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THE INFAMOUS RUCKELSHAUS DDT DECISION

The recent Ruckelshaus decision regarding DDT restrictions is an abject capitulation to professional environmental extremists and a tremendous defeat for science and mankind. Most concerned persons are mindful of the waste of holding seven months of federal "hearings" on DDT and then ignoring or rejecting all evidence which did not support the preconceived decision of this EPA Administrator. If Mr. Ruckelshaus was determined not to be influenced by any factual data, he should not have implemented such a costly, time-consuming legal charade! A major consequence of his ignoring the scientific record and rendering this fatuous decision on DDT will be the increased destruction of the environment which his Environmental Protection Agency (EPA) is supposed to defend! The "substitutes" recommended most highly by Mr. Ruckelshaus to replace DDT will needlessly destroy thousands of honeybee colonies and millions of birds and mammals.... which would NOT be injured by DDT applications. (Audubon Magazine reported more than 10,000 robins killed this spring by just one of those "substitutes" in one small area of Florida, and in one year California lost more than 83,000 colonies of honeybees to such "substitutes" which had been used on cotton after DDT was prohibited).

Another ill consequence of importance will be the certain death or injury which always follows the shift from harmless DDT to more toxic "substitutes", which Ruckelshaus has recommended. Hundreds of farm workers have already been killed and hundreds of thousands made ill by those chemicals, but the EPA and the EDF (Environmental Defense Fund) obviously do not object. Dr. Charles F. Wurster, Chairman of the Scientists Advisory Council of the EDF, reportedly stated in 1970 that "...the organo phosphate acts locally and only kill farm workers and most of them are Mexicans and Negroes" and that "People are the cause of all the

problems. We have too many of them. We need to get rid of some of them and this is as good a way as any." (See the published record of Hearings before the Congressional Committee on Agriculture, Serial No. 92-A, 1971, pages 266-67.) It was Wurster's EDF with which Ruckelshaus sided so eagerly during the EPA hearings, in opposition to witness^{es} representing the U. S. Dept. of Agriculture, the U. S. Public Health Service, the World Health Organization, the United Nations Food and Agricultural Organization (FAO), and other concerned groups. The ultimate goals of the EDF have been explained as far back as 1969, in Bioscience 19: 809, by one of their leading spokesmen, as follows: "If the environmentalists win on DDT they will achieve, and probably retain in other environmental issues, a level of authority they have never had before. In a sense, then, much more is at stake than DDT." Perhaps that is an understandable goal for professional environmental fund-raising groups, but what justification can there be for the already-powerful Environmental Protection Agency to aid them so obsequiously?

For seven months the EPA hearings exposed the insincerity of anti-DDT cultists and the incredibility of their allegations. The hearings firmly established the facts that DDT: does not normally persist long in the environment; is not normally transported great distances from points of application; does not eradicate all beneficial insects; does not threaten birds, mammals, fish, or estuarine invertebrates; is not "magnified" to dangerous levels in food-chains; does not continue to persist or build up in living tissues; does not cause wild birds to form thin eggshells; and has not been shown to pose any health hazard to man or domestic animals.

For seven months, EPA/EDF witnesses who testified in the Washington hearings admitted to experimental bungling, ineptitude, shameless obfuscation, and the deliberate publication of errors and distortions in their "scientific" and pseudoscientific articles. The patient cross-examination of dozens of those

"authorities" gradually revealed the enormity of the lucrative anti-DDT conspiracy. Under oath, there were a great many confessions of citing false information and deliberately omitting or altering significant data. The "authorities" repeatedly feigned ignorance of extremely significant details which are well-known to most scientists and students with a sincere interest in the DDT controversy. Some biologists employed in federal wildlife research on birds, for example, disclaimed knowledge of the results of annual Audubon Society bird counts, disclaimed knowledge of the results of the Hawk Mountain Sanctuary counts of migrating hawks, and disclaimed knowledge of details of articles which are the major source of DDT residue data in birds, water, soil, and other environmental components. These disclaimers were especially strong when the "unknown" knowledge was in strong disagreement with the "authorities". Dr. Philip Butler claimed ignorance of the research results of his own colleagues at Gulf Breeze, Florida (U. S. Dept. of Interior laboratory), who had ^{in 1969} found ^{that} over 92% of all DDT, DDD, and DDE disappeared in 38 days from sea water. (Dr. Butler's 1971 National Academy of Sciences panel publicized the frightening propaganda that "As much as 25% percent of the DDT compounds produced) to date may have been transferred to the sea." (page 1, in "Chlorinated Hydrocarbons in the Marine Environment").

It is obvious that Mr. Ruckelshaus did not attend the EPA hearings, and that he even failed to read the transcript of the testimony and cross-examination. His official "opinion" indicated no awareness of hundreds of very significant points that were clarified during those seven months of testimony or of the forced retractions of untruths by his EDF/EPA "experts". Also, he appeared unaware of the possible perjury in the testimony of some of his greatest "authorities"!

Hearing Examiner Edmund Sweeney, however, was present every day. He considered all of the testimony and evidence presented, was aware of the

incriminating retractions brought about during cross-examination, and obviously studied the 9,300 pages of hearings transcript. His conclusion was that the benefits derived from DDT use far outweigh any hazards. "In my opinion, the evidence in this proceeding supports the conclusion that there is a present need for the essential uses of DDT...", stated the Examiner, and added: "DDT is not a carcinogenic hazard to man. DDT is not a mutagenic or teratogenic hazard to man. The ~~uses~~ of DDT under the registrations involved here do not have a deleterious effect on freshwater fish, estuarine organisms, ~~wild~~ wild birds or other wildlife" , and that "necessary replacements would in many cases have more deleterious effects than the harms allegedly caused by DDT". It seems remarkable that EPA Administrator Ruckelshaus, without attending the hearings and without reading the transcript, was able to decide that Mr. Sweeney (a federal examiner with 40 years of legal experience) was wrong in all of his major conclusions and probably erred in his handling of the case. Evidently Mr. Ruckelshaus in his wisdom did not need those seven months of testimony to aid him in divining a decision... in fact, it appears that EPA hearings are simply an expensive sham! If Ruckelshaus agrees with the decision he "approves" the results, but if he disagrees he ignores the evidence and issues his own ultimatum, regardless of the facts established during the hearings.

On 10 November 1971 Deputy General Counsel for the EPA, Mr. Alan Kirk, appeared at the hearings. He admitted (p 4583 of transcript) that he had not read the transcript of the previous day's proceedings (during which Mr. R. G. Heath contemptuously refused to answer a vital question and refused to provide data upon which he based his allegations), nevertheless Mr. Kirk had rushed over to criticise Mr. Sweeney's handling of the recalcitrant witness. While there, Mr. Kirk also stated (p. 4580) that the role of the EPA "is not that of an adversary, our role is as a representative of the 207 million American people..." It soon became evident that, on the contrary, the EPA was working in collusion with

the EDF, and the Ruckelshaus "decision" on DDT frequently indicates the close association between EDF and EPA in this action, revealing the strong advocate position of the EPA. In the "Opinion of the Administrator" (page 4) it is stated: "The case for cancellation has been presented by counsel for the Pesticides Office of the Environmental Protection Agency and attorneys for the Environmental Defense Fund which is an intervenor." Later (page 8) Mr. Ruckelshaus writes that the EPA and EDF filed exceptions to the Examiner's report, challenging his findings of fact and his conclusions of law! That doesn't sound like the EPA maintained its non-advocate position very long!! It seems most unusual that this wealthy, tax-exempt anti-DDT lobby (the EDF), which legally forced the EPA to engage in a lengthy review procedure, ended up working hand-in-glove with the EPA in that action and even helped frame the EPA "decision" ruling that they (the EDF) were "right" about DDT (despite the evidence and facts to the contrary) and the Hearing Examiner was "wrong" about it!

Obviously, very few people will receive copies of the official "Opinion" by Mr. Ruckelshaus, therefore I shall discuss it very briefly here. The total document consists of a 40-page "Opinion", a 6-page outline of "Factual Findings", two paragraphs entitled "Conclusions of Law", and a 3-page "ORDER" which is based on "the foregoing opinion, findings, and conclusions of law". The ORDER is dated June 2, 1972, but was not released to most news media until June 14th. An appeal was filed just 30 seconds later in the 5th Circuit Court of Appeals, in New Orleans, so there will be several months in which scientists can point out the errors and dispute the conclusions in the Order, and the unbiased judges on that Court may be expected to reach the same sort of conclusion earlier held by Hearing Examiner Sweeney. The ORDER decrees that "Cancellation for uses of DDT by public health officials... and by USDA and the military... and use in prescription drugs is lifted." The ORDER also permits continued use of DDT for "control of weevils on stored sweet potatoes, green peppers in the Del Marva Peninsula (Delaware) and cutworms on onions..."

The Opinion is jammed with errors and misstatements, but I shall only include a small number of them here. Surely the others will also play an important role in the subsequent review of the decision by the Circuit Court judges.

1. What is DDT?

Ruckelshaus statement (page 1): "DDT is the familiar abbreviation for the chemical (1,1,1 - trichlorophenyl ethane), which was for many years..."

Corrections: DDT is not the chemical Mr. Ruckelshaus thinks it is, but is instead 1,1,1- trichloro - 2,2-bis (p-chlorophenyl)ethane~~§~~. This error on the first page unfortunately is a harbinger of worse errors yet to come.

2. What does DDT break down into?

Ruckelshaus statement (page 4): "DDT has three major breakdown products, DDA, DDE, and DDD; separate registrations exist for TDE (DDE)."

Correction: TDE is the chemical that is also known as DDD, not DDE. These are entirely different compounds, and DDE is not even an insecticide! This fact is well known to most entomology students and to practically every grower and orchardist. Mr. Ruckelshaus must have been misadvised by some one who had heard about DDE because of allegations that it inhibits carbonic anhydrase, thus causing thin eggshells to form (an EDF theory which was refuted by at least five research teams last year). It might also be of interest to point out here that DDD does not even break down into DDE.

3. What substitutes will be used for DDT?

Ruckelshaus statement (page 37): "Such a program can also introduce farmers to the less acutely toxic organophosphates, like carbaryl, which may be satisfactory for many uses." (Emphasis added)

Correction: Carbaryl is a carbamate insecticide, not even remotely related to the organophosphates! This fact is well known to most entomology students and to practically every grower and orchardist.

4. What substitutes for DDT are recommended by the EPA Administrator?

Ruckelshaus statements: (page 36): "The record before me leaves no doubt that the chief substitute for most uses of DDT, methyl parathion, is a highly toxic chemical and, if misused, is dangerous to applicators."

(page 37): "Other testimony noted the increase in non-fatal accidents and attributed almost one-half reported pesticide poisonings to the organophosphate group."

(page 37): "I am accordingly making this order effective as of December 31, 1972, insofar as the cancellation of any particular use is predicated on the availability of methyl parathion as a substitute."

Comments: Why discard DDT as a "potential hazard", despite it's marvelous record of human safety and lack of environmental damage, and recommend a replacement which Ruckelshaus states is likely to cause so much poisoning?

5. Will substitutes cause environmental damage?

Ruckelshaus statements: (page 25): "Indeed, it may be that the same tendency of a chemical to persist or build up in the food chain is present but not known about substitute chemicals."

Comment: We know exactly what happens to DDT in the environment and in plants and animals. Why leap into the unknown unnecessarily and use great amounts of compounds about which he admits very little is known?

Ruckelshaus statements: (page 21): "While they are toxic to beneficial soil insects and non-target species, particularly birds alighting on treated fields, these organophosphates break down more readily than DDT."

Comments: Because they break down so readily, they must be applied much more often, also. When less toxic insecticides will control the pests, why outlaw them and use more toxic compounds?? Who will get the blame for killing the birds and beneficial insects? It SHOULD be Mr. Ruckelshaus!!

6. Did DDT kill off the fish and birds? (Is that why it is being phased out?)

Ruckelshaus statement: (page 16): "The Petitioner-registrants' assertion that there is no evidence of declining aquatic or avian populations, even if actually true, is an attempt at confession (sic!) and avoidance." (My emphasis added)

Comments: Ruckelshaus admits that even if there has been no decline, his mind is made up! What kind of justice is that?? Hundreds of pages of transcript prove that there was no decline which could be attributed to DDT use, and indeed that there have been practically no declines of birds or fish at all during the "DDT years". Such proof obviously has failed to impress Mr. Ruckelshaus even though he evidently believed it.

7. Does DDT actually cause thin eggshells?

Ruckelshaus statement (page 18): "Viewing the evidence as a total picture, a preponderance supports the conclusion that DDE does cause eggshell thinning. Whether or not the laboratory data above would sustain this conclusion [it does not] is beside the point. For here is laboratory data and observational data, and in addition, a scientific hypothesis, which might explain the phenomenon." (My emphasis added.)

Comments: The laboratory data do not sustain the allegation. Why doesn't that fact deserve consideration by Mr. Ruckelshaus? The observational data do not sustain the allegation. Why doesn't that fact deserve consideration by Mr. Ruckelshaus? And of what value or significance is a "scientific hypothesis" that has already been proven wrong during seven months of EPA hearings and three years of scientific investigations by independent biologists whose salary is not linked to the anti-DDT hypothesis?

8. Is DDT mutagenic?

Ruckelshaus statement (page 13): "Mutagenic effects will be apparent only in future generations." (My emphasis added)

Comments: This is the old "for all we know" thesis. Obviously, after five or ten generations without any mutations, we will be told that "for all we know" mutations may be apparent only after another five or ten generations. The same scare tactics could be applied equally well to dangers from most modern medications, to vaccines, to drugs, to enriched vitamins, etc. It seems incredible that the Administrator of the Environmental Protection Agency would be this naive, for the substitutes he is recommending to replace DDT are just as open to the ridiculous charge as DDT, and they have not been tested nearly as long as DDT already has!

9. Is DDT carcinogenic?

Ruckelshaus statement: (page 29): "The possibility that DDT is a carcinogen is at present remote and unquantifiable;"

Comment: Despite this statement, Mr. Ruckelshaus was able to imply elsewhere that there IS no proof that at some future time any substance might not cause cancer. Thousands of mice and other experimental animals have already been exposed to incredibly great, long-sustained diets of DDT, but nobody with any expertise in cancer research will state definitely that DDT causes cancer. Unfortunately, some news media seemed to think this "decision" was based in part on the unknown future possibility that DDT might pose some hazard to ~~man~~. Ironically, DDT is the only insecticide that has actually been ingested by man in massive daily doses for months or even years... with no ill effects whatever. No substitute will be able to make that record!

10. What is the function of the Hearing Examiner?

Ruckelshaus statement: (page 24): "Whatever extra weight, then, that might be due findings based expressly on a credibility judgement is not appropriate in the case before me."

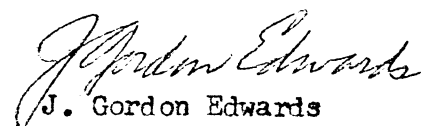
Comments: Mr. Ruckelshaus evidently means that if the witnesses fail to tell the truth, and are proven to have perjured themselves, it will have NO

effect on his decision against DDT. As a matter of fact, that is exactly what did happen during the hearings, and the Administrator seems to feel it necessary to explain why the lack of credibility of his witnesses has not affected his decision.

Ruckelshaus statement: (page 24): "The precedents, moreover, make clear that the Agency (EPA) is free to make its own findings and that the Examiner's findings and report only comprise part of the record which a court will then evaluate." (My emphasis added.)

Comment: If the Examiner's findings and report were supposed to be evaluated by a court, why did Mr. Ruckelshaus do it? If Mr. Ruckelshaus was supposed to evaluate the Examiner's findings and report, why does he then state here that "a court will then evaluate" them? Certainly if a court evaluated the report by Mr. Sweeney, (the Hearing Examiner), they would not arrive at a decision that was in direct opposition to his on every point, as was done by Mr. Ruckelshaus! Perhaps that is the only way to obtain justice from EPA?

This capricious act by the Environmental Protection Agency administrator is a matter of great importance to the average American.... it will directly affect his environment, his food supply, his personal health and safety, and his cost of living. He has long been upset by extremists in the environmental movement and by unreachable beaurocrats, but he seldom knows what to do about it. THIS time there IS something he can do. He can send letters and telegrams to the Environmental Protection Agency, with copies of all letters also sent to the U. S. Department of Agriculture, in Washington D. C., and copies to his federal legislators. If public concern matches that of the agriculture officials, the public health service, the world health authorities, and the legislators, constructive action certainly will be taken to correct this latest injustice!


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