

California Agricultural Commissioners and Sealers Association



May 17, 2024

Secretary Yana Garcia
California Environmental Protection Agency
1001 I Street
Sacramento, CA 95812-2815
Transmitted via email to: Yana.Garcia@calepa.ca.gov

Director Julie Henderson
Department of Pesticide Regulation
1001 I Street
Sacramento, CA 95812-2815
Transmitted via email to: Julie.Henderson@cdpr.ca.gov

Dear Secretary Garcia and Director Henderson:

As I prepare for the end of my term as President of the California Agricultural Commissioners and Sealers Association (CACASA), I wish to express serious concerns and disappointment regarding the state of the relationship with our partners at the California Department of Pesticide Regulation (DPR). Recent events prompt this letter, however numerous incidents and concerns necessitate this long-overdue communication.

Specifically, I am disappointed that:

- Despite the countless hours CACASA has dedicated to community engagement and the substantial progress that has been made in the areas of diversity, equity and inclusion, there is no acknowledgement of these efforts by DPR.
- Our partners at DPR continue to misrepresent pesticide use enforcement activities in several counties by dedicated California Agricultural Commissioners (CACs) as lacking or non-existent.
- All too often DPR has created situations in which CACs are expected to take responsibility for situations beyond our control or entirely outside the scope of our authority or responsibility, such as potential pesticide notification beta programs and sustainable pest management (SPM) pilots.
- The actions of a handful of environmental justice stakeholders are substantially impacting CACs' ability to perform one of our most critical roles of protecting the safety of farmworkers, the public and the environment through the enforcement of current pesticide laws and regulations. DPR continues to cater to these stakeholders, that supports and facilitates proliferation of the false narratives they are generating.
- DPR continues its insistence of public transparency during active pesticide use enforcement investigations, which jeopardizes the integrity of a successful enforcement program. We enforce laws and regulations; investigations by any law enforcement entity require appropriate levels of confidentiality and limited public release regarding specifics and timelines

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of progress, particularly to those under active investigation, to ensure we respect due process, professional preparation and completion of investigative cases.

More than anything, I am disappointed that CACASA and our member CACs have substantially lost the support, confidence from, and the trust in, our partners at DPR. This situation cannot continue as it makes it unnecessarily challenging for us to perform the important work of protecting farmworkers, the public, our food supply, and the environment and enabling commerce in our state. Things must change.

CACs have built our reputations on the priority we place on protecting the public and the environment through our participation in California's pesticide use enforcement program. What CACs provide is an extremely effective delivery system to enforce California's comprehensive pesticide regulatory program. Without us this does not happen.

Pesticide use enforcement laws in California are passed by the legislature, signed by the Governor and subsequent regulations are then developed and set forth by DPR. CACs are authorized by the statute to enforce these pesticide use enforcement regulations. Local monitoring and enforcement activities are carried out reliably, effectively, and efficiently by the CACs and their staff located in each California county. CACs and the nearly 500 county pesticide use enforcement inspectors keenly understand and consider the unique weather, environmental and other conditions that exist locally, as these vary widely among California counties.

As part of California's pesticide use enforcement program, commercial users of pesticides must be licensed, registered, and specifically permitted to apply pesticides. CACs oversee this activity as well as conduct regular trainings to ensure that farmers, ranchers, and pesticide applicators understand all regulations and how they apply to their operations.

CACs review proposed applications of all pesticides classified as 'California restricted use materials.' Farmers must notify CACs when they plan to make an application of any restricted use material. CACs conduct pre-site inspections for restricted materials that assess environmental and weather conditions along with other factors, including proximity to schools and school sites, to ensure the application can and will be conducted safely. All information concerning these pesticide applications is documented and maintained in the pesticide use permitting and enforcement tracking systems, which are primarily designed and implemented by CACs.

In total, each year, CACs perform over 30,000 in-person inspections of farms, ranches and other operations, including the safety and training of pesticide applicators, handlers, and field workers all with the goal of verifying compliance with DPR's pesticide use enforcement regulations and worker protection standards. CACs impressively and importantly respond to every single concern and complaint reported by any individual who believes a pesticide application is potentially improper or may have resulted in illness and/or injury. Finally, if we find that any person or business is in violation of the law, we take appropriate enforcement action including the issuance of civil penalties, referrals to our District Attorney or referrals to DPR.

The Agricultural Commissioner system in California is an unparalleled effective system that has worked for over 143 years. Nothing like it exists anywhere else in the nation or even the world. Replacing or significantly changing California's pesticide use enforcement program with any radically altered and, frankly, untested system would take decades to implement and would cost the State millions of dollars. CACASA is unwilling to sit by and watch the demise of this critically important infrastructure which has tremendous benefit for our state, its residents and the environment.

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On average, \$67.8 million is expended annually by CACs to implement California's local pesticide use enforcement program. California's General Fund does not contribute a single dollar to CACs to support pesticide use enforcement. Local County General Funds contribute over \$23.8 million, followed by support from the pesticide mill assessment and unclaimed agricultural off-road gasoline tax. Continued emphasis by DPR on non-statutorily mandated activities that divert personnel and budget - is crippling our ability to manage and execute our priorities in maintaining a robust pesticide use enforcement program.

Of grave concern, we are already seeing signs the system is in peril. CACs are seeing staff turnover at alarming rates in our County offices and some are unwilling to advance upward to the Agricultural Commissioner level because of the overwhelming, unnecessary pressures and burdens that qualified experienced staff are observing being placed on our CACs.

In order to save this critically important pesticide use enforcement system, what is needed is DPR's and Cal EPA's sincere commitment to work jointly, collectively, and cooperatively with CACASA in making necessary improvements that will allow CACs to effectively execute our responsibilities.

Although my term as CACASA President ends on May 24th, I am not going away. I remain more committed than ever to working alongside the incoming CACASA President and the CACASA Board of Director's to overcome barriers, hurdles, and mounting demands that DPR is creating for CACs throughout the State.

Your honest and integrous commitment towards working to strengthen our partnership, not weaken it, is essential. CACs cannot successfully execute California's pesticide use enforcement program without your genuine support and a commitment to change.

As a start, we are providing with this letter a list of specific and substantive requests and concerns for your consideration as a start to the conversation. We are available and willing to continue this discussion to work toward positive resolve. Ultimately, our goal is to stop the downward spiral and create a healthy working partnership which will require both parties to commit to building trust.

We take our responsibility to protect all members of the community very seriously. We remain committed to fostering an inclusive and equitable culture where everyone feels valued and respected. We believe CACs deserve this same treatment from all stakeholders and we expect it from you, our partners.

Sincerely,

Lisa Herbert
President, CACASA

Enclosure: CACASA's List of Requests/Concerns for consideration by the California Department of Pesticide Regulation

California Agricultural Commissioners and Sealers Association



cc:

CACASA Association Members

Honorable Robert Rivas, Speaker, State Assembly

Honorable Mike McGuire, President pro Tempore, State Senate

Honorable Buffy Wicks, Chair, Assembly Appropriations Committee

Honorable Anna Caballero, Chair, Senate Appropriations Committee

Honorable Esmeralda Soria, Chair, Assembly Agriculture Committee

Honorable Melissa Hurtado, Chair, Senate Agriculture Committee

Honorable Eduardo Garcia, Chair, Assembly Environmental Safety and Toxic Materials Committee

Honorable Steve Bennett, Chair, Budget Subcommittee No. 4 on Climate Crisis, Resources, Energy and Transportation

Honorable Josh Becker, Chair, Budget Subcommittee No. 2 on Resources, Environmental Protection and Energy

Honorable Brian Jones, Minority Leader, Senate

Honorable Cecilia Aguiar-Curry, Majority Leader, Assembly

Honorable James Gallagher, Republican Leader, Assembly

Karen Ross, Secretary, California Department of Food & Agriculture

Joe Shea, Assistant Cabinet Deputy, Governor's Office