

## **26. Federal pesticide working group; real estate foray**

**Henry:** I'm going to give a little context for the main subject of today's discussion having to do with the bureaucracy at the federal level, which in a real sense began in 1961, early in the administration of JFK. I strongly suspect that he was moved to do something in the area of pesticides by the work of Rachel Carson, who was on a kind of crusade against DDT, which caused birds to lay eggs with very flimsy shells, and they were in danger of becoming extinct as a result of eating fish that had ingested DDT residues.

In any event, JFK set up something called the "Federal working group on pest management", in which he ordered representatives of the various federal agencies that had anything to do, even peripherally, with pesticides. This so-called working group puttered along for years without ever getting on the radar of anybody. And then, in the late 1960s, the Chavez movement had attracted a lot of attention because of its grape strike, and boycotts, in which the whole population was invited to enter in to the movement by declining to buy grapes, to begin with, and later on the boycott extended to lettuce. One of the arguments that Chavez used to get consumers interested was the argument that pesticides were used on these crops and were not being adequately regulated, and that pesticide residues were having some effect upon the public health.

Well, politicians are subject to pressure from the public, sometimes, and they were in this case, and surprisingly enough one of the leaders at the federal level working in the area of pesticides was none other than Richard Nixon, who had been elected in 1968, very narrowly, over Humphrey, and hadn't yet gotten into the mess with Watergate. In 1971, I believe it was, he organized or was a leader in the creation of a branch within the Dept of Labor called Occupational Safety and Health Administration, known as OSHA, and in 1972 he was also the leader in the creation of a new cabinet-level office known as the Environmental Protection Agency. I don't think most people nowadays realize that Nixon was in a sense the father of the EPA. The current crop of Republicans, of course, want to abolish the whole cabinet.

In any event, the OSHA and EPA both got interested in the subject of pesticides. They were both members of this working group established way back in 1961 by Kennedy, and so the working group took the lead by taking a favorite step of federal agencies, when they can't think of anything else to do, they set up a task group. They set up something called the Task Group on Occupational Exposure to Pesticides. This task group included ten voting members, plus a director, all of whom were doctors of one sort or another, most of them probably PhDs in entomology or things like that, with also a number of MDs. They had a group of 15 "resource members", or I guess you might call them consultants, that the voting members were able to call upon whenever they wanted expert advice in one or another field, and all of these were doctors of one sort or another except for 3 people who were Misterys, and I was one of those.

Now, the head of the whole voting membership was a medical doctor named Thomas Milby, who was the chief of the bureau of occupational health in the CA state dept of public health, and he was the man who had first interviewed me for this position in the pesticide studies unit that was part of his bureau, and so he was responsible for naming me to be a resource member

of this task group. And as it worked out, I was in fact more than the usual resource member. I became an assistant to Milby himself, and in many cases more than the usual assistant, and I think I have to be a little more than usually candid at this point, and I think it's safe to be, because Milby himself is no longer with us, having died in 2012, even though he was younger than I. But he had personal problems during the period when the task group functioned, which was for a period of about 2 years, between 1973 and 75. He was having marital problems, no doubt involving the fact that he was also having a very close relationship with his secretary in the bureau of occupational health, seeing to it that they went together on various field trips to Hawaii and things of that nature. And so Milby himself took up residence in Walnut Creek, separate from his wife, and in an effort to deal with his stress, or whatever it might be called, he was taking medications of some sort, I'm not sure exactly what but it could have been Vicodin or something like that. And as a result there were times in which he was really not able to function at all, and began leaning heavily on me.

The task group was given a charge, a mission. And it was supposed to finish serving out this charge and fulfilling this mission within a very few months, and it consisted of nothing less than assembling all available information regarding the extent of this occupational health problem in the United States, and by that they mean exposure of workers to pesticides on the job. The 2<sup>nd</sup> part of the charge was to prepare a report that will identify areas in which relevant information is not available. The 3<sup>rd</sup> charge was to make recommendations for the development of research protocols to determine safe reentry intervals for the protection of agricultural workers and, where possible, suggest reentry standards based upon existing knowledge. And this is very important because it says in to many words that it had already been established in advance that the way to handle the problem of exposure of farm workers to pesticides was not by protective clothing, respirators, or to have somebody on the side of the field equipped with medication in case a worker began showing the symptoms of pesticide illness, it was assumed that the proper approach to worker safety for agricultural laborers with respect to pesticides was to make it safe for them to enter the field in the first place, and that's what is referred to throughout as a "safe reentry period".

Finally, the official charge that this task group was given was as follows: "these recommendations should take into consideration the medical ethical efforts of research involving human subjects", and here again you have to read a little bit between the lines to know what they are really saying in effect, because there had been studies, sponsored by the manufacturers of pesticides, in which they were at pains to prove that their product was safe when applied according to their prescriptions, for workers to go in and pick the peaches or oranges or whatever it was, and that these studies would involve waiting periods so short that they almost didn't exist at all.

There were serious studies of parathion, for example, which had workers go in 12 hours after the orange groves had been sprayed with parathion. And their idea of a scrupulous study was then to calculate the effects after 24 hours, after 48 hours, and after a maximum of 72 hours. After all of this they would conclude that maybe to be prudent you'd need to wait 48 hours because it was somewhere in between the 2 extremes. But all of this was exposing the workers

themselves to unknown hazards, which was contrary to what might be reasonably thought of as medical ethics.

And a number of so-called studies of reentry periods, all of the conducted by pesticide manufacturers, relied upon so-called volunteers among prisoners, who were told, and I think it was no secret, they were told that their cooperation in a pesticide study would be helpful to them when it came time to look at possibilities of parole, and that again was in the opinion of some reasonable observers to be a form of coercion and highly unethical, so part of our as the task group was to write up a set of guidelines which all future studies of reentry periods should adhere to.

Well, things went slowly. It was a very widely-spread group. There were people from the Univ of Miami, Univ of N Carolina, Iowa, and one from Berkeley, so sometimes the group met in Berkeley. I remember one time it met in Washington, and so it very early became obvious that it wouldn't be possible to go through this rather daunting list of purposes within a period of 4-6 months.

A lot of time was spent on statistical techniques. One of the resource persons was a biostatistician from UC Berkeley. He wasn't a voting member, he was a consultant, who had a new technique for determining statistically significant differences between two populations, and Milby was completely out of his depth in this controversy, so he turned to me and I was also out of my depth, but I was familiar with the chi-squared test, and I argued that it was well-known and had served its purpose pretty well over the years, and that it was clouding the issue for this biostatistician from the school of public health to try and substitute a new and unfamiliar technique, so we went back and forth on that, and eventually we ended up by settling on chi-square.

When it came to assembling the available information, and to identifying areas in which relevant information was not available, it seemed to be almost a matter of our throwing darts at the wall, because the information was so spotty and so diverse. I took it upon myself to try and draw up what I called a matrix, in which I lined up a number of types of information, ranging from things like toxicity of compounds, which could be and had been established quite precisely in terms such as what they called LD-50 measurements, meaning the point at which 50% of a group of laboratory animals died from ingesting or being exposed to a certain level of a certain pesticide. So that could be accepted as scientific information.

And there was some fairly reputable knowledge about the longevity of a compound. And there was information, although it was not of the same scientific character as those other figures, we knew the manufacturer's claims as to how much of the compound should be sprayed or applied by crop-duster airplanes per acre, to each type of crop. We had that information. It became more and more opaque when it came to other measurements such as number of reports of poisonings. Many states had no reporting system at all. I should say not only many states, but almost all states. I think CA was the only state that had any attempt to require reporting of suspected as well as proven pesticide poisonings among agricultural workers.

All these types of information could be entered in the matrix, along with assigning the information a number as to its quality, and if it wasn't available of course it would be a zero. At the end of it there would be a total figure in which the higher the figure, the more an interim reentry period might be hazarded, at least suggested, and the lower the number the more dangerous it became to even guess at a figure. But I do remember that the total score for parathion in citrus proved to be sufficiently good on the basis of several ways of looking at it, one of which was electro-biography, although it wasn't as good as blood tests – putting them all together, there was reason to believe that a waiting period of 21 days could be defended as a safe waiting period for parathion in oranges and lemons, always assuming that it had been applied in concentrations that were according to the label, and that there wasn't anything unusual about the climate or other variables.

But there wasn't much that could be guessed in most other cases, meaning that a lot of emphasis in the last analysis had to be placed upon the other two portions of our charge, namely drawing up protocols for the proper studies that needed to be made, and finally the medical ethical requirements. So various members of the group volunteered to look at different portions of the overall job, and in some cases people volunteered, and I volunteered to take a crack at suggesting research designs and I also volunteered to take a crack at the medical ethical implications.

So then we went our separate ways. There was an executive secretary of the entire group, who was I guess affiliated with the EPA, and he did not have an easy job, because people sometimes procrastinated in their writing assignments, and needless to say I was among them. I found my two assignments to be very interesting, and unless I have an absolute deadline, with serious penalties if I fail to meet it, I tend to write at some length, and as it turned out my thoughts on the subject of research ethics in the field of pesticide studies, my draft turned out to be 38 pages long, and I think what I had to suggest about research designs was almost as long.

Well, that was only the start of it, because then these materials had to be circulated, and others who had not written them were invited to comment upon them, and they were not too pleased with my logorrhea, not to mention my free use of colorful adverbs and adjectives. Dr. Milby himself roused himself from his sickbed, or whatever you might call it, to attempt to edit my stuff, and he managed to cut it to about half its original length.

I remember overhearing the head of my pesticide studies unit, I don't know whether I've mentioned him before, but he was a chemist named William Serat, who had no background in pesticides or farm workers, or anything else relevant, but he did have a PhD in chemistry and that got him his job. I was in an office next to his, and I remember one day that he was on the phone to one of the resource persons at the national association of agricultural chemical manufacturers, his name was John McCarthy. Bill and John were talking like good buddies, and Bill was telling his friend John that he didn't need to worry about whatever I was saying in my writings, because it was well known that if I had my way, no pesticides at all would be allowed, and I didn't that was altogether appropriate, that Bill Serat would be saying such a thing to somebody from the pesticide industry, mostly because it wasn't true – I never did oppose the any pesticides, I opposed the indiscriminate use of pesticides, and I opposed fake pesticide

research by the manufacturers, and a lot of things of that sort, but no, I have used pesticides myself when it was necessary and appropriate.

I've never yet seen the final result of our labors. They were supposed to have been finished by 74. I think they dragged on until 75, when a final version was in fact published by the government printing office, and I never got a copy, or if I did I don't know where it is now. I think it could probably be found somewhere in the government archives. It might be interesting to look for someday. But the point is, I think we had an effect. It was a close shave, because I remember a preliminary draft, in fact it had already been through the vetting process, and the shortening process, so it was pretty close to a final version, and it included a recommendation that the reentry period for parathion in citrus could properly be 2 days, whereas I thought we had agreed that the best available evidence suggested it should be 21.

I was in near despair, that maybe it was too late to have it changed, so I talked to somebody in the bureau of occupational health who was acting chief during Milby's absences, and Milby's absences were become more and more frequent, not just because of his duties as head of this task group but also because of his personal problems. So the acting chief in that bureau did not know where Milby could be found. But he assumed, well he didn't need to tell me, I assumed that if he was to be found at all it would be in his apartment in Walnut Creek, and I knew where that was because I had visited him there several times, so I checked out a state car and I drove lickety-split out to Walnut Creek, and I found Milby was there in his pajamas, and was awake, reasonably so, and I showed him this draft report, and he was as surprised and as shocked as I was at the change somebody had made in this recommendations, one of the few solid recommendations made in that entire manuscript, was so dead wrong. So he promptly got on the telephone to the guy named William Wymer, who represented the EPA as kind of the mother hen of the whole operation, in arranging places for us to meet, and dates to meet and things of that nature, and Wymer claimed that he had no idea how this recommendation had got in there, but Milby ordered him to have it changed.

So I think that the task group did some good, I like to think that I did some good in influencing it, even though for the most part it didn't come down to actual numbers, because they depended on the conduct of proper controlled studies, which had never had any overall guidelines to follow, and I do believe that after this, when a manufacturer wanted to have a product licensed for use on a given crop in a given dosage, it had to be approved by the federal dept of agriculture. There was a turf war, of course, between the various government agencies which could claim some jurisdiction of the subject of occupational exposure to pesticides. There was OSHA, which was part of the dept of labor. There was the dept of agriculture, which had its own finger in the pie, and there was the EPA. But when it came time for the actual giving of approval for the right to sell product, I believe the dept of agriculture still had the power, in the same way the Food and Drug Administration had the power when it came to prescriptions and for residues on the food that people eat.

But the dept of agriculture was thenceforth requiring manufacturers to show that they had done serious research on the specific question of whether workers entering the premises to harvest a certain type of crop after that field or orchard had been sprayed with a given type of

pesticide, whether they can feel confident they wouldn't be poisoned. So I think that the number of incidents, as they liked to call them, began to go down, and it isn't to say that the number of incidents ever disappeared entirely, because there was many a slip twixt the cup and the lip.

For one thing, premises that had been sprayed, either with ground rigs or from the air, were supposed to be posted with signs. In CA at least these signs were supposed to be in English and Spanish, indicating what had been applied and when it had been applied, and that no one was supposed to work in those premises until after such and such a date. Well, there were many problems with how many such signs should be posted, and where. And some agricultural premises are very extensive, and it may well be that a warning sign posted on a gate at one side of a property wasn't seen by workers entering a gate elsewhere on the property. There were questions about whether they were always in both languages. There were questions as to whether they were accurately translated into Spanish. There were even questions as to whether workers were always able to read the language.

There was still plenty of room for errors in the mixing of pesticides. In the application from a ground rig the contents of the sacks that the pesticides came in, in powder form, was dumped into a hopper and mixed with water, or special dilutants, but errors could be made in the amount. It was not at all difficult to have twice as much pesticide as should be mixed with a certain amount of water, meaning that workers were getting double the exposure. There was always plenty of room in aerial application. Aerial spraying was not supposed to be done when there was an appreciable wind, but that wasn't always followed, and sometimes the wind would come up unexpectedly, and so sometimes workers got sprayed while they were working in the field. But by and large I think there has been an improvement. And we of the task force of 1973-75 had something to do with the improvement.

While all of this was going, the funding for the community study on pesticides in the state of CA was under fire. It seems that one of the professional positions in the CA unit had to be trimmed in order to stay within budget. There were 3 positional positions, one of them held by William Serat, one of them held by Donald Mengle – I think I might have mentioned him in the past – and one of them held by me. All of us were in essentially the same pay grade, so the question came down to length of service – service within the state dept of public health. If memory serves, both Serat and Mengle had about 14 years of service, and according to the calculation that I was given, I had 13 years of service, meaning that I was low man on the totem pole, and nothing could be done about it – it was strictly a seniority business.

I decided to file a protest, because a good chunk, well, partly I think I was dinged because my first tour with the state dept of public health was way back in 1952, when I was with the bureau of records and statistics, the headquarters of the dept at that time were in SF. In 54 I heard about this job in the school of public health at Berkeley, which was so attractive that I left the dept, so there was a break in service, and I think I lost credit for the time that I had spent in SF. And furthermore, and even more clear in my mind, I was prepared to argue that I had spent an even larger chunk of time in a relevant position, doing research, in the field of public health,

namely the health of braceros, and that that made me more useful to the state health dept than I had been before, when I came back to the dept.

Well, under the ground rules I was allowed to plead my case before an administrative law judge. I think I had to go down to San Jose to appear before this guy. And if all of these other jobs had been figured in to my total service, I had more than 14 years, and so I was prepared to argue this. Well, this guy didn't think that he could bend the rules of the game. They didn't allow for related work; it had to be work for this particular state dept. If I had done research on pesticides for the state dept of agriculture, that wouldn't have helped me. It had to be the dept of public health.

Well, that was the end of my attempt to work within any kind of bureaucracy. I gave up. Oh, I made one feeble attempt. Dr. Milby, just as my tenure at the state health dept expired in 75, he left the dept to get a better job at the Stanford Research Institute, and he said he might be able to find something for me to do there, on a per-diem basis. So I wrote a research design for something that one of their staff was interested in, involving exposure of certain population groups to lead. But I could see that I was never going to be happy there.

Have I mentioned the fact that at the end I could have stayed in the health dept if I had moved to Bakersfield, in a job in what they called vector control, which means counting the mosquitos that were caught in mosquito traps around the county, and that this job would have meant a reduction in pay, but at least it would have been a job. I was not interested. And so I have been a free agent ever since.

And to keep body and soul together I tried something that I owe entirely to my mother, because she somehow or other hit upon the fact that it was possible to buy single-family homes in the suburbs around Sacramento, which had been bought by GIs returning from WWII, under the GI Bill of Rights, which had loans at very very low interest rates, and which required if anything to be paid down. So as the years went by these GIs began to move out of these houses, sometimes because they moved to better houses, and sometimes because they came on hard times, and were not even able to keep up the very modest payments that they had. So these houses became available at resale, for very little if anything down, and with these very moderate monthly payments, because the old terms could be assumed if the new buyer had the proper credit history.

So my mother would buy up these houses occasionally, and would rent them out. And she had an aptitude for buying the houses that looked good and didn't require a heck of a lot of work, and she had an aptitude for renting to people who were usually entirely responsible. She didn't believe in what they nowadays call "flipping", which is buying low and as soon as possible selling high. She looked upon this as kind of a public service. She rented these places to buyers who weren't able to afford much elsewhere, and she didn't raise their rents much above what the cost of the loans were. Many times she made personal friends with these renters. And then occasionally, for one reason or another, maybe because she was getting a little overly extended, she would sell, and almost to her surprise and delight, she'd find that lo and behold the houses were now selling for more than she had paid for them.

So I thought I might try this. I didn't have any experience at all, but she gave me advice. My very first attempt was a house on Prospect Ave., which is a very short street just off Dwight Way, between Dwight and the stadium, about 2 or 3 blocks. A big old brown-shingle house, 5 bedrooms and 3 baths. It was an estate sale, meaning that it was an auction, and I was represented by a realtor who was unfamiliar with the whole process, so I gave her instructions as to how high to bid if it were possible to get it for what I considered to be a reasonable price; if the bids went higher than that she would have to drop out. Well as it turned out she got the house, and I was for the first time the owner of a piece of property for rental purposes. My big mistake was that I never could quite believe that the real estate market would behave as it always did. I should never have sold any of them. So I bought that house for \$42,000. I guess it was 1975, just about the time I left the health dept.

So there is very little for me to talk about my career in the usual sense from then on, since as I say I never held a regular job again, which was the end of most of my productivity, since I've learned that I needed deadlines, I needed to have some kind of intellectual whip to keep me from just taking it easy. In the years to come I was occasionally called upon to help somebody who wanted advice, or some information, about the things that I had done in the farm labor movement, occasionally for what I had done in the surveillance of the Medical program, and occasionally for someone who wanted to know a little about pesticide research.

And one other thing that I plan to do in my very next episode of this sort, with my memoirs, is to talk about something that was a thread that ran through the farm labor movement, and the Medicare surveillance, and the pesticide studies, for about 10 years, from 63 to 73, and that common thread, quite independently of all of those 3 occupations, was my monthly commentary series on station KPFA. I want to talk about that because it meant a lot to me, because it did have the effect of requiring me to produce something worthwhile on a regular basis, and I always seemed to need that, and I did produce things which some people found interesting and helpful.

**David:** presumably you know who was responsible for changing the 21 to a 2.

**Henry:** No, I don't, though I have a suspicion.

**David:** The guy in the next office?

**Henry:** No, he didn't have any contact with the executive secretary of the task group. That guy was William Wymer, whose formal affiliation was with the EPA, but he could have been leaned on by the resource person, John McCarthy, who was a charmer; he could talk a bird out of a bush, as we used to say, and his job was with the pesticide manufacturer's association, and I can visualize him convincing William Wymer that he had knowledge that the figure of 2 was closer to the mark than 21. But no, Serat didn't have that kind of access to Wymer.

**David:** Did 21 appear in the final report?

**Henry:** I think so. I have not seen the final report, but I think it did survive. I am encouraged to try and track it down, because I would also be very interested in seeing how much of my

contributions to the 2 chapters that I worked so hard on, research protocols and research ethics, I'd be greatly interested to see how much of my fine writing survived.

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Info on Thomas Milby:

<http://www.tributes.com/obituary/show/Thomas-H.-Milby-94494904>

<https://books.google.com/books?id=59eH-Xg4WyAC&pg=PA75&lpg=PA75>

William F. Serat:

<http://link.springer.com/article/10.1007%2FBF02332033#page-1>

William H. Wymer:

Acknowledged in <http://nepis.epa.gov/Adobe/PDF/2000FCBD.PDF>

Donale C. Mengle:

<http://www.sfgate.com/news/article/Donald-Mengle-2702449.php>