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COMMUNITY DEMANDS JUSTICE AFTER 15 YEAR DELAY
EPA issues long-overdue resolution agreement in Texas; community not satisfied

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Charlton-Pollard Neighborhood, Beaumont, TX — After years of violating legal requirements for acting on civil rights complaints, the U.S. Environmental Protection Agency (EPA) settled a longstanding race discrimination complaint involving the expansion of a Beaumont refinery near a largely African American community.

The complaint, filed in 2000 by People Against Contaminated Environments (PACE), a Beaumont community group, and the Sierra Club, accused the Texas Commission of Environmental Quality (TCEQ) of approving a major expansion of an ExxonMobil refinery in violation of civil rights law. The EPA accepted the complaint in 2003 and under federal law had 180 days to issue a preliminary finding. The EPA failed to issue findings for well over a decade.

While the complaint gathered dust at the agency, community residents near the Beaumont refinery have been living with the refinery’s harmful effects, including unsafe toxic air pollution levels. The refinery is one of the ten largest in the U.S. and sits adjacent to an African American community that is also bombarded with pollution from a number of other large toxic air polluters, including the largest U.S. oil refinery, a chemical plant, and several other significant toxic air polluters nearby. Now, after a nearly 15-year delay, community members were shut out of the process for addressing the issues they raised, and EPA and TCEQ issued an agreement requiring TCEQ to take only minimal steps, which community members say won’t begin to address the impacts of the expanded facility on their lives. The agreement requires TCEQ to place a single air quality monitor approximately one mile away from the facility and to hold two public meetings to discuss the monitoring data.

Neil Carman, Sierra Club Clean Air Program Director and former TCEQ inspector, said, “The meager requirements in this settlement and particularly the placement of an air quality monitor to capture levels of hydrogen sulfide – known for its ‘rotten egg’ smell and extremely corrosive nature – raise serious questions. The monitor’s distance from the polluting sources – more than twice as far as some homes – is likely to result in significant underreporting of toxic emissions, continuing to endanger the community’s health and well-being.” Carman noted that inaccurate readings will undermine
complaints from the many community members who live between the monitor and the refinery.

Reverend Roy Malveaux, who was the executive director of PACE at the time of the 2000 EPA complaint against TCEQ, isn’t satisfied with the agreement’s terms. "People need to be informed about the type of chemicals that are being emitted into the neighborhoods – right now that’s not the case." But Malveaux’s resolve is still strong even after many years of waiting: "As long as they’re going to pollute we’re going to have to be vigilant."

PACE and the Sierra Club are represented by the Environmental Justice (EJ) Clinic at Yale Law School, Earthjustice, and the Environmental Clinic at the University of Texas School of Law. The EJ Clinic and Earthjustice also represent community groups and organizations across the country in litigation seeking long-awaited justice for other civil rights complaints that have similarly languished at EPA for years. That case is in federal court, with oral arguments before the court to take place this summer. "It seems like EPA was rushing to reach agreement so that it could say to the court that it has now completed its investigations," said Marianne Engelman-Lado, of the EJ Clinic. “But after all of these years, we would have hoped that a government office charged with enforcing civil rights would conduct a thorough investigation and finally enforce the law, not just try to paper over its failure to meet deadlines.”

Kelly Haragan, Director of University of Texas’s Environmental Law Clinic, is skeptical that the two community meetings will address residents' concerns. "The community asked for action to address its exposure to levels of pollution TCEQ acknowledged were unsafe. It didn't ask for meetings. EPA's unwillingness to work with the community to identify actions that would truly improve safety and quality of life in Charlton-Pollard is disappointing."

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