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PESTICIDE & TOXIC CHEMICAL NEWS

The EPA-Diamond Shamrock agreement called for the agency to give the company notice of chlorothalonil registration activities. Griffin's motion stated the belief that "no agreement in the nature of the purported Diamond Shamrock-EPA agreement can provide a basis for preventing the registration of a pesticide. FIFRA sets forth specifically those steps that must be completed prior to the registration of a pesticide. If and when a registrant successfully meets these requirements the Act provides that '(t)he Administrator shall register a pesticide . . . ' FIFRA Section 3(c)(5)(B). The requirement of registration is nondiscretionary; EPA has no authority to insert an additional ad hoc step for registration." Diamond Shamrock apparently agrees, the motion said, since the company said the agreement could not restrict EPA's registration decision. The motion argued, "The agreement could not have legally prevented valid issuance of Griffin's registration. A private contract which in any way restricts EPA's decisionmaking authority violates the statute and therefore cannot be enforced."

Even if the agreement were legal, and was violated, the motion contended, FIFRA Section 6(b) is not the remedy.

This section, according to the motion, "authorizes EPA to cancel a registration only if: (1) labeling or other material required to be submitted in support of the registration does not comply with the provisions of the Act, or (2) the pesticide causes adverse effects on the environment. Section 6(b) does not authorize cancellation in any other circumstance, including EPA's failure to live up to its agreement to notify a third party before a registration is issued. Thus, any Section 6(b) proceeding EPA initiated under such other circumstances is beyond the agency's statutory authority and must be dismissed."

The motion's argument about injury to Griffin contended that the "unnecessary, inappropriate continuation of this proceeding will not only waste EPA's resources, but also will greatly increase the anticompetitive administrative burdens that Diamond Shamrock has forced upon Griffin by promoting this proceeding. This, of course, may be Diamond Shamrock's ultimate goal, but this tribunal should not allow itself to be so used."

It asserted, "Griffin already has made a substantial investment in preparation for chlorothalonil marketing and production, and continues to increase that investment. Indeed, Griffin must commit several million dollars in further support of production by mid-summer if it is to make full use of its registration. All these investments are put in jeopardy by delay in resolving this proceeding."

NEW LOVE CANAL STUDY SHOWS NO INCREASED CHROMOSOMAL ABERRATIONS

Scientists from the Centers for Disease Control, Brookhaven National Laboratory, and the Oak Ridge National Laboratory reported no increase in chromosomal aberrations in 46 present or past residents of the Love Canal area. The study included 17 individuals who were also part of the 1980 controversial EPA study which found abnormal cytogenetic findings in the Love Canal residents (See Oct. 5, Page 17).

The new study, "Cytogenetic Findings in Persons Living Near the Love Canal," by Clark W. Heath, Jr.; Marion R. Nadel; Matthew Zack, Jr.; Andrew Chen; Michael L. Bender and Julian Preston, was published in the March 16 issue of the Journal of the American Medical Association.

Results of the study found no significant differences between the frequency of either chromosomal aberrations or in sister chromatid exchange (SCE) between the study

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and control population groups. The study was sufficiently refined to pick up an elevated SCE frequency in cigarette smokers, however, in both the control and subject groups, the report noted.

Both the study population and the control group were from the city of Niagara Falls. Participants in the study population were 17 individuals from the 1980 cytogenetic study group and 29 persons who, in 1978, had been living in seven homes that directly adjoin the canal and in which environmental tests showed elevated levels of chemicals spreading from the canal.

Although the study concentrated only on individuals from within the city of Niagara Falls, the study said, "Frequencies of both SCE and aberrations were not considered to be increased over levels generally seen in populations elsewhere." The results were similar to those found in separate studies performed at both Brookhaven and Oak Ridge, using different populations, the study said. The study noted that the earlier cytogenetic study showed a relatively low incidence of cells containing one or more aberrations. It continued:

"Interpretation of these various findings must recognize limitations imposed by sample size and by imprecision in assessing chemical exposure and dose. We sought to counteract these difficulties by focusing on maximally exposed residents of the Love Canal area, while still including repeated analysis for persons studied in 1980. Assessment of exposure is limited by having only indirect measures of exposure to canal chemicals, i.e., whether study participants had lived, played, or gone to school near the canal. It is not possible to assess exposure through tissue measurements of chemicals, since the major chemicals in question are nonpersistent in biologic systems and since exposure occurred some time in the past. Objective laboratory evidence of exposure is therefore limited to the results of recent environmental testing. Such testing does not suggest increased chemical levels in soil, air, or water except in the first two rings of homes. By focusing on persons who had been living in first-ring homes where environmental tests gave highest results, we directed the study as much as possible toward a high-risk population in which exposure could be objectively defined.

"Another limitation involves the extent to which cytogenetic assays may detect relatively low exposures to environmental toxins. Studies of chromosome damage and of other subclinical biologic events are undertaken in environmental settings such as Love Canal with the assumption that environmental exposure could cause chromosome damage and that such damage, or DNA lesions that could be converted into chromosome damage, might persist and thus be detectable despite passage of time. Neither of these assumptions can be taken for granted. Although many kinds of chemicals do cause chromosome damage, their action is clearly dose dependent. It is not at all certain that the doses experienced by persons living near the canal were great enough to have caused detectable chromosome effects. Chromosome alterations do persist over many years in lymphocytes after exposure to ionizing radiation. However, when exposure is to chemicals, because the mechanism of induction of alterations is generally different, induction, and thus the persistence of chromosome alterations in unstimulated lymphocytes, is less likely. To observe chromosome alterations in stimulated lymphocytes, it is the specific DNA damage leading to alterations that is required to persist or, for alterations induced in lymphocyte precursor cells, to be transmitted to peripheral lymphocytes.

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Although the presence of an increase in chromosome alterations could indicate acute exposure to chemical agents that cause chromosome damage, the absence of an increase does not establish the absence of such exposure."

The study also noted limitations on the predictive value of chromosomal damage in presaging future disorders. It said:

"Had evidence of increased chromosomal damage been found, it would still have been impossible to know whether those findings might predict later clinical illness in individuals. Although there are indirect reasons for thinking that chromosome damage in lymphocytes may indicate increased probability for later increased frequency of disorders like cancer and birth defects, no direct evidence establishing such links has yet been found. Further studies regarding actions on toxins in tissues are needed before markers such as an increase in chromosomal aberration can be used for making clinical predictions."

10. REJECTS EPA BID FOR VARIANCE TO BUILD DIOXIN BUNKER AT TIMES BEACH

Missouri rejected EPA's bid for a variance from the state's permit requirements which would have cut the time required to build the temporary dioxin waste storage bunker in Times Beach in half (See Feb. 29, Page 35).

EPA officials said the decision will require the agency to go through all the procedural requirements for a permit even though the bunker was the option first selected by the Mo. task force on dioxin and only subsequently accepted by the agency as a viable temporary solution for six of the Mo. sites. The state's decision will require additional stabilization of the six sites and considerably longer displacement periods for relocated families. Failure to get the variance will undoubtedly delay the bunker project until sometime in the fall, one agency official said.

Rep. Gephardt (D-Mo.) was disappointed in the state's decision, citing its impact on temporarily relocated citizens. He said, "While following the normal procedures will ensure adequate public comments on the bunker are received, it also means that the individuals living on and around current dioxin sites will be either exposed to the dioxin contaminated waste for at least another year, or, for those individuals temporarily relocated it means being relocated for at least a year and a half. In my opinion, that is no longer a temporary relocation."

In explaining the state's decision, Fred Lafser, Director of the Mo. Department of Natural Resources, said, "Proceeding with the variance may not save as much time in cleaning up the six dioxin sites that pose the most serious public health problems as we had originally hoped. We're still optimistic that we can achieve a cleanup of these six sites in 1984 while also giving the public ample time to review the plans for this facility."

He added an advantage of proceeding without the variance is that it will allow for review of clean-up options for the Times Beach property before final action is taken on the interim storage facility. EPA expects to complete the Times Beach study sometime this summer, he said. In the meantime, he said, it is clear that residents from these areas will be exposed to the dioxin hazard for a slightly longer period of time. Lafser said the state Department of Health and the Centers for Disease Control have been asked to revise the current health advisories on the sites.

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