

APR 22 1970

THE NEW YORK TIMES, V

Two States Ask Court to Delay Nerve Gas Shipment

Special to The New York Times

PORTLAND, Ore., April 21 —The Governors of Oregon and Washington sought an injunction today in United States District Court to delay the proposed shipment of nerve gas from Okinawa to the Umatilla Army Depot in eastern Oregon.

The action was filed by the Oregon Solicitor General, Jacob Tanzer, on behalf of Gov. Daniel J. Evans of Washington and Gov. Tom McCall of Oregon, both Republicans. The governors asked that a three-judge panel be convened to hear the request for a temporary injunction.

Secretary of Defense Melvin R. Laird was named as defendant. The Governors charged

Lottery Offers a Twist To Shaggy Dog Stories

that he had failed to bring all particulars for the shipment to the attention of the Department of Health, Education and Welfare, as required by law. They said that although Mr. Laird had set forth the general requirements of the plan, he had not given supporting data that the state could use to safeguard the shipment.

The two Governors have been outspoken in their opposition to the proposed shipment since its announcement on Dec. 2.

Five Shiploads Due

Under the plan, five shiploads of nerve gas would be transferred from Okinawa to Bangor, Wash., and then taken by rail to the Umatilla Depot by 12 trains over a period of 34 days. The trains would have a total of 744 cars, with 548 of them containing nerve gas,

bombs, rockets and projectiles, according to today's complaint.

The two Governors also charged that Mr. Laird had acted unconstitutionally in assigning the duty of safeguarding the trains to the state.

They said that under the plan, officially called Red Hat by the Defense Department, the two states would be responsible for clearing the right of way "in the event of disturbance caused by dissident groups."

They also said that the state would have to prepare an emergency plan in case of accident.

The two Governors said that an emergency plan could not be prepared at the state level because "large urban areas or near the route present insurmountable transportation problems and great difficulties in housing the aged,

the lame and the sick in remote medical facilities."

They also told Mr. Laird that two types of dissident activity must be anticipated: persons throwing themselves in front of the train and the use of explosives to stop the shipment.

"Due to the forested and rugged terrain along the shipment route" they wrote "it would be impossible for sufficient state forces to search and remove individuals or weapons in the area of the route."

An earlier suit by a group of private citizens seeking to block the shipment was dismissed here last Tuesday by United States District Judge Gus J. Solomon. He ruled that the Government had not consented to be sued and that decisions of this type involving the military were not subject to court review.