

Friends of the Earth 地球之友

Friends of the Earth (Hong Kong)'s submission to LegCo Panel on Environmental Affairs

The Decommissioning of Cheoy Lee Shipyard at Penny's Bay

8 March 2002

Friends of the Earth (HK) has grave concerns about the decommissioning of Cheoy Lee Shipyard and the impacts of the decontamination method proposed in the EIA report of the Decommissioning of Cheoy Lee Shipyard at Penny's Bay. We have been very disappointed about the EIA process for the Disney Theme Park two years ago. We believe there are loopholes existing in our current EIA process that contribute finally to the Cheoy Lee Shipyard issue, in which the government may have to shoulder additional clean-up costs and the public will be exposed to unknown health and environmental risks. We believe that the Legislative Council and the government should investigate the issue and address concerns listed below in order to prevent another Cheoy Lee Shipyard case from arising in the future:

1. *Risk Management*

The Disney Theme Park is estimated to attract 5.2 million tourists in its first year of operation. We believe that the coexistence of the Disney Theme Park and the dioxin treatment facilities close to Disney Theme Park and North Lantau Expressway creates tremendous potential risks to visitors and liabilities to the government. We are of the view that the government should explore risk management measures illustrated below:

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- a) Whether the opening date of the Theme Park can be postponed until the contaminated soils are dealt with satisfactorily with acceptable safety standard?
- b) Are there any other better decontamination sites than To Kau Wan? Whether in situ treatment will be a better option and if not why?
- c) What contingency measures will be taken if a major accident happened in To Kau Wan or Cheoy Lee Shipyard?

2. Cost & Liability

The shipyard is now found to contain 80,000m³ of contaminated soil, 30,000m³ of which are contaminated by dioxin. Given the additional clean-up costs and the environmental and financial liabilities that will be incurred by the government, we would like to be informed about whether and how these costs and liabilities will be shouldered by the Cheoy Lee Shipyard or by the government alone. Specifically, we would like to know:

- a) Whether the government lease with Cheoy Lee Shipyard (the lease) contained any terms and conditions that prohibit / restrict land contamination activities specifically in relation to dioxin contamination in the leased area?
- b) Did the lease provide conditions for the government to exercise its right to enter into the site? If so, what were those conditions?
- c) If the lease did specify conditions for government to enter the shipyard, during the past 37 years in which the shipyard was still operating, how

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many visits were made by which government departments? If no visit was ever made, what were the reasons?

- d) Did the lease specify the liability of contamination?
- e) When the land lease was terminated, were there any agreement made that specified the liability of contamination?
- f) Regarding the agreement between the Civil Engineering Department (the project proponent of the Disney Theme Park) and the Hong Kong International Theme Parks Limited, are there any agreements that specify the legal and financial liabilities of soil contamination after the reclaimed land is handed over to the Hong Kong International Theme Parks Limited?

In addition, we demand that the Civil Engineering Department should present to the public a thorough analysis of the environmental and financial costs to the government in the following situations:

- a) Alternative site selection including in situ treatment;
- b) if any major accident happen to the dioxin treatment plant and crisis measures are adopted by the government;
- c) if the Disney Theme Park cannot be opened in 2005.

3. Effectiveness of the proposed Thermal Desorption method

The effectiveness of the proposed remediation measures of the contamination has not been demonstrated in the environmental impact assessment report of the decommissioning of the shipyard. Twelve international cases (Table 4.52) with the

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experience of thermal desorption are cited in the report, but only two out of the twelve involve handling dioxins. The other 10 are concerned only with other contaminates such as VOCs and PCBs. Worse still, no experience of decommissioning this kind of dioxins treatment plant has been provided.

4. *What implications does the Cheoy Lee Shipyard have for other shipyards existing in Hong Kong?* Specifically we want to know:

- a) How many shipyards exist in Hong Kong and what are their scales and geographical distribution?
- b) How do the government leases with these shipyards specify the liability of pollution and contamination?
- c) Does the EPD have any records about their environmental performance?
- d) Does the government have any estimations of the possible contamination resulted from their activities?

5. *Spirit of Environmental Impact Assessment Ordinance*

The Environmental Protection Department has failed to observe and uphold the spirit of the Environmental Impact Assessment Ordinance (EIAO). The spirit of the EIAO is to utilize the environmental impact assessment process as a statutory planning process that enables the decision-makers to make informed decisions based on comprehensive evaluation of the environmental impacts of a project.

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Given the fact that in 2000 the Director of the EPD approved the original EIA report of the Disney Theme Park¹, which excluded a key aspect of the environmental impact assessment - the decommissioning of the shipyard, we are of the view that the EIA report of the Disney Theme Park was simply a tool to legitimize the Administration's decision to gear up the theme park project. The spirit of the EIAO was sacrificed for the sake of earning tourist dollars.

Today, the surge of the clean-up costs of the "unexpected" presence of dioxin-contaminated soil, and the extra environmental risks incurred from the removal, transport and treatment of the dioxin-contaminated soil are all disgraceful outcomes of discarding the spirit of EIAO. We are very concerned about whether similar situations will happen in the future. Thus we believe that the LegCo should investigate the Cheoy Lee Shipyard case and examine how similar cases can be prevented from arising again.

6. *Negligence of the Environmental Protection Department*

Given the scale of contamination, and the fact that the Cheoy Lee Shipyard had been operated for 37 years, it would be incredible to say that the government had not noticed the polluting activities engaged by the shipyard at all.

- a) Does existing legislations, including Cap 311 Air Pollution Control Ordinance, Cap 354 Waste Disposal Ordinance, Cap 358 Water Pollution Control Ordinance and Air Pollution Control (Open Burning) Regulation, require the Environmental Protection Department to

¹ The Environmental Impact Assessment Report of the Construction of an International Theme Park in Penny's Bay of North Lantau and its Essential Associated Infrastructures" was approved by the Director of the Environmental Protection Department in April 2000.

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- perform active, rather than reactive, monitoring of any site that has high potential of heavy contamination?
- b) Had the EPD ever received any complaints about the polluting activities of the shipyard? If so, what actions were taken?
- c) Does the contamination found provide evidence for criminal charges against Cheoy Lee Shipyard for violating existing ordinances?

FoE(HK) believes that the above questions are important and should be answered satisfactorily before any funding should be granted for the purpose of decontaminating the Cheoy Lee Shipyard. We also urge the Legislative Council to establish an ad hoc committee to investigate if there was negligence on the part of government departments and if so, how it could be redressed.

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