



*Ignorance is Bliss (Part III)* \_\_\_\_\_

## **Toxic Contaminants Spewing from Madison-Kipp? Don't Worry, There's No Risk!**

**Maria Powell, PhD**

### **Overview: Toxic Contaminants From Above and Below**

The U.S. EPA [Notice of Violation](#) that Madison-Kipp Corporation (Kipp) received in September 2012 raises many questions about the factory's ongoing toxic air emissions and health effects among people living, playing, working, and going to school near Kipp—especially kids, elderly, ill, and other vulnerable people in the neighborhood. Lowell School, with an over 50% poverty rate, and Goodman Community Center, which serves many minority and low-income children, are right next to the factory. Knowing what's really coming out of Kipp's air stacks is more important than ever given what's now known about the toxic brew of chemicals that has been spreading in soils and groundwater beneath the plant and seeping into neighborhood homes and buildings for decades. People in the Kipp neighborhood are exposed to numerous toxic chemicals from below and above—not just one chemical at a time. How is this affecting people's health in the neighborhood? Nobody knows...

The recent EPA notice cited Kipp for inaccurate calculations and shoddy (or absent) record-keeping that could underestimate or hide emissions of hazardous air pollutants, especially chlorine, hydrogen chloride, and other highly toxic chlorinated compounds such as dioxin. EPA also cited Kipp for questionable practices inside the factory that could increase their emissions of toxic compounds. Yet this is nothing new. Kipp has shoddily reported, or failed to report, its toxic emissions for decades, making it next to impossible to assess what people in the neighborhood are exposed to day after day. Over the years, former Kipp workers and government employees have reported sloppy and unsafe practices inside the factory—including ongoing spills, broken and leaky storage containers, and the burning of dirty aluminum scrap in furnaces (a practice known to produce dioxin). The company has had numerous fires, accidents, and OSHA violations.

Meanwhile, for decades hundreds of citizens in the Kipp neighborhood have complained of toxic fumes and noise at Kipp, and raised questions about emissions of harmful chlorinated compounds such as dioxin. Countless health

*Dioxin is a class of highly toxic pollutants that Kipp insisted was not produced at its Atwood facility. This claim countered claims by neighbors and citizen scientists who said their production process did result in dioxin pollution. Who was right?*

*In 2000, Kipp Pres. and CEO Tom Caldwell wrote in a "[Setting the Record Straight: Dioxin](#)" handout delivered to neighbors that "**the conditions at Kipp are not right for the production of dioxin.**"*

*In a Wisconsin State Journal article about a neighborhood protect rally at Elmwood Circle Park on Oct 1, 2000, Kipp spokesman Mark Meunier said he "**believes that the die-casting process used by Kipp does not produce dioxin.**"*

*Tests performed for Kipp by Armstrong Environmental on May 5, 2001 showed emissions of 2,3,7,8-TCDD, the most toxic form of dioxin. Subsequent tests in 2003 and 2007 showed even higher levels of dioxins.*

complaints and letters have been submitted to government agencies by citizens, including many asking for more thorough air monitoring and health studies. Hundreds of citizens have packed public meetings on Kipp.

Though a few government agency representatives have expressed some concern and taken some actions regarding Kipp's pollution throughout all these years, for the most part public officials and agency representatives seem to be more interested in defending Kipp and assuring citizens that the factory poses low or no risks, even when abundant evidence exists to the contrary. Several health studies have been considered by public health agencies, but were dropped.

In 2013, decades after citizens first started raising questions about Kipp emissions—and in the midst of citizen lawsuits and EPA violations against the company—we still don't really know how much dioxin and other hazardous pollutants are spewing out of the factory's many stacks and vents. Nobody knows exactly how deep and wide the plume of toxic contaminants that originated on the Kipp property decades ago is, even though that information is essential for assessing exposures and risks to people living around Kipp—and to the environment in Madison. Why not? And why do our government agencies seem more interested in serving and protecting Kipp, and other polluting industries, than in protecting the citizens they are paid to serve?

*Parts 3 and 4 in this series focus on citizens' struggles to address the factory's pollution—and how Kipp and local and state government agencies have responded to citizens. Part 3 below focuses on the period roughly between the late 1980s through the early 2000s, and Part 4, which will follow in coming weeks, will cover the early 2000s to the present.*

### **Kipp in the 1980s**

Since at least the 1980's, people living near Kipp, as well as [Kipp workers](#), have raised concerns and questions about Kipp's toxic air pollution, noise, spills, and ongoing accidents.

For the most part, until relatively recently—and only after prompted by citizen lawsuits—local and state government officials have stepped up to Kipp's defense, downplaying or looking away from serious problems at the factory.

In 1987, for instance, when a Milwaukee Journal [article](#) publicized the past use and storage of PCBs at Kipp, government officials and Kipp claimed that the corporation was the victim of a “false scare.” Mark Geisfeldt of the Wisconsin Department of Natural Resources (DNR) insisted that “Kipp is a good corporate citizen,” and Kipp's senior engineer was “irked...you don't just tell people there a potential EPA toxic waste site is under them...They could be opening themselves up for a huge lawsuit.”

Given the current lawsuit against Kipp, which involves PCB contamination all over the Kipp property, this statement is quite ironic in retrospect...<sup>1</sup>

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<sup>1</sup> When PCBs were found in soil removed from the Kipp property in 2012, DNR staff said they had no idea they were ever used there and no idea they were spread on parking lots. Yet MEJO found [notes in DNR records](#) from 1981 when 55 PCB barrels discovered on the site by the Madison Fire Department, as well as notes about PCE use (100 gallons a month!). Years later, a 2006 Kipp consultant report noted that PCBs may have been spread on the parking lot, along with other contaminants. In early Feb. 2012, when MEJO met with DNR, DHS, PHMDC, and

## ***Early 1990s: Kipp begins injecting chlorine into aluminum—neighbors’ health complaints escalate***

When Kipp started using chlorine in 1990, neighbors began to notice dramatically worsening air quality and health problems.<sup>2</sup> They had reason to be concerned. The injection of chlorine into aluminum to remove magnesium impurities—a process known as “demagging”—can produce high levels of small particulates and toxic air emissions such as dioxin and other harmful chlorinated compounds.<sup>3</sup> In the early ‘90s, air was emitted through vents on the side of the Kipp building, as well as through open factory doors and windows about fifty feet (or less in some cases) from nearby homes. Throughout the ‘90s, there were [numerous accidents, fires and spills documented](#) at Kipp by neighbors and public officials including a cooling tower leak and several incidents of “green liquid” flowing from the property into storm drains and yards. The [Occupational Safety and Health Administration cited and fined Kipp](#) many times for safety violations in the plant in the early ‘90s and later.

Citizens in the Atwood-Schenk neighborhood around Kipp, concerned about the rising pollution and safety problems at the factory, formed the Neighbors for a Healthy Environment, and then Atwood Clean Air Committee (CAC). They worked relentlessly during the 1990s, organizing neighborhood meetings, petitions, protests, writing letters, and attending public hearings. Eventually, pressure from these groups and Kipp neighbors prompted a series of inspections in early 1994 by DNR air management staff responsible for Kipp.

The DNR’s March 16, 1994 [inspection report](#) described several areas in which Kipp was in non-compliance, and other significant problems in the factory. The inspector, Tom Roushar, noted that emissions from the chlorine demagging, degassing, and die-casting processes were not on the emissions inventory, and that Kipp was using incorrect emissions factors for particulates. Kipp’s chlorine feed rate was found to be many times higher than the amount they had claimed in order to get exempt status. The report also mentions that one of Kipp’s furnaces melted dirty aluminum scrap—a factor known to contribute to the formation of higher levels of particulates, as well as dioxins (see sidebar).

Inspections also revealed that processes in the factory were very sloppy. Kipp’s environmental manager told Mr. Roushar that a lot of die-casting fluids end up on the floor, and only about 25% of the fluids end up on the mold. During one inspection, Mr. Roushar observed that “smoke or mist is emitted from the die cast machine during each pour cycle” which “appear in the room air and make their way through open windows to the atmosphere.”<sup>4</sup> While observing scrap being charged into an aluminum melting furnace, he saw a “dense black plume” of “heavy black

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Madison Water Utility representatives, we asked if they had ever tested for PCBs at Kipp. None of the agency officials seemed to think that was at all necessary. Just a few weeks later, PCBs were found in soils there!

<sup>2</sup> When they found out about the chlorine use, neighbors began asking questions about emissions of chlorinated compounds such as dioxins. Kipp and government officials claimed repeatedly that no dioxins were—or could be—produced in their processes.

<sup>3</sup> At the time, the chlorine gas injection system was exempted from the requirement to obtain a construction permit on the basis that emissions would be below regulatory thresholds.

<sup>4</sup> Around the time of this inspection was done, Roushar wrote that Kipp “should consider ceasing operation of the chlorine process” (Ness, 1995). However, shortly after this, Roushar seems to have become publicly much more accommodating and willing to look the other way when Kipp did something questionable.

smoke” and said “oils on the scrap appears responsible for the smoke.” He observed “a cloud of bluish particulate matter” emitted from the degassing process.

In July 1994, another DNR employee went to the factory to inspect, and after a half an hour there, began to feel dizzy and felt she couldn't even drive because her face and fingers felt numb and tingly, her heart was pounding, and her breathing was rapid and shallow. In a later newspaper article about the incident, she noted that she has never had similar reactions in numerous odor surveys she conducted in the past. Kipp's environmental manager, however, dismissed her symptoms as hysteria, saying they “are also symptoms of that type of reaction when you are trying purposefully to breathe in smells.” (Ness, 1995)<sup>5</sup>

Kipp stack tests in 1994-95 (which didn't measure fugitive and die-casting emissions described in the inspection) showed that Kipp's emissions were in fact well above the construction permit exemption levels. But these results were disputed by Kipp, and in a strange turn, 1995 Kipp received an “after-the-fact” construction permit for the chlorine demagging system with emission limits “higher than the emissions normally expected for this type of source.” Permit documents state that higher emissions were requested because of the disputed test results and due to “public concerns that the applicant has previously operated their equipment in a manner that was not in accordance with normal operating practices.”

What happened behind the scenes to cause this significant shift by the DNR? Did Kipp lawyers put pressure on the political representatives, the DNR and public health agencies? *See sidebar.*

### **1995-2000: Kipp receives a “permit shield” to do a Toxic Experiment on the Neighborhood?**

In the midst of the controversies described above, in October 1994 Kipp CEO Tom Caldwell applied for DNR confidentiality status for processes and emissions related to the factory's demagging and degassing processes.<sup>6</sup> Few if any citizens were aware of this. Apparently Kipp was granted confidentiality from 1996 through 1999/2000 for many details

*Conditions in the factory were bad; toxic stew brewing beneath it was worse...*

*Unbeknownst to people in the neighborhood, in 1994 Kipp consultants and government agencies began documenting a huge plume of volatile organic compounds (VOCs, including several carcinogenic chlorinated chemicals such as tetrachloroethylene (PCE) and its toxic breakdown products (TCE, vinyl chloride and more) in soils and groundwater beneath the factory. By that point, the plume had already been spreading underground for decades and Kipp consultant reports noted that it was moving towards the aquifer. However, public agencies concluded that the plume was not a health risk to residents, and beyond a few immediate neighbors, they did not share information about the plume widely with the public till 17 years after it was first discovered. Did this plume of toxic chemicals underground, seeping upwards into air in homes, contribute to health complaints in the neighborhood? Most likely—but we'll never know.*

<sup>5</sup> Ness, Erik, “Manufacturing Dissent,” *Isthmus*, Vo. 20, No. 9, March 3-9, 1995

<sup>6</sup> The 1994 [affidavit](#) of Thomas Caldwell, then President and CEO of Kipp, asks for confidential status for “all trade secret information unique to the demagging process at the Madison-Kipp Corporation facility...including the chlorine piping systems, chlorine gas flow rates and usage rates compared to magnesium levels, and chlorine gas delivery and mixing equipment and methods; and all information unique to the degassing process regarding the use of sulfur hexafluoride as a degassing agent, the sulfur hexafluoride gas flow rates, delivery and injection equipment and methods, and the length of time spent degassing, including any emissions test data from both the demagging and degassing process.” Kipp stopped using sulfur hexafluoride some time around 1996, and switched to HMC30, which included sodium and potassium chloride and potassium aluminum fluoride; they currently use a flux (Amcor 814) that includes sodium nitrate, sodium fluorosilicate and “non-hazardous salts” (specifics not identified).

of their processes and emissions (specifics of this confidentiality agreement are still unclear).<sup>7, 8</sup>

With details of its processes and emissions deemed confidential, the DNR allowed Kipp to operate from 1995-1999 with a “permit application shield.” To get this permit shield, it seems Kipp agreed to reevaluate the chlorine injection system and retest the emissions, and to raise air stacks higher (to 60 feet) to better disperse emissions. While under this “shield,” the factory added new machinery and furnaces, including several new die-casting machines that were also exempted from permitting, despite the fact that they emit high levels of particulates and toxic volatile organic compounds (VOCs).<sup>9</sup>

In 1996, Kipp claimed that their new air handling system, which would vent unfiltered air pollution through its low roof rather than through air vents on the side of the building,<sup>10</sup> along with changes to its die lubricants,<sup>11</sup> would adequately address emissions. In 1997, the DNR sent Kipp a letter “closing out” all of its 1994 and 1995 non-compliance issues.

In sum, Kipp was given permission to do a five year (or more?) air emissions experiment

#### ***Kipp resorts to citizen—and government—intimidation tactics***

*As citizens ramped up their community and political work to raise attention to Kipp’s pollution, Kipp also stepped up its campaign to ridicule and intimidate citizens who spoke up publicly. Kipp began to closely track and monitor what particularly active citizens were doing and saying. One Kipp neighbor who had been politically active on Kipp issues received a letter in spring 1994 from Kipp attorneys, stating: “Please be further advised that your public comments, whether written or oral, will be carefully reviewed by this office to determine whether or not any characterizations you have made or may make of Madison-Kipp or any of its personnel may be actionable as defamation” (Ness, 1995). They kept to their word on this. Later that year, after this neighbor testified at a Committee on the Environment (COE) meeting, a Kipp attorney sent a [letter](#) stating that they “are particularly concerned about misleading and false statements made during that hearing” by this neighbor, and that “most of the ‘facts’ which she stated at that hearing have no basis in fact.”*

*Kipp continues to use these citizen intimidation tactics to this day, and this MEJO investigation also revealed many letters to public officials and government agencies at city, county, and state levels since the 1990s pressuring them in one way or another to stop enforcement actions and not do pollution investigations and/or health studies. In a 1995 letter to the Madison Public Health Dept, [Kipp Attorney William F. White requested the names of neighbors who had complained and also all future complaints](#) in order for Kipp to [rebut](#) them!*

*In his [Sept. 2012 deposition](#), the DNR site manager for the Kipp site admitted that Kipp complained to Governor Walker about actions the DNR was asking Kipp to take to monitor and clean up their pollution. Even more troublingly, his [Oct. 2012 deposition](#) revealed that Kipp asked the State of Wisconsin to sue it to pre-empt or stop the citizens from bringing their federal RCRA lawsuit.*

<sup>7</sup> When asked in Feb. 2013 whether or not this confidentiality was granted, and how long it lasted, DNR officials’ answers were vague and uncertain. They suggested that it may have taken the DNR many years to decide whether or not to grant confidentiality and during that time confidentiality was granted anyway by default.

<sup>8</sup> For months DNR staff claimed that Kipp’s air inventory records before 2003 were only available on *microfiche* and that a MEJO investigator would have to look through microfiche from all south central facilities in order to find them. This proved to be untrue; DNR did have the records electronically but would only provide summaries, not the full documents for 1996-2000. So why did they tell us this microfiche story? Why aren’t full records available? Who do these delaying tactics serve?

<sup>9</sup> DNR records show that some staff were concerned about the increasing number of die-casting machines added at the factory.

<sup>10</sup> Were these the same air vents that emitted tetrachloroethylene (PCE) for years (unbeknownst to the neighbors less than 50 feet away)?

<sup>11</sup> Kipp has made various changes in composition to its die lubricant composition and processing several times over the last several decades. Unfortunately, information on the composition of the emissions (beyond pounds of particulates emitted) from the die-casting is unavailable because it has never been monitored.

on the neighborhood while it fiddled with its chlorine and fluorine injection processes—and because the confidentiality agreement, many details of that experiment were not available to the public or others who want to assess exposures and health risks in the neighborhood (they are still not available as far as we can tell). Why was Kipp allowed to experiment with emissions of extremely hazardous chemicals in a residential neighborhood within several hundred feet of a school, community center, and daycare facilities?

### ***Kipp deemed in “full compliance”—but health complaints and accidents continue***

In 1997, with emissions now vented through a low roof, Kipp was deemed “in full compliance” with air standards by the DNR. Kipp neighbors were outraged, and a 1997 public hearing on the new roof vents was packed. Many felt that air pollution from the factory, and their health problems, were getting much worse despite the new roof vents—and perhaps because of them.

A newspaper article at the time quotes a woman who lived and worked just across the street from Kipp: “The year after I moved here, I started noticing the smell, feeling dizzy and nauseous...I just felt whenever I took a breath that I shouldn’t be breathing what I was breathing.”<sup>12</sup> Other close neighbors commented that despite Kipp’s claims that they were controlling fugitive emissions, windows and doors continued to freely spew pollution at ground level, 30 feet away from homes.

Indeed, internal communications between DNR air staff and public health officials indicate some concern about increasing particulate emissions from growing number of die cast machines, as well as other processes. Chlorine and hydrogen chloride emissions, in fact, increased dramatically during Kipp’s experimental “permit shield” period. Also, by at least 1998, public health officials’ notes show that they had begun considering (prompted by citizens’ insistent questions) the possibility that dioxin was being emitted by Kipp.

Publicly, however, both government and Kipp officials continued to discount neighbors’ concerns about dioxin and other emissions. In a newspaper story at the time, Tom Caldwell said, “There’s no indication our processes have a threat to your health”<sup>13</sup> and public health representatives agreed: “State officials also say that based on current data, with the exception of a spill or some extraordinary event, there is no health risk to residents.”<sup>14</sup>

Ironically, that same year (1997), Kipp’s consultants, who had been documenting soil and groundwater contamination at Kipp for years by then, found a PCE hotspot of 6.4 million parts-per-billion (ppb) of PCE on the north end of the property, very near the bike path and less than 100 feet away from where the Goodman Community Center’s Ironworks Café is currently. Was this the “spill” or “extraordinary” event officials were referring to? Sadly, citizens in the Kipp neighborhood weren’t told anything about this then.<sup>15</sup> That same year, [City Engineering](#)

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<sup>12</sup> Gwen Carleton, “Kipp Choking Us, Foes Cry, But Firm Meets Clean Air Rules,” *Capital Times*, Feb. 15 1997.

<sup>13</sup> Tim McLaughlin, “Kipp Neighbors Don’t Buy No-Harm Claim,” *Capital Times*, June 13, 1997.

<sup>14</sup> Mike Ivey, “Kipp Plans to Tout its Cleaned-Up Act,” *Capital Times*, June 9, 1997.

<sup>15</sup> However, a few committed, savvy members of CAC who had been investigating DNR files periodically for years, uncovered Kipp’s groundwater contaminant problems in 1999. One neighbor compiled numerous documents describing Kipp’s many pollution issues in detail and wrote articulate letters to government officials raising

[responded](#) to a letter from a Kipp neighbor about Kipp discharging hazardous chemicals into the storm and sanitary sewers. Also, in 1997 the DNR proposed digging some wells to the south of Kipp, on the southern side of Atwood Avenue, since groundwater testing to date showed a predominantly southern flow. Oddly, though the well locations were determined, and letters sent to property owners, the wells were never dug.<sup>16</sup>

Finally, in 1999, neighborhood outrage came to a head when Kipp applied for a permanent permit to increase their chlorine use from 35 to a maximum of 90 pounds per hour and build a new 100-foot unfiltered air stack to “disperse and reduce odors” (according to Kipp’s CEO, Tom Caldwell). The Clean Air Committee organized neighborhood meetings, distributed fliers, and wrote countless letters to public officials opposing this permit.

Kipp officials responded, as before, with contemptuous dismissal of citizens’ concerns and attempts to sway government officials. On July 13, 1999, Mr. Caldwell hand-delivered a [letter](#) to George Meyer, the Secretary of the DNR. He noted that Kipp consulted with Mr. Hausbeck, epidemiologist for Madison Public Health Department’s (MDPH), who told them that though he has smelled die lube, “a waxy and not unpleasant smell,” he “is not concerned about chlorine or HCl emissions.” Caldwell whined that the “concerted effort in the neighborhood to distribute and post flyers focused on Madison Kipp...has created a climate of suspicion and misinformation and will contribute to significant bias in the results of any odor survey” and “to say that emissions at this level are malodorous suggests a loss of common sense.”

Further, he wrote, “the tall stack will solve not only the particulate issue, but should minimize any odor complaints...residual levels of chlorine, HCl (and die lube) certainly cause no human health hazard and in fact are less than threshold odor detection levels.” With unintended irony, Mr. Caldwell went on to say that “small amounts of perfume are added” to their die lube “to deal with any possible real odor issues.” In conclusion, he stressed that “MKC considers itself a law-abiding citizen” but that “manufacturing plants in residential districts can lead to misunderstandings.”

The DNR public meeting about this permanent permit was held just four days before Christmas, on Dec. 21 1999, a difficult time for many people to attend. Regardless, hundreds of citizens participated, and [testimonies were articulate and passionate](#). People raised many questions and objections about why the DNR was giving Kipp a permit to pollute the neighborhood even more. The DNR gave Kipp their permit anyway.

Sadly, once more, despite citizens’ persistence, hard work, and engagement, Kipp got what it wanted. Citizens’ legitimate and well-researched questions and concerns were dismissed and discounted. Again, what political pressure did the company (and its corporate allies?) exert on public officials and government agency leaders and staff behind the scenes? *See sidebar.*

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questions. Some of these letters are remarkably prescient, describing some serious problems that did not come to public light until over a decade later. Sadly, these prophetic letters were mostly ignored—or ridiculed—by public officials and even some neighbors who apparently trusted that Kipp and government authorities would tell them if there were really serious problems.

<sup>16</sup> In 2012-2013, MEJO asked repeatedly why these wells were never dug and why testing to the south has never been pursued since then; the DNR has not yet answered these questions.

## **Early 2000s: Exposures in neighborhood too “low level” to merit a health study?**

For many years before 2000, Kipp neighbors sent noise, odor, air pollution and/or health complaints to local and state government agencies, and raised questions about Kipp air pollution’s health effects on children at nearby daycare facilities and Lowell school. Public health officials, like environmental agency officials, compiled these complaints, but for the most part continued to publicly deny that Kipp pollution posed any health risks.

By the late 90s, the DNR and Madison Public Health Department had done a few odor and noise surveys. When they couldn’t stop the surveys from happening, Madison Kipp did everything possible to discredit any findings. In 1996, having received numerous health complaints, the Madison Health Department considered doing a real epidemiological study in the Kipp neighborhood, but decided “an epidemiological study would not be appropriate at this time because of the changes that are taking place at Madison Kipp” (MDPH notes). Apparently, Kipp officials convinced MDPH that venting air through the roof instead of vents on the side of the factory would lessen pollution and health complaints, and therefore a health study wasn’t merited.

During this time period, under its “permit shield,” conditions at Kipp were indeed changing, as Kipp experimented with its processes. But contrary to Kipp’s claims, the data that were available during the permit shield period show dramatic increases in toxic air emissions—especially hydrochloric acid particulates and volatile organic compounds (VOCs). Just as problematically, the factory was likely emitting more dioxin than ever, given its increased chlorine usage. Yet even while their own internal documents suggest that they had concerns about dioxin, public health agencies continued to publicly discount the possibility that it could be produced there (as did Kipp).

### ***Clean Air Madison Forms***

Finally, in 2000, a group of neighbors,<sup>17</sup> including several who had been part of the Atwood Clean Air Committee, re-organized as Clean Air Madison (CAM). Among other things, CAM demanded dioxin testing and a legitimate health study.

#### ***Kipp’s Powerful Corporate Allies Help Out***

*In 1999, the North American Die Casting Association (NADCA), in collaboration with General Motors Corporation—one of Kipp’s main customers at the time—succeeded in lobbying EPA to remove aluminum die casters from the Secondary Aluminum MACT standards, which would have required dioxin testing and more stringent pollution controls. According to the NADCA press release in Dec. 1999, just days before the hearing, “...NADCA coordinated their efforts with General Motors Corporation and another metal casting association....aimed at top levels of EPA, the Department of Energy, Congress, and the White House Office of Management and Budget. The success to date is due to the guidance provided by the NADCA Government Affairs committee and the technical input from the NADCA Environmental Committee and GM.”*

*The die casting classification is centered on two things: the burning of clean scrap and the amount of flux used. Kipp’s main argument that it isn’t a secondary aluminum smelter is based on its claim of using only clean scrap. Yet there are numerous references throughout Kipp and DNR documents, as well as statements of Kipp employees, of Kipp melting dirty scrap. The recent EPA Notice of Violation suggests this issue is not yet resolved. As far as the amounts and types of flux used, Kipp has worked very hard to hide and/or muddy this information (see footnotes).*

<sup>17</sup> Including the author of this article



Several CAM members wrote [op-eds](#) and newspaper articles supporting a health study during this time period. In response, Kipp launched a concerted public relations campaign to discount the need for a study, with several articles and op-eds appearing in 1999 and 2000 debunking the merits of a study. Kipp leaders, in their now well-known style, went into high gear in the political realm—meeting with public health officials, scolding them about their public comments about the need for a study, and attempting to pressure them into dropping the study. They sent letters to alders correcting what they felt were false claims about Kipp, and a [Kipp fact sheet](#) claimed that they didn't produce dioxin and that their emissions caused no risk to the neighborhood.

With building political pressure from CAM and other citizens, in July 2000 Mayor Sue Bauman, supported by several local and state politicians<sup>18</sup> directed the MDPH<sup>19</sup> to develop a Kipp neighborhood health study. A team led by John Hausbeck, and including representatives from DNR, Kipp, Dept of Health & Family Services (DHFS, now called DHS), and the neighborhood<sup>20</sup> met for several months to develop the study.

When it became evident that a study was going to go forward, Kipp further ramped up its public relations and political strategies to stop it. On Sept. 13, 2000, Mayor Bauman received a [letter](#) from Tom Caldwell (Kipp CEO) scolding her for cancelling a meeting with him and Reed Coleman<sup>21</sup> (Kipp Chairman) about the health study proposed by MDPH. He bragged about all the “economic support” Kipp has provided to Madison and whined that the previous odor surveys had generated “unsubstantiated allegations” and “have damaged Kipp’s reputation.” He told Mayor Bauman that “the damage done to our company by these unsubstantiated allegations requires a public remedy,” including “a public statement from the City Health Department acknowledging that there is no evidence that Kipp poses any sort of health threat.”

One day later, Sept. 14, 2000, Mayor Bauman received a [letter](#) from Coleman, expressing his “personal disappointment with what appears to be a certain amount of cavalier disregard for a company that has made significant contributions to Madison’s civic and economic well-being for more than a century.” He reminded her that “The Madison Community Foundation exists and prospers today” because of his spouse Jane Coleman’s efforts, and that “Millions of dollars in grants have flowed into Madison and the surrounding area as a result of Ann Miller Coleman’s efforts” on behalf of several non-profits in Madison. “Neither Pasqual’s, nor the Barrymore Theater would be enhancing life on the East side were it not for the contributions made by those of us at Madison Kipp Corporation,” he bragged. “A complete list of the personal and corporate



About 200 people joined elected officials in opposing Kipp pollution permit at Elmside Circle Park, a block away and within site of from the factory, in 2000. (L-R) Sup. Andy Olsen, Jim Powell, Sierra Powell, Mayor Sue Bauman, Rep. Mark Miller, Ald. Judy Olson, a Handphibian musician, Karen Kass

<sup>18</sup> State Rep. Mark Miller, Ald. Judy Olson, Ald. Kent Palmer, Supv. Andy Olsen, Supv. John Hendrick

<sup>19</sup> Now called Public Health Madison Dane County (PHMDC)

<sup>20</sup> Including the author of this article

<sup>21</sup> Coleman is a former board member of the Bradley Foundation in Milwaukee and former chair of the Republican Party of Wisconsin

contributions made to and for the Madison community by the Madison Kipp Corporation, the Coleman family and our employees over the past hundred years would fill many pages and would, I think, amaze you.”

Mayor Bauman, to her credit, was not swayed by Mr. Caldwell or Mr. Coleman’s implicit threats to reduce or eliminate charitable contributions for Madison non-profit organizations and business entities if she continued to encourage MDPH to do a health study. In an Oct. 3 2000 [letter](#), she responded to Caldwell: “I appreciate your concerns regarding public opinion of your organization. However, the Madison Department of Public Health has an incontrovertible duty to address concerns related to the public health of our community....Regrettably, the information available to date does not eliminate the possibility that Madison Kipp is related to the health concerns of its neighbors.” As far as we know, Mayor Bauman was the first and last Madison Mayor to date to strongly and publicly support citizens’ concerns about the effects of Kipp’s pollution on public and environmental health.

Not swayed by Mayor Bauman’s rebuttal, Kipp then switched to a more sophisticated approach—questioning the specifics of the scientific methodology being proposed by the public health department. Kipp hired Dr. Jay Gold, a Madison consultant, to help them nit-pick the still-developing methodologies that MDPH had proposed to date. In November, 2000, Dr. Gold sent a letter to Hausbeck raising questions about methods and potential study biases, and began to attend the Kipp health study meetings.

Hausbeck and Henry Nehls-Lowe from the Wisconsin Department of Health & Family Services, meanwhile, had contacted Steve Inserra of the U.S. Center for Disease Control (CDC) for some guidance on the study. In January 2001, Mr. Inserra advised that they work towards much better exposure assessment—in particular, he suggested they get more environmental/air characterization and contaminant toxicity determination. He suggested that they request an investigation through ATSDR (Agency for Toxic Substances and Disease Registry). Hausbeck told the community study group he would pursue this.

### ***Kipp Health Study Dropped***

The study was aborted not very long after Dr. Gold joined the team. Kipp neighbors, especially those who had spent many months in meetings working on the study design, were stunned and outraged. Many suspected that Kipp had a big hand in shutting the study down in meetings with government officials behind closed doors.

Public health officials, however, denied that Kipp had anything to do with shutting the study down. The [final report](#) on the aborted study, written by Hausbeck in June 2001, stated that the study was dropped because exposure levels in the neighborhood were too “low-level” to create enough variability in health outcomes to be detectable in a study. Yet Hausbeck’s plan to pursue getting more exposure/air characterization through an ATSDR investigation was also dropped. Why did MDPH conclude that exposure levels were “low-level” without having adequate air characterization or exposure data to make this claim? Why did PHMDC then drop plans to try to get the air characterization/exposure data that was lacking?

Ironically, after stating that exposures were low level, the MDPH report went on to outline numerous unknowns about air emissions and exposures in some detail. The report recognized that air monitoring data available at that time were sparse and old (1994-95). Some numbers in the report were DNR modeling predictions based on Kipp's questionable inventory reporting, rather than actual monitoring data.<sup>22</sup> The chemical makeup of the "die-lube" (lubricant) was unknown.<sup>23</sup> A table of die-lube emissions in the report lists a "proprietary" lubricant with "unknown alkane/alkenes" and "unknown hydrocarbons." The report on the abandoned study also listed many significant unknowns related to chlorine, hydrogen chloride, dioxin,<sup>24</sup> particulates, and volatile organic compound (VOC) emissions.

Again, the potential that dioxin was emitted from Kipp was downplayed. The report noted that while "several members of the community are concerned that dioxin is a potential emission" from Kipp's processes, "Madison Kipp disagrees with this conclusion" but "is in the process of performing stack tests for dioxin." In fact, stack tests had already been done a month before this report came out—and as community members had predicted all along, dioxin was emitted. In later stack tests (2003 and 2007), the amounts of dioxins emitted were even more than in the 2001 test. (This issue will be discussed more fully in the next article).

### ***Kipp Pollutants "not considered to have public health significance"***

Rather paradoxically, while admitting many substantial unknowns about toxic emissions, Hausbeck's report stated that the unmeasured chemicals are "not considered to have public health significance." Yet some of the chlorinated organics known to be emitted from Kipp—but most of them not quantified because of lack of monitoring—are well known to be significantly toxic to humans at relatively low levels (dioxin is considered one of the most toxic substances ever studied; it is toxic at the parts-per-trillion level). United States EPA Toxic Release Inventory (TRI) reporting at the time also shows that Kipp emitted numerous toxic metals, including aluminum salts, lead, cadmium, copper, other metals, and as well as several other pollutants known to be hazardous to human health. So why did the city's epidemiologist conclude that exposures of unknown levels were "low-level" and that the data gaps his report outlined did not have "public health significance?"

We'll never know what happened behind the scenes to shut this study down, but given Kipp's well-known style of working to pressure government agencies and political representatives not to investigate their pollution, it is hard not to suspect Kipp played a big hand in it. No comprehensive air characterization and/or monitoring of exposures to Kipp's air pollution were ever done—and have not been done to this day.

### **Potent air pollution sources were lurking underground....but who knew?**

Perhaps there was another reason Kipp worked so hard to shut the health study down; maybe Kipp was concerned that a health study would uncover the plume of PCE and other chlorinated

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<sup>22</sup> Given the recent EPA Notice of Violation for several reporting violations, should any of Kipp's numbers be assume correct?

compounds that they knew well by that point had been spreading beneath the factory for decades?

By the time the MDPH report was completed in 2001, Kipp, the DNR, MPHD and the DHFS were well aware of the plume of high levels of toxic chlorinated VOCs and petroleum-based chemicals beneath and around the Kipp facility. If they had done any research on the issue, they would have learned (since it was documented in scientific studies and reports by that time) about the potential for these chemicals to seep into homes as vapors, from soils and groundwater.<sup>25</sup> Yet exposures to these contaminants were not considered, or even mentioned, in the MDPH 2001 final report, nor were they shared with citizen representatives on the health study team or the public.<sup>26</sup>

When asked in Oct. 2012 why this was never mentioned to citizens on the health study team in 2000-2001, Hausbeck answered “At the time, I was not aware of the PCE contamination issue at MKC. As a result the PCE contamination was not included in our discussions.” But, in fact, Hausbeck and PHMDC knew about the groundwater contamination well before 2001.

Our review of public records suggest that it was Kipp neighbors—not Kipp or DNR or the City of Madison—who initially (if inadvertently) made MPHD aware of the groundwater problem at Kipp. Documents in PHMDC files suggest that someone who works at the agency and lives in the Kipp neighborhood received a [citizen flier about the groundwater contamination](#) in his/her door at home about the groundwater problem in early June 1999.

This flier was brought to MPHD leaders, which appears to have then prompted some investigation by the department about the Kipp groundwater issues. On June 17, 1999, Hausbeck spoke with Larry Lester of the DNR about the MKC groundwater contamination issue (presumably for the first time). According to Hausbeck’s notes, Lester told him that historically chlorinated compounds were sent to storm sewers, and he was “not sure if this stopped.” Lester told Hausbeck about PCE vapor condensing under the vents on the side of the building and collecting in a culvert, and that they (the DNR) were trying to locate test wells to the south of Atwood Avenue. Hausbeck’s notes report levels of PCE then found in Kipp’s Monitoring Well 3 to the north of the Kipp building in the parking lot (including 2.6 million parts-per-billion PCE).

A day later, on June 18, a citizen near Kipp called PHMDC complaining of symptoms “which the caller related to the excavation work associated with a sanitary sewer replacement on Waubesa St. in Madison.” ([Hausbeck report](#), Aug. 6, 1999). The symptoms included extreme fatigue, feverishness, chills, sore throat, sinus congestion, nausea, and vomiting, which the caller said started when workers were excavating the area around a sewer pipe on Waubesa St. on June

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<sup>25</sup> As discussed earlier, PCBs were also used and stored on the site, and had been used as dust-suppressants on Kipp’s parking lot, though this apparently didn’t come to light till reported in a 2006 Kipp consultant report (though DNR claimed not to know until 2012). Ironically, Kipp’s own expert consultants are now saying that it was standard practice to spread PCBs (and PCE?) on parking lots and roads to suppress dust. If that’s the case, why did DNR not even suspect Kipp was doing that and test for PCBs?

<sup>26</sup> Until 10 years later when the problem became too big to hide, and two Chicago lawyers took interest in the situation.

9, 1999 and ended when they stopped on June 12. The caller also reported that three neighbors and a houseguest also had similar symptoms.

Hausbeck's report discounts the possibility that these health complaints had anything to do with contamination in the storm sewer, however, noting that "after removal of the old sanitary sewer, inspection of the soil did not indicate that the content of the sanitary sewer had contaminated the soil." It is not clear what this "inspection" entailed, but there is no evidence that any actual contaminant testing of the soil around/under the sewer was done at that time (which would have been merited given that this sewer may have drained Kipp PCE/PCB waste for decades). The report concluded that though "known soil contamination with tetrachloroethylene and its breakdown products... exists at the Madison Kipp property...it is unlikely that this contamination source would also have contaminated the soil near Waubesa St that was effected (sic) by the sanitary sewer excavation...". He again dismissed health concerns, saying that "the illnesses observed are poor matches for tetrachloroethylene exposures."

Shortly after that, according to meeting notes from a meeting titled "Regarding Industrial Sites," in July 1999, Hausbeck (and possibly other City of Madison representatives) met with DNR officials to discuss Kipp's groundwater pollution. Both groundwater and air pollution issues were discussed at the meeting, following up from a mayoral listening session in which there was apparently lots of neighborhood feedback. According to Hausbeck's notes, the impression at the meeting was that "the neighborhood feels that there is extensive cover-up."

### **Public agencies decide Kipp air pollution more important than groundwater contamination**

Interestingly, extrapolating from PHMDC notes, DNR and PHMDC representatives at the meeting decided that the groundwater problem should be the "lesser of two" and "air management issue" should be "more important." Regardless, Kipp's groundwater issues appear to have been discussed quite extensively at this meeting. Notes indicate that the DNR reported that the "PCE came from above ground storage tank on property due to sloppy use" and they had been working on the groundwater problem "for the last 10 months" (though it had been since 1993-94). DNR reported that progress was being made but Kipp still had to "describe the vertical and horizontal extent of the contamination." They said Kipp had six months to comply with requirements but that Dames and Moore was having trouble locating wells. Though PCE levels were "significantly elevated," meeting attendees concluded that basements would not be affected because contaminated groundwater was at 16 to 18 feet so it could not "raise to basement levels very easily." They discussed the "presence of other VOCs, breakdown products of the PCE that was spilled," but agreed that "drinking water and direct exposure are not likely." DNR was to work with Hausbeck and Joe Demorett from City of Madison Engineering to "draft and issue the letter to the neighbors re: the facts of groundwater contamination."

The letter they drafted was presumably the [letter](#) that went out to the neighbors on Dec. 21, 1999, the same night as the public meeting about Kipp's application for a permit for a new furnace and to increase their chlorine use. It seems only a few neighbors very close to Kipp directly received the letter, which discounted or downplayed any risks from the groundwater contamination. The few who saw it don't seem to have paid much attention to it. Those who were concerned about Kipp's pollution—including 100+ people who attended the Dec. 21 meeting—were completely

overwhelmed with the air pollution issues. In sum, the DNR, City of Madison and PHMDC's strategy to downplay Kipp's groundwater contamination problem was successful. (*The story continues in Part 4 of this series.*)

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**NEXT in the series: Part 4—What Happened from the Early 2000s till 2013?**