

FORMOSA PLASTICS

A Briefing Paper on Waste, Safety and Financial Issues
Including U.S. Campaign Finance Abuses

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PART I

POLITICAL AND FINANCIAL ISSUES

A. White House Campaign Finance Issue

Formosa Plastics has been implicated in the Democratic National Committee's foreign campaign contributions scandal. Evidence shows that Winston Wang, Taiwanese Vice President of a key subsidiary, may have illegally channeled as much as \$100,000 to the Democratic National Committee through Yah Lin "Charlie" Trie, a long time friend of Bill Clinton's.¹

Ongoing Judicial and Congressional scrutiny of Trie, who recently pled guilty to campaign finance violations, should include scrutiny of this company's role in campaign contributions, and how those contributions may have paved the way for the company's activities through regulatory approvals or grants.

In June 1995 "Charlie" Trie escorted Winston Wang, the Taiwan-based Vice President of Nan Ya Plastics (a subsidiary of Formosa Plastics) to a coffee at the White House and presented DNC Chairman Donald Fowler with a briefing paper regarding Mr. Wang and his company.² The next day a \$50,000 donation to the DNC came from Mr. Trie, who is known to have laundered funds from various contributors before and after the White House meeting. Mr. Trie did not independently have the resources to make large donations; his donations were generally channeled from third parties.

According to the House Committee on Government Reform's investigation to date, Mr. Trie channeled hundreds of thousands of dollars in foreign contributions to the DNC through his company Daihatsu Trading. As this company only showed a trading income of \$250,000 per year, its other "business" seemed to involve funneling far more than that money from foreign sources to the Democratic National Committee and the Presidential Legal Expense Trust fund. Many of the contributions received by the fund were channeled from sources that went unnamed, thus rendering it difficult to trace their origins.

An entry in ledger books disclosed by Presidential chief of staff Harold Ickes revealed that Winston Wang pledged \$100,000 to the DNC. The paper trail relating to the pledge stops there and merits close questioning of Mr. Trie. Was this money ever donated? Via what channels and over what period? What information or requests accompanied the donations?

B. Was there a Quid Pro Quo?

What types of activities and needs faced Formosa Plastics in the US in 1995 that might have merited contributions of such a magnitude? Our review shows that in 1995 Formosa Plastics was in pursuit of federal and state government approvals and regulatory leniency in South Carolina, Texas and Louisiana, was in a heated labor dispute in Louisiana, and would soon be benefitted by a federal grant in South Carolina.

South Carolina: In Lake City, South Carolina, Winston Wang's Formosa Plastics subsidiary Nan Ya Plastics was in the midst of sewer discharge violations dating from 1992. It proposed to eliminate its water pollution violations through dilution of its wastewater beyond the city's sewage treatment plant. Dilution is not generally considered a desirable alternative to eliminating pollution at the source, however, the company and city won permission from federal and state officials to construct a lengthy pipeline that would shift the discharge point of treated wastewater from a lake to a faster moving river. Shifting to the river would allow the company to discharge its pollutants without technically violating federal discharge rules. In addition to receiving clearances from the US Army Corps of Engineers and the state agencies, the project received a \$3.9 million federal loan from the Farmers Home Administration, and \$2 million in a Community Development Block Grant.

Louisiana: Formosa Plastics was seeking to build a Rayon plant in Baton Rouge Louisiana that was widely challenged on environmental and conservation grounds. The company was also engaged in a bitter fight over a labor contract at the Louisiana plant with the International Brotherhood of Teamsters.

Texas: The plant was in the midst of a massive expansion that required various federal and state approvals. Some of the needed permits were being challenged by local environmentalists due to the plant's poor compliance record.

C. A Pattern of Financial Misdeeds

Formosa Plastics is no stranger to allegations about misuse and abuse of its funds. Press reports about this company contain an extraordinary number allegations of illicit campaign contributions, bribery, kickback schemes, and suspicious contracting patterns.

Contractor allegations: A 1993 report in the Houston Chronicle alleged that a Formosa official demanded money and favors for contractors to work on Formosa's \$1.3 billion expansion project. According to the newspaper records showed that contractors paid thousands of dollars, in the form of personal checks, cash, and possibly plane tickets, to purchasing agent James Morrison, who reported directly to a company vice president J.N. Chen at the Livingston, NJ plant. The company admitted kickbacks took place in a letter to the FBI after contractors began complaining. In the early 1990's there were approximately 30 lawsuits of contractor allegations filed against Formosa Plastics' Texas plant. The company was alleged to have repeatedly sent form letters to contractors stating that their bids were 6.5 percent higher than the next low bidder, even when, as one contractor reported, "in reality we were \$300,000 lower than the next lowest bidder."³

1998-1999 Cambodia waste dumping: Allegations were made that Formosa had bribed local officials with \$3 million in order to dispose of the wastes in Cambodia. See detailed discussion below. As of June 1999 Cambodian courts have found guilty two Taiwanese from the Jade Fortune shipping company, under contract by Formosa. They were sentenced in absentia to five years in prison and ordered to pay total fines of \$480,000.

Conflict of interest in politics: The Governor of Texas, Ann Richards, had to personally intercede to prevent a continuing conflict of interest posed by Formosa's employment of John Wyatt, a former state legislator and US Congressman. Formosa hired Wyatt as a lobbyist while his wife, Mary Anne Wyatt, was a member of the Texas Air Control Board which makes rulings relevant to the permitting of Formosa Plastics. Mrs. Wyatt occasionally excused herself from ruling on issues relevant to Formosa Plastics, but sometimes made calls or issued press releases in support of Formosa's permitting.

According to Governor Richards' letter to Mrs. Wyatt, "you should be aware that information provided to my office by the Board indicates that in fact you have not abstained in every case..." [relevant to Formosa]. "If you had been appointed to a position reserved for an industry representative I would be comfortable with your membership on the Board.... But your continued service as a public member while your husband is employed... by Formosa Plastics is inappropriate and undermines the agency's credibility at this crucial time."⁴

Senator Ken Armbrister received \$2,000 for his 1990 campaign from Susan Wang, the daughter of the Formosa chairman and Head of Formosa Plastics, USA. Armbrister championed a bill authorizing refunds of state sales taxes on machinery and manufacturing equipment, with Formosa cited as a specific beneficiary. The Senator also supplements his salary as a managing

partner of Triple-D Security, a company hired to guard the Formosa plant. This has been alleged to pose a serious conflict of interest.⁵ The company implied in an internal memorandum that they need to keep this contract, despite unfavorable financial terms, because of the company's dependency on the Senator's political support.

PART II

ENVIRONMENTAL AND HEALTH ISSUES

A. TOXICITY ISSUES REGARDING POLYVINYL CHLORIDE

As the world's leading producer of polyvinyl chloride (PVC), Formosa Plastics problems begin with the toxicity of this core product and the materials that are used to make it. Formosa Plastics is the leader of Taiwan's petrochemical industry, and a member of the country's largest industrial group, the Formosa Plastics Group. The FPG makes over two million tons of PVC powder per year. Formosa's products include acrylic fiber and yarn, polyethylene, caustic soda chlorine, calcium carbonate, and acrylic acid and they sell shopping bags, roll bags, garbage bags, and acrylic staple and carbon fibre. Products produced by the group's largest company, Nan Ya Plastics are PVC, polyester yarn, printed circuit boards, and fiberglass materials used for the bodies of electric vehicles. The US affiliate, Formosa Plastics Corporation, U.S.A., performs natural gas drilling, chemical manufacturing, and petrochemical production.

PVC is itself a controversial industrial product, for which production and disposal have been cited by the US EPA, the German EPA, and various international agencies for damage to human health and the environment. The environmental problems with PVC seem so severe as to be intractable. Accordingly, member countries of the European Union have begun a phase-out of PVC products to prevent the health and environmental risks they pose. The US Navy has moved to replace all of the PVC-based cables on its vessels.

The manufacture of PVC is itself environmentally problematic, because it utilizes highly toxic materials, including ethylene dichloride (EDC), vinyl chloride (VCM), chloroform tetrachlorethane, carbon tetrachloride, and trichloroethane.

Ethylene dichloride is carcinogenic, mutagenic, embryotoxic and teratogenic. It damages the liver, kidneys and other organs, and can cause internal hemorrhaging and blood clots. Ethylene dichloride is also highly flammable: the vapor can explode, generating hydrogen chloride and phosgene (two extremely toxic gases that could cause a Bhopal-style accident). A Louisiana state official notes that it "will melt your plastic hard hat."

At Formosa Plastics there have been a number of severe incidents and fatalities involved in the use of ethylene dichloride. For instance, in 1997 two workers died when they were exposed to this substance in a marine loading operation at Formosa's Texas operations.⁶ In December 1998 the same Formosa operations suffered an enormous explosion in the ethylene dichloride unit.

According to some accounts of the incident, workers were exposed to high levels of the substance for much of the day.

Vinyl chloride is even more toxic than ethylene dichloride.⁷ Vinyl chloride causes liver, stomach, and brain cancer. An abnormally high number of spontaneous abortions has been reported among the spouses of workers exposed to vinyl chloride, and increased rates of birth defects have been reported in areas where vinyl chloride plants like Formosa's are located. The Formosa plant in East Baton Rouge Parish, LA has been fined for vinyl chloride monomer releases.

Both in the U.S. and overseas, Formosa's operations have posed an environmental threat. Formosa Plastics USA generates over 195 million pounds per year of toxic waste -- over a million pounds of which are discharged directly to air, water or land.

PVC, Chlorine And Dioxin

Of major concern to scientists and regulatory agencies is the potential for PVC production and disposal to lead to emission of dioxins. Dioxins are identified as probable carcinogens by the US EPA⁸ and are considered among the most toxic substances known. Dioxins persist in aquatic environments, in soil, and in human fat. At even very low exposure levels dioxins have been linked to immune system suppression in humans and animals, reproductive disorders, a variety of cancers, and endometriosis.⁹

Around the world, scientists have identified high levels of dioxin near PVC production facilities such as the ones run by Formosa Plastics. PVC products contain almost 60% chlorine. Because of this, dioxins are created when PVC's are produced and when they are burned during disposal. PVC products, for example, contribute as much as 80% or more of the total chlorine fed into medical waste incinerators. US EPA has identified waste incinerators as one of the country's largest identified sources of dioxin.¹⁰

In 1996, scientists investigating dioxin in the sediment of the Rhine River in Europe found that overall dioxin levels have declined in recent years except for the specific types traceable to vinyl chloride production.¹¹

B: REGIONAL ENVIRONMENTAL ISSUES AT FORMOSA PLASTICS FACILITIES

Formosa's development and expansion of its operations in the US may be driven in part by the forceful environmental opposition to further expansion of its polluting operations in Taiwan. Formosa has plants in Texas, Delaware, South Carolina and Louisiana, where the company is a noted local polluter.

Taiwan

In 1990, the Taiwan Environmental Protection Agency conducted preliminary tests near the Chi-jin coastal area of Kaohsiung and found 180,000 feet of acetylene residue disposed by Formosa. This pollution contained extremely high levels of mercury, contaminating local soil, groundwater and fishing areas.

In December 1990, over 20,000 people demonstrated in Taiwan to protest the \$8 billion chemical complex proposed for Taiwan. Despite the public outcry, Formosa began the construction of a new CFCs factory on October 1, 1990. The new factory was built at Zen-Woo Prefecture, Kaohsiung, the site of Formosas chemical instrument plant. The residents of this area claim to have suffered acid rain, smog, crop damage, mercury poisoning, and air, noise, river, and drinking water pollution for thirty years from an array of polluters; the new Formosa operations threaten to make matters worse.

The Taiwan Environmental Action Network alleges that Formosa Plastics is linked to illegal dumpsites recently uncovered in Taiwan, especially some of the sites in Pingtung and Kaohsiung counties in Southern Taiwan. In late January 1999, shortly after news broke regarding FP's toxic waste in Cambodia, Taiwanese government officials announced the discovery of approximately 169 illegal dumping sites in Taiwan. Formosa Plastic Group's close proximity to some sites, and their own admissions, lead to an assessment that FPG was a likely source of much of the 8000 tons of mercury waste found in the sites. Toxic wastes were illegally dumped on government-designated conservation sites for water resources, and other areas of biological and ecological importance.

Delaware

Formosas Delaware City facility (purchased from Stauffer Chemicals in 1981) has contributed huge amounts of toxic chemicals to the states pollution problem. In May 1984, after high levels of vinyl chloride and ethylene dichloride were detected in nearby wells, Formosa and Stauffer agreed to a one million dollar groundwater cleanup. Seven months later the state filed a lawsuit against Formosa for 30 illegal air releases of vinyl chloride between 1981 and 1984. Formosa ended up paying a \$100,000 fine and rebuilding an incinerator used to burn off excess vinyl chloride.

Then in October 1985 the DNR, issued an emergency order revoking all of Formosas permits and shutting down their plant. The DNR found:

- Forty separate illegal releases into the atmosphere of vinyl chloride monomer (VCM)--an explosive, carcinogenic gas--including 10 after the state issued a cease-and-desist order.
- Chronic breakdowns in the plants emissions monitoring system, including a missing part that rendered the system inoperable.
- Violations of PVC process wastewater discharge permits in 16 out of 24 months.

- Violations of sanitary wastewater discharge permits in 44 out of 45 months from 1982 to 1985.
- When a hurricane passed through Delaware in September of 1985, Formosa did not adequately prepare for the storm, and was the only operator of a wastewater treatment plant, out of hundreds in the State, to report overflows of treatment lagoons due to the abnormal rains.
- On October 15 a vinyl chloride leak was not reported for more than seven hours following the incident. Two days later another vinyl chloride leak occurred, this one so serious that it activated the plants sprinkler system and the employees were forced to don emergency breathing apparatus. Formosa never reported this violation; the DNR only learned about it from an anonymous source.

Formosa challenged the DNR's right to revoke all of its permits, but the state court upheld the DNR's actions, noting Formosa's "long record of flouting environmental regulations." Said the court, "The violations cited by the Secretary show an almost complete disregard by Formosa of the State's environmental regulations."¹² The plant was shut down for six weeks.

Louisiana

Formosa operates three manufacturing plants in Louisiana. It has paid tens of thousands of dollars in fines and penalties for failing to comply with state environmental laws.

The worst aspect of Formosa's violation of Louisiana's environment is the company's contamination of groundwater with ethylene dichloride, which has threatened Baton Rouge's water supply.

While attempting to obtain permits to spend \$700,000,000 on the world's largest rayon plant, Formosa contributed \$15,000 to Governor Buddy Roemer's 1991 reelection campaign. Roemer later returned the funds on the grounds that he couldn't accept money from companies with permits pending before the State Department of Environment Quality.

But in a move that raised ethical questions, he later accepted donations from the company the following year, after his campaign was over.

The plant proposed for the St. John the Baptist Parish in the community of Wallace would have discharged 16 billion gallons of waste water each year into the Mississippi River -- drinking water supply for a million people downstream in New Orleans. The proposal was vigorously opposed by residents and environmentalists and Formosa shelved the project, because the US EPA insisted on a lengthy environmental impact report.

Texas

While the chemical industry as a whole has reported reducing its air pollution emissions by 47% from 1987 to 1993, Formosa Plastics management has been pushing more pollution into the air, not less. For instance, the Point Comfort Formosa Plastics operations reported to US EPA toxic air emissions of 27,000 pounds in 1987; by 1997 the toxic air emissions reported at the site rose to 700,000 pounds.¹³

While other chemical companies are reducing their production related wastes, from 1991 to 1996 the total production related waste at the Point Comfort Plant increased 195%. An analysis by the Sierra Club in the mid-1990's found that the Point Comfort, Texas Formosa Plastics plant was the worst among about a dozen Texas PVC-related facilities in terms of 1) total state/federal air pollution violations and 2) total state/federal environmental fines.¹⁴ Since its beginning in the early 1980's, Formosa's Point Comfort plant has violated many environmental regulations. In the late 1980's contamination was already turning up at the site. By February 1991 the company was assessed a record \$3.37 million dollar penalty by the E.P.A. for hazardous waste violations related to the discovery of massively contaminated groundwater under the facility. Alleged violations included failures to comply with the most rudimentary hazardous waste regulations -- such as storing waste in leaking containers, lack of adequate employee training, and illegal discharges of waste. The company was also hit with a \$244,700 fine by the Texas Water Commission in May 1990 for 54 water quality violations between 1986-1989.¹⁵ In 1992 the Occupational Safety and Health Administration fined Formosa \$330,000 for safety violations in the Point Comfort plant. An OSHA inspection found that vinyl chloride levels were not monitored, flammable liquids were not handled properly, and general procedure for maintenance and repair were not followed. Sixty-two violations were filed, three of which fell under the category of "willful".¹⁶

In the shadow of such penalties, the possibility of an expansion permit led environmentalists to question if state and federal agencies had put the 1,000 jobs created by the plant ahead of the region's \$64 million shrimping and \$100 million fishing industry.

The firing of a contract employee at the Formosa plant in 1993 bolstered environmentalist's commitment to ending environmental abuses by the Point Comfort plant. Scott Jaynes was fired by his contract employer shortly after he reported a potentially deadly chlorine gas leak at the Formosa facility.¹⁷ Jaynes informed his boss of the gas twice, but an alarm was never sounded. When questioned by environmentalists, Formosa initially denied that there was a leak and did not report it to state officials. This incident led to the revelation of other environmental violations and concerns. Former supervisor of environmental issues for Formosa, Fred Olenick, said the company shipped off polyvinyl chloride powder, used to make plastic, contaminated with high levels of vinyl chloride monomer, or VCM, which causes cancer. Olenick was fired shortly after discussing the toxic levels of the samples, which were "significantly above" the maximum limits for industry standards and safety restrictions.¹⁸

Formosa's \$1.3 billion plan for expansion on Lavaca Bay in 1993 allowed for the daily dumping of 15 million gallons of wastewater into the bay. The permit granted by the Environmental Protection Agency was met by protests from environmentalists and those with stakes in the fishing industry. The Calhoun County Resource Watch filed in civil court for an injunction against the state's permit and cited Formosa's repeated fines for illegal discharges as evidence of the company's disregard for restrictions on dumping. Opponents to the plant, led by Calhoun County Resource Watch under Diane Wilson, believed that the wastewater would permanently end the oyster and shrimp industries of Lavaca Bay.¹⁹ In March of 1994, Lavaca Bay shrimper and environmental activist Diane Wilson planned to sink her boat to protest the \$1.3 billion expansion of Formosa Plastics Corporation and its discharge of 15 million gallons per day of waste water. Her efforts were thwarted by the Coast Guard. Wilson did not believe Formosa's claims that their new "state of the art" facility would not damage Lavaca Bay and its \$140 million shrimp and fish industry. She also went on a hunger-strike to protest the expansion of the Point Comfort plant.

Formosa has paid more than \$4 million in fines to state and federal environmental agencies. Thirty-four families in Point Comfort filed a law suit claiming that the company's "operations have devalued their property, and threatened their safety and health." The families' attorney, Sandra McKenzie, said that "Formosa is within less than a mile of the residents and we believe [it] is poorly constructed and maintained. The chemicals used and produced are explosive, corrosive, and may cause cancer, birth defects, and other diseases."²⁰

An explosion at the Formosa Plastics Corporation plant in Point Comfort Texas in December 1998 injured 26 workers and rattled windows 35 miles away. The blast occurred in the ethylene dichloride section of the eight-plant complex, where polyvinyl chloride resin is used to make surgical gloves, siding material, and automotive upholstery.²¹ Another ethylene dichloride accident occurred in July of 1997 when two workers were found in a chemical container of the substance, apparently killed by asphyxiation, aboard the Formosa Plastics Marine Corp. tanker.²²

Plasticizing the Bay

The use of plasticizers - materials used to soften PVC products - has been highly controversial in recent years, and has led to the voluntary withdrawal from the market of various children's toys, as well as a call for medical device labeling and a shift to PVC alternatives. Of principle concern are plasticizers known as phthalates. At least one of the compounds in this category, Di-ethylhexyl phthalate (DEHP) is a probable human carcinogen. Based on animal studies and limited studies in humans, organ systems that may be impacted detrimentally by DEHP exposure include the heart, liver, ovaries, testes, lungs and kidneys.

A variety of phthalates have been detected in Lavaca Bay during a Formosa monitoring program over the last several years.²³ DEHP and DnBP were observed "very frequently" and 30 times respectively between 1996 and 1997. Other phthalates included BBP and DEP. The presence of phthalates in an area of active commercial shrimping and fishing is disturbing because phthalates

are known to bioconcentrate in shrimp, oysters, and some fish, increasing the likelihood of human exposure.²⁴ In addition, the toxic effects of phthalates have been demonstrated in mussels, perch, and brine shrimp.²⁵

The average concentration of DEHP in seawater is 0.005 ppb to 0.7 ppb.²⁶ In contrast, DEHP levels in the water around Formosa's outflow pipe ranged from 12 ppb to 68 ppb; 17 to 13,600 times higher than the background concentration. The Maximum Contaminant Goal for DEHP in drinking water is 0 ppb. The action level is 6 ppb. Formosa's DEHP contamination was 2 to 11 times higher than this limit. Formosa has argued that the phthalates "were common laboratory contaminants" and that the levels observed in Lavaca Bay were due to laboratory error, not environmental contamination.

Fraud in Wastewater Monitoring is Alleged

The FBI is investigating allegations that the company very recently was engaged in intentionally fraudulent water pollution monitoring practices at the Texas facility. A memo from a group of hourly employees implies that the company is rigging its pollution sampling -- by continuing to run pollutants to Lavaca Bay that is out of spec but "during sample days we run lower flows or shut down problem units to stay in spec."²⁷

C. TOXIC WASTE SHIPMENTS FROM TAIWAN TO CAMBODIA TO THE UNITED STATES

Toxic Waste to Cambodia

Formosa Plastics has attempted to take advantage of poverty in Cambodia, a convenient open target, by dumping 3,000 tons of their toxic, mercury-laced waste in an open air dump near the coastal city of Sihanoukville. The waste was secretly shipped to Sihanoukville in Nov. 1998. Cambodian newspapers quoted government insider sources as asserting that three million dollars in bribes were involved in the transaction. Formosa Plastics exported the waste illegally from Taiwan following local protests when they attempted to dispose of it in landfills there. The waste caused extensive harm in Cambodia.

A dock worker died after exposure to the toxic waste in the hold of the ship where it was carried, and another five laborers were hospitalized. Another villager died after sleeping on one of the bags. Cambodian villagers got too close to the materials, not realizing the waste which was characterized as "cement cake" in shipping papers was toxic. The sacks labeled "polyester chips" were used as canopies, tents, bedding, string, and even became containers for rice. Some of the waste contents were even used as fertilizer and spread on crops. Soon after, villagers began suffering headaches, thirst, fatigue, difficulty breathing, loss of appetite, diarrhea, rash, and fever.²⁸ As news spread of deaths associated with contact with the waste, a riot erupted, killing one person. Protesters sacked the offices of government officials for allowing the material into the country. 10,000 people fled the city, resulting in four more deaths.

Villagers did not learn that they were handling toxic waste until two weeks after the shipment, when local journalists arrived to take pictures. Formosa Plastics first insisted that the material was "harmless and that it was properly treated before being shipped" and "later admitted that some of it might slightly exceed safety standards." But to date they have yet to admit that it is "toxic waste" by legal definitions. The World Health Organization reports "extremely high" levels of inorganic mercury, but did not implicate the mercury as being the cause of the deaths.²⁹ Initial tests of the waste revealed as high as one percent mercury -- many times higher than the industry safety standards.

Villagers attest that the Cambodian government, besides the military order to evacuate the village of Bet Trang, has ignored them throughout the affair. After evacuation, the government did not provide shelter and the villagers had to survive on donations from the World Food Programme.³⁰ The Cambodian government has only arrested and tried low level officials and the brokers involved. However well-placed whistle-blowers report that \$3 million in bribes was paid to corrupt high level officials to ship the waste. This claim has been denied by general manager of Formosa Plastics, Lee Chin-chun. He does say, however, that the Cambodian agent who handled transport and disposal was paid \$300,000.³¹

After the well-publicized scandal, Taiwan agreed to take the waste back.³² Wang Yung-Ching, the chair of Formosa Plastics, has now issued an apology to the Cambodian government. Both Cambodia and Taiwan accuse Formosa Plastics of illegally transporting the toxic waste. CT Lee, the president of Formosa Plastics, counters that their treatment process had been approved by the US and Taiwanese Environmental Protection Agencies.³³

In February 1999, Cambodia and Formosa Plastics signed a 16-article agreement. Formosa Plastics took responsibility for repacking, sites cleanup, and transportation of the waste out of Cambodia. If the waste was not removed from Sihanoukville within 60 days, Formosa would be fined \$1,000 dollars a day for the first 15 days, with fines increasing by \$1,000 each day until reaching \$5,000 dollars a day. Formosa Plastics also agreed to provide medical treatment to those poisoned by the waste or harmed during its removal.³⁴ The agreement stipulated that Formosa transport the waste under the supervision of a third-party, the Cambridge, Massachusetts based Camp, Dresser & McKee, Inc. Formosa contracted Cambodian soldiers to remove the waste, which will cost the corporation about 2.5 million dollars.³⁵ However, Formosa Plastics has yet to show any willingness to pay compensation to the victims of the dumping nor to the government of Cambodia for the tremendous expense in dealing with the crisis.

Toxic Waste to the US

After removing the waste from Cambodia, Formosa Plastics attempted to have US-based company Safety-Kleen take the waste to Safety Kleen's Westmoreland, California hazardous waste landfill, near the Mexican border. The company filed for consent from the US government to accept the imported wastes. Following sample results submitted to US EPA by Safety-Kleen,

the US Environmental Protection Agency issued a consent for the wastes to be disposed of at the California facility.

However, extensive public protest emerged over the acceptance of this extraordinarily toxic cargo. It became apparent that the U.S. Environmental Protection Agency gave a consent to disposal of the wastes at the Safety-Kleen operation without having all of the available data.

Safety-Kleen noted that when it originally contacted EPA it was basing its submittals upon "anticipated characteristics and content of the waste materials as provided by the generator." But after the EPA received analytical results from NGO's working on the case EPA concluded that the waste material was more complex and more hazardous than originally believed. The US EPA revoked its consent for shipment and Safety-Kleen decided not to appeal.

The EPA also admitted that it had not considered the President's Executive Order on Environmental Justice, EO 12898, which requires federal agencies to ensure that they do not take actions which would impose disproportionate environmental impacts on low income communities or communities of color. The locale of the Safety-Kleen operation is one of the nation's poorest predominantly Latino counties.

Various other US-based operations are now under consideration for disposal of the wastes, including facilities in Nevada, Idaho and Texas. Residents of Nevada have expressed outrage at the proposal to ship the highly toxic waste—7,233 tons in 17,976 drums held in 321 shipping containers—to Nevada.

Formosa came close to quietly shipping the waste to Idaho at the end of July. However, longshoremen and environmentalists got wind of the planned shipment through the port of Tacoma, WA, and managed to block the plans. The importing company, Envirosafe Services of Idaho, Inc. abandoned its plans to import the waste two days after the departing shipment was halted in Kaohsiung Port. Scott Mason of the Longshoremen's Union in Tacoma asserted their battle with the company is not over until all communities are safe from the toxic waste. "In our view, toxic waste should not be considered a commodity, but rather as a menace, best to be prevented and dealt with at source. We will now alert other dockworkers in ports that Formosa Plastics may try to victimize next."

While the Taiwanese government has allowed Formosa Plastics to temporarily store this waste at the site of generation, the battle over disposal is not over. Taiwan's Environmental Protection Administration conceded that Formosa could temporarily store the waste in its complex at Mailiao in Southwestern Taiwan. The Taiwanese EPA did not consider this a permanent solution to Formosa's disposal dilemma, and plans to eventually ship the wastes to the US appear to be alive. The company continues to search for dumping grounds, considering sites in Europe, as well as US Ecology in Nevada and Waste Control Specialists in Texas.

The Formosa Plastics waste shipping matter is not only an urgent environmental and safety challenge, but according to observers also indicates need for reform of US hazardous waste import policies. Environmentalists and labor unions such as those in Tacoma are concerned that the US will soon become a dumping ground for international waste, as Congress has made no move to limit toxic waste imports. The Basel Convention, the international treaty to limit trade in toxic waste, is in line for ratification in the current Congressional session. In the spirit of the Basel Treaty, advocates argue that the US should be concentrating on waste prevention, both at home and abroad. Commenting on the ineffectiveness of the EPA on the Formosa waste disposal issue, Laurie Valeriano of the Washington Toxics Coalition said, "This is a precedent setting case which highlights the fact that our own Environmental Protection Agency is incapable of legally protecting our environment when toxic waste imports are concerned. Before the floodgates from Asia open, it's time we revisit our national policy. Rather than importing toxic waste we should be exporting appropriate waste prevention technologies."

PART III

"GREENWASHING" AND WORKERS' CIVIL RIGHTS

In October 1997 the Point Comfort, Texas Formosa Plastics facility entered a unique "Sustainable Development Agreement" with shrimper Diane Wilson and her Attorney Jim Blackburn. In this agreement the company committed to apply the concept of "sustainable development" to its industrial operations and to address environmental, workforce and community concerns.

Background on the "Sustainable Development" Agreement

Under the Sustainable Development Agreement a set of operative principles were developed by a Technical Review Commission. This provided the underlying "philosophical construct" to be implemented under the agreement. According to the principles set forth by the Commission:

Sustainability is about cooperation, not domination. To secure a sustainable future, we must find ways to resolve our differences; dissenting and opposing voices must be heard. True collaboration requires cooperation in the decision-making process, otherwise called empowerment....

The dignity of others, particularly those lacking resources, should be recognized and maintained. Humility and trustworthiness should be present in all interactions....³⁶

If workers do not feel safe and healthy in their work environment, then the facility has failed an important and critical group of people. In addition, employees must feel they have a voice in company issues and they must have a positive attitude about their work in particular and the company in general.

Safety Concerns Buried in a Disempowering Working Environment

On December 4, 1998, an ethylene dichloride storage tank exploded at the Formosa Point Comfort facility. This serious accident highlighted the workers' ongoing concerns about safety. In contrast to the "Philosophical Construct" under the Sustainability Agreement, the experience of many workers at the Formosa Plastics in Point Comfort has long been disempowerment, especially with regard to safety. Workers who met in December, prior to the explosion, with the two public members of the Sustainability Agreement reported that they do not feel that the company welcomes feedback regarding unsafe conditions. Instead the plant is managed in a way that makes it difficult for a worker to report a hazard. As a result, the workers say they will not report unsafe conditions, even though it may place lives at risk.

A memo presented to the company by "utility hourly personnel" asked, among other things, "Why can't we get answers to questions brought up in safety meetings?... Why does it always take an emergency to get things fixed right? Why don't we have process training?"

Many workers who are critical of the company also fear management retaliation if they criticize openly. For instance, several workers who commented in writing to Wilson and Blackburn declined to put their names on their critical comments, noting that they feared retaliation.

Their fears have a basis in past corporate actions. For instance, as noted above, a contractor fired employee Scott Jaynes in 1993 just a week after he reported a potentially deadly chlorine gas leak at Formosa.³⁷ Jaynes informed his boss of the gas twice, but an alarm was never sounded. When questioned by environmentalists, Formosa initially denied that there was a leak and did not report it to state officials.

Hourly employees have reported to FP management that the "Safety Department is here for us to call when we have safety concerns, but when they are notified because of unsafe conditions, management acts as though we did something wrong."³⁸

Workers Seek Genuine Empowerment Through Unionization

Because of a widespread sense of dissatisfaction and distrust of the plant's management, employees at the Point Comfort facility decided to seek a union as a means to voice safety concerns and for protection against management retaliation. Sixty five percent of workers qualified to choose a union signed a petition for the company to recognize the Paper, Allied-industrial, Chemical And Energy Workers International Union (PACE) as their union. However, the company has refused to recognize PACE. Instead it has launched an aggressive effort against the union.

The management has stated that it supports workers "getting all the facts" regarding a union, but it declined an invitation to openly debate the union. It has shut out union access to the facility, and has subjected workers to four and five hour long propaganda sessions, presenting only the anti-union side of the issue. The union asserts that the mind-numbing format of these marathon sessions is a tactic of domination, designed to wear down the workers.

Formosa Alleged to Create An Illegal Committee Instead of a Union

The union asserts that the company has been the use of a company-dominated committee to address issues that are supposed to be addressed by a union. The company established this committee which it termed the "Basic Needs Committee" under the cover of the Sustainable Development Agreement. A company-dominated committee that addresses conditions of employment such as wages and safety conditions in response to union organizing is an illegal union-avoidance strategy under the National Labor Relations Act.³⁹

Accordingly, the PACE union filed formal charges of violations of federal law with the National Labor Relations Board regarding the company's Basic Needs committee and later filed additional NLRB charges against the company of illegal union-busting activities -- that the company threatened to reduce workers' pay and benefits if a union is voted in, and blocked workers from distributing information where they had a right to do so. As this report went to press the charges were still pending, and the union had postponed an election until after the charges are resolved.

Formosa "Sustainable Development Agreement" Revoked in Protest

In view of the workforce disempowerment effort by the company, the Sustainable Development Agreement came to be seen by the public members of the Sustainable Development Agreement as a hoax -- "greenwashing" the company's efforts to place profits over environment and safety. According to Wilson, "The company's union busting and its other environmental and safety abuses are not the behavior of a sustainable company." Diane Wilson and Jim Blackburn have quit the committee in protest, and with their action the Sustainable Development Agreement was revoked.

CONCLUSION

This report has raised significant questions regarding the role of Formosa Plastics in the foreign campaign contributions scandal facing the Democratic National Committee. The record shows that Winston Wang, Vice President of Formosa Subsidiary Nan Ya Plastics, apparently pledged \$100,000 to the DNC, and that he had coffee at the White House accompanied by YahLin "Charlie" Trie. The day after the White House meeting, Trie donated \$50,000 to the DNC. Trie is alleged to have been widely involved in funneling illegal foreign contributions to the DNC.

As demonstrated in this report, Formosa Plastics officials are adept at manipulating politicians and political processes to avoid true public accountability, and to maximize profits- even at the risk to public or worker safety. Because we lacked the right to subpoena and interrogate witnesses, we were unable to assess the extent to which any campaign contributions flowed from Formosa Plastics or its officers or employees to the DNC. Further we were unable to assess whether there was a quid pro quo or attempt to use donations to win government favors in

Formosa's heated environmental and labor controversies in Texas, South Carolina or Louisiana, or to secure the federal grants that benefitted Nan Ya Plastics in South Carolina.

Such an investigation is more suited to be carried out by the Department of Justice and Congressional investigators, including the House Committee on Government Reform and Oversight. We hope this report will provide useful background and impetus for those efforts.

ENDNOTES

1. Glenn R. Simpson, "Ickes Documents Raise Fresh Questions About Origins of Trie's DNC Donations" April 3, 1997, Wall Street Journal, A20.
2. Ibid.
3. Smith, Mark. The Houston Chronicle, June 20, 1993.
4. Letter from Governor Ann W. Richards to Mr. Mary Anne Wyatt, Feb. 12, 1992.
5. Armstrong, David. "Politicians Breed Pollution in Calhoun County," Texas Observer, May 17, 1991. Armbrister, however, claims he is only a salaried manager when he is not on duty in the state legislature.
6. "Two bodies removed", Houston Chronicle, July 1, 1997.
7. Whereas the American Conference of Governmental Industrial Hygienists (ACGIH) set an upper threshold (TLV) for workplace exposure to ethylene dichloride at 10 ppm. their TLV for VCM is half that, or 5 ppm. OSHA's standard is 50 ppm for ethylene dichloride and only 1 ppm for vinyl chloride. Vinyl chloride is particularly dangerous because it can be smelled only when it reaches concentrations of 3,000 ppm, whereas humans can smell ethylene dichloride when it reaches 88 ppm.
8. FEDERAL REGISTER Vol. 63, No. 83 (April 30, 1998), pgs. 23785-23786.
9. For example, see F. Kizbullin and others, "Evaluation of polychlorinated dibenzodioxins and dibenzofurans emission from vinylchloride-monomer production," ORGANOHALOGEN COMPOUNDS Vol. 36 (1998), pgs. 225-227. This paper shows an emission factor of 12.71 ug TEQ per ton of VCM produced.
10. See Pat Costner and others, "PVC: A Primary Contributor to the U.S. Dioxin Burden; Comments submitted to the U.S. EPA Dioxin Reassessment," (Washington, D.C. Greenpeace U.S.A., February 1995).

11. Erik H.G. Evers and others, "Levels, temporal trends and risk of dioxins and related compounds in the Dutch aquatic environment," *ORGANOHALOGEN COMPOUNDS* Vol. 28 (1996), pgs. 117-122.
12. Justice Moore in *Formosa Plastics Corp., V. Wilson*, 504 A2d 1883, Supreme Court of Delaware.
13. Production also grew at the site during this period.
14. Data analyzed by Lone Star Chapter, Sierra Club, Neil Carman. Data included US EPA, OSHA, and the Texas Natural Resource Conservation Commission.
15. Troubles at Formosa Plastics; Environmentalists concerned over pollution allegations at plant," *The Houston Chronicle*. June 20, 1993, p 13.
16. "OSHA fines Formosa Plastics," *Chemical Week*. February 5, 1992, p 8.
17. Jaynes was fired less than a week after the Dec. 18, 1992, incident. The contractor claimed Jaynes had ""missed too many days" despite his having worked 600 hours overtime in 1992.
18. "Troubles at Formosa Plastics; Environmentalists concerned over pollution allegations at plant," *The Houston Chronicle*. June 20, 1993, p 13.
19. "Formosa wins permit to expand; Lavaca Bay to get 5 times the waste," *The Houston Chronicle*. August 17, 1993, p 11.
20. "Environment activist thwarted; Coast Guard sinks plan to scuttle boat at plastics plant," *The Houston Chronicle*. March 27, 1994, p 33.
21. "26 injured in blast at Texas plastics plant," *Star Tribune*(Minneapolis, MN) December 5, 1998, p 19A.
22. "Two bodies removed," *The Houston Chronicle*. July 1, 1997, p 15.
23. This section provided by J. Di Gangi, PhD, Greenpeace.
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27. Memorandum to Walter Chen through Shift Supervisor from hourly employees at Formosa Plastics.

28. "Cambodia town's 'luck' leaves illness in its wake," The New York Times. January 4, 1999, p 3.

29. "Waste fiasco piles woe on Cambodia," The Independent (London). January 6, 1999, p 11.

30. "Cambodia town's 'luck' leaves illness in its wake," The New York Times. January 4, 1999, p 3.

31. "Tests show high mercury at Cambodia dump site," The New York Times. December 26, 1998, p 12.

32. "Cambodia town's 'luck' leaves illness in its wake," The New York Times. January 4, 1999, p 3.

33. "Formosa Plastics claims mercury waste shipped to Cambodia is harmless," Chemical and Engineering News. January 11, 1999, p 6.

34. "Cambodia, Taiwan Company Sign Waste Deal," Xinhua News Agency. February 25, 1999.

35. "Formosa starts Cambodian cleanup," Chemical Week. March 17, 1999, p 16.

36. Formosa Plastics Technical Review Commission, Sustainable Development Agreement White Paper.

37. See note 17.

38. Memorandum to Walter Chen through Shift Supervisor from hourly employees at Formosa Plastics.

39. Indeed, the American Civil Liberties Union views tactics such as those employed by Formosa Plastics as a denial of workers civil rights. According to the ACLU:

From its adoption of the Wagner Act in 1935 to this day, Congress has consistently recognized that employer-domination of worker representatives is inherently destructive of

genuine cooperation and collective bargaining because it destroys the employees' exercise of their free association and free speech rights to select their own representatives. All workers deserve to have their freedom of association and freedom of speech in the workplace, as reflected in a genuine freedom of choice in selecting their own representatives, protected against this kind of violation.

Principal Author

Sanford Lewis
Strategic Counsel on
Corporate Accountability
PO Box 79225
Waverly, MA 02479
617 489-3686

Editing

Tim Anderson, Good Neighbor Project
Eileen O'Connor, Good Neighbor Project

Researchers

Eileen O'Connor, Good Neighbor Project
Patricia McDonough, Legal Research

Special Thanks To

Diane Wilson, Calhoun County Resource
Watch
Stella Tarney, Editorial Services
Audrey Evans
Jim Puckett, Basel Action Network
Bradley Angel, Greenaction

Gary Cohen, Environmental Health Fund
Neil Carman, Sierra Club, Lone Star Chapter
Lily Hsueh, Taiwan Environmental Action
Network
Rick Abraham, Texans United
PACE International Union

RESOURCE LIST

WEB SITES CONTAINING MORE INFO

Greenaction

<http://www.greenaction.org>

Human Rights Watch

<http://www.hrw.org/reports/1999/cambotox/>

Basel Action Network

<http://www.ban.org>

REGIONAL ISSUES

TEXAS

Diane Wilson
409 935-3904

Neil Carman
512 472-1767

TAIWAN

Taiwan Environmental Action Network
Ms. Wenling Tu
510 620-9067

SOUTH CAROLINA

Wanda Stone-Vaughn
Lynches River Coalition
843 389-3725

LOUISIANA

Dan Nicolai
Neighbor-Labor Fund

Mary Lee Orr

LEAN
225 928-1315

POLYVINYL CHLORIDE

Joe Di Gangi
Greenpeace
(312) 554-1029

Charlotte Brody
CHEJ
703 237-2249

Gary Cohen
Environmental Health Fund
617 524-6018

WASTE SHIPPING

Jim Puckett
Basel Action Network
206 720-6426

Bradley Angel
GreenAction
415 252-0822

Jane Williams
California Communities Against Toxics
805 256-0968

Laurie Valeriano
Washington Toxics Coalition
206 632-1545

UNION ISSUES

Richard Leonard
PACE
615-834-8590

REPORT AUTHOR

Sanford Lewis

Strategic Counsel on Corporate Accountability

PO Box 79225

Waverly, MA 02479

617 489-3686

<http://home.earthlink.net/~gnproject/consulting.htm>