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Sent: Monday, November 15, 2004 8:38 AM
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A Victim's Plea: By SHERRY PADGETT

California Assembly Committee on Environmental Safety and Toxic Materials

California Assembly Select Committee on Environmental Justice

Dear Committee Members:

First, thank you to the members of the Committees for taking the time to hear our story. Thank you to Loni Hancock and her terrific staff for making this hearing happen. Thank you to the Richmond Neighborhood Councils who are represented here today including Parkview, Eastshore, Crescent Park, Laurel Park, East Richmond, Southwest, Point Richmond, Marina Bay and especially the Panhandle and Richmond Annex. Thank you to the Downwind Property and Business Owners who are present today. Thank you to fellow members of the Bay Area Residents for Responsible Development and especially Peter Weiner for his remarkable and wise counsel. And thank you to my employer, Kray Cabling, Inc. and Jess Kray for continued support.

I am here because something went very wrong with governmental oversight of one of the most toxic sites in the State of California. In 1997, Astra Zeneca, the second largest pharmaceutical company in the world, made a decision to close the 85 acre Western Research Facility where highly toxic chemicals were developed and manufactured for 100 years.

By the end of 1998, the once thriving facility turned into a ghost town. Pink slips and transfers were passed out. Parking lots emptied and approximately 50 office buildings, laboratories, manufacturing facilities, storage units and slabs were slated for demolition. A demolition permit was issued by the City of Richmond on a five inch by eight inch card. No questions were asked and no references were made to the site being one of the most hazardous in the State of California. Demolition began in late 1998 and proceeded through 2001. No inspections, no questions and no follow-up by the City of Richmond. No public notice to the unsuspecting downwind community. Between late 1998 and 2001, the site was methodically and intentionally flattened. No public involvement. No protection. No hazard notices.

Zeneca's original one hundred million dollar set-aside for toxic site cleanup was

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replaced with a twenty million dollar budget cleanup, which was too incredible to pass up, offered by Levine Fricke Recon. Rather than hauling out the toxic material to Class I and Class II dump sites, the Levine Fricke plan created a 350,000 cubic yard, 30 acre, 8 foot tall table top mountain with a concrete cap. In other words, why spend the money to haul it out when it could be scooped, mixed, treated and covered on site at one fifth the price. Levine Fricke obtained tentative/conceptual approval of the budget cleanup plan from the San Francisco Bay Regional Water Quality Control Board. During that time, public inquiries regarding Zeneca site cleanup orders, were posted as actively managed on the Department of Toxic Substances Control list of sites, having been passed from the federal Environmental Protection Agency Super Fund investigation process, to the California Environmental Protection Agency for follow-up.

Plans were made by Zeneca to offload the property to a developer as soon as practicable. Site chemical cleanup commenced some time between 1999 and 2001, prior to Water Board or DTSC approval of a plan. No public notice, no precautions, no air monitors, no hazard notices. The Regional Water Board approved the cleanup plan and approved cleanup orders September 2001. How the cleanup plan for one of the most toxic sites in the State of California moved from the Department of Toxic Substances Control list of managed sites to the San Francisco Regional Water Quality Control Board remains a mystery. Serious cleanup activities began May 2002, known to most of us who lived through it as Big Dig 2002. Blowing dust was so prevalent and dark we could not see the sun for hours on many days. So much dust was in the streets, vehicles kicked up clouds of dust as if they were traveling dry dirt roads. Vegetation was covered with so much dust that some died, unable to breath. Large populations of rabbits, skunks, squirrels, mice, birds and feral cats disappeared. They never returned. Dirt was everywhere. The white dumpsters outside our businesses turned dark brown with layers and layers of dark dirt. Our cars were covered with dirt every night when we left our offices. Every person who worked in the area remembers it vividly. Operations continued sometimes 24 hours a day for weeks. Trucks left the site covered with dirt and mud leaving a mile long trail past the Central Avenue exit on Interstate 580. The hauling contractor listed on the City of Richmond grading permit for Big Dig 2002 was not licensed to handle hazardous materials and is not a licensed contractor in the State of California.

Zeneca did not file an Environmental Impact Report describing the full extent of the cleanup which began in 1998 and continues through today, six years later. Zeneca provided no public warning or comprehensive view of the cleanup's extraordinarily lethal human health hazards or the broad and severe impact to other environmental categories such as endangered species, traffic, air quality, noise, marshland habitat, visible shoreline change, vegetation, local industry, recreation and most importantly short and long term human health.

Zeneca put the two northern Lots 1 and 2 on the block for sale and by the end of 2002, the new owner, Simeon, received a negative declaration and clearance from the City of Richmond to move forward with plans to develop more than 450,000 square feet of bio tech office and lab space on the northern 27 acres. Then the bio tech market crashed and plans changed. Simeon and its fund source, Cherokee, joined to purchase the remaining 56 acres, including the massive 350,000 cubic yards of toxic material under a 30 acre cap averaging eight feet above ground level.

Simeon Cherokee proposed a high density high rise residential development to house more than 3,000, to the City of Richmond with encouragement from the Richmond Redevelopment Agency early 2004. The proposal was in direct conflict with the Knox Freeway Corridor Specific Plan which calls for buffer zones between industrial, commercial and residential neighborhoods. The community turned out in record numbers in March and May 2004, opposed to the residential development. The Draft Environmental Impact Report for residential or big box retail development purposely avoids reference to the massive toxic cap and ongoing site cleanup. The Draft EIR is on temporary hold per Simeon's request. Simeon told the City of Richmond they are waiting for a statement from the San Francisco Bay Regional Water Quality Control Board that the site can be classified for residential use if 24 hour a day, 7 day per week fans are installed to whisk away the accumulating extremely toxic, invisible, odorless fumes which will be present for hundreds of years. On the flip side, the Water Board told us they are waiting for an Environmental Impact Report before they make a statement regarding land use.

Last month, more toxic site cleanup work commenced in the marsh area of the 85 acre site. 25,000 cubic yards of extremely toxic marsh muck are being moved to

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an open pit in the middle of the 30 acre table top mountain of hazardous material. Zeneca remains the polluter of record while Simeon/Cherokee proceed with the next phase of cleanup.

Up until March 2004, I, like most members of our community, thought governmental agencies were heavily involved in the hour-to-hour and day-to-day operations at the Zeneca site. I worked across the street, directly downwind, 50 feet from the fence line for the last seven and a half years. I often worked 10 to 14 hour days, six to seven days a week. Every time I gave the site consideration from my office window, I thought super cops were taking special care to keep us safe. I couldn't have been more wrong, maybe dead wrong. No governmental authority watched out for our health and well-being between 1998 and 2001. Then the San Francisco Bay Regional Water Quality Control Board approved a self-monitored cleanup plan September 2001 that required little to no governmental involvement other than to read and file periodic reports describing progress, when they arrived by mail.

I might never have given it more thought if I had not become very, very ill. In September 2003, Thoracic Surgeons at the UCSF Comprehensive Cancer Center removed a tumor the size of the front of my fist from my front lower left chest wall. They cut out four ribs, the xiphoid, part of my sternum and all of the abdominal muscles. They put me back together with an eight inch round Marlex patch to hold my insides in and a piece of red rubber to keep the diaphragm working. The tumor was chondroma/chondrosarcoma, an extremely rare cancer "one in two and a half million. There is no cure, only excision. No chemotherapy, no radiation. During the six month follow-up CT and PET scans February 2004, the radiologist found a marble sized tumor in my left thyroid which was not present on scans July 2003. Surgeons removed my thyroid July 2004. I was diagnosed with papillary carcinoma, with Hurthle cells, Hashimoto's and thyroiditis. I was given megadoses of radioactive iodine and remained isolated for weeks while the glow wore off. I have lost two thirds of my hair and it is still falling out. Thyroid cancer is very rare, at one percent of all cancers in the United States. In July 2004 two new tumors surfaced on my right upper chest wall. We are watching them closely, considering them benign for now. If the tumors must be removed, surgeons will be taking out my upper right chest wall including what remains of my sternum. In December I am scheduled to have a complex septated cyst removed from my right ovary and the ovary might go, too.

Physicians who see me regularly include a primary care, two surgeons, an endocrinologist, a hematologist, a gynecologist, a cardiologist, a radiologist, two pathologists, a geneticist and an oncologist. When I tried to return to work spring 2004, I started talking to neighbors in our business community and found my experience up to that point was not unique. An unusual number of tumors, cancers and illnesses surfaced among 24 individuals out of 300 working full time in the neighborhood within a two year period. Of the 24 individuals, 11 are dead. Maybe some of those could be considered normal. I do not consider my case normal. My geneticist says nothing in my inherited genetic makeup predisposed me to any kind of cancer. My family has lived into their late 90s for many generations. I missed three days of work for illness in more than 25 years of professional work. A silent, insidious and deadly toxic exposure altered and damaged my genetic code, allowing these tumors to grow unfettered.

The community has actively been trying to get the attention of the San Francisco Regional Water Quality Control Board since March 2004. We have asked hundreds of very appropriate questions which have gone unanswered. We wrote three formal letters outlining our concerns. We met with representatives of the Water Board who were good people, but ill equipped to deal with public inquiry. It became evident by mid summer that while the Water Board likely does an outstanding job overseeing the safety of our water resources, they are not structured to monitor a hazardous site as complex and lethal as the Zeneca site cleanup. In addition to our written inquiries, we have appreciated the three letters written by the Department of Toxic Substances Control to the Water Board regarding this site, even though they have been limited in scope per political and organizational restrictions. We have been dismayed that most of the direction or recommendations made by DTSC have been largely ignored.

For seven months we have asked repeatedly for:

• An explanation of why more than two thirds of the known site toxins have not been included in dust and air samples during 2002 and 2004.

â€¢ A public notice or letter describing the extent of our risk.

â€¢ More air monitors including monitors in our businesses to measure indoor volatiles.

â€¢ An explanation of the allowable limits of dust and chemicals of potential concern

â€¢ Daily dust samples with rapid turn around including chemical analysis

â€¢ Split sampling

â€¢ More comprehensive dust tests including particulate size

â€¢ Remediation plans to bring the known volatile organic chemical hot spots within the 30 acre toxic mountain within acceptable limits

â€¢ An explanation of how children can be allowed to attend a daily after school program in a building less than 100 feet from known toxic hot spots.

â€¢ A list of all chemicals developed and manufactured on the property.

â€¢ Uranium, plutonium and other radioactive material tests because we know the site was used for radioactive experiments in the 1960s.

We implore upon you to find a way to first move this site to DTSC control and oversight, and second, influence regulatory change to insure public involvement, and that this kind of exposure does not happen again.

My primary concern is for the health of my friends and fellow employees, my neighbors and future inhabitants of the property. We have a moral responsibility to insure that everyone, especially children, pregnant women and frail elderly are not harmed by unseen poisons emanating from this site for many generations to come.

Sincerely yours,

Sherry B. Padgett

Bay Area Residents for Responsible Development

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