

Appendix V

Monsanto Charged with White-Collar Crime

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Monsanto's track record on rBGH extends from heavy handed and well-orchestrated defense and promotion strategies (Appendix III) to longstanding systematic manipulation and suppression of health and safety data (Appendix II).

It should be recognized that this pattern of misconduct is not unique with regard to rBGH. Rather, it reflects longstanding procedures and policies of Monsanto as summarized in my 1978 article on the unreliability of industry generated health and safety data.¹

'In 1970, Monsanto and Procter & Gamble were poised to launch a new type of detergent onto the market, based on nitrilotriacetic acid instead of phosphates. This would have resulted in the annual discharge of approximately five billion pounds of the new detergent into surface waters and ultimately the drinking waters of the U.S. The industries concerned

¹ Epstein, S. S., "Polluted Data."—*The Sciences*, July/August 1978. For further details, see Epstein, *The Politics of Cancer* (Anchor Press, Doubleday, 1979), Chapter 8.

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had spent about ten years investigating the toxicological and ecological effects of nitrilotriacetic acid, concluding that it was noncarcinogenic and that it degraded in water into harmless constituents.

'In fact, the industries had not done a single test on the nature of the intermediary degradation products of nitrilotriacetic acid, nor of the possible interaction of such products in water. The industry had also failed to appreciate that degradation was incomplete over a wide range of operating activities with the resulting likelihood that drinking water could become contaminated with the detergent. These and other considerations led to the withdrawal of nitrilotriacetic acid from the market, with a loss of some \$300 million to the industries concerned.² The detergent builder was subsequently shown in studies sponsored by the National Cancer Institute and the National Institute of

² Epstein, S.S. "Toxicological and Environmental Implications on the Use of Nitrilotriacetic Acid as a Detergent Builder,"—December 1970 report to Senator Jennings Randolph, Chairman of the Senate Committee on Public Works. This report was based on a detailed investigation of internal company records and documents to which I had free access while working as a part-time consultant to the Senate committee. See also "The Monsanto Files,"—published in the September/October 1998 issue of *The Ecologist*, which Monsanto unsuccessfully attempted to suppress.

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Environmental Health Sciences to produce cancer of the kidney and ureter in mice and rats.’

Responding to these charges in the May/June 1979 issue of *The Sciences*, Monsanto CEO James Wilson admitted:

‘Sometimes scientists make honest errors of fact or judgement. Monsanto guards against this by appropriate review procedures, good laboratory practice codes and the like and by employing good scientists, proud of their scientific credentials. They know that their work will be judged by their peers in the scientific community.’

In rebuttal, I replied:

‘It is not just a question, as James Wilson of Monsanto suggests, of the occasional misguided industry scientist shading or falsifying data. There is, instead, a fundamental conflict of interest inherent in present standard modes of generation and interpretation of product safety and related data by scientists employed directly or indirectly by the same industry which manufactures the particular product. On economic grounds alone, this system has served industry badly on a long-term basis, as illustrated by the

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nitrilotriacetic acid example, which cost Monsanto and Procter & Gamble about \$300 million because of their inept studies which, over some ten years, failed to recognize and detect the serious public health hazards posed by the use of the detergent-builder. The public may further judge Monsanto's credibility on product and environmental safety by their rush to market acrylonitrile (AN) plastics bottles (Cycle Safe) in the absence of adequate pre-market testing, in spite of the close structural similarity of acrylonitrile (AN) and vinyl chloride (a well-known potent carcinogen), and their legal challenge in November 1977 to the Food and Drug Administration's banning these bottles because of the leaching of the carcinogenic AN into their contents.

'Monsanto at first claimed that there was no detectable migration of AN into the contents of the bottles, and that the bottles met the migration limits of 50 ppb (0.05 ppm) set by the FDA for food-contact or wrapping materials. Monsanto has since admitted, however, that it did not have test methods sufficiently sensitive to back these claims. In fact, FDA food-simulating extraction tests indicate that significant migration does occur, as confirmed by the finding of 13-20 ppb AN levels in Coke bought in retail stores.

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‘Rather than stress the need for improved pre-market testing, to avoid future nitrotriacetic acid and AN-type problems, Monsanto has recently embarked on a multimillion dollar national advertising campaign designed to persuade the public of the essential safety of synthetic chemicals unless misused. Interestingly, one of the chemicals featured as essentially harmless in a Monsanto TV spot, later withdrawn, was Vegadex (sulfallate), a herbicide reported by the National Cancer Institute in March 1978 to be carcinogenic to both rats and mice.’

In November 1979, I was invited by Congressman J. Conyers, Chairman of the House Judiciary Committee, to assist in the drafting of legislation on White Collar Crime (HR 4973) and to testify in subsequent Congressional hearings. While the proposed legislation was initially focused on crimes of economic motivation with adverse economic consequences, I was invited to present testimony extending the scope and impact of these concerns to crimes of economy motivation with adverse human consequences, including preventable disease, death, and homicide. A wide range of documented examples involving various industries and their consultants were presented. These

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fell into two categories: *Knowing Acts of Non-Disclosure*, as illustrated by suppression of carcinogenicity data, and *Reckless Acts*, including falsification and destruction of data and marketing of unsafe products. Illustrative of the latter was Monsanto's marketing of AN plastic Coke bottles prior to testing for carcinogenicity, apart from failure to test nitrilotriacetic acid for carcinogenicity, while assuring Congress and regulatory agencies of its safety.

An even more blatant example of Monsanto's deliberate falsification and manipulation of data designed to block occupational compensation claims and the tightening of Federal regulations is detailed in a November 15, 1990 memo from Dr. Cate Jenkins, of the Regulatory Development Branch of the Environmental Protection Agency (EPA), on 'Criminal Investigation of Monsanto Corporation' Cover-up of Dioxin Contamination in Products' Falsification of Dioxin Health Studies,' to John West and Kevin Guarino, Special Agent Office of Criminal Investigations, EPA.

'As per our meeting yesterday, I am summarising information available to me supporting allegations of a long pattern of fraud by Monsanto Corporation. The

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fraud concerns 2,3,7,8-tetrachlorodibenzodioxin (dioxin) contamination of Monsanto's dioxin-exposed workers.'

Significance of Monsanto's Dioxin Fraud

Monsanto has in fact submitted false information to the EPA that directly resulted in weakened regulations. The Monsanto human health studies have been submitted to the EPA by Monsanto as part of public comments on proposed dioxin rules, and agencywide dioxin health studies are continually relied upon by all offices of EPA to conclude that dioxins have not caused cancer or other health effects (other than chloracne) in humans. Thus, dioxin has been given a lesser carcinogenic potential ranking, which continues to be the basis of less stringent regulations and lesser degrees of environmental controls. The Monsanto studies in question also have been a key basis for denying compensation to Vietnam veterans exposed to Agent Orange, as well as to their children, who may suffer from birth defects because of a parent's exposure.

Dioxin Contamination of Monsanto Products

Monsanto covered up the dioxin contamination of a wide range of its products. Monsanto either failed to

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report contamination, substituted false information purporting to show no contamination, or submitted samples to the government for analysis which had been specially prepared so that dioxin contamination did not exist.

The earliest-known effort by Monsanto to cover up dioxin contamination of its products involved the herbicide used in Vietnam, Agent Orange. Available internal Monsanto correspondence in the 1960s shows a knowledge of this contamination and the fact that the dioxin contaminant was responsible for kidney and liver damage, as well as the skin condition chloracne.

Early internal Monsanto documents reveal that samples of Agent Orange and other chlorinated herbicides and chlorophenols submitted to the U.S. Department of Agriculture in the 1970s were 'doctored.' In other words, highly contaminated samples were not submitted to the government'. These analyses were subsequently adopted by the EPA in a 1980 publication and were used without any data from other sources.

Fraudulent Dioxin Health Studies

The following are a few key instances where obvious fraud was utilised in the conduct of Monsanto's epidemiological studies:

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Dr. Raymond Suskind at the University of Cincinnati was hired by Monsanto to study the workers at Monsanto's Nitro, West Virginia, plant. Dr. Suskind stated in published studies in question that chloracne, a skin condition, was the prime indicator of high human dioxin exposures, and no other health effects would be observed in the absence of this condition.

Unpublished studies by Suskind, however, indicate the fallacy of this statement. No workers except those having chloracne were ever examined by Suskind or included in his study. In other words, if no workers without chloracne were ever examined for other health effects, there is no basis for asserting that chloracne was 'the hallmark of dioxin intoxication.' These conclusions have been repeatedly utilised by the EPA, the Veterans Administration, etc., to deny any link between dioxin and health effects of exposed citizens, if these persons did not exhibit chloracne.

Dr. Suskind also covered up the documented neurological damage from dioxin exposure. At Workers Compensation hearings, Suskind denied that the workers experienced any neurological health effects. In the *Kemner, et al. V. Monsanto* proceedings, however, it was revealed that Suskind had in his possession at the time examinations of the

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workers by Monsanto's physician, Dr. Nestman, documenting neurological health effects.

Another Monsanto study involved independent medical examinations of surviving employees by Monsanto physicians. Several hundred former Monsanto employees were too ill to travel to participate in the study. Monsanto refused to use the attending physicians' reports of the illness as part of their study, saying that it would introduce inconsistencies. Thus, any critically ill dioxin-exposed workers with cancer such as non-Hodgkin's lymphoma (associated with dioxin exposures) were conveniently excluded from the Monsanto study.

There are numerous other flaws in the Monsanto health studies. Each of these misrepresentations and falsifications always served to negate any conclusions of adverse health effects from dioxins. A careful audit of these studies by the EPA's epidemiological scientists should be obtained as part of your investigation.

The conclusions contained in the Monsanto studies have been refuted by the findings of a recent study by the National Institute of Occupational Safety and Health (NIOSH). This NIOSH study, recently circulated by Dr. Marilyn Fingerhut for review, found

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a statistically significant increase in cancers at all sites in the Monsanto workers, when dioxin-exposed workers at Monsanto and other industrial locations were examined as an aggregate group.