

July 22, 2009

Dear Kara Laney and Project Committee Members,

we are writing in regard to NAS Project DELS-BANR-09-01, your review of the response by USDA-APHIS to petitions to reclassify the Light Brown Apple Moth as a non-actionable pest.

As residents in the LBAM quarantine zone who are disabled by pesticide poisoning, our members' interest in this review comes from grave personal concern, as the fate of the LBAM is intricately intertwined with our own. While there is no evidence of significant damage from LBAM anywhere in the state, the USDA/CDFR LBAM program itself has already done serious damage to public and environmental health, with many hundreds reporting injuries from pesticide applications related to this program. We are looking to you to conduct an independent and complete scientific review of the issues concerning LBAM reclassification, confident that such inquiry will conclude that the USDA's justifications for classifying the LBAM as an actionable pest are not based on sound, scientific evidence.

To that end, we are voicing our concerns about potential conflicts of interests and bias on the part of several provisional members of the committee, as well as entire view points relevant to the discussion not being represented to form a balanced panel.

Dr. Robert Venette's inclusion on the committee strikes us as especially inappropriate, as his USDA-commissioned "Mini Risk Assessment" for LBAM is being used by the USDA specifically to justify the LBAM "emergency" program in California, and as such his work must necessarily be a central focus of this review. We feel that if he is included on the committee, essentially allowing for his rebuttal to criticisms of his own work, for fairness the same courtesy must then be extended to the authors of the petition itself, particularly to Dr. Daniel Harder and Roy Upton, who have done extensive independent research into LBAM internationally.

We are also concerned that Dr. Vincent Jones' lab works on "improving" the use of synthetic "pheromones" for commercial use. This class of chemicals is the cornerstone of the LBAM pesticide program, and the "pheromone" pesticide used in the LBAM program is a new, largely untested chemical. Two formulations of it were recently pulled by the EPA after they injured hundreds of people who were exposed to it, while others of us have been sickened by formulations still being used in this program. We urge you to keep any individuals who are involved in research benefiting the commercial interests of the pesticide industry from joining this committee, as public perceptions of the credibility of your review would surely suffer, most definitely in the eyes of the injured who are paying close attention to this process before you.

While the scope of your review may seem limited to LBAM reclassification, when evaluating whether policies and regulatory decisions can be supported by sound, scientific evidence, fundamental questions about justice necessarily arise. The actions implied when speaking of "actionable pests" are not theoretical, but directly and adversely affect the lives of many. For the residents and visitors of California who have been injured by the LBAM program, our concern for social and environmental justice is first and foremost on our minds. For true balance we ask that you also include individuals who are critical of the very policies in question, as well as experts who are familiar with the communities affected by the LBAM program, particularly experts with vast experience in working with people who have suffered pesticide poisoning.

We especially urge you to contact David Theodoropoulos, an invasion biologist whose research resulted in a critical view of his own field. He, or any of his colleagues he would recommend, would contribute an alternative perspective relevant to any discussion about so-called "invasive" species. We believe that Dr. Daniel Simberloff's bias regarding the "white listing" of species, which takes black listing of natural organisms to a whole new level of governmental control over nature, represents an extremist view that is likely to contribute to an overall prejudice towards non-native species in general, and worry that under the circumstances the LBAM will not get a fair hearing.

Dr. David Theodoropoulos can be reached at 408-236-2120

We also recommend Dr. Ann Haiden, a physician who has reviewed the hazards of the "pheromone" pesticides used in the LBAM program, as well as Dr. Doris Rapp and Dr. Robin Bernhoft, physicians who work with people who have been injured by pesticide exposure. They can be reached as follows:

Dr. Ann Haiden D.O. 415-456-5441 or 408-335-6848

Dr. Doris J. Rapp, M.D. 480-905-9195

Dr. Robin Bernhoft, M.D. FACS 805-640-0180

While it is difficult to provide comments on a project for which documentation is not publicly accessible, or to suggest other available documentation when it is unclear what is already included in the project materials, we believe that there is one reality that bears repeating:

Despite predictions that LBAM would cause devastation, in the three years since Dr. Powell first noticed one in his trap, there has been no damage due to LBAM. Recent claims of LBAM larvae damage in a berry field cannot be verified. USDA documents clearly state that "Positive identification of LBAM can be made with certainty **only** by examining an adult" (http://www.aphis.usda.gov/plant_health/cphst/downloads/newsletterfall2007.pdf, page 2), and "Absolute certainty is not possible because there are still many California tortricids whose DNA has not been sequenced so the reference database is incomplete" (http://www.aphis.usda.gov/plant_health/plant_pest_info/lba_moth/downloads/LBAM_IPM_UCDavis.pdf, page 8). In fact, the USDA continues to fund CDFA research to improve the reliability of identifying LBAM (see <http://www.cdffa.ca.gov/phpps/PDEP/lbam/pdfs/Reports/2008LBAMLegRep.pdf>).

In addition to Dr. Venette's Mini Risk Assessment, to justify the expensive LBAM program USDA and CDFA use numbers of trap finds. But these numbers don't reflect that increased finds are preceded by exponentially increased trapping. Such consistent finds in massive trapping programs would be statistically expected in any naturalized population of insects. In any case, trap finds are irrelevant, as they determine the presence of an insect in the environment, but not whether the insect is doing any damage, likely to do any damage in the future, or whether it is being kept in check by the local ecology.

Two California courts have already challenged the unsubstantiated claims of LBAM damage, and now require that the CDFA conduct a full EIR before proceeding with the LBAM program. The petition before you represents one of the biggest question such an environmental document must answer: whether LBAM does damage that warrants any action other than learning to live with nature's cycles, not just over seasons, but over decades, and to share some of the abundance of the harvest with other creatures. The insistence that everything grown in a field must go to market is not only unrealistic, but a policy that does more damage to a natural, healthy ecology than any insect ever could.

We are certain that a truly independent and complete scientific review of all relevant documentation will result in the conclusion that the Light Brown Apple Moth is harmless and should be reclassified as non-actionable.

Thank you.

Isis Feral
for East Bay Pesticide Alert/Don't Spray California
www.dontspraycalifornia.org