

September 21, 2020

**VIA ELECTRONIC MAIL**

California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

Re: AB 617 Community Air Protection Program: Shafter Pesticide Notification Pilot  
Program Concerns

To the California Air Resources Board:

Shafter community residents and ally organizations respectfully submit these comments describing our concerns related to implementation of the AB 617 Shafter Community Emissions Reduction Plan (“CERP”), specifically as it pertains to the pesticide notification pilot program. Shafter Community Steering Committee (“CSC”) residents and ally organizations have been intimately involved in the development of the Shafter CERP for over two years. As a result of working with various agencies such as the Department of Pesticide Regulation (“DPR”), the California Air Resources Board (“CARB”), and the San Joaquin Valley Air Pollution Control District (“Air District”), the CSC was able to include various pesticide measures in the CERP. These measures include the continuation of pesticide air monitoring in Shafter, which had been scheduled to end; a pilot program to reduce Telone emissions; and a robust pilot notification system; among a number of other commitments. The commitment to address pesticide exposure in the CERP was formalized in CARB [Resolution 20.06](#). The Resolution, dated February 13, 2020, also requested that CARB staff, the Air District, DPR and the CSC report back to the CARB Board semi-annually on implementation of the actions in the CERP. The first six-month reporting period ended August 13, 2020. We are writing to describe our concerns and frustrations specifically regarding the lack of progress toward implementation of the pilot notification system.

CSC members identified pesticide notification as a top priority for the community. DPR committed to work with the Kern County Agricultural Commissioner’s Office, CARB, the Air District, and the CSC to identify feasible options for a pesticide application notification system in the Shafter area. To this end, DPR initiated meetings with various stakeholders and agencies to develop a notification system.

At these meetings, Kern County Agricultural Commissioner Glenn Fankhauser displayed an utter disregard for community concerns, and total public defiance of CARB’s direction to develop the

notification system with the CSC. In a meeting on May 27, 2020 with CSC members and senior leadership from CARB, DPR and CalEPA, Mr. Fankhauser doubled down on his defiant stance, stating that “there is no specific problem with pesticide exposures, and without a problem, there is no need to address anything.” Refusing even to *discuss* other notification options with residents, Mr. Fankhauser proposed asking growers to voluntarily hang door notices on homes that are within 200 feet of applications for a single pesticide – Telone. After 250+ meetings the CSC engaged in to achieve meaningful pesticide emission reductions and protections as part of the CERP, this proposal was so ludicrously insufficient it was offensive. Moreover, it completely lacked any community input, was unenforceable, and would have only addressed one of over 100 pesticides currently used within the Shafter 7-mile boundary.

DPR’s response to the County Agricultural Commissioner’s unacceptable behavior was totally inadequate given that DPR holds the authority over enforcement of pesticide regulations in California, which is clearly spelled out in DPR’s own Enforcement Compendium.<sup>1</sup> In subsequent meetings, and on more than one occasion, Mr. Fankhauser has simply dropped off Zoom video calls at the very moment he’s asked to engage in discussion of the pesticide notification program or simply to provide an update. Community members are left wondering how such unprofessional behavior can be tolerated. Rather than requiring Mr. Fankhauser to work in good faith with the CSC as CARB’s resolution and the CERP require, Director Val Dolcini called members of the CSC to ask if they would agree to Mr. Fankhauser’s proposal. When that outreach was unsuccessful, he circumvented the Agricultural Commissioner entirely and invited the Kern County Farm Bureau to meetings with CSC representatives.

The Farm Bureau’s suggestion, to use the funds<sup>2</sup> allocated for the pesticide notification system to expand the “Spray Safe” program and to host community public education events, is just as unacceptable as Mr. Fankhauser’s proposal. The Shafter CSC unequivocally rejects any proposal that falls short of pesticide notification, and requests that DPR exert its supervisory authority to require the County Agricultural Commissioner, not the Kern County Farm Bureau, to work with the CSC in good faith to develop a notification system acceptable to the CSC. The Shafter CERP does not establish any role for the Farm Bureau in the implementation of the pilot notification

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<sup>1</sup>“FAC sections (11501.5, 12977, 12982, 14004.5, and 15201) state that the CACs work under the direction and supervision of the Director,” Pesticide Use Enforcement Program Standards Compendium Volume 8.

[https://www.cdpr.ca.gov/docs/enforce/compend/vol\\_8/entire\\_manual.pdf](https://www.cdpr.ca.gov/docs/enforce/compend/vol_8/entire_manual.pdf)

<sup>2</sup> To support DPR’s commitment to develop a pilot pesticide application notification system, the Air District will commit up to \$125,000 (not to exceed 50% of cost) to fund the implementation of a pilot notification system in Shafter. CARB has committed another \$125,000 towards the cost of this program.

system, and their presence only hinders AB 617's intent for a community-led emissions reduction program.

As Shafter residents and allies, we are grateful to this Board for supporting our efforts to include pesticides in the Shafter CERP. We also appreciate the DPR Director's attempt to work in a more collaborative fashion with the County Agricultural Commissioner. However, it is amply apparent that the community now needs DPR to put aside any hesitancy to use its full authority to compel the CAC to develop a notification system with, and that is acceptable to, the CSC. It's been over six months since the CERP was adopted and literally no progress has been made on developing a notification system that is acceptable to the CSC.

While we understand that a robust pesticide notification system requires time and input from residents and various agencies, we wanted to call to your attention how frustrating this process has been for community members. We feel the process has not only failed to be transparent and community-led, but has also highlighted the extent to which the Kern County Agricultural Commissioner- whose very agency is tasked with "promoting and protecting... the environment and general public" - is dismissive of community concerns. The actions of Mr. Fankhauser and the inaction of DPR conflict with the spirit and intent of AB 617.

We therefore urge this board to:

1. Work in concert with DPR to assert the State's collective authority over the counties when it comes to enforcement of measures adopted in the CERP.
2. Establish a timeline for development of the Shafter notification system and schedule an oversight meeting that includes the Shafter CSC one month from now to assess progress.
3. Notify the Kern County Board of Supervisors of the highly unprofessional and recalcitrant behavior of their appointed County Agricultural Commissioner, and his demonstrated disdain for the community he is pledged to protect.

Thank you for your attention to this important issue. If you have any questions about this letter, please contact Byanka Santoyo ([bsantoyo@crpe-ej.org](mailto:bsantoyo@crpe-ej.org)) or Gustavo Aguirre ([gustavo.aguirrejr@ccejn.org](mailto:gustavo.aguirrejr@ccejn.org)).

Sincerely,

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