



# WHY WE SHOULDN'T TRUST WHAT POLLUTERS SAY

## Lessons of Japan's Nuclear Disaster

### Introduction

It's a heartbreaking spectacle. Japan's Fukushima nuclear reactor spewing radioactive material into the air and ocean. Yet, even though it's half a world away, this disaster offers a lesson to Americans that is much bigger than simply, "Let's be careful about nuclear power." The message really is: "We cannot afford to trust our health and environment to what polluters say."

We should admire the Japanese for their discipline and unity under crisis, of course. But we shouldn't mimic the extraordinary trust and obedience they extend to the powerful companies that dominate life in Japan. These companies – like the Tokyo Electric Power Co. ("TEPCO"), that operates the Fukushima plant – use the people's trust to conduct their business in a culture of secrecy.

The result is a nuclear power plant built on the ocean's shore in the heart of an earthquake-active region that is not designed to withstand a tsunami, and "safety" reports publicized in the aftermath of the tsunami-driven disaster that falsely underplayed the danger to the Japanese people from the escaping radiation.

While TEPCO at first said the radiation levels were only modest, and asked for the evacuation of citizens within just 20 kilometers of the plant, America's Nuclear Regulatory Commission – no protector of the people, by any means – described those same radiation levels as "extremely high," and insisted on the evacuation of all Americans within 80 kilometers of that plant. After weeks of TEPCO's false assurances, we now know the truth: Fukushima is history's worst nuclear power plant disaster.

We Americans shouldn't get too smug about this. Before we write Fukushima off as something that happened far away and would never happen here, let's be honest: We Americans give the same undeserved trust to our companies. We allow them repeatedly to belch poison into our air and water without making them pay a price for it; without demanding that they tell us the full truth about what they have done; and without making them clean it up.



Sometimes it's because we're just so happy to have the jobs that we tolerate this treatment. Sometimes it's because we're not paying attention, and so we don't know what they're really doing to us. Sometimes it's because we believe – and we're wrong when we do – that if there really were a serious environmental danger our government would tell us and protect us. With the more than 20,000 people I have represented against polluters in the last decade, all of these explanations apply.

Below, I tell a real-life story from my first pollution case, where a consultant for the polluter, like the spinners at Japan's TEPCO, falsely assured the people about their safety. And I itemize the lessons that a decade of battling polluters has taught me about the things we hear from polluters that we just cannot afford to trust.

In the end, the vigilant protection of our health and environment – whether here or in Japan – demands that we not accept on faith whatever polluters want us to believe.

### **Polluter Statements You Shouldn't Trust**

I'll never forget what he said.

In the first pollution case I ever worked on, the consultant for the polluting company looked reassuringly into the eyes of the many anxious families who had come to the public meeting to get some answers. They wanted to hear from the consultant about whether the toxic chemicals that the company had dumped onto its property – right across the street from the families – had contaminated the groundwater. It's the water that for years had been piped into their homes, and used for drinking, preparing food, and bathing.

"I've done studies," the consultant said, "and I can promise you that the contaminated groundwater never got off the company's property. So, it could not possibly get to your homes."

He was wrong. Testing a few months later would prove it: at the very moment that the consultant was offering his most sincere assurances to those families, the contaminated groundwater not only had gotten off the polluter's property, and moved across the street, *but had in fact traveled three miles off the company's property, and was underneath thousands of homes in three different towns.* It had been there for years.



The point of the story? *You can't trust what polluters tell you about how bad their pollution is.* There are different reasons for this. *Some are just liars.* They lie about having dumped the chemicals in the first place, and then they lie about the damage it's done. *Others are cheap;* they know that if they admit that they polluted their neighborhood they may have to pay a lot of money to clean it up.

*And still others are in denial;* like Japan's TEPCO, they don't like to think of themselves as the kind of company that would hurt people or the environment, so they pretend that they didn't. Whatever the reason, their incentive is to not tell you the truth.

Here's a list of favorite lines from "The Polluters' Public Relations Playbook." I accumulated these "Playbook" lines over the last decade, fighting polluters in court on behalf of families, and challenging polluters on their phony assurances. Don't buy any of these lines. Your trust may actually put you and your family in danger.

(1) ***"The levels of the contamination are not high enough to hurt anyone."*** That's what TEPCO first told the people of Japan. The truth is that most of the chemicals polluting American groundwater – like "TCE" and "PCE" – were once used to clean grime off parts in a factory. So, you don't need a scientist to prove that these chemicals don't belong in the human body. Confirming this, USEPA officially states that there is no safe level for TCE and PCE. So, don't let anyone tell you otherwise.

(2) ***"We're working with the Environmental Protection Agency on the problem."*** The truth is that many polluters hire a small army of lawyers and consultants to fight EPA, and convince EPA that the problem isn't very serious, or that the company had nothing to do with it in the first place.

Over the years – and many of these problems sadly play out over years, even decades – the polluter's army usually wears down the under-staffed EPA, with the result that the final clean-up "solution" ordered by EPA does not really protect the people that EPA is in business to protect. As we saw in the recent round of budget cuts, the understaffed EPA just got their already-thin budget slashed by billions of dollars, money that can't be used to protect you. You're going to have to protect yourself.

It's more accurate to say that polluters "work with" EPA like fox "works with" the hens.



(3) **"The contamination is fully contained on company property."** See my "consultant" above. The truth is that the polluter often does not really look to see how far its pollution has spread. The game is this: the polluter does not actually test the groundwater in the neighborhood that might have been contaminated with the polluter's chemicals. Why? Too dangerous.

They might actually discover contamination there. Instead, the polluter hires a consultant who develops a "model" – a very expensive guess, really – that uses many loaded assumptions to predict, voila!, that the contamination actually hasn't moved very far at all. It is by this process that the polluter's consultant can confidently assure nervous families that the contamination hasn't moved off his client's property....when it has already moved 3 miles off the property, and polluted thousands of homes.

(4) **"We take very seriously the health of our neighbors."** The truth is that many polluters *hide* the truth from their neighbors for years. Or, like TEPCO, for however long they can get away with it. Polluters live in fear of the moment that the neighbors do find out, and work overtime to keep them in the dark. Beyond the terrible immorality of keeping this kind of information a secret, the polluter is hurting itself with the secrecy.

The longer the pollution remains a secret, the more harm it does, and the more expensive it is to fix. For my client-families, the most anguishing part of their neighborhood being contaminated is finding out that the company knew years ago that they were in danger, but didn't respect them enough to give them the information they needed to protect themselves and their children.

(5) **"Yes, your neighbor's well is contaminated, but yours tested clean."** The truth is that wells don't get contaminated, the groundwater that feeds the wells does. The contaminated groundwater feeding your neighbor's well is the same groundwater feeding yours. And that groundwater is always on the move, meaning that the levels of contamination discoverable in any given water well are always moving and always changing.

So, while your well tested "clean" today, literally tomorrow it might test with a high level of contamination. . . and tomorrow your neighbor's well may test "clean." Bottom line: if today your neighbor's well tests as contaminated, you should assume that yours is too, or will be, and take the same precautions.



## Conclusion

It's a very human tendency in the wake of disturbing news to hear assurances and want to believe them. When we are jarred by learning that our air or soil or water may be polluted, our minds search anxiously for the words that restore our peace of mind. We want to be returned as quickly as possible to the feeling that our homes and neighborhoods are safe. So when someone, even the polluter, says to us: "Don't worry, you're safe," we really want to trust it.

But history tells us, again and again, that this trust is not deserved. Or worse, it is dangerous, because it causes us to drop our guards, when we should be aggressively protecting ourselves and those we love. That goes for here. That goes for Japan. That goes for any place that there are human beings and polluters who mistreat them.



### **Shawn M. Collins, Esq.**

An outstanding trial attorney and litigator, Shawn was honored as a finalist for the *Daily Herald* newspaper's "Person of the Year" award for **his work on behalf of the families in Lisle, Illinois to secure a safe source of drinking water after learning their groundwater had been contaminated with trichlorethylene (TCE) from a local manufacturing plant.** The two lawsuits Shawn filed on behalf of these families resulted in settlements of \$10 million and \$16.9 million.

Since 1986, Shawn Collins has combined his powerful communication skills with an unrelenting commitment to his clients' causes to win trials and secure favorable settlements in courts across America. Shawn has been named one of the top 100 trial lawyers from The American Trial Lawyers Association.