

No Spray Coalition

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To: NYC Law Department
Assistant Counsel Chris Reo
100 Church Street
NY NY 10007

Re: 00 Civ. 5395 (GBD) (RLE)
No Spray v. City of New York
Insertion Letter as per STIPULATION OF
AGREEMENT AND ORDER

Organizational Representatives

Save Organic Standards-NY
Cindy Rosin, *Wetlands Action Group*
International Preparedness Network
Disabled in Action
Joel Meyers, *Active Resistance to Malathion Madness*
John & Gail Sutton, *Advocates for a Better Earth*
Deeadra Brown, *Manhattan Greens, NY*
Robert Gold, *Brooklyn Greens, NY*
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Don Hickock, *Orange "Radical, Fanatical" Greens, NY*
Ron/Maria Kuriloff, *Central Nassau Greens, NY*
Gary Davidson, *East New York-Cypress Hills Greens, NY*
Karen Ingenthron/Al Lewis, *Roosevelt Island Greens, NY*
Neysa Linzer/*Staten Island Greens, NY*
Eric Daillie, *Rensselaer Greens, NY*
St. Lawrence River Valley Greens
Finger Lakes Greens

Here is the insertion letter as per settlement agreement:

The following letter outlines the express concerns that the Plaintiffs have presented and wish to discuss with the City of NY.

No Spray Coalition, et al. Letter to NYC, August 2006

Health and Environmental Concerns Pertaining to New York City's Application of Pesticides and Proposals for Alternative and Non-Toxic Approaches

I. PROTECTION OF WATERWAYS AND PUBLIC HEALTH

a. **Wetland areas and waterways must not be sprayed with adulticides.**

b. **Establishment of planted vegetative buffer areas with berms in areas where wetlands come into contact with streets; routinized cleaning of street drains.** In areas where wetland areas contact streets, the City agrees to establish planted vegetative buffer areas with berms (perhaps funded by the state under the stormwater-runoff program) which will keep rainwater from running off streets and then pooling in adjacent wetland areas. This will minimize mosquito growth. The City agrees that wetlands should be "fed" by natural water sources only. NYC should intensify efforts to keep street drains clear and functional.

Committee Coordinators

Jim West, *Research*
Cathryn Swan, *Press & Media, Fundraising*
Maria Kuriloff, *Fundraising*
Meg Feeley, *Community Outreach*
Donna Reilly, *Science Advisor*
Ayanna Haynes, *Affidavits*
Donna Gianelli, *Volunteers*
Donna & Joe L'Amour, *Database*
Kimberly Flynn, *Legal Committee*
Carl Lawrence & Roy Doremus, *Video*

Legal Advisors

Joel Kupferman, *NY Environmental Law & Justice Project*
Karl Coplan, *PACE University Law Clinic*

In Loving Memory

Gloria Pasin
Valerie Sheppard (founding member & co-Treasurer)
Connie Holland
Bryna Eill
Frieda Zames
Grandpa Al Lewis
Ralph Klaber
Mike Pahios
Saralee Hamilton

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c. Integrated Pest Management – spraying protocols and retaining experts in non-toxic mosquito control. The City agrees to provide funding for the hiring of experts in non-toxic mosquito control who will draft and develop comprehensive Integrated Pest Management (IPM) programs that do not take a "spray first and ask questions later" approach and who will develop alternative, non-toxic approaches to mosquito control. These programs shall coordinate with or be integrated into the City Council's recently passed IPM legislation.

d. Providing pesticide exposure health risk information and advisories on publicly available City website. City will make publicly accessible links to information concerning health risks from pesticide exposure on the NYC website, and advisories concerning the health dangers of pesticides sent to health care professionals. This information shall be sent to media as well.

e. Public disclosure of fines issued against pesticide companies. City will publicly disclose and publicize fines issued against pesticide companies.

f. Providing prominent links to the following pesticide-related studies, on NY City DOHMG and other websites:

i. CDC study that found that all residents of the United States, including residents of New York City and State, now carry dangerously high levels of pesticides and their residues in our bodies, which may have onerous effects on our health. (*Third National Report on Human Exposure to Environmental Chemicals*, Centers for Disease Control, 2005);

ii. U.S. Geological Study, which shows that a large percentage of waterways and streams throughout the United States, including those in New York City and State, has been found to contain environmentally destructive pesticides that may severely impact on animal and aquatic life. (U.S. Geological Survey: *The Quality of Our Nation's Waters, Pesticides in the Nation's Streams and Ground Water*, 1992-2001, <http://pubs.usgs.gov/circ/2005/1291/>);

iii. Studies confirming that pesticides are both a trigger for asthma attacks and a root cause of asthma (Salam, et al: *Early-life environmental risk factors for asthma findings from the children's health study*. Environmental Health Perspectives 112(6):760-765.), and that asthma is epidemic throughout New York City;

iv. Cicero Swamp Study, showing that pesticides killed off the natural predators of mosquitoes and that mosquitoes came back much stronger after the spraying, because all of their natural predators (which have a longer reproductive cycle) were dead. These studies were done in New York state for mosquitoes carrying Eastern Equine Encephalitis, and found a 15-fold increase in mosquitoes after repeated spraying, and that virtually all of the new generations of mosquitoes were pesticide-resistant. (Journal of the Am Mosquito Control Assoc, Dec; 13(4):315-25, 1997 Howard JJ, Oliver New York State Department of Health, SUNY-College ESF, Syracuse 13210, USA);

v. Studies that show that pesticides have cumulative, multigenerational, degenerative impacts on human health, especially on the development of children which may not be evident immediately and may only appear years or even decades later (*The Multigenerational, Cumulative and Destructive Impacts of Pesticides on Human Health, Especially on the Physical, Emotional and Mental Development of Children and Future Generations. A Submission to The House of Commons Standing Committee on Environment and Sustainable Development* by Physicians and Scientists for a Healthy World, February 2000; Guillette, Elizabeth, et al: *Anthropological Approach to the Evaluation of Pre-school Children Exposed to Pesticides in Mexico*. Environmental Health Perspective, Vol. 106, No.6, June 1998; Kaplan, Jonathan et al. *Failing Health. Pesticides Use in California Schools. Report by Californians for Pesticide Reform, 2002*, American Academy of Pediatrics, Committee on Environmental Health; *Ambient Air Pollution: Respiratory Hazards to Children*, Pediatrics 91, 1993);

vi. Studies that show that pesticides make it easier for mosquitoes and other organisms to get and transmit West Nile Virus due to damage to their stomach lining. (Haas, George. *West Nile virus, spraying pesticides the wrong response*. American Bird Conservancy, October 23, 2000); and,

vii. Studies that show that pyrethroid spraying is ineffective in reducing the number of the next generation of mosquitoes. (*Efficacy of Resmethrin Aerosols Applied from the Road for Suppressing Culex Vectors of West Nile Virus*, Michael R. Reddy, Department of Immunology and Infectious Diseases, Harvard School of Public Health, Boston, Massachusetts, et. al., Vector-Borne and Zoonotic Diseases, Volume 6, Number 2, June 2006)

and specific ways in which the City has sought to address the concerns raised in these studies;

g. It will continue doing GIS mapping of avian deaths for DOHMH. This will be reviewed against and correlated with the statistics from EPA's city-wide air pollution meters and the information will be made publicly available.

II. MEDICAL NOTIFICATION & INFORMATION-GATHERING PROCEDURES

a. Draft and distribute "pesticide exposure" guidelines to all medical personnel throughout the metropolitan area.

b. Establish protocols for proper treatment in conjunction with the Community Environment and Health Council (see below). Include all potential health effects, and a full toxicology program to be provided to all medical personnel in NYC, hospitals, doctors' offices, school nurses, clinics, etc. (e.g., publication of cholinesterase panel (RBC + plasma) testing for OP exposure should include how/when to collect blood specimens, what NYC labs would do the test, how to interpret the results

(do NOT compare to normal range, but to the individuals' levels which means taking a second cholinesterase panel within 2 weeks of the first test which must be done immediately after exposure).

- c. Distribute notices to all school nurses advising them what symptoms to look for in children and adults who may have been exposed to pesticides, and the protocol for responding to them.
- d. Provide a list of specific lab tests for analysis of pesticide metabolite levels, as well as shipping instructions with phone contacts, to all medical personnel as well as the public, for pesticides being applied. (funny how CDC can test for PYRETHROIDS, BUT no one can else can get tested for them especially in NY).
- e. Inform medical teams in spray area to do actual blood sampling over time, as pesticide poisonings can develop progressively (chronic) even after the victim/patient had already been seen once.
- f. Create emergency medical monitoring team "reference sheets" for MD's and ER's, and include emergency medical intervention procedures for pesticide-poisoning, instructions for testing the blood of ALL those with poisoning symptomology and retesting in 4 weeks.
- g. Fully record and maintain accurate central log of all pesticide-related complaints to all venues.
- h. Collect and review all toxicology (including oil refinery emissions and/or pesticide exposure) on all avian deaths (as well as people deaths) said to have been caused by the West Nile Virus.

III. PESTICIDE EXPOSURE HOTLINE, WEBPAGES & PUBLIC INFORMATION

- a. Create and allocate sufficient funds for a new "Pesticide Exposure Call-In Hotline" and website (part of DOHMH website) supported and staffed by trained **pesticide knowledgeable** doctors, nurses and hospital locations (in all boroughs of NYC) to respond to medical complaints. The hotline will become part of the NYC Emergency Management Handbook and program.
- b. The hotline number will be published to all police, fire, rescue, ambulance, hospitals, doctors (private and public) and other medical facilities in NYC, and to the website. The hotline and informational web pages will be included in media releases and prominently displayed in Times Square, supermarkets and other public locations so that their presence is known to the general public.
- c. All pesticide-related complaints to the Hotline, 311, ER rooms or doctors (private or public), schools, and everywhere else should be entered into a PIMS (Pesticide Incident Management System) database.
- d. The Pesticide Exposure Hotline, Poison Control, 311 and other City agencies should refer callers concerned about exposure and possible illness due to the pesticide applications to Mt. Sinai Occupational Safety and Health Clinic or Bellevue Hospital, which are already set-up to handle such cases.

- e. Remove all statements from DOHMH and other city websites and literature advocating or promoting the use of DEET, and outline the reasons why DEET is not recommended and is indeed dangerous for children especially;
- f. Provide non-toxic alternatives for personal use of mosquito repellent applications. The DOH's website will link to the NoSpray Coalition's "alternatives" web page <www.nospray.org>, as well as to those of other groups such as www.beyondpesticides.org, advising people to go to those websites for more information.
- g. Recall the DOH's 2004 and other comprehensive mosquito surveillance and control plans, because of misstatements, advocacy of DEET, and statements telling people not to wash off children's playground toys and sandboxes after spraying, among others.

IV. SPRAYING BUFFERS AND NOTIFICATION

- a. No pesticide applications on, over, or within 1,000 feet of water bodies, wetlands or homes.
- b. **Notification of spraying events immediately prior thereto.** When any pesticide or herbicide spraying is about to occur, security personnel (police, etc.) must notify people in the area and give them sufficient time (72 hours or more) to leave the area.
- c. **Early notification of scheduled spraying events for the disabled, young, pregnant, ill, and those with compromised immune systems; free transportation from the area for those groups.** Neighborhoods will be made aware of days and times of scheduled sprayings 72 hours in advance. "Persons at risk" (including the elderly, ill, children, disabled, immune compromised, MCS (multiple chemical sensitivities) or cancer survivors, and pregnant women) must be notified 5 days prior to applications so that they have time to prepare an exit from the area. Free transportation out of the area will be provided for those affected people.
- d. No aerial or indiscriminate truck spraying of Malathion, pyrethroids, or other adulticides will be permitted.
- e. No combination spraying (e.g. malathion + pyrethroid; pyrethroids + piperonyl butoxide) will be permitted; there is no human impact test data currently available that tests for their synergistic effects.
- f. The City will stop its widespread use of Monsanto's Roundup and other organophosphate herbicides, which are used mostly for cosmetic purposes.
- g. **Creation of a "Do-Not-Spray" list for those who do not want adulticides sprayed near their homes.** New Yorkers will be invited to add their names to a "Do-Not-Spray" list, for those who do not want their homes/yards/families subjected to aerially-applied pesticides (including airborne applications by spraytrucks). Once on these lists, residents should not have to renew them each year. They should remain on the list until they take themselves off it.

h. Addition of a tracer chemical in order to see where the aduicides are landing. It will add a visible tracer to aerially-applied/misted pesticides so everyone, including the pilot/applicator, can see where the pesticides are going. The visible tracer's MSDS is to be reviewed prior to application and all contents tested by EPA with data reviewed before any application commences. This includes testing the contents (and tracer) for MOLD contamination.

V. WORKER PROTECTION

- a. Provide free medical coverage for all workers and other individuals adversely affected by exposure to aduicides.
- b. Supervise all pesticide workers and insure that they be given and wear full protective gear.
- c. Require all NYC applicators to possess a license as a "Certified Pesticide Applicator" — no use of students or part time workers or janitors or maintenance persons to apply pesticides.
- d. Additional measures to be developed in conjunction with the No Spray Coalition et al. and the workers' Unions.

VI. COMMUNITY ENVIRONMENT AND HEALTH COUNCIL

- a. Officially recognize and support the work of the "Community Environment and Health Council" to be established by the Plaintiffs.
- b. The Council would consist of members from the No-Spray Coalition, National Coalition for the Misuse of Pesticides, Disabled in Action, Save Organic Standards-NY, health care professionals, environmental organizations, advocacy groups, non-toxic pesticide applicators and other pesticide-conscious parties. Furthermore, the Council would:
- c. Consider and make recommendations on environmental health impacts of pesticide use and alternatives.
- d. Be mandated to hear from (and possibly include) neurotoxicologists, neuropsychologists, non-toxic pest control experts, wildlife rehabilitators.
- e. Analyze toxicological samplings, and submit findings to review by occupational and environmental health case providers and advocates.
- f. Be authorized to sponsor public meetings before pesticides are used, at which the DOH and other public officials must attend and be available to answer questions

- g. Review and propose alternative, nontoxic control of mosquitoes
- h. Critique the city's official mosquito control plan and offer new plans to reduce adulticides with less toxic materials
- i. Assess agents chosen with regard to interaction with all toxics in our living environment, and then test agents in combination with them for synergistic or cumulative impact on health and environment
- j. Review transportation, storage, and financial ramifications of pesticides
- k. Develop and publicize substantive and "least harmful" application guidelines for all chemicals applied to the environment
- l. Be provided with access to all NYC information on health concerns for pesticides and other chemicals.
- m. Establish a liaison to the NY City Council Committee of Health and Environment and be added as non-voting, adjunct members to that City Council committee.

VII. INFORMATION AVAILABILITY

- a. Make immediately available all information on instances of pesticide applications and geographic location, and
- b. Use and make available all GIS maps showing all surface bodies of water within and surrounding NYC.
- c. Access to computer/GPS spray maps indicating the actual locations of planned truck and aerial application. These must be posted to the NYC DOHMH website at least 24 hours prior to application, and again with any changes indicated on the map following any spraying.
- d. Post on the DOH website the results of studies that confirm the significant harm that pesticide toxins do to marine life.
- e. Just prior to any applications, NYC shall establish "Pre-Application Checklist" procedures whereby the pesticides are checked by professionals to ensure that they were properly stored, have not expired, etc. and such information is logged and available to the public prior to any application. All pesticide formulations designated for use in the surrounding areas are to be tested prior to use by an independent agency for correspondence to label quantities to ensure product has not degraded.
- f. NYC shall set up a "call center" that is in direct contact with the No Spray Coalition on all intended sprayings. NYC must provide funding to employ a knowledgeable advocate agreed to by the No

Spray Coalition to monitor the intended sprayings of NYC. Notice of sprayings after the fact and after damage has been done is completely unacceptable.

g. New York City must not fund or work with organizations that have "serious and obvious conflicts of interests", i.e., groups funded by or otherwise obligated to major polluting industries. The City authorizes the Plaintiffs to monitor the potential conflicts of interest, and to provide the City with a list of such organizations and corporations.

Sincerely,

Mitchel Cohen, on behalf of the
No Spray Coalition and the other Plaintiffs