

NICARAGUA -

Court orders Shell and Dole to pay \$800 million to former banana workers for pesticide poisoning

RRN letter March 26, 2004

IRTF has been following the case of former banana workers poisoned by Nemagon, a pesticide manufactured by Dow and Shell, and sprayed on Dole plantations, ever since RRN members wrote to Nicaraguan President Bolaños (Mar 26 2004), urging him to meet with banana workers camped out in the capital for over a month. The former workers of plantations in Leon and Chinandega (1960s, 70s, 80s) have suffered cancers and other infirmities resulting from Nemagon exposure. Hundreds of former workers have died from Nemagon poisoning. In December 2002, a Nicaraguan court ordered the companies to pay US \$490 million in damages to the banana workers, but as of early 2004 the companies still had not respected the court order.

March 30 2004: Dole Foods proposed to the Nicaraguan government to bring investment and employment to the country in return for the government's promise to exempt the company from liability.

April 2004: President Bolaños met with the workers and promised "both moral and political" support as they defend their own claims against a frivolous libel counter suit filed against them by the three transnational companies. Additionally, the government offered the workers legal assistance and to denounce the companies before the International Convention on Human Rights in Geneva in May.

August 9 2005: Thirteen of the thousands of ex-banana workers, who suffer severe health problems from their Nemagon exposure, went on hunger strike, refusing to take their medicines or drink water. The hunger strike took place in the Red Cross building in Managua where blood donated by citizens for use in the capital's hospitals is collected and stored. The protesting farm workers blocked the entrance to the building, making it impossible for blood to be brought in or out, causing a precarious situation in the hospitals in Managua.

The Nemagon victims said they felt forced to take such drastic actions because the government has ignored their demands of free health care and pensions for those worst affected. Victoriano Espinoza, representative of the former banana workers, said he "directly blames Daniel Ortega, the leadership of the National Assembly and Omar Cabezas, the Nicaraguan Human Rights Ombudsman, for the Nemagon victims' demands never reaching the National Assembly agenda."

September 2005: Several representatives of the former banana workers held a meeting with representatives of the National Assembly on September 19 in which the text of a resolution (released Sep 21) favoring the Nemagon victims was agreed upon. It reiterates the validity of Law 364, which promotes the claims made against multinational companies. Former banana worker Victorio Espinales called it a step forward in the struggle to receive the support of the government.

October 11 2005: A lawyer for Dole Food, Humberto Hurtado, spoke out against the Nicaraguan National Assembly resolution.

Nicaraguan banana workers, continued...

GOOD NEWS! January 13, 2006: The law firm Ojeda, Gutierrez, and Espinoza put a lien on the multinational Shell Oil Company after their clients (500 former banana workers from the Chinandega area) **won a multi-million dollar compensation claim in Nicaraguan courts.**

GOOD NEWS! March 21, 2006: One of the best known banana workers' leaders, Victoriano Espinoza, appeared at a press conference with Michael Carter, Vice President of Dole Food Company and members of the Nicaraguan government to announce they were **attempting to reach an out-of-court agreement. In return for dropping all the lawsuits by Nicaraguan workers against Dole and repealing Law 364 (the law which was passed in 2001 to support the Nemagon victims in legal cases against the multinationals), Dole would hand over a lump sum of money to the Nicaraguan workers.**

MORE GOOD NEWS! December 20, 2006: Dole Food lawyer Humberto Hurtado, said that the company "won't pay a single penny of compensation" to the 1,248 former banana workers who won their court case. Chinandega District **Judge Silva Toruño ruled in favor of the workers' claim** that their health had been severely affected by their exposure to the highly toxic pesticides Nemagon and Fumazone on banana plantations during the 1970s, **ordering the multinationals that exported the chemicals to Nicaragua to pay US\$804,210,522 in compensation.**

Hurtado described the ruling as corrupt and denied that the pesticides sold by his company had any effect on workers' health. He went on to quote the 2004 Human Rights Report for Nicaragua which states that "Nicaraguan judges are subject to corruption and political influence." According to Hurtado "this is proof of the corrupt nature of the Nicaraguan judicial system." The multinationals have appealed the ruling. The Leon Appeals Tribunal is now considering the case. Of course, corruption in Nicaragua's judicial system is usually in favor of deep pocket corporations such as Dole. It is highly unlikely that the poor victims of Nemagon poisoning, many of whom have been debilitated and unable to work for years, were able to "outbid" Dole for a positive legal decision.

Interestingly, despite adamantly denying that the pesticides have affected workers' health, **Hurtado said that Dole is in negotiations with banana worker leader Victoriano Espinoza and four groups of former banana workers and that an out of court agreement could be reached.**