As we saw last week, the American Public Health Association (APHA) took a formal stand against chlorine in 1993. The chlorine industry did not take kindly to such a severe blow when, a year earlier, the International Joint Commission (IJC) formally recommended to the governments of the U.S. and Canada that the use of chlorine as an industrial feedstock be phased out.[1]

The IJC was created by treaty between the U.S. and Canada in 1909 with responsibility for water quality in the Great Lakes. The IJC began studying Great Lakes water pollution seriously in 1972. Twenty years later, the IJC said its scientific studies had forced it to conclude that humans were in danger of irreversible harm from toxics, and fundamentally new, preventive approaches were needed. For example, the IJC said in 1990, "An essential part of the strategy to stop the introduction of persistent toxic chemicals into the Great Lakes Basin Ecosystem must be to prevent new, harmful chemicals from entering the market place. The Commission endorses the principle of reverse onus in this regard; that is, when approval is sought for the manufacture, use, or discharge of any substance which will or may enter the environment, the applicant must prove, as a general rule, that the substance is not harmful to the environment or human health."[2] In other words, the IJC said in 1990 that the burden of proof for chemical safety should be put on the manufacturers and users of chemicals, not on the general public. Thus the IJC called for a complete reversal of the present system, which requires the public to prove harm from a chemical before control can begin.

In its 1992 report, the IJC asked, "Are humans and our environment in danger from persistent toxic substances now? Are future generations in danger? Based on a review of scientific studies and other recent information, we believe the answer to both questions is yes."[3] The Commissioners went on: "Taking the many studies that indicate injury or the likelihood of injury together, we conclude that the evidence is sufficient that many persistent toxic substances are indeed causally involved, and there can be no defensible alternative: their input into the Great Lakes must be stopped."[4] In sum, the IJC in 1992, "We conclude that persistent toxic substances are too dangerous to the biosphere and to humans to permit their release in ANY quantity."[5]

The IJC's science advisory board in 1986 had drawn up a list of 362 toxic compounds found in the Great Lakes. At least half of these were chlorinated chemicals. "In addition, there are other chlorinated organic substances entering the environment that have not yet been separately identified," the IJC said in 1992.[6] "In practice, the mix and exact nature of these various compounds cannot be precisely predicted or controlled in production processes. Thus it is prudent, sensible, and indeed necessary to treat these substances as a class rather than as a series of isolated individual chemicals."[7] And finally, the IJC said, "We know that when chlorine is used as a feedstock in a manufacturing process, one cannot necessarily predict or control which chlorinated organics will result, and in what quantity. Accordingly, the Commission concludes that the use of chlorine and its compounds should be avoided in the manufacturing process."[8]

The U.S. chairperson of the IJC in 1990 and 1992 was Gordon Durnil, a conservative Republican appointed by President Bush. (See REHW #423, #424, #453.) In his book, THE MAKING OF A CONSERVATIVE ENVIRONMENTALIST, Durnil says initially the IJC proposed phasing out chlorine without any timetable. He says the Commissioners discussed privately among themselves that such a phase-out might take 50 years but that, "At least there would be a time certain, off in the future, when such a formidable substance would be taken totally out of existence [as an industrial feedstock] without a societal disruption. Industry came to us and told us how stupid we were, that a sunsetting [phase-out] of chlorine and finding a suitable alternative might take thirty years. Later they reduced that to twenty years."[9]

It seems evident that chlorine users believe chlorine could be successfully phased out as an industrial feedstock in two decades without major disruption. However, the chlorine manufacturers have circled the wagons for a fight.

In 1993 the Chemical Manufacturers Association (CMA) created the Chlorine Chemistry Council with a budget said to be about $100 million per year.[10] The CCC soon hired MBD (Mongoven, Biscoe, and Duchin), a public relations firm that proudly proclaims that one of its main strengths is spying on activists in universities, churches, labor unions, and environmental groups. MBD hires people to attend activists' meetings (without identifying whom they are representing), and to take notes and make recordings which MBD then turns into memos (which are often ludicrously inaccurate) which it sells to gullible corporate clients like the Chlorine Chemistry Council.

MBD now provides the Chlorine Chemistry Council with monthly updates on the activities of groups working to phase out chlorine.

But MBD goes further, helping the Chlorine Chemistry Council develop strategies for "managing" public policies that might harm chlorine sales. The lead strategist for the CCC at MBD is Jack Mongoven himself.

In Mongoven's own words, his "main recommendation" to the CCC is to "mobilize science against the precautionary principle," which, Mongoven says, "dovetails with long range objectives regarding risk assessment."

The precautionary principle is a way of dealing with uncertainty in decision-making. The core idea of the precautionary principle is a willingness to take protective action without waiting for scientific proof of the need for protective action, on the grounds that delay may cause irreparable harm. Implied in the precautionary principle is what the IJC called "reverse onus"—shifting the burden of proof onto those who propose to dump persistent poisons into the environment.

These are the ideas that Jack Mongoven wants the CCC to "mobilize science" to fight.

The main alternative to the precautionary principle is the way the U.S. currently does business: First, actions are proposed by corporations. Then risk assessments may be done (but usually are not required) to convince the public that the damage will be insignificant. Since risk assessment is an art, not a science, and a highly political art at that, risk assessment is almost never a serious barrier to an economic activity. Therefore, the action is taken. It is then up to the public to show that harm has been done before controls can be initiated.

Mongoven says the precautionary principle conflicts with the "Constitutional principle of American government that people have the liberty to do what they choose." He says the Constitution requires that "an activity or product be proven to be harmful to public health and safety before being prohibited."[11] In other words, in Mongoven's interpretation of the Constitution, corporations are allowed to release poisons until people have been harmed sufficiently that they can prove to the satisfaction of scientists that THIS poison caused THAT illness.

Given an identical scenario, the principle of precautionary action would dictate that the environment and humans should not be exposed to anything that meets the definition of a persistent poison, so preventive action would be taken, even in the absence of scientific certainty that this particular poison would cause identifiable harm.

Mongoven sees this as the major struggle of our time. Within that framework, here is Mongoven's advice to the Chlorine Chemistry Council:
"Engage a broad effort on risk assessment within the scientific community, even in groups which have taken positions against chlorine."[12]

"Accelerate the program to bring about agreed-upon risk assessment policy and the deployment of vehicles of sound science."[12]

"Move quickly to take advantage of the visibility of the shortcomings of the current system by having scientists and Congressmen ready to call for the process on [sic] risk assessment CCC and CMA would like to see put in place."[12]

"Bring the state governors in on the issue of risk assessment by communicating the benefits to them from being able to rely on a national standard."[12]

"Take steps to discredit the precautionary principle within the more moderate environmental groups as well as within the scientific and medical communities."[12]

"Review and intensify efforts recommended in the initial strategy documents concerning efforts in the scientific, medical and academic communities, especially the establishment of a credible scientific vehicle to deal with major issues of environmental science and public policy."[12]

"This is a critical time for the future of risk assessment as a tool of analysis. The industry must identify the implications posed by the 'precautionary principle' and assist the public in understanding the damage it inflicts on the role of science in modern development and production," Mongoven says.[12]

Working for the Chlorine Chemistry Council, Jack Mongoven has identified two of the four key areas of modern environmental debate: do we exercise restraint and take precautionary action to prevent harm from persistent poisons, or do we follow the permissive path, allowing corporations to hurt people before controls can be initiated?

And: Who should bear the burden of proof? Must the public prove that harm has occurred, or should corporations bear the burden of showing that what they plan to do isn't likely to be harmful?

But there are two additional key issues that Mr. Mongoven missed:

** Shouldn't a corporation have to show that it has examined all reasonable alternatives and prove that it has selected the least damaging option?

** And the big one: Who gets to decide?

--Peter Montague
