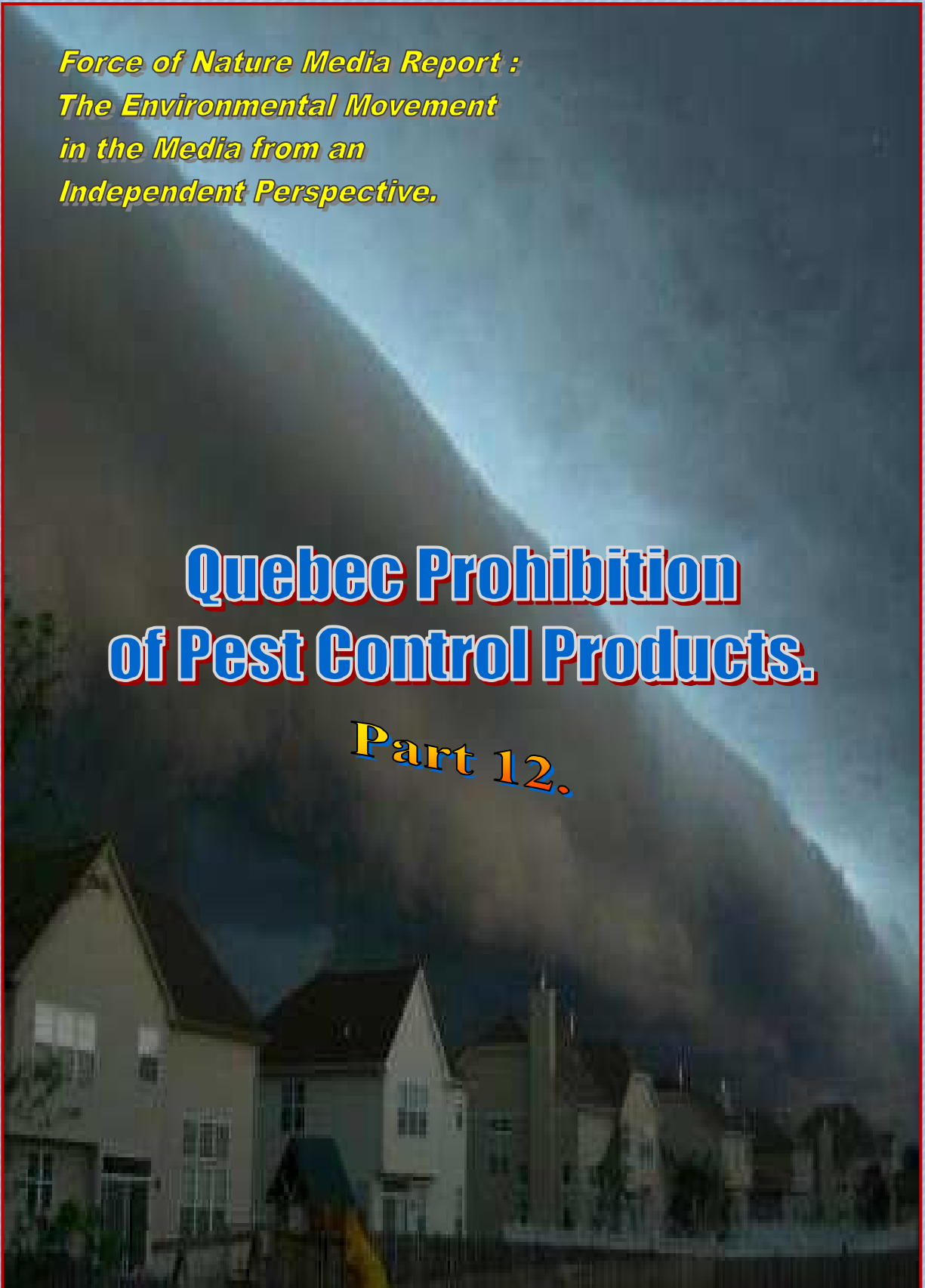


*Force of Nature Media Report :
The Environmental Movement
in the Media from an
Independent Perspective.*

Quebec Prohibition of Pest Control Products.

Part 12.



Quebec Prohibition of Pest Control Products.

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10/08/2009

Dow sues Canadian government over Quebec's pesticide ban

April 9th, 2009

Juliet O'Neill

Canwest News Service



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A display of pesticides that will soon be banned in Ontario sits on display at the Home Hardware store in Tecumseh, near Windsor, Ont., in March. U.S. Dow AgroSciences has gone ahead with a threatened suit against the federal government under NAFTA, seeking a repeal of a similar ban in Quebec on lawn pesticides containing 2,4-D and at least \$2 million in damages. Photograph by: Tyler Brownbridge, Windsor Star.

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OTTAWA — U.S. **Dow AgroSciences** has gone ahead with a threatened suit against the federal government under the **North American Free Trade Agreement [NAFTA]**, seeking a repeal of **Quebec's** ban on lawn pesticides containing **2,4-D** and at least **\$2 million** in damages.

William Amos, a lawyer for environmental organizations intervening in the case, urged the parties Thursday to move forward quickly in choosing the three-member **NAFTA** arbitration panel that will decide the case. It is urgent, he said, to remove a cloud over other provinces considering pesticide bans.



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Dow's claim asserts the ban is tantamount to "*expropriation*" of **Dow** investments, and accuses Canada of breaching "*basic due process, transparency, good faith and natural justice.*"



Dow says **Quebec's** ban is not based on science, and should have been reviewed after the federal **Health Canada** pest-management regulatory agency declared **2,4-D** safe if used as directed.

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It accuses Canada of breaching its obligations under **Chapter 11** of **NAFTA**, and seeks damages "*without limitation*" covering loss of sales, profits, goodwill, investment and other costs related to the products.



"We don't want the government or Dow to sit on this," **Amos** said in an interview. "Let's have an open, transparent debate."

Amos is staff lawyer for the **University of Ottawa's Ecojustice Environmental Law Clinic**. He will represent the **David Suzuki Foundation** and **Équiterre**, a Quebec environmental group, as interveners in the case.



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Last month, Trade Minister **Stockwell Day** vowed a "*vigorous defence*" of **Quebec's** ban, and asserted that **NAFTA** preserves Canada's ability to regulate in the public interest to protect health and the environment. **Quebec** is declining comment, leaving the matter up to Ottawa. DayS@parl.gc.ca

The suit comes on the eve of Ontario introducing similar pesticide controls that put **2,4-D** on a list of banned products.

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Background Information from an Independent Perspective.

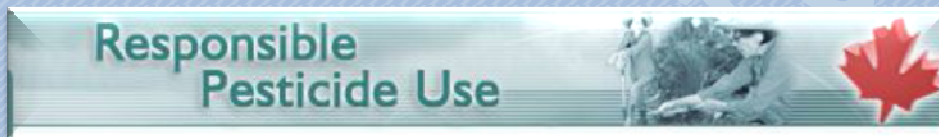
Final Decision on the Re-evaluation of 2,4-D Questions and Answers 2008 05 16



Canada

Health Canada
Santé Canada

Pest Management
Regulatory Agency



**Physician groups say 2,4-D can cause cancer in children.
How can Health Canada say it can be used safely ?**

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(PEST MANAGEMENT REGULATORY AGENCY OF HEALTH CANADA (P.M.R.A.) QUESTIONS AND ANSWERS — FINAL DECISION ON THE RE-EVALUATION OF 2,4-D, 2008 05 16)

No other international regulatory body considers 2,4-D to be a human carcinogen. Based on all available and relevant data, **Health Canada** agrees with this position.

When re-evaluating a pesticide, **Health Canada** has access to the available scientific information on that product including an extensive database of toxicology studies, epidemiology studies, and numerous other scientific reports. No other non-regulatory group or organisation carries out this detailed level of review to determine if a product can be used safely when used according to label directions. **Health Canada** determines allowable uses, doses and other label instructions for each pesticide product.

Pesticides are regulated by Health Canada under the Pest Control Products Act, and are among the most stringently regulated substances in Canada. The Pest Management Regulatory Agency (P.M.R.A.) is the branch of Health Canada that administers the Act on behalf of the Minister of Health. The primary objective of the P.M.R.A. is to prevent unacceptable risks to people and the environment from the use of pesticides.

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<< **F**rom your statements, I would have to assume that you must consider the 350 qualified scientists of the PMRA incompetent and/or incapable of arriving at correct scientific findings. >>

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Quote from

John Holland

April 5th, 2009

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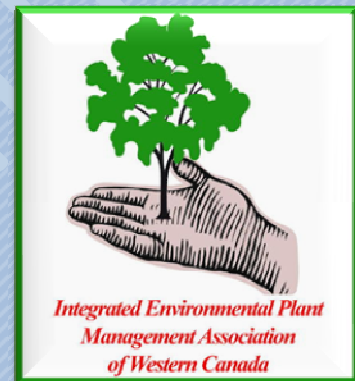
Background Information from an Independent Perspective.

Response from Integrated Environmental Plant Management Association of Western Canada

iepma@shaw.ca

05 April 2009

Hon. **Stockwell Day**
Minister of International Trade
Government of Canada
DayS@parl.gc.ca



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Minister Day :

I am the Communications Director for the **Integrated Environmental Plant Management Association of Western Canada (IEPMA)**. My position is a volunteer one (unpaid), and I have been retired for 4 ½ years. The reason I continue to work with the **IEPMA** is due to my increasing dismay with the trivialization, ignoring, and purposeful misinterpreting of science by environmentalist activists, as well as the total disregard for science and scientists from the Municipal to the Provincial level.

I have read — with great concern — of your promised support for the Province of Quebec's position on the banning of **2,4-D** in its fight against **Dow Chemical** (National Post, **March 29/09**).

Agencies of your own Government — namely **Health Canada** and the **PMRA** — have stated on numerous occasions that **2,4-D** poses no unacceptable risks to the public. For example, in the **Re-evaluation Decision RVD2008-11 (May 16, 2008)**, it is stated :

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Products containing **2,4-D** do not pose unacceptable risks to human health or the environment. They also have value for lawn and turf, agriculture, forestry and industrial uses when used according to the label directions proposed in previous consultation documents.

From your statements, I would have to assume that you must consider the 350 qualified scientists of the PMRA incompetent and/or incapable of arriving at correct scientific findings.

The same conclusion on the safety of **2,4-D** has been arrived at by the **PMRA**, the U.S **Environmental Protection Agency [EPA]**, and almost all other members of the **OECD**. Perhaps we should save a great deal of money, and simply get rid of all those scientists, since it appears that the very Government that provides their pay cheques does not feel it worthwhile to listen to them, and instead would base a decision relying on '**junk**' science. It should also be noted that recent re-evaluations have also been undertaken by the **European Union**, the U.S. **EPA**, New Zealand, and the **World Health Organization** — none of which classify **2,4-D** as a human carcinogen. **Are you suggesting that this multitude of scientists is wrong ?** Your position, at the very least, undermines the credibility of the **PMRA**, a highly and internationally respected Canadian agency.

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I have also read through the Briefing Note "**Potential NAFTA Challenge to Quebec's Ban of 2,4-D Lawn Pesticides**" (**March 24/09**) prepared by **Ecojustice** and other activist associations, and no doubt forwarded to you. As is the case in so many other activist documents, this one is replete with misleading and incorrect '**facts.**' Again, all you have to do is run this document past the **PMRA** for their interpretation.

As you may be aware, there are also numerous misleading — or unscientific — studies with such a negative point of view, such as the **Ontario College of Family Physicians' [OCFP] Pesticide Literature Review (2004)**. This review has been used to support almost every proposed pesticide ban, from the Municipal to the Provincial (e.g., Ontario) level.

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The information used by those like the **OCFP** has been cherry-picked by the physicians — not scientists — writing the report, and the report has been discounted by many scientists and government experts in this and other countries. Studies used are generally all epidemiological, and links to cancer and other diseases have been weak and not consistent from study to study. Toxicological studies do not confirm the epidemiological findings. By definition, epidemiology cannot find causes : they merely suggest correlations, and the basic tenet of epidemiology is that correlation does not mean causation. Studies must also be consistently reproducible before a finding can be found meaningful. At any rate, the **OCFP** study ignored or down-played other important epidemiological studies that did not conform to its premise of the dangers of pesticides (again, check with the **PMRA**).

2,4-D has been registered in our country since **1946**, and is the third-most used herbicide in Canada. If there were health problems related to **2,4-D**'s application, it would seem obvious that concrete proof — after **over 60 years of use** — would have surfaced by now, particularly when you realize that there have been thousands of studies, and numerous re-evaluations by both **Health Canada** and the U.S. **EPA**. This herbicide is probably the most studied pesticide in history.

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I am not generally a supporter of large international conglomerates such as **Dow**. However, when a company follows all Provincial and Federal regulations, and when a chemical they produce is banned from use solely because of political considerations, what options are available ? There are absolutely no bona fide scientific grounds upon which to ban **2,4-D**. It is the **Government of Quebec** that has forced **Dow** into the position it now takes. When one side abides by all the governmental rules, while the other side does not, what other direction can be taken ?

As the **Minister of Trade**, you should be supporting the right of businesses and industries to operate within the rules you set. It is easy to take a stance against what is viewed by many simply as "**Big Business**," and more difficult to do the right thing in such situations.

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It has been noted, by scientists and many others, that the numerous bans of pesticides, from the Municipal to the Provincial level, will have a negative effect upon the research and development of new and important pesticides. Why would a company spend **hundreds of millions of dollars** and **up to 20 years** for development in an uncertain market ? One of the reasons we are able to enjoy the life that we now do is because agriculture no longer requires millions more labourers employed in the production of food, something that would be required if no pesticides were used. Pesticides have ensured us good crops and food at reasonable prices. The activists that are adamantly behind the ban of so-called '**cosmetic**' pesticides have made it clear that they will next be looking at the golf course industry and then agriculture itself. By supporting the ban of tested and proven products such as **2,4-D**, you are helping the activists along this course.

Neither you nor the **Government of Canada** has to directly back **Dow** or any corporation in this situation. I am requesting, as a citizen of the Okanagan and a taxpayer of Canada, that my representatives and Government back science and not a political position. What I have outlined in this letter does not even touch upon a fraction of the scientific information that is easily available. Any facts or science on the subject that you could possibly require can be obtained as easily as contacting your Government's own **PMRA**.

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If you do believe that your position and that of **Quebec**'s is based upon science, I would appreciate it if you could forward me links or directions as proof of this. I would like to know what information you have that is not available to **Health Canada**, the **PMRA**, the U.S. **EPA**, the UK Government, and many others. After being involved in the tree and lawn care profession for **30 years**, and after many years of doing my own investigations on the effects of pesticides on human health, I have yet to discover any legitimate and reproducible scientific study that could possibly lead me to conclude that **2,4-D** poses a risk to either the general public or to the applicators themselves. As the author Anatole France once said, "*If fifty million people say a foolish thing, it is still a foolish thing.*"

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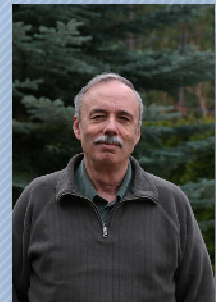
I realize that the **Conservative Party** would like to increase its popularity in **Quebec**, but I firmly believe it is time that Government — at all levels — comes to the support of science without engaging in partisan politics.

Recently, you stated that, *“Despite scientific evidence that supports humane harvesting techniques, and testimony from Inuit communities as to the harmful effect of the proposed ban, the EU continues to push forward with a proposal that will damage the livelihood of coastal and northern Canadians and their families”* (**CBC News, April 3, 2009**). Is science only fit to be used when it supports your political position ? Do you not realize that the proliferation of pesticide bans is financially harmful to the thousands of applicators employed in the service industry ?

It is time to do the right action for the right reasons. Eventually, I believe that the truth — as supported by real science — will become apparent to all involved. I would hope that thinking and intelligent people would want to be seen as having been on the right side.

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John J. Holland
Communications Director
Integrated Environmental Plant Management Association of Western Canada
iepma@shaw.ca



cc: Prime Minister **Stephen Harper**
Hon. **Ron Cannan**
Hon. **Michael Ignatieff**

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10/08/2009

Dow formalizes NAFTA challenge to Quebec pesticides ban

Media Release

Statements and availability of environmental experts

April 9th, 2009

U.S. chemical manufacturer **Dow Agro-Sciences** LLC has filed a formal notice of arbitration, under **NAFTA Chapter 11**, challenging the legality of Quebec's ban on **2,4-D** lawn herbicides. This follows the notice of intent filed by **Dow** last fall. The **David Suzuki Foundation** and **Équiterre**, represented by legal counsel at **Ecojustice**, call upon the Government of Canada to vigorously defend **Quebec's** ban on lawn chemicals.



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The following spokespeople are available for comment :



Lisa Gue, David Suzuki Foundation
613-594-5428 or 514-316-4646
lgue@davidsuzuki.org



Will Amos, Ecojustice
613-562 5800 ext. 3378
wamos@ecojustice.ca



Hugo Seguin, Équiterre
514-247-1006
hseguin@equiterre.org

Quebec Prohibition of Pest Control Products.

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Issue Backgrounder :

<http://www.ecojustice.ca/media-centre/media-backgrounder>

Notice of Arbitration :

<http://www.international.gc.ca/trade-agreements-accordscommerciaux/assets/pdfs/DowAgroSciencesLLC-2.pdf>

“Dow’s actions clearly shows that, for this company, promoting its economic interests trumps public health concerns. Shame on Dow. This kind of irresponsible corporate behaviour has no place in Québec and Canada.” – **Hugo Seguin**, coordinator, **Équiterre**

“We cannot allow U.S. businesses to handcuff provinces from applying the precautionary principle when it comes to protecting residents from potentially cancer-causing chemicals. We will seek to intervene before the NAFTA tribunal and submit the viewpoint of environmental groups.” – **Will Amos**, staff lawyer with the **University of Ottawa-Ecojustice Environmental Law Clinic**

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“The Government of Canada’s stance on this issue could have serious implications both in Quebec and across the country. We believe provinces and citizens are on the right side of this issue, and encourage the federal government to take a leadership role and set a high standard for protection of human health and the environment.”
– **Lisa Gue**, environmental health policy analyst, **David Suzuki Foundation**



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Dow concrétise ses attaques au Code de gestion des pesticides du Québec et à son interdiction du 2,4-D en vertu de l'ALENA

Le 9 avril 2009

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Avis aux médias



Le fabricant américain de produits chimiques **Dow AgroSciences** LLC vient de déposer un avis d'arbitrage, en vertu du **chapitre 11** de l'**Accord de libre-échange nord-américain (ALENA)**, contestant l'interdiction **québécoise** de l'herbicide **2,4-D** dans les pesticides pour pelouses. De concert avec **Ecojustice**, **Équiterre** et la **Fondation David Suzuki** demandent au gouvernement canadien de défendre énergiquement l'interdiction **québécoise** des pesticides chimiques pour pelouses.

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Pour des commentaires, les porte-parole suivant sont disponibles :



Lisa Gue, Fondation David Suzuki
613-594-5428 ou 514-316-4646
lgue@davidsuzuki.org



Will Amos, Ecojustice
613-562 5800 ext. 3378
wamos@ecojustice.ca



Hugo Seguin, Équiterre
514-247-1006
hseguin@equiterre.org

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Fiche d'information :

www.equiterre.org/organisme/sallePresse/communiqués.php

<http://www.ecojustice.ca/media-centre/media-backgrounder>

Avis d'arbitrage :

http://www.international.gc.ca/trade-agreements-accords-commerciaux/dispdiff/agrosciences_archive.aspx?lang=fra

« Il est maintenant clair que pour Dow, la santé publique et celles des enfants passe après la promotion de ses intérêts économiques. Ce genre d'attitude irresponsable n'a pas sa place au Québec et au Canada ». — **Hugo Seguin**, Coordonnateur aux choix collectifs, **Équiterre**

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« Nous ne pouvons permettre à des entreprises américaines de menotter les provinces et de les empêcher d'appliquer le principe de précaution alors qu'il faut protéger les citoyens des produits chimiques potentiellement cancérigènes. Nous allons chercher à intervenir devant le tribunal de l'ALÉNA pour soumettre le point de vue des groupes environnementaux ». — **Will Amos**, avocat à l'emploi **Clinique de droit de l'environnement du Ottawa-Ecojustice**.

« La position du Gouvernement du Canada sur cet enjeu pourrait avoir de grandes incidences au Québec ainsi qu'à travers le Canada. Nous croyons que les provinces et les citoyens sont du bon côté de cette bataille et nous encourageons le gouvernement fédéral à faire preuve de leadership et à élever les standards de protection de la santé humaine et de l'environnement », — **Lisa Gue**, analyste de politiques en santé environnementale, **Fondation David Suzuki**

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FORCE OF NATURE was launched for continuous transmission on the Internet on January 1st, 2009. It is a series of e-newsletters destined for the **Green Space Industry**, the **environmental movement**, politicians, municipalities, and the media, nation-wide across Canada, and parts of the United States. **Force of Nature** is produced in two parts. First. The **Media Report** itself that reports on the current events affecting the future of the **Green Space Industry**. Second. **Independent Perspective**, which is a running commentary, sometimes also of a more technical in nature.

Force of Nature is the brainchild of William H. Gathercole and his entourage. The opinions expressed in these e-newsletters, even though from an **independent perspective**, may not reflect those of everyone in the **Green Space Industry**, or Mr. Gathercole's many associates. Be warned ! Mr. Gathercole and his team may sometimes be very irreverent and fearless with these e-newsletters.

William H. Gathercole holds a degree in Horticulture from the **University of Guelph**, and another pure and applied science degree from **McGill University**. He has worked in virtually all aspects of the **Green Space Industry**, including public affairs, personal safety, and environmental issues. Mr. Gathercole has been a consultant and instructor for decades. Mr. Gathercole has been following the evolution of **environmental terrorism** for over a quarter-century. His involvement in environmental issues reached a fevered pitch in the 1990s, when he orchestrated, with others, legal action against unethical and excessive municipal regulations restricting the use of pest control products. (i.e. the Town of Hudson.) Although he can be accused of being **anti-environment-movement**, he is, in fact, simply a strong advocate for the **Green Space Industry**. However, this position has not precluded him from criticizing the industry itself. Nonetheless, his vast knowledge of our long journey with environmental issues is **undeniable**. (Hopefully !) For many years, Mr. Gathercole has been a contributing columnist for **TURF & Recreation Magazine**, Canada's Turf and Grounds Maintenance Authority.

All pictures contained in **Force of Nature** were found somewhere on the Internet. We believe that they are in the public domain, as either educational tools, industry archives, promotional stills, publicity photos, or press media stock.

Information presented in **Force of Nature** has been developed for the education and entertainment of the reader. The events, characters, companies, and organizations, depicted in this document are not always fictitious. Any similarity to actual persons, living or dead, may not be coincidental.

The following titles are currently available. (Or, will be available in the near future.) • Alberta Prohibition • British Columbia Prohibition • Canadian Association of Physicians for the Environment • Consequences • David Suzuki Foundation • DDT and Our World of Politicized Science • Death and the Environmental Movement • Golf and Landscape Trade Industries • June Irwin, The Princess of Junk Science • Kazimiera Jean Cottam • Kelowna BC Prohibition • New Brunswick Prohibition • Nova Scotia Prohibition • Ontario Prohibition • Organic Fertilizers • Pets and Lawn Care Chemicals • Prince Edward Island Prohibition • Quebec Prohibition • Rachel Carson, The Queen of Junk Science • Randy Hillier, The Next Premier of Ontario • Salmon Arm BC Prohibition • The 9/11 Era of the Green Space Industry • The Failure of Integrated Pest Management • The Industry Strikes Back • The Misconceptions About Cancer • The Wisdom of the Solomons • Wisconsin Fertilizer Prohibition • **ASK FOR A COPY OF ANY BACK ISSUE OF FORCE OF NATURE TODAY.**

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