

April 22, 2020

The Honorable Governor Gavin Newsom  
Office of the California Governor  
1303 10th Street, Suite 1173  
Sacramento, CA 95814

*By Facsimile transmission, hard copy to follow: (916) 558-3160*

**Re: Every Home Is a Schoolhouse—Please Protect Them**

Dear Governor Newsom:

### **Summary**

On this Earth Day 2020, we write to you as our Governor and as citizens of Ojai, California, a town that has increasingly been beset by agricultural pesticide overspray and drift in our yards, our homes, and our public spaces. We implore you to use your powers to immediately extend the prohibition and restrictions on pesticide application near schools to all of our homes, because during the COVID Stay-at-Home Orders, *every* home is a schoolhouse right now.

### **Who We Are**

We are individuals who live, work, and contribute economically in Ojai and Ventura County.

Patty Pagaling leads Transition to Organics, a nonprofit organization that provides education for conventional farming operators who wish to transition away from the heavy use of pesticides and toward profitable, organic practices that build healthy soil, clean watersheds, provide habitats for abundant wildlife and are safe for humans.

Adam Vega is the coordinator of the Ventura County Coalition Advocating for Pesticide Safety (VC-CAPS), organizing local community members, organic farmers, plant protection professionals, authors, and artists to reduce the threat of pesticide health harms throughout Ventura County and transition toward a regenerative and resilient local food system grounded in biologically based methods of pest and pathogen management.

Bill and Eliza Moses are concerned parents and local business owners who have started a number of local companies including the first organic winery in the central coast (which operates without the use of Danger and Warning Label pesticides).

Anna Getty is a concerned parent and childhood health advocate who works on multiple environmental community issues.

Josh and Rebecca Tickell are documentary filmmakers with a nearly completed documentary that shows the problems with industrial pesticide and herbicide spraying and demonstrates a clear and profitable alternative.

Steve Sprinkel is a certified organic farmer who became a soil advocate in 1975. He made

the term “regenerative agriculture” popular over two decades ago. His wife Olivia Chase has an M.A. in nutrition and is the “cook” and co-proprietor of their long-established regenerative farm-to-table Ojai restaurant The Farmer & The Cook.

We, along with 1,300 supporters including local business owners, nonprofits, parents, teachers, and concerned citizens, have organized a coalition called Regenerate Ojai, which aims to turn the Ojai watershed and valley into a model for ecologically sound and profitable growing practices that can be adopted globally.

### **What We Ask**

Fifty years after the first Earth Day, we write to address the same poisons Rachel Carson’s *Silent Spring* singled out in 1964. We ask for your leadership to extend protections for our most vulnerable people, our children, and the elders who are sheltering with them. Due to your Orders and those of public health officials—orders that have led the nation in adopting strong, sensible and necessary protections for public health—we are required to stay at home and have closed our schools. Thus, every home is a school now.

California has already taken an important step to protect children and teachers from pesticide drift by restricting spraying within a quarter mile of schools during school hours. Now, in order to protect these new schools—our homes—we ask simply that you issue an Executive Order under your authority as Governor and under the Declaration of Emergency you issued on March 4, 2020 to likewise prohibit and restrict pesticide application near public school buildings to all homes in California, immediately. We ask this not only on behalf of ourselves but on behalf of all communities throughout the state. We emphasize that farmers are our neighbors and we do not want to stop safe farming. But we do need to change practices to protect our most vulnerable in this critical time.

You asked us to Stay Home and Save Lives. Now we ask you to make our homes safe.

### **Legal and Factual Background<sup>1</sup>**

Since 2018, pesticide applications on agricultural commodities near schools are both prohibited in distance and time and require notifications to schools and permit negotiations with the schools for equal or greater restrictions. A “schoolsite” is defined as:

[A]ny property used as a child day care facility [other than home day care facilities] . . . or for a [public] kindergarten, elementary, or secondary school. This includes all areas of the property used on weekdays by children who attend such facilities or schools, or other property identified by the commissioner as a park adjacent to a school that is used by the school for recess, sports, or other school activities.<sup>2</sup>

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<sup>1</sup> We are grateful for the assistance of the Environmental Law Foundation in Oakland, California, in preparing this section.

<sup>2</sup> Cal. Code Regs., tit. 3, § 6690.

Pesticide applications cannot occur within 1/4 mile for most types of applications involving “aircraft,” “airblast sprayer,” or any equipment that uses a pump to deliver spray, “sprinkler chemigation,” “dust or powder,” or “fumigant.”<sup>3</sup>

These prohibitions apply every Monday through Friday from the hours of 6:00 a.m. to 6:00 p.m., except when the school or day care facility is not operating for the entire day in question.<sup>4</sup> In addition, when fumigants are applied, there is a 36-hour period between application and when the school or day care facility is scheduled to open.<sup>5</sup> In addition to the prohibitions based on geographic proximity and days and hours, the regulation also requires that any operator<sup>6</sup> give annual notice of any intended spraying within 1/4 mile of the school or day care facility to the school principal, day care facility administrator, and Agricultural Commissioner.<sup>7</sup>

Effective March 22, 2020, you issued your Executive Order, for which we thank you, that mandated “all individuals living in the State of California to stay home or at their place of residence” until further notice.<sup>8</sup> Ventura County had issued its first such order on March 19, 2020, with updates since, and it is in effect until May 15, 2020.<sup>9</sup> It is widely expected that these stay-at-home orders may be further extended and modified.

The definitions in the Ventura order are illustrative of the effect on schools and day care facilities. Schools are permitted to be open only for the purpose of facilitating distance learning to students sheltering in their homes<sup>10</sup> and day care facilities are permitted only to serve the children of essential workers.<sup>11</sup>

Therefore, substantially all school and pre-school children in Ventura County are now

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<sup>3</sup> Cal. Code Regs., tit. 3, § 6691, subd. (a)(1)-(5). Other listed types of application require 25 feet or none. Cal. Code Regs., tit. 3, § 6691, subds. (b), (c).

<sup>4</sup> Cal. Code Regs., tit. 3, § 6691, subd. (d).

<sup>5</sup> Cal. Code Regs., tit. 3, § 6691, subd. (e).

<sup>6</sup> The regulation places its obligations on the “property operator,” not on the property owner or the pesticide applicator, if different from the operator. See Cal. Code Regs., tit. 3, §§ 6691, 6691, subd. (f), 6692.

<sup>7</sup> Cal. Code Regs., tit. 3, § 6692. A list of the required information in the notification is found in subdivision (c). It includes the name and contact for the operator, and a map of the field(s) and the school and day care facilities, and information about the pesticides expected to be used.

<sup>8</sup> Executive Order No. N-33-20 (March 22, 2020).

<sup>9</sup> See <https://www.vcemergency.com/staywellvc>. For the most recent detailed order see Order of the Ventura County Health Officer, “Stay Well at Home” (April 18, 2020), [https://vcportal.ventura.org/CEO/VCNC/2020-04-18\\_Signed\\_15V8544-Final-Final\\_Master\\_Ord.pdf](https://vcportal.ventura.org/CEO/VCNC/2020-04-18_Signed_15V8544-Final-Final_Master_Ord.pdf) (hereafter “Stay At Home”).

<sup>10</sup> Stay At Home § 17(e)(11).

<sup>11</sup> Stay At Home § 17(e)(21).

being schooled or cared for in their family homes for the foreseeable future. But unlike schools, our homes are not unoccupied on weekends nor between the hours of 6:00 p.m. and 6:00 a.m. Under the current situation houses are schoolhouses 24/7. And they will continue to be for some time, as media reports suggest decisions have not yet been made whether to reopen schools at all in the summer, or in the fall for the 2020-21 school year.

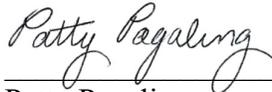
### **Formal Request**

With that background, we ask you as Governor of the State of California to use your Executive Authority under the California Emergency Services Act, Government Code sections 8550 through 8669.7, to:

1. Extend the protections for California public schools to all homes by defining “schoolsite” under California Code of Regulations, title 3, section 6690 to include “all homes, houses and residences of any kind, character or description in which any person resides presently or permanently.” The definition of covered parks contained in that section should also be extended to include “all parks or open spaces designated for use by the public that have remained open to the public during any state or local Stay at Home orders.”
2. Apply the prohibitions on pesticide application found in California Code of Regulations, title 3, section 6691 to all “schoolsites” on all days and at all hours by suspending the date and time exceptions contained in that section, by amending the first sentence to “Pesticide application restrictions shall apply on all days and at all times,” and also by amending the last sentence to read “During all time periods . . .” We ask this because children *cannot* leave their homes because of your and the public health orders, so every house is a schoolsite 24 hours a day, 7 days a week.
3. In order to address pesticide drift that can carry sprayed pesticides up to three miles, include an order strengthening the notification requirements for all schoolsites required under California Code of Regulations, title 3, section 6692 to require notifications to all schoolsites (residences) that are within three miles of the proposed application, and to further prohibit any application within that zone until the notice required by section 6692 has been supplied to each residence and the County Agricultural Commissioner at least 30 days before each planned application. In this way, all potentially affected homes can take precautions to keep their children safe.
4. Order your Director of the Department of Pesticide Regulation, the Hon. Val Docini, to immediately adopt an emergency regulation under Government Code section 11346.1 that includes each of these provisions, immediately submit it to the Office of Administrative Law, and begin the steps necessary to make these regulatory changes permanent. We ask this because even when the current COVID emergency (hopefully) passes, a good idea in a crisis is a good idea always, and we know what kind of “normal” we hope to return to: one where all schools and all homes are safe—and protected from pesticides.

We thank you for your attention, and especially thank you for the leadership you have already shown in addressing the public health emergency we all live in now.

Respectfully submitted,



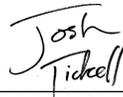
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Patty Pagaling



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Rebecca Tickell



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Josh Tickell



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Eliza Moses



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Bill Moses



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Anna Getty



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Adam Vega



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Steve Sprinkel



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Olivia Chase