

OH Doc No. 30

Recd From: Aron Baker

Date Recd: 1/5/07

Submission to EPA

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Submission to oral hearing on the granting of IPCC license to Shell

According to the EPA Inspectors Report License application, part 9, Royal Dutch / Shell Group of Companies and SEPIL here after referred to as "Shell", are a fit and proper person with no relevant convictions.

I have reason to believe that this is not fully accurate.

They have many related convictions, out of court settlements, pending court matters, as well as much well documented and lesser documented accidents, incidents, spills and environmental damage.

To grant an IPCC licence the EPA has to be confident that the applicant is a 'fit and proper person'. The Protection of the Environment Act 2003 sets out more specifically what a 'fit and proper person' is:

(a) neither that person NOR ANY RELEVANT PERSON has been convicted of an offence under various environmental offences.

This submission will clearly demonstrate that Shell is not a 'fit and proper person' as it has been convicted of various environmental and other offences, and committed many others. It has also been fined for many health, safety and environmental breaches.

There has been some mention of jurisdiction about this issue. I would strongly suggest that in evaluating this issue the EPA has already considered and should continue to consider this issue and Shell in an international framework. It is clear that from the EPA's RD Shell international holdings were considered when deciding if they had relevant experience, technical expertise and ability to finance the venture. Therefore their international record is just as relevant. If they are solely to be evaluated on their Irish endeavors then it is clear that they have no relevant experience, expertise or the financial ability to cover this project and hence also do not surely meet the pre-requisites for the fit and proper person provision.

The examples below are but a tiny sample of Shells failings.

As evidence that they are not fit and proper persons we provide a small sampling of the convictions and fines levied against Shell.

Known convictions include:

- \$1.5 billion fine for damage to the Niger Delta- A Nigerian court has ordered oil giant Shell's local operation to pay \$1.5bn to the Ijaw people of the Delta region, who have been fighting since 2000 for compensation for environmental degradation in the oilrich region. They took the case to court after Shell refused to make the payment ordered by Nigeria's parliament in 2000. (Ref 1)
- \$100,000 fine in Canada 1989- For price fixing in contravention of the Competition Act 1970 (Ref 2)
- £900,000 fine in 2005 -Shell was fined £900,000 in April 2005 following the deaths of two workers on a North Sea platform. Sean McCue and Keith Moncrieff died in a massive gas escape on the Brent Bravo platform in September 2003. Shell had admitted breaching three health and safety regulations and received what is thought to be the biggest fine on a company following a North Sea accident. However, offshore union Amicus has said the fine, on 27 April 2005, will have little impact on a multinational such as Shell and says the role of the Health and Safety Executive (HSE) prior to the tragedy must be the subject of a probe. Graham Tran, Amicus' regional officer for offshore workers, said: A £900,000 fine represents no deterrent to a company due to announce a quarterly profit in the region of GBP2.7 billion tomorrow." (Ref 3)

- Shell was convicted and fined a total of €2,000 with €2,000 costs and expenses at Dublin District Court on 26 July 2002. The case arose after 48 tonnes of unleaded petrol overflowed from a storage tank into a bund area. The spill led to Dublin Port being closed for six hours. (Ref 4)
- November 2006: the European Commission fines Shell with 161million Euro for manipulation of prices of synthetic rubber. (Ref 5)
- Shell were fined 100,000 pounds for what was described by the HSE as potentially the worst petrochemicals disaster in the UK, as a result of a flare line collapse in Nov, 1990. (Ref 6)

Other known out of court settlements, illegal activities and enforcement notices include:

- 2005 Shell illegally constructed and operated a septic tank in the 'Rosspoint compound' for the on-shore pipeline. They denied this vehemently until locals showed this to the relevant authorities.
- 2005 Shell without the required consent of the Minister welded several kilometres of the now defunct pipeline. Subsequently Shell were forced to dismantle it, despite groups with a financial stake or interest lobbying the government on their behalf.
- In April 2002, Olympic, Shell and other parties agreed to pay \$75 million to settle wrongful-death suits brought by the families of two boys killed by a 1999 pipeline rupture. They also reached an undisclosed settlement with Wood's family. But both companies still face a lawsuit seeking at least \$450 million, brought by Arco over an interruption of business caused by the rupture and /or shutdown of the pipeline. And Olympic, now run by BP Pipelines North America, has sued Shell, claiming Shell was the operator of the pipeline at the time of the rupture. Olympic is trying to get Shell to pay tens of millions of dollars in spill-related costs. (Ref 7)
- Shell has been repeatedly warned by the Health and Safety Executive (the enforcing authorities responsible for health and safety regulation in Great Britain) about the poor state of its North Sea platforms:
 - November 13 2006: "Shell have failed to implement a suitably resourced maintenance regime to achieve compliance with their maintenance strategy. This has led to an excessive backlog of maintenance activities for safety critical equipment."
 - September 1 2006: "Lifting equipment was not being adequately maintained through the rigging loft. The AK gantry cranes were inadequately maintained. On-site control of lifting operations was seen to be inadequate."
 - July 27 2006: Shell "failed to ensure the health and safety of your employees and others by failing to ensure that the 12-inch oil export pipework P-137-1106Y, so far as is reasonably practicable, has been maintained in an efficient state, in efficient working order, and in good repair."
 - The HSE website shows Shell was issued with 10 improvement notices during 2006, although one referred to an onshore facility at St Fergus in Scotland. Notices are served where the HSE considers a company is operating unlawfully with unacceptable risks, according to industry experts.
 - July 2006: An Aberdeen sheriff's court had ruled in a fatal accident inquiry that Shell could have prevented the two deaths if it had properly repaired a hole in a corroding pipe on a Brent platform.
 - Bill Campbell, one of its senior safety consultants, claimed the company was operating a weak safety regime and said some employees had been falsifying documents. (Ref 8)

As evidence that Shell are not fit and proper persons we provide a small sampling of the environmental damage committed by Shell.

1. Shell's poor environmental record in Nigeria is given prominence in a FOE –led Shell accountability campaign report (Jan 2007) which demands the company pay \$10bn to clean up oil spills and compensate communities in the Niger Delta. (Ref 9) A further \$1.5bn should be spent ending gas flaring in the country with a similar amount being paid immediately to the Ijaw community in line with a ruling in the Nigerian high court. Environmental Rights Action, Friends of the Earth and others estimate that as much as 13m barrels of oil have been spilled into the Niger Delta ecosystem over the last 50 years by Shell and its partners, an amount they say is 50 times more than that associated with the infamous Exxon Valdez tanker grounding off Alaska. "The spills pollute the land and water of the communities. Drinking water is affected, people get sick, fish populations die and farmers lose their income because the soil of the land is destroyed," argue the groups who go on to document a series of promises made by Shell to halt flaring of excess gas in Nigeria. Flaring is held responsible for acid rain in the Niger Delta which is said to corrode roofs, pollute lakes and damage vegetation. The company is urged to halt flaring this year by reinjecting the excess gas, processing it into liquefied natural gas or shutting down those facilities where neither is an option.

The bill from all Shell's activities worldwide is difficult to quantify, according to the green group but is likely to be much higher than the \$20bn estimate. It also notes that Shell's claimed commitment to renewable energy projects is undermined by the fact that less than 1% of its earnings during the year came from wind or solar.

Hannah Griffiths at FoE said: "Shell is bleeding communities dry and \$20bn is just the beginning in quantifying Shell's true environmental damage."

Shell has been operating in the Niger Delta since the 1930s and is by far the largest operator with an output of more than 1m barrels a day. But the 90 oil and gas fields have suffered spills and sabotage, damaging the livelihood of farmers and fishermen and threatening the half-million Ogoni. In 2005 the high court of Nigeria found Shell gas flaring to be a "gross violation" of human rights.

Former head of environmental studies of Shell in Nigeria J. P. Van Dessel who resigned at the companies environmental record states in 1995 that 'there have been 190 spills a year since 1989 involving on average 319,200 US gallons of oil'. Rivers, lakes & ponds are polluted in oil and much of the land is impossible to farm. This has led to polluted drinking water and deaths from cholera. Gas flaring and the construction of flow stations near communities have led to severe respiratory and other health problems and contribute massively to climate change.

2. After 70 years of service, in 1985 Shell closed down its oil refinery on Curacao, in the Caribbean. A huge mess was left behind: chemical wastes in the Asfaltmeer (lake) and the Schottegatbaai (bay) and an oil-polluted 20-kilometre long reef around the island.

Shell washed its hands of the refinery and in 1985 sold it for one dollar to the government of the Dutch Antilles. A condition of the deal was that Shell was absolved from any and all responsibility for damage that the refinery had caused to health or the environment. (Ref 10)

3. Shell is engaged in the world's largest oil and gas production project off the coast of the Russian island Sakhalin. The oil pipeline runs through the island, crossing 55 seismic faults and more than a thousand rivers. The environmental permit for the project was recently suspended by the Russian government, due to a large number of violations of Russian environmental law. The Russian

government is even considering criminal prosecution. This would be justified: the environmental permit should never have been issued.

The 1200 kilometres of the pipeline that have already been laid has led to major social and environmental problems over the last few years. Erosion and pollution pose a threat to wild salmon. This is an enormous problem for the indigenous people, who are mostly fishers. The project is also places the last 100 West Pacific grey whales in the world under threat. Russian environmental authorities estimate that damage from the project amounts to 10 billion rubles (295 million euros).

4. In 1992, EIRIS, the UK-based investor service named Shell as one of the worst polluters of UK rivers [Ref 11]. The company had breached its consent limits more than 35 times during the previous year. In 1993, Shell UK admitted that one third of its 1,100 petrol sites are contaminated to "a greater or lesser degree".

Shell should not be considered a 'fit & proper person' as it is also responsible for the following accidents which are just a small sample of those that have occurred as a direct result of Shells activities and negligence.

1) In April 1989 a gas explosion caused the shutdown of the South Cormorant A platform, in the same month a worker was killed by a high pressure hose, on Shells Cormorant Alpha platform. There had been nearly 100 dangerous occurrences and several near accidents at Shell rigs in the north Sea at that time.

6 People were injured in 1990 at Stanlow refinery, after an explosion. (Ref 12)

2) On Barbados, an island in the Atlantic Ocean northeast of Venezuela, Shell operates a seven mile long aviation fuel pipeline. The pipelines runs from Oistins depot across the fertile farmlands of Barbados to the airport. The pipeline first burst in 1995 and then again in 2003 with several smaller leaks in between. It is estimated that 300,000 gallons of jet fuel has leaked from the pipeline into the land and groundwater. Farmers have been losing crops and revenue for numerous years due to the presence of hydrocarbons in the irrigated water, without properly being compensated by Shell. The contamination is still not contained and appears to be spreading towards the coastline. If the contamination continues to spread, it could show up on Barbados' beaches and coral reefs, which could have a catastrophic impact on Barbados' primary industry, tourism. (Ref 13)

3) On June 22, 1997, a serious chemical accident occurred at the Shell Chemical Company in Deer Park, Texas, 15 miles east of Houston. The accident resulted in injuries to several workers and extensive damage to the Shell Plant, as well as minor damage to nearby residential property. Damage to the facility was estimated at \$101 million and major transportation routes were closed for several hours. As a result of the Shell accident, the U.S. Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA) released a joint accident investigation report, the "Shell Report" (June 19, 1998) to determine the root cause and contributing factors of the accident, and to make recommendations to prevent similar accidents. (Ref 14)

4) Last year, seven employees and contractors died while working for BP, but 37 died while working for

Royal Dutch Shell. Shell has described the number of deaths as unacceptable and launched a safety drive.
20 March 2007 (Ref 15)

5) The Shell Pipeline Corporation finished repairs and resumed operation of a 24-inch crude oil pipeline that ruptured. The Rancho Line carries crude from McCamey in West Texas to a terminal in Pasadena, Tex., south of Houston. It is owned by Shell Pipeline, a venture of Shell Oil, Phillips Petroleum, Crown Central Petroleum, Amoco, Ashland Oil and ARCO. The line was shut down after it ruptured, spilling about 8,500 barrels of a crude oil and water mixture, a Shell Pipeline spokesman, Dennis Winkler, said. (1992 The New York Times) (Ref 16)

6) 22 March 2007 Washington, D.C. - A United Steelworkers (USW) health and safety specialist testified today before the U.S. House Education and Labor Committee that numerous incidents have occurred in the refining and petrochemical industries threatening industrial accidents similar to the March 2005 explosion at BP's Texas City facility that killed 15 people and injured scores of others.

The committee held an oversight hearing on the Texas City explosion and the safety of U.S. oil refineries and chemical facilities following investigative reports that condemned lax safety standards cited at the facility by an independent review panel and more recently, the U.S. Chemical Safety Board (CSB).

A former oil worker at the Shell refinery in Anacortes, Wash., Nibarger told of two incidents at his facility: One was a release of propane and hydrocarbons that could have caused extensive damage had the vapor cloud ignited; the other was a situation with slightly different circumstances that resulted in six deaths.

He also told of a Feb. 16 fire at the Valero refinery in Sunray, Texas, and said the company has had a total of eight incidents since the beginning of 2007.

"This is a pattern repeated all too often," he said. "In the U.S. from Jan. 1 through Feb. 16 of this year, there have been 43 incidents of pipeline leaks, chemical releases, plant upsets and fires." (Ref 17)

In Conclusion,

It is clear to me that Shell do not comply with the "Fit and Proper" person provision, and while the EPA has some discretionary decision making powers in this regard I would urge them to reconsider this matter and not to grant the IPPC license on these grounds.

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