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Salon

DuPont's deadly deceit: The decades-long cover-up behind the "world's most slippery material"

For decades DuPont operated above the EPA and knowingly concealed the dangers of Teflon exposure

Sharon Kelly, Earth Island Journal

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Almost two decades ago, Carla Bartlett, a then 41-year-old West Virginia secretary and mother of two, was first diagnosed with cancer – what her surgeon later labeled a “garden variety” type of kidney cancer.

“I was scared to death,” Bartlett, now 59, told an Ohio federal jury this fall during hearings in the first of more than 3,500 personal injury and wrongful death suits by West Virginia and Ohio residents against the chemical giant DuPont. “And all I could think of was not being there, not being able to be there for my family.” Bartlett’s tumor and part of her rib were removed in a surgery in 1997 that, she said, involved cutting her “virtually in half.” Though the cancer hasn’t recurred since, for Bartlett, the harm, both physical and emotional, has lingered. “It’s never out of my mind, because you worry constantly about it,” she said. “And then I have the reminder of the scar, every day, that, you know, this... this is... this was cancer; this could come back.” On October 7, after less than a day of deliberations, the jury found DuPont liable for Bartlett’s cancer, agreeing with the defendant that the company had for years negligently contaminated her drinking water supply in Tappers Plain, Ohio with a toxic chemical formerly used to make its signature brand of nonstick coating: Teflon.

What makes the verdict remarkable is that unlike, say, mesothelioma – a form of lung cancer almost exclusively linked to asbestos exposure – the renal cell carcinoma that struck Bartlett is not usually considered the calling card of a specific carcinogen. So it was difficult for her doctors to definitively say what had first made Bartlett sick – it could have been virtually anything. The \$1.6 million the jury awarded to Bartlett – the product of decades’ worth of legal battles that unearthed reams of secret DuPont studies and internal emails – came despite the extreme difficulty of connecting common ailments to a specific chemical under the current United States legal system.

Proving that DuPont was legally culpable for Bartlett’s kidney cancer required years of extraordinarily innovative lawyering – and at times some plain dumb luck. The very improbability of that verdict demonstrates much that is flawed about the way this country regulates potentially dangerous chemicals. With no mandatory safety testing for the vast majority of the tens of thousands of chemicals used daily in America, doctors and public health officials have little information to guide them as they seek to identify potential health hazards – including the chemical, called C8, that DuPont knowingly allowed to pollute Bartlett’s drinking water. Bartlett’s travails are also a cautionary tale about C8, which has become so pervasive today that it’s found in virtually every American’s blood.

“Part of a diagnosis is: *Well, tell me what you’ve been around,*” one of Bartlett’s attorneys, Mike Papanonio, told the jury in opening arguments in the case. “*Well, I drank my water.* That doesn’t sound like a problem. It was a problem”

Teflon was first created, as many miracle chemicals were, in a laboratory accident. In 1938, Roy J. Plunkett, a DuPont chemist, was experimenting with refrigerants when he discovered a white waxy material that seemed very slippery. The material turned out to be an inert fluorocarbon – Polytetrafluoroethylene (PTFE) – that had superior nonstick properties. In 1945, the company patented the chemical and registered it under the trademark “Teflon,” touting it as “the most slippery material in existence.” By 1948 DuPont was producing about 2 million pounds of Teflon a year at its Washington Works plant in Parkersburg, West Virginia. For DuPont, Teflon, which was used to coat pots and pans, proved to be a gold mine, with sales peaking at roughly a billion dollars a year in 2004, according to the company’s SEC filings.

Starting around 1951, DuPont began using another laboratory-formed chemical known as Perfluorooctanoic (PFOA) acid, or C8 (so called because it contains eight carbon molecules), to smooth out the lumpiness of freshly manufactured Teflon. An unusually durable chemical, C8 first entered the world in 1947 and due to its nonstick and stain-resistant properties its use as a “surfactant” spread with extraordinary speed. The white, powdery compound, often said to look like Tide laundry detergent, would ultimately be used in hundreds of products including fast food wrappers, waterproof clothing, electrical cables, and pizza boxes. (DuPont used to purchase C8 from another chemical company called 3M until 2002, when the company phased it out. DuPont then started manufacturing C8 on its own at a factory in Fayetteville, North Carolina.)

The trouble was that the compound – which has since been linked to a variety of health risks including cancer, liver disease, developmental problems, and thyroid disease – escapes into the air easily. In fact, C8 was often shipped to factories pre-mixed with water to keep the dust from worker’s lungs.

Because it’s an extremely stable chemical, C8 does not biodegrade. Instead, it bioaccumulates, building up in people’s blood over time if they continue to drink water or breathe air laced with the substance. Due to its ubiquitous use, the chemical can now be found in trace amounts in the bloodstream of more than 98 percent of Americans, and even in umbilical cord blood and breast milk, according to the Centers for Disease Control. It’s also been found in the blood of seals, eagles, and dolphins around the world, including in animals living in a remote wildlife refuge in the middle of the North Pacific. The chemical is expected to stay in the environment for thousands of years.

Concerns about the hazards posed by Teflon and C8 began to garner public attention only about 15 years ago. By 2003, DuPont had dispersed almost 2.5 million pounds of C8 from its Washington Works plant into the mid-Ohio River Valley area, according to a peer-reviewed study. The company’s most egregious disposal practices occurred before US environmental laws were first written in the 1970s and included burying toxic waste in drums along the banks of the Ohio River and dropping barrels of it out into the open ocean (where it once caused a scandal when a local fisherman dredged a barrel up in his nets), and, in more recent decades, burying it in local “non-hazardous” landfills.

Now, information emerging from millions of pages of internal company reports reveals that several DuPont scientists and senior staff members had for many years either known, or at least suspected, that C8 was harmful. Yet DuPont continued to use the chemical, putting its own workers, local residents, and the American public at risk.

The documents show that signs of C8’s toxicity began to emerge very quickly as DuPont scaled up its Teflon production in the 1950s. The company funds its own safety-testing laboratory

– the Haskell Laboratory of Industrial Toxicology – in part to screen workers for signs of illnesses that might be tied to DuPont products. In 1961, company lab tests linked C8 exposure to enlarged livers in rats and rabbits. DuPont scientists then conducted tests on humans, asking a group of volunteers to smoke cigarettes laced with C8. “Nine out of ten people in the highest-dosed group were noticeably ill for an average of nine hours with flu-like symptoms that included chills, backache, fever, and coughing,” the researchers noted.

“Concerns about the potential toxicity of C8 had been raised internally within DuPont by at least 1954, leading DuPont’s own researchers to conclude by at least 1961 that C8 was toxic and, according to DuPont’s own Toxicology Section Chief, should be ‘handled with extreme care,’” Bartlett’s February 2013 suit against DuPont alleged.

But it wasn’t until the 1970s that DuPont’s researchers began to understand that C8 was building up in the bloodstreams of workers, and soon after, they began to see troubling signs that the chemical could pose serious health risks. The stakes were high: The Washington Works plant where Teflon is manufactured was one of the biggest employers in the region. The plant currently employs more than 2,000 people – 3,000 if you include sub-contractors – in a sparsely populated Appalachian community alongside the Ohio River separating West Virginia from Ohio.

In 1981, the company ordered all female employees out of the Teflon division after two out of seven pregnant workers gave birth to children with birth defects. One of those children, Bucky Bailey, was born with just one nostril and other facial deformities that required many painful surgeries to fix.

“I’ve never, ever felt normal. You can’t feel normal when you walk outside and every single person looks at you. And it’s not that look of He’s famous or He’s rich,” he told ABC News in 2003. “It’s that look of He’s different. You can see it in their eyes.”

In 1984, DuPont began to secretly collect local tap water, asking employees to bring in jugs of water from their own homes, schools, and local businesses, and discovered that C8 was making its way into public drinking water supplies in both Ohio and West Virginia at potentially dangerous levels. Minutes recorded at a meeting at DuPont’s corporate headquarters in Delaware that year suggest a high level of concern regarding how this could affect the company’s image and bottom line. “Legal and medical will likely take the position of total elimination,” notes from the meeting read. The company executives present, however, concluded the available methods for cutting pollution were not “economically attractive.”

In the years following that meeting, instead of slashing its use of C8, DuPont escalated production, while keeping much of what it knew about the chemical’s dangers secret. The company’s Washington Works factory continued with its usual practice of dumping C8-laden sludge in unlined landfills, allowing it to enter the Ohio River, and pumping out C8-laced vapors from its smokestacks.

None of this would have come to light had it not been for a West Virginia cattle rancher named Wilbur Tennant who, along with four other members of his family, sued DuPont in 1998 claiming he had lost hundreds of head of cattle because of pollution from a landfill next to his farm. DuPont had purchased the patch of land, which included a creek that ran directly into the Ohio River, from Tennant in the 1980s, telling him that it would be used as a non-hazardous landfill.

But soon after the landfill got underway, the creek started to turn black and smelly. Sometimes there would be a layer of foam on the water. Within a few years, about 280 of Tennant’s cattle, which drank water from the creek, had died. When the Tennants cut open a cow to investigate the cause of its death, they discovered that its internal organs had turned bright, neon green, video footage recorded by the rancher shows. Tennant and his family members, too, suffered breathing difficulties and cancers.

Tennant’s attorney, Robert Bilott, forced DuPont to turn over tens of thousands of pages of internal company documents as part of the legal process. Buried in those materials was a single mention of a chemical Bilott had never heard of before: PFOA (C8). The chemical sounded similar to another one, called PFOS, which had just been pulled off the market by its maker 3M (which, if you recall, supplied C8 to DuPont for decades). So Bilott made another request to DuPont. This time he asked the company to turn over all documents related to C8. “I did not immediately recognize the significance [of C8],” Bilott told *Earth Island Journal*, “but we came to.”

The trove of documents ultimately uncovered during the ensuing legal battles offered up incriminating evidence about the company’s decades-long cover-up. In addition to research findings, copies of internal emails and documents included in this cache were especially illuminating. One 2001 email describes a scientist warning that when airborne, C8 is so hard to deal with that “it might require the public to wear ‘gas masks.’”

Another, by DuPont’s in-house counsel, Bernard Reilly, shows that company officials planned to push regulators to allow the public to be exposed to higher levels of the chemical than DuPont itself had recommended. In an October 2001 email to his son, Reilly wrote:

“So far DuPont has been saying there are safe levels, we need to have an independent agency agree, we are hoping that it will agree to higher levels than we have been saying. If for no other reason than we are exceeding the levels we say we set as our own guideline, mostly because no one bothered to do air monitoring until now, and our water test has been completely inadequate.”

Reilly’s personal emails, written mostly to family members between late 1999 and mid-2001 using his work email address, give an unfiltered insight into the company’s legal efforts to cover up C8’s risks. In one August 2000 email he writes: “The shit is about to hit the fan in WV. The lawyer for the farmer finally realizes the surfactant issue. He is threatening to go to the press to embarrass us to pressure us to settle for big bucks. Fuck him.”

This information not only helped the Tennant case – which DuPont settled in 2001 for an undisclosed amount – it would eventually lead to one of the most significant class-action lawsuits in the history of environmental law (which culminated in the landmark October ruling in *Carla Bartlett’s* case). Sadly, Tennant didn’t live to see the ripple effect of his lawsuit. He died of cancer in 2009 at age 67.

By 2001, while still working on the Tennant case, Bilott came to realize that the C8 contamination wasn’t isolated to the Tennant property, but extended across a large swath of the mid-Ohio River Valley. The chemical had seeped into the water supply of at least six public water systems in West Virginia and Ohio. That year, Bilott filed a class action lawsuit against DuPont, *Leach, et al. v E.I. du Pont de Nemours and Co.*, on behalf of about 80,000 people in the six water districts. He also reported his findings to the US Environmental Protection Agency and sent along copies of some 900 pages of DuPont’s internal documents, after which the agency launched a “priority review” of C8.

In 2004 the US EPA, too, filed a lawsuit against DuPont, charging it with concealing evidence about C8’s risks for more than two decades. In 2005 the company agreed to pay \$16.5 million as part of a settlement agreement with the EPA – the largest civil penalty ever in the agency’s history. But environmental groups argue that the fine was little more than a slap on the wrist to a company where a single division sold more than that amount in a single day.

“Under the terms of the settlement, the company wasn’t even obliged to pull C8 from the market... the best the agency could negotiate was a voluntary phase-out by 2015,” the watchdog organization [Environmental Working Group](#) says in its May 2015 report “Poisoned Legacy.”

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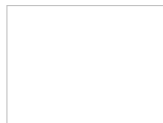
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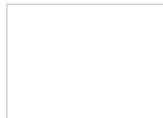
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