



ENVIRONMENTAL STEWARDSHIP

\$100 million settlement with GB Biosciences

PHA resolved its five-year dispute related to the GB Biosciences pesticides plant located on Greens Bayou. The participants in the settlement include all of the plant's current and former owners, GB Biosciences, ISK Magnetics and Occidental Chemical Company (as successor to Diamond Shamrock Chemicals Company), along with various parent companies and related corporate entities. Under the terms of the settlement agreement, the defendants have agreed to:

- (1) undertake a thorough cleanup program, valued in excess of \$45 million, to remediate the soils, sediments and groundwater in the vicinity of the GB Biosciences Plant (a process that is expected to take five to seven years to complete)
- (2) reimburse PHA for its costs and expenses in investigating and litigating the matter
- (3) remediate over 100 acres of impacted property now owned by GB Biosciences
- (4) protect the port authority against future losses associated with the GB Plant.

PHA received a total of \$35 million in cash for attorneys' fees, cost of property sold, oversight of the remediation process for the next 30 years, and future protection for environmental issues. The settlement also included \$20 million for indemnity against any future claims or expenses.

The remediation plans include an extensive groundwater treatment program in two separate groundwater zones, the removal and treatment of large quantities of impacted soils, and the dredging of 500,000 cubic yards of impacted sediments from Greens Bayou. The remediation plans are expected to be submitted later in January to the Texas Commission on Environmental Quality, which will oversee GB Biosciences' investigation and cleanup operations.

Located on Haden Road near Greens Bayou, the GB Biosciences Plant has manufactured pesticides and other agricultural chemicals, including DDT and Lindane, since the early 1950's when the plant was owned by Diamond Shamrock (now Occidental Chemical). Diamond Shamrock divested its interest in the plant's ownership in 1985. The companies

owning and operating the GB Plant were later transferred to global pesticides manufacturers Ishihara Sangyo Kaisha, Zeneca and Syngenta, all defendants in the case.

PHA's lawsuit, filed in February 2001 in Judge Caroline Baker's 151st State District Court, sought recovery for damages associated with diminution in value of its property, the costs of investigating, delineating and removing contamination from PHA property, costs of the remediation and restoration of the property and affected waterways, the costs of protecting the public and the environment from migration and release of agricultural chemicals, attorney's fees and other related damages. PHA had also requested that the court order the defendants to conduct a comprehensive investigation, remediation, removal and disposal of contaminants associated with the pesticides plant.

As part of the settlement reached on December 19, 2003, the defendants also agreed to purchase approximately 100 acres of surplus property owned by PHA that had been impacted by the plant's operations and to reimburse PHA for all of its past costs associated with the plant's contamination, including all of its costs and fees incurred throughout the litigation. In addition, the defendants have agreed to provide protection to PHA in the event of future losses associated with the plant. With these additional protections, the total value of the entire settlement package to PHA could exceed \$100 million.

Defendants named in PHA's lawsuit included GB Biosciences Corporation, GB Biosciences Holdings, Inc., Zeneca Inc., Syngenta AG, Syngenta Crop Protection, Inc., ISK Magnetics, Inc., ISK Americas Incorporated, Ishihara Sangyo Kaisha, Ltd., Occidental Chemical Company (as successor to Diamond Shamrock Chemicals Company) and Maxus Energy Corporation.

PHA was represented in the litigation by the law firm of Connelly, Baker, Wotring, Jackson LLP under the direction of PHA General Counsel Martha Williams.

Bayport environmental mitigation features

PHA plans to preserve more than 450 acres of coastal prairie along the lower part of the San Jacinto River and 500 acres on the Katy Prairie to compensate for impacts from the proposed terminal facilities at Bayport. The Texas Department of Parks and Wildlife, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, and the Texas Commission on Environmental Quality have each submitted written statements to the U.S. Army Corps of Engineers generally indicating that the PHA's plan adequately addresses their concerns and establishes appropriate conditions that should be included in a permit for Bayport.

- The use of clean fuel and clean engine technology at Bayport will help reduce air emissions.

- A three-mile long buffer zone around the Bayport facility will include a landscaped sight and sound berm that will be 20 feet tall.
- The buffer zone also includes part of an extensive storm water collection system that will protect Galveston Bay.
- Lighting systems designed to use black light poles and specially designed fixtures will limit night-time impacts from Bayport operations.
- Jurisdictional wetland will be replaced at a ratio of more than three to one to increase the habitats available for fish, waterfowl and other coastal wildlife.
- The beneficial use of dredged material will create up to an additional 200 acres of inter-tidal marsh.
- PHA has drawn on expertise developed in other ports around the world to make the proposed Bayport facility environmentally sound. We will continue to review our development plans as new environmental technologies and techniques evolve.
- PHA will continue to work to address all public concerns and issues regarding the proposed facility, setting a new standard in the maritime industry for environmental stewardship and community friendliness. The Port Authority wants to be a good neighbor and will work as hard as we can to meet that goal.

Top Accolades for Environmental Stewardship

EPA's National Performance Track Program

Recognizes and encourages top environmental performers to go beyond compliance to attain levels of environmental performance and management that benefit people, communities, and the environment. The PHA was accepted into the program in April 2003 with goals for improving air quality, reducing storm water impacts, and reducing energy consumption at the port. All Performance Track members are recognized nationally for their environmental stewardship and receive various incentives from the USEPA.

ISO 14001 Certification

Recognizes the PHA's voluntary development and implementation of an innovative environmental management system (EMS) focusing on reducing and recycling solid waste, lowering air emissions, and improving storm water quality.

TCEQ Environmental Excellence Award

Recognizing the PHA's Houston Ship Channel widening and deepening project as an initiative that provides a positive impact on the state's air, water and land.

American Association of Port Authorities' Environmental Improvement Award

Recognizing the PHA's air quality program, which achieved significant reductions in emissions of nitrogen oxide, volatile organic compounds, and particulate matter at PHA's operational facilities.

American Association of Port Authorities' 2002 Calvin Hurst Award

Recognizing the PHA's innovative EMS. The PHA was the first port since 1998 to be named the recipient of this coveted port industry accolade, which is named posthumously in remembrance of the first professional marine environmentalist who served at the Port of Los Angeles from 1972 to 1987. Because of the exemplary nature of its intended recipients, the AAPA does not necessarily present the award every year.

The Gulf of Mexico Program Gulf Guardian Award

Recognizing the PHA's demonstrated efforts to enhance natural wildlife habitats through the creation of wetlands in Galveston Bay.