

Friends of the Earth 地球之友

CB(1) 1523/01-02(02)

Friends of the Earth's submission to

LegCo Panel on Environmental Affairs

The Decommissioning of Cheoy Lee Shipyard at Penny's Bay

18 April 2002

Friends of the Earth (Hong Kong) presented our views on the decommissioning of Cheoy Lee Shipyard at Penny's Bay at the LegCo Panel on Environmental Affairs' meeting on 12 March 2002. We are grateful to have this opportunity to raise our further concerns about the decontamination project and other related environmental issues arisen from the Disney Theme Park project as a whole.

Part 1: FoE's comment on decontamination proposal by Civil Engineering Department

The decontamination treatment plan as proposed by Civil Engineering Department is not the best option with lowest risk for the public.

The decommissioning of the shipyard is of great concern of public health given the significant amount of dioxin-contaminated sediment (30,000m³). The proposed treatment plan, however, is not the best option with the lowest environmental and health risks to the public. The proposed plan, which recommends off-site treatment by thermal desorption at To Kuo Wan and final incineration at Tsing Yi Chemical Waste Treatment Centre, requires the transportation of contaminated materials and highly concentrated dioxin oils and therefore creates additional risks to the public.

For this reason FoE recommends the government to further explore other plan or technology that would incur minimum risk to the public. There are promising chemical dechlorination technologies including solvated electron technology (SET) and base-catalysed decomposition (BCD) that have a much higher level of dioxin destruction efficiency and can be set up in Cheoy Lee Shipyard or To Kuo Wan and thus minimize the transportation risk of the highly concentrated dioxin.



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Since the decontamination process involves considerable public expenses and significantly affects environment and public health, FoE urges the government to adopt an open and transparent process to select decontamination plan or technology that will best suit the interest of public. Instead of relying solely on consultancy's report and recommendation, FoE urges the government to:

- a. **invite interested parties to submit proposal for the decontamination works openly ;**
- b. **conduct a thorough comparative study of different proposals in terms of**
 - i) dioxin destruction efficiency ;
 - ii) composition, toxicity and quantity of the residue;
 - iii) environmental and health risks to the public;
 - iv) application experience and history;
 - v) reliability and the occurrence of significant technical problems;
 - vi) the occurrence of accidents; and
 - vii) costs.

FoE demands the government not to have any pre-set assumptions or preferences in order to allow interested party to fully explore different decontamination technologies or proposals. In addition, cost should not be the top priority as public health and environments are at stake.

Part 2: Issues to be pursued further

1. The liability of land contamination

The liability of the land contamination in Cheoy Lee Shipyard site is still an untouched area. The Government's refusal to disclose details of the liability because of the possible legal avenues might jeopardize the efforts to right the wrongdoings in land contamination.

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In the case of Cheoy Lee, the chance that the Government can make the Cheoy Lee liable is actually very slim given the fact that no acceptable level of dioxin contamination in land has been laid down by law. And even referring to the US standard that allow 5-20 ppb of dioxin contamination in industrial land, the 9 ppb average dioxin contamination level found in the Cheoy Lee shipyard as an industrial land is still well within acceptable range and hence there is little ground for the Government to recover the decontamination cost from Cheoy Lee.

The existing confusion of the liability of land contamination carries alarming messages: 1) the polluters do not need to pay for their act that contribute to land contamination. It is the tax-payers to bear the decontamination cost; 2) the polluters need worry nothing about the polluting act and hence have no incentive to minimize the pollution.

We urge the Government to relevant information including the relevant terms of the Cheoy Lee landlease and the agreement of resuming Cheoy Lee to the LegCo, in closed-door if necessary, to clarify and close the loopholes in the existing legislation.

2. The need to review EIA process

The Disney Theme Park project EIA from the start is a speedy project that allows no comprehensive evaluation of the environmental impacts at the early planning stage that resulted in the present difficulties in the decontamination.

The original Disney EIA report was approved even though a key element of the project, i.e. the decommissioning of the shipyard was not included in the EIA study. The findings of the EIA report for the Decommissioning of the Cheoy Lee Shipyard that was released recently – the 30,000m³ of dioxin-contaminated sediment with the decontamination cost of \$450million that probably has to be borne by the tax-payers - is an irony reflecting the disgraceful outcomes of flawed planning under a rush time-frame.

Better alternatives of the decommissioning of Cheoy Lee including on-site treatment were dismissed firmly by the Civil Engineering Department to avoid delay in the opening of Disney in 2005. The fundamental flaws in planning have made the EIA

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process not able to be used to its full potential. We urge the Administration to uphold the EIA spirit in every – not selectively some – designated project.

3. The post-EIA monitoring system needs to be reviewed.

The Disney project has not only given Hong Kong an opportunity to rethink about the flaw in the planning stage, but also led to the challenge of the post-EIA monitoring system.

The independent review panel's report that concluded the Penny's Bay dredging work is directly related to the surge in suspended solids in Ma Wan and to a certain fish species, which is contradictory to previous environmental monitoring and audit (EM&A) reports and the government's investigations, has seriously undermined the credibility of the existing environmental monitoring system.

It is a disturbing fact that the existing EM&A programme of the Disney project is incapable to detect its environmental impacts on the fish and we have to rely on an independent review panel to do the job which should have been done by the consultant in charge of the routine EM&A programme. Worse still, the Environmental Protection Department and the Agricultural, Fisheries and Conservation Department, which are supposed to check the general quality of the EM&A's monitoring performance had also seemed to fail to play its role as a good gate-keeper.

In the end it is not the predicted effects, but the real effects that are relevant to the environment. We need the environmental monitoring and audit (EM&A) programmes to verify the accuracy of the EIA predictions and the effectiveness of the recommended mitigation measure. If anything goes wrong, remedial actions should be taken immediately to rectify the flaw. But in the case of Ma Wan fish-kills, the mechanism failed to work. There is a pressing need to review the existing EM&A system to improve its credibility.

Our Conclusion

The case of Ma Wan fish-kills has demonstrated that there is often a gap between the prediction and the reality about the environmental impacts incurred by a project. This is why a precautionary principle should be adopted in the decision-making

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process, especially in a case of great public health concern. We urge the Legislative Council, bearing the precautionary principle in mind, to grant fund to the **BEST** decontamination proposal that carries minimum environmental and health risks to the public. Such proposal, we believe, should be arrived at through an open and transparent selection and tendering process which would highlight to the public the comparative strengths and weaknesses of different decontamination plans and technologies.

In general, the Disney project has shown that the only way to avoid “unexpected” surge of cost incurred from “unexpected” environmental problem is to undertake a comprehensive – not piecemeal – EIA at the early planning stage. In the midst of our rush towards massive infrastructure to boost the economy, we respectfully urge the government to uphold the spirit of EIA Ordinance.

END

