

Testimony of Edwin J. Truitt
House Veteran's affairs and Emergency Preparedness Committee
January 10, 2012

Amended Opening Remarks

Previously submitted testimony needs to be amended due to information received just last Wednesday.

Testimony mentioned that we were requesting emergency response plans for both Conoco-Phillips and Sun as required under the Superfund Amendments and Reauthorization Act of 1986 (SARA) which requires those who manufacture, store or transport extremely hazardous substances to provide emergency plans to a county Local Emergency Planning Committee (LEPC) with enforcement to be provided by EPA. Both Conoco-Phillips and Sun are SARA facilities

We met with Conoco-Phillips personnel on December 7th and asked for plans providing for the health, safety and welfare of the several towns outside their fence line and specifically requested 24/7 company-provided and trained HazMat and Fire brigade response be continued until such time as the property was declared safe by an outside independent agency. Sun has advised its plans are in development.

Conoco-Phillips stated they would have such a plan presented to us by December 31st. That did not happen. Furthermore, repeated telephonic requests by the chairman of the Delaware County LEPC to Conoco-Phillips have not been returned. I became concerned.

Then last week I learned that Conoco-Phillips has been attending meetings with DEP, presumably at DEP request, to discuss the refinery closing issue. DEP has not yet shared that information with us who, under the County EMA hat has coordination and support responsibility under Title 35 once two or more municipalities are involved on a common emergency event. I suspect that DEP does not realize the refineries are covered under both SARA legislation and Title 35 and do not know if the discussions they are having with refinery personnel deal with emergency events potentially impacting citizens outside the refinery fence lines but, as DEP has not contacted us, I suspect they have not.

My contacts with EPA state they are willing to attend planning sessions on emergency response partnered with DEP and the Coast Guard, the authorities having jurisdiction between I-95 and the river, and will get back to me next week as to how this can best be approached.

Recognize it is not our desire to suggest an EPA/Coast Guard enforcement matter as I don't think its in anyone's best interests to precipitate any action which would have any adverse affect on a potential sale. However, there is a need to protect the outside the fence line community and response plans need to be addressed.

The preferred planning process is one where stakeholders sit around the table and agree upon who's going to what and when. The stakeholders I suggest certainly include DEP, who I generally have high regard for, as well as the Coast Guard and EPA, all of whom have a stake in the emergency response issue. Delaware County EMA, the county agency who interacts with local municipalities and their emergency response teams also should be part of the planning process as well as the Delaware County LEPC.

Attached is a letter from Ed Doyle, the County LEPC Chair on this issue which I ask to be included as a part of my testimony



January 9, 2012

To: The Pennsylvania Veterans Affairs and Emergency Preparedness Committee

Subject: The idling/closing and possible sale of the Conoco-Phillips Trainer refinery and the Sunoco Marcus Hook Refinery.

Committee Members:

I apologize for not being able to attend your January 10th hearing regarding the Conoco-Phillips and Sunoco refineries located in Delaware County.

I am addressing the Committee as the Chair of the Delaware County Local Emergency Planning Committee (LEPC). The Delaware County LEPC was formed in 1982 as the Delaware County Hazardous Materials Advisory Committee and became the LEPC after the passage of the Superfund Amendments and Reauthorization Act (SARA) in 1986 and Pennsylvania Act 165. The Delaware County LEPC and Delaware County has a long history of involvement with local industry in preparing for, planning and preventing hazardous material incidents. The Delaware County LEPC is proud of the partnerships that the county and industry have forged over the last 30 years in the hazardous materials prevention and preparedness arena.

The subjects of today's hearing the Sunoco Marcus Hook refinery and the Conoco-Phillips Trainer refinery have been at the forefront of those partnerships. Their management has had a keen interest in safety and environmental issues and they were instrumental in working with the county to establish the Hazardous Materials Advisory Committee and present day Local Emergency Planning Committee.

We all know that change happens and many times the change is not welcome or is not beneficial to a vast majority; whether they are employees, suppliers, contractors, neighbors or public officials. However, change does carry responsibility and the main concern of the LEPC is that both entities remain as interested in safety and environmental issues as they have demonstrated over the past thirty years and continue their partnership with the LEPC to ensure a safe transition from their routine operations to the caretaker or demobilization direction they are moving.

SARA Title III places various requirements on facilities that manufacture, use, store or transport hazardous or extremely hazardous materials. One of requirements is to communicate to the LEPC and others the material stored, the quantity, the type of storage and the average amount stored. As these facilities move from being active oil refineries and petrochemical plants numerous questions arise that require information to ensure safety, environmental and security issues are being addressed to ensure the public safety. What will be stored on site, where will it be stored, how it will be stored, if it is not stored as before - will it be transported in bulk, will it



be transported by rail, will it be transported by tank truck, will the material be extremely hazardous?

The LEPC has worked with other facilities that have ceased or suspended operations and they were forthright in appearing before the LEPC to discuss their plans and allowing access to relevant information on chemicals, movement of materials on and off site, timetables for closure, possible sale, safety and fire concerns and possible manning arrangements.

To date, neither facility, that is the subject of today's session, has taken the opportunity to address the LEPC nor have they presented a plan to address safety concerns. This is uncharacteristic relative to their previous mode of operation which raises concern.

It is the LEPC's sincere hope that both facilities will endeavor to communicate with the appropriate county agencies their plans for the safe closure or caretaking of their facilities. It is also hoped that when the facilities are reopened or reconfigure their operations that the past spirit of cooperation will exist as the SARA Title III and Pennsylvania Act 165 are geared to ensuring the safety of the community.

Respectfully submitted,

Edward T. Doyle, Jr., PhD
Chair, Delaware County Local Emergency Planning Committee

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Opening Remarks

My name is Ed Truitt and I have been Director of Emergency Services for Delaware County since 1976.

On the matter of the proposed closings of the Conoco-Phillips refinery in Trainer Borough and the Sun Refinery in Marcus Hook we have conducted planning sessions with Health, Safety and Environment officials with each refinery. We have advised them our interest is what could happen inside their respective fence lines during and after plant closure that could impact the neighboring communities of Trainer Borough, Marcus Hook Borough and Lower Chichester Township, all of whom are host communities to the refineries. We have requested each entity, as part of their planning process, to maintain a fire and a hazmat response capability until such time as the properties are deemed safe by an independent authority. We would recommend that PADEP, working with Labor and Industry, assume a lead role in this responsibility. As the Sun property extends into the state of Delaware it may well be that PEMA might decide it also has a role, either in whole or in part.

Our planning efforts are based upon PA Title 35 which stipulates if an event involves more than one municipality the county has a coordination and support role to play. Normally, a planning process is predicated on institutional knowledge acquired over thirty-six years of experience. As the proposed closings are new to us and perhaps to the Commonwealth as well we have little institutional knowledge on which to validate whatever plans are submitted. While both refineries have promised plans to us we do not yet have them in hand and cannot provide copies of them to you at this time. It would be my intent to forward whatever plans are submitted to us to PADEP as it would seem they would have the expertise to validate plan workability while, at the same time, have enforcement authority if the refineries should change hands. We recognize that the current refinery personnel who would be involved in plan preparation and submission may not be employed past July 1, 2012 and I do not know who to hold accountable for plan implementation past that date as they may not presently be employed by either refinery.

I have attached to my testimony relative remarks, some dealing with emergency response and some dealing with peripheral issues of possible interest to this Committee which you may wish to pass on to staff to highlight those remarks pertinent to your responsibility as a member of this Committee.

Resolution of these public safety issues are going to require the cooperation of all, the local municipalities, the County as well as the Commonwealth along with select Commonwealth agencies and we are encouraged by the support evidenced by this Committee.

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Delaware County Emergency Services has performed pre-planning activities once the notice of closure was announced by both Conoco-Phillips in Trainer, Pennsylvania and the Sun Oil refinery in Marcus Hook using the June 2012 announced closure date as a target. The recently announced early closure date rather accelerated our planning process.

While, normally, emergency planning responsibilities are primarily vested with local officials we acted under Title 35 which states that when two or more municipalities are affected by a common incident the County assumes, not direction and control responsibilities, but rather one of coordination and support. As the Sun property covers not just three Delaware County municipalities but also extends into the State of Delaware I am not quite sure as to who's responsible for what but assume PEMA will assume a coordination role as two states are involved.

We take the position in Delaware County Emergency Services that our concern is for the health safety and welfare of the residents outside the respective refinery fence lines while recognizing what remains inside the fence lines will affect what may or may not happen on our side of the fence. We have announced to both refineries that we expect their company-owned fire and hazmat teams to remain in place 24/7 until such time as their sites are declared environmentally safe by a jurisdictional authority. However, aside from what they tell us in their plans what they will do, I have no personal knowledge as to how this office, under Title 35, can enforce closure plan activation once they leave unless the parent company that remains, under whatever title, buys into the closure plans. I say this as those who would be part of the current planning process may or may not be refinery employees at time of final closure and a resulting responsible party presently unknown. I submit that PADEP would have more influence in this discovery and resolution process than local officials, either municipal or county.

What we done so far is made contact with Conoco-Phillips and Sun safety personnel and directed them to provide their closure safety plans to us. We expect to share these plans with PADEP and interested others.

I do not believe it is in the best interest of anyone to be overly aggressive at this time as such action may serve to impede any potential buyer from property acquisition. That position can be re-visited when and if the properties are vacated which brings up other issues.

It is my understanding the Conoco-Phillips refinery has made significant technological investments in their refinery and, accompanied by their ability to process the less expensive crude it would seem to be more attractive to a potential buyer. The downside is that Conoco-Phillips uses Hydrogen Fluoride as a critical component of their refining process, one of the few in the country that does so with the preponderance of Hydrogen Fluoride refineries on the West Coast. It would be my hope the new buyer would have a thorough knowledge of the proper and safe handling of this chemical.

Sun is a different story. We have the Sun refinery, who has leased out part of its property to others, and we have Sun Logistics, a profitable entity who transports, stores and markets refined product. Sun has tank farms in Upper Chichester Township which is fed by the Sun refinery and in Darby Township which, to the best of my knowledge is fed crude oil from the Sun docks at Hog Island in Tinicum Township and, in turn, feeds crude to their refinery in Philadelphia, also scheduled to close. As Sun Logistics is a profitable entity I assume, perhaps erroneously, that the present tank farm storage will be converted from crude/refined product storage to solely refined product storage but that is only my assumption.

The Colonial Pipeline from Port Arthur Texas transports refined product for a number of different companies, Sun included, I have heard the Colonial is fully committed and, if that be true the 175,000 barrels per day of Sun refined product will have to be made up in some other fashion with the most likely by vessels on the Delaware transporting refined, not crude, product. At 42 gallons per barrel that equates to over 7,000,000 gallons per day of shortfall should the Sun refinery cease operations which would conceivably rather significantly increase river traffic of refined product and its associated risk. The estimated refined amount of barrels per day of refined product for Conoco-Phillips is 200,000 barrels per day. Hopefully a buyer will be obtained for that refinery and our plans modified.

I find it hard to believe that Sun will entirely walk away from their Marcus Hook refinery as the two Delaware River off loading docks at Sun Oil that transport product to the Upper Chichester tank farm do so via pipeline and that pipeline passes through the Sun property on its way to the Upper Chichester tank farm. I have heard, but not validated, the Upper Chichester tank farm ownership was transferred from Sun Oil to Sun Logistics which news accounts indicate is a profitable entity and not part of the property on the market. I would not be surprised if Sun is not able to obtain a buyer for its refinery property they would convert the present refinery to a terminal operation under Sun Logistics but that is only my opinion.

We started this planning process as both refineries were covered under Title III of the Superfund and Emergency Planning Act of 1986 as sites that manufactured or stored certain extremely hazardous chemicals and have a Threshold Planning Quantity at or above federal limits. We do not know if those limits are currently exceeded nor do we know what the quantities will be at time of closure. Not knowing or being able to validate these substances significantly impedes our planning process. You need to know what you are dealing with in order to make a plan and that information, once received, must be validated and I submit that PADEP is the state agency best prepared to perform this validation until such time as they determine the two sites safe for the community.

For most emergency planning operations we rely heavily on institutional knowledge but, in this case, such knowledge does not exist. What we do know the mitigation process will involve a marriage between the local municipalities, the County and the state to collectively protect the health, safety and welfare of the refinery community and for that we solicit our and your collective support.