

PROCLAMATION OF EXISTENCE OF A LOCAL EMERGENCY

BY THE BOARD OF SUPERVISORS

COUNTY OF FRESNO, STATE OF CALIFORNIA

IN THE MATTER OF
Authorizing for commercial growers to use
Neonicotinoid pesticides on an emergency
Basis to combat the Beet Leafhopper
In Fresno County

RESOLUTION PROCLAIMING THE
EXISTENCE OF A LOCAL
EMERGENCY

WHEREAS, the California Emergency Services Act (Government Code section 8630, *et seq.*) establishes procedures for proclaiming emergencies and for responding promptly to the needs that arise during emergencies; and

WHEREAS, under section 2.44.050 of the Fresno County Ordinance Code, the County Administrative Officer is authorized as the Director of Emergency Services of the County; and, in such capacity, the County Administrative Officer may appoint an assistant director of emergency services; and

WHEREAS, section 2.44.060.A. of the Fresno County Ordinance Code and Section 8630 of the Government Code empower the County Administrative Officer acting as the Director of Emergency Services of the County, or their designee, or the Board of Supervisors of the County of Fresno (the "Board") if in session, to proclaim the existence of a local emergency when the County is affected by or likely to be affected by a public calamity; and

WHEREAS, the Emergency Services Director of the County does hereby find and declare that a crippling disaster, which severely impairs public security of an important food product, is created by conditions of extreme peril to the processing and fresh tomato crop which has arisen within Fresno County, due to the Beet Leafhopper (BLH), the vector of Beet Curly Top Virus, a disease known to cause serious tomato crop damage. California is the largest producer of processing tomato and the second largest producer of fresh tomato in the U.S. Processing tomato

1 production is also concentrated in Fresno County. Fresno County is also a significant producer of
2 fresh tomatoes; and

3 WHEREAS, infestation of BLH is imminent and it must be controlled to prevent tomato crop
4 failure in Fresno County. BLH is a serious insect pest of both fresh market and processing tomato
5 on the west side of the San Joaquin Valley region; and

6 WHEREAS, beet curly top virus stunts young plants and can result in complete loss in
7 heavily infected fields. About 50% of the total fresh market and processing tomato acreage in the
8 San Joaquin Valley is at risk of infection in years when insect and virus pressure are high.

9 WHEREAS, processing tomatoes are annually grown in California on approximately
10 235,000 acres, including 53,000 acres in 2022 and 62,300 in 2023 in Fresno County, at an annual
11 production cost in the \$5,300 per acre range representing \$429,263,000 of annual revenue.

12 WHEREAS, the tomato crop is highly reliant on neonicotinoids to combat Beet Leafhoppers
13 which are carriers of a virus deadly to tomato plants. Without neonicotinoids, growers would likely
14 apply multiple applications of alternative active ingredients, greatly increasing the treatment cost on
15 affected acres by 121.1% to 130% (\$4.8 to \$7.8 million); and

16 WHEREAS, the full scope of damage of the BLH in Fresno County cannot reasonably be
17 determined at this time but can be mitigated in part if immediate action is taken on an emergency
18 basis, as stated below; and

19 WHEREAS, the imminent migration of the BLH into Fresno County is an extreme threat to
20 tomato crops in Fresno County and the emergency use of neonicotinoid pesticides is necessary to
21 mitigate the threat, and no other efficacious means of control are known to the Emergency
22 Services Director of the County or the Agricultural Commissioner at this time; and

23 WHEREAS, Title 3 of the California Code of Regulations (CCR) sections 6990 through
24 6990.16 that went into effect January 1, 2024, which generally restrict and limit certain uses of
25 neonicotinoid pesticides on various crop groups beyond the label requirements would have
26 restricted such use; however, CCR section 6990(c)(2) provides an exception that an application of
27 neonicotinoid pesticides to address a local emergency pursuant to Government Code section 8630
28 will not be subject to these regulations; and

1 WHEREAS, applications of neonicotinoid pesticides may be made in accordance with 3
2 CCR Section 6990(c)(2) to address this Proclamation of the existence of the local emergency
3 stated herein (this “Proclamation of Local Emergency”) by allowing for applications of such
4 pesticides on an emergency basis, as provided herein, so that commercial tomato growers can
5 specifically treat for BLH in Fresno County in accordance with pest conditions and timeframes
6 established by the Fresno County Agricultural Commissioner working in coordination with and
7 under the authority of the Fresno County Emergency Services Director, provided that the operator
8 of the property shall obtain the written recommendation from a licensed agricultural pest control
9 adviser and retain the written recommendation for at least two years after the application occurs;

10 WHEREAS, the Fresno County Emergency Services Director, after consulting with the
11 Fresno County Agricultural Commissioner, has determined that the BLH is imminent and severe;
12 as part of such consultation, the Fresno County Agricultural Commissioner has reviewed available
13 economic information, and pest trap reports from tomato growers as well as California Department
14 of Agriculture Beet Curly Top Virus Control Program reports, and determined that the potential for
15 damage to the tomato crop in Fresno County is too severe without the application of neonicotinoid
16 pesticides under this Proclamation of Local Emergency; the Fresno County Agricultural
17 Commissioner estimated that the severity of such damage could be as high as 70% to 90% of the
18 affected tomato crops if such crops are not effectively treated under this Proclamation of Local
19 Emergency; and

20 WHEREAS, upon this Proclamation of Local Emergency, the Fresno County Agricultural
21 Commissioner is hereby authorized, to take such actions provided below, as he or she deems
22 appropriate, to the extent necessary (e.g., authorizing such actions in limited districts or areas
23 designated by the Fresno County Agricultural Commissioner), by allowing commercial growers to
24 make applications of neonicotinoid pesticides, on an emergency basis, to tomato crops in Fresno
25 County from the above-described infestation; and

26 WHEREAS, on April 12, 2024, the Fresno County Office of Emergency Services was
27 informed of the emergency; and

1 WHEREAS, the County of Fresno Emergency Services Director proclaimed a local
2 emergency on April 17, 2024; and

3 NOW THEREFORE, IT IS HEREBY PROCLAIMED that the Board of Supervisors ratifies
4 the proclamation of a local emergency proclaimed by the Emergency Services Director of the
5 County of Fresno on April 23, 2024; and

6 IT IS FURTHER PROCLAIMED AND ORDERED that during the existence of said local
7 emergency, the powers, functions, and duties for the emergency organization of this County shall
8 be those prescribed by state law, ordinances and resolutions of this County, and by the Fresno
9 County Operational Area Master Emergency Services Plan, as approved by the Board; and

10 IT IS FURTHER ORDERED that the Fresno County Agricultural Commissioner (and their
11 respective designees), working in coordination with and under the authority of the Fresno County
12 Emergency Services Director (and their designees), is hereby authorized to take appropriate
13 actions, to the extent they deem it necessary in response to this local emergency (e.g., authorizing
14 such actions in limited districts or areas as designated by the Fresno County Agricultural
15 Commissioner), consistent with this Proclamation of Local Emergency; to that end, applications of
16 neonicotinoid pesticides may be made in accordance with 3 CCR Section 6990(c)(2) to address
17 this Proclamation of Local Emergency by the Agricultural Commissioner allowing for applications of
18 neonicotinoid pesticides on an emergency basis, so that commercial tomato growers can
19 specifically treat for BLH in Fresno County in accordance with pest conditions and timeframes
20 established by the Fresno County Agricultural Commissioner, provided that the operator of the
21 property shall obtain the written recommendation from a licensed agricultural pest control adviser
22 and retain the written recommendation for at least two years after the application occurs; and

23 IT IS FURTHER ORDERED, that the Fresno County Agricultural Commissioner (and their
24 respective designees), working in coordination with and under the authority of the Fresno County
25 Emergency Services Director (and their designees), is hereby authorized to provide information to
26 the public, including commercial growers, regarding those districts or areas designated by the
27 Fresno County Agricultural Commissioner where pest conditions are identified, and where
28 pesticide applications may occur, including timeframes for such applications, as established by the

1 Fresno County Agricultural Commissioner, all of which will be on the Fresno County Agricultural
2 Commissioner website at www.fresnocountyca.gov/Departments/Agricultural-Commissioner; and

3 IT IS FURTHER ORDERED that the Emergency Services Coordinator, working in
4 coordination with and under the authority of the Fresno County Emergency Services Director (and
5 their designees), is hereby authorized to take appropriate actions, to the extent they deem it
6 necessary in response to this local emergency to assist and coordinate their efforts with the
7 Fresno County Agricultural Commissioner under this Proclamation of Local Emergency; and

8 IT IS FURTHER ORDERED the Emergency Services Coordinator shall take appropriate
9 steps to notify the State Office of Emergency Services of this Proclamation and of the steps taken
10 hereunder to address this local emergency; and

11 IT IS FURTHER PROCLAIMED AND ORDERED that applications of neonicotinoid
12 pesticides can be made under this Proclamation of Local Emergency to address the local
13 emergency stated in this Proclamation of Local Emergency by allowing for applications of such
14 pesticides, as provided herein, which applications would normally be subjected to the restrictions
15 or rate limits imposed by the regulations indicated above, so that commercial growers can
16 specifically treat their tomato crops for BLH in Fresno County; and

17 IT IS FURTHER PROCLAIMED AND ORDERED this Proclamation of Local Emergency
18 does not supplant pesticide product labeling requirements for use. Therefore, the use of any
19 pesticide shall not conflict with its product labeling; and

20 IT IS FURTHER ORDERED that the Product Use Recommendations shall contain the
21 following statement:

22 "This recommendation is made in accordance to 3CCR Section 6990(c) as an application
23 made to address a local emergency issued by Fresno County on April 17, 2024."

24 IT IS FURTHER ORDERED that all actions taken under this Proclamation of Local
25 Emergency shall comply with all the applicable State statutes and regulations (including the
26 exception provided under 3 CCR Section 6990(c)(2)); and

27 CEQA EXEMPTION: This Proclamation of Local Emergency and the application of
28 neonicotinoid pesticides hereunder are hereby declared to be exempt from the provisions of the

1 California Environmental Quality Act (“CEQA”) under the provisions of the CEQA Guidelines,
2 section 15269, which provides an exemption for emergency projects.

3 IT IS FURTHER PROCLAIMED AND ORDERED that during the existence of said local
4 emergency the powers, functions, and duties for the emergency organization of this County shall
5 be those prescribed by State law, ordinances and resolutions of this County, and by the County of
6 Fresno Operational Area Master Emergency Services Plan; and

7 THE FOREGOING, was passed and adopted by the following vote of the Board of
8 Supervisors of the County of Fresno this 23rd day of April, 2024, to-wit:

9 AYES: Supervisors Brandau, Magsig, Mendes, Pacheco, Quintero
10 NOES: None
11 ABSENT: None
12 ABSTAINED: None



13 _____
14 Nathan Magsig, Chairman of the
Board of Supervisors of the County of Fresno

15 **ATTEST:**
16 Bernice E. Seidel
17 Clerk of the Board of Supervisors
County of Fresno, State of California

18 By: Alexandria Vician

19 Deputy

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