

MATTER OF TRUST
Election rulings, overrulings
test our faith in judicial system
YOUR FORUM#1



MORE THAN LIPS
Sun Dog product line expands
from humble beginnings
LOCAL#1



TOUGH WIN
Badgers struggle
but pull away late
SPORTS#1



SUNDAY
Wisconsin State Journal
SUNDAY, DECEMBER 17, 2000 MADISON, WISCONSIN \$1.75

Critics say the DNR's proposed settlement with one of seven paper companies that polluted the river with PCBs is a sweetheart deal.

Fox River sellout?



In Green Bay, paper mills are as much a part of the culture as the Green Bay Packers. But prosperity brought by mills has come at a price — PCB pollution of the Fox River.



By Ron Seely and Andy Hall
Wisconsin State Journal

GREEN BAY — For two decades, at least seven paper companies routinely and legally discharged common industrial chemicals called PCBs into the Fox River, turning the river sediment into a toxic muck.



Now, the state Department of Natural Resources has tentatively settled a damage claim with one of those paper companies for an amount that critics say "grossly underestimates" the harm polychlorinated biphenyls have done to the river and the people who use it.

Inside
◆ Interviews, documents depict stark differences in DNR and U.S. Fish and Wildlife strategies in obtaining a settlement from the paper companies.
◆ Citizen comments.
◆ Illustration explains the dangers of PCBs and the location of paper mills along the Fox River.

The settlement, those same critics charge, is the latest sign that the DNR is a approach to regulating industry — cooperating and negotiating — is shortchanging the public and coddling polluters.

Some commentators and other birds in the Fox River and in Green Bay were found to have deformed beaks, possibly due to PCB poisoning.

provements the DNR says have a recreational value of about \$55 million to the people who use the river.

Drug hailed as effective for head, neck cancers

C225 is being rushed to the FDA for approval and could be available to doctors in a year.



Pentagon formula: Pay lots to re-buy what it sold cheap

Surplus dealers are cleaning up on the military's cycle of buy-sell-buy back.

By Patricia Sims
Health reporter

A molecular drug called C225, which could be available to doctors in a year, might prove to be a major breakthrough in treating head and neck cancers.

Dr. Paul Hanzel, a radiation oncologist at the UW Comprehensive Cancer Center, is leading the final clinical trials of C225, a cancer-fighting drug.

MERRIDUCK, N.H. — Harold Fozzie flicked a smudged, dusty ball off one of the piles that the like cardboard stagnation from the floor of his cavernous warehouse.

| | | | |
|--|--|--|---|
| WEATHER Today: Partly cloudy, high 18, low 10, wind 15-25 mph. Tonight: Partly cloudy, low 14, dewfall back of local. | TOMORROW Area business and operations are getting creative with their charitable giving this holiday season. | INSIDE Agri Weekly K1 Business E1 Classifieds F1 Daybreak G1 Homes J1 Local news C1 Movies F6 Obituaries B4 Opinion E2-3 Sports D1 Taxes H1 Your Forum B1 | EMPLOYMENT OPPORTUNITIES New Total General 62 108 Office/Clerical 50 108 Health care 89 85 Total jobs in today's paper: 767 |
|--|--|--|---|

A6 • Sunday, December 17, 2000

SPECIAL REPORT

Wisconsin State Journal

Fox River

Continued from Page A1

example," George said, "of the cozy relationship between the Republican-dominated DNR and the companies they are supposed to regulate. This was a case of Fort Linn looking at a much larger judgment and the DNR stepping in to help the company with a pre-emptive strike."

Even the federal Environmental Protection Agency, which has been working with the DNR on cleanup of the river, was critical of the settlement. Roger Grimes, an EPA attorney in charge of the Fox River case, said the agreement from the DNR action may jeopardize future cooperative efforts to clean up the river.

"We are seeking an overall cleanup and restoration," Grimes said. "Our hope is to maintain a cohesive and integrated partnership. To the degree that this agreement keeps us from doing that, we would have some concerns."

Richard Bishop, a UW-Madison resource economist leading the PWS study, charged that the proposed settlement "grossly underestimates" Georgia Pacific's share of total damage.

The PWS, in its own assessment, figured the seven paper companies named as "responsible parties" for pollution of the river over a period of between \$200 million and \$300 million in damages. The Fort Linn share alone could be millions of dollars more than the DNR's proposed settlement, according to Bishop.

Environmentalists were less diplomatic in their criticisms. "This secret pact is a polluter off the hook," said Emily Green, executive director of the Sierra Club's Green Lakes Program. "It trades some new boat landing and parking lots for the restoration of a century of irreparable damage to human health and the environment in the Fox Valley."

Funding agencies

The Wisconsin State Journal, in an examination of the agreement, also reported that the U.S. Fish and Wildlife Service and PWS studies, listed pollution of the river as the agency's top priority and conclusions (see accompanying article).

The funding between the two agencies reflects a national debate that has intensified since 1988, when the Exxon Valdez spilled oil in Alaska's Prince William Sound. Resource

economists have argued over how to calculate the value of natural resources. While government and industry struggle to resolve the issue on the Fox River in Wisconsin, resource specialists are involved in similar debates on the Hudson River in New York and on the Kalamazoo River in Michigan.

A recently completed damage assessment in Michigan, for instance, is stark contrast to the bitter process in Wisconsin. There, according to Dennis Ambruster, a surface water quality specialist with the Michigan Department of Environmental Quality, the state worked closely with the PWS to reach a settlement with Georgia Pacific for polluting the Saginaw River and Saginaw Bay. The Michigan environmental agency, Ambruster said, never considered a cooperative arrangement with the polluter.

"I guess from our standpoint," Ambruster said, "the agency looks at the river as the public's natural resource, held in trust, and to be managed by the state."

The controversy surrounding damage assessments on Wisconsin's Fox River also brings into focus two conflicting philosophies of environmental regulation — the PWS approach, which leans toward traditional, strict enforcement and the DNR's, which favors negotiating with polluters.

Meyer said the proposed settlement is a perfect example of why it pays to negotiate with polluters rather than litigate because the settlement reaches a fair settlement. The settlement ends the case. Meyer said the settlement ends the case.

Meyer charged that the settlement is misleading the public by citing a damage amount of \$200 million, which is an underestimate. Meyer said the settlement is misleading the public by citing a damage amount of \$200 million, which is an underestimate.

Price of prosperity

At the heart of the controversy is the Fox River, home to the harvest



Bob Garfield, owner of Bob's Boat and Tackle in Green Bay, says the paper mills are vital to the area economy but a way must be found to clean up the Fox River. "You're not doing it for us," he said. "You're doing it for the next generation and the next generation."

concentration of paper mills in the world — 24 mills spread along 39 miles of river. The mills have brought jobs and economic security.

But this prosperity has come at a price. The Fox River is now so polluted with PCBs that the EPA is on the verge of declaring the river a Superfund cleanup area.

The PCBs were a byproduct of deinking and recycling carbon copy paper and for years they were dumped illegally into the river.

People who work on the river have learned fish from the river because of the massive fish die-offs. The fish are not for sale.

For many, the DNR has not been helpful. The DNR has not been helpful. The DNR has not been helpful.

Price of prosperity

At the heart of the controversy is the Fox River, home to the harvest

concentration of paper mills in the world — 24 mills spread along 39 miles of river. The mills have brought jobs and economic security.

But this prosperity has come at a price. The Fox River is now so polluted with PCBs that the EPA is on the verge of declaring the river a Superfund cleanup area.

The PCBs were a byproduct of deinking and recycling carbon copy paper and for years they were dumped illegally into the river.

People who work on the river have learned fish from the river because of the massive fish die-offs. The fish are not for sale.

For many, the DNR has not been helpful. The DNR has not been helpful. The DNR has not been helpful.

Price of prosperity

At the heart of the controversy is the Fox River, home to the harvest

concentration of paper mills in the world — 24 mills spread along 39 miles of river. The mills have brought jobs and economic security.

But this prosperity has come at a price. The Fox River is now so polluted with PCBs that the EPA is on the verge of declaring the river a Superfund cleanup area.

The PCBs were a byproduct of deinking and recycling carbon copy paper and for years they were dumped illegally into the river.

People who work on the river have learned fish from the river because of the massive fish die-offs. The fish are not for sale.

For many, the DNR has not been helpful. The DNR has not been helpful. The DNR has not been helpful.

Price of prosperity

At the heart of the controversy is the Fox River, home to the harvest

CITIZENS REACT

In Appleton, more than 30 people recently attended a U.S. Fish and Wildlife Service hearing on calculating damages to the Fox River from polychlorinated biphenyl (PCB) contamination. A sampling of views:

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

What would the PCB hearing do for me?

It would help me understand the damage to my property and the environment. It would help me understand the damage to my property and the environment.

How to total up cost of pollution?

By Andy Hall and Ron Seely

GREEN BAY — With fresh snow coating its ice, the Fox River sits this time of year as a stark contrast to the hardworking industrial river laden with toxic PCBs.

Just as the river's surface makes problems below, so, too, did earlier pledges of harmony conceal rifts between state and federal agencies.

"It is this way a marriage, we'd be saying 'I'm in this with you,' and then you're not," says Department of Natural Resources Secretary George Meyer.

Interviews and documents depict stark differences in DNR and U.S. Fish and Wildlife Service approaches to figuring out how much seven paper companies should pay for polluting the Fox River and Green Bay with polychlorinated biphenyls.

This amount, known as "damages," is intended to compensate the public for lost recreational opportunities and other environmental harms caused by the release of an estimated 330 tons of PCBs. The DNR's damage estimate: \$70 million to \$100 million.

The exact amount of damages largely depends on how fast, and how thoroughly, the polluters deal with the other major issue not yet addressed — cleanup of the river. If, for example, the river is cleaned quickly, the damages would be lower because the public's enjoyment of the river and of Green Bay would increase quickly.

The DNR's calculations also contend that only damages to anglers should be included because attempts to measure damages to other members of the public — including business, labor, politicians and people simply disturbed about pollution — isn't reliable. They say Fish and Wildlife's figures are inflated and misleading.

Fish and Wildlife and its consultants contend that damages to the entire public can be accurately measured. Nonetheless, their method is unclear, they say the DNR's study favors industry.

There's more at stake than science in estimating the value of a recreational activity, which is "something the normal person can't go to court and say," says Bob Garfield, a DNR leader on the project.

Both agencies' deals with the problem by using "revelation" means of measurement that many economists refer to as "revealed preference" — that is, the level of satisfaction a person expresses from an activity, such as fishing or boating, by their actions.

The idea is that ultimately polluters should compensate the public by providing access to resources that are equivalent to the utility of the resources that were originally damaged.

The DNR's method was based chiefly upon residents' reports of their actual recreational behavior, such as the number and location of fishing trips taken in the past month — but offers no related data, not just on the Fox River but on Green Bay. It even includes one claim that "revealed preference" data, because people's preferences are revealed by their actions.

The Fish and Wildlife study relied mostly on "stated preference," in which residents expressed their preferences for various hypothetical options.

Calculating damages to the Fox River

A look at how federal and state agencies clash over approaches for estimating PCB cost

| Issue | Federal method | State method |
|---|---|---|
| Which agencies were involved? | U.S. Fish and Wildlife Service, U.S. departments of Interior and Justice, Environmental Protection Agency, Wisconsin Department of Natural Resources and Michigan Department of Environmental Quality. | Wisconsin departments of Natural Resources and Justice. |
| What was studied? | Lower Fox River and Green Bay (including Michigan waters) and all Green Bay tributaries up to the first dam. | Waters of the state, including Green Bay and all Wisconsin tributaries to Green Bay. |
| What was the purpose of the study? | To estimate the value of the restoration lost by the public due to fish-consumption warnings since 1976, and total losses due to all PCB injuries to fish, birds, and water in the future. | To estimate the value of the recreation lost by anglers due to fish-consumption warnings since 1997. |
| Who was surveyed by researchers? | Lower Fox River and Green Bay anglers, also randomly selected residents of 100 nearby Green Bay and the Fox River. | Anglers in eastern two-thirds of Wisconsin. |
| Who paid for the study? | U.S. Fish and Wildlife Service, which hopes to force the paper companies to pay for the study. | Seven paper companies, known as the Fox River Group, responsible for the contamination. |
| Cost of the study? | More than \$2 million; agency won't reveal exact figure. | About \$775,000 since it began in 1997. |
| What type of analysis was conducted? | Chiefly "stated preference" analysis — focuses on options people say they'd prefer, such as taking long cleanup over new boat ramps. | Chiefly "revealed preference" analysis — focuses on options people actually choose, such as how far they drive to fish in clean water instead of sites with contaminated. |
| Who conducted the study? | Stratus Consulting Inc. of Boulder, Colo., which often works for federal and state governments on major pollution cases. | Tangle Economic Research of Durham, N.C., which often works for companies accused of major pollution. |
| What was the researcher's role and qualifications in reviewing the study? | Stratus hired six academic researchers with experience in calculating damages to natural resources, to assist in study design and analysis. Among them, UW-Madison's Richard Bishop, Cooper, leader Dwight Durcan of Phoenix has experience in environmental economics but little on Natural Resource Damage Assessments. | DNR hired, and paper companies paid, consultant Keith Smith of Dunbar & Smith, and economists from the University of Wisconsin at Stevens Point. Cooper, leader Dwight Durcan of Phoenix has experience in environmental economics but little on Natural Resource Damage Assessments. |
| What did the study conclude? | Paper companies should pay between \$200 million and \$300 million in damages, depending how much PCB cleanup is done in a separate part of project. This money would be used to improve the enjoyment of northwestern Wisconsin, Fish and Wildlife say. | Public suffered \$70 million to \$100 million in damages. Companies should compensate the public by providing recreational opportunities and natural resource projects comparable to these damages. |
| What are the chances for damage payment? | Overturn. Some similar cases have settled for as little as \$10 million on the whole. But there are examples of more than \$300 million in Clark Fork, Mont., and about \$1 billion in the Exxon Valdez cases. | Negotiated tentative deal covering Georgia Pacific, whose former Fort James plant is located on about 22.5% of PCBs. \$7 million for state resource damage. Deal credits company a member of Fox River Group, with providing public \$55 million in benefits. |

SOURCES: U.S. Fish and Wildlife Service, Wisconsin Department of Natural Resources, Wisconsin State Journal records.

SPECIAL REPORT

Sunday, December 17, 2000 • A7

Fox River

Continued from Page A6

Meyer said Allen's complaints aren't true and that the DNR has tried several times to merge the two studies but the FWS has balked.

"They have refused to give us their information," Meyer said. As a result, the agency decided to establish a cooperative relationship with the paper companies.

In 1992, the DNR announced the formation of the Fox River Coalition, made up of the DNR, paper companies, and local municipalities. No environmental groups or anglers citizens were represented. The agency's plan was to work with the paper companies on voluntary cleanups.

Then, in 1997, Thompson and the DNR announced that they had signed a contract with seven paper companies under which the firms would cooperate with the agency to write a state version of the damage assessment. The companies would pay for the work, including the hiring of consultants.

"Our belief," Meyer said, "was that we could make a lot faster progress working with the governments and for companies up there."

CRIBS, however, say the formation of the coalition was the beginning of a long and tenuous relationship between the agency and the paper companies.

Rebecca Katers is head of the Clean Water Action Council, an environmental group in Green Bay. She's monitored the relationship between the DNR and the paper companies for years and she said her group and others have worked all along that the agency's efforts to cooperate with paper companies would result in the public being shortchanged.

"In 1998, we predicted serious problems would result from this contract," Katers wrote of the 1997 agreement. "Now our fears are coming true."

Consultants an issue

Few issues surrounding the proposed settlement have raised as much criticism as the DNR's use of consultants who are paid by the paper companies and have histories of working more frequently for the paper companies.

Thomson Economic Research of Durham, N.C., for example, specializes in routine damage assessments but more often works for companies fighting such claims. On its Internet site, the company lists General Electric, Alcoa, Shell Oil Co., Exxon, and British Petroleum as being among its corporate clients. Dwight Hancock, the Phoenix consultant hired by the DNR to analyze the PCB model, has also come under fire from environmentalists and FWS officials, who are uncomfortable with his qualifications and with the fact that his fees are being paid for by the paper companies.

Duncan, critics such as the Sierra Club charge, has a master's degree in public policy working for the FWS all have doctoral degrees. And, they add, he has worked in the past for companies such as General Electric, now involved in negotiations over PCB pollution of the Hudson River in New York.

"His views," charged the Sierra Club in a recent press release, "are consistent with pro-industry consultants fighting against legal claims on behalf of polluters. He should be pursuing aggressive government actions to obtain the maximum compensation possible, but he's doing the opposite."

Duncan and officials with the DNR defended the consultant's assignment. And Duncan said he received that his credentials and his objectivity are being questioned.

"The question here," Duncan said, "is, 'Am I being intellectually honest?' That's troubling... I've never paid any attention whatsoever to who's paying the bill here."

Meyer said it is not unusual for industry to pay for consultant fees in such cases.

Additionally, Meyer said, a confidentiality agreement between the consultants and the agency prevents the consultants from having contact with the paper companies on the matter without prior approval from the DNR. Most important, Meyer said, the consultants are working under the supervision of the DNR, not the paper companies.

"The key to this issue," Meyer said, "is do we have independent use and supervision of the work and analysis and the ability to disagree with aspects we disagree with. From our knowledge and review of this situation, there is no doubt that we had that independent use."

As for Georgia Pacific, the company is pleased with how the negotiations turned out.

"We believe it is a very fair agreement," said Kathleen Bennett, vice president of environmental, safety and health for Georgia Pacific. "It will certainly be viewed as a positive result for Wisconsin's environment."

PCBs and the Fox River

PCBs (polychlorinated biphenyls) are a family of chemical compounds that have been linked to health problems. Although the manufacture of PCBs was banned in the U.S. in 1977, the consequences of their use remains.

PCBs can still be released into the air and water from landfills, incineration of sewage sludge, and improper disposal of PCB materials.

PCBs have been linked to:

- Neurological damage
- Birth defects
- Immune deficiency
- Abnormal hormone levels
- Cancer

PCBs were primarily used in the Fox River Valley for making carbonless copy paper, but some other major uses include:

- Generators
- Hydraulic fluids
- Inks and lubricants
- Fire retardants
- Paints and adhesives

The connection between PCBs and the paper mills

State and federal agencies are seeking damages from seven companies for their discharging toxic PCBs into the Fox River between the mid-1950s and the mid-1970s, when the chemicals were outlawed. Of the seven companies, Appleton Papers was the only one to actually produce carbonless paper coated with PCBs. The other companies recycled such products and discharged the chemicals.

U.S. Paper Mills Corp.
Wisconsin workers: Around 215
1.0% of total PCBs discharged into the Fox River*

Georgia Pacific (Formerly Fort James Corp.)
Wisconsin workers: Around 4,280
22.5% of total PCBs discharged into the Fox River*

Appleton Papers/NCR Corp.
Wisconsin workers: Around 1,879
38.7% of total PCBs discharged into the Fox River*

Riverside Paper Corp.
Wisconsin workers: Around 352
1.0% of total PCBs discharged into the Fox River*

Georgia Pacific (Formerly Wisconsin Tissue Mills)
Wisconsin workers: Around 1,822
9.4% of total PCBs discharged into the Fox River*

P.H. Glatfelter Co.
Wisconsin workers: Around 402
27.4% of total PCBs discharged into the Fox River*

PCB concentrations vary

Here's a look at the 1- to 3-foot depth in parts per million (ppm) between De Pere Dam and Green Bay. The goal of the eventual cleanup is to reduce PCB levels to 0.25 ppm or less.

- 50+ ppm
- 25-50 ppm
- 10-25 ppm
- 2-10 ppm
- 0-2 ppm

What does \$7 million buy?

As part of its proposed damage settlement with the state Department of Natural Resources, Georgia Pacific agreed to pay a total of \$7 million for improvements along the Fox River. The company would also provide funding for projects to improve water quality in the lower Fox River and in Green Bay. Some of the projects include:

- Buy and transfer to the state, 700 acres of wetland and forested land adjacent to Green Bay near the mouth of the Portage River.
- Help pay for the construction and dredging of a 30-acre island in Green Bay for habitat for birds and migratory waterfowl.
- Pay for expansion of the Wild Rose State Fish Hatchery.
- Pay for 10 recreational projects including:
 - A hiking trail, wooden fishing pier, and 10-car parking lot at Joliet Park.
 - A hiking trail and picnic area at Bay Beach Park.
 - A nature center and hiking trail at Ashwaubenton Park.
 - A boat launch and 10-car parking lot at Bayview Avenue Boat Launch.
 - Hiking trails, parking lots and picnic areas at parks in the village of Howard.

SOURCE: Wisconsin Department of Natural Resources; U.S. Fish and Wildlife Service; Data compiled research by Andy Hall, Tom Ryan and John Olson.

ANDY KLEMMER graphic