

# County of Santa Clara

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## **County of Santa Clara Joins Pesticide Appeal**

*Amicus Brief Calls on Court to Preserve Local Governments' Ability to Participate Fully in Pesticide Re-registration Decisions*

**SANTA CLARA COUNTY, CALIF.**— Today, the County of Santa Clara filed a friend-of-the-court brief arguing that local governments should not be barred as a practical matter from challenging federal decisions to authorize the use of high-toxicity pesticides. The brief was filed in the Ninth Circuit Court of Appeals in *United Farm Workers v. Environmental Protection Agency*.

"High-toxicity pesticides could pose real dangers to the health of children and residents who work in or live close to agricultural areas," said Don Gage, Supervisor for Santa Clara County's District 1, where the majority of county agricultural land is located. "The County seeks to protect public health and the local agricultural economy by correcting federal errors."

Almost a million pounds of active ingredients of pesticides were reported applied in the county in 2007. The two highly toxic pesticides at issue in this case, azinphos-methyl ("AZM") and phosmet, have been used recently for agricultural products in Santa Clara County.

"Pesticides are widely used throughout the country and eventually can be absorbed by our parks, waters, and wildlife," said Supervisor Liz Kniss, President of the County of Santa Clara Board of Supervisors. "We at the County have successfully adopted, and strongly support, using the Integrated Pest Management system to minimize pesticide use on County-owned properties."

The Federal Insecticide, Fungicide and Rodenticide Act requires the Environmental Protection Agency (EPA) to decide whether certain previously approved pesticides should be re-registered for continued use. Individuals can challenge final EPA re-registration decisions in court. If the decisions are made without a public hearing, the public generally has six years to review the EPA decision and to investigate a pesticide's impact before deciding whether or not to challenge it in court. But if the EPA held a "public hearing" before deciding to re-register a pesticide, the public only gets 60 days from the EPA's decision to bring a challenge.

The lower court changed the standard for what qualifies as a public hearing by holding that minimal procedures were enough. After finding that the EPA had provided such procedures below, the court dismissed the lawsuit because the plaintiffs had not sued within 60 days of the EPA's decision. That ruling went against years of precedent and the EPA's own position until now.

Only in rare instances would the County file suit within 60 days of an EPA re-registration decision, given the County's deliberative legal process, fiscal constraints, and the hundreds of pesticides applied in the County each year.

"It is vital that we maintain access to the courts so that we can play our role as guardians of the health and safety of our residents," said Ann Ravel, Santa Clara County Counsel.

If the Ninth Circuit reverses the lower court's opinion, the case will be sent back to the lower court to address the merits of the challenge to the EPA's decisions to re-register AZM and phosmet and thereby allow their continued use.

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