

June 28, 2023

Waleska Ramirez
State Plant Health Director
USDA, APHIS, PPZ
270 S. 17th Street
Las Cruces, NM 88005

Pamela Mathis
Field Manager
BLM Taos Field Office
1024 Paseo Del Pueblo Sur
Taos, NM 87571

Sent via email

Re: Proposed USDA Animal and Plant Health Inspection Service (APHIS) Aerial Pesticide Spraying on Public Lands in Rio Arriba County

Dear State Plant Health Director Ramirez and Field Manager Mathis:

We write as a diverse group of conservation, agricultural, faith, business, tribal, and community leaders in New Mexico to express grave concern with plans by the USDA Animal and Plant Health Inspection Service (APHIS) to spray the pesticide carbaryl over a large area of public lands managed by the Bureau of Land Management (BLM) as well as smaller areas of State Trust Land and private land in Rio Arriba County to control native grasshopper and cricket species. Based on the information available to us, APHIS intends to hire a contractor to use a fixed-wing aircraft for the aerial application of approximately 782 gallons of carbaryl over a 25,000-acre area (approximately 40 square miles). This operation, which was scheduled to begin as early as June 26, 2023, is intended to mitigate the potential loss of forage for cattle should native grasshopper and cricket species swarm.

Our strong opposition to this project is explained in detail below. Namely, the aerial application of carbaryl over a large area would have negative impacts to pollinators critical to ecosystems and our food supply chain, numerous fish and wildlife species, public health, and an array of other ecological, cultural, and recreational resources. Additionally, the National Environmental Policy Act (NEPA) analysis conducted for the project by APHIS does not adequately analyze or disclose the full breadth of impacts of this project and it includes no process for public notification of the timing or location of pesticide treatments. Put simply, given the harms to biodiversity, other ecological values, the public, and cultural resources that would result from this project, as well as a lack of transparency and public notification associated with the project, we feel strongly that this project is not in the public interest.

We urge you both to cancel this project and consider other, less harmful alternatives to meet the project's purpose and need. If after additional analysis it is determined that there is no viable alternative to widespread aerial application of pesticide, we implore you to ensure that the project's NEPA analysis considers and discloses the full suite of impacts of the project and to ensure for improved transparency, public notification, and accountability associated with the proposed operations.

Toxicity of the Pesticide Carbaryl

The APHIS Request for Quotes (RFQ) that is posted on Sam.gov for the project specifies that the pesticide carbaryl is to be used for this project. According to the [Environmental Assessment](#) (EA) issued by USDA in March 2023, the pesticide carbaryl “is highly toxic to insects, including native bees, honeybees, and aquatic insects; slightly to highly toxic to fish; highly to very highly toxic to most aquatic crustaceans; moderately toxic to mammals; minimally toxic to birds; moderately to highly toxic to several terrestrial arthropod predators; and slightly to highly toxic to larval amphibians.” APHIS, Environmental Assessment, Rangeland Grasshopper and Mormon Cricket Suppression Program for Rio Arriba County, NM, EA #NM-23-01, p.14 (Mar. 1, 2023).

The EPA has determined that carbaryl is likely carcinogenic to humans, and exposure to carbaryl can cause nausea, headaches, dizziness, anxiety, and mental confusion, as well as convulsions, coma, and death. *Id.* at 14; see <http://npic.orst.edu/factsheets/carbgen.pdf>.

The EPA is currently [reviewing](#) carbaryl’s registration for use, as required by the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). Under FIFRA, the EPA must reevaluate each pesticide every 15 years to ensure that risk assessments and risk management decisions reflect the best available science. In March 2021, the EPA issued a final [Biological Evaluation](#) concluding that carbaryl is likely to adversely affect 1640 species that are endangered, threatened, or proposed under the Endangered Species Act (91% of the imperiled species studied). Due to the identified risks of carbaryl, the EPA has issued a proposed interim decision (PID) intended to mitigate risks to human and ecological health and to endangered species.

Impacts to Pollinators and Wildlife

Ironically, we first learned of this project during [Official Pollinator Week](#) (June 19-25), which was established to celebrate pollinator health. The [USDA recognizes Pollinator Week](#) and recently reaffirmed its continued commitment and support for pollinator health and research. As explained by USDA, “Pollinator species, such as bees, other insects, birds and bats play a critical role in producing more than 100 crops grown in the United States. Honeybee pollination alone adds more than \$18 billion in value to agricultural crops annually.” Pollinators are highly active this time of year due to wildflower blooms, and as a result, this project will profoundly impact native pollinator species within and likely adjacent to the project area.

The USDA’s federal pesticide program is intended to protect agricultural land and rangeland. See 7 U.S.C. § 7717. But instead of protecting the lands that support our food supply, widespread pesticide use is driving the rapid decline of the pollinators we need for healthy ecosystems and the long-term viability of our food systems. Indeed, we are experiencing what has been widely reported as an “Insect Apocalypse.” See, e.g., [“The collapse of insects”](#), which documents the precipitous rate of decline in insect and pollinator populations. The related “mass extinction crisis” is causing unprecedented rates of extinction and biodiversity loss due to human activities. This crisis affects all types of species, and among other profound impacts, is reducing crop productivity and quality. See, e.g., the peer-reviewed study [“The Sixth Mass Extinction Crisis and its Impact on Biodiversity and Human Welfare”](#).

In its [finding of no significant impact \(FONSI\)](#), APHIS acknowledged that the project may affect multiple species listed under the Endangered Species Act, including the New Mexico meadow jumping mouse, Mexican spotted owl, and Southwestern willow flycatcher. Moreover, many native bird and bat species

rely solely on insects as their primary food source. The health and productivity of nesting success relies heavily on the availability of a healthy insect population. Species like Merriam's turkey, which are common throughout the area, have recent hatchings. Grasshoppers and other similar insect species are a critical food source for these young birds.

Impacts to Sensitive Federal Public Lands

The project area overlaps with a substantial portion of the Rio Chama Wilderness Study Area (WSA), established to protect the area's wilderness qualities, and the Chama Canyons Area of Critical Environmental Concern (ACEC), established to protect exceptional recreation opportunities and trout fishing, among other values. The project boundary is contiguous with the northern boundary of the Chama River Canyon Wilderness (managed by the Santa Fe National Forest (SFNF)) and is only about a mile away from the Rio Chama Wild and Scenic River corridor (managed jointly by the BLM and SFNF). It is unclear whether minor tributaries to the Rio Chama that are located within the project area will be buffered during this operation, meaning migration of pesticide into the Chama could occur during a monsoon event after spraying. Additionally, Audubon has identified the Chama River Gorge as an Important Bird Area, popular with birdwatchers and scientists.

APHIS failed in its Environmental Assessment to evaluate impacts to Wilderness Study Areas, Wilderness Areas, Wild and Scenic Rivers, Areas of Critical Environmental Concern, Important Bird Areas, tribal and sacred lands, and recreational uses. Although public commenters raised concerns about these impacts, APHIS expressly declined to consider them. APHIS attempted to excuse this omission by stating that APHIS relies on treatment requests from the state departments of agriculture or federal land managers, including the BLM. APHIS concluded "it is taken for granted" that land managers such as the BLM would not propose grasshopper suppression programs in "these types of sensitive areas." EA, Appx. E, at p. lx.

Thus, the aerial pesticide application proposed in the Rio Chama watershed will directly affect a designated WSA and ACEC, and is likely to affect a designated wilderness and a designated wild and scenic river due to spray drift, pilot error, and/or pesticide migration from minor tributaries, all without the necessary environmental review.

BLM policy requires protection of the wilderness characteristics of WSAs and the values for which ACECs were designated. The Wilderness Act as well as regulation and policy require that the wilderness character of designated wilderness areas is preserved. The Wild and Scenic Rivers Act as well as regulation and policy require that water quality and the outstandingly remarkable values for which rivers are designated are protected. Pesticide application will kill native insect species (target species and non-target pollinators and other terrestrial and aquatic invertebrates), as well as potentially or likely harming other native fish and mammal species, and is contradictory to this body of legal, regulatory, and policy guidance.

Lack of Public Transparency, Participation, and Notification

The way APHIS conducts the grasshopper suppression program raises significant concerns about transparency, accountability, and public safety. In 2019, APHIS completed a programmatic EIS covering 17 western states, and in 2023, APHIS completed New Mexico-specific EA for Rio Arriba County. These tiered NEPA decisions require APHIS to issue a supplemental determination authorizing a specific project, including approval by federal land management agencies where the pesticide application would take place. There is no opportunity for public participation in these supplemental determinations, and there is no system for public notification of the timing or location of pesticide treatments.

This lack of transparency and public notification means that there is a very real possibility that members of the public could unknowingly be recreating in the project area when aerial pesticide application occurs and could get directly sprayed with pesticide or pesticide drift. In fact, the Rio Chama is a high-profile regional raft, kayak, and canoe destination near the project area, and there are popular trails routinely used by the public in the project area. As a result, this operation could result in harm to members of the public, and this possibility is not considered or analyzed in the APHIS NEPA documentation.

In addition, APHIS does not have legal authority to spray pesticide to control grasshoppers unless the number of grasshoppers has reached “levels of economic infestation.” *See* 7 U.S.C. § 7717(c)(1). But APHIS does not have a consistent, reasonable method for determining when such levels are reached and does not provide the public with evidence or information demonstrating that grasshopper numbers - and especially the specific species of concern – have reached a threshold that would justify the application of any pesticide. The lack of clear, science-based standards and accountability likely leads to APHIS conducting more pesticide treatments than factually or legally warranted. Furthermore, in this instance observations from local landowners suggest that the target species are not in a swarm or pre-swarm stage, suggesting that treatments are not needed and would be rendered ineffective.

The BLM Has an Obligation to Conduct Further Environmental Analysis

APHIS does not have legal authority to spray pesticide to control grasshoppers on federal public land unless there is a request from the applicable federal land management agency, in this case the BLM. *See* 7 U.S.C. § 7717(c)(1). The BLM and AHPIS have a memorandum of understanding (MOU) that delineates the BLM’s role in authorizing pesticide treatments on BLM-managed lands. *See* Doc. #22-8100-0870-MU. Under the MOU, APHIS cannot conduct pesticide treatments on BLM land without a written request from the BLM to include its lands in a treatment program. Additionally, the BLM must review the proposed project and the environmental assessment (EA) prepared by APHIS to independently determine whether it adequately evaluates the proposed action and supports a Finding of No Significant Impact (FONSI). If the BLM determines that additional environmental analysis is necessary, it must prepare a NEPA document, incorporating the programmatic EA's analysis where appropriate, before issuing a decision to authorize treatment actions on BLM-managed lands.

In this case, the BLM has a legal responsibility to perform additional environmental analysis. As explained above, the NEPA analysis conducted by APHIS assumed that pesticide application would not occur in sensitive areas, such as Wilderness Study Areas, Areas of Critical Environmental Concern, or Important Bird Areas, and that treatments would not occur on federal public lands popular for recreational uses. The EA prepared by APHIS therefore completely omitted any analysis of the impacts that would occur if carbaryl were sprayed in these areas. Additionally, APHIS has acknowledged the toxicity of carbaryl to non-target pollinators, plants and wildlife, and humans. Given the substantial NEPA deficiencies and lack of public transparency, the APHIS NEPA documentation is inadequate in analyzing or disclosing effects to a wide array of important resources and uses under the management of BLM.

Conclusion

In conclusion, we strongly urge you both to cancel the planned aerial application of carbaryl on public lands in Rio Arriba County. Specifically, we ask that you consider other, less harmful alternatives to addressing the potential impacts to forage for cattle that could result from native grasshopper and cricket species swarming, including less harmful insect control practices and compensatory programs. Additionally, if APHIS seeks to use pesticide in the future to control native grasshopper and cricket species

on public lands in New Mexico, APHIS and cooperating agencies must ensure that proposed applications are compliant with NEPA and other federal statutes, including the appropriate analysis and disclosure of the effects of the project on the full range of resource values in the project area. Further, we strongly believe that APHIS and cooperating agencies must dramatically improve the transparency and public notification of proposed pesticide applications to ensure that our federal officials are making informed decisions in the public interest about the environmental, economic, public health, and conservation issues that are important to New Mexicans.

Sincerely,

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