CEQA and Pesticides...
How it all fits together...
sort of...

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Two seemingly separate regulatory realities...

- The California Environmental Quality Act and
- How pesticides are regulated in California

Both seem to operate separately from one another
But do they have an intersection?
Requires public agencies to prepare an Environmental Impact Report (EIR) for any project that will have significant adverse impacts on the environment.

The EIR process must consider alternatives, develop proposals to mitigate or avoid impacts to the extent feasible, and involve the public and other public agencies in the evaluation process.
Pesticide Registration

- Separate USEPA and DPR programs
- Harm to humans, wildlife, fish, and plants
- Contamination of surface water or ground water
- The language that appears on each pesticide label
Early Pest Control

- 2500 BC: Earliest recorded pest control...sulfur use by the Sumerians

- 1300: Marco Polo brings pyrethrum to Europe from Asia

- 1300-1800s:
  - sulfur
  - arsenic
  - tobacco
  - turpentine
  - lead arsenate
  - prayer
  - human sacrifice
19\textsuperscript{th} and 20\textsuperscript{th} Centuries

- **1873** DDT invented by P.H. Müller
- **1930s** DDT use in Europe as an insecticide
- **1940s** DDT use in the USA
- **1944** Phenoxy herbicides
- **1946** Organophosphate insecticide use in the USA
- **1940-1950s** Synthetic pesticide boom era

*Paul Hermann Müller\r
Swiss Chemist, 1873*
Boom Era...Synthetic Pesticides

- chlordane
- toxaphene
- aldrin
- dieldrin
- heptachlor
- parathion
- 2,4-D
1950s Synthetic Pesticides

- Generally high mammalian toxicity
- Used in a wide variety of settings
- Long-term effects not well-understood or considered
- Minimal precautions
In India when the DDT campaign began in 1953 there were 75 million malaria cases a year and 800,000 deaths.

By 1966 there were fewer than a million annual cases of malaria and no deaths.

In parts of Indonesia, 25% of the population was infected by malaria. When DDT was introduced, the rate fell to 1%.
World distribution of malaria deaths, early 19th century to 2010

Malaria-related annual deaths (millions)

Use of quinine, early stages of vector control

Significant DDT spraying

Drug resistance increasing, limited vector control

Scaling up of vector control

Data for 1900–1998 from reference (12); data for 2000–2009 from reference (73)
Rachel Carson
USFWS biologist

Published in 1962

Indictment of synthetic pesticide use

Extremely popular and controversial
"DDT is good for me-e-e-e!"
• Environmental concerns re: DDT use provided momentum for the environmental movement of the 1960s-70

• Banned in the USA in the 1970s

• Its ban was also blamed for the increase in human malaria throughout the world...including parts of the U.S.
"A bill requiring color in some poisons to lessen the chance of housewives putting bug poison instead of baking powder into their biscuits became law today. President Truman signed the measure....

Timeline of Events

- **1962** Silent Spring published
- **1969** Santa Barbara Oil Spill
- **1969** The Cuyahoga River Fire
- **1970** The USEPA is formed
- **1970** NEPA and CEQA enacted
- **1972** DDT use banned.
- **1971** The Lorax by Dr. Seuss is published.
Timeline of Events

- 1962: *Silent Spring* published
- 1969: Santa Barbara Oil Spill, The Cuyahoga River Fire
- 1970: The USEPA is formed, NEPA and CEQA enacted
- 1972: DDT use banned
- 1971: *The Lorax* by Dr. Seuss is published
• It requires public agencies to prepare an Environmental Impact Report (EIR) for any project that will have significant adverse impacts on the environment.

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It’s a complicated affair...
It’s a complicated affair…
Pesticide Registration examines...

- the ingredients of the pesticide
- the particular site or crop where it is to be used
- the amount, frequency, and timing of its use
- storage and disposal practices
1976 Attorney General’s Opinion

- Roadside use of herbicides in Mendocino County
- County pesticide permits are subject to CEQA
- EIR would be required for restricted pesticide permits
- Counties issue tens of thousands of these permits annually
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BTW...most pesticides are NOT restricted. 2,4-D is one of the few restricted herbicides ...
WAIT...IT GETS MORE COMPLICATED
CEQA would have to be followed each time the state registers (approves) a pesticide product or use.

Approximately 11,000 registrations each year.
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Back then, CDFA regulated pesticides. DPR didn’t exist until ’91.
The Resolution?

- 1977: the CA Legislature puts a moratorium on CEQA requirements for CA pesticide regulatory program.

- CDFA creates a team to start researching a programmatic EIR.

- One year later... the team reports back... “It can’t be done.”

- 1978 AB 3765 is passed.
“Preparation of environmental impact reports ... for pesticide permits would be an unreasonable and expensive burden on California agriculture and health protection agencies.”
— 1978 legislation (AB 3765)
Functional Equivalency

- CDFA reworked their pesticide regulatory program to provide a “functional equivalent” to CEQA.
- Expanded data review...and included other agencies.
- Included public notification/comment period for registration.
- Notice of Intent requirement for restricted pesticides.
- A requirement for consideration of “feasible alternatives and mitigation measures” to pesticide use.
- Created the Pesticide Registration and Evaluation Committee.
The Current State of Affairs

- DPR’s Program has CEQA Equivalency
- Other public agencies pesticide use programs are not automatically CEQA equivalent.
  - EIRs
  - Negative Declarations
  - Notice of Exemption (Statutory or Categorical Exempt)
- Private entities using pesticides are not subject to CEQA unless gov’t funded or permitted.
Is the regulatory process adequate?
Is the process adequate?

- NPDES Aquatic Pesticide Permits
- Healthy Schools Act
- Legal Action by activist organizations
  - CBD
  - Pesticide Action Network
  - Earth Justice
Questions?