

# Rachel's Environment & Health News

## #563 - Why Is EPA Ignoring Monsanto

September 10, 1997

U.S. Environmental Protection Agency (EPA) on August 15 ordered a grass-roots citizens' group in Missouri to turn over all of its records to the agency within five days or face penalties of \$25,000 per day until the records are produced. Steve Taylor, leader of the Times Beach Action Group (TBAG) in Ballwin, Missouri, and a frequent critic of EPA, says he and the group have no intention of complying with EPA's order.

In demanding the information from TBAG, EPA's Michael J. Sanderson cited Section 3007 of the federal Resource Conservation and Recovery Act (RCRA), which empowers EPA to gather information from the files of toxic dumpers and major polluters.[1] This is the first time the law has been turned against citizen activists trying to protect the environment.

By invoking the law, EPA is threatening to destroy the Times Beach Action Group; TBAG is so small that even one day's fine of \$25,000 would bankrupt the organization. EPA's threat represents a new twist on the phenomenon known as SLAPP suits.

SLAPP suits are Strategic Lawsuits Against Public Participation.[2] They are an increasingly popular tactic being used by polluters in the U.S. to intimidate and silence citizens who voice concerns about destruction of the natural environment. The parties that bring SLAPP suits rarely win, but they tie up outspoken citizens in expensive and frightening litigation for years, thus deflecting effort and attention away from whatever the citizens had been speaking out about.

In a letter dated August 15 and delivered by Federal Express, EPA's Region VII office in Kansas City, Kansas gave TBAG five days in which to turn over copies of all its records related to toxic dump sites in Missouri and Illinois.[1] TBAG was formed in 1993 to oppose the incineration of contaminated soils excavated from the town of Times Beach, Missouri --a town so contaminated with dioxins and pesticides that federal officials evacuated all the citizens from the town in 1983.

The town of Times Beach was contaminated in 1971 by a waste oil dealer named Russell Bliss. Bliss picked up toxic wastes from Missouri chemical firms, mixed them with oil, and dumped them into the environment. Starting in May and June of 1971, Bliss sprayed toxic waste oil onto roads and horse arenas in eastern Missouri, ostensibly to suppress dust. Some of the oil was contaminated with the phenoxy herbicide 2,4,5-T and the 2,4,5-T was, itself, contaminated with dioxin. Three days after the initial spraying, birds began dying.[3] "There literally were bushel baskets full of those dead wild birds," said Dr. Patrick E. Phillips, a veterinarian with the Missouri Division of Health.[4] Then horses began to get sick. Of 62 horses affected, 48 died. Dogs, cats, chickens, and rats died as well. Two children were affected, one with a severe kidney disorder, and were hospitalized for a time; they eventually recovered, though one lost half her body weight in the ordeal. The children's illnesses brought federal investigators to the scene from the Centers for Disease Control (CDC) in Atlanta. The CDC analyzed soil samples at the affected stables and found 30 ppm (parts per million) of dioxin; 5000 ppm of 2,4,5-T, and 1350 to 1590 ppm of PCBs.[5] CDC took great pains to identify the source of the 2,4,5-T and the dioxin (they decided it was a hexachlorobenzene germicide plant in Verona, Missouri owned by Syntex Agribusiness, though leased to another firm) but the source of the PCBs was never identified. PCBs were produced from 1929 to 1976 by Monsanto, a St. Louis, Missouri, chemical giant. It is clear that EPA was interested in the source of the PCBs because in 1972 EPA's W.L. Banks was corresponding with W.B. Papageorge at Monsanto Research Labs about PCB samples taken from "the oil storage tank" at Russell Bliss's Waste Oil Disposal Company.[6] EPA even sent some of the Bliss samples to Monsanto. Officials have never identified Monsanto as the source of any of Bliss's PCBs.

CDC and EPA widened their investigation throughout the 1970s.

Meanwhile, Bliss continued to dump toxic oil at sites throughout eastern Missouri. By 1975, CDC recommended that people be evacuated from the homes in Imperial, Missouri, a place more contaminated than Times Beach, but EPA ignored CDC's recommendation.[7]

By 1983, EPA had identified at least 100 sites thought to be contaminated by dioxin. Mysteriously, the agency refused to release the names of the sites.[7] According to the NEW YORK TIMES, in 1983 only 21 of the 100 sites had been sampled and the Missouri DNR seemed to be dragging its feet. The TIMES quoted Fred A. Lafser, then director of the Missouri DNR, saying, "The feeling is, why go look for more problems when we do not have the staff to solve what we know about?"[7]

In a 1990 agreement with EPA, Syntex Agribusiness agreed to take sole responsibility for the cleanup of 27 toxic dump sites in eastern Missouri, including Times Beach. In 1992 EPA decided to incinerate 10,000 bags of contaminated soil from those sites. When the plan was announced, citizens became alarmed that the incinerator would be putting dioxin and other toxins into the air, but EPA conducted a risk assessment to show that the operation would be "safe." [8] The Times Beach Action Group (TBAG) formed in 1993 to oppose the incinerator.

As the incinerator project became a reality, TBAG became convinced that EPA and Missouri DNR had identified neither all of Bliss's contaminated sites in eastern Missouri nor the major chemicals at each site. Specifically, EPA and DNR seemed to be systematically ignoring PCBs. TBAG conducted its own investigation of toxic dumps in Missouri and Illinois, gathering thousands of pages of documents from state and federal sources --all of it public information --including transcripts of hearings, court trials and depositions, correspondence, interviews, affidavits, and articles from technical journals. Based on this information, TBAG's director, Steve Taylor has accused federal and state officials of misfeasance, malfeasance, nonfeasance, incompetence, corruption and dishonesty. Furthermore, a talented investigative reporter, C.D. Stelzer, writing for an alternative weekly newspaper, THE RIVERFRONT TIMES, has done some investigating of his own and has corroborated, and extended TBAG's charges. Other environmental groups, including the Gateway Green Alliance, have amplified the accusations against government officials.

In sum, TBAG's information has been a constant embarrassment to EPA and to the Missouri state Department of Natural Resources because their documentary evidence is so compelling. This is the information EPA is demanding to see. Steve Taylor's response is: "EPA should do its own research." He says he has tried to interest EPA in TBAG's information in the past but the agency has never even bothered to answer his letters. Now they are demanding all his files.

During 1996 and 1997, as the Times Beach incinerator project progressed, Taylor and TBAG--

\*\* showed that EPA's own internal documents admitted that the incinerator could not destroy dioxin with the efficiency required by law (99.9999% destruction and removal efficiency). [See REHW #280, #312.]

\*\* showed that "chain of custody" had been broken for samples taken from the incinerator. Chain of custody is a strict, legal paper trail that shows who took what samples when, to assure that samples have not been falsified or tampered with;

\*\* revealed that the laboratory analyzing the samples for the Times Beach incinerator was 50% owned by the incinerator company --a clear conflict of interest;[9] naturally, this makes the broken chain of custody even more suspicious.

\*\* revealed that EPA and the federal Centers for Disease Control

(CDC) knew about the contamination throughout eastern Missouri in 1974 but waited nine years before taking any action to protect the public. C.D. Stelzer caught EPA officials in outright lies when they claimed they knew nothing about dioxin contamination in Missouri until "after 1980." [10]

\*\* revealed that the risk assessment for the Times Beach incinerator did not consider PCBs or other priority pollutants that were in the soil to be burned (a clear violation of federal law) and that many EPA sampling records from many of the 27 sites were missing from the agency's files; [11]

\*\* revealed that EPA and Missouri DNR have refused to consider abundant evidence indicating that some of the PCBs in eastern Missouri came from one obvious source: Monsanto. [10] Syntex Agribusiness has, so far, borne the burden of the incomplete cleanup alone.

Now the TIMES BEACH incinerator has done its work and has been dismantled. However, new sites contaminated by Russell Bliss continue to be discovered, and TBAG says still more will be found. Furthermore, against all the evidence, EPA and DNR continue to exclude Monsanto from their investigations of Russell Bliss's illegal dumping. Consider these facts: \*\* In a sworn deposition April 21, 1977, Russell Bliss himself said he picked up wastes from Monsanto.

\*\* In a memo dated September 26, 1980, James H. Long, an official of Missouri DNR, identified Monsanto as one of the company's known to use Russell Bliss for hauling chemical wastes.

\*\* On October 30, 1980, officials of the Missouri DNR and the Missouri attorney general's office interviewed Scott Rollins, one of Russell Bliss's truck drivers who was at the time serving a term in the state penitentiary. Rollins said he recalled very clearly picking up wastes from Monsanto.

\*\* In an interview January 5, 1981, Judy Piatt --owner of one of the horse farms where animals died from Bliss's oil --said she had followed Bliss's trucks in 1972 and had personally watched them pick up wastes from a Monsanto plant and then illegally dump them by the roadside.

\*\* February 9, 1983, Russell Bliss himself testified before a hearing of the Missouri Hazardous Waste Management Commission that he had a contract with Monsanto to haul away chemical wastes.

\*\* Based on evidence presented at trial, a judge in Cole County, Missouri, November 30, 1984, concluded that Russell Bliss had dumped hazardous wastes, including PCBs, in Dittmer, Missouri and that "the only known source" of one of the chemicals (bromophenyl chlorophenyl ether) was Monsanto.

Monsanto has denied ever having given Bliss any waste containing dioxin or PCBs. So far, officials of U.S. EPA are taking Monsanto at its word and, instead of investigating the chemical giant, are investigating and harassing the citizens who have brought these documented facts to light.

--Peter Montague (National Writers Union, UAW Local 1981/AFL-CIO)

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[1] Correspondence dated August 15, 1997, from Michael J. Sanderson, Director, Superfund Division, Region VII, U.S. Environmental Protection Agency, Kansas City, Kansas, to Mr. Steve Taylor and to Times Beach Action Group c/o Mr. Steve Taylor.

[2] George W. Pring and Penelope Canan. SLAPPS: GETTING SUEED FOR SPEAKING OUT (Philadelphia: Temple University Press, 1996).

[3] Coleman D. Carter and others, "Tetrachlorodibenzodioxin: An Accidental Poisoning Episode in Horse Arenas," SCIENCE Vol. 188, No. 4189 (May 16, 1975), pgs. 738-740.

[4] "Death of Animals Laid to Chemical," NEW YORK TIMES August 28, 1974, pg. 36.

[5] Renate D. Kimbrough and others, "Epidemiology and Pathology of a Tetrachlorodibenzodioxin Poisoning Episode," ARCHIVES OF ENVIRONMENTAL HEALTH Vol. 32, No. 2 (March/April, 1977), pgs. 77-86. And see Mary G. Beale and others, "Long-term Effects of Dioxin Exposures," LANCET Vol. 1, No. 8014 (April 2, 1977), pg. 748.

[6] Correspondence from W.L. Banks, Chief, Oil and Hazardous Substance Branch, Region VII, U.S. Environmental Protection Agency, to W.B. Papageorge, Monsanto Research Labs, St. Louis, Missouri, September 12, 1972.

[7] Robert Reinhold, "Missouri Now Fears 100 Sites Could Be Tainted by Dioxin," NEW YORK TIMES January 18, 1983, pgs. A1, A23.

[8] C.D. Stelzer, "Terrified in Times Beach," RIVERFRONT TIMES April 26, 1995, pg. 1. Available on the world wide web at: <http://home.stlnet.com/cdstelzer/index.html>.

[9] C.D. Stelzer, "Twice Burned," RIVERFRONT TIMES August 28, 1996, pg. unknown. Available on the world wide web at: <http://home.stlnet.com/cdstelzer/index.html>.

[10] C.D. Stelzer, "Dangerous Ground --Dioxins aren't the only problem in Missouri. PCB contamination continues to be overlooked or denied by both public regulators and Monsanto," RIVERFRONT TIMES February 14, 1996, pg. 1. Available on the world wide web at: <http://home.stlnet.com/cdstelzer/index.html>. And see: C.D. Stelzer, "Dioxin, PCBs, the Military Industrial Complex and National Security," RIVERFRONT TIMES February 14, 1996, pg. unknown. Available on the world wide web at: <http://home.stlnet.com/cdstelzer/index.html>.

[11] C.D. Stelzer, "Why the Times Beach Incinerator Should be Shut Down," RIVERFRONT TIMES November 20, 1996, pg. unknown. Available on the world wide web at: <http://home.stlnet.com/cdstelzer/index.html>.

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