

## **Is There A Toxic Monster In Kettleman City?**

### **Why the State of California's Draft Report and Investigation of Kettleman City Birth Defects are Incomplete, Flawed and Misleading**

by El Pueblo Para El Aire y Agua Limpio/People for Clean Air and Water and Greenaction for Health and Environmental Justice, December 2, 2010

#### **Introduction:**

In 2008, two Kettleman City community groups (El Pueblo Para El Aire y Agua Limpio/People for Clean Air and Water and Kids Protecting Our Planet) along with Greenaction for Health and Environmental Justice conducted a community health survey of residents. This survey, conducted confidentially in peoples' homes, discovered that this small town was suffering from a plague of birth defects and infant deaths. What was initially thought to be a cluster of five babies born with similar birth defects expanded into the discovery of at least eleven babies born with birth defects between late 2007 and early 2010. At least three of the infants died.

When informed of the birth defects and infant deaths, state agencies ignored the health crisis and refused to investigate the alarming news regarding the high number of birth defects and infant deaths in this tiny town.

In January, 2010, in response to an outraged community and a growing national uproar, California Governor Arnold Schwarzenegger directed the California Environmental Protection Agency (Cal EPA) and the California Department of Public Health (CDPH) to try to find out what caused recent birth defects in the San Joaquin Valley community of Kettleman City.

The State agencies released their Draft report on their investigation of Kettleman City's birth defects on November 22, 2010, entitling it "Environmental Exposure Assessment and Birth Defects Investigation." The Draft report confirms that Kettleman City had more birth defects than would be expected, vindicating what residents, community groups and Greenaction said when we first discovered the problem.

Reversing earlier attempts by the State agencies that implied the personal behavior of the mothers might have caused the birth defects, the Draft State report admitted that "none of the mothers whom we interviewed used tobacco, alcohol, or drugs....Also, the medical histories of the six mothers ... did not explain why they had babies with birth defects."

**Unfortunately, the State claimed they could not find a common cause of the birth defects. We believe the State agencies did not look hard enough. The investigation of pesticide exposure, toxic waste contamination and disposal, the contaminated water supply and other pollution sources was incomplete and flawed.**

These State agencies are the same ones that have allowed decades of pollution in Kettleman City, including improperly permitting the giant Chemical Waste Management hazardous waste landfill. These same agencies had turned a deaf ear to the cries of Kettleman City's mothers and other residents when the birth defects and infant deaths were first discovered.

### **The Solution:**

Community and environmental justice organization are united in calling for a more thorough and comprehensive investigation. We also call on all government agencies responsible for environmental and health protection to immediately take steps to reduce pollution impacting this suffering community, including rejecting permits to expand the Chemical Waste Management hazardous waste facility, bringing in clean water to replace the contaminated drinking water supply, enforcing laws against diesel truck idling and reducing pesticide exposure.

The people of Kettleman City deserve a healthy environment and justice.

### **Summary of Flaws and Problems With the State's Investigation and Draft Report:**

#### **(1) State's Bias Was Shown When they Refused to Investigate the Birth Defects:**

The two State agencies, Cal EPA and CDPH, had previously refused to investigate the birth defects and infant deaths, turning a deaf ear to the cries of Kettleman City mothers and other residents who desperately sought answers as to why so many children were being born with birth defects and dying.

Why did the State agencies not want to investigate such a serious problem? Could it have to do with the fact that the Cal EPA and CDPH have been complicit in allowing the people of Kettleman City to be dumped on and polluted by many industries? Could it have anything to do with the fact that government agencies always claimed that the health of Kettleman City residents was fine when in fact it was not?

#### **(2) State Agencies Initially Implied that the Mothers' Lifestyle May Have Caused the Birth Defects, but Now Admit the Mothers Led a Healthy Lifestyle:**

The first "fact sheet" put out by the State in February 2010 implied that the lifestyle of the mothers of the infants may have caused the birth defects. This "fact sheet" put much more emphasis on parental lifestyles instead of pollution as a possible cause of the birth defects, even though the State had been informed that the mothers led a healthy lifestyle free of smoking, drinking or drugs. The State's initial approach of suspecting or blaming the parents' lifestyle instead of pollution showed a bias on their part.

Fortunately, the State agencies now admit the truth: the mothers' lifestyle was not the cause of the birth defects. The Draft State report admitted that "none of the mothers whom we

interviewed used tobacco, alcohol, or drugs....Also, the medical histories of the six mothers ... did not explain why they had babies with birth defects.”

As the State has now ruled out unhealthy behavior by the mothers as a possible cause of the birth defects, it leaves some to wonder what the mothers had in common to all have babies born in this time period with serious birth defects. There seems to be one answer that the state does not want to admit: the mothers all share one thing in common, pollution in their environment.

**(3) The State Covered Up and Tried to Water Down the True Extent and Number of Birth Defects – Now They Finally Admit There Were More Birth Defects Than Would Be Expected:**

The State agencies initially made the incorrect claim that there was only one more birth defect than would have been expected. The State justified their claim by watering down the number of birth defects in the initial fourteen month period over a twenty-two year period.

In the twenty years prior to the recent spike of birth defects (1987 – 2006), there was not even one birth defect in fifteen of the years and only one in five of the years, for an average of .25 birth defects per year. But the outbreak of birth defects beginning in late 2007 was far above the normal rates.

El Pueblo and Greenaction then discovered even more babies had been born with birth defects than previously known. When we brought this information to light the State acknowledged that they knew of these cases but had not divulged them to the public.

**(4) State Failed to Investigate Infant Deaths:**

The state never investigated why at least three infants who were born with birth defects died, a troubling and offensive omission of an enormously important fact.

**(5) State Refused to Do Biomonitoring of Residents’ Bodies:**

The State ignored requests from community and environmental justice groups to conduct biomonitoring of the mothers and other residents to determine the types of chemicals in their bodily tissues and breast milk. Such testing has been helpful in other similar situations, such as the leukemia cluster in Fallon, Nevada, in identifying the toxic causes of clusters.

The State refused to conduct such tests even though they are easy to perform and could reveal significant and relevant information.

**(6) No Community Health Survey Was Conducted by the State:**

Even though it was a door-to-door community health survey that first discovered the birth defect and infant mortality problem, the State refused to conduct its own community health survey to officially determine the extent of the birth defect and health problems in Kettleman City.

**(7) Cumulative Health Impacts of all the Pollution Sources Were Not Evaluated:**

The State agencies failed to consider or evaluate the combined, cumulative impacts of the many different pollution sources in and near Kettleman City as a possible cause of the birth defects, despite being well aware that multiple pollution sources can trigger cumulative and synergistic impacts on health. For example, the state did not consider how the pesticides might have combined with PCBs, hazardous wastes, diesel, contaminated drinking water and poor air quality in the region to affect peoples' bodies.

**(8) State Investigation Could Not Recreate Conditions That Existed Before and During Outbreak of Birth Defect Cases:**

Retrospective analysis of the conditions leading up to the outbreak of the birth defects cannot be done if adequate data from that time period does not exist or is not trustworthy.

The State ignored requests to use modern environmental forensic techniques, such as tree ring analysis, to discover what contaminants may have been deposited historically in the community over time.

**(9) State failed to consider Chemical Waste Management's long history of violations of hazardous waste laws including monitoring violations, yet relies in part on Chem Waste's self-monitoring data:**

The State improperly relied in part on Chem Waste self-monitoring data, despite the fact that they were aware of chronic violations including illegal hazardous waste disposal activity, toxic spills of PCBs and failure to properly monitor PCBs that resulted in serious enforcement action.

Nowhere in the State's draft report do they mention or consider Chem Waste's long history of violations of hazardous waste laws, regulations and permit requirements. Many of Chem Waste's violations involve PCBs, a banned and highly toxic chemical linked to cancer and birth defects.

On November 29, 2010, the US EPA fined Chem Waste \$302,100 for serious violations involving PCBs. The Cal EPA/Department of Toxic Substances Control even took enforcement action against Chem Waste in October, 2010 in response to a spill of PCBs, yet their report failed to mention this or any other violation. These latest violations proved once again that the Chem Waste facility is not the well-run and safe operation it claims to be.

Why did the State rely so much on self-monitoring data from Chem Waste, a company the government itself has found violated monitoring requirements?

**(10) State Failed to Consider that Shipments and Disposal of PCBs at Chem Waste went up dramatically in 2007, the same year the birth defect cases erupted:**

According to documents provided by US EPA, Chem Waste received approximately 40% more PCBs in 2007 when compared with 2005. PCBs are carcinogenic (cause cancer) and have the ability to cause birth defects; this information should have been considered.

**(11) USEPA says the State DTSC Allowed Chem Waste to Stop Air Testing for PCBs and Pesticides in April 2008**

According to US EPA, in April 2008 the DTSC granted Chem Waste a suspension of analyzing the air for pesticides and PCBs. (Personal email from Arlene Kabei, US EPA, to Bradley Angel, Greenaction, 11/23/10).

**(12) Chem Waste may have been aware of the days that the State Air Resources Board was monitoring next to the Kettleman Hills Facility:**

The state's draft report (page 21) says that "...six 24-hour sampling periods coincided with the Facility's 24-hour sampling periods...." Did Chem Waste therefore know when they were being monitored? It appears that is the case.

**(13) Illegal Radioactive Waste Dumping at Chem Waste Not Considered as State Denies Reality:**

The draft report completely ignores the fact that prohibited radioactive wastes were apparently disposed of at the Chemical Waste Management Kettleman Hills landfill.

Despite recent claims that DTSC has not found any information that indicates the facility has taken prohibited radioactive materials (personal email from Bruce E. La Belle, Chief, Cal EPA/DTSC's Environmental Chemistry Laboratory, to Bradley Angel, Greenaction, October 10, 2010), a company that sent prohibited radioactive wastes to the Chem Waste landfill admitted it.

According to the Los Angeles Times article "Widespread Use of Radioactive Scrap Assailed," by Frank Clifford, June 12, 2000, radioactive wastes from the Santa Susana Field Laboratory above Simi Valley operated by Boeing's Rocketdyne Division were sent to the Kettleman Hills landfill. The waste came from a site where government scientists tested several nuclear reactors, manufactured nuclear fuel and made engines for rockets and missiles. These shipments were confirmed by Phil Rutherford, who oversaw the Santa Susana cleanup for Boeing and Rocketdyne under contract with the Energy Department. According to the LA Times,

"Rocketdyne's Rutherford confirmed that lightly contaminated material has been shipped to a Terminal Island metal-processing and export company, as well as to a privately owned Ventura County ranch and to landfills in the north San Fernando Valley and in Kettleman Hills north of Bakersfield. Neither of those dumps is licensed to receive radioactive waste."

These shipments (and possibly others) may be the reason that high levels of radioactivity were apparently detected at Chem Waste. According to the Los Angeles Times ( “22 Landfills Test High for Radiation, March 6, 2003, story by Miguel Bustillo), “(t)he dumps where the radioactivity was detected covered a broad spectrum of waste facilities, from the Kettleman Hills toxic waste site in rural Kings County to ordinary municipal landfills in suburban Calabasas and the San Fernando and San Gabriel valleys.”

**(14) In the Midst of the Birth Defect Crisis, CDPH Secretly and Improperly Approved What Would Have Been Illegal Dumping of Radioactive Wastes at Chem Waste:**

On September 24, 2009, the CDPH secretly, without public notice, hearings or a public environmental review process, approved a request to dump radioactive waste from the Santa Susana Field Laboratory at Chem Waste (Letter from Gary W. Butner, Chief, Radiologic Health Branch, Department of Public Health to Phil Rutherford, Manager, Health, Safety and Radiation Service, Boeing Corporation, Santa Susana Field Laboratory). Such wastes are expressly prohibited by state law and Chemical Waste Management’s permits, yet CDPH approved it anyway. This shipment was stopped only after El Pueblo, through their attorneys at the Center on Race, Poverty and the Environment, threatened to sue Chem Waste.

**(15) State Hypocritically Calls for Pollution Reductions and Monitoring As They Plan on Allowing Chemical Waste Management to Expand and Dump More Toxic Wastes:**

While the state’s draft report calls for some steps to be taken to reduce pollution in Kettleman City, the state is getting ready to issue new permits to Chem Waste to expand their giant hazardous waste landfill, the largest such facility in the western United States.

As the state’s investigation failed to find a cause for the birth defects and infant deaths, it would be irresponsible to allow any more pollution in this suffering community of Kettleman City.

Existing pollution must be reduced, and new pollution prevented.