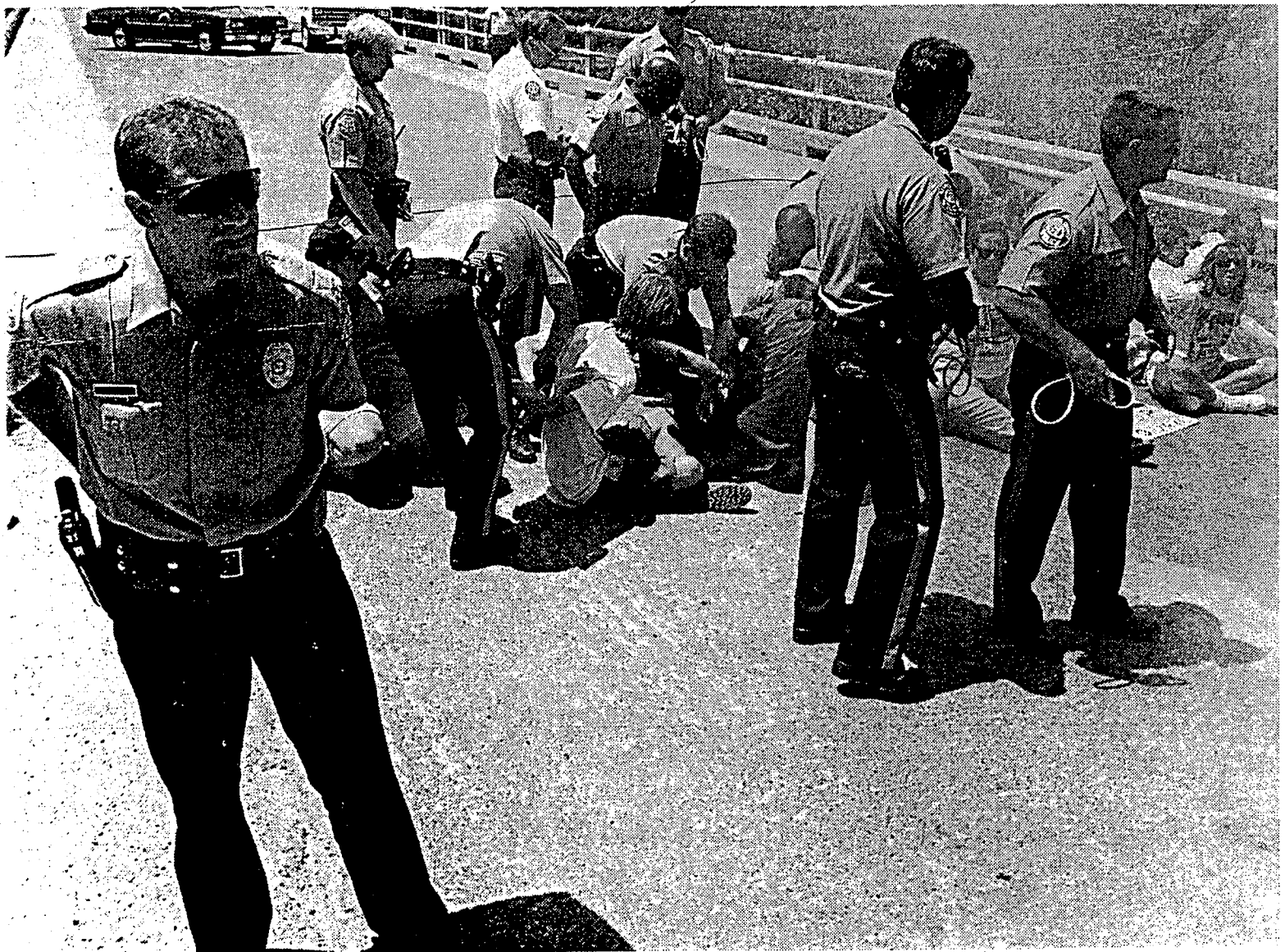


# TIMES BEACH ACTION GROUP

162 SHADOW VIEW DR  
MANCHESTER MO 63021

314-227-1995

The Times Beach Action Group (TBAG) welcomes the Society of Environmental Journalists to St. Louis. We are encouraged that the SEJ seeks to help journalists educate themselves and others on environmental issues. The Times Beach Action Group applauds the SEJ's commitment to the improvement of environmental reporting, and its recognition of the need for meaningful communication between journalists, scientists and community organizations. TBAG hopes that the SEJ enjoys a meaningful and productive sixth year. Welcome to Times Beach.



Pat Hanes photos

**TBAG BACKGROUND:** The Times Beach Action Group was formed in 1993. TBAG has served the broad based opposition to the Times Beach Incinerator with lobbying, research, litigation and the organization of protests. Currently, TBAG members are on trial for charges stemming from July 27, 1995 when over 100 people blockaded the road leading into Times Beach.

**MIXED SIGNALS:** The EPA has developed a schizophrenic position on dioxin and incineration. The EPA recognizes that dioxin is an extremely toxic chemical that is already found in the general population at levels expected to cause chronic health problems. The EPA also recognizes hazardous waste incineration as a leading source of dioxin contamination, yet the EPA does not follow federal guidelines for the incineration of hazardous waste at Times Beach. EPA did however, litigate against St. Louis County, and prevented the enforcement of an ordinance intended to limit actual dioxin emissions to the agency's own specification. EPA administrator Carol Browner refuses to take a clear stance on the policies surrounding the incineration of dioxin. In an internal EPA memo dated April 5, 1995 Browner recused herself from any decision making capacity involving Times Beach. Despite constant negotiations with the EPA, TBAG was not informed of the recusal until September of 1996 by state officials.

**THE 99.9999% CONTROVERSY:** Given the extreme toxicity of dioxin, federal regulations require a destruction and removal efficiency (DRE) of 99.9999% (six 9s) for incinerators burning the contaminant. A DRE is calculated by comparing the ratios of contaminant in the waste feed, stack emissions, and ash. The EPA has abandoned this procedure. They have instead opted to test the Times Beach incinerator with surrogate chemicals at artificially high concentrations. Though it is easier to produce a high DRE with artificially high concentrations of surrogates, the EPA continues to mislead the public with false claims of a 99.9999% destruction and removal efficiency for dioxin. At a superfund site in Jacksonville Arkansas, the Vertac incinerator achieved more than a six 9's DRE on a surrogate. When a DRE was calculated by Greenpeace when analyzing the dioxin levels of stack emissions, waste feed and ash, it was determined that the incinerator had failed to achieve six 9's on actual dioxin. This meant that real dioxin emissions were orders of magnitudes higher than reported. **This departure from EPA policy inspired EPA Policy Analyst, William Sanjourn to write a memorandum to Inspector General John Martin stating that the Director of EPA Office of Solid Waste had directed regional officials to "evade the requirements of the law" and that the director had also instructed them "on how to issue permits to operate hazardous waste incinerators which do not meet EPA minimum performance standards and places the public health in jeopardy."**

**CITIZENS DENIED LEGAL RECOURSE:** Despite the EPA's inability to meet its own guidelines for the incineration of dioxin, the agency continues to recommend incineration as a means of remediation. This position is indefensible. The Vertac incinerator in Jacksonville Arkansas was shut down in February of 1993. Federal Judge Reasoner ruled that the EPA, by using surrogate chemicals at artificially high concentrations in their test burn, had failed to meet the EPA's own safety requirements. During the hearing Judge Reasoner asked U.S. Justice Department Attorney, Ron Spitzes "If I asked you to prove that you could achieve a six 9 DRE on dioxin could you physically produce technological data that shows that?" Ron Spitzes replied, "No sir, we could not." The judge's decision to shut down the incinerator on the grounds that it was an imminent health threat was overturned on appeal by the EPA to the Eighth U.S. District Court of Appeals. The court ruled that the hard won citizens suit was to be overturned on a technicality; the public cannot litigate to halt a Superfund project until the cleanup is completed. Last year the citizens suit against the Times Beach incinerator was also thrown out of Federal court on the same technicality.

**WHAT'S COMING OUT OF THE STACK?:** After promising the public that the incinerator would demonstrate a 99.9999% DRE on dioxin, EPA official Bob Field changed his story stating that, "It doesn't matter what's going into the incinerator, but only what's coming out." The EPA asked the citizens of Missouri to place its trust in a single test that would measure dioxin emissions from the stack during a trial burn. During the test, some material from one of the sites was incinerated and stack gasses were collected for analysis. The EPA decided not to test the level of dioxin in the soil which was burned, which made it impossible to calculate a DRE on dioxin. The levels of dioxin contamination in the site's soil ranged from high to virtually nonexistent, or clean. There is no way of knowing if any dioxin was burned when stack gasses were sampled. In addition the tests were conducted under perfect conditions, and data collection ceased during any upset condition. There was an average of five upset conditions per every eight hours of operation.

**ANONYMOUS TIP LEADS TO INVESTIGATION:** Since no data existed for the calculation of an actual DRE on dioxin, public trust rested completely on the validity of the stack test. After receiving an anonymous letter warning of a "conflict of interest" with the laboratories involved in the Times Beach project, citizens investigated the ownership of laboratories involved in the stack test. TBAG subsequently discovered that Quantera Laboratory, which handled time and temperature-sensitive stack test samples, was 50% owned by International Technologies (IT), the incinerator's owner and operator. IT Analytical had formed Quantera in a joint venture with Corning, and had previously acquired Metatrace Laboratories in St. Louis in 1991. Metatrace was suspended by the EPA in 1991 from contract work for falsifying PCB and dioxin data submitted to the EPA. One executive vice president was sentenced to five years in prison. Quantera's St. Louis office maintains Metatrace's old address and telephone number.

**INCOMPLETE CHAIN OF CUSTODY:** EPA protocols for Superfund field operations mandate rigorous chain of custody procedures for the handling of test samples. The EPA surrendered all chain of custody documents to Congressman Jim Talent's office following an official written request by the congressman. Review of documents submitted by the EPA to the congressman reveal an incomplete chain of custody. Based on this information the Congressman demanded in a letter to Assistant Administrator Elliott Laws, that the incinerator be immediately shutdown. On October 1, Chief Legal Counsel for EPA Region VII, Martha Steincamp admitted that chain of custody documents are "incomplete". The Missouri Department of Natural Resources is currently conducting an investigation based on TBAG allegations. TBAG considers the refusal to shutdown the incinerator prior to the conclusion of their reports, an obvious bias and a blatant disregard for human health.

**EMERGENCY VENTING:** Since being permitted, the Times Beach incinerator has experienced many emergency ventings. An emergency venting bypasses many of the safety and pollution control features. Emergency venting was not included in the final risk assessment for the project and was characterized as a "hypothetical" event which was not expected to occur. On April 28 the incinerator completely malfunctioned. The EPA has admitted that there was a zero DRE on emergency dump stack emissions. This means that not only were toxins in the soil driven directly into the surrounding community, more were created by the heating a combination of dioxin and PCB's in the soil.

**LACK OF TRUST:** A long train of poor scientific testimony and fraud surrounds the Times Beach incinerator, and the entire history of Missouri's dioxin sites. Though a complete accounting of fraudulent studies and reports is not possible in this format, we will list several.

In 1991, St. Louis was inundated with reports that the late Vernon Houk, an official of the Center for Disease Control had claimed that the town of Times Beach should never have been evacuated. In 1990, his support of the chemical industry came under the scrutiny of a House Subcommittee investigation. Houk's announcement came at a conference held at the University of Missouri hosted by the Environmental Trace Substance Research Center. The center had received more than \$250,000 from a law firm representing Syntex, the company liable for the Times Beach Cleanup.

On May 2, 1995, a researcher who was funded by the Agency for Toxic Substance and Disease Registry testified to the St. Louis Dioxin Monitoring Committee that blood levels of dioxin had decreased in citizens living next to the Vertac incinerator in Arkansas. The researcher, Morris Cranmer, reversed his findings after the federally funded report's data was obtained by Greenpeace. In 1988, a federal court had found Cranmer guilty of defrauding the Farmers Home Administration of nearly \$10 million dollars.

In 1990, a report by the Committee on Government Operations, "The Agent Orange Cover up," was submitted to Congress. It said: "The Center for Disease Control study [of the effects of dioxin exposure in Vietnam Veterans] was controlled and obstructed by the White House because the Reagan administration had adopted a legal strategy of refusing liability in military and civilian cases of contamination involving toxic chemicals and nuclear radiation."

Shortly after the Times Beach story began to unfold, several EPA officials stated that authorities did not take action or inform citizens until almost a decade after state and federal authorities were well aware of the contamination. The debate culminated in the controversial replacement of Dan Harris, EPA's Regional Dioxin Coordinator. Harris, who was responsible for initiating the dioxin investigation in 1982, stated to the *Post-Dispatch* at that time, "I got the feeling that they [EPA] were trying to bury the whole investigation."

In 1982, as flood waters forced the evacuation of dioxin-contaminated Times Beach, Congress investigated the negligence of the EPA and Centers for Disease Control in responding to dioxin contamination in eastern Missouri. President Ronald Reagan ordered EPA administrator Ann Gorsuch to withhold documents under "executive privilege." Rita Lavelle, head of the Hazardous Waste Program, began to shred documents. Gorsuch was forced to resign along with 19 other appointees, and Lavelle served six months in jail for perjury and obstruction of justice in an investigation into the political use of waste cleanup funds.

**PCB'S THE HIDDEN TOXIN:** Weeks prior to the incinerator's test burn, TBAG discovered an obscure Centers for Disease Control report written in 1977 which showed test results from samples taken at one of the original dioxin sites. The death of horses and illness of children associated with this site prompted the belated EPA investigation in 1982. The report showed that along with dioxin, PCB's at the concentration of up to a million parts per billion were found at the site. A different version of the same report minus the crucial PCB data was submitted to congress during the aforementioned investigation of Gorsuch's EPA. It was only after TBAG requested specific information on PCB contamination, that the EPA was forced to admit they had lost original priority pollutant data for many of the sites.

The soil to be burned from this site represents over 20% of the total volume of soil to be incinerated. Previous freedom of information requests of chemical specific reports of what was to be burned at Times Beach never suggested the presence of PCB's. PCB's the first toxic waste to be regulated by federal law, was not included in the risk assessment. Furthermore PCB's (which were manufactured exclusively by the Monsanto Chemical Corporation according to Sierra Magazine) were not found at the "alleged" source of dioxin contamination. As well, Monsanto produced Agent Orange.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

December 22, 1992

OFFICE OF  
SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: EPA Office Director Giving Instructions on Violating  
Laws

FROM: William Sanjour, Policy Analyst  
Office of Solid Waste

TO: John Martin  
Inspector General

The attached memorandum from Ms. Sylvia Lowrance, Director of the EPA Office of Solid Waste, dated September 22, 1992 is an instruction to EPA regional waste management division directors on how to evade the requirements of the law. It instructs them an how to issue permits to operate hazardous waste incinerators which do not meet EPA minimum performance standards and places the public health in jeopardy.

Background

EPA regulations<sup>1</sup> require hazardous waste incinerators to be able to destroy 99.99% of the so-called POHCs (principal organic hazardous constituents) of the waste burned. This is referred to as a DRE (destruction and removal efficiency) of four nines. For some wastes which contain the highly toxic dioxins and furans, the DRE is 99.9999% or six nines<sup>2</sup>.

Before issuing a permit, EPA regulations require the applicant to conduct trial burns to guarantee that the incinerator is capable of meeting the performance standards. The regulations do not require all possible future wastes to be tested but only require surrogates, which represent the most difficult wastes, to be tested. The preamble to the regulations<sup>3</sup> explains:

Although the DRE performance standard applies to each waste feed burned, this does not mean that a separate trial burn for each waste or each different mixture of wastes is required. ... If the owner or operator established (through a trial burn) operating conditions for those wastes which are most difficult to destroy, this could provide the alternative documentation for the permitting official to allow certain other wastes

to be burned at the same conditions.

There are several wastes, particularly those which are designated as hazardous waste because they contain dioxins or furans, in which the hazardous constituents are present in very low concentrations, i.e. parts per million or less. These particular wastes, which are referred to as the dioxin-listed wastes, are denoted by EPA as FO20, FO21, FO22, FO23, FO26, and FO27. These wastes are designated as hazardous only because of the very minute quantities of toxic chemicals they contain and for no other reason<sup>4</sup>. As stated before, EPA regulations require that a permitted incinerator be required to destroy these wastes to six nines.

In recent trial burns conducted on a new Superfund incinerator in Jacksonville, Arkansas, it was found that the DRE for dioxin in the waste was not six nines, and was not even four nines, but was only 99.96%<sup>5</sup>. As a result of the publicity generated by this finding by Greenpeace<sup>6</sup>, the whole subject of the ability of incinerators to meet EPA standards for low concentration wastes has come under scrutiny. It is now clear that incinerators cannot achieve the required DRE for very low concentrations of toxics in the waste and that DRE decreases with decreasing concentration. Furthermore, this fact has been well known in EPA since the early eighties<sup>7,8</sup> but has not been widely disseminated..

#### Issue # 1

The memo states:

The regulations ... require that an incinerator burning [the dioxin-listed wastes] achieve a DRE of 99.9999% ... and that this performance be demonstrated in a trial burn ...

But then goes on to say:

... an incinerator which demonstrates six nines DRE on harder-to-burn POHCs complies with the DRE performance standard applicable to dioxin-listed wastes, even if six nines is not actually achieved on low levels of dioxin present in the waste [emphasis added].

The memo goes on to instruct how, in writing a permit, the permit writer should select surrogate POHCs for trial burns in such a way that the DRE is achieved, even though the required DRE cannot be achieved for the POHC in low concentration wastes such as the dioxin-listed wastes.

The purpose of a trial burn is to demonstrate that the