

SMOKE and MIRRORS

A Bulletin for Citizens Opposing Cement Plant Pollution

Downwinders At Risk 707 Wylie Cedar Hill Texas 75104 972.293-8300 www.cementkiln.com/downwinders Spring 2000

Season's Greetings: "Ozone Season" Starts With Approval of Weakened Anti-Smog Plan by Bush, But Outcry Rewrites Cement Plant Rules

Spurning the majority of public comments, the editorial boards of both daily newspapers and the recommendations of local leaders, the Texas Natural Resource Conservation Commission (TNRCC) and Gov. Bush observed the official May 1st beginning of ozone season by signing-off on a DFW smog clean-up plan that admits it can't prevent "exceedences" of the law.

A fraction of a part per billion. That's the margin of error in the TNRCC's plan to achieve compliance with the federal Clean Air Act in Dallas-Ft. Worth. 125 parts per billion is the current standard. TNRCC predicts DFW air will be at a maximum of 124.9 parts per billion by 2007, but only on two out of every three worst-case days. You're on your own that third day.

As flawed as the state plan is, there are bits of progress forced into it by the public outcry that came to a head with local hearings in January. Among the most notable of these were new rules governing Nitrogen Oxide (NOx) emissions for the cement plants in Midlothian - accountable for about half of all industrial air pollution in N. Texas. They look needlessly complicated, with plenty of room for abuse. But, these same rules might make it a little harder to continue operating the dirtiest and oldest cement kilns in Midlothian - including the ones at TXI that burn hazardous waste.

There is no question that public opinion made the TNRCC re-visit the cement plant issue. In the first draft, the state overrode a local clean air steering committee recommendation of 50% cuts in emissions and instead proposed only an 18% reduction from current operations. It tried to rhetorically pass this off as "decreases

up to 40%" based on emissions numbers almost a decade old. In contrast, the TNRCC adopted the committee's recommendation to cut emissions from large DFW electric utility plants by 88% from 1997 levels.

During January's public hearings, the loudest applause and ovation came after a speaker demanded that TNRCC Commissioner Ralph Marquez resign because of his past employment by industry -including

(continued on page 2)

Also In This Issue:

Ozone 2000 Survival Kit

What you need to know to protect yourself

You Don't Need A Weatherman, But...

This summer, tracking Midlothian pollution could be as easy as watching the local news

New Toxic Pollution Numbers

TXI hits an all time toxic high in fed survey

Help the Sun Set on the TNRCC

Liberate this "captured agency"

Plus

Toxic Cover-up in N. Carolina, New York Visitors, and more

LATE EXTRA! EDITION: TXI SUES STATE OVER SMOG RULES

Weaker Plan/But New Rules

(continued from page 1)

TXI - and the obvious favoritism given the cement plant industry in the plan.

All environmental and public health groups came out in favor of deeper cuts. Both the Dallas Morning News and the Ft. Worth Star-Telegram wrote editorials castigating the TNRCC and backing the original recommendation. A poll commissioned by Texas Public Citizen found an overwhelming 86% of the public in favor of a tougher crack-down on the cement plants.

Responding to this sentiment, the TNRCC re-wrote its rules for cement plants in Midlothian after the

January hearings. They still didn't cut emissions by 50%, but they're requiring what looks like a 30% reduction from 1996 levels. More importantly, it's the first attempt by the state to promote cleaner cement manufacturing at the expense of old and dirty "wet process" kilns. DFW has 7 of 8 wet kilns still going in Texas.

It's always useful to judge your effectiveness by the reaction of your opponents. In this case, TXI tried to scuttle the new cement plant rules at the last minute before the TNRCC vote was taken on April 18th in Austin. As we're going to press, TXI just filed suit in state court to prevent the rules from being enforced. That's because they appear to hit TXI the hardest. TXI was planning on still operating two of its four obsolete wet kilns when its huge

new "dry process" Kiln #5 goes on line next year (retiring the other two wet ones). Now it may not have that option. And it's only the wet kilns at TXI that are permitted to burn hazardous waste. Fewer or no wet kilns means less or no hazardous waste being burned.

Thanks to all Downwinders who wrote letters, sent e-mails and faxes, and came to the hearings. Your participation made the TNRCC toughen its cement plant rules even as it weakened the larger smog plan.

Now the battle moves to the EPA Office in Dallas, where Regional Administrator Greg Cooke must OK or reject the TNRCC's weakened effort. Please write Mr. Cooke and tell him to reject it in favor of stronger action by the state - details on what do to on Page 5.

Misdirect, Minimize, Model and Manipulate

A Citizens' Guide to Some of What's Wrong with the State's Anti-Smog Plan

1. Even though the TNRCC admits that it will only be cutting smog pollution from Midlothian cement plants by about **30%**, the final computer modeling it used in its clean-up plan assumes a **50%** reduction.

2. The TNRCC plan depends on its computer model being wrong and an air monitor that doesn't exist. On July 3rd, 1996, the state's *modeling* predicted an ozone concentration of 174 parts per billion of ozone. This is the highest level of ozone pollution predicted or seen by the TNRCC in DFW in five years. It is the "worst-case" day the TNRCC plan is supposed to prevent from getting above the federal standard of 125 ppb in the future. However, *monitors* on

the ground July 3rd registered only as high as 144 ppb of ozone. So the modeling was wrong, right? Nobody knows.

There was no monitor within several kilometers of the location where the computer modeling predicted the highest ozone number would be found.

The TNRCC is assuming that the high concentration never really existed. It says the *model* overestimated the ozone concentration on July 3rd, 1996 by 12.3% - the average the TNRCC reports was being overestimated by the *model* at other *monitoring* sites on that day. So you've made the problem smaller already, haven't you?.

If the TNRCC assumes the model was right at 174 ppb, DFW nitrogen oxide emissions would have to be cut **75%** by 2007 to achieve compliance

with the Clean Air Act. If the TNRCC assumes the model was off by 12%, then cuts would only have to total **42%**. We got 42%.

3. The state's plan **weakens 12 out of 17 recommendations** proposed by the local North Texas Clean Air Steering Committee, including regional cement and utility plant cuts.

4. According to the state, **"even though the model may show some areas with peak concentrations above 125 ppb, such modeled exceedences do not necessarily imply violations."** This conclusion was reached after the state's own modeling predicted the anti-smog plan would not prevent "exceedences" of bad air in 30% of the official worst-case ozone days modeled.

TNRCC Rules Mean 1 of 3 Choices for Cement Plants

According to the new TNRCC anti-smog plan, Midlothian cement plants have until May 1, 2003 to implement one of three options:

1) Operate at Specific Performance Stds.

A way of measuring how efficient a cement plant runs is the ratio of how many pounds of pollution are created for every ton of cement product made. Older, inefficient wet process kilns (furnaces) might emit anywhere from 6 to 11 pounds of nitrogen oxide (NOx) per ton of product, whereas new dry process kilns range from 1.5 to 3 or 4 pounds of NOx per ton of cement.

In its rules, the TNRCC set a specific performance standard for older Midlothian wet kilns of 4 pounds of NOx per ton of cement. To give you an idea of what this means, TXI averaged 9 pounds of NOx per ton of cement in 1996, while North Texas' wet kilns averaged around 6 pounds of NOx.

A standard of 2.8 pounds NOx per ton of cement is being established for new dry process kilns like Holnam's in Midlothian, and TXI's new Kiln #5. This is in line with designs standards for these kilns and rules set for these types of newer

kilns in the rest of the country. Holnam seems to be meeting this standard now and so could already be in compliance with the plan.

2) Install Both Low-NOx Burners AND Mid-Kiln Firing as Pollution Controls.

A plant that installs a "low-NOx burner" and reconfigures its design to fire fuel from the middle of its kilns (instead of the end) will also be considered in compliance with the TNRCC's anti-smog plan.

This recommendation was a last minute option and comes directly from a Downwinders Technical Briefing Paper in October 1999. We estimated that combining both existing technologies could reduce NOx emissions from Midlothian's wet kilns by 40 to 50%. Despite each technology being used individually in the cement industry, no plant in the U.S. has used both at once.

Assuming that Holnam can continue to operate at or below the 2.8 pound performance standard, it would not need this option. North Texas Cement uses mid-kiln firing in its Midlothian wet kilns but installing low-NOx burners in the same kilns would be expensive. TXI's older kilns don't use either pollution control technology and so it would have to spend the most of any of the plants to comply with this option. But TXI may also have the most incentive to use it if the company wants to keep its wet kilns operating.

We're not sure why the TNRCC included this approach, but we're flattered.

3) Reduce emissions by 30% from 1996 levels and cap them.

The most straightforward option. You subtract 30% of the total NOx emissions for each plant in 1996 and you arrive at a cap that the plant must keep under.

Again, assuming Holnam keeps under the 2.8 standard, it won't need this option. And it's uncertain what the impact of this option would be on North Texas Cement, because the TNRCC just discovered that the company has been underreporting its NOx emissions in recent years. The TNRCC is pursuing "an enforcement action" against NTC.

But If TXI chooses this approach, it would have to decrease NOx emissions from 5500 to 3854 tons per year. That's important because its new Kiln #5 is expected to take about 2725 of that amount beginning next year. That doesn't leave room for even one of TXI's wet kilns that have been averaging around 1360 tons per year each.

And that's probably the point. All of these options seem to be written to push the remaining older wet kilns toward retirement, especially when you consider that each company is now building new plants that can provide replacement capacity: TXI's Kiln #5 in Midlothian and North Texas' new plant in Whitewright near Sherman.

According to the TNRCC, NOx pollution from cement plants in Midlothian is predicted to decline from approximately 29 to 20 tons a day with implementation of its new rules. At least half of this reduction, if not more, will have to come from TXI one way or the other.

OZONE 2000 SURVIVAL KIT

It was the Midlothian monitor behind the TXI cement plant that tripped this system for the first time this "ozone season" on May 15th. It hit 107 parts per billion of ozone and that Monday became an "Orange Day" for Midlothian, Northern Ellis County, Eastern Johnson County as well as Cedar Hill and parts of Grand Prairie and Arlington.

DFW Gets New Warning System For Dirty Air

State Gives New Meaning to "Purple Haze"

As part of a new effort to be more serious about the public health effects of high concentrations of ozone pollution, the Texas Natural Resource Conservation Commission has established a new, more specific warning system for alerting the public about bad air days.

Instead of generic "Ozone Action Days," they'll be "Air Pollution Watches" and "Warnings" - just like thunderstorms and tornados - with color-coded levels of severity. Watches will be issued in anticipation of dangerous air days, while Warnings are issued immediately when one of the area monitors records "unhealthy" air.

All this information is supposed to be sent via TV and radio weathercasters for broadcast. You can also get real time and projected ozone concentrations on the internet at the TNRCC and EPA web sites and get yourself on a TNRCC e-mail list that notifies you of all local DFW Watches and Warnings as soon as the standard is threatened or exceeded.

Under the new system, these are the colors being used and what the EPA and TNRCC says they mean:

- GREEN:** "No health impacts are expected."
- YELLOW:** "Unusually sensitive people should consider limiting prolonged outdoor exertion."
- ORANGE:** "Active children and adults, and people with respiratory diseases, such as asthma, should limit prolonged outdoor exertion."
- RED:** "Active children and adults, and people with respiratory diseases, such as asthma, should avoid prolonged outdoor exertion; everyone else, especially children, should limit prolonged outdoor exertion."
- PURPLE:** "Active children and adults, and people with respiratory diseases, such as asthma, should avoid all outdoor exertion; everyone else, especially children, should limit outdoor exertion."

If this new system had been in place last year, DFW would have seen many such "orange days," seven "red days" and three "purple days."

Critics pointed out that this system is based on outdated information, and underestimates the ill effects of ozone exposure. An air quality specialist for the Tarrant County Health Department was quoted in the May 8th Dallas Morning News as saying approximately one-third of the population could be considered sensitive to even low levels of ozone.

Breathers' Guide to the Net

www.epa.gov/airnow.maparch.html

EPA's Ozone Mapping Project Archives: daily ozone maps for DFW and the nation: hour by hour animation, 1 Hour peak concentrations and 8 hour peak concentrations in DFW area. Maps for previous days going back to 1999.

www.tnrcc.state.tx.us/cgi-bin/monops/ozone_animation

State's ozone mapping project - gives you choice of Daily DFW metroplex or larger north Texas regional animated ozone maps. Archives also available.

www.tnrcc.state.tx.us/air/monops/o3email_notify.html

Use this to sign up for DFW air pollution "watches" and "warnings" from the TNRCC.

www.tnrcc.state.tx.us/cgi-bin/monops/daily_average

Real time ozone measurements from the TNRCC's monitoring network in DFW and other cities. This site gives hourly readings for ozone, as well as carbon monoxide, sulfur dioxide and particulate matter.

www.tnrcc.state.tx.us/cgi/monops/select_summary

Access to TNRCC all DFW air quality monitor locations and their readings hour by hour.

"Partly Cloudy and Polluted"

Sometime this summer, you should be able to watch TV news in Dallas-Ft. Worth, and for the first time, see just how bad the smog was today and where it's predicted to be concentrated tomorrow.

There's an effort underway to get DFW TV stations to include the EPA's "ozone maps" as a regular feature in all their weathercasts. These computer generated maps take readings from a network of air quality monitors that are located throughout DFW and produce a color-coded guide to where the smog was on any given day. The same technology can forecast where it will likely be tomorrow - and how bad it will be. (See Breathers' Guide to the Net)

A technological problem that kept the maps off the air has now been solved with new software that any station or its weather information provider can use. There is no technological excuse for ignoring this valuable public health information, but local TV stations have not yet incorporated it into their routine news broadcasts.

Too bad, because the ozone map for DFW's first unhealthy "orange day" on May 15th, triggered by the Midlothian monitor behind TXI, gave proof positive to our thesis that everyone in DFW is a downwinder.

Want to encourage the local TV stations to use EPA's animated ozone maps in their newscasts? Send your comments to the following network-affiliated channels:

KDFW-TV/Channel 4

400 North Griffin
Dallas, 75202
214-720-4444(tel)/ 214.720-3263(fax)

KXAS-TV/Channel 5

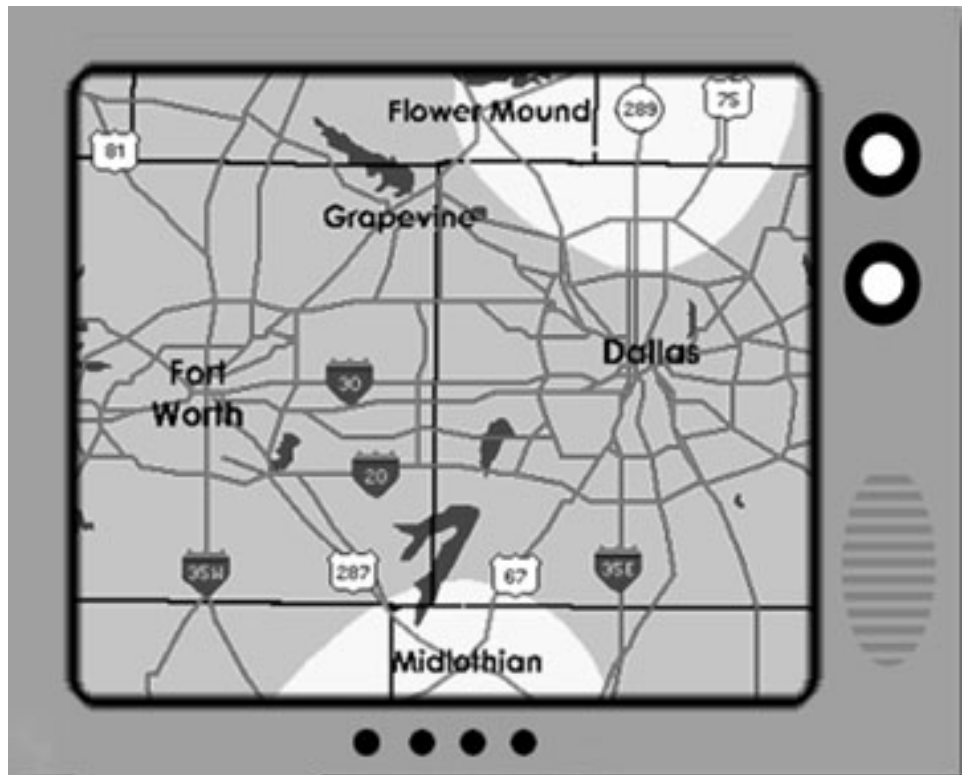
3100 McKinnon, Suite 850
Dallas, 75219
817.429.5555(tel)/ 817.654-6325(fax)

WFAA-TV/Channel 8

606 Young Street
Dallas 75202
214.748.9631(tel)/ 214.977-6585 (fax),

KTVT-TV/Channel 11

10111 North Central Expwy.
Dallas, 75231
214.750.1111(tel)/ 817.496-7739(fax)



2 PM May 15th 2000 Dallas-Ft. Worth Ozone Map

This is one frame from the DFW EPA ozone map for May 15th, the 1st day that ozone levels reached unhealthy levels for "sensitive people" for hundreds of square miles surrounding the Midlothian cement plants. The real map is in color. You can get these maps on-line and local TV newscasts should be including them soon.

Write and Fight for Cleaner Air

This summer, let the haze on the horizon remind you to contact your public officials about clean air and get more active:

EPA Administrator Greg Cooke

Environmental Protection Agency
1445 Ross Avenue
Dallas, Texas 75102
214.665.2100(tel) 214.665.6648(fax)

Mr. Cooke can now either approve or reject the TNRCC anti-smog plan. Please tell him to reject the weakened state plan and replace it with something stronger and more likely to succeed. Urge him to restore the 50% cuts in emissions from the Midlothian cement plants originally recommended by local leaders.

TNRCC Chairman Robert Huston

MC 100 P.O. Box 13087
Austin, Texas 78711-3087
512.239.5500(tel)
512.239.5533(fax)

Please tell Chairman Huston that you strongly object to the TNRCC's opposition to the new, more protective 8 hour standard for ozone pollution recommended by the EPA. Tell him you want your state government to be more aggressive about cleaning up the air, especially from the Midlothian cement plants.

Downwinders At Risk Meetings:

Every 1st and 3rd Mondays, 7:00 PM,
707 Wylie in Cedar Hill 972.293.8300

Dallas Co. Clean Air Meetings: Every 4th Wednesday, 7:00 PM Ridgewood/
Belcher Recreation Center, 6818 Fisher Rd. (between Mockingbird & Abrams)

TNRCC Sunset Review Hearings

DFW Citizen training session for hearings, June 17, White Rock Lake, Dreyfuss Bldg. Hearings: June 20, 21st and 22nd, State Capitol - Anti-TNRCC Rally 12 Noon, June 21st on south steps of the Capitol

'98 Toxic Numbers Out TXI Hits New High

TXI's waste-burning Midlothian cement plant once again led all Ellis County industries in toxic emissions, and Ellis County once again led all other North Texas counties in the same category in 1998, according to EPA's Toxic Release Inventory (TRI) data just now being released to the public.

Toxic releases for TXI's Midlothian waste-burning cement plant in 1998 totaled 713,041 pounds of 18 different chemicals, including styrene, benzene, chromium, toluene, xylene and tetrachloroethylene. That's 78,366 more pounds of toxins, - a 12% increase - than the previous TXI total for 1997, and by far the largest total yet for the facility in its 12 years of burning hazardous waste. It includes 70,000 pounds of toxic air emissions from TXI, and 643,000 pounds of solid waste in the form of Cement Kiln Dust dumped on-site in Midlothian.

North Texas Cement reported 291,145 pounds of toxic releases from its tire-burning plant in Midlothian. Holnam's Midlothian cement plant did not report any releases under the TRI program for 1998.

Per capita toxic releases in Ellis County are approximately 400 pounds for every man woman and child living there - a statistic that puts it in the league of Gulf Coast counties hosting large petrochemical plants. It's

been that way for the better part of the last decade.

One only has to look at the government's computer generated "ozone animation maps" now daily tracking smog in DFW to know that these toxins are being breathed in by people all over the Metroplex.

Although it's the only reporting system for hazardous chemicals in place, the TRI is really a rough guess at the actual amounts of toxins being released. For one thing, all of its information comes from companies who self-report it. For another, despite covering 660 chemicals, thousands of dangerous chemicals remain outside the TRI listing. Many listed chemicals don't have to be reported if a company doesn't handle more than 25,000 pounds of it a year. Finally, the internal inconsistencies are frustrating for anyone trying to get a handle on what's out there. For example, North Texas reported releasing 91,000 pounds of Sulfuric Acid Aerosols - a very common pollutant for cement plants. But TXI and Holnam don't appear to have reported any of these Sulfuric Aerosol emissions at all. That's not because they didn't release any in 1998.

To research the TRI data base on the internet:

www.epa.gov/tri/

OR

www.rtk.net/trisearch.html

SUNSET REVIEW OF TNRCC GIVES CITIZENS CHANCE AT REGULATORY REFORM

In Texas, a lot of us know that environmental regulation has been an oxymoron. However, what passes for environmental regulation these days is administered by the Texas Natural Resource Conservation Commission - run by three appointees of Governor Bush, all with industry ties.

Any citizen who's had much contact with the TNRCC knows that the agency considers industry its primary "customer." There's a reason the words "environment" and "public health" are not in the commission's title.

This year, the TNRCC is up for review by the state Sunset Commission. The Sunset Commission is chaged with reviewing all state agencies every decade to determine on behalf of the state legislature whether the agency should continue to exist.

Even if an agency isn't abolished, it can be substantially changed for the better or worse by the Sunset process. Among the proposals that might gain traction this year are those that would increase the power of the Public Interest Counsel and require at least one of the three spots on the Commission be from the public interest community.

On June 20, 21st and 22nd, citizens will get a chance to testify to the Sunset Commission about the TNRCC at public hearings in Austin at the Capitol.

A citizens' rally for changing the way the TNRCC works will be held at 12 noon on the 21st at the south Capitol steps.

In preparation of all this, Public Citizen Texas is hosting a DFW citizens training session for the TNRCC Sunset hearings on June 17th from 10 AM to 12:30 PM at the Dreyfuss Building at White Rock Lake.

For more info, Call us at the office or go online at: www.txpeer.org or www.texascenter.org/sunset.

Sordid Solite Saga Continues

Statewide politics is colliding with an infamous waste burning aggregate plant in North Carolina and it's not a pretty sight.

Long-time downwinders will recall that Solite is a company that operates waste-burning aggregate kilns throughout the south. They have a terrible reputation among environmental activists. However, Solite's Stanley County North Carolina plant has been tagged as the worst of the worst. For years, monitoring of the area around the plant has confirmed high, and even illegal, levels of arsenic, dioxin and other poisons. Solite has been out of compliance with state and federal regulations for at least a decade.

Now, Joann Almond and her group, Stanley Citizens opposed to Toxic Chemical Hazards (SCOTCH) have managed to drag a popular Attorney General into this toxic mess, just as he's preparing to run for Governor. They are charging that North Carolina AG Mike Easley has worked behind the scenes to let Solite off easy for its violations, even as the staff of the state's environmental agency was recommending Solite be shut down.

Proof of Easley's pro-Solite leanings comes from documents obtained through the Freedom of Information Act by SCOTCH. In 1999, engineers with the NC Division of Air Quality had prepared a draft report that was highly critical of the compliance record of Solite and its parent company, Giant Cement. It recommended Solite's permit be revoked.

Despite having this report in hand, Easley repeatedly stated that his office lacked "evidence from the technical staff" to take action against Solite.

In April of this year, citizens finally learned that AG Easley had the report swept under the rug, never finalizing it or acting on its recommendation - despite a state law that says polluters are required to demonstrate "substantial compliance" with environmental regulations.

Before this cover-up, Easley had intervened in 1997 to prevent the state's environmental agency from revoking Solite's permit because it had contained false information. Instead, he negotiated a 1998 settlement that had Solite install new pollution control equipment that was supposed to solve the emissions problems. It's failed two test burns so far.

As you can imagine, SCOTCH isn't making it easy for Easley to claim he's the environmental candidate for Governor. In fact, its research has been downright embarrassing to him and he's been forced to meet with the group for the first time. Will Solite be put out of our misery? Stay tuned.

Holnam-on-the-Hudson Brings NY Visitors

After years of waste-burning in a minority of U.S. cement plants, the entire cement industry is now being smeared with a toxic brush and finding it much harder to get any new permits at all.

Holnam Cement, the huge multinational owner of a (non-waste burning) dry process cement plant in Midlothian is a case in point. Downwinders has received numerous calls and e-mails from folks in Colorado, Montana, and New York wanting support for their efforts to prevent either construction or expansion of Holnam cement plants.

Although none of these proposed Holnam plants are seeking permit to burn hazardous waste, local residents are suspicious that they will start once the facility is built.

Perhaps nowhere is opposition more formidable than in the Hudson Valley of New York State. An environmental group founded by legendary folksinger Pete Seeger, Friends of the Hudson, has announced its intention to prevent Holnam from building a brand new plant there. And there's a Texas connection. Screenings of our "Danger Downwind" video, featuring Midlothian's TXI waste-burning cement plant, have played to crowds in the hundreds, warning of the dangers of kiln incineration.

Concern is so high that two local Hudson Valley residents, Rudy Wurlitzer and Lynn Davis hit the road for a national cement plant fact-finding mission. Of course, no such road trip would be complete without a visit to Midlothian - largest concentration of cement plants in the nation. We were happy to give them the 25 cent tour of all three cement plants and talk shop over lunch. Their visit once again proves that you can't talk about the cement industry without talking about Midlothian.

Science On Our Side

Health Experts: Too Many Chemicals, Not Enough Knowledge

America's health experts are unable to gauge the effect of many potentially toxic chemicals on humans because the federal government has failed to study such exposure and has "a long way to go" before remedying the situation, according to a report released May 3rd by the General Accounting Office. GAO is the investigative and research arm of Congress. It took two years to write the report. You can get copies of it by asking your local congressman/woman to send it to you.

Research Validates New Standards for Soot

New research confirms a controversial finding that linked soot particles to premature deaths and increased hospitalizations.

The Health Effects Institute, a nonprofit research center jointly funded by industry and EPA, released two separate studies in early April. One reanalyzed two earlier studies that had been criticized by industry and found the originals were right in concluding that exposure to industrial soot was linked to deaths. As particle soot levels rose in the cities studied, so did deaths. Another report by researchers from the John Hopkins found the link in 90 American cities examined.

Such a link was responsible for tougher EPA regs for soot announced in 1997, but delayed by a court challenge from industry still pending.

"This research should silence the big polluters who have falsely asserted that EPA relied on 'junk science' to write the '97 rules," said Ernest Franck, President of the American Lung Association.

**In This
Issue**

Summer's Here and the Time is Right... OZONE SEASON 2000 SURVIVAL KIT

Downwinders At Risk...We Need Your Help

Wanted: Professional Web page Designers/ IT experts to help us update our web site and office technology - Donations can be tax-deductable.

Wanted: Volunteer typists - so we can get new information onto the web site.

Wanted: Volunteers to monitor public hearings and meetings on clean air issues - especially during the day.

Wanted: Volunteers to staff outreach tables at Cox Farms and other locations

Wanted: Professional graphic designers for new literature.

Call the Downwinders Office at 972.293.8300 to help

In Memorium

Downwinder Bobbie Joe Edwards passed away March 12th, at the age of 70. Mr. Edwards died of lung cancer. His home is only a little more than a mile from TXI. He was a compelling and courageous witness at the 1998 TXI hazardous waste permit hearings, testifying to health effects he said he suffered from the cement plant's pollution. Although advanced in his illness, he summoned the strength to appear in person time and again during the hearings as needed. He is survived by his wife Earlene, two daughters and four grandchildren.

Downwinders' Meetings - Come find out what you've always suspected - It ain't just the allergies! Every 1st and 3rd Monday of the Month 7 pm 707 Wylie in Cedar Hill

This publication made possible by the Patagonia Foundation, with thanks also to the Magnolia Trust

**Downwinders At Risk
707 Wylie
Cedar Hill, Texas 75104**

Worried About Air Quality this Summer? So are We. Read what you need to know to breathe easier in 2000.

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We Must Be Doing Something Right!

TXI SUES STATE OVER NEW SMOG RULES

Possible End of Waste-Burning Motivating Legal Challenge

As we were going to press in late May, TXI and another cement company filed suit in state district court in Austin to prevent the state from executing its new rules for cement plants as part of the DFW anti-smog plan demanded by the Clean Air Act. TXI claims the rules are too restrictive and technically unfeasible.

TXI was joined in the suit by Mexican-based Cemex Cement Company, which operates a plant in New Braunfels in Central Texas and whose owners believe it's too far away to warrant inclusion in any DFW plan.

Two other industry groups - the Engine Manufacturers Association and The Air Transport Association of America - also filed their own separate lawsuits aimed at blocking various parts of the Texas Natural Resource Conservation Commission plan.

For TXI, the lawsuit is seen as a last-ditch attempt to keep its profitable hazardous waste disposal business. That business is inherently tied to the operation of the company's oldest and dirtiest "wet process" kilns, or furnaces, in Midlothian, which are the very kilns now threatened most by the state's plan.

Only TXI's current four wet kilns are permitted to burn hazardous waste. When TXI announced it was building a new "dry process" plant in Midlothian in 1998 called "Kiln #5," it pointedly stated it would burn gas and coal, not hazardous waste. New technical and legal complications probably make burning waste impossible in the new kiln. If TXI wants to keep getting paid to burn other companies' hazardous wastes, it must keep at least one of its old wet kilns.

Because of a health-based ceiling on how much sulfur dioxide can be released by all the Midlothian cement plants, TXI can't operate all four of its old wet kilns, plus its huge new Kiln #5 - which is bigger in capacity than all four older kilns combined. Operation of all five kilns would put TXI way over the sulfur dioxide limit for Midlothian. So TXI had to say it would "decommission" two of its old wet kilns when #5 comes on line next year.

Despite the limitation, this worked well for TXI, which got a boost in capacity with #5, while still getting the extra profits from running hazardous waste through the 2 remaining old wet kilns.

But the state's new smog rules are getting in the way of that plan now. They don't prohibit TXI from running their two old wet kilns next year when Kiln #5 starts up - they just make it harder for that to happen. And they do it by tightening the emissions of just one of the many thousands of chemicals coming out of TXI's smokestacks - nitrogen oxide, (NOx) the major contributor to DFW smog. Midlothian cement plants emit 40% of all industrial NOx in DFW.

TNRCC gives the cement companies three options to get comply with the new rules ("New Rules give Cement Plants 1 of 3 Options," p.3). TXI's Kiln #5 will meet or exceed the requirements laid out in two of the three options - the specific higher performance standards proposed for dry kilns are being designed into its construction, and its operation will mean NOx levels could decrease at TXI Midlothian much more than 30% from 1996 levels.

Capacity isn't the issue. Since the capacity for new Kiln #5 is actually larger than that of all four old wet kilns combined, TXI could still be making 20% more cement WITHOUT ANY OLD WET KILNS OPERATING. 120% more capacity, around 50% less pollution.

So TXI Kiln #5 can comply with the state's plan. And so can Holnam's new dry process kilns in Midlothian that won't be burning waste, and so will North Texas Cement's new non-waste burning plant coming to Whitewright, near Sherman. Only TXI and North Texas Cement's old wet kilns in Midlothian will have problems with meeting the new state standards. North Texas doesn't burn waste in its old kilns anymore, so it has less to lose. TXI's lawsuit is about holding onto the extra profits they generate with their old kilns doubling as cheap incinerators. Profits never publicly revealed

TXI's lawsuit is also interesting for who it doesn't include. At the April 18th meeting when the TNRCC voted on the plan, TXI's lead lawyer, Al Axe, represented not only his traditional client, but almost all the other cement companies in Texas. In the May lawsuit, he's joined by only Cemex. Midlothian's other cement companies Holnam and North Texas are not partners, even though North Texas operates three wet kilns in Midlothian, only 1 less than TXI. And even though Alamo or Capital operate cement plants as far away from DFW as Cemex's New Braunfels facility, they're not named an official party either.

But one can understand the companies trepidation. After all, North Texas smog now has a corporate logo, one not unfamiliar to residents after years of controversy. TXI's now officially the local dirty air villain in DFW.

TXI's lawsuit, along with the two others spawned by industry, have the potential to delay or undermine the entire TNRCC plan. Reasonable men and women observing the TNRCC over the years might conclude this is what a Bush Administration waiting to go to the White House and rewrite the Clean Air Act would want right now. Nevertheless, it's fun to see TXI forced to take the state to court, having been in that position many times ourselves. Stay tuned.

We're (Successful l y) Working For Cleaner Air in Your Lungs... Please Support Us With A Little of Your Time And Money In Return

In the last 12 months, Downwinders AT Risk Has managed to:

get the same state agency that just awarded a hazardous waste permit to TXI to issue new rules that may make that permit useless in less than three years.

forced all three Midlothian cement plants into the state's anti-smog plan despite the opposition of Industry, the reluctance of Local Leaders and the hostility of one of the Nation's most pro-industry environmental bureaucracies

engineered a Stronger state Anti-smog plan that cuts total smog emissions from Midlothian cement plants at least 30% by 2003.

We could have quit after the long and arduous fight that saw TXI win its hazardous waste permit - but we didn't. Instead, we kept plugging away and now are on the brink of unprecedented success.

No group based in Washington or Austin would or could have devoted as much effort as we did to get the Midlothian cement plants included in DFW's anti-smog plan. This was the work of you and your neighbors who live here in North Texas - directly downwind of those plants. Downwinders At Risk is the only public-interest group specifically devoted to cleaning-up these three facilities, where half of all north Texas industrial air pollution originates.

But the more time we have to spend raising money, the less time we have to raise constructive hell over dirty air. We're still paying off legal fees from the 1998 TXI permit fight while trying to keep the pressure on the company in 2000. We squeeze as much as we can out of every dollar, but even we can't go on without additional support. Help us keep doing our job - a job that is as important to you as the air you breathe. We believe we've earned your support over the last year.

**OK, I'll Help You
Make Our Air Cleaner:**

Name _____

Address _____

Tel. _____

e-mail address (for updates & alerts)

Here's my tax deductible
contribution of:

\$25___ \$50___ \$100___ \$_____

_____ I'll Also help by donating garage
sale items,

_____ donating my time to help staff
the garage sales

_____ Donating My time To Help with
Office work

_____ Donating My Time to staff a
Literature Table

_____ Donating My particular Skill /
talent to Benefit the group

Thank You

Please Cut and Send To: Downwinders At Risk 707 Wylie Cedar Hill, Texas 75104