

Tittabawassee River Watch Press Release July 13, 2005

Michigan Supreme Court Opinion on the Medical Monitoring portion of the Henry Vs Dow case:

- The vote was not unanimous, the Medical Monitoring portion of the case was denied by a vote of 5 to 2. Dow win's, the citizens of Michigan and the rest of the country lose.
- The property damages portion of the case is now free to go forward and will hopefully be Class Certified by the Saginaw County Circuit Court in the near future.
- Coincidence or not, on the same day of the Supreme Court ruling, the Federal government and the Michigan Department of Community Health released the Pilot Exposure Investigation final report which confirms floodplain residents dioxin blood levels are elevated well beyond those of similar ages found in other parts of the country.
- It is unfortunate that the 5 "Justices" have decided that a corporations cost-benefit ratio is more important than the lives of our States citizens. We feel empathy for the 100's, if not thousands of individuals who feel their health may have been compromised by the gross Dow dioxin contamination of our bodies and properties. We have been abandoned by the State of Michigan and have no further recourse other than in the voting booth. The justices voting against the Citizens of Michigan: Clifford Taylor, Elizabeth Weaver, Maura Corrigan, Robert Young, and Stephen Markman.
- The two justices voting in favor of the plaintiffs rights are Michael Cavanaugh and Marilyn Kelly. They wrote an excellent "Dissenting Opinion" on the "Majority Opinion" of the other five. It's a startling read and expresses TRW's feelings to the hilt. While we lost this battle, it's good to see that at least a few in our government remember who they really represent.
- Below is a one paragraph "sound bite" of excerpts from the 27 page "Dissenter Opinion" by Justices Cavanaugh and Kelly.

"plaintiffs' physical health is inexcusably deemed secondary to defendant's economic health...Plaintiffs have suffered actual harm and damages...defendant's Midland plant was identified as the "principal source of dioxin contamination in the Tittabawassee River sediments and the Tittabawassee River flood plain soils...the fact remains that they are at a much greater risk because of defendant's acts...Experts continuously urge vigilant detection as the most realistic means of improving prognosis...This is fabrication at its most unforgivable—refusing to acknowledge that providing these plaintiffs with the opportunity to merely seek an equitable remedy is well within the bounds of judicial discretion...it seems clear that it is reasonable that defendant pay the costs...the majority's result protects a wrong-doing corporation at the expense of the health of the people wronged...If defendant cannot produce its product without behaving responsibly, then it has no business operating within our state. ...The lives of the people in the affected area are worth more than defendant's financial well being,...The prolonged exposure of plaintiffs to such high levels of dioxin puts them at a vastly increased risk...the majority's approach shifts the costs resulting from defendant's actions to Michigan taxpayers...it behooves corporations like defendant to continue with business practices that harm our residents because the courts will shield them from liability...Sadly, this Court has resorted to a cost-benefit analysis to determine and, consequently, degrade the value of human life...Today, our Court has shirked its duty to protect plaintiffs and the people of our state, thereby leaving defendant's practices and interests unassailed..."

For all the details including the full text of the Dissenter Opinion and the PEI final report, visit www.trwnews.net