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STATE CAPITOL REPORT

Vol. 27, No. 12

Publication of the Lone Star Chapter Sierra Club

August 31, 2009

Sierra Club and Environment Texas File Second Lawsuit to Cut Air Pollutant Emissions in Harris County

Groups Allege Illegal Pollution from “Upset” Events at Chevron Phillips’ Cedar Bayou Chemical Plant in Baytown

Sierra Club and Environment Texas filed a lawsuit August 19 in federal district court against Chevron Phillips Chemical Company LP. The suit, coming on the heels of the groups’ landmark settlement with Shell Oil Company in June targeting illegal air emissions arising from so-called “upset” events, claims that Chevron Phillips has repeatedly violated the Clean Air Act at its Cedar Bayou chemical plant in Baytown, Texas. The suit alleges the company released more than a million of pounds of excess air pollutants since 2003, including toxic chemicals such as benzene and 1,3-butadiene.

The groups expect to discuss a resolution of their claims with the company in the near future.

Chevron Phillips had net income of \$1.04 billion in 2006, \$387 million in 2007, and \$103 million in 2008. It is the primary subsidiary of Chevron Phillips Chemical

Company LLC, which is owned equally by Chevron Corporation and ConocoPhillips. The 1,200-acre Cedar Bayou facility is located right next to Interstate 10, about 25 miles east of downtown Houston. It is the largest of Chevron Phillips’s domestic manufacturing facilities, producing over six billion pounds of chemicals annually.

“Like many companies in Texas, Chevron Phillips has repeatedly violated its own permit limits by emitting a wide range of harmful pollutants into the air from the Cedar Bayou plant,” said Luke Metzger, Executive Director of Environment Texas. “Because the state of Texas has failed to stop such violations at Cedar Bayou and elsewhere, citizen groups have had to step up and enforce the law themselves.”

The Clean Air Act contains a “citizen suit” provision that allows private citizens affected by violations of the law to bring an

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enforcement suit in federal court if state and federal regulators do not.

“The effects of pollutants released from the Cedar Bayou plant can be felt as far away as downtown Houston and beyond,” explained Dr. Neil Carman, a chemist and the Clean Air Program Director for the Lone Star Chapter of Sierra Club. “I know because on October 7, 1999, I was in Houston when a cloud of volatile organic compounds released from a single upset event at the Cedar Bayou plant contributed to extraordinarily high ozone levels all along the Houston Ship Channel and in the City of Houston itself; it was the single worst ozone day in Houston in the last twenty years.”

Chevron Phillips’s permits contain both hourly and yearly limits on the amounts of pollutants it can emit into the atmosphere. The lawsuit alleges that equipment breakdowns, malfunctions, and other non-routine incidents at the Cedar Bayou complex have resulted in the release of more than a million pounds of pollutants into the surrounding air, frequently in violation of legal limits. A single such “upset” or “emission event” can result in the release of tens of thousands of pounds of air pollutants in a matter of hours or even minutes.

The groups’ analysis of Chevron Phillips’s own emission event reports submitted to the Texas Commission on Environmental Quality

since 2003 reveals:

- Over three-quarters of a million pounds of unauthorized emissions of volatile organic compounds (VOCs);
- Over 300,000 pounds of unauthorized emissions of carbon monoxide;
- Nearly ten tons each of unauthorized emissions of benzene and 1,3-butadiene;
- Ten separate violations of the state’s hourly limit on “highly reactive VOCs,” the chemicals most responsible for ground-level ozone formation;
- Nine instances in which flares were operating without a flame in violation of federal law, allowing the release of pollutants with no control whatsoever.

VOCs and carbon monoxide contribute to the formation of ground-level ozone, which, according to EPA, can trigger a variety of health problems including chest pain, coughing, throat irritation, and congestion. Air quality in Harris County regularly violates standards for ground-level ozone set by EPA. Benzene and 1,3-butadiene are carcinogens.

The lawsuit seeks a court order requiring Chevron Phillips to end its Clean Air Act violations. In addition, Chevron Phillips faces civil penalties of up to \$32,500 or more per day for each violation of the Clean Air Act.

FACT SHEET: AIR POLLUTION FROM “EMISSION EVENTS” AT CHEVRON PHILLIPS’ CEDAR BAYOU PLANT

Since 2003, Chevron Phillips’ Cedar Bayou chemical plant in Baytown, Texas, has emitted more than **one million pounds of air pollutants** during hundreds of so-called “**upsets**” or “**emission events**” – equipment breakdowns, malfunctions, and other non-routine occurrences. Environment Texas and Sierra Club allege that these upsets resulted in **hundreds of violations** of the federal Clean Air Act and state-issued air emission permits during that time.

The **Texas Commission on Environmental Quality** has issued fines and violation notices to Chevron Phillips, but **has failed to solve the problem**:

POLLUTANTS RELEASED DURING CHEVRON PHILLIPS’ EMISSION EVENTS⁽¹⁾ (quantities in pounds)

	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009⁽²⁾</i>	<i>Total</i>
VOCs ⁽³⁾	58,126	115,905	57,658		5,563		17,817	804,547
Carbon monoxide	18,540	85,781	35,667	96,764	5,006	62,498	11,588	315,844
NOx ⁽⁴⁾	2,665	13,084	4,903	13,408	780	8,972	1,644	45,456
Benzene	489	1,858	2,171	3,514	141	8,188	892	17,253
1,3-Butadiene	808	6,246	3,174	2,222	160	4,515	1,738	18,862
TOTAL	79,331	214,770	98,228		11,349		31,050	1,165,848

(1) Emission data is calculated from Chevron Phillips’ own emission event reports to TCEQ; only emissions that violated a permit limit (even if not all of the amount emitted was above the limit) are included here.

(2) 2009 totals are through July.

(3) VOC totals include benzene and 1,3-butadiene.

(4) NOx includes NO₂, NO and nitric oxide.

ROLL BEYOND COAL, Austin!

Austin can phase out Fayette Faster with Clean Power & Green Jobs

Austin Energy Plan: a Good Start, and...

Austin Can Do Better!

On August 18th, Austin Energy gave recommendations to the Mayor and City Council for its plan to meet Austin's energy needs by 2020 while meeting the City Council's goal of at least 30% renewable power. The proposed electricity generation plan includes: over 200 megawatts (MWs) of solar power, over 1,000 MWs of wind, and 150 MWs of biomass to provide more than a third of our electricity consumption with clean energy.

This plan also relies on additional natural gas and an unprecedented amount of demand reduction – 800 MWs – through energy efficiency and green building programs. Austin Energy's proposed plan does address Austin's secret addiction: the 607 MWs of energy we consume from burning coal at the Fayette plant. AE is ready to utilize new renewable resources and energy efficiency to reduce the use of coal by 40%, or about 240 MWs by 2020...maybe.

Austin Energy should be applauded for this initial plan which makes significant improvements in our renewable and energy efficiency commitments. However, Sierra Club and our Central Texas environmental partners believe that the City of Austin can and must do better than a promise to try and reduce coal by running Austin's power plant less.

It is time now for Austin Energy and the City Council to come up with a just transition for getting out of the coal plant completely.

The solution is to substantially increase:

- Energy Efficiency programs; and,
- Clean Renewable power, particularly solar; ...and roll beyond coal in Austin.

Can We Roll Beyond Coal?

Austin Energy's own consulting firm Pace provided the following scenario for Austin to end our dependence on Fayette coal by 2020.

Roll Beyond Coal, Austin! We can Phase Out Fayette Faster with a Just Transition

Fayette (Coal) Power Plant is jointly owned by the Lower Colorado River Authority (LCRA) and the City of Austin and managed by the LCRA. Austin has two options for phasing out Fayette faster. They can either sell their portion of the plant and LCRA would likely continue burning coal there and selling to Texas' regional electricity market. That would possibly reduce demand for other coal plants. Or, Austin could retain ownership of its portion, phase it out, and mothball it – some say in as soon as five years!

Mothballing the Fayette coal plant will depend upon factors such as price, the terms of

our present contract with LCRA, the potential to gain carbon credits by holding on to the plant and mothballing it, the potential to convert the plant to running on natural gas, and other options. These potentials can be modeled, studied and implemented.

Whatever route City of Austin takes, it must consider the impacts on ratepayers and our environment. Sierra Club and our environmental partner groups believe we can phase out Fayette in a just transition that is fair to ratepayers.

AE estimates that getting out of coal

entirely would cost about two percent more over 12 years than their draft plan. While that doesn't seem like a lot to pay for clean air and less asthma, the potential rate impacts are real and must be examined more closely.

The City Council should tell Austin Energy to end our addiction to coal by 2020 in the most cost-effective, economically fair, and environmentally responsible manner possible.

Steps to help replace Fayette coal entirely by 2020 include:

- Improving energy efficiency services to Austinites least able to

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Can We Roll Beyond Coal?

Austin Energy's own consulting firm Pace provided the following scenario for Austin to end our dependence on Fayette coal by 2020.

Year	Coal	Gas	Biomass	Wind	Geothermal	Solar	Renewable Portfolio %
2009	607	1,444	12	439	0	1	12.6%
2015	303	100	250	133	25	30	32%
2020	0	0	50	1,024	25	150	54%
Total	0	1,544	312	1,596	50	181	54%

The Above Scenario is one potential way to phase out the Fayette Plant. Sierra Club and our allies are working on a different scenario which will be more cost-effective.

Why Roll Beyond Coal? To eliminate a huge source of: carbon dioxide, the principal global warming gas; and, to eliminate toxic coal plant mercury, sulfur dioxide and smog-forming pollution. To clean up our air and stay healthy!

Dirty Power Plants: Air Pollution and Ozone

Sierra Club files evidence in Corpus Christi power plant case

U.S. Environmental Protection Agency raises concerns over Bay City power plant case

(Austin) -- Attorneys working on behalf of Sierra Club filed testimony and evidence in the Las Brisas Energy Center case, one of three hotly contested air permits currently pending before the Texas Commission on Environmental Quality.

“The proposed Las Brisas power plant in Corpus Christi, the Coletto Creek power plant expansion proposal near Goliad, and the White Stallion proposed power plant near Bay City represent a net increase of over 9,294 tons annually of ozone and smog-forming pollutants and 26.4 millions of tons annually of new carbon dioxide, the principal greenhouse gas that causes global warming,” said Neil Carman, chemist and Clean Air Program Director with the Sierra Club. “We don’t need these polluting plants to meet our energy needs in Texas and, if built, they jeopardize attainment of clean air standards

in Central and South Texas cities. Instead, we need to build the growing clean energy economy through renewable power and energy efficiency.”

Sierra Club is contesting all three air pollution permits, which have been referred to the State Office of Administrative Hearings by the Texas Commission on Environmental Quality.

U.S. Environmental Protection Agency (EPA) and Sierra Club object to lack of science in White Stallion Permit Application

Earlier this year, EPA’s Region VI raised concerns about the Bay City power plant’s proposal, stating that the proposed White Stallion power plant near Bay City would be “in direct conflict with control strategies developed to reduce ozone in the nearby Houston-Galveston-Brazoria Nonattainment Area.”

The current National Ambient Air Quality Standard (NAAQS) for ozone is expected to be strengthened this October and new, more protective standards could effect decisions on applied-for coal plant permits. NAAQ standards are established to protect public health from unsafe levels of air pollution for a few criteria pollutants such as ozone.



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State Capitol Report is a publication of the Lone Star Chapter
Sierra Club published 18 times a year.
Director and Editor: Ken Kramer
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Layout and production: Jerome Collins

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afford increased rates to make sure bill impacts stay low;

- A more aggressive low-interest loan program for homeowners to make their homes more energy efficient and add solar water heaters and panels;
- A more aggressive industrial efficiency program by raising the per-project cap that prevents many of Austin's largest employers from conserving energy;
- Investing in utility-scale solar plants including storage and natural gas back-up for baseload power;
- Expanding investments in geothermal resources;
- A more aggressive Combined Heating and Power initiative for institutional buildings;
- Utilizing the millions of dollars available in stimulus monies to promote energy efficiency and renewable power within Austin.



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CHEVRON PHILLIPS' UPSET EMISSIONS AND AIR QUALITY IN HARRIS COUNTY

The Cedar Bayou plant is one of the largest sources of air emissions among the 275 industrial plants in Harris County, ranking 9th in 2006 in that group for emissions of volatile organic compounds (VOCs).

Air quality in Harris County is consistently ranked as among the worst in the nation, particularly for ground-level ozone, or smog. VOCs, carbon monoxide, and nitrogen oxides (NO_x) all contribute to the formation of ground-level ozone.

Certain "highly reactive VOCs" ("HRVOCs") emitted by industrial facilities – ethylene, propylene, 1,3-butadiene, and butenes – have been found to play a particularly significant role in ground-level ozone formation in the Houston-Galveston-Brazoria area.

The vast majority of VOCs illegally emitted from the Cedar Bayou Plant are HRVOCs.





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 planning fun
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 Christi & Dallas, Texas
 Saturday, October 31!](#)**

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