

## Group wins public disclosure on spraying



Written by Jane Stebbins, Pilot staff writer  
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Beyond Toxics has made a dent in the armor of the Oregon Department of Agriculture in regard to disclosures it must make about chemical spraying.

The Eugene-based nonprofit health advocacy organization tackled the issue last fall when several residents in Cedar Valley, near Gold Beach, complained about a variety of health problems after a helicopter sprayed private timberlands near their homes last October.

According to Lisa Arkin of Beyond Toxics, several residents fell sick, reporting a strong chemical odor that caused severe headaches, blurry vision, loss of balance, nausea, rashes and difficulty breathing.

A dog has been reported to be near death, and a horse has gone blind in one eye, she said.

After hearing about the spraying and subsequent illnesses, Arkin filed a public records request in January to find out what was sprayed, but the ODA denied her that information, saying they didn't have to provide it.

She then contacted the Crag Law Center in Portland, a public interest environmental law firm, got the Environmental Protection Agency and Centers for Disease Control involved and filed a complaint with the State Attorney General, who sided with Arkin late last week.

"We are buoyed by the decision we received today," Arkin said. "It's a win for public access and proper disclosure."

"The ODA's job is to protect the public and regulate pesticide applicators, not the other way around," said Chris Winter, co-executive director of the Crag Law Center. "The public has a right to know the job is done right."

The ODA must now disclose its records on spray events, monitoring and research — files based on what the landowners and spray operators submit to the state, Arkin said. She has asked for that documentation.

Arkin doesn't know what will happen next. The ODA could comply, or it could fight the ruling, she said. Regardless, Beyond Toxics filed a second complaint with the Attorney General Monday about the Oregon Department of Forestry's refusal to hand over similar documents, as well.

### Spraying law

Current state law says timberland owners and their horticulturists are allowed to select an array of chemicals from those approved by the federal government for that season's use, said Crook Timberlands manager Rick Barnes, whose company was targeted by Beyond Toxics. The sprayer — Crook Timberlands hires a firm from the Rogue Valley — and horticulturists then determine which chemicals from those selected are best for the crops, based on the type of species being grown and its stage of development.

The Oregon Department of Forestry is required to divulge to the public, upon request, the times and areas where spraying is to occur.

Resident Jim Sweeney, who has since 2012 requested to be notified when sprayings would take place, received documentation from the Oregon Department of Forestry Tuesday.

"They said they must have had a glitch in the system," he said.

The ODF missed two notifications to him since 2012, including the one last October.

The paperwork he received last week says South Coast Lumber will be spraying herbicides — Weedone LV6, whose mixture is 87 percent 2,4-D, one of the active ingredients in Agent Orange — on 99 acres near his property.

The spraying, he was notified, will take place sometime between March 1 and May 31; he received the notification March 19. ODF officials said he should have received the notification Feb. 1.

The sprayer, who must comply by numerous law addressing "overspray" onto adjacent property, wind speed the day of the spray, and buffer zones near waterways, does not have to divulge what they are spraying.

That had those affected in Cedar Valley concerned when they fell ill.

Barnes, however, said the company doesn't want to disclose which chemicals it uses because they are all available at gardening supply stores, and he fears his neighbors might apply those chemicals to plants on their property and blame the timber company for overspraying.

Barnes said earlier this winter that spray operations were conducted on a parcel of land upwind of residents and that a ODA official was on site to oversee the operations and ensure compliance with laws.

County Commissioner Susan Brown in January said the company is following the appropriate rules and laws, and noted the expense of on-the-ground hand treatment of vegetation versus that of aerial spraying.

Arkin noted that herbicides also make their way into the groundwater, and that state laws don't go far enough in protecting fish and other wildlife.

"If it's the spraying regulations (that are the problem), then we need to work better with the state on those regulations," Brown said earlier this year. "Maybe it'd be better with a bigger buffer zone, or better transparency about when they're spraying.

"But timber companies need to operate — I am fully on board with the timber companies," she added. "They need to be able to grow their lands and harvest. They're part of our economy and I respect what they do. If there's a problem with the process, we need to deal with the process."

### **The case**

Investigators did take plant samples from the allegedly affected properties last year. Results likely won't be available until April.

"It gets frustrating," admitted Mike Odenthal, the ODA's lead investigator on the case, in January. "The wheels of justice take a long time. I think we might be about halfway through, but I can't say that for a fact.

"When we get a large case like this, because so many people are involved, it takes a long time to go through and do the job right. The last thing we want to do is point a finger at an applicator and say, 'You sprayed these people,' and go to court and lose. It doesn't do anyone any good. We have to do our due diligence."

Arkin agrees, but is still frustrated with how long it takes to get news from the agency.

"State agencies must comply with Oregon's laws determining the public's right to access public documents, especially in a case where human health is at stake," she said. "It doesn't help the people who are suffering and spending a lot of money on doctor and veterinary bills for public agencies to keep this kind of information secret."

Arkin also worries about the health of those in the area, particularly if the investigation shows the timber companies and their sprayers were complying with all the laws.

"Spray season has already begun," she said. "I've heard reports that helicopters are flying back and forth over Cedar Valley as of last Friday."

Sweeney had to leave his house for three days, Arkin said, after spraying operations were conducted south of his home and the wind shifted.

"Spring sprays are generally much more toxic than fall sprays — tank mixes are typically atrazine, 2-4-D and hexazinone," she said. "That is not good news at all."

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