

Schoolyard secrets

When it comes to kids' safety, why do we tolerate a public right not to know?

By Joy Horowitz, JOY HOROWITZ, a former Times staff writer, is the author of the forthcoming "Parts Per Million: The Poisoning of Beverly Hills High School."

June 27, 2007

THE ARREST this month of a reporter, accused of trespassing for taking soil samples at a pesticide-contaminated Paramus, N.J., middle school, is a powerful reminder of our tolerance for official secrecy about environmental health risks at schools.

Michael Gartland, of the Bergen Record in Hackensack, first reported an environmental consultant's warning that soil at the school was contaminated at levels 39 times greater than the state's safety guidelines. The school district knew about the pesticides in January but never informed the public or tried to fix the problem until Gartland began asking questions. Officials closed the school and promised to clean it up. But when Gartland removed soil from the school's soccer field — which it is claimed wasn't marked off-limits — for independent testing, the authorities thanked him with handcuffs and seizure of the samples.

The story reflects a cynical paradigm about environmental safeguards in our schools — namely the public's right *not* to know. The sad truth is that the suppression of environmental health information by government officials is a national scandal. In New Jersey, state law doesn't require that the public be notified of hazardous contamination at schools or how it will be handled. In California, state watchdogs only have the funding to investigate proposed schools, not existing ones.

And even after investigation, worries about declining property values and tax revenues tend to prevail. When federal Environmental Protection Agency investigators found dangerously high levels of asbestos at a school in the Sacramento suburb of El Dorado Hills, the head of the school district successfully lobbied elected officials to pressure the EPA not to declare the area a Superfund site. No cleanup was required, despite the well-documented medical link between asbestos exposure and mesothelioma, a deadly lung cancer. Clearly, limiting legal exposures has taken precedence over limiting toxic ones.

It's notoriously hard to prove that environmental exposures of various types cause specific diseases. But as scientists try to understand that puzzle, it makes sense that we all need to know — should be able to find out — what those exposures are.

Take, for example, my own alma mater — Beverly Hills High School. Four years ago, I began to investigate the possible link between an elevated incidence of cancers among its graduates and the fact that the campus is the site of 19 oil wells, which have brought at least \$50 million in royalties to the school district, the city and its residents for nearly 50 years.

A public records search documented that the campus oil wells and a power plant next door in Century City have emitted tons of hazardous chemicals for decades. Still, legal loopholes obfuscated the public's right to know exactly what was going on.

When I filed a Freedom of Information Act request with Beverly Hills, public records were conveniently labeled "privileged" by the city attorney in light of ongoing litigation — more than 1,000 former students, teachers and residents are claiming that their cancers and other illnesses were caused by exposure to benzene, hexavalent chromium and PCBs at the school. (A Superior Court judge dismissed the first 12 of those cases, saying there was not enough evidence to establish medical causation; his decision is being appealed.)

Other records that should have been available to the public also were off-limits. The South Coast Air Quality Management District, citing proprietary concerns of corporations, redacted documents

that would have revealed the chemical constituents in gas lines — an important issue because testimony in court alleged that from the early 1980s to 2006, Southern California Gas Co. pipelines feeding the power plant next to Beverly High were contaminated with PCBs banned as cancer causing by Congress 30 years ago. State health officials also denied my request for public records about the use of radioactive materials at the oil wells. This time, a bureaucrat cited homeland security concerns in light of 9/11.

The federal Clean Air Act requires "major" sources of air pollution to notify the public about their operations. How did Sempra Energy, which ran the power plant adjacent to Beverly High until last year, meet the letter of the law? In 2004, it placed an ad in a Valley newspaper and in the Spanish-language La Opinion — not exactly where most Beverly Hills residents would see them. The notice mentioned "steam" but said nothing of the release of carcinogens such as formaldehyde, chromium and benzene. An annual Sempra Proposition 65 "toxic chemicals" warning, in the Beverly Hills Courier, listed only oil, gasoline and natural gas that "may be in and around" the facility, without specifying chemical exposures.

California, of course, is a leader in promoting environmental protections, and yet the state's Department of Toxic Substances Control has no authority to oversee an independent health investigation at a school without the district's voluntary compliance, and its willingness to foot the bill. That is one way Beverly High managed to evade independent scrutiny, even as the school's neighbors and some parents and teachers raised questions about fumes and the potential for explosions.

When you can smell oil in the air and see your students' desks shaking from the vibrations of massive industrial boilers next door, it's a good idea to ask questions. Last month at an international conference, 200 environmental health scientists warned that exposure to common chemicals makes babies more likely to develop health problems later in life, including diabetes, cancer, fertility problems and thyroid disorders. The scientists agreed that timing, not dose, is what's important. Children are especially vulnerable.

How has the Bush administration responded? The EPA recently announced business-friendly rules to slash reporting requirements of the Toxics Release Inventory, the database of industrial pollution that is a cornerstone of our right-to-know laws.

There is some good news. Two bills before Congress would update the Freedom of Information Act to streamline responses to requests and restore the original reporting requirements of the Toxics Release Inventory database.

And in New Jersey, newspaper lawyers went to federal court and got Gartland's soil samples returned. Unfortunately, the soil from the soccer field turned up traces of chlordane, a pesticide used to kill termites and banned in 1988 because even short-term exposure can cause anemia and leukemia.

In Beverly Hills, the oil wells at the high school are still operating; a lease agreement runs until 2016. And no one is making it easy to find out exactly what chemicals those wells may be emitting; government officials simply insist that there is no safety problem whatsoever.

Such assurances mean little without accurate information and accountability. The principle that government information belongs to the people is more than a quaint idea.