SVENA

Skykomish Valley

Environmental & Economic Alliance

svena.org

To:

January 26, 2016

Senator Kirk Pearson

Senator Brian Dansel

Senator Pramila Jayapal

Senator Maralyn Chase

Senator Karen Fraser

Senator Mike Hewitt

Senator Judy Warnick

Counsel Bonnie Kim

Dear Members of the Senate Natural Resources & Parks Committee,

Thank you for hearing our work session testimony regarding concerns about aerial pesticide use on forestlands in WA, on January 20, 2016. We understand that this is a short legislative session, and appreciate your time.

We would like to respond to some of DNR's testimony and offer some additional relevant information.

In this letter, "we" refers to members of SVENA (Skykomish Valley Environmental and Economic Alliance) and concerned residents of the Skykomish valley. When "I" is used, I am speaking for myself, Diane Hardee, from my experiences as an owner of property adjacent to and near large tracts of commercial timberlands in south Snohomish County since 1981.

If you would like to hear Inessa Pearce's testimony to the committee, a video of it can be accessed at the following link: http://www.tvw.org/watch/?eventID=2016010194 The text of her speech and other related information may be found at: http://svena.org/current-projects/chemical-spraying/.

1. Stephen Bernath testified that the Forest Practices Board used the 1993 study "Effectiveness of Best Management Practices for Aerial Application of Forest Pesticides" as the basis for the last update of the Forest Practices Rules and Regulations in 2001, however, the rules did not implement some of the recommendations from the study regarding increased stream buffers, and sufficient follow-up testing and monitoring has not been done to determine if current buffers are successful at keeping pesticides (herbicides or insecticides) out of streams.

We submitted written evidence of one documented case where even a 200+ foot buffer was inadequate to keep herbicides out of a stream, in spite of "best management practices" being used. That test was only done because a concerned citizen contacted the Department of Agriculture and requested testing.

Also, buffer sizes are unclear on the current Forest Practice applications. The stream buffer size used to be listed on older FPAs, but that does not always happen now. Instead, the DNR department that approves permits expects the applicant to know which buffer size is appropriate according to the law, and presumes that the applicant will look up the law and apply the proper buffer size to each stream (different size for salmon stream, etc.) There is much opportunity for error, particularly if DNR does not monitor proposed stream buffers prior to spraying.

2. Mr. Bernath indicated that the rules were improved to keep chemicals out of water and to minimize drift into buffers, but testing and monitoring has not been done to see if this is true. A visual look at vegetation in a buffer zone is not sufficient to determine whether drift has occurred, or not. Streams have been contaminated with pesticides (verified by testing by the WA Department of Agriculture) even when the adjacent streamside vegetation was not visibly damaged. There have been some improvements in nozzles used today versus those used in pesticide applications in 1993, but have the newer nozzles been adequately field-tested to see if they prevent drift?

   Post-spray testing and monitoring are needed and, to the best of my knowledge, have not been done since the 1993 DOE study. I (Diane Hardee) have been told by DNR in the past that buffers are intended to be UNSPRAYED buffers, not catch basins for spray, so to really have unsprayed buffers, which would help to minimize chemical run-off into streams, the buffers themselves need some setback (or buffer) to prevent them from becoming contaminated. We (members of SVENA, the Skykomish Valley Environmental and Economic Alliance, and concerned citizens of the Skykomish Valley) are very concerned that current stream buffers may be inadequate and may not be preventing the contamination of streams and waterways. More testing and monitoring is needed.

3. In terms of notifying the public, Stephen Bernath said that DNR posts signs on all roads and trails leading into a spray site, 5 days before and for 15 days after a spray on DNR lands.

   We were instructed to only talk about DNR forestlands during the work session, but we would like to add that the same notification language is sometimes interpreted differently, and not necessarily applied the same way on private forestlands such as the 1,056 acre spray that occurred above Inessa Pearce's home and many other residences in the Skykomish valley in September of 2015. All of those people, just below the spray, were not notified at all.

   I spoke with Mark Baugh, representative for the Springboard Wallace Falls timber company that executed that spray, about their signage and notification procedures. He told me that they post signs on gated roads into their lands prior to a spray, but do not post signs on "community trails" into the sites. Discover passes are required at some of these "community trails," so they include legitimate trails, not just unsanctioned ones. Depending on the area and the season, unsuspecting hikers, climbers, rockhounders, hunters, mushroom gatherers,

fiddlehead fern gatherers, berry pickers, mountain bikers, etc. could inadvertently be in a spray area during or right after a pesticide application. DNR currently puts the following language on all approved spray applications: "Aerial chemical application areas shall be posted by the landowner by signing at significant points of regular access at least 5 days prior to treatment. Posting shall remain at least 15 days after the spraying is complete." Apparently, some timber companies consider trails a "significant point of regular access" and some do not. It would be helpful to clarify that point, so notification would be more consistent and complete. Better advance notification is needed, preferably universal notification within the entire county (as Thurston County has done in the past) or at least for the entire watershed.

4. When Senator Chase asked Stephen Bernath *who* decides which chemicals will be used on a specific site, he said he thought the landowner decided that. She wondered how some landowners would know what to choose. I have talked with Mark Baugh and other timber landowners and asked them that question. In recent years (with the huge "laundry list" of up to 27 or more chemicals listed on some FPAs, any or all of which may be used), I have been told by the timber landowners that they defer to the pilot/applicator to decide which chemicals to use, which is why they can't tell me specifically what will be used in advance. If a person was accidentally directly sprayed, or a domestic water supply sprayed over, knowing which chemicals have been applied is time-critical information. It is not acceptable to have to wait weeks, as Inessa Pearce had to do, to find out exactly which chemicals had been sprayed.

5. Regarding advance notification; Angus Brody indicated that he thinks DNR sends letters to adjacent landowners 14 to 30 days in advance. It would be nice to confirm that, and whether private landowners do the same. When I have asked that question in the past, I've been given a variety of answers. Some timber landowners "try" to notify adjacent landowners, but if the land is not lived on, or the neighbor wasn't home, it often did not happen. Given how far pesticides can drift, run-off, leach into groundwater, and in some cases volatilize and condense (evaporate and come down elsewhere, in rain), a much wider notification area is needed.

To clarify: "Pesticides" refer to herbicides or insecticides, although most of what we're talking about on forestlands involves herbicides. The WA Department of Agriculture (the state agency in charge of regulating pesticides) defines pesticides as: Any substance or mixture of substances, including plant regulators, defoliants, desiccants and spray adjuvants, intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal or virus, except viruses on or in a living person or other animal.

Pesticides are toxic chemicals, and often pose a threat to non-targeted organisms (plants and animals), resources (air, water, soil), and people.

Considering the millions of dollars that WA State is spending on salmon recovery, it does not make sense to apply pesticides into watersheds that drain into salmon habitat. DNR has demonstrated, on its approximately 172,000 FSC (Forest Stewardship Council) certified lands, that commercial forestry can be successfully conducted without the use of aerial pesticides. We would like to see all forestlands in WA managed in a manner that addresses community and environmental health.

We ask for your support to help pass SB 6507 and HB 2392. These companion bills would be a good first step towards improving pesticide notification on agricultural and forestlands in WA State.

Thank you for taking the time to read and consider this additional information. We are available, if you have additional questions or would like to meet again to discuss this further.

Sincerely,

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