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STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL SERVICES

WESTLAKE COUNCIL CHAMBERS

1001 MULBERRY STREET
WESTLAKE, LOUISIANA
RE: Administrative Order
for Post-Closure Care of
Hazardous Waste Unit

PUBLIC HEARING
AND
REQUEST FOR PUBLIC COMMENT ON
ADMINISTRATIVE ORDER FOR POST-CLOSURE
CARE OF HAZARDOUS WASTE UNIT

Pursuant to Notice, the above-entitled matter
came on before Public Hearing on September 9,
2008 at 6:01 p.m. at Westlake Council Chambers,
1001 Mulberry Street, Westlake, Louisiana
before Robert Reine, Hearing Officer. Reported
by Carolyn LeBlanc.

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PROCEEDINGS
MR. REINE:

Let the record reflect that the
time is 6:01 p.m. My name is Robert
Reine. I am employed with the
Louisiana Department of Environmental
Quality. I will be serving as the
hearing officer this evening, Tuesday,
September 9, 2008.

The hearing is scheduled to accept
public comments concerning the
Administrative Order for Post-Closure
Care for ConocoPhillips Company, Lake
Charles Refinery. The facility is
located at 2200 Old Spanish Trail,
Westlake, Louisiana 70669, Calcasieu
Parish. Agency Interest Number 2538,
EPA ID Number LAD990683716 and
Activity Tracking Number PER 20010017.

The LDEQ proposes to issue an
administrative order to the
ConocoPhillips Company addressing
post-closure care (including
groundwater monitoring) of the interim
status hazardous waste unit and

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1 facility-wide corrective action at the
2 Lake Charles Refinery. ConocoPhillips
3 has been performing post-closure care
4 for the North Landfarm since its
5 closure on March 1, 1999. As allowed
6 for by the regulations, the LDEQ
7 proposes to issue this draft
8 administrative order to ConocoPhillips
9 in lieu of a post-closure permit. The
10 draft administrative order meets the
11 substantive requirements of a post-
12 closure permit.

13 This hearing is not being
14 conducted in a question and answer
15 format. Please remember that the
16 purpose of this public hearing is to
17 allow you, the public, an opportunity
18 to express your thoughts concerning
19 the draft administrative order. I
20 will allow all interested parties a
21 reasonable opportunity to comment,
22 unless testimony is not related to the
23 purpose of the hearing.

24 This hearing is being held to give
25 all individuals a chance to be heard

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1 regardless of their position on this
2 draft administrative order. Courteous
3 behavior is expected of everyone at
4 all times. You may speak in support
5 of; in opposition to; or simply to
6 provide additional information. Your
7 comments will be evaluated and
8 addressed in the Department's written
9 response.

10 A public notice advertising this
11 public hearing and request for public
12 comment on the draft permit was
13 published in American Press of Lake
14 Charles, Louisiana and The Advocate of
15 Baton Rouge, Louisiana on Thursday,
16 July 17, 2008.

17 The Administrative Order for Post-
18 Closure Care, LAD990683716 and
19 associated information is available
20 for inspection and review at the LDEQ,
21 Public Records Center, Room 127, 602
22 North 5th Street, Baton Rouge,
23 Louisiana. Viewing hours are 8:00
24 a.m. to 4:30 p.m., Monday through
25 Friday, except holidays. The

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1 available information can also be
2 accessed electronically on the
3 Electronic Document Management System
4 (EDMS) on the DEQ public website at
5 www.deq.louisiana.gov.

6 Additional copies are also
7 available for review at the Calcasieu
8 Parish Library-Westlake Branch, 937
9 Mulberry Street, Westlake, LA 70669-
10 4601 and The Calcasieu Parish Library-

ConocoPhillipsCR_AI_2538

Sulphur Regional Branch, 1160 Cypress Street, Sulphur, LA 70663-5111.

In addition, copies of the public notice were mailed to individuals who have requested to be placed on the mailing list maintained by the Office of Environmental Services on July 15, 2008.

In accordance with Louisiana Administrative Code, Title 33, Part 5, Section 715.A, comments received by 12:30 p.m., Thursday, September 11, 2008, will be considered prior to a final decision. All oral comments received and transcribed during this

hearing and written comments received by 12:30 p.m. Thursday, September 11, 2008, shall be retained by the Department and considered in determining whether to issue or deny the draft permit.

Written comments on the draft administrative order may be submitted to Ms. Soumaya Ghosn, LDEQ-OES, Permit Support Services Division, P. O. Box 4313, Baton Rouge, LA 70821-4313.

Under LA Revised Statutes 30:2017, as revised by the legislature in the 2004 session, the Department is required to follow the following order with the provision that the presiding officer may give preference to a public official to speak at any time during the hearing. However, any time limit set for citizen testimony shall apply to public officials.

The Department is required to provide up to 30 minutes to the permit applicant for an introductory presentation. Thereafter, preference

for speaking up to one hour is given as follows:

For the first hour, those citizens who live within a two-mile radius of the location of the facility;

For the second hour, those citizens who work within a two-mile radius of the location of the facility;

And for the third hour, those citizens who live within the parish of the location of the facility.

Thereafter, each hour of the hearing shall alternate between those who are in support of the draft permit and those who oppose.

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The order of tonight's hearing will be based on information provided by the speaker on the registration form. Anyone who registered to speak

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but did not provide the necessary information will be given the opportunity to speak; however, they will be called last in the order of registration.

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This hearing is being transcribed; therefore, I will ask that each speaker begin by stating, for the record, their name, address, and any organization he or she may represent.

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I would like to remind you to please turn off all cell phones. Thank you.

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At this time, I would like to ask the permit applicant's representative to come forward and make their introductory presentation.

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Seeing that there's no representative from the facility, we'll move straight forward to any comments any individual may have. You have five minutes to speak.

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MR. TRITICO:

My name is Michael Tritico. I live at 512 Good Oak Road in

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Longville, Louisiana, which is -- my mailing address is Post Office Box 233, Longville, Louisiana 70652, representing the environmental group RESTORE, R-E-S-T-O-R-E, which stands for Restore Explicit Symmetry To Our Ravaged Earth. We've been around since about 1974. In about 1978, RESTORE was represented by me on the ad hoc committee that helped write the hazardous waste management plan, which was later entrained into the regulations -- DEQ, which didn't exist at that time. That's part of what has worried me about this situation. I'm not quite sure I understand how some of what we've put together in those days that safeguards, such as the concept of a post-permit, can now be changed to a document that is supposed to be enforceable. It's quite possible that that's sufficient, and by itself, I wouldn't be worried about it too much. I would just give everybody the benefit of the doubt.

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But as I was trying to review the materials for this particular hearing, I kept running into things that bothered me a lot. So I figured I would add that one at the top of the list, a possible change in procedure

7 coupled with information that I could
8 not find, that worries me. Some of
9 the things -- for instance, there was
10 a cover letter that said that by the
11 due date, which was the date of the
12 cover letter, the company did not have
13 available certain key documents, that
14 they would be provided later. So in
15 my search for information, I found
16 that, in the library at Westlake,
17 those documents were not yet provided.
18 There were things that said that --
19 let me give you the exact wording.
20 The monitored well results, the
21 financial assurance documents, the
22 post-closure plan, the stratigraphy of
23 the site, those are just examples of
24 things that said -- would be provided
25 when available, and yet they're not

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1 there. So how can the public be
2 expected to properly review the
3 information and comment when the
4 documents of such significance are not
5 available.

6 What I would like to amend,
7 actually, not just request, is, since
8 those documents were not available and
9 they're key to our review of this, I
10 think that it's only just that the
11 record of this particular permit
12 application be held open at this
13 hearing, not be closed, that the
14 record be kept open until the
15 documents are made available to the
16 public, we've had time to review them,
17 we're notified that they're in the
18 library finally, and we've had
19 sufficient time to review them before
20 we have another public hearing. It
21 doesn't really make sense to have so
22 many different key things left out
23 only to supposedly be made available
24 later but not in time for the hearing.

25 The concept of the material having
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1 been available on EDMS, EDMS is a good
2 idea, but it has its limitations, and
3 one of the limitations it has is that
4 when we have to review a lot of
5 information, such as in this case, for
6 one thing, the computers that are
7 available to someone like me that does
8 not have Internet at my house way out
9 in the woods in Beauregard Parish, I
10 have to go to the public library, the
11 public library system in Beauregard
12 Parish picks up the EDMS website and
13 it picks up the lists of documents,
14 but it cannot bring up the individual
15 documents because it's based on Lenox.
16 The Beauregard library system is
17 Lenox-based instead of Microsoft.

18 Therefore, all the documents are not
19 available to us. None of the
20 documents are available. So if I come
21 down to Lake Charles, I make a trip
22 down to Lake Charles or Westlake and
23 use the Calcasieu Parish Library
24 computers, which are Microsoft-based,
25 then, yes, I can pick up the documents

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1 and find another set of
2 inefficiencies. I can't, for
3 instance, on the Calcasieu system, see
4 how many pages are in a document by
5 looking at the list. In Beauregard, I
6 can see the whole width of the list,
7 and it says, on the right-hand column,
8 two hundred and eighty-five pages, but
9 I can't see that in Calcasieu. So if
10 I click on a document and it comes up
11 two hundred and eighty-five pages,
12 then I've got to go page by page by
13 page, which is another problem of
14 using electronic copies instead of
15 hard copies. It's very, very
16 inefficient, when you need to be able
17 to flip through, back and forth, back
18 and forth to look at things and
19 compare things like stratigraphic
20 maps, boring logs, monitored data.
21 It's very hard to do on a computer.
22 It's much easier when you have a hard
23 copy, and the resolution of the maps,
24 like, for instance, the maps that
25 you've got here, when it's done on a

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1 computer, you can't see a lot. The
2 resolution is shrunk down and you just
3 can't see the different details that
4 are important. An example of that,
5 even the hard copy map of the types of
6 water wells within a two-mile radius,
7 I did find that in the material at
8 Westlake, but the symbols, even in a
9 hard copy that was shrunk down to fit
10 into a binder, I couldn't tell if it's
11 a public water supply, an irrigation
12 well, a monitored well, or what. So
13 resolution becomes important, and EDMS
14 just can't handle it. So we need the
15 hard copies.

16 Based on what I was able to find
17 in the materials in the Westlake
18 library, I do have some specific
19 comments.

20 MR. REINE:

21 Let me break in one second. Are
22 there any other speakers here? Seeing
23 there are no other speakers, we'll go
24 ahead and continue.

25 MR. TRITICO:

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1 Okay. Thank you. I cannot
2 ascertain the depth of the storm water

3 basin that's part of this complex
4 that's being considered for a permit.
5 I wanted to compare that to the
6 seventeen-foot screen depth of the
7 monitor wells. There are four monitor
8 wells supposedly downgrading upon
9 upgrading, and that, also, I'm not
10 sure about because I couldn't find the
11 boring logs and I couldn't find the
12 cross-sections. The fact that the
13 storm water basin depth is missing or
14 I couldn't find it and the fact that
15 the screens are very shallow and the
16 fact that what I know about the
17 stratigraphy and the permeable zones
18 in this area from years of looking at
19 other sites in the vicinity, the main
20 concern is that these monitor wells
21 are just not deep enough to give a
22 true picture of any kind of leakage
23 from this landfarm site that's being
24 managed.

25 Now it says that it's been

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1 monitored since 1999. That's great,
2 but if you don't have wells deep
3 enough to catch the migration of
4 something, you won't see it, and
5 perhaps I should've paid more
6 attention back in 1999 or '98,
7 whenever this first came up, but the
8 fact is I didn't know about the
9 hearings or whatever took place back
10 then for some reason. I might've been
11 out of town. I don't know. But
12 anyway, I missed it. So here we are
13 nine years later, and I had noticed
14 that the monitor wells, in my opinion,
15 may not be deep enough. In fact I
16 doubt seriously that they're deep
17 enough given what we've seen in Willow
18 Springs just up the road and what
19 we've seen in Carlyss, what we've seen
20 at PPG, the various sites surrounding
21 this area. A sixteen- or seventeen-
22 foot screen is not going to pick up
23 what has percolated down and started
24 to move in shallow zones. So it's
25 sort of -- I guess it's sort of like

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1 Looking for rats in the top of the
2 tree or something. If you're looking
3 too high, you're not going to see
4 them. So if you've got a plume that's
5 leaked out through the bottom and is
6 going somewhere, a sixteen- or
7 seventeen-foot depth well, is not
8 necessarily going to catch it, and
9 that worries me because we know from
10 what is in the information I was able
11 to view that Bayou Verdine incises the
12 shallow permeable zone, which means
13 that if stuff got into a shallow sand,

14 it would fairly soon get into Bayou
15 Verdine and go on into the estuary,
16 but even more of a problem is that
17 there are many, many wells within the
18 two-mile radius and some of them have
19 strong suction. The top of the two-
20 hundred-foot sand of the Chicot
21 aquifer, according to this
22 information, is separated from the
23 upper permeable zones by fifty feet of
24 supposedly impermeable clay.

25 Well, we know from many, many
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1 situations around here that that block
2 of clay is not impervious, that it's
3 got chimneys of sand, and besides
4 that, even if it didn't have the
5 chimneys, there are places where the
6 contaminants have gone ahead and gone
7 through, some of which burn their way
8 through and some of which just finally
9 get there because they're heavier than
10 water and they sink through the clay
11 and they get into the aquifer, and
12 then they're brought into the wells by
13 suction. So a fifty-foot - that is
14 extremely questionable, based on past
15 history of what's around here, to me,
16 is not reassuring. The conclusion
17 they reached, that it was minimal
18 chance of exposure, I disagree with,
19 but that's one reason I needed the
20 other information.

21 A different issue is the twelve-
22 foot top of the levee around this
23 installation. They contend that
24 that's sufficient to protect the area
25 from any kind of spreading of the

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1 material during a flood or a storm
2 surge. We know from the National
3 Hurricane Center SLOSH Model that
4 there could be about a twenty-five-
5 foot storm surge at this location, not
6 even counting the waves that are on
7 top of the storm surge, and those can
8 be fifteen or twenty feet. That's
9 sort of what happened with Hurricane
10 Audrey. It did not happen in
11 Hurricane Rita because the storm came
12 in on an oblique path, but if a storm,
13 even of Audrey's size, were to come in
14 today on the same path, then you would
15 have the situation of overtopping of
16 this levee. In fact all the plants in
17 this area would have stuff being
18 spread all over Maplewood, Westlake,
19 Sulphur, and I have not yet seen DEQ
20 address that -- questions require that
21 DEQ ask the question and do something
22 if the answer is that, "Yes, we're
23 vulnerable." I haven't seen that
24 happen yet. This is one of the sites

that is vulnerable to a storm surge.

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So it's not really sufficient to plan for or regulate for a wishful thinking case. It's much more important and prudent to protect the public from worst-case situations, and I know that may be inconvenient and some people say it's too expensive, but we know from what's happened, for instance, in the Merro (spelled phonetically) area. I used to do sampling for a research institute in Merro (spelled phonetically). So I was not surprised that the whole town got covered with an oil sludge during Katrina. Things like that are real. It's not just the imagination of some person that's just overboard, worrying too much about something. Things happen and it's best to prevent them. The best way to prevent them is for the regulators to think worst case, think a policy of prudence, and require things to be done to safeguard the public and the environment.

So that's what I'm asking you to

do, and I'm asking you to leave this decision unmade until you again hear from us after we've had a chance to review the information, which we have not yet had the chance to do because it wasn't here.

Thank you very much.

MR. REINE:

Would you like to submit your notes?

MR. TRITICO:

No. I'd better keep them because they're so scatter-brained. I just put them together awhile ago and they'll confuse somebody.

MR. REINE:

Okay. Thank you. Seeing that we have no further speakers at this time, we're going to go ahead and recess this hearing until such time as other speakers show up or until 6:50. Thank you.

(RECESS)

MR. REINE:

Let the record reflect it's 6:50

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p.m. Seeing that there's no additional comments, we're going to go ahead and close this hearing. I'd like to remind you that the comment period for this Administrative Order for Post-Closure Care for ConocoPhillips Company, Lake Charles Refinery ends at 12:30 p.m., Thursday, September 11, 2008.

ConocoPhillipsCR_AI_2538

All comments received, requests for notification of the final decision and the transcript from the hearing are processed by the Public Participation Group and are available on EDMS.

The permit writer reviews all comments and uses any additional information that is appropriate to update the draft permit.

The names and addresses of all the commentors, speakers and those requesting to be notified of the final decision are added to the Public Comment Database.

A final revision of the draft

permit and the response to the public comments are prepared and forwarded to the OES Assistant Secretary for final decision.

Upon the issuance or denial of the permit, a letter is mailed to all the commentors, speakers and those who requested to be notified of the final decision. The final decision letter includes information regarding the appeal process, the basis of decision and the response to all the public comments received.

Let the record reflect that I have received no exhibits during this hearing. If there are no further comments, I would like to thank you for your attention and participation in this hearing.

Let the record reflect that the time is 6:51 p.m. This hearing is now closed.

(PROCEEDINGS CONCLUDED AT 6:51 P.M.)