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COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

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The Honorable Mike McCormack
House of Representatives

Dear Mr. McCormack:

As you requested on November 27, 1973, and as you agreed on December 21, we looked into the banning of DDT by the Environmental Protection Agency (EPA) and into its refusal in 1973 to allow emergency use of DDT against the tussock moth. 24

On December 13, 1973, the U.S. Court of Appeals for the District of Columbia upheld the EPA Administrator's order banning DDT. The order was challenged on two grounds: (1) whether EPA had based its order on substantial evidence in the record, including the findings of its hearing examiner, and (2) whether EPA had complied with the National Environmental Policy Act requirement of preparing a detailed statement on the environmental impact of the proposed action.

The court said that the order was supported by substantial evidence in the record. You were concerned that the Administrator had overruled the hearing examiner. The court ruled that sufficient weight had been given to the hearing examiner's findings. The court also said that EPA had provided the functional equivalent of a formal impact statement by the wide scope of environmental aspects it had considered in the DDT hearings. The court rejected the challenges and affirmed the Administrator's action. We delivered a copy of the court's decision and other relevant information to your office on January 16, 1974.

DDT can be used under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act of 1972 (7 U.S.C. 136), which allows Federal and State agencies to use pesticides under emergency conditions. These conditions are listed as specific, quarantine-public health, and crisis exemptions. EPA told us that only one emergency use of DDT had been granted. DDT was approved for a limited registration period (90 days) for use on dry peas in the States of Washington and Idaho in 1973 to control the pea leaf weevil because 70 to 90 percent of the 1973 pea seed crop in the United States was in danger of being destroyed.

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EPA's 1973 refusal to permit the use of DDT on the tussock moth was based on (1) the estimated damage which DDT would cause to the environment and (2) the expected flareup of a virus which usually occurs in the third year of infestation (1973) and which would control the infestation. The Forest Service and the Oregon State University agreed with EPA that the virus was expected to control the infestation.

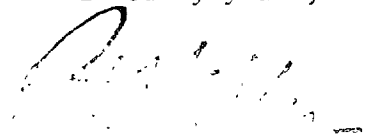
We previously told your office that there was some question as to DDT's effectiveness on the tussock moth. EPA said that in previous outbreaks DDT had always been used in the third year, or decline stage, of the tussock moth infestation when a virus caused a natural collapse of the tussock moth. The Department of Agriculture's environmental impact statement on the emergency use of DDT to combat the tussock moth mentioned several studies that indicated that tree mortality in DDT-treated areas was essentially the same as in untreated areas.

A Forest Service official told us that a tussock moth outbreak usually is not discovered until the second year of infestation. By that time the period for spraying is past. The Forest Service is researching new methods for identifying the infestation in the first year so that trees could be sprayed in the second year.

EPA is holding public hearings and expects to decide by March 1, 1974, whether the Forest Service should be permitted to use DDT on the moth in 1974. A decision by March 1, according to the Forest Service, would be soon enough for preparing the necessary DDT.

We do not plan to distribute this report further unless you agree or publicly announce its contents.

Sincerely yours,


Deputy Comptroller General
of the United States