

Residents sprayed with herbicide seek to overturn law limiting right to sue

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GOLD BEACH, Ore. - Herbicide meant for nearby timberland rained from a helicopter onto residential property in the Cedar Valley area of Curry County on October 16, 2013, residents say.

Notes from the Oregon Department of Agriculture investigation into the spray last fall.

Since then, residents have claimed to suffer from severe health issues, including respiratory illness, gastrointestinal damage - even death.

"He became increasingly ill and unable to recover from him respiratory illness, and his illnesses resulted in his death," said Lisa Arkin with Beyond Toxics in Eugene.

Residents believe the spraying affected animals, too. Families report they've lost a dog and have a severely ill horse because of the spray.

The Oregon Department of Agriculture investigated, and this week announced a \$10,000 civil penalty and a one year license revocation to Pacific Air Research Inc. and a corresponding \$10,000 civil penalty and one year license revocation to its commercial pesticide applicator, Steven Owen, for providing false and misleading information in connection with the aerial pesticide application.

Now the residents affected by the spray have filed suit, seeking to have a portion of the Oregon Right to Farm and Forest Law that protects timber operations from liability for herbicide drift to be declared unconstitutional.

"The Oregon Constitution protects the private property rights of individual landowners. Many of us have believed for a long time that this law is unconstitutional, and this is the first time it will be put to the test," said Chris Winter with the Crag Law Center, which is representing the citizens.

"We have the right to defend our families and our private property from chemical trespass," said John Burns, assistant chief of the local volunteer fire department and the spokesperson for 17 plaintiffs in the case. "Nobody should have to live through what we've experienced over the past several months. These irresponsible practices are making us sick, killing our pets and interfering with the use of our land."

The landowners want a judge to rule that the Right to Farm law is unconstitutional under the Oregon Constitution because it strips away their remedies for "chemical trespass" from herbicides and other violations of their private property rights.

Residents also complain that, while the Department of Agriculture investigated, it didn't tell them what pesticides they were sprayed with until April. Filed notes from the investigation show ODA noted 2-4-D and triclopyr as possible chemicals.

"We acknowledge we could have provided more info to citizens throughout the investigation," Dale Mitchell with ODA said.

The lawsuit was filed the same day the penalty was announced this week.

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