"They're simply trying to manufacture a jurisdiction," said James A. Scharf, an assistant U.S. attorney. "They're trying to create a federal question out of alleged state violations. Given the speed at which this came up, the federal government acknowledges the plaintiffs' concerns. We appreciate their compassion, but the federal courtroom is not the time or place to debate the merits."

At issue is CheckMate LBAM-F, which was sprayed over Santa Cruz County in an attempt to reduce the population of the non-native light brown apple moth. It's a crop-eating bug whose voracious appetite has worried state agriculture officials because it's capable of caus-

Town hall meeting

WHAT: Light Brown Apple Moth community meeting.

WHERE: Santa Cruz City Council Chamber, 809 Center St., Santa Cruz.

WHEN: 6-8 p.m. Dec. 9.

ing hundreds of millions of dollars in crop damages if left unchecked, according to the state. It was first spotted in the state in February.

However, residents think the state has exaggerated with its declaration of emergency, which it made in early October, a move that allowed it to legally skip an environmental impact report and proceed with the spraying.

Some residents think the state's agricultural affairs, along with its interest in protecting its trading reputation abroad, have taken precedent over their health. In Monterey County, more than 200 people reported falling ill after being sprayed with a similar pesticide, CheckMate OLR-F, in September.

More than 75 concerned residents had packed the courtroom and the judge heard from a handful of the plaintiffs, including Madrigal, who said he's had experience with pesticide exposure as a son of Central Valley farmworking parents.

"The state keeps telling us that they have no evidence that it is harmful, but they've never come out and said, 'Yes, it's safe,'" Madrigal said.

Lori Cioffi, a concerned Santa Cruz resident, said she thought the judge failed to recognize the USDA's role.

"They're the ones who are paying for the spraying, they're the ones who are threatening the state with quarantines if it doesn't spray," she said.

According to the state Department of Food and Agriculture

spokesman Steve Lyle, the federal government is providing \$15 million of the total \$17 million in the state's spraying costs in the 11 infested counties along the Central Coast and Northern California.

So far, there are three lawsuits pending in the lower courts on the matter of the pesticide's safety and the state's failure to conduct an environmental impact report in violation of the California Environmental Quality Act.

The city of Santa Cruz and the Santa Cruz County Board of Supervisors both filed lawsuits in October against the state, and in Monterey County, Helping Our Peninsula's Environment filed a similar lawsuit.

The state plans to return to spray parts of Santa Cruz and Monterey counties in February or March, said Nancy Lungren, a spokeswoman with the state.

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