

'Erin Brockovich,' Affirmed

The Wall Street Journal, April 6, 2000
Letters to the Editor
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Given the enormous popularity of the movie Erin Brockovich, it was probably inevitable that someone like Michael Fumento would try to debunk it (Erin Brockovich, Exposed, editorial page, March 28). Mr. Fumento targeted the plaintiff's attorneys who sued Pacific Gas & Electric and the scientific evidence they marshaled to prove that the company's use of Chromium-6 contaminated groundwater and thereby damaged the health of countless people who lived in and around Hinkley, Calif., in the 1960s, '70s, and '80s.

Despite Mr. Fumento's claims to the contrary, Chromium-6 kills. It has been labeled as a human carcinogen by the EPA, the International Agency for Research on Cancer (IARC), and the state of California. PG&E's own documents concede "the material is toxic." Indeed, it is so toxic that California no longer permits its use even in cooling towers.

Mr. Fumento is also wrong when he claims Chromium-6 is a problem only when inhaled. The EPA, IARC and numerous medical researchers agree Chromium-6 can also cause injury as a result of ingestion and dermal exposure. And he is way off base when he says the amount of Chromium-6 in Hinkley's water never exceeded 0.58 parts per million. PG&E itself measured concentrations as high as 20 parts per million – some 40 times higher than Mr. Fumento's supposed maximum.

Mr. Fumento also asserts that "no one agent could possibly have caused more than a handful of the symptoms described" by the Hinkley plaintiffs. This blithely ignores thousands of pages of medical records, the testimony of medical experts and scientists, and interviews with the workers who inhaled Chromium-6.

How does Mr. Fumento support his position? By citing William Blot. Mr. Blot is a paid "expert" for PG&E, who has earned as much as \$400 an hour testifying on behalf of the utility. Mr. Fumento also cites a study that supposedly showed that Chromium-6 did not harm PG&E workers. He neglects to mention that PG&E funded the study. Nor does he acknowledge that unlike the unfortunate residents of Hinkley, PG&E workers did not drink Chromium-6-laced water for decades or mix their baby formula with it every day for years on end, or that the study itself conceded that "high levels of exposure to hexavalent chromium have been associated with increased risks of lung and nasal cancer. . . ." He also mentions some rodent and dog studies that seem to exonerate Chromium-6 as a health hazard, but doesn't note that these are vastly outnumbered in scientific literature by animal studies that positively establish the compound's toxicity.

If the case against Chromium-6 is as weak as Mr. Fumento claims it to be, how is it that PG&E "coughed up" (his words) \$333 million in settlement payments? Mr. Fumento insists it's because the studies "came in after the settlement." Chromium-6 has been studied for more than a century. To suggest that the scientific consensus on the subject has suddenly been turned on its head is

nonsense. Mr. Fumento cynically suggests Erin Brockovich "had to convince thousands of people that they've been poisoned for decades and will continue to suffer for the rest of their lives." Nobody had to "convince" the plaintiffs of their own palpable suffering. PG&E did wrong. As its own documents reveal, the company contaminated the groundwater and then tried to cover it up. In the words of Robert Glynn, the utility's chairman and CEO: "PG&E did not respond to the groundwater problem as openly, quickly, or thoroughly as it should have. . . . It is clear, in retrospect, that our company should have handled some things differently. . . ."

It wasn't bad timing that scared PG&E into arbitration, nor was it "slick lawyers and sympathetic witnesses," as Mr. Fumento tries to imply. It was the facts of the case: PG&E poisoned people. These people are rightfully outraged. And the rest of us should be, too.

Erin Brockovich
Gary A. Praglin
Los Angeles, Calif.

(Ms. Brockovich was the lead investigator in the Hinkley case. Mr. Praglin, along with Edward L. Masry, Thomas V. Girardi and Walter J. Lack are the attorneys who represented the plaintiffs against PG&E.)

Michael Fumento Responds

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Letters to the Editor
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To the editor:

It's clear that Ms. Brockovich and attorney Gary Praglin in their letter of April 6 have spent too much time around lawyers, as the purpose of the letter had nothing to do with clarification and everything to do with obfuscation and the hope that readers have completely forgotten the contents of the original article.

They cite zero studies, alludes to zero texts, and names zero experts. Instead, she takes every opportunity to confuse readers into thinking that if chromium-6 is toxic when inhaled, it must therefore be so when ingested. Never mind that numerous agents such as plutonium and forms of asbestos are highly carcinogenic when inhaled but simply pass through the body when ingested. Indeed Brockovich-Praglin state flatly, "Mr. Fumento is also wrong when he claims Chromium-6 is a problem only when inhaled. The EPA, IARC [International Agency for Research on Cancer] and numerous medical researchers agree Chromium-6 can also cause injury as a result of ingestion and dermal exposure."

But the EPA's own exhaustive evaluation of chromium-6 at <http://www.epa.gov/iris/subst/0144.htm> states flatly, using the quote employed in my original

Journal piece, "No data were located in the available literature that suggested that Cr(VI) is carcinogenic by the oral route of exposure." No data.

As to IARC, its evaluation (http://193.51.164.11/cgi/iHound/Chem/iH_Chem_Frames.html) doesn't even bother with oral ingestion. It states as I did that, "For cancers other than of the lung and sinonasal cavity, no consistent pattern of cancer risk has been shown among workers exposed to chromium compounds." Those are clearly inhalation-related cancers, and hardly explain the breast, prostate, and other tumors which the film and the lawsuit blamed on chromium-6. IARC also states, "There is sufficient evidence in humans for the carcinogenicity of chromium[VI] compounds as encountered in the chromate production, chromate pigment production and chromium plating industries." Obviously these are all workplace exposures, having nothing to do with townspeople's drinking water.

Brockovich-Praglin claim I am "way off base" saying "the amount of Chromium-6 in Hinkley's water never exceeded 0.58 parts per million. PG&E itself measured concentrations as high as 20 parts per million-some 40 times higher than Mr. Fumento's supposed maximum." But according to the California Regional Quality Control Board, the highest measurements in Hinkley's water were indeed 0.58. Moreover, in the film itself Julia Roberts claims exposures were "as high as" the 0.58 figure. The real Erin Brockovich has claimed elsewhere that "every word" in the film is true. Well, was it or wasn't it?

Brockovich-Praglin say, "Mr. Fumento also asserts that 'no one agent could possibly have caused more than a handful of the symptoms described' by the Hinkley plaintiffs. This blithely ignores thousands of pages of medical records, the testimony of medical experts and scientists, and interviews with the workers who inhaled Chromium-6."

Quite simply, there is no known agent that can cause all unrelated symptoms Brockovich claimed chromium-6 caused. EPA's IRIS page is quite specific as to the very ailments linked to any form of chromium-6 exposure, and almost none from the film are listed. The studies I cited, such as from Glasgow, found not dozens of symptoms from chromium-6 exposure in people who had such high exposures it was measurable in their urine but rather no symptoms.

The testimony of which the writers speak was given by so-called "expert witnesses" paid for by her colleagues. Since it was a state action, they were not subject to the "junk science" restrictions of *Daubert v. Merrill Dow* which probably would have prevented many, if not all, from even testifying.

Brockovich-Praglin say, "How does Mr. Fumento support his position? By citing William Blot. Mr. Blot is a paid 'expert' for PG&E, who has earned as much as \$400 an hour testifying on behalf of the utility." Actually, I used only one quote and one study from Mr. Blot and Mr. Blot told me in a telephone interview that he has never been a paid witness for PG&E.

In reference to the study showing that PG&E workers themselves were as healthy or healthier than Californians who didn't work for the company, Brockovich-Praglin say I do "not acknowledge that unlike the unfortunate residents of Hinkley, PG&E workers did not drink Chromium-6-laced water for decades . . . "

Are we really to believe that PG&E workers never drank the local water, nor had additional exposures to chromium-6 that the townspeople could not have?

Brockovich-Praglin also state, "He also mentions some rodent and dog studies that seem to exonerate Chromium-6 as a health hazard, but doesn't note that these are vastly outnumbered in scientific literature by animal studies that positively establish the compound's toxicity." Really? Consult the aforementioned EPA discussion of Chromium-6, noting especially the reference to "the lack of toxic effect at the highest dose tested."

"If the case against Chromium-6 is as weak as Mr. Fumento claims it to be, how is it that PG&E "coughed up" (his words) \$333 million in settlement payments?" ask the writers. "Mr. Fumento insists it's because the studies "came in after the settlement."

I gave that as only part of the reason. The Hinkley case is hardly the first in which huge amounts of money have been handed to sick or allegedly sick plaintiffs and their lawyers without scientific proof or even strong evidence. Dow Corning handed trial lawyers and their clients billions even though the evidence that silicone implants are safe has become overwhelming. PG&E simply made the monetary decision that giving up a third of a billion which it could then (unlike Dow) simply pass on to utility rate payers, made more sense than leaving things up to the whims of an arbitrator trained not in science or medicine but in law.

Brockovich and Praglin think they have a smoking gun in the words of PG&E's CEO, that the utility "did not respond to the groundwater problem as openly, quickly, or thoroughly as it should have. . . . It is clear, in retrospect, that our company should have handled some things differently. . . ."

Sorry guys, that's called simple good PR language, without the least admission of any harm to health.

The real story of Erin Brockovich is simply this. A woman with no medical background goes to a small town and convinces residents that virtually every illness they've ever had, from cancer to rashes, are all related and all caused by a nearby corporation worth almost \$30 billion. Join our suit, she says, and I'll get you megabucks. They do, they get a settlement, and Brockovich's colleagues snatch away a cut of over \$133 million. Brockovich gets more than \$2 million. Only in Hollywood could such a person be made a heroine.

Michael Fumento
Senior Fellow
Hudson Institute
Washington, D.C.

<http://www.fumento.com/brocklett.html>