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February 20, 1945

Dr. Robert A. Kehoe
Kettering Laboratory
College of Medicine
Eden Avenue
Cincinnati 19, Ohio

Dear Dr. Kehoe:

I recently had a meeting with Watson Miller, Assistant Administrator of the Federal Security Agency, and Dr. Dunbar in connection with our appeal from the Order issued by Mr. Miller in connection with the fluorine hearing at Washington, D. C., at which you testified.

I told them that while Mr. Overley's testimony and records showed that the apples which he had been cleaning in an experimental way could in most cases be cleaned below tolerance of .05, but that from a practical standpoint this season such had not been the case. Mr. Overley's office has been making the analysis for the shippers this year and he also agrees it is difficult in many cases to get the fruit below .05 tolerance on fluorine. One main reason is the fact that growers are having to use heavier oil in connection with their codling moth spray than heretofore. This is because of mite infestation, and the only thing they can find to control it at the present time is a heavy oil, so it is mixed in with the arsenate of lead, or fluorine, as the case may be. We have had to use as high as 130° temperature in order to clean some of the fruit this season, and while it greatly damaged the fruit, it was shipped out immediately and went into consumption before too much damage occurred.

Mites cause the leaves to drop from the trees and in many cases the fruit, and of course, when the leaves drop from the trees the fruit does not color, so it is really worse than codling moth infestation, as there is not much salvage to the fruit. We are experimenting with everything possible to find an insecticide which will control the mite.

Educational analysis have shown that in many cases over half of the samples which were analyzed after the fruit had been washed exceeded the fluorine and lead tolerance this season.

We had two main reasons in filing an appeal from the Order: one being .05 was not sufficient tolerance under our present spraying program and another being that we felt we were more or less agreeing that all we were entitled to from the evidence of the hearing was .05 if we did not appeal. It is our feeling that the evidence introduced at the hearing justified a more liberal tolerance, and in fact it is pretty hard from the evidence produced at the hearing for us to feel that the eating of apples and pears to the extent that the consumer eats

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Dr. Robert A. Kehoe
Kettering Laboratory
College of Medicine
Cincinnati, Ohio

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them required any restrictions in connection with the use of fluorine.

It is my feeling that Mr. Miller felt that if additional evidence from that presented at the hearing had been found by research, whether by the Public Health Service, yourself, or from any other source, that would justify a further liberalization, he was very willing to consider it. His Order was based on the evidence at the hearing and could in no way be changed except by additional evidence. I was under the impression that if he was advised by someone qualified that additional evidence had been found that a short hearing could be called and this evidence introduced, and he would then consider it in connection with the evidence of the hearing held the latter part of June. If it justified liberalizing the tolerance more than the present Order had, of course, he would be inclined to issue another Order. I told him if something like this occurred before the appeal to the U. S. Circuit Court of Appeals was heard, I felt the industry would be inclined to withdraw the appeal, providing, of course, the evidence justified a liberalization of the present Order to the point to where we could comply by all practical methods.

My reason for writing you is that it seems to us that Mr. Miller, as well as ourselves, will have to depend on you and the U. S. Public Health Service to determine when sufficient favorable evidence has occurred in the research, if it does, to justify a short hearing in line with my conversation with Mr. Miller. The Public Health Service has, I understand, made several releases in connection with fluorine. One which you no doubt have seen is their report of December, Volume 39, No. 49. I understand there are others, but I have not seen them. It is quite likely that your work has progressed further and also that it might have a bearing on the matter.

We cannot see where anything particularly is to be gained by the appeal being heard in Court. If the Government's Order is upheld, we would probably ask for a rehearing and submit all additional evidence possible. If the Court holds that the evidence is insufficient to justify the present Order, then we are right back where we started.

We will appreciate any views you have in connection with this letter.

Sincerely yours,



C. E. CHASE, Secretary-Manager

CEC:s

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