



June 25, 2021

Director Val Dolcini, California Department of Pesticide Regulation

Via email: [val.dolcini@cdpr.ca.gov](mailto:val.dolcini@cdpr.ca.gov)

Secretary Jared Blumenfeld, CalEPA

[jared.blumenfeld@calepa.ca.gov](mailto:jared.blumenfeld@calepa.ca.gov)

Assistant Director Karen Morrison, California Department of Pesticide Regulation

[karen.morrison@cdpr.ca.gov](mailto:karen.morrison@cdpr.ca.gov)

**Re: Discriminatory Behavior of Tulare and Kern County Agricultural Commissioners**

Dear Director Dolcini, Secretary Blumenfeld and Assistant Director Morrison:

You must put a stop to the discriminatory and abusive behavior of the Tulare and Kern County Agriculture Commissioners toward the Latinx farmworker communities in their regions.

We [wrote](#) to you about this issue on March 4, 2021 and met with you via Zoom on May 3<sup>rd</sup>. It is now clear to us that your decision not to take more serious action so far has only served to embolden both Commissioners Tom Tucker and Glenn Fankhauser in their racially discriminatory actions toward the Latinx communities they are sworn to protect, ranging from callous disregard to actively fueling racist attacks.

We received an email on Wednesday from Nayamin Martinez, the director of the Central California Environmental Justice Network (CCEJN), alerting us to an official “urgent advisory” from Tulare County Ag Commissioner Tucker [attached and transcribed below for easier reading]. Ms. Martinez got the copy from a caller who verbally harassed her over the phone, one of several such calls resulting from inaccurate and ominous warnings about a legitimate community air monitoring study being led by Californians for

Pesticide Reform and UC Davis with funding from the California Air Resources Board. These warnings have come from industry groups and have now been amplified by at least one ag commissioner.

The notice from CAC Tucker is chilling and is nearly identical to industry's inaccurate and inflammatory messaging about the study. The notice calls for growers to "lookout for people trespassing onto orchards and farms in the unincorporated area of Tulare County during or immediately after pesticide applications" and concludes: "Should you see anyone attempting to enter your field or orchard for this purpose, we urge you to immediately contact the County Sheriff's office 559-802-9400 and the County Ag Commissioner 559-684-3350."

Despite the fact that the study is led by CPR and UC Davis, Tucker called out the local BIPOC-led organization CCEJN as "the organization ... recruiting volunteers who are potentially planning to carry backpacks with air monitoring equipment through orchards and fields in the County." The notice also states "The danger of this new effort is that these volunteers may attempt to test for pesticide exposures without the appropriate training or protective gear, potentially endangering themselves and the subject properties," implying that organizations involved with the study would ask volunteers to risk their own health and violate the law by trespassing onto recently-treated fields.

As organizations who for decades have worked to protect community health, especially the health of communities on the very frontlines of pesticide exposure, this insinuation is preposterous and is being used by the Commissioner to argue for pre-emptive intimidatory actions that threaten the local Latinx community. Who will be entering fields and facing suspicion, potential intimidation and harassment from this "urgent advisory"? Farmworkers, who as we know, are primarily Latinx. Commissioner Tucker's dog-whistle to racist harassment – to "lookout" and "report" brown people because nobody in power has sought to stop him - is reprehensible. DPR and CalEPA need to hold Commissioner Tucker accountable for this unacceptable behavior.

Commissioner Tucker's statement misleads in other ways as well. It questions the validity of the study, expressing concern that it is being carried out by people without appropriate training and making the false claim that DPR's monitoring had found "very few detections of pesticides and none that exceeded any risk levels of actual concern." In fact, the study is led by UC Davis, one of the foremost academic institutions in the country. Like all research involving human participants, every aspect of this study has been reviewed and approved by UC Davis's Institutional Review Board. Furthermore, as you know, DPR's monitoring has found countless detections and numerous

exceedances. For example, the fumigant 1,3-D was detected in 82% of the samples collected at the Parlier monitoring site in 2019, where the average 1,3-D air concentration, at 1.24 ppb, was more than double DPR's lifetime target concentration of 0.56 ppb for preventing cancer risk. The fumigant breakdown product MITC was detected in 17.5% of community air samples collected statewide in 2019. As DPR's regulatory arm in Tulare County, Tucker's ignorance of these facts is truly alarming.

It would not be surprising if Commissioner Tucker is taking cues from Commissioner Fankhauser, who has also shown and indeed openly pledged his allegiance to big ag over community health in refusing to implement the pilot notification project in Shafter. He has defied your order to turn over pesticide NOIs to DPR for half a year now without consequence.

From a recent Public Records Act request [attached], we now know that Fankhauser never intended to fulfill the California Air Resources Board's promise of notification, made to the Shafter community in February 2020. He was determined to defy the AB 617 process, community agreements, and DPR. In a letter to Kern County growers dated February 14, 2020, Mr Fankhauser described the meeting the previous day in which CARB approved the Shafter CERP as "quite a train wreck," except for "Jesse's [Cuevas] comments speaking for the Farm Bureau." He assured the growers "I am not bound by AB 617 and DPR cannot force me to do anything." He wrote "the most I could agree to would be something like a physical notification/contact with persons living within 100 feet of an application and I'm unlikely to go further than that." He then thanked the growers for their "show of force" at the CARB meeting.

Will you take public action to condemn this behavior? It is essential that these Commissioners experience repercussions from their discriminatory behavior. It would also send an important signal to County Agricultural Commissioners that this administration is not playing around but really is committed to transformational change, including ensuring that pesticide regulators in this state value community health just as highly as a robust agricultural economy.

We've already joined the call for a dismissal hearing for Commissioner Fankhauser, which you received in previous letters. You have not responded to that.

We believe you received Nayamin Martinez's email about Commissioner Tucker's abusive behavior on June 23rd. You have not responded to that.

These men are bullies. You cannot stop bullies by ignoring them.

Will you protect the people?

Sincerely,

Handwritten signature in blue ink that reads "Sarah C. Aird Jane Sellen".

Sarah Aird and Jane Sellen, Co-Directors

CC: Richard Corey, CARB. [richard.corey@arb.ca.gov](mailto:richard.corey@arb.ca.gov)  
Trish Johnson, CARB, [trish.johnson@arb.ca.gov](mailto:trish.johnson@arb.ca.gov)  
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Nayamin Martinez, Director, Central California Environmental Justice Network,  
[nayamin.martinez@ccejn.org](mailto:nayamin.martinez@ccejn.org)

#### ATTACHMENTS

1. Tulare County Agricultural Commissioner Urgent Advisory

8:56



Done

Urgent Matter.pdf



## Tulare County Agricultural Commissioner/Sealer

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Tom Tucker, Agricultural Commissioner  
Sealer of Weights and Measures  
Christopher Greer, Assistant Agricultural Commissioner  
Sealer of Weights and Measures

This is an **urgent advisory** to be on the lookout for people trespassing onto orchards and farms in the unincorporated area of Tulare County during or immediately after pesticide applications. According to flyers distributed by an organization called the Central California Environmental Justice Network, the organization has been recruiting volunteers who are potentially planning to carry backpacks with air monitoring equipment through orchards and fields in the County from May through August. We are concerned these individuals may attempt to enter a field or orchard during a pesticide application or immediately thereafter to utilize their air monitoring equipment in an attempt to detect pesticide spraying. For years, the California Department of Pesticide Regulation (CDPR) has been conducting community air monitoring, with very few detections of pesticides, and none that exceeded any risk levels of actual concern. The danger of this new effort is that these volunteers may attempt to test for pesticide exposures without the appropriate training or protective gear, potentially endangering themselves and the subject properties.

**Should you see anyone attempting to enter your field or orchard for this purpose, we urge you to immediately contact the County Sheriff's office 559-802-9400 and the County Ag Commissioner 559-684-3350.**

TEXT:

This is an **urgent advisory** to be on the lookout for people trespassing onto orchards and farms in the unincorporated area of Tulare County during or immediately after pesticide applications. According to a flyer distributed by an organization called the Central California Environmental Justice Network, the organization has been recruiting volunteers who are potentially planning to carry backpacks with air monitoring equipment through orchards and fields in the County from May through August. We are concerned these individuals may attempt to enter a field or orchard during a pesticide application or immediately thereafter to utilize their air monitoring equipment in an attempt to detect pesticide spraying. For years, the California Department of Pesticide Regulation (CDPR) has been conducting community air monitoring, with very few detections of pesticides and none that exceeded any risk levels of actual concern. The danger of this new effort is that these volunteers may attempt to test for pesticide exposures without the appropriate training or protective gear, potentially endangering themselves and the subject properties. **Should you see anyone attempting to enter your field or orchard for this purpose, we urge you to immediately contact the County Sheriff's office 559-802-9400 and the County Ag Commissioner 559-684-3350.**

2. Communications between Kern County Agricultural Commissioner Glenn Fankhauser and Kern County Growers obtained via Public Records Act Request

1/27/2020 10:13am  
1/30/2020 11:57am

1,3-D DPR Notification Meeting ✕

From: "Kern County, CA" <kerncounty@service.govdelivery.com>

Subject: 1,3-D DPR Notification Meeting

To All Kern County Farmers:

As a result of both an ongoing air quality bill (AB 617) and one air monitoring spike of the pesticide 1, 3-D in the Shafter area, the Department of Pesticide Regulation is proposing a pilot project regarding this fumigant. The scope and extent of the project has yet to be determined. As part of the lead up to the project's implementation, DPR has requested a meeting with growers to determine both the desire and feasibility of the project. The current proposal involves a notification system for residents within a certain buffer zone around applications near the city of Shafter.

For the most part I am opposed to such a notification system. However, I don't want to make that decision for growers who would be impacted by the proposed project. Therefore, I believe that it is prudent to allow DPR to solicit comments from Kern growers in relation to the proposal. Because I believe that such a pilot project has the potential to eventually expand to include all growers in the county, I am extending this invitation to all county growers and 1,3-D dealers rather than simply those growers that might apply 1,3-D around the Shafter area.

I realize that this notice does not give you much time to prepare, but DPR is under a tight timeline to come to some kind of agreement and have requested a meeting quickly. So, the meeting has been scheduled for Tuesday, February 4 beginning at 2pm. The meeting location will be the Kern Agricultural Pavilion, 3300 East Belle Terrace, which is located directly across the street from my office.

DPR will give a short presentation about the need for this project and then open it up for comments from growers. The intent of this meeting is to let your opinions be heard by DPR.

Please keep in mind that this meeting is by invitation and is only meant to be attended by Kern County farmers and pesticide dealers or pesticide manufacturers of 1,3-D.

Just so we know how many people to expect, I would respectfully request that you RSVP to this invitation if you intend to attend. Regrets are not necessary to convey, however, should you wish to voice your opinion about such a pilot program, please feel free to respond to me through email or phone call over the next few days.

Also, so that we can get a general ideal about how many people wish to attend, I would very much appreciate it if you could call my office (661) 868-6300 to tell us that you plan on coming to the meeting.

Sincerely,

Glenn Fankhauser  
Agricultural Commissioner  
Sealer of Weights and Measures  
fankhauserg@kerncounty.com

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**GOVDELIVERY** 

sent 2/12/2020 10:20 am

Air Resources Board Meeting on 2/13/2020 at 4pm ×

From: "Kern County, CA" <kerncounty@service.govdelivery.com>  
Subject: Air Resources Board Meeting on 2/13/2020 at 4pm  
Attachments: Carb\_AB617\_announcement.pdf

Dear Kern County Growers,

Thank you to those of you who attended our meeting on a notification program with the Department of Pesticide Regulation (DPR). As I have mentioned previously, one of the primary pushes for this notification system is coming from the activist groups that are associated with the AB 617 Shafter Steering Committee. Attached you will find a flyer for the San Joaquin Valley Air Pollution Control District/California Air Resources Board combined meeting in Shafter on Thursday. If you can find the time to attend this meeting I would very much appreciate it. The head of DPR will be there to talk about what they are trying to do with regards to pesticides in Shafter and will most likely try to paint the picture that a notification system is in the works and will happen even though nothing has been agreed to by me. I will be there to speak if necessary.

Surprisingly, I was contacted by a representative of the SJV Air Pollution Control District to make sure that I was going to attend and also to express concern that grower's voices might not be well represented. They were worried that The California Air Resources Board (CARB) would only hear the side of the activists. I'm sending out this notice to try to alleviate this problem. This is a chance to make your voice heard as an industry and to emphasize a science-based approach rather than one that is more reactionary. A single spike of 1,3-D from many thousands of data points does not justify a notification project. The single spike is an anomaly and just proves that adequate measures are already in place to keep the public safe. Please feel free to ask me any questions and I hope to see you on Thursday.

Sincerely,  
Glenn Fankhauser  
Agricultural Commissioner  
Sealer of Weights and Measures  
Kern County  
(661)868-6300

- [Carb\\_AB617\\_announcement.pdf](#)

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**GOVDELIVERY** 



Sent 2/14/2020 4:09pm

## Air Resources Board Meeting Update



From: "Kern County, CA" <kerncounty@service.govdelivery.com>

Subject: Air Resources Board Meeting Update

Hello All,

I wanted to give you an update on Thursday's CARB meeting that I had previously told you about. It was quite a train wreck (although Jesse's comments speaking for the Farm Bureau were a highlight and I do think that a combined spray safe type event for the concerned citizens of Shafter is a definite feel good that the activists should sign off on. I think that educating most people on exactly how they are being protected would go a long way). CARB focused a lot on the pesticide issue and notification and saw essentially no problem with offering it. They also didn't like wording in their resolution that stated that DPR would work with or consult with the commissioner on notification. They wanted stronger language that cemented that DPR would have to implement something. However, as I've mentioned before, I am not bound by AB 617 and DPR cannot force me to do anything. I think that it might be helpful to revisit the discussion with CARB at their '6 month' update meeting. I'll make sure to follow up on this.

For the next steps regarding both notification and other projects, here is an update.

I have agreed, along with Merced and Fresno counties, to participate in 1,3-D mitigation pilot projects which will begin sometime this summer and last for a year. This is to see if emissions can be reduced by utilizing various methods, which so far rely mostly on some type of soil moisture requirements. These would be for four townships around Shafter and would only be for 1,3-D. We are still in discussions on how this will be set up and exactly what types of application changes this would entail.

DPR will continue to court me on the notification issue. There is a meeting on Tuesday with DPR, activist groups, and a few commissioners that I will be attending in Fresno and this issue will be coming up. I'm open to continuing these discussions, but I feel that we are far apart from what each side is willing to take. I think right now, the most I could agree to would be something like a physical notification/contact with persons living within 100 feet of an application of Telone and I'm unlikely to go further than that. My take on the whole issue is that if notification is so important, then DPR needs to make it a regulation that is Statewide.

I wanted to thank you for your attendance at the meeting we had with DPR earlier this month, as well as the show of force the growers made at the CARB Shafter meeting. While you did not change the outcome of their decision, it was definitely a win for letting them hear the other side of the issue from growers. Please let me know if you have any questions.

Thanks,

Glenn Fankhauser  
Agricultural Commissioner  
Sealer of Weights and Measures  
Kern County  
(661)868-6300

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