

Mr. Steven Hodge  
Manager Legislation Review  
Public Health  
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Dear Mr. Hodge

### REVIEW OF HEALTH ACT

I hope you will forgive this hurried submission; only this afternoon have I received the details of how to contact you, from Mr. Jim Stranger of the D.P.I.'s Traralgon office, after a meeting with both DPI and EPA representatives on 28 Oct. to discuss Public Health.

My concerns centre on toxic chemical spray and vapour drift, (and what I perceive to be a failure of current legislation administration) and people, who, like my wife Kristen, are hypersensitive to aromatic, synthetic or chemically engineered toxins such as pesticides, herbicides etc.

Legislation such as the Health Act, the Environment Protection Act, and the Occupational Health and Safety Act all have a common theme allegedly protecting the health of public citizens. Yet each of these Acts are administered by differing authorities, and in practice I have found it extremely difficult to determine which, if any, has overall responsibility for the health protection of the "man-in-the-street."

Take, for example, the situation in Fruit Fly programs where sometimes whole townships are subjected to weekly exposures to an organophosphate pesticide for periods of up to six months, if the outbreak warrants it. In our experience, Maldison was used. The approved label for HyMal Maldison contains warnings promulgated by the Australian Pesticides & Veterinary Medicines Auth. (APVMA) that the substance is poisonous if contacted, inhaled or swallowed; that repeated minor exposures may have a cumulative poisoning effect; and the instruction "Do not inhale spray mist."

Since November 2002, I have been trying to understand how the "protection" legislation is supposed to work!

Correspondence with the APVMA has elicited the response that the APVMA considers its responsibility is only to the user of an approved product.

Yet these labels also carry warnings specifically aimed at the protection of domestic animals, livestock, birds, bees, fish and crustaceans - but nothing that relates to human residents.

APVMA insists that their risk assessment methodology indicates that there is no increase in risk in treating a residential area, than there is in treating an isolated uninhabited orchard - an assertion that I have great difficulty in accepting.

The agricultural authority conducting The Control Program belatedly issued pamphlets that warned residents against touching or ingesting treated trees or fruits for three days, but failed to mention the inhalation and cumulative hazards. This Dept. claimed there was nothing in the Ag Vet Code that required them to do so. Victoria's Agricultural and Veterinary Chemicals/Control of Use Act covers only damage to agricultural product of value, animal or vegetable. Human damage is ignored, for some inexplicable reason!

In the Environment Protection Act. Section 41 proclaims that no person shall cause the air to become "noxious or poisonous, harmful or potentially harmful to the health, welfare or safety of human beings" Yet Chairman of EPA, Mr M. Bourke expresses regret that "unfortunately EPA is unable to assist you further in relation to the spray applications of pesticides and [the victims of] multiple chemical sensitivities". (MCS).

In my attempt to understand the role of the Victorian WorkCover Authority in administering the O.H. & S Act section 22, Ms Linda Timothy's explanation was that "...the legislation requires employers and self-employed persons using chemicals to perform risk assessments and to implement appropriate controls. [These] should be based on the Material Safety Data Sheet for the chemical being used and take into account all routes of exposure, not just inhalation. In some cases, exclusion zones for certain periods would be necessary." But this does NOT appear to be happening, these procedures do not appear to be monitored by the VWA and nor has the Authority responded to my suggestion that it should be promoting the concept of prior neighbour notifications of toxic applications to avoid the risks to health & safety.

Local Government does not seem to keen to take up the responsibility placed on it by the Nuisance Provisions of the Health Act, to require toxin users, including state instrumentalities, to provide considerate

Warnings of potential health hazards. Section 40 defines a nuisance as "a state, condition or activity... which is, or is liable to be, dangerous to health or noxious, annoying or injurious to personal comfort" For any hypersensitive person a sprayed or vapourising toxin is everyone of those effects. And they are relevant also to pregnant mothers-to-be, those nurturing neonates, the elderly with respiratory problems, et al.

All of these Acts contain words such as 'potential'; 'liable'; 'risk' each of which signifies to me that the administrators are required to undertake preventative actions to protect health, to ensure safety, rather than simply a punitive role should the provisions be ignored.

This requires a proactive, educative approach to ensure that everybody is aware and co-operating to avoid the degradation of health within the community by any dangerous substance.

My suggestion to my local Council Environmental Health Officer that the APVMA's Adverse Experience Reporting Program be promoted via Council newsletters, making Report forms available at Council offices throughout the Shire has yet to be responded. This program has received little, if any, publicity, and currently forms are available only on electronic request to the APVMA website. Yet this data base is vital in collecting information, not only on whether or not users are contravening instructions contained within the label texts, but also how many citizens are experiencing adverse effects from Approved products that the APVMA insists "will not harm humans... if applied according to label instructions"

Their record of withdrawn "approved" pesticides after irrefutable health damage does ~~not~~ belie that statement!

A recent health Study (2002) in NSW indicated that nearly 25% of the population reported adverse effects from chemical odours. Almost 3% had been diagnosed as having a chemical sensitivity. These are established medical criteria for the diagnosis of MCS, but most General Practitioners and Hospital staff have not been apprised of this. There is no reason to assume that these percentages do not apply to every other State. MCS is recognised by the Human Rights Commission as being a disability. There is legal precedence for MCS to be considered a compensable condition; but regrettably no matter how well intended, none of this "protective" legislation will protect in itself - it has to be expanded into action that

makes its intent known and understood by every person who has a responsibility, a duty of care. Consideration and compassion are becoming rare commodities. Guidelines are subverted into perceived limitations, a narrow focus, a line in the sand that cannot be crossed lest too much responsibility becomes a burden.

I append a sheet recovered from the National Toxics Network that neatly encapsulates the neurotoxic disabilities endured by people suffering MCS. During the last decade, in spite of our efforts to avoid chemical contact, my wife Kristen has been unexpectedly exposed to glyphosate, chlorpyrifos, organophosphate, carbamates, pyrethroids and 2,4-D. Each time she suffers that list of disabilities, each time she fails to recover her previous state of health. There is evidence of permanent brain damage. Every one of these exposures have occurred within a residential neighbourhood, many by immediate neighbours - not once has our protective legislation proved to be protective. Only once have we succeeded in acquiring legal retribution, and that involved none of the protective agencies.

In your review of the Health Act, I submit that the significance of such words as liable, liability, potential, potentially, & risk be defined explicitly to emphasise their proactive and educative implications, and co-operative connotations.

The Health Act could also be used to coordinate an overall responsibility, encompassing the provisions of all protective legislation and drawing in the EPA, the DPI, WorkSafe and local Government in a co-operative effort to actually prevent, protect and guard human health in the field.

Ignorance is no defence - everyone is assumed to know the law. Most don't. That ignorance has to be addressed if the intent of health protection legislation is to be integrated into everyday life, and administered adequately.

The Nuisance provisions of the Health Act, to any layman, should be sufficient to warrant, at the very least, prior notification of any release of toxic substances into the atmosphere so that protective actions can be planned and executed.

Avoidance is the key for the three people in one hundred who have been diagnosed with MCS, and the choice of the one in four who have some lesser reaction to such chemicals.

The MCS people must be isolated from the hazard, the liability of harm. This means evacuation. This means cost - which, rightly,

should be part of the costs of the control operation.

Substitution of a safer alternative substance or technological method may reduce the cost of human health degradation.

Coordination and assistance from the various responsible instrumentalities would lift the burden, or lighten it, from Local Governments.

Currently there seems to be no one willing to accept overall responsibility for the safety of human health, by co-ordinating the various Acts that legislate for it, notwithstanding the State Environment Protection Policy on Air Quality Management, <sup>SEPP (AQM)</sup> which "... requires government agencies to apply [this] policy when making decisions, formulating strategies and implementing programs." "... and seeks environmental improvement through ... co-operative arrangements."

It seems logical that the Health Act should encompass all relevant of the clauses within the various protective legislations and that the Dept of Health should carry overall responsibility for the health maintenance measures. Legislative clauses need to be explicit on protective measures in relation to known toxins that are released into the atmosphere, whether from aircraft through to the humble aerosol. The policy intent of SEPP(AQM) is that "Air Quality management will address all sources, including domestic"

This should mean a review of the Agricultural and Veterinary Chemicals (Control of Use) Act also to include human damage in its provisions. Humans have a value, too, if it is economics that drive our legislation.

On this basis, the concept contained in SEPP(AQM) Section 7(2)(a) should be taken by State Ministers (Environment and Health) into the Federal Government arena, to the APVMA, who will not consider the health of people beyond the user, people with diagnosed MCS, which has an undiscovered etiology.

7(2)(a) The PRECAUTIONARY PRINCIPLE "If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation."

The Acts should define:

ENVIRONMENT - all the physical, social and cultural factors and conditions influencing the existence or development of an organism, especially, human beings.

DEGRADATION - deterioration; debasement.

SERIOUS - involving or requiring diligence; giving rise to apprehension.

The Acts should require mandatory prior notifications of toxic applications to all persons within a defined distance from the periphery of the application zone, with particular regard to registered (with local Govt?) diagnosed sensitives.

N.S.W. leads the way here with a draft proposal of six principles for notification of neighbours which are currently being considered by the NSW Minister for the Environment. I have lodged copies with both EPA Victoria and the DPI.

Mr. Lodge, please forgive this scrappy and, most likely, unusual presentation. I hope that I have provided some useful intelligence that will assist in the review of the Health Act, and, in the end, provide informed action to prevent exacerbations of existing disabilities through sensitivity, and relief to those who are caring for them. Currently we are both in a situation of something akin to terrorism - not knowing when or where the next hazard is going to envelop us.

Yours sincerely,



WILLIAM TINKER,  
for KRISTEN TINKER

Postscript.

My correspondence to the Dept. of Human Services on the subject of chemical safety dated 29 June 2004 has yet to be acknowledged and responded.

## How to Persuade Your Council to Reduce Pesticide Use

### PESTICIDE REDUCTION STRATEGIES FOR AUSTRALIAN COMMUNITIES

(August 2004)

#### INTRODUCTION TO HUMAN AND OTHER EFFECTS OF PESTICIDES

Pesticides are toxins affecting many human body organs (including skin) and their functions. They cause disorders of immune systems, reduce cell energy output, and cause glands to swell and harden. Pesticides damage human brains and intellect, and also affect nerve conduction. Some cause brain tumours in humans only a few months or a few years old, or cause them to be born with no eye sockets/eyes. So called "safe doses" are being lowered constantly. Accumulation of many small doses below medical test detection is seen to be harmful. Many chemicals can be diagnosed by a well-recognised "footprint" in humans.

Raymond Singer, Doctor of Environmental Science, discusses this in the "Neurotoxicity Guidebook" written in 1988 for safety professionals, physicians, risk analysers and government regulators. (Published Van Nostrand Reinhold N.Y.) The book was based on his post-doctoral study of low dose neurotoxicity symptoms and testing procedures. At these levels he found these people suffered neurotoxic disabilities as follows:

1. Personality changes.
  - a. Irritability.
  - b. Social withdrawal.
  - c. Amotivation (disturbance of executive function).
2. Mental changes.
  - a. Problems with memory for recent events.
  - b. Concentration difficulties.
  - c. Mental slowness.
3. Sleep disturbance.
4. Chronic fatigue.
5. Headache.
6. Sexual dysfunction.
7. Numbness in the hands and feet (depends on the substance).
8. Recognition that there has been a loss of mental function."

None of this information has yet reached medical doctor training in W.A.

- In 1999 Dr John Whitehall, Neonate Paediatrician, Townsville Australia, found 66% of newborn babies had five to six neurotoxic pesticides in their meconium. (Meconium is the first bowel motion formed in the womb).

This shows the babies absorbed the pesticides directly from the mother and via the pesticide contaminated amniotic fluid. The mother's milk will also contain pesticides because all fluids leaving the body are vehicles to excrete toxins. Blood is not leaving the body so is a poor indicator of toxicity. Urine is excellent for testing toxicity but is not tested by most Australian doctors and mis-diagnosis of pesticide poisoning occurs in most Australians affected by chemicals.

- Australian wild kangaroo meat showed significant contamination by organophosphate pesticides in a 1994 Australian Market Basket Survey. Publication ceased due to withdrawal of funding by the Federal Government.
- Both polar ice caps are contaminated by pesticides. All animals in the northern parts of Canada, Greenland, Norway and Russia contain significant levels of pesticides.
- December 2003. Earthwatch find frogs dying in all countries at alarming rates from many types of viruses, and do not know what has so drastically reduced their immunity. In Australia it is worse in coastal regions where frogs normally flourish due to greatest rainfall and insect breeding.
- The word "pesticide" used throughout this information should be understood to include any chemical produced specifically to kill any plant or fungus, or any living creature, however it is applied.

#### **HOW PESTICIDES TRAVEL**

Pesticide spray drift is a major cause of cumulative low dose exposure causing severe illness in humans. Warning signs do not stop spray drift. The arbitrary figure of a radius of 500m for a "no spray zone" has no basis in science or experience. In an airflow of 3kph, spray drift can enter a property 500m away in 10 minutes or less, penetrating buildings and vehicles, destroying bushes, trees and plants haphazardly.

This is because air moves in rolling waves below the surface like the sea does. Sea waves can and do wrap up objects and carry them more rapidly inside waves until they meet an obstruction that slows them down, eg a reef. Flotsam is deposited on both sides of the reef.

Air carrying pesticides may drift to cause sticky residue on the windows of a building closest to the source of the pesticides. The obstruction of the airwaves causes them to slow down and surround the building, concentrating in the down-wind area away from the side of the airflow direction.

No matter if it is vehicle exhaust or pesticide, the results are the same.

Simultaneously, contaminated air enters windows and doors on the facing side. Buildings are not usually built to be airtight.

Variations in height and reach of pesticide drift depend on air speed, temperature, humidity, air speed above the height of the spray drift that may carry it further, and ground temperature and terrain.

10kms radius of "no spray zone" is considered a reasonable diameter distance by doctors experienced in the field. Nevertheless, farmers can and do claim damage from spray drift 15-20kms away, causing holes in their crops and death to farm animals. The holes in crops are caused by the wrapping up and dumping of pesticides by airwaves.