

## *The groundWork Corpse Awards - 2005*

### **Nomination: *South African Petroleum Refineries* (SAPREF)**

SAPREF

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6. (CD also contains media clippings)
7. TEL Tank Failure Report 1 February 2003
8. Minutes from Community Meetings held by SAPREF that relate to the petrol leak
9. Letter regarding spray monitoring at SAPREF rehabilitation site
10. Letter dated 21 May 1998 regarding fire at SAPREF
11. Communication between SAPREF and D. D'SA
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## Introduction

SAPREF is a 50/50 joint venture company owned by two of the largest global multi-nationals, British Petroleum (BP) and Shell. It has a history of polluting local communities of south Durban and South Africa as a whole. Some of these incidents have been recorded from 1998, and are currently recorded on SDCEA's Geographic Information System (GIS). Newspaper clippings are included in this report, and some incidents can be also found on the CD. You are invited to ask for any additional information that you may require.

A Comparative Study between refineries in south Durban and those in Denmark has been provided. This shows the double standards between the Shell oil refinery in Fredericia in Denmark, and the dirty, accident and incident prone refinery in south Durban. The recommendations of the study are being used as a lobbying tool; so that ultimately, people in south Durban can enjoy the same fresh air as the people in Denmark.

### 1. Who the corporation is, what it does & where it operates:

SAPREF is jointly owned by 50% each of both Shell & BP. It is the largest oil refinery in South Africa, and currently produces 185 000 barrels per day. It refines 35% of South Africa's crude oil and manages the Singles Buoy Mooring (SBM) that brings in 80% of South Africa's crude oil. The Refinery operates in south Durban, adjacent to the Merewent, Austerville, and Isipingo communities. The refinery produces Petroleum products for the South African and the International community. SAPREF refinery is managed and operated under Shell international conditions. The refinery operates seven pipelines that run through numerous communities, to their Island View Storage Facilities on the Bluff in south Durban. Here products are stored, blended and either shipped, piped or transported by rail or road.

### 2. What is it doing to harm people and their environments?

SAPREF pollutes their fenceline communities. SAPREF pipelines, 84 kilometers long, have been a source of major problems for the last forty years, involving damage to the environment and ecosystems, as well as safety and health issues. These pipelines were responsible for the biggest petrol spill in South Africa's history in July 2001. Millions of liters of petrol were spilt under resident's homes, and only 1.3 million was recovered on the Bluff in south Durban. (This figure was the last we received in 2002, yet the remediation site is still recovering petrol, and will be there until 2015.)

Many major oil spills have occurred because of the rotten pipelines, and poor management and maintenance of the SBM has affected the Marine Life. The most recent incident that occurred in September 2004 also affected local

fishermen's livelihoods. They were not offered any compensation, although SAPREF management admitted fault.

SAPREF continues to exceed World Health Organisation (WHO) standards and guidelines through their daily emissions, abnormalities, flares, incidents and accidents. In the past, SAPREF has under-read their emissions, and when confronted by the community, lied about it. Five years later, they finally admitted that they were not using the correct formula. (For further details, see more detailed report in the file on air emissions.)

Residents of south Durban are denied of their right to breathe in clean air because of these exceedences. Black Wednesday, which occurred on the 21 April 2004 at 4 a.m., will be remembered by residents for years to come in south Durban. This incident affected the entire city of Durban and its citizens.

SAPREF, like other refineries produce carcinogenic products and when they have leaks, spills and emissions, they dump thousands of tonnes of these chemicals onto their fence-line neighbours. This ultimately increases health problems, like asthma, leukemia and cancer. The high levels of these emissions from incomplete burning through their stacks, and these impact on global warming.

In our accompanying documents and CD, we will highlight what we see as being the most important. They include:

- a) The under-reporting of Sulphur Dioxide (SO<sub>2</sub>)
- b) Numerous air pollution exceedences
- c) Numerous oil spills - especially the 1,3 million liter petrol spill
- d) The tetra ethyl lead (TEL) tank failure (In the file we included the Executive Summary; the full report is available on request).
- e) Incidents and accidents
- f) Allegations of subversion of the law by SAPREF management
- g) Green wash - In Sapref's external communications, for example, their Stakeholder Reports, they publish that they are good neighbours. In the media, they advertise how "clean" their petrol is, when we all know that it is a major polluter. They frequently take out adverts in local newspapers, which appear to be articles, and yet they are advertorials. See the Southlands Sun, 28 January 2005 clipping.

See attachment for a list of incidents etc that the community has to endure on an ongoing basis.

### 3. How long it has been doing it?

Since 1963.

#### 4. Who is supporting the corporation?

They are operated and managed by Shell International under the OECD Guidelines and should be using the best practices. They are supported by all three tiers of Government, and other Multi-National corporations. They are also supported by the major political parties in SA. They are also supported by EU policies, and are accredited with ISO 14 001 and ISO 9001.

#### 5. How are they supported?

They are supported by old Apartheid Legislation, currently used by the Democratic Government, Government Parastatials and other Industries, including acts such as the National Keypoints Act, which denies information to members of the public.

The government is failing by not enforcing the laws when SAPREF exceed their limitations in regard to Air Quality and when they do not comply with their permits. They do not comply with the World Health Organisation (WHO) & European Union (EU) Stds. SA has many environmental laws yet the real problem, though, is that they are not enforced due to lack of political will, and by the resultant lack of "person-power". This is done in the name of profits, and people are not factored into the equation.

The Shell/BP oil refinery, during the apartheid era was allowed to self-regulate and hence these companies did not disinvest during the years of economic sanctions against the government of the day. In a democratic South Africa, Shell/BP management continues to use their economic muscle to lobby our government for Environmental Management Co-Operative Agreements (EMCAs). This is self-regulating mechanisms, which will ultimately side-line community involvement.

There is a lack of capacity in government to carry out investigations and write out reports, which leads to distorted information put out by refinery management. This then leads to conflict with community groups, on account of the inaccurate information that is not verified by local government.

The refineries have increased their communication personnel, to counteract criticisms from community groups. Refineries are able to put out information that exonerates them from blame. This is often believed by politicians & officials alike. (See above paragraph). One of the mechanisms that SAPREF

management has implemented is a Community Liaison Forum (CLF). This was created to drown the strong voice that was exposing the abuse of tonnes of toxic chemicals on their neighbours. This has failed, as communities have seen through this process. Representatives, who sit on this forum, act in their own interest, and not in the interests of affected people.

## 6. Who is being harmed?

- a) Shell/BP fence-line neighbours and all south Durban residents have been affected through the upsets - incidents and accidents. It must be remembered that the elderly and the young are more susceptible to pollution than others. People living with HIV/AIDS are also particularly vulnerable due to their weak immune system.
- b) Learners and Educators at local schools are being affected on a daily basis due to the high levels of pollution from the Shell/BP refinery.
- c) The Marine Life is being drastically affected due to the many toxic chemicals as well as pipeline leaks of products that have been dumped into the Durban Harbour, canals and rivers which ultimately lead into the sea.
- d) Fishermen's livelihoods are also affected. This has resulted in the fishermen organizing a fishing forum.

## 7. How are they being harmed?

- a) **Residents** - In a community of high unemployment and poverty, residents have to pay for their own medical treatment, which causes a drain on the household. Even a trip to the public hospital costs money for transport, as well as R19 admission fees.
- b) **Young learners** at these schools are losing many learning hours on a daily basis, and their health is compromised at an early age. Many learning

difficulties could be ascribed to the toxic environment, and this needs to be researched.

A health survey done at Settlers Primary School by the Nelson Mandela medical school in conjunction with the University of Michigan in the USA found that 52% of the educators and learners have asthma. It was found that even low levels of pollution affected the learners' health. The study found that the pollution at SAPREF and industry alongside the school was responsible. SAPREF has refused to provide funding for a sick room at this school.

c) **The Marine Life** is dwindling due to the many oils spills in the Harbour and the sea (see newspaper cuttings on disc)

The Marine Life as well as the Aquavits (small fish) that are put into fish tanks is regularly found washed up dead in the rivers and in the Harbour.

d) **The fishermen** are affected in two ways. Firstly, their livelihoods are affected during and after an oil spill. Secondly, their health is being compromised by eating fish caught in local waters that is contaminated by chemicals. Research needs to be done on the analysis of the fish, as well as possible health effects.

## **8. What are they doing to defend themselves or their resources?**

They deny community information using the National Keypoints Act. Permanent and Contract Labour at the Sapref Refinery have to sign confidential clauses in their contracts, inhibiting them to speak to anyone or give out information. All information is classified confidential. Presently, Contract Labour, both skilled and unskilled, who have been injured or speak out against safety records at the SAPREF refinery have been blacklisted and are unable to source work in other Petro Chemical Industries due to this. They have placed cameras and hundreds of security guards around their Refinery and infrastructures. They have also given out small social grants that create division in local communities. They have also increased their personnel in the communications department to counteract the community organizations putting out information about the violations and exceedences. They have also resorted to employ media personnel to write up good stories about the Refinery in the local media. They also allocate huge funding to the Mayor's Awards, thereby inhibiting strong political decisions to enforce the law.

## **9. Recommendations:**

**Refineries:** SAPREF needs to have the same refining technology currently being used at their Shell Fredericia refinery. This would be in line with Shell global thinking. This would eliminate double standards between the first and third worlds. They need to reduce their incidents and accidents by replacing their pipelines and providing a five year Pollution Reduction Plan. Their senior management must be held accountable for their actions and they must pay the cost of any damage or destruction and impact to peoples' health.

SAPREF must be open and transparent with the way that it deals with communities. SAPREF must conform to the laws of the country, and must not manipulate city officials (see newspaper articles).

**Government:** Should introduce strong legislation to hold Multi-National Corporations like SAPREF accountable for their actions.

Government should be enforcing Sapref's permit conditions, whenever there are exceedences and violations in the levels of toxic chemicals being emitted from their stacks and plant, or whenever there is an accident or incident on their plant due to bad maintenance and bad practice.

Legislation should be introduced to keep the Beauracrats free from Political interference.

Legislation should be introduced that hold Multi-National Corporations accountable and to provide burden of proof whenever there are incidents and accidents, as well as being responsible for the damage and clean-up.

Managing Directors or Chief Executive Officers of these Multi National Corporations should be held accountable, such as in the Labour Laws of our country.

Multi-National Corporations should also be held accountable in their countries of origin.

Old Apartheid Legislation that is in conflict with the Constitution of SA and does not give effect to Section 24 'A right to clean and healthy environment'; should be repealed. Communities could be taking these issues to the constitutional courts.

**Community:** To continue lobbying the Government to take more action and put the lives of the people first and challenge Government to enforce the law.

Communities must form partnerships with other affected people to challenge these Multi - National Companies and their respective governments.

**Organisations:** Civil Society Groups in south Durban and South Africa as a whole; need to come together to work on programmes which will hold SAPREF responsible and force Government to take action. Local organisations must work closely with International organizations to lobby our Government, and the governments of the countries where the multi-national corporations are based, and to seek for appropriate legislation, and redress.

Civil society needs to continually hold SAPREF accountable in the public domain, by liaising with the media, holding public meetings and workshops;

and meetings with SAPREF. This should also include challenging government to enforce the law, when required.