

Diazinon

The withdrawal of oftanol evoked weak cheer here: CDFA deftly substituted in the other organophosphate, diazinon. (Has Ciba-Giegy, or better yet, any independent scientists, tested diazinon's ability to produce OPIDN? If so, we are unaware, and CDFA has not been able to tell us.) Soil applications of diazinon began here on March 1, 1984, even though CDFA's own entomology panel declared its efficacy against the beetle larvae to be "poor". While urging that CDFA "go bio" and use both Milky spore* (rated as effective as diazinon by their own scientists)** and trapping (the combination of both methods being *more* effective than diazinon), ACTION filed another restraining suit.

Duane Miller, a local attorney with considerable expertise in chemical toxicology and a successful suit against Dow on behalf of several workers who were made sterile by exposure to DPCB, took our case to federal court. The argument is based upon favorable decisions handed down in the Ninth Circuit Court that federal timber agencies in Oregon and Washington have not filed environmental impact statements in conformance with the National Environmental Policy Act (see "A Gift from the Northwest," NCAP NEWS 4(1):34-36). In addition, we maintain that CDFA and the other defendants (John Block, USDA Secretary, and T.L. Ladd, Chair of the Japanese Beetle Science Advisory Panel) violated the federal Clean Water Act, the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), and the 1964 Civil Rights Act. Our request for a preliminary injunction was denied by Federal Judge Milton Schwartz. An injunction against the eradication program was denied by Federal Judge Edward Garcia and the Ninth Circuit Court of Appeals refused to grant emergency relief. Other aspects of the case are pending at this time.

ACTION has also concerned itself with the civil rights aspects of CDFA's program, specifically the right of an individual to be secure in one's own home. This is upheld by the Fourteenth Amendment of the U.S. Constitution which declares that no entity may enter private property without a court order showing just cause.

Three hundred and nine inspection warrants were issued in 1983 to force entry onto private property for CDFA pesticide applications. Less than one half of the 2,050 properties were actually treated with oftanol in 1983 due to community resistance and fear of adverse publicity for CDFA if court orders actually numbered in the thousands. Nearly 25% of all residents in the soil treatment phase of the program (1984) were served with warrants. By May 1984, ten persons had been arrested for refusing to comply with CDFA's inspection warrants. Duane Miller filed a suit in Superior Court on behalf of those who challenged the warrants. Judge James Ford made a declaration to Miller and defense counsel that "... the inspection warrants neither authorized nor permitted forcible entry." Our elation was short-lived, however, because he ruled several days later that CDFA has the right to abate a

* Milky spore is a bacteria that, when applied to the soil, infects beetle larvae, kills them, and subsequently produces millions of spores. One local host for Milky spore is the June bug. The presence of a local host is important because there really aren't enough Japanese beetles to keep the spores circulating.

** Milky spore is rated as 75% effective. The efficacy of diazinon ranges from 20-100% depending on the product quality, soil, and application process.

public nuisance *without* inspection. With this ruling, residents lost one method of measurable public resistance and civil liberties took a dismal defeat. A plea to the state Supreme Court is being prepared with the support of other environmental and civil rights groups. (Please contact ACTION if you and/or your group can help us now.)

Carbaryl

Carbaryl treatments began again on May 15, 1984 amid our protests. We blockaded the gates of the compound where the equipment is stored and the workers gather their chemicals. For ten days we distributed leaflets there. (To readers of Dante's *Inferno*, it may seem rather appropriate that the storage yard is located between Folsom Prison and Folsom Dam). Two weeks after the spraying began, a few beetles were found in different locations. By mid-June two beetles (one dead, one alive) were trapped outside of the "zone" in neighboring Citrus Heights. The knee-jerk response by CDFA was of course to intensify their spraying efforts: spray "core areas" every seven days, rose bushes every two days and the rest of the area every fourteen days. Ten more crews were hired, bringing the total to thirty who were spending their days spewing pesticides into the air and onto the soil. By now 7,605 properties were in the zone and CDFA sprayed carbaryl from May 15 through August 6 in their efforts to "eradicate" the beetle. Some properties were sprayed nine times with carbaryl during the campaign, some 14 or more times altogether: three spring applications of diazinon, nine of carbaryl (more, if rose bushes were present), and three fall applications of diazinon.

ACTION publically challenged the concepts and the merits of eradication. When the entomology panel reconvened in August without public input or debate, they stone-facedly read their recommendations for 1985. Chlordane topped their "wish list" followed by other banned chemicals (oftanol, lindane and Triumph) or "smelly" chemicals like MoCap (ethoprop, an organophosphate) or "less effective chemicals" (Bendiocarb, diazinon, Dylox and Dursban). We, the people, upon whose living spaces these chemicals were to be applied had one hour and twenty minutes to voice our outrage and objections before they flew out of California back to their home states where compulsory eradication programs are not tolerated.

And More

In August, 1984, after a year of public criticism and numerous health and safety complaints, CDFA convened another hand-picked panel of medical specialists to hear testimony before making any recommendations. ACTION learned of the professional experiences of three of the panel's five members: Two, Edward Smuckler (Ph.D., M.D.) and Sheldon Wagner, M.D.,* had testified with pro-herbicide biases for the defense in, among other suits, the 1983 NCAP v. Block case; another panel member, Thomas Milby, has been retained by Shell Oil company to defend their chemical interests. Although we were forewarned and prepared for the inevitable outcome,

* Sheldon Wagner, as a member of another panel in Oregon, participated in the broccoli worker decision described in "Why Farmworkers Don't Complain" (see p.6)