

**From:** Werner James D. (DNREC)  
**Sent:** Friday, March 02, 2007 8:58 AM  
**To:** Ellen Lebowitz; Salahuddin Qazi (DNREC); Stiller-Banning Kathleen M. (DNREC)  
**Cc:** McWilliams Diana (LegHall); Schooley Terry (LegHall); Sorenson Liane (LegHall); Hughes John A. (DNREC)  
**Subject:** RE: Schnabel Report  
 Ellen,

Thank you very much for your thoughtful and gracious comments on this significant issue. We appreciate your participation. Your comments will be part of the record for this site and will be reviewed carefully by our technical staff as part for the decision-making process for the remedial action.

Best regards,

**James D. Werner**  
**Delaware DNREC**  
**Director, Division of Air and Waste Management**  
**(302)739-9400**  
*Respect, Integrity and Customer Focus*

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**From:** Ellen Lebowitz [mailto:ellenl@ellenlebowitz.com]  
**Sent:** Thursday, March 01, 2007 6:24 PM  
**To:** Salahuddin Qazi (DNREC)  
**Cc:** McWilliams Diana (LegHall); Schooley Terry (LegHall); Sorenson Liane (LegHall); Brainard Mark T. (Governor); Hughes John A. (DNREC); Werner James D. (DNREC)  
**Subject:** Schnabel Report

**The independent, third party Schnabel Engineers' investigation of DuPont's "Iron Rich" toxic pile confirms deficiencies, shoddy science and poor regulatory oversight. The 2001 consent decree should be rescinded and the pile removed and disposed of properly.**

The Schnabel report is a confirmation of what many concerned citizens understood over a year and a half ago—that the studies done by DuPont, and more importantly, the regulatory oversight of DNREC, were severely lax and deficient. The 2001 consent decree between DNREC and DuPont calling for capping the pile was based on inadequate, inconsistent and insufficient data and analysis and should be rescinded.

Although the Schnabel report states the two parties clearly lacked critical data needed to conclude with certainty exactly how much and what types of hazardous substances are in the pile, there was confirmation that there were sufficient amounts of contaminants-of-concern to make capping inadequate and dangerous to human and animal receptors and the environment. It found:

1. Capping does not address contamination already existing from wind-blown toxics and leaching into the surrounding land and water.
2. There is significant danger of toxins seeping into the water table below the pile.
3. There is significant danger of toxins entering into the food chain from plants growing on and around the pile and animals foraging here.
4. Levels of dioxin and associated health risks were inconclusive but other cancer causing materials such as hexachlorobenzene were found at levels deemed dangerous to humans.
5. Options with regard to moving the pile were not realistically considered by DuPont-DNREC. Schnabel lists four reasons why DuPont's stated transport risk of the material creates a "false dilemma," including the fact that the same material has been transported for many years, and that the chemical company did not even assess the use of rail as a means to move the material, which would be safer and far more economical.
6. The plan grossly overstated the lifespan of the capping system it proposes. Schnabel estimates the

material lifespan as around 30 years.

7. Capping would render any future use or development of the land impossible because any changes would compromise the integrity of the capping material. This would mean the land loses all its value.

HCR 22 and the subsequent study it called for, appeared to be a stalling tactic during which time DNREC has not required DuPont to cover the pile, and so this toxic material is blowing, leaching and migrating with virtually no human, wildlife or environmental safeguards. Regarding risk management practices to address workers' direct exposure to the IRM, when they made their site reconnaissance visit, Schnabel found that workers were not properly protected, as they were supposed to be. They also found vegetation growing on the pile, a possible source of food and therefore contamination and risk to wildlife. DuPont had claimed no vegetation would grow here.

The report indicates serious and consistent concerns and deficiencies including the human health risk assessment. Allowable concentrations of iron, manganese and hexachlorobenzene appear to be not protective of human health and the environment. Schnabel also points out that the scientific methods DuPont/DNREC used are inconsistent within the scope of the assessments they did. The report questions the rationale as to why certain toxics were excluded from analysis. This appears to indicate that depending on the results desired, certain methods would be used during one study and another in a different one. This creates an inconsistent conclusion. This is shabby science unworthy of DuPont, and should be unacceptable to DNREC. It is completely unacceptable to the public.

DNREC and DuPont together entered into the aforementioned consent decree calling for a remedy of capping the pile, based on poorly conducted science and negligence in oversight. While it is difficult to believe that a company of DuPont's stature would mistakenly and consistently leave out data and otherwise misconduct studies needed to give a complete and robust scientific assessment of this material and the hazards and risks it presents, DNREC needs to bear the brunt of responsibility for accepting this, because it is the state regulatory agency and is supposed to protect the public.

- 1) I urge the immediate removal and proper disposal of the hazardous waste pile. Any further delay will add to the risks being incurred by those citizens living nearby the plant, as well as the continued contamination currently occurring in Shellpot Creek, the Delaware River and the surrounding soils, water and air.
- 2) I urge additional study of the surrounding environment, including air, ground, soil, groundwater, Shellpot Creek and Delaware River waters. Schnabel should direct this investigation with the full cooperation of DuPont and DNREC.
- 3) I request a public hearing on this which would include information dissemination and the opportunity for the public to comment
- 4) The Attorney General should review the enforcement role of the State in this matter. Legal proceedings should be considered by the State for restitution and fines for past environmental damage and current continued health risks and environmental contamination. Continued delays in action should be discouraged through these proceedings which would impose meaningful fines on DuPont commensurate with the damage that has been done and which continues to occur through the delays in implementing remedial action.
- 5) Please extend the public comment period until March 31.

Thank you for your consideration.  
Respectfully,

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