



# ARMORED SCALE INSECTS KEY QUESTIONS



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*We have received many questions from growers in the field about the Armored Scale issue. We've captured them here, in this document, and added our responses for your review.*

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## **DID CAC DO ANYTHING IN ADVANCE OF MEXICO'S FEBRUARY 1<sup>ST</sup> START OF SHIPMENTS INTO CALIFORNIA TO MAKE SURE THE INSPECTION INFRASTRUCTURE WAS PREPARED?**

Prior to the commencement of shipments on February 1, CAC was asked to participate in a meeting between Mexico's APEAM and federal, state, and county agriculture officials. Mexican avocado industry leaders wanted to ensure that they were in compliance with all applicable regulations. At the meeting, **CAC STRONGLY ASSERTED** that all parties consider the possible detection of insects that were considered "actionable" to CDFA but not USDA, specifically mentioning armored scale. CDFA confirmed that this could occur. **MEXICAN AVOCADO INDUSTRY LEADERS SAID NOTHING.**

## **WHY CAN'T CAC STOP MEXICAN IMPORTS COMING INTO CALIFORNIA?**

CAC did stop the importation of Mexican fruit into California---for 13 YEARS. We exposed every deficiency imaginable in USDA's risk assessments. In fact, our own risk assessment experts taught USDA how to properly evaluate risk. We commented, with volumes and volumes of scientifically sound testimony from an array of experts, on every aspect of USDA's system approach. We warned the Department about undescribed species, pointing to the results of foreign explorations by UC scientists to find pests before they arrive here in California. At every turn, we warned USDA of the possibility of an exotic pest introduction. USDA marched on. We sued USDA and lost. We LOST. Not surprisingly, the court showed its usual deference to rulemaking by administrative agencies. The legal standard for up-ending such rulemaking is extremely difficult to surmount.



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## **WHY DIDN'T CAC MOBILIZE THE INDUSTRY TO LOOK FOR SCALE?**

At least 14 of the loads to date have contained NON-ACTIONABLE scale insects. CDFA must LET THESE LOADS PASS and enter commercial channels. The EXPERTS had difficulty in getting armored scale species identified for quarantine purposes; there's no way growers would be able to discern the difference between an actionable pest and non-actionable pest on Mexican avocados.

## **HAS CAC EXPLORED ALL AVENUES TO MINIMIZE THE RISK WE FACE FROM THIS PEST?**

We've developed robust legislative and legal strategies that---while clearly long shots---have been put in play behind the scenes. Our primary focus has been on CDFA, however. CDFA is DOING WHAT WE WANT THEM TO DO. We cannot risk alienating them by appearing to be irrational. CAC Staff has put an enormous amount of thought into the timing of our strategies. CDFA is under serious pressure from USDA to conform to federal law. If we had spent any LESS time with CDFA on this issue, the whole thing would be over right now. CDFA would have caved to federal pressure.

## **DID CAC NOTIFY COUNTY AG COMMISSIONERS TO GET THEIR HELP?**

CAC was assured, early on, that CDFA had done so. CDFA RELIES on county personnel to carry out its Interior Detection Program, and we understood that communication between the state and county level was occurring. In every instance where there were market reports of scale insects, whether true or not, CAC followed through with the appropriate Agricultural Commissioner.

## **IT SEEMS LIKE THERE WAS A DELAY IN CAC REPORTING THE SCALE INSECT FINDS TO THE INDUSTRY. WAS THERE?**

We did not feed the rumor mill, as others did, with incomplete, incorrect and inflammatory information. Instead, we took steps to gather the facts. CAC first learned of the scale interceptions on February 8. On February 13---THREE BUSINESS DAYS LATER---we issued our first bulletin. Between February 8 and February 12 there were NO INTERCEPTIONS BY CDFA. Our investigation was responsible, methodical and timely.



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## **I DON'T UNDERSTAND WHY CAC HASN'T APPLIED THE POLITICAL PRESSURE IT EXHIBITED IN THE LATE 1990S. WHAT'S THE REASON?**

We immediately sent our bulletins to the California delegation in D.C. Representative Duncan Hunter began circulating a delegation letter demanding that USDA modify its Cooperative Agreement with CDFA. We launched CAC's Legislative Action Center, to enable a grassroots show of support through grower comments. We've developed language for an amendment to H.R. 667 to accomplish our objectives. We drafted and refined the California Pest and Disease Prevention Act of 2007. We developed a 15-page White Paper to accompany the bill to Sacramento. We secured a sponsor for that Act. We've closely communicated with the Governor's Office and with the California Secretary of Agriculture.

## **WHY DIDN'T CAC TELL HANDLERS TO STOP IMPORTING MEXICAN AVOCADOS?**

Such communication comes dangerously close to restraint of trade and interference with commercial business transactions. CAC cannot take such risks. Of course there were frank discussions with some of the handlers, but in the end they will do as they see fit, within the confines of federal and/or state laws. Even if it were possible, CAC's "encouragement" would have little effect on handlers who feel that they have been the targets of animosity from CAC and its growers. HOWEVER, GROWERS CAN ENCOURAGE THEM.

## **WHY DOES CAC GIVE THE IMPRESSION THAT ALL MEXICAN AVOCADOS ARE INSPECTED?**

All Mexican fruit IS being inspected...in Mexico and at every port of entry, whether that port is federally-operated or otherwise. Our bulletins have made clear that FEDERAL INSPECTORS AT OTAY MESA, upon INSPECTING loads, are NOT TAKING ACTION if they find a scale insect. We made this jurisdictional issue clear from the beginning and have focused our strategies on trying to resolve it. During March, the number of trucks that came into California via Otay Mesa decreased significantly. CDFA has inspected the vast majority of arriving shipments.



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## **I'VE HEARD CAC SAY THIS ISSUE IS DIFFERENT FROM OUR PAST FIGHTS WITH USDA OVER MEXICAN AVOCADOS. WHY IS THAT?**

The presence of scale insects on Mexican avocados in California is a big difference to our industry, but it is of NO SIGNIFICANCE TO USDA WHATSOEVER. Why? Because it has been federal policy for 22 years NOT to regulate scale insects. CAC doesn't defend that policy, but it is important to understand it is being driven by POLITICS, NOT SCIENCE. Sure USDA's science on the risks presented by armored scale is weak. It has been weak from the start, and yet we still have a final rule that has been upheld by the court.

Politics trumps science, USDA would assert, because there are over 7000 described species of armored scale insects worldwide. They are considered cosmopolitan—defined as being widely distributed around the world under varied ecological conditions. They are polyphagous and known to have multiple hosts, including a long list of commodities and plant material presently in international trade...the list is nearly endless. They successfully move from country to country because they are tiny, sessile, and often hidden in crevices or under fiber of their host plants. They arrive by multiple pathways. They arrive on Mexican avocados entering in baggage and parcels, via plane and car and ship. In a recent five-year period, USDA recorded nearly 12,000 interceptions of armored scale on Mexican avocados entering the U.S. by NON-COMMERCIAL means. In 2004, scale insects accounted for 80% of all CDFA terminal point interceptions within the State of California—over 700 detected in that year alone. USDA's concern about international trade in ALL of agricultural commodities leads it to this position on scale insects: FEDERAL LAW PRE-EMPTS STATE LAW. In USDA's view, there are so many armored scale insects coming in by so many pathways, it is impossible to stem the tide. If USDA attempts to regulate scale, they fear serious worldwide repercussions and quid pro quo actions by our international trading partners. Yes, California avocado growers are at risk--no doubt about it. But that risk has been present, at some level, for a considerable period of time.



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## **WHY DOESN'T OUR INDUSTRY "GO PUBLIC" TO THE MEDIA AND TELL EVERYONE ABOUT THE MEXICAN PESTS COMING IN CALIFORNIA?**

We've been fighting Mexican pests for over a decade. During that time we have "gone public" many many times. One of our media campaigns shocked the world with its graphic nature—guns and nooses and earthquakes associated with President Clinton and the U.S. Government. The personal and professional repercussions from that program were severe and permanent, but we did it anyway. We are not afraid to go public. But it's not a simple "start shouting" proposition. Going public or not depends on the evidence you have...the pests...the science...the administration in power...the issue's position in its life cycle...likely responses and reactions...audiences affected...behavior changes...and much much more. Before this episode, there were many weaknesses in USDA's proposals. Today, there are far fewer infirmities. USDA is pushing CDFA very hard to change its policy to comport with Federal Law which views scale pests as ubiquitous. Scientists 20 years ago would have been firmly behind the Exclusion Philosophy of managing pest risk. Today, they are the same scientists with the same expertise and character, but they are breathing the air and drinking the water from a radically transformed Geo-Political Ecosystem which accepts risk and builds redundant layers of security in a "Systems Approach" to pest risk management. That's reality. But that fact doesn't, by itself, stop us from going public with this information. Our reluctance to take that approach comes from a concern over what the goal would be for such action. Growers tell us that we should try to convince consumers to boycott Mexican avocados. But we firmly believe that consumers would NEVER understand that message...never be able to discern the origin...never be able to do anything but think "avocados (all avocados) have pests." A press play of this kind would disrupt the market and produce negative consequences for California avocado sales.