



West Berkeley Alliance for Clean Air and Safe Jobs

Presentation

The following comments were presented February 7, 2007 at a community meeting attended by community members, Pacific Steel Casting Company, the Bay Area Air Quality Management District, and City of Berkeley officials.

February 7th Community Meeting Comments

by Janice Schroeder, volunteer speaker for the West Berkeley Alliance for Clean Air and Safe Jobs

My name is Janice Schroeder. Tonight I am a speaker for the all-volunteer grassroots community organization West Berkeley Alliance for Clean Air and Safe Jobs. Since it is impossible for me to speak for every member of the affected communities about Pacific Steel Casting's (PSC) toxic emissions, I will speak for myself to give a jumping off point for other community members to add their concerns and questions. I am not a scientist, environmental engineer or lawyer, so I'll leave very technical information to those present who are experts in those fields.

Since 1981 I have been physically affected when exposed to PSC's emissions. I have experienced nausea, headaches, eye and throat irritation and sometimes tightness in my chest. Over these past years, I have called PSC, the Bay Area Air Quality Management District (Air District), and different departments and officials in the City of Berkeley (City). I've attended numerous Air District hearings, Air District meetings, as well as the Air District's Board of Directors meetings. I've also attended many meetings of the Zoning Adjustments Board, the Berkeley City Council, District 1 community meetings, and recent closed meetings with the Mayor and other City officials. Most Air District meetings were scheduled in San Francisco and held during the morning; some City meetings were scheduled in the morning as well. This makes it very difficult for working people to attend; it is therefore not inclusive of all stakeholders.

Tonight I want to address areas where I demand to see change.

Pacific Steel Casting Company

PSC is quoted in the media as being a good neighbor or at least wanting to be a good neighbor. I'm sick of hearing this spin when PSC has not acted like a good, decent neighbor. They have not put pollution control equipment on Plants 1, 2 or 3 without putting up a legal fight and dragging their feet every inch of the way. It has required community protest, lawsuits, court orders and legal agreements to force them to slightly decrease their pollution. PSC has rebuffed repeated community requests for full transparency. These are not the actions of a good neighbor.

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Complain:

Whenever you are bothered by the burned pot handle/burned brake odor from Pacific Steel Casting Company complain to the Air District:
800-334-ODOR (that's 1-800-334-6367)

For example, in their draft Emissions Inventory Report of November 2006, they redacted flow diagrams and other pertinent information necessary for fully informed community comments, claiming the redacted data were trade secrets; another ploy to drag their feet and refrain from full transparency. I deserve to know what is being emitted into the air I breathe, and where it is emanating from in PSC's facility.

I was very appreciative of UC Berkeley research scientist Mike Wilson's verbal and written comments on PSC's operations, emissions and his suggestion that PSC adopt a Toxic Use Reduction (TUR) approach to clean up their facility. Instead of seriously discussing the TUR option with Mr. Wilson, his letter to PSC's Board was ignored. I believe PSC wanted to shut Mike Wilson up when they had their lawyers draft a FOIA letter to the City of Berkeley requiring any correspondences from Mr. Wilson related to PSC. Mike Wilson was also subpoenaed to provide all of his e-mails, etc. This threatened to take huge chunks of time from his university work and his private life. Is this kind of intimidation the action of a good neighbor? Has PSC allowed their hired PR and legal representatives to pressure and cajole the City as well?

PSC has repeatedly been asked by the community to stop operating with their huge doors open, to stop cooling their castings outside, and to stop blocking public sidewalks and streets with their products, but they continue these practices. Is this behavior conducive to being a good neighbor? Wouldn't the money currently being spent on the flawed Health Risk Assessment (HRA) process and on PSC PR spinmasters and lawyers be better spent on implementing a TUR approach, developing effective pollution control technology, modernizing the old plants, instituting best practices housekeeping procedures, and seriously working to end all toxic emissions?

PSC, on the recommendation of Ignacio de la Fuente, Oakland City Councilmember and President of PSC's worker union, GMP Local 164-B, hired AJE Partners as their public relations firm. Dion Aroner of AJE has close ties with Mayor Bates. She was his aide while he was our State Assemblyman. Dion Aroner and her partner talked with City Zoning Adjustments Board (ZAB) functionaries behind the scenes, during a late night hearing regarding fast tracking PSC's building permit for installation of a carbon adsorption system at Plant 3. A vote was taken by the ZAB at about 2 AM on that building permit. No stringent pollution control prevention conditions were put on the approved building permit.

Elizabeth Jewel, of AJE, was quoted in the media saying PSC uses no lead in their operations, when independent community wipe tests showed high lead levels and the Alliance questioned if some could be from PSC. Jewel's statement was a half-truth that does not build trust in the community, especially since PSC reported lead as one of its emissions according to the California Air Resources Board. One part of the recent consent decree between Communities for a Better Environment (CBE) and PSC includes a scrap metal program disallowing PSC from continuing to use scrap metal from automobiles or scrap metal containing lead as well as plastics, mercury or other contaminants. Are half-truths and distortions by PSC's consulting firm actions of a good neighbor? Recently PSC had AJE Partners produce a glossy newsletter mailed to 7,500 Berkeley residents. It did not provide information the community has been requesting. Wouldn't the money spent on this publication have been better used to begin a TUR approach?

For the approximately 100 PSC employees living in Berkeley, it is common decency for PSC to reduce toxics they use, to stop polluting and thus to protect its workers and their neighbors throughout the community.

The City of Berkeley

In the 1980s, the City claimed they had no jurisdiction over PSC and the pollution was all the responsibility of the Air District. Although there have been lots of meetings in the last two years with City officials, commissions and the ZAB none have resulted in substantial, proactive measures ending PSC's pollution of our air. I want the City to review PSC's use permit and add stringent conditions as well as to use codes and legal avenues to stop PSC's cooling of casting outdoors, operating with doors open, and blocking public streets and sidewalks with their operations.

For a start, the Mayor and Councilmember Maio should take daily walks near PSC and call in odor complaints every time they smell PSC's distinctive odors. Public nuisance calls from public officials carry more weight with the Air District.

Instead of the complainants calling the mayor after they make an odor complaint, the mayor can experience Air District inspector response time firsthand. But I warn him not to expect an inspector before 9 AM, after 5 PM or on weekends.

Mayor Bates is on the Air District Board. He must enlighten other Board members and demand changes in the Air District Complaint Guidelines and in enforcement policy for on-going polluters.

In addition, the City Council must hold a public hearing regarding PSC immediately.

The City should provide full transparency and easy access to any phone calls, talks or correspondences officials have with PSC, AJE Partners, the Air District or PSC's union officials. The City must allow all members of the public to attend discussions regarding PSC.

The City of Berkeley adopted the precautionary principle, yet I don't feel the City is following this principal with regard to PSC's operations. The City should provide clear incentives for PSC to adopt a TUR approach. The Mayor and the City Council should encourage Assemblywoman Loni Hancock to introduce a state bill advocating the adoption of TUR, with a timeline for TUR implementation and hefty incentives for California industry.

Bay Area Air Quality Management District

The Air District must set up Continuous Emission Monitors (CEMs) with easy public access to emissions results, and conduct comprehensive air testing at PSC's stacks, fencelines and in the community.

Reject PSC's flawed Emissions Inventory Report, stop the broken Health Risk Assessment (HRA) process and replace it with a Toxic Use Reduction approach and offer incentives for industry. I urge this because after the Air District approves the flawed PSC HRA, I don't want to be told that the level of toxic emissions I breathe from PSC is acceptable. No level of toxic emissions is acceptable to me! PSC delayed this report for a year forcing the Air District to file a lawsuit against PSC.

The Air District released PSC's delayed draft Emissions Inventory Report on Dec. 18, 2006, the beginning of holiday vacations for many. Last year, the Air District released a backroom settlement agreement reached with PSC on Dec. 20, 2005. Is this timing merely a coincidence? The Air District extended the public period for comments from Dec. 31, 2006 to Jan. 22, 2007 but said the District would only respond to some public comments. Is this fair and just? At a recent closed meeting called by the Mayor, Air District representatives questioned why the public waited so long to request a Freedom of Information Act (FOIA) for vital redacted portions of the draft Emissions Inventory Report. I, like many other members of the community, use my time working for a living and also have minimal technical expertise to fully wade through and analyze these detailed reports. Unlike the HRA process, a TUR approach would assure all stakeholders a place at the table during the process of seriously working with PSC to clean up its operations.

Next, the Air District complaint guidelines must be overhauled. When a polluter like PSC has a long pollution history (1981 to present), modifications must be made in the complaint process. How many years must I keep a public nuisance log of complaints and/or times I have been bothered by PSC's emissions? How many years must I call and then wait for inspectors to come to confirm my called in complaints? Why does it still take five confirmed complaints within a 24-hour period before a Notice of Violation (NOV) might be issued against PSC although it is an on-going pollution problem? Why are inspectors not available 24/7?

According to District brochures, Air District inspectors can cite facilities for violating the District's own pollution regulations, such as regulations against offensive odors, during the inspector's normal duties before any complaints are made by the public. During their normal duties have District inspectors been and are inspectors now citing PSC for offensive odors before public complaints have been made?

Two Air District brochures give different annual statistics regarding public nuisance complaints – 2,500 or 4,000 complaints annually. According to monthly Air District complaint printouts for 2005, complaints attributed to PSC

numbered over 700. In 2006, complaints attributed to PSC numbered over 800. Is PSC currently considered an “On-going Potential Nuisance site”? According to the Air District Complaint Guidelines, this category requires a dispatch time within 15 minutes, and an inspector response within 30 minutes of a phoned complaint. With PSC’s public nuisance history and this high volume of PSC complaints, why is it still up to the discretion of the supervisor whether inspectors will be dispatched before or after regular business hours? Why did it take two days before an inspector responded to a Dec. 1 complaint, according to District complaint records?

Well, the Air District won’t necessarily send inspectors at the right time. In the use permit granted by the City, PSC’s operations are divided into three shifts six days a week. Shift one is full operations (from about 5AM – 1:30PM), shift two is maintenance and finishing (from about 1:30 PM – 10:00 PM), and shift three is full operations (from about 10:00 PM – 6:00 AM). The Air District has no guarantee of enforcement capability to confirm complaints after hours when complaints are called in before 9 AM, after 5 PM, or on weekends. Compounding these problems, some inspectors have actually discouraged the public from continuing to complain (e.g. claiming PSC is being sued, PSC has installed a carbon adsorption system on Plant 3, PSC has reached a settlement agreement with the Air District, PSC is trying their best, give them a break, etc.) Complaint guidelines must change if the Air District is serious about regulating on-going polluters like PSC.

Air District monthly complaint printouts do not accurately list which plant is causing the public nuisance, or if a Notice of Violation was issued during that month. For instance, a letter from the Air District public records department stated that from January 1, 2000 to October 17, 2006 PSC’s Plant 1 received 7 complaints, Plant 2 received 1,551 complaints, and Plant 3 received 31 complaints. Despite these figures, the community has been told that Plant 3 accounts for the majority of public nuisance complaints since 2004. When will the community get accurate public records information?

Air District inspectors document when complainants allege health effects by checking a box on their reports. I requested the number of complainants who alleged health effects from 2000 to the present. The Air District claimed they did not keep complaint records organized by nature of complaint. A later E-mail from public records said the Air District did not track health effects. However, Air District brochures state that public nuisance law prohibits emissions that cause bad odors, health problems or property damage. Isn’t this information vital for the public to have, and for the Air District’s enforcement/legal divisions to have for possible litigation?

Conclusions

There are many things that have gone wrong for too long, but I want to focus on how to make them right. I ask only that Pacific Steel, the Air District, and the City finally and adequately address the community’s need for clean air and safe jobs. Here’s how. Policy changes and real action for PSC, the Air District, and the City are vital to insure actual:

- Full transparency
- Accountability
- Facility modernization and housekeeping best practices
- A workable, modified complaint system
- Replacement of toxic substances with harmless ones
- Effective and properly maintained pollution prevention controls
- Proof that the pollution is gone for good
- Continuous Emission Monitors; comprehensive air testing in the community as well as at PSC’s stacks, and fencelines; and easy public access to these test results
- Community inclusion in all decisions

In short, I need Pacific Steel, the Air District, and the City to join with the community now in genuine Toxic Use Reduction.