

June 8, 2005 : “Secret” Dioxin Testing – Why ???

The controversy of The Dow Chemical Company’s “secret” testing of dioxin levels in the Tittabawassee and Saginaw River during 2003, 2004 and this year has died down a bit.

Those of us that follow the Midland Daily News are still waiting for an insightful editorial on this incident. In the journalistic spirit of “if you can’t say something nice, don’t say anything at all”, perhaps we should take the MDN’s editorial silence as a possible sign of condemnation of the its city’s largest employer.

The “Shirley Says” portion of this website provides additional information on the details of the “secret” testing and there is little need to repeat this information in this editorial.

What hasn’t been examined is the “*why*” of secret testing by the company.

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I know and I have worked with both Susan Carrington, Vice President of Dow’s Michigan Dioxin Initiative, and Ben Baker, Dow’s Senior Environmental Project Leader at the Midland plant. These are not stupid people and they should have been aware that the company had agreed to DEQ notification and approval of any additional dioxin testing carried out outside of the Midland plant.

Let’s for the moment assume that the company intentionally violated its legally binding word as a corporate citizen and carried out “secret” testing – “*why*” ?

1. **Scientific Arrogance And Frustration :**

In the past, Dow has had difficulties in working with regulatory agencies that they felt knew less about the scientific issues than the company’s own experts. It could be that Dow has become so irritated with the scientific “dumb-dumbs” in Lansing that one or two managers decided that obtaining DEQ prior approval or permitting the DEQ to be in attendance during sampling was a waste of corporate resources. This would require “rogue” managers – probably not.

2. **Easier To Ask Forgiveness Than Permission :**

Let’s assume that Dow’s “secret” sampling and testing protocols are flawed and the DEQ would have demanded modification if it had known about them. If the company refused and used the “flawed” protocols, the DEQ would be well within its authority to exclude the “flawed” results and conclusions from being part of the basis of any eventual dioxin agreement.

We now have a mass of data collected secretly. If the DEQ finds faults with the protocols at this time, it’s “sour grapes” and “anti-sound science”. With no Dow/DEQ agreement on the matter, State Rep. John Moolenaar might enter into the dispute with proposed legislation that would allow the use of scientific studies not approved by the DEQ if the studies are sound science... yada, yada, etc.

If this happens, remember that you read it first on MDN-Rejected.com.

3. Dow Would Like Quick Resolution To All Dioxin Issues

A key part of the company's overall dioxin strategy has been delay to allow dioxin levels to naturally degrade to lower levels with time. As levels drop, the conclusion might be "let nature take its course".

TCDD blood serum levels in some Midland plant workers exposed to pesticide plant dioxins averaged about 12 ppt-TCDD in 2003. The company calculated that dioxin levels in those employees may have been as high as 1,900 ppt-TCDD at the time of last dioxin exposure 20 to 60 years before.

In 1984, the EPA measured dioxin levels in the Midland plant as high as 36,000 ppt-TCDD. In 1969, dioxin levels peaked at 86,900 ppt-TCDD.

Dow has resisted extensive testing of the river for dioxin contamination for a number of years. It is extremely unusual that the company now feels the urge to test at such a pace that it can not tolerate the short delay that the agreed to and mandatory DEQ approval and observation process might entail.

4. River Residents Lawsuit Defense Strategy :

The company certainly recognized that it ran the risk of having the DEQ reject the "secret" sampling and testing. Perhaps, it didn't care since the studies were meant to be part of a legal strategy in defense of the river residents lawsuit and other future lawsuits.

Dow's legal defense doesn't require that any of its evidence be DEQ or EPA "approved". Even the weakest evidence is effective if the jury buys the story. To dispute the "secret" studies, may require that the plaintiffs carry out its own studies – this, dear readers, is big bucks and a big obstacle to successful litigation.

Conclusion:

Dow's largest financial risk is not the cost of cleaning up Midland or the river; the company's greatest financial exposure are the punitive awards that might be made by juries that agree that dioxin exposure is harmful to human health and that Dow is responsible for both current and future injuries.

Whatever the company does scientifically or politically, it must be remembered that Dow's comprehensive dioxin strategy has been under development and implementation for more than 40 years. The strategy is complex and integrated; there are very few "accidental" mistakes – "secret" dioxin sampling and testing is not one of them.