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ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATIVE LAW JUDGE



IN RE

2,4,5-Trichlorophenoxyacetic Acid
(2,4,5-T)

FIFRA Docket No. 295 et al.

STATEMENT OF ASSOCIATION OF AMERICAN RAILROADS
IN RESPONSE TO ORIGINAL STATEMENTS OF OTHER PARTIES
FILED JANUARY 18, 1974

The Association of American Railroads ("AAR"), pursuant to the Order of the Chief Administrative Law Judge at the first pre-hearing conference in this proceeding on November 12, 1973, files its response to statements filed on January 18, 1974 by other parties herein which were addressed to the Statement of Issues published by the Administrator in the Federal Register for July 24, 1973 (38 Fed. Reg. 19859).

1. As stated in its own "Statement of Position" dated January 18, 1974, the AAR has addressed itself only to the issues relating to the "necessity for the continuation of the registered uses of 2,4,5-T" that are propounded in Subsection C of the Statement of Issues of the Administrator, and it has not addressed itself to the other issues appearing under the headings I, II, III, IV, V(A), and V(B), which pertain to various ultimate scientific questions that are before the EPA.

There is therefore no occasion for the AAR to voice agreement or disagreement with statements of other parties with respect to issues other than those listed under the heading "V-C" relating to continued use, and it does not do so.

2. With respect to statements of other parties that do touch upon the "continued use" issues, several of them have a possible bearing upon the use of 2,4,5-T by the railroads for the clearance of vegetation on rights of way, and the following comments are made:

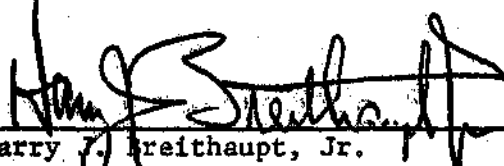
(a) The Respondent, EPA, in its Pre-Trial Brief dated January 18, 1974, states that satisfactory alternative herbicides to 2,4,5-T are available and suggests that Silvex (2,4,5-TP) is perhaps the most satisfactory of these. The AAR repeats its earlier assertion that while alternative herbicides indeed exist, "no other herbicide is comparable to 2,4,5-T with respect to both price and effectiveness." More specifically, 2,4,5-T is effective against more of the species of vegetation found on railroad rights of way than is Silvex. Or, stated conversely, Silvex is not an effective herbicide against as broad a spectrum of species as is 2,4,5-T. Evidence will so show.

(b) The Pre-Hearing Brief of the Environmental Defense Fund states (page 11) that the method of application of 2,4,5-T, by aerial or ground spray, "is inherently uncontrollable." The AAR disagrees with that broad conclusion. The application of herbicides in the clearance of right-of-way vegetation by railroads is carried out with all reasonable care. Evidence will show that there are effective anti-drift components or additives that are placed in the 2,4,5-T mix. The mechanical devices used in distributing 2,4,5-T on rights-of-way have been developed to confine and limit the distribution of the herbicide to the areas for which it is intended.

No other statements of substance made with respect to the "continued use" questions of Section V-C of the Statement of Issues appear to relate to the specific use of herbicides on railroad rights of way. No

assertions by other parties that could be deemed to be at variance with the AAR's Statement of Position dated January 18, 1974, if any, are admitted by it.

Respectfully submitted,


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General Counsel


Philip F. Welsh
Senior General Attorney

Attorneys for
Association of American Railroads

March 11, 1974

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Statement of Association of American Railroads in Response to Original Statements of Other Parties filed January 18, 1974 was served by mail on this date upon the Chief Administrative Law Judge, upon the Administrative Law Judge, Frederick W. Denniston, and upon each of the parties to this proceeding.


Philip F. Welsh, Senior General Attorney
Association of American Railroads

Dated this 11th day of March, 1974.