



February 2, 2021

Assembly Member Richard Bloom  
 Chair, Assembly Budget Subcommittee #3  
 State Capitol, Room 6026  
 Sacramento, CA 95814

Senator Bob Wieckowski  
 Chair, Senate Budget Subcommittee #2  
 State Capitol, Room 5019  
 Sacramento, CA 95814

**Re: Department of Pesticide Regulation Budget Change Proposal**

The below listed organizations represent a broad array of stakeholders responsible for paying the states mill tax on pesticide products. While pesticides play a part in protecting the State's \$50 billion agricultural industry, it is also important to note that registered pesticides also include, pet care, lawn & garden care, home pest products, material preservatives, sanitizers and disinfectants; the last of which have been a cornerstone to the pandemic response.

We are writing to express our concerns with the budget change proposal (BCP) from the Department of Pesticide Regulation (DPR) to replace the current flat-fee mill tax on pesticide sales with a new “tiered system,” which would generate approximately \$45 million in new revenue. Monies generated by the mill tax, fund DPR’s pesticide regulatory programs <sup>1</sup>and are also distributed to the Department of Food and Agriculture (CDFA) and to County Agricultural Commissioners (CACs) for local enforcement.

We have significant concerns with the BCP, including the underlying assumptions made to justify the new approach, the timing of a substantial tax increase given the fragility of the economy, unintended consequences if this structure is adopted and disagreement with how the additional funds would be spent. For example, none of the additional revenue will be directed toward improving pesticide registration timelines, while many of the formulations awaiting registration are likely to be more sustainable formulations.

Further, we must question whether DPR has the statutory authority to attempt to influence the market in this way. It is DPR’s role to register pesticides that are safe and effective when used as labeled, but it is not within their authority to establish a system that prefers one pesticide over another.

#### **NEGATIVE CONSEQUENCES AND FLAWED REVENUE ASSUMPTIONS**

A tiered mill assessment will have several unintended outcomes in the market, on the environment, and for California consumers. DPR states the BCP will “provide a market signal to pesticide users to transition to less harmful chemicals in favor of other tools” as products labeled with the signal word “danger” will pay higher fees than those labeled with the word “caution.” We find this approach overly simplistic and flawed for the following reasons:

- The signal words assigned by the US EPA are based on acute toxicity criteria which may increase the more a product is concentrated. Moving to a tiered assessment will disincentivize concentrating products, which has resulted in several environmental benefits including reductions in packaging, water savings, and emissions reductions.
- 63% of pesticide sales in the state are from the tier 1 category with “caution” or no signal word. Correspondingly, only 37% of sales represent the higher tiered groups. This demonstrates the pesticides market already reflects the trend of using products with lower acute toxicity as part of a broader integrated pesticide management process.
- DPR’s revenue projections do not actually plan on the market shifting to tier 1 products- thereby reducing the overall revenue they should expect to receive if the outcome DPR intends to achieve is successful. Therefore, we would expect to be back in front of the Legislature with DPR requesting another increase in the coming years.
- Falsely assumes products carrying a “danger” or “warning” signal word on the label cannot be used safely or that applicators do not already pursue less harmful alternatives before having to pursue these highly efficacious products to protect California’s homes, farms, schools, parks and workplaces.
- Does not consider the extensive health, safety and environmental review conducted by the United States Environmental Protection Agency (US EPA) and DPR prior to registration, or the strict regulations imposed on applicators.
- Due to animal welfare policies, some companies will forgo US EPA animal testing protocols to determine toxicology categories. As a result, federal compliance authorities will often categorize

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<sup>1</sup> California Food and Agricultural Code Section 12841

products in higher tiers due to uncertainty, even though additional testing could have supported a lower tier classification.

- Assumes there are available alternatives in a lower tier category, which is not always the case.
- Fails to consider what impacts may result from a shift to other products as it relates to efficacy, application rates, usage volumes, environmental impacts, food waste, food production, etc.
- Enforcement of the tiered system will be especially challenging, which is likely why DPR proposes 18 additional enforcement positions. Is this the best use of resources?

### **COVID-19 IMPACTS**

Bear in mind, products impacted by this BCP also include disinfectant products that are key in combating the spread of COVID-19 and other viruses. While we appreciate the one-year delay on the increase for products with the “caution” signal word, these do not represent all disinfectants registered on US EPA’s List N: Disinfectants for Coronavirus. Which disinfectant products are available at any given time, has fluctuated throughout the pandemic due to supply chain pressures and high consumer demand. Businesses and schools required to implement disinfecting procedures may not have the option of choosing products with a “caution” or no signal word.

The Department of Industrial Relations (DIR) recently adopted emergency regulations on COVID-19 Prevention, which includes requirements on employers to “implement cleaning and disinfecting procedures, which require...disinfecting frequently touched surfaces and objects, such as doorknobs, elevator buttons, equipment, tools, handrails, handles, controls, bathroom surfaces, and steering wheels.” Identifying and formulating products that meet the goals outlined by DPR, while still being effective to protect public health - including products that work against viral spread - are not readily available.

### **FUNDING ALLOCATIONS**

Despite having more money available, DPR’s process for reviewing new pesticide registrations remains slow and manufacturers are facing a substantial backlog. While DPR’s other BCP request of \$5 million to support the development of CalPEST, an online registration system, is expected to eventually improve the registration process, we fully anticipate a separate registration fee increase to support the ongoing funding of CalPEST. Any discussion on raising the mill assessment must include how new revenue can be specifically earmarked to address this issue, as both fee increases must be considered together.

While the last increase to the mill assessment was in 2004, to its current level of 21 mills, the BCP fails to highlight how much revenue has increased as a result. DPR’s overall budget has increased by more than 30% since 2007-8 despite the mill assessment remaining flat and this funding source accounting for nearly 80% of DPR’s revenues. Additionally, due to the increased sales of disinfectants and sanitizers over the past year, we would anticipate a significant increase in revenue to DPR.

The BCP notes, “This proposal will repair the DPR Fund’s structural imbalance, allow DPR to meet its supplemental pension payment obligations under Chapter 50, Statutes of 2017 (SB 84), and provide a prudent reserve.” However, it fails to explain the total amount of the imbalance, the pension obligations, and the reserve funds needed. Based on the most recent fund condition documents, it appears DPR had a reserve of \$14 million last year, which will fall to \$12 million this year. The current proposal would further draw down this reserve to below \$1 million next year, despite an increase of

more than \$20 million in revenue.<sup>2</sup> We must question whether this would be prudent considering the uncertain economy we are facing.

The BCP is positioned as a comprehensive proposal to “support the state’s transition to safer, sustainable pest management.” It is concerning that funds would not be properly distributed to meet DPR’s core functions, but rather are targeted for discretionary projects. Less than a quarter of the revenues are proposed for CACs, responsible for pesticide use enforcement, whereas DPR would be offered 44 new Sacramento-based staff positions. In addition, there is no money designated to help DPR transition to electronic or virtual testing for licensing its required to provide to crop protection advisors.

The BCP requests \$1.5 million from the general fund for community engagement pursuant to AB 617, the California Air Resources Board’s (CARB) Community Air Protection Program, which DPR acknowledges they are not statutorily required to do. However, if DPR believes they have an important role to play in the engagement activities, CARB is proposing to allocate \$325 million for AB 617 implementation.

DPRs proposed BCP will likely impact a broad swath of Californians - farmers, manufacturers, food processors, retailers, grocers, hospitals, schools, day care centers, nursing homes and consumers which make and use products subject to this program. While we are troubled no outreach was conducted with the stakeholders included on this letter prior to the January 8, 2021 budget release, we welcome a discussion on mill assessment levels and how funding may be distributed. However, we urge caution with this current BCP for the reasons outlined above.

Thank you for the opportunity to share these comments and we look forward to our on-going engagement in this important issue.

Sincerely,



Tricia Geringer, Vice President of Government Affairs  
Agricultural Council of California



Elaine Trevino, President and CEO  
Almond Alliance of California



Tim Shestek, Senior Director, State Affairs  
American Chemistry Council



Rhett Cash, Counsel, Government Affairs  
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Terry Gage, President  
California Agricultural Aircraft Association



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California Blueberry Association  
California Blueberry Commission  
Olive Growers Council of California

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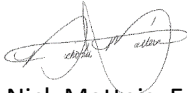
<sup>2</sup> <http://www.ebudget.ca.gov/2021-22/pdf/GovernorsBudget/3890/3930FCS.pdf>



Ruthann Anderson, President/CEO  
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Taylor Roschen, Policy Advocate  
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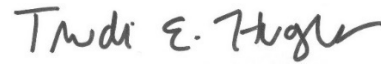
Nick Matteis, Executive Director  
California Association of Wheat Growers



Ian LeMay, President  
California Fresh Fruit Association



Michael Miiller, Director of Government  
Relations  
California Association of Winegrape Growers



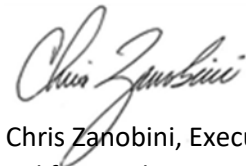
Trudi Hughes, Director of Government Affairs  
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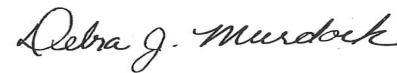
Valerie Nera, Policy Advocate  
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Dawn Koepke, Partner  
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Chris Zanobini, Executive Director  
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Debra Murdock, President  
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Donna Boggs, Associate Director  
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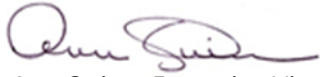
Roger Isom, President/CEO  
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Michelle M. Connelly, Executive Director & CEO  
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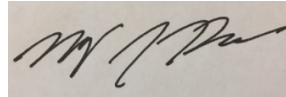
Ann Quinn, Executive Vice President  
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Paul Poister, Manager, Government and  
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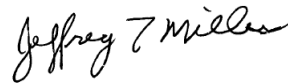
Barbara LeVake, Legislative Director  
California Women for Agriculture



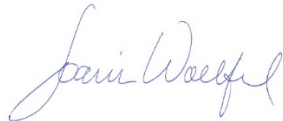
Megan J. Provost, President  
RISE (Responsible Industry for a Sound  
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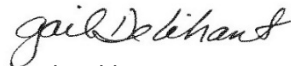
Lisa LW Johnson, Executive Director  
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Jeffrey T. Miller, President & Executive Director  
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Joani Woelfel, President & CEO  
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Gail Delihant, Senior Director, CA Government  
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