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Workers say pesticides made them sterile

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LOS ANGELES --

The pesticide was designed to kill worms infesting the roots of banana trees on Latin American plantations. But at least 5,000 agricultural workers from Nicaragua, Costa Rica, Guatemala, Honduras and Panama have filed five lawsuits in this country claiming they were left sterile after being exposed in the 1970s to the pesticide known as DBCP.

Jury selection for the first of the lawsuits is scheduled to begin Tuesday in Los Angeles County Superior Court.

"This is the first time any case for a banana worker has come before a U.S. court," said Duane Miller, one of the attorneys representing more than 30 Nicaraguan plaintiffs who worked on plantations from 1964 to 1990.

The cases raise the issue of whether multinational companies should be held accountable in the country where they are based or the countries where they employ workers, legal experts said.

A verdict in favor of the workers could open the door for others to file similar claims in the U.S., where juries are known for awarding bigger judgments.

"The administration of justice in developing countries in comparison to the administration of justice in the U.S. - there's a big gap," said Alejandro Garro, a Columbia University law professor.

"The significance of it is we're talking about a global economy where big business does business all over the world and where we don't have a uniform type of justice," he said

The upcoming lawsuit was filed in 2004 and accuses Dole Fresh Fruit Co. and Standard Fruit Co., now a part of Dole, of negligence and fraudulent concealment while using the pesticide.

Dow Chemical Co. and Amvac Chemical Corp., manufacturers of the pesticide, "actively suppressed information about DBCP's reproductive toxicity," according to the lawsuit.

Attorney Erin Burke, who represents Westlake-based Dole, and Kelly Kozuma, a spokeswoman for Newport Beach-based Amvac, declined to comment.

Scot Wheeler, a spokesman for Midland, Mich.-based Dow, said in an e-mail that the lawsuits were without merit, and that "there are no generally accepted studies in the

scientific community of which we are aware which establishes an effect on sterility in banana farm workers" exposed periodically to the chemical.

"Workers bringing these claims rotated jobs often or changed jobs altogether with enough frequency that long-term exposure would have been fairly unusual and it is not likely that there is any injury whatsoever related to DBCP," Wheeler wrote.

The U.S. Environmental Protection Agency's Web site says the chemical was used as a fumigant on more than 40 different crops in the U.S. until it was largely phased out by 1979.

Long-term exposure to the pesticide causes male reproductive problems, including decreased sperm count, according to the site, which lists DBCP as a "probable human carcinogen."

In April, all five lawsuits were placed under the jurisdiction of Superior Court Judge Victoria Chaney. The legal actions involve claims on behalf of workers from Nicaragua, Honduras, Panama, Guatemala and Costa Rica. Other growers and manufacturers are named as defendants.

The lawsuit filed by Miller claims Dow and Amvac knew about DBCP's toxicity as early as the 1950s, and that scientists employed by Dow had noted atrophied testes in laboratory animals exposed to the pesticide.

"Defendants, however, continued to market, sell and use pesticide products containing DBCP outside of the United States, including Nicaragua," the lawsuit said.

The lawsuit claims the pesticide was sprayed under tree canopies and fell in droplets onto workers and seeped into the water supply.

Plantation workers were allowed to ingest and bathe in contaminated water when they lived in company-supplied housing on Nicaraguan banana plantations, the lawsuit said.

Dole neither warned the workers of the dangers of exposure nor tried to protect them by issuing gloves, safety glasses or masks, the lawsuit claims.

Joe Fisher, an attorney representing workers in several of the other pending lawsuits, believes the case will get widespread attention.

"I think everyone has their eye on it to see how a jury treats it," he said.

If the case has "a good result I think there's a chance it could benefit all the banana workers," he said.