



Office of the City Manager

INFORMATION CALENDAR  
September 18, 2007

To: Honorable Mayor and  
Members of the City Council

From: *PK* Phil Kamlarz, City Manager

Submitted by: Dan Marks, Director, Planning and Development

Subject: Interim Report: Pacific Steel Casting, 1333 Second Street

INTRODUCTION

On March 13, 2007, the Council directed staff to determine what is needed to conduct a sampling program for heavy metals, schedule a public hearing, identify codes that could require reduced emissions from Pacific Steel Casting (PSC), and develop a toxic use reduction ordinance.

Staff prepared a Council report for May 8, 2007 that provided costs for these tasks, however, it was pulled at the Agenda Review Committee pending receipt of the Health Risk Assessment (HRA) from PSC, which was expected in July. The HRA is now undergoing reviews and revisions and is due to be released at the end of September. Please see the attached letter from the Bay Area Air Quality Management District (BAAQMD) addressed to Mayor Bates, dated August 30, 2007.

In the interim, Global Community Monitor, a nonprofit environmental justice group, is conducting air monitoring for the community with money granted to them by the BAAQMD. The BAAQMD has provided technical assistance also. The most recent data was presented at the Community Environmental Advisory Commission meeting on September 6. The community has presented their findings showing nickel and manganese considerably higher than some EPA and international standards. The data was presented in some meetings and press coverage as a significant public health risk.

Data released does indicate that higher than expected levels of manganese and nickel are present in West Berkeley, downwind from PSC. However, there has been insufficient review and no comparison to the larger study conducted by PSC under a BAAQMD enforcement order. We urge Council and the public to wait until the HRA is released and all available data is analyzed before drawing conclusions.

This interim report provides further information on these issues and an update on actions taken regarding PSC.

### CURRENT SITUATION AND ITS EFFECTS

The data collected by the Global Community Monitor for the community shows higher than acceptable manganese and nickel in some areas of West Berkeley on occasions. The data also shows that lead was much lower than expected when compared to past sampling conducted by community members. At this point, staff cannot conclude that the data is indicative of a public health threat. A request has been made to receive all the raw data, which Staff needs to review and verify.

It should be pointed out that the results taken by the community are compared to standards that are highly protective of the most sensitive population. The mere exceedence of these standards does not signify a public health threat. Such analysis is complex and requires toxicologists to analyze the impacts. In addition to the BAAQMD review, the City has asked the Office of Environmental Health Hazard Assessment to help analyze the full data. Finally, the City will request a further independent review of the data by industry experts.

Public policy should be made based on reliable and sufficient data. The combination of the HRA, which will be released within the next few weeks, and the community results will give state and City staff the information needed to understand potential health risks and to identify next steps. Staff is committed to protecting the public health and using the highest standards to do so.

### BACKGROUND

PSC is the third largest foundry in the US and has a long history in West Berkeley. It also has a long history of violations. The most recent violations led to enforcement by BAAQMD resulting in:

- A financial penalty of \$150,000
- A significant requirement for improving air quality by installing engineering controls
- Provision of new measurements of emissions and a health risk analysis based on this information
- Providing an odor control plan to curtail nuisance odors in future

Actions taken to date:

Work Plan: A new project was developed and added to the Work Plan System, which reflects the deliverables requested by the Council on March 13. Staff have nearly completed review of zoning files and can report the conclusions of this work within a month. Funding is needed for most of the other tasks.

Health Risk Assessment: The results of the HRA have not been received as of the writing of this report. We anticipate reporting back to Council in October with information from the report and peer review by the City's consultant.

Notice of Violation: The City received notification on April 2, 2007 of a Notice of Violation (NOV) received from the BAAQMD. The NOV indicates that there were more than five confirmed odor complaints on March 16, 2007. Additional NOVs regarding odors from Plants 1 and 2 were issued on July 25, 2007 and are pending.

Use Permit Conditions: Monitoring of PSC will continue as required by the conditions of modified Use Permit No. 8957, approved by the Zoning Adjustments Board on May 11, 2006. A performance report to the Zoning Officer was provided and was forwarded to the Zoning Adjustments Board.

Commission Action: The Community Environmental Advisory Commission took the following actions at their April 5, 2007 meeting:

- Thanked the Council for taking action on PSC
- Requested that staff not delay the PSC report to Council
- Requested that staff give an advance draft copy of legal costs to CEAC to review for purposes of getting alternative costs, if found to be unacceptable.
- Requested information from staff regarding the measure of sufficient change in operational conditions to cause change of Use Permit.

Planning Department staff provided Use Permit information to the CEAC at their September 6 meeting.

#### POSSIBLE FUTURE ACTION

Review of HRA as soon as it is released.

#### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Funding is available for staff and peer review of the HRA.

#### CONTACT PERSON

Nabil Al-Hadithy, Manager – Toxics Management Division

#### Attachments:

1. August 30<sup>th</sup> Letter from BAAQMD to Mayor Bates



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT  
SINCE 1955

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Jack P. Broadbent  
EXECUTIVE OFFICER/APCO

August 30, 2007

Honorable Tom Bates  
Mayor  
City of Berkeley  
2180 Milvia Street  
Berkeley, California 94704

Re: Pacific Steel Casting Company, 1333 Second Street, Berkeley

Dear Mayor Bates:

I am writing in response to your request for an update regarding the Bay Area Air Quality Management District's lawsuit against Pacific Steel Casting Company and other activities concerning Pacific Steel.

As you know, in December 2005, the District reached a settlement with Pacific Steel regarding several violations of District regulations. The settlement agreement required Pacific Steel to install air pollution control equipment in Plant 3 and to develop a comprehensive odor management plan for all three plants. Subsequently, in August 2006, the District filed an action in Alameda County Superior Court against Pacific Steel for its failure to meet the July 31, 2006 deadline to obtain all governmental approvals for design and installation of the control equipment - a carbon adsorption system - and related building modifications for Plant 3 in accordance with the parties' December 2005 Settlement Agreement and for its failure to submit its emissions inventory report in accordance with the California "Hot Spots" Act. By the end of February, Pacific Steel completed those tasks, installed an in-stack continuous emissions monitor for the carbon adsorption system, and as a result, the parties agreed to settle the lawsuit.

In May, the Court issued a stipulated judgment and order that incorporated the terms of the parties' settlement agreement. The order required Pacific Steel to pay the District \$150,000 in civil penalties, which Pacific Steel has done. The order also required Pacific Steel to install an abatement system in Plant 3 to capture and control fugitive emissions from the transfer of molten steel from the electric arc furnace into the large ladle. The new control includes a large fume hood above the electric arc furnace area. The collected particulate matter emissions will be abated by an existing baghouse filtration system. Pacific Steel must complete installation of the abatement system within nine months of the company obtaining all necessary governmental approvals. In May, Pacific Steel submitted an application to the District to construct the system. The District requests that your staff let us know what permits the City of Berkeley will require for the project and keep us apprised of their status.

The District is working with Pacific Steel to help it finalize its odor management plan for the entire facility. A fundamental component of the plan is a study of the fugitive emissions at Plants 1, 2 and 3. That study is critical to helping Pacific Steel reduce odorous and other emissions within the plants and those reaching the neighboring

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community. As of this date, the District has not received Pacific Steel's fugitive emissions study or study results. Until the District receives a copy of the study and its results, the District cannot adequately evaluate the latest draft plan. Upon District approval of the plan, Pacific Steel will have completed all of the tasks in the December 2005 settlement agreement.

One of the odor control measures cited in the draft plan is the use of an alternative binder in the Plant 3 sand mixer. Pacific Steel identified a potential alternative binder and on June 7, the District issued Pacific Steel a temporary 90-day permit to test the binder's feasibility and effectiveness. Pacific Steel began testing the binder on June 18, 2007. Recently, the District laboratory confirmed that the new binder contains a lower volatile organic compound content than the currently-permitted binder, but that it has a higher phenol content. The permit requires that Pacific Steel conduct monthly odor tests and at least one source test during of the 90-day period, which ends September 7, 2007, to confirm whether the operation achieves any emissions reductions.

Pacific Steel submitted its Health Risk Assessment to the District on July 23, 2007. Pacific Steel met the Hot Spots Act requirement to submit the Assessment within 150 days from the District's approval of the emissions inventory report. While the District had anticipated that Pacific Steel would submit the Assessment within six to eight weeks of the District's approval of the emissions inventory report, the District understood that Pacific Steel had expanded the Assessment to analyze the localized environmental effects of installing the carbon adsorption system at Plant 3 and other improvements.

The District has completed its preliminary review of the Assessment, which included a review of the emissions data, dispersion modeling analyses, and health risk calculations, and has identified some needed corrections and additions. Pacific Steel will submit the revised Assessment on or before September 17<sup>th</sup>. When the District determines the Assessment has adequately addressed the District's comments, it will forward the revised Assessment to the State's Office of Environmental Health Hazard Assessment for its review. The District will release the revised Assessment simultaneously to the public for its 90-day review.

In connection with the Health Risk Assessment, in May 2006, the District had in-stack dioxin testing conducted at Plant 3's pouring and cooling area because the area was determined to have the highest potential for dioxin emissions at the entire Facility. The District also had dioxin testing conducted Plant 2's thermal recycling unit (sand reclamation) in response to community concerns. The District found no measurable levels of dioxin emissions from the recycling unit. Pacific Steel will include the results of the dioxin testing as inputs to the final Health Risk Assessment.

The District has entered into a property lease in West Berkeley and is working to set up an ambient air monitoring station at the site. The property owner has had the necessary paving completed and security fencing installed. The District is awaiting installation of electric service by Pacific Gas & Electric and installation of telephone service. In the meantime, the District has configured the trailer containing the air monitoring equipment. The District will require approximately two weeks following installation of the electric and telephone services to install the trailer and render the air monitoring equipment operational.

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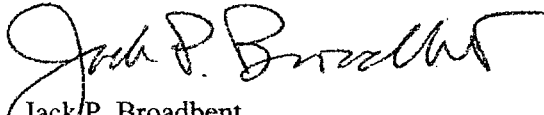
The District has also awarded a grant to the Tides Center to conduct a metals monitoring study in West Berkeley. The study is underway and preliminary results have been submitted to the District and are available on various websites. The District anticipates that the Tides Center will complete the study in mid-March, 2008.

In March and July 2007, the District issued a total of three notices of violation (NOVs) against Pacific Steel for alleged public nuisances at the three plants, based on odor complaints. Pacific Steel has settled one NOV and the other two NOVs are pending. The District continues to monitor activities at all three plants. The odor management plan, including the fugitive emissions study, will help inform Pacific Steel and the District of the best measures to reduce odorous emissions from all three plants.

In the meantime, Pacific Steel submitted an application to replace the existing baghouse at the electric arc furnace of Plant 1 with a larger-capacity baghouse. The current baghouse has a capacity rated at 15,000 cfm and the new baghouse has a rating of 30,000 cfm. The increased baghouse capacity will allow for improved capture and control of fugitive emissions from the furnace. The District issued Pacific Steel an authority to construct on August 16, 2007. Please confirm whether the City must issue a building or other permit for Pacific Steel to install the new baghouse.

I will keep you apprised of the status of the District's activities and look forward to receiving City staff updates on the status of any City permits required for the Plants 1 and 3 electric arc furnace capture and control equipment.

Sincerely,



Jack P. Broadbent  
Executive Officer/APCO

c: Brian C. Bunger, District Counsel  
Brian Bateman, Director of Engineering  
Gary Kendall, Director of Technical Services  
Kelly Wee, Director of Enforcement