

# A LONG HISTORY: CIVIL SOCIETY, POLLUTION AND THE WENTWORTH OIL REFINERY<sup>1</sup>

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<sup>1</sup> Because of it's complicated history of ownership and name changes (see footnote 12), in this report I sometimes refer to the oil refinery currently operated by the Engen Petroleum Refining Company (Pty) Ltd in south Durban as the 'Wentworth oil refinery'. This has the added benefit of rooting the plant in its geographic location as well as being suggestive of the relationship between it and the adjacent residential community of Wentworth.

This report aims to historicise post-Apartheid civic mobilisation against pollution associated with oil refining in south Durban. There has been a tendency to mythologise this mobilisation, seeing it as the embodiment of a new local resistance to globalisation and the ANC government's adoption of what has been characterised as 'neoliberal' economic policies.<sup>2</sup> Certainly, south Durban represents an important test case for post-Apartheid South Africa, juxtaposing major multinational petrochemical industries and residential neighbourhoods with histories of forced removals during Apartheid.<sup>3</sup> The continued experience of pollution associated, in particular, with the 'big 3' industrial complexes in the area (Mondi, Sapref and Engen), has led to increasing frustration and anger among residents about perceived political complicity with environmental abuses by oil companies.<sup>4</sup>

The report begins by showing that mobilisations against refinery pollution in south Durban have much longer histories than recent debates in South Africa about 'neoliberalism' and 'environmental justice', and that these histories contain valuable lessons for present struggles, which have tended to be suppressed by 'environmental racism' discourses deployed by contemporary activists, civic organisations and academic accounts.<sup>5</sup> My critique does not challenge the general contours of the arguments which have been made about the iniquitous effects of 'environmental racism' in South African history and the present, but rather argues that we need to be alert to the lessons contained in the histories which simplistic 'environmental racism' discourses (whether employed by activists or academics) suppress.

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<sup>2</sup> For a critique of this tendency with specific reference to Wentworth see Allan Moolman 'Living up to the myth: Community engagement for social change' *Centre for Civil Society*, 2004. Available at [www.ukzn.ac.za/ccs](http://www.ukzn.ac.za/ccs)

<sup>3</sup> For a valuable account of post-Apartheid mobilisations against pollution in south Durban see D. Wiley, Root, C. and Peek, S. 'Contesting the urban industrial environment in south Durban in a period of democratisation and globalisation'. in *(D)urban Vortex: South African City in Transition*. Freund, B. and Padayachee, V. (Ed.) Pietermaritzburg: University of Natal Press, 2002.

<sup>4</sup> These have been compounded by tensions caused by high levels of unemployment, the increase of itinerant subcontract labour and labour brokering associated with the local refineries. For an excellent study of some of the civic responses to these pressures in Wentworth and Merebank see Sharad Chari 'Political Work: The Holy Spirit and the Labours of Activism in the Shadows of Durban's Refineries' Research Report No 30 in *From Local Processes to Global Forces*; Centre for Civil Society Research Reports: 2005, Volume 1, 2-3.

<sup>5</sup> For allusions to the role of 'environmental racism' in South African history see for instance The groundWork Report 2004 'The Balance of Rights - Constitutional promises and struggles for environmental justice', 41. Available at <http://www.groundwork.org.za>. See also Dianne Scott 'Creative Destruction' - Early Modernist Planning in the South Durban Industrial Zone, South Africa' in *Journal of Southern African Studies*, Volume 29, No.1, March 2003, 258 and Greg Ruiters 'Environmental racism and justice in South Africa's transition' in *Politikon*, (2001), 28(1), 95-103. For an overview of South Africa's nascent 'environmental justice' movement see Jacklyn Cock 'Connecting the red, brown and green: the environmental justice movement in South Africa'. Available at [www.ukzn.ac.za/ccs](http://www.ukzn.ac.za/ccs)

The report attempts to weave together these histories of civic mobilisation against pollution in south Durban, focusing on South Africa's first oil refinery at Wentworth.<sup>6</sup> In so doing, the report tries to draw a connecting line between earlier and later mobilisations – though not in an attempt to equate them – for the historical contexts and motivations behind the protests, despite similarities, are very different. Landowner interests have played an important part in mobilisations against pollution on the Bluff and in the wealthier parts of Merebank, while Wentworth's mobilisations appear to be more unambiguously rooted in grievances related to the perceived persistence of injustice in a post-Apartheid context. Rather, I argue that environmental racism and its iniquitous effects in south Durban did not merely arise out of official and corporate indifference, but was in fact a by-product of the power of a white civic culture itself concerned with the polluting effects of oil refining in the area. It thus illustrates the negative consequences of South Africa's legacy of racialised civil society. This history would also leave its mark in what I characterise as the bureaucratisation of environmental politics in South Africa and the development of a weak localised system of environmental regulation which has only recently begun to be reformed. The report argues for an appreciation of the productive, ontological *and* suppressive power of the various (landowner, layman, technocratic, community, environmental racism) discourses which have been employed by the state, petro-capital, civic organisations and activists in relation to pollution in south Durban throughout the last half century.

The report suggests that in spite of some of the more cynical recent critiques of post-Apartheid, 'neoliberal' South Africa, there have been very real *positive* changes in south Durban in terms of the political configuration of relationships between residents, petro-capital and the (local and central) state.<sup>7</sup> Through vigilant and determined civic mobilisation and activism, those who previously enjoyed little or no purchase on the bureaucrats and politicians in city hall and Pretoria have

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<sup>6</sup> The report draws on archival records housed in the Engen refinery library, together with accounts produced by key civic organisations in the area. The reliance on company records is obviously not without its problems, though I believe that these are counterbalanced by insights gauged from analysing the refinery's view of the changing world outside its gates. Another important epistemological issue of which I am acutely aware is my general privileging of organisational mobilisation over other, less formalised expressions of concern about pollution.

<sup>7</sup> There is an increasingly voluminous literature addressing the reasons for the apparent persistence of inequality and injustice in post-Apartheid South Africa and the associated rise of 'social movements' mobilising in response to this. The bulk of the accounts have blamed the ANC government's adoption of the Growth, Employment and Redistribution Strategy (GEAR) which they characterise as a 'neoliberal' policy, serving the interests of international and domestic capital over and above those of the poor and working classes in South Africa. A selection of key texts include: A. Desai *We Are the Poor's: Community Struggles in Post-Apartheid South Africa*, Monthly Review Press, New York, 2002; P. Bond *Talk Left Walk Right* Pietermaritzburg: University of KwaZulu-Natal Press, 2004; P. Bond *Elite Transition. From Apartheid to Neoliberalism in South Africa*, University of Natal Press, Pietermaritzburg, 2000. A number of other important contributions to this literature can be found at [www.ukzn.ac.za/ccs](http://www.ukzn.ac.za/ccs)

seized the opportunities presented by the end of Apartheid, demanding a translation of the promises of constitutionally embedded 'environmental' rights into tangible improvements such as emission reductions. As Jacklyn Cock has argued this kind of post-Apartheid 'environmental justice' campaigning is less about 'the environment' than it is about health and rights more generally.<sup>8</sup> As we will see, petro-capital has been forced to take notice.

### **Civic beginnings...**

From the close of the 19<sup>th</sup> century some of the wealthier White and Indian landowners living in south Durban mobilised civic organisations employing often racialised public health discourses, targeted at indigent Indians and Africans who were regarded as a threat in this 'insanitary' space on Durban's periphery. These conditions represented one of the chief justifications for the incorporation of large parts of south Durban into the municipal boundaries in 1932, though the Durban municipality's overriding concern was undoubtedly acquiring the power to shape industrial development in the area.<sup>9</sup>

The succeeding decades would see the creation of a racially segmented residential landscape in the area, together with the intensive development of contiguous petrochemical industry. The Durban municipality's fixation with 'slum' conditions, coupled with the desire for the reproduction of cheap, semi-skilled labour in the area lay behind initial 'slum' clearances and land expropriations. 'Re-housing' in housing schemes began in the 1940s, accelerating in the 1950s with Group Areas removals, through to their completion in the early 1970s.<sup>10</sup>

From the late 1940s Indians living at Merebank and Wentworth waged civic battles with the municipality over land expropriation, housing and the payment of rates for services which rarely materialised. Newspaper accounts and a handful of letters written by some of these landowners indicate increasing cynicism towards the municipality's interventions in south Durban.<sup>11</sup> Expropriation of land and demolition of homes in the name of new housing and healthier living conditions came to be seen as a cover for industrial expansion in the area.<sup>12</sup> The establishment

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<sup>8</sup> See Jacklyn Cock 'Connecting the red, brown and green', 2.

<sup>9</sup> See Stephen Sparks 'Playing at Public Health: The Search for Control in South Durban, 1860-1932' in *Journal of Natal and Zulu History*, Volume 20: 2002.

<sup>10</sup> Dianne Scott 'Communal Space Construction: The rise and fall of Clairwood and District' PhD thesis, University of Natal, Durban, 1994.

<sup>11</sup> 'Dismay at Demolitions' *The Leader* April 15, 1954; 'Merebank Meeting: Expropriation Fears' *The Leader* October 12, 1956; 'Objection to New Industry: Merewent has had enough of unpleasant odours' *The Leader* October 16, 1964. Durban Archives Repository (TBD) Durban Town Clerk Files (3/DBN) 4/1/4/130 Vol. 2, 39C P. Raidoo Hon Secretary Durban Combined Indian Ratepayers Association to Town Clerk, Durban, 27 February, 1952.

<sup>12</sup> 'Merebank Meeting: Expropriation Fears' *The Leader* October 12, 1956; 'Objection to New Industry: Merewent has had enough of unpleasant odours' *The Leader* October 16, 1964.

of South Africa's first oil refinery at Wentworth in 1954 by the Standard Vacuum Oil Refinery (Stanvac) became a symbol of the negligence of the Durban City Council amongst Indians living at Merebank and Wentworth.<sup>13</sup> It was against this backdrop that Indian landowners in the area attempted (unsuccessfully) to resist the attempts by the Standard Vacuum Oil Company of South Africa (Pty) Ltd to get control of land in south Durban for its refinery.<sup>14</sup>

Already hemmed in by Stanvac and the recently completed Sapref refinery at Reunion, in the mid 1960s residents of the Merebank and Wentworth housing schemes objected to the establishment of a third major industry in the area by Mondi. The Merewent Ratepayers Association (M.R.A.) took up the issue with the municipality.<sup>15</sup> The M.R.A. became the chief civic body in Merebank after a dispute with its rival, the old Merebank Indian Ratepayers Association (M.I.R.A) over what I

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<sup>13</sup> 'Indian homes demolished' *The Leader* March 5, 1954. The Wentworth refinery was built by the Standard Vacuum Oil Company, which was a product of the U.S Supreme Court anti-trust action of 1911, which splintered the original Rockefeller oil empire - the Vacuum Oil Company - into a series of different (but similarly named) companies. The company was jointly owned by the Standard Vacuum Oil Company of New Jersey and the Socony-Vacuum Oil Company. Jersey-Standard had developed crude production and refining capacity in Indonesia, but had no marketing facilities in the Far East, while Socony had an existing marketing infrastructure in the area, but no refining or production facilities. With time, the Standard Vacuum Oil Company became responsible for overseeing the joint interests of Jersey and Socony's shareholders in the Far East, South and South-East Asia, and South and Eastern Africa. The refinery was initially operated by the Standard Vacuum Oil Refining Company (Stanvac), a company specially registered in South Africa in the 1950's to operate the refinery. At the end of 1960, Stanvac's parent company shareholders decided to dissolve the company. The reorganisation of assets which resulted from this meant that all Stanvac assets in Southern Africa were transferred in early 1962 to the New York based Mobil Petroleum Company - which itself had been formed by Socony-Mobil (formerly Socony-Vacuum) to operate the Stanvac facilities allocated to it by the reorganisation. The refining company which operated the Wentworth refinery became known as the Mobil Refining Company of Southern Africa. In 1989, after sustained pressure from anti-Apartheid campaigners, Mobil belatedly withdrew from South Africa, selling its assets to Gencor, a largely Afrikaans-owned company, who duly established Engen Petroleum Ltd as the inheritor of Mobil's assets in post-Apartheid South Africa. In mid-1996, Petronas, the Malaysian state oil company purchased a 30% controlling share in Engen, finally becoming the sole owner in 1999. The Petronas takeover, symptomatic of the massive injection of Malaysian capital in South Africa since the end of Apartheid, seems to have had the overt support of the ANC government, which has historic links with the Malaysian government stretching back to the anti Apartheid struggle.

<sup>14</sup> TBD 3/DBN 4/1/4/130 39C Volume 1 Proposed Oil Refinery at Wentworth; H.A. Smith City and Water Engineer to Town Clerk, Durban, 23 November, 1950. See also TBD 3/DBN 4/1/4/130 39C Vol. 1, R.G. Pomeroy to Durban Town Clerk, October 11, 1951. TBD 3/DBN 4/1/4/130 Vol. 2, 39C P. Raidoo Hon Secretary Durban Combined Indian Ratepayers Association to Town Clerk, Durban, 27 February, 1952.

<sup>15</sup> 'Objection to New Industry: Merewent has had enough of unpleasant odours' *The Leader*, October 16, 1964; 'Merewent Ratepayers Bodies Clash' *The Leader* April 10, 1964.

term the 'right to speak for' the interests of Indians in the area.<sup>16</sup> The M.R.A's opposition to the construction of the Mondi paper-mill would prove unsuccessful and the politics of industrial consent may help explain why. Two years previously the M.R.A. had officially approached Sapref, pleading with it to fill a reported 2,000 vacancies at its new refinery, citing the 'alarming unemployment' among Indians in Durban and the Apartheid government's 'restrictive and repressive' job reservation legislation. The M.R.A had offered its assistance in helping Sapref obtain workers from amongst Indian residents at Merebank.<sup>17</sup>

### **The legacies of Bluff mobilisation**

Earlier civic mobilisations around public health and civic amenities by White landowners on the Bluff found newer, more powerful expressions in the 1950s with the establishment of Stanvac. Landowner interests, founded on a conception of the Bluff as a neighbourhood with an attractive 'natural' character, conducive to comfortable living, leisure and a high standard of civic amenities informed the character of mobilisations from the beginning, though (still vaguely articulated) health concerns became increasingly prominent.<sup>18</sup> This civic culture also had traces of a critique of corporate greed and powerful layman discourses which betrayed its roots among white railway and municipal workers on the Bluff.

After Stanvac started operating in early 1954 the municipal bureaucracy received a large number of letters written by members of the Bluff's white landowning class, describing being woken up ('choking') in the early hours of the morning by an 'obnoxious' and 'evil-smelling stench'.<sup>19</sup> Many employed language rich with metaphoric references to the invasion of the space of the home by smells and to the negative effect of these 'nuisances' on children and expectant mothers. Mounting anxiety culminated in a meeting of the various local white ratepayers associations out of which the umbrella organisation the Bluff Amenities Protection Association (B.A.P.A.) was formed. Continued complaints that the pollution was causing irritation, coughing and bouts of nausea and vomiting amongst Bluff residents, set the municipal machinery turning at an unusually rapid pace, with the City Council giving the refinery an ultimatum to stop pollution, or face a court interdict ordering its closure. Civic mobilisation on the Bluff had developed a

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<sup>16</sup> 'Walk-out at Merebank Meeting: Sectionalism alleged' *The Leader*, July 26, 1963. See also 'Lively meeting at Merebank expected' *The Leader*, July 5, 1963; 'Merewent Ratepayers Bodies Clash' *The Leader*, April 10, 1964; 'Merebank reject advisory body' *The Leader*, May 1, 1964.

<sup>17</sup> 'Refinery Jobs for Indians Plea by Ratepayers' *The Leader* April 27, 1962.

<sup>18</sup> 'Oil Pipeline will not spoil beauty of roads' *Bluff News Letter*, 13 June 1952.

<sup>19</sup> Central Archives Repository (SAB) Department of Commerce and Industries (HEN) 718 Power, Spirits and Oil Industry. Standard Vacuum Oil Refinery, Wentworth, Durban. Complaints Investigation; G.E. McGilvray to Acting City Medical Officer of Health, 17 February, 1954.

momentum which for a time at least drove the course of events because of the pressure it placed on the local state in Durban.

Ultimately, however, the Bluff's mobilisation against pollution was short-circuited by the intervention of the Apartheid state, which took the form of the deployment of expert knowledge.<sup>20</sup> The national Department of Commerce and Industries (DCI) invited a panel of 'independent overseas experts' to investigate the refinery's design.<sup>21</sup> This would set an important precedent for the future. Technocratic interventions, through experts and technological plant modifications would be prioritised in pollution abatement. The privileging of expert discourses at this time in discussions about pollution was reflected in the DCI's insistence that a dossier prepared for the expert panel about complaints should *not* be made available to the B.A.P.A. because the investigation should 'be kept on specialist level without possible interference from layman [sic]'<sup>22</sup> Significantly, one of the consequences of the Apartheid State's deployment of technocratic discourses was the B.A.P.A.'s attempt to solidify claims about pollution through the formation of a 'Technical Sub-Committee'. This body employed the language of science, chemistry and meteorology to support its argument that the appeals by Bluff residents did not 'arise from hysteria' as had been alleged by Stanvac but 'from honest and real

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<sup>20</sup> 'Bluff 'Smell'-in the end they agreed' *Daily News*, 22 April, 1954; 'Durban's 'Little Abadan' over: Compromise agreed on' *E.P Herald*, 23 April 1954; 'The Refinery Dispute' *Sunday Tribune*, 25 April 1954. See TBD 3/DBN 4/1/4/132 Volume 5, G.E. McGilvray to Town Clerk, 7<sup>th</sup> May, 1954. A 24-hour pollution complaints hotline was also instituted, which continued operating until 1955. Later in the paper I discuss Engen's reinstatement of the complaints hotline in the 1990's.

<sup>21</sup> The panel included Liverpoolian H.G. Howson, who interestingly spent the first few years of his career working in the chemical industry in South Africa, before returning to England where he worked in the petroleum industry, before joining the staff of the Alkali Inspectorate (the UK body responsible for controlling industrial pollution) in 1929 until his retirement in November 1953. He had considerable experience of dealing with air pollution from oil refineries; the large Stanlow refinery in Cheshire and the Manchester oil refineries and other petrochemical plants which fell under his control in the Alkali system. He was joined by Professor F.H. Garner, the Director of the Department of Chemical Engineering at Birmingham University, which had a reputation as the leading department of its kind in the U.K. He had lengthy experience from working for the Anglo-American Oil Company and the ESSO Laboratories (which coincidentally was affiliated to Stanvac's parent company) before leaving the oil industry for academia. The third member of the panel was Mr. E.S. Sellers, the least experienced of the three, who lectured chemical engineering at Cambridge University after spending a few years in the petroleum refining industry in the UK. It is worth noting that at least one of the leading young South African chemical engineers employed at the Wentworth refinery at the time of the investigation had been taught by Sellers at Cambridge.

<sup>22</sup> TBD 3/DBN 4/1/3/132, Vol. 5, Telegram to Town Clerk, Durban, 14 August 1954.

complaints'.<sup>23</sup> In a similar vein the Association also strove to bolster complaints by drawing on the medical opinion of a local Doctor.<sup>24</sup>

The Apartheid State's view of local politics on the Bluff was marked by a deep cynicism about the severity and veracity of pollution complaints. In its rendition, the Bluff's residents had been 'captivated' by the 'agitation' and 'rabble rousing' of a 'small minority' of desperate political has-beens – Labour Party ideologues, trade unionists, and an insecure Mayor, Percy Osborne – who had tried to make political capital out of the controversy. The refinery 'and its tastes and smells', were 'a gift from the gods'.<sup>25</sup> Complaints were based on 'grossly exaggerated evidence' and were simply reflective of the 'nuisance' psychological effects of smells, rather than being based on any real negative health impacts. For its part, Stanvac initially admitted that it was experiencing problems before adopting an increasingly stubborn stance as the controversy deepened, claiming that there were 'a small hard core of complainers' on the Bluff responsible for 'two-thirds of the complaints' and that the refinery 'had become a great bogey...a Frankenstein' in the minds of many residents on the Bluff and served as a 'whipping stone'. Media reporting could literally *produce* pollution: 'if you hammer it home, it builds up a belief that something is happening...'<sup>26</sup>

The purchase of the civic culture on the Bluff in the 1950s and 60s was partly premised upon the heightened prestige of white citizens (and landowners) during Apartheid. It also depended upon the sensitivity of key members of the Durban City Council to white working-class interests on the Bluff. But this did not exclude the Bluff from the more pernicious effects of the interactions between bureaucrats, experts and petro-capital. With the removal of deliberations about refinery pollution to the realm of experts and municipal bureaucrats the B.A.P.A initially opposed the granting of Stanvac's operating licence, fearing, correctly, that once it was granted, central government could be expected to wash its hands of the issue, so that responsibility for pollution control would devolve to the Durban municipality, whose reputation had deteriorated amongst many Bluff residents since it had agreed to the expert investigation.<sup>27</sup> The B.A.P.A withdrew its opposition after assurances that the plant modifications recommended by the experts would be carried out by

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<sup>23</sup> TBD 3/DBN 4/1/4/132 Vol. 5, Statement by Technical Sub-Committee of Bluff Amenities Protection Association, 21 August 1954.

<sup>24</sup> TBD 3/DBN 4/1/4/132 Vol. 5, A Short Criticism of the Smell from the Refinery (Stanvac) approved from the Medical Viewpoint.

<sup>25</sup> SAB HEN 715 Vol. 5, Power Spirits and Oil Industry. Establishment of Industry. Standard Vacuum – Oil Refinery. Wentworth, Natal; 'Politieke Afergrond waarteen die gebeure tussen die stadsraad van Durban en die Standard Vacuum Oil Company gedurende Maart/April 1954 afgespeel het'. My thanks to Catherine and Gys Dubbeld for translating the original document.

<sup>26</sup> TBD 3/DBN 4/1/4/951 Vol. 2, Special Meeting of Works Committee, 28 February, 1958.

<sup>27</sup> 'Licence to refinery opposed' *Daily News*, 15 July, 1954.

Stanvac.<sup>28</sup> In this way, technocratic solutions, which ultimately failed to eradicate pollution problems completely, operated to (temporarily) dampen civic pressures on the Bluff.<sup>29</sup>

The enduring power of the civic culture on the Bluff is striking. In 1958, when Shell announced its plans to build a refinery in the Durban bay, at the northern tip of the Bluff, alarmed residents employed many of the same discourses which had previously provided a descriptive fuel to pollution complaints against the Wentworth refinery. But others employed a modernising discourse arguing for the prioritisation of the Bluff's 'real complaints' – the eradication of mosquitoes, improved roads and drainage – and a new refinery to 'improve the workingman's conditions'.<sup>30</sup> But the weight of pollution experiences at Wentworth in the 1950s, the concerted opposition of many of the Bluff's residents and the municipality's new reluctance to accept expert assurances on pollution at face value, led to it been pushed away from the most densely populated sections of the Bluff and Durban itself. Crucially, however, the new site at Reunion (the current site of the Sapref refinery) was in close proximity to the newly constructed Indian and Coloured housing schemes at Merebank and Wentworth. Thus, one of the most profound legacies of the Bluff's mobilisation would be the displacement of the environmental costs of Durban's second oil refinery onto the Indian and Coloured residents in south Durban.

### **The practical exercise of environmental regulation**

Despite the protection that refineries were undoubtedly afforded because of their strategic importance during Apartheid, these industries were hardly left to pollute at will.<sup>31</sup> Though pollution standards were unquestionably lax, it was precisely because of the histories of the Bluff's experiences and these concerns about pollution in the 1950s and 60s, that the refineries were not/could not be given completely free reign.

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<sup>28</sup> Significantly, this assurance was given by H.G. Howson, the leading member of the team of experts which had investigated the refinery in 1954.

<sup>29</sup> I do not have space here to go into detail about some of these interventions. Suffice it to say there were a number of plant modifications, buttressed by expert knowledge, aimed at bringing about pollution abatement throughout the second half of the 1950s by Stanvac in addition to a series of return visits by international and local experts. Some have brought about significant improvements, while many others failed. Pollution problems persisted, as they still do.

<sup>30</sup> 'Refinery and 'Real Bluff Complaints' Letter to the Editor, *Daily News*, 26 May, 1958. For similar divergent views see also 'The new refinery, mosquitoes and Bayhead Road' Letter to the Editor, *Daily News*, 11 September, 1958; 'Bad Publicity' Letter to the Editor, *Natal Mercury*, 2 November, 1957.

<sup>31</sup> Environmental regulation of oil refining in South Africa during Apartheid has generally been portrayed as ineffectual and poorly enforced. See the groundWork Report 2002: 'Corporate Accountability in South Africa – The Petrochemical Industry and air pollution', 8-11 and P. Lazarus, et al 'The legislative framework: Environmental law, investment and industrial practice', in Bethlehem, L., and M. Goldblatt *The bottom line: Industry and the environment in South Africa*. University of Cape Town Press, International Development Research Centre, Rondebosch, Ottawa. 1997.

Instead, the persistence of refinery pollution, in the face of unsuccessful technocratic efforts at eliminating pollution, led to a shift towards the bureaucratisation of pollution; the emergence of a regulatory regime, however flawed, whose chief purpose became the minimisation of petroleum refinery pollution. This bureaucratisation process gradually removed discussions about refinery pollution from their previous public prominence, into the offices of the city's bureaucracy, and at the same time, paradoxically, was marked by close personal interaction between officials of the municipality's City Engineer's Office and the refineries concerned. This was a by-product of the local state's negotiation of its financial imperatives (the refineries were lucrative contributors to the city's coffers) and white populist pressures, and also a reflection of the municipality's attempts to bridge the city's self-styled dual identity as an industrial port city and a growing tourist resort after World War II.

In time, with the passing of the Atmospheric Pollution Prevention Act of 1965, these relationships would be formalised, elaborated and supplemented by expertise sourced from the government research body, the Council for Scientific and Industrial Research (C.S.I.R) and effluent monitoring by the Department of Water Affairs. It was in the context of city politics that environmental regulation became a practical necessity, though the system was powerfully skewed by the racial politics of *Apartheid* to be more responsive to white pollution complaints.<sup>32</sup> The character of regulation of refinery pollution during *Apartheid* is perhaps best captured in a note written by the refinery's environmental officer Mike Antonizzi, after an 'informal' meeting with Neville Burgess from the City Engineer's Pollution Department in October 1979:

...in all my dealings with Neville Burgess I have always found him helpful and cooperative. I believe we are indeed fortunate to be able to sit down and discuss the subject of pollution with an official who is appreciative of the problems faced by the industry. Mr Burgess stressed that on occasions when we have contravened the by-laws he has always opted for the 'please explain letter'. He has two other options, these being, 'regard this as a warning' or 'you are hereby fined'. His attitude is that he wishes to eliminate contraventions by co-operation and not legislation.<sup>33</sup>

The limitations of this regulatory system were apparent throughout *Apartheid* in the persistence of pollution problems.

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<sup>32</sup> Engen Refinery Library (ERL), Flue Gas Scrubbing. This file refers to 'the Bluff environmental problem' suggestive of the prioritisation of the interests of white residents on the Bluff with respect to pollution during *Apartheid*.

<sup>33</sup> ERL, Environment Files, M.Antonizzi to G.S Hodgetts, October 17, 1979

### **Shifting ground...**

In the late 1980s the refinery became increasingly wary of the global rise of environmentalist ideologies and the move towards tighter pollution controls which had emerged in Europe and North America, fearing that these trends would be reflected in a possible future post-Apartheid South Africa.<sup>34</sup> Indeed, from the mid 80s, some of these fears began to be confirmed with a marked increase in the number of pollution complaints being received by the refinery and the municipality from the Merebank area, resulting in the re-establishment of the refinery's toll-free line, which had been inoperative since the 1950s.<sup>35</sup>

In the mid 1980s Merebank residents threatened 'community action' because of the 'unusual sounds...during all hours of the day and especially the night' at the southern end of the refinery. In response to these complaints and wary of the detrimental affect this might have on its image, the refinery belatedly undertook noise abatement measures in 1985.<sup>36</sup> In early 1987 Merebank residents by-passed conventional complaint channels and complained directly to the national government about pollution. Mobil had been specifically mentioned in newspaper reports and was 'getting a bad name'. The residents claimed that the storm-water canal had become 'an open sewer' for industrial waste from the refinery.<sup>37</sup> Around the same time, M.H. Kathrada, the co-ordinator of the refinery's Pollution Control Group undertook a number of campaigns aimed at fostering a pollution control culture within the refinery. At this stage these primarily took the form of gimmicky posters and stickers - but important changes had undoubtedly begun to be felt within the refinery's gates. Kathrada had written in March, 1985:

As the world-wide anti-pollution campaigns have gained momentum, the refinery has monitored a sharp uptrend in both the frequency and intensity of pollution related complaints. A very significant portion of these complaints have been noise-related, emanating from people living along the south fence of the refinery [Merebank]. These have resulted in numerous time consuming negotiations between refinery personnel, City Engineer's representatives and the public....<sup>38</sup>

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<sup>34</sup> ERL, 'Environmental Assumptions - 1989 to Early 21<sup>st</sup> Century' - Mobil Report, September 1988.

<sup>35</sup> ERL, Minutes of Meeting of the Wentworth/Merebank Area Sulphur Dioxide Committee, 31 October, 1989; CAER Consultants Report, Meeting with Merewent Ratepayers Association, Merebank Community Centre, 26 October, 1994; Minutes of Meeting of the Wentworth/Merebank Area Sulphur Dioxide Committee, 11 November, 1987; Sulphur Dioxide Survey Reports, 1987-1995. Report for Sulphur Dioxide Survey Committee- Wentworth/Merebank Area for period: October 1987 to September 1988.

<sup>36</sup> ERL, Pollution Control Report, February 12, 1985; ERL, SAFOR Noise Abatement Modifications, March 12, 1985.

<sup>37</sup> ERL, Minutes of a special meeting on Environmental Control between representatives of the Durban Corporation and Mobil Refining Company, January 8, 1987.

<sup>38</sup> ERL, SAFOR Noise Abatement Modifications, Memo by M.H Kathrada, March 1985. Brackets my addition.

In 1989, after years of sustained pressure from the anti-Apartheid movement, Mobil divested from South Africa, ironically selling its assets to Gencor, a capital group largely owned by Afrikaners. There was little change in personnel or management at the refinery at the time. In April 1990, the M.R.A undertook a 'pollution survey' aimed at 'assessing how the community felt' about pollution in the area. The results, culled from a total of 107 households, suggested atmospheric pollution associated with the refinery was responsible for the reported high occurrence of 'respiratory ill health' in the area.<sup>39</sup> In line with technocratic discourses employed by the state and the company, the survey's key aim was to produce quantitative scientific data which would indicate the extent of the concern and suffering caused by the refinery's pollution. But like Bluff letter-writing in the 1950s, the survey also emphasised the discomfort and social embarrassment experienced in many Merebank households because of pollution:

...people commonly complained that: 'they felt 'nauseous' and bilious'; family and friends would not visit because of the smells, it was embarrassing to have visitors around, they had to close windows and doors to prevent the smell from coming into the house, it affected people's appetites and made meal times unpleasant.<sup>40</sup>

The M.R.A outlined what it termed a 'pollution crisis'; describing 'the escalation of the problem of pollution' because of Merebank's position as 'an island in a sea of industries'. The organisation had forged links with newly formed NGO Earthlife Africa, carrying out 'in loco' inspections of the Stanvac canal running along the boundary of Merebank which had long been a source of 'offensive' odours.<sup>41</sup> There were signs that the refinery and local authorities had begun to take notice of Merebank's complaints. But the M.R.A's pollution survey met with a brick-wall of officially sanctioned 'scientific evidence'. A Municipal Health Department study had found no difference in the distribution of illnesses between Chatsworth and Merebank. The Health Department had therefore concluded that Merebank 'had no excess diseases associated with air pollution i.e. claims to the contrary are exaggerated'.<sup>42</sup>

The M.R.A severely criticised the municipal study's methodology, (in fact very similar to its own, with the exception of the addition of a 'control group') maintaining that 58% of 'the community' suffered from respiratory illnesses. The M.R.A demanded that the refinery fund a study 'to determine the health of the community', suggesting that Reservoir Hills be used as a 'control group' instead of

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<sup>39</sup> ERL, Report on Merewent Ratepayers Association Pollution Survey

<sup>40</sup> ERL, Report on Merewent Ratepayers Association Pollution Survey, 1991.

<sup>41</sup> ERL, Memorandum: Pollution Problems Encountered with Genref Oil Refinery

<sup>42</sup> ERL, Minutes of Meeting of Wentworth/Merebank Area Sulphur Dioxide Liaison Committee, 12 September, 1990.

Chatsworth. If a discrepancy in disease distribution was revealed the refinery would be 'responsible for the difference' and would have to 'pay for all medical treatment and pay compensation'. The refinery rejected the M.R.A's demands, arguing that this was an 'industry/urbanisation' problem which could not be solely attributable to the refinery. Having rebuffed the M.R.A on this occasion, the company knew full well that it was likely to 'receive further demands' along these lines and that it needed to be prepared for them.<sup>43</sup>

Increasingly aware of pressures for the release of 'environmental information' to the public by the likes of Earthlife Africa, in 1991 the refinery's environmental officer, Jim Frew began to push for the refinery to 'consider ways of educating the public, so that it could cope with this new information'. He believed that this would counter 'disinformation'. At this stage however, 'education' would be limited to a bi-annual issue of a 'glossy colour' newsletter to the refinery's neighbours 'informing' residents of 'the good things being done by the refinery environmentally'. This, it was hoped, would 'positively affect perceptions, and avoid the accusation that the refinery is non-caring, and does very little with regard to environmental issues'.<sup>44</sup>

In early 1992, the refinery played a key role in initiating the Bluff Valley Model Project, which was designed to facilitate integrated informed weather monitoring which would enable prediction of weather conditions that might exacerbate severe atmospheric pollution in south Durban. This theoretically meant that the 'big 3' industrial complexes in the area could reduce SO<sub>2</sub> emission concentrations in anticipation of 'nasty weather'.<sup>45</sup> As we will see, the refinery's preference for the Bluff Valley Model - a narrowly technocratic approach to pollution abatement - over meaningful emission reductions, would become a major source of tension during civic mobilisations in the mid 1990s.

### **CAER - 'One Community, One People'**

After South Africa's first democratic election, the refinery's awareness of the changing political circumstances in which it operated, led to it launching the CAER (Community Awareness and Emergency Response) initiative in late 1994. CAER was modelled on industry-community liaison committees which had been formed by large petrochemical companies in the U.S.A and Western Europe in the late 80s and early 90s. It was designed to overcome public mistrust by providing residents around the refinery with information about the dangers associated with its

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<sup>43</sup> ERL, Internal Electronic Communication, 20<sup>th</sup> August, 1990.

<sup>44</sup> ERL, 'The Impact of the Environmental Movement on the Chemical Industry' - Seminar of April 23, 1991. Report on Release of 'Environmental Information' to the Public by Jim Frew, May 2<sup>nd</sup>, 1991 and NACA Conference-Air Pollution & the Environment. Report by Jim Frew, December 12<sup>th</sup>, 1991.

<sup>45</sup> ERL, Bluff Valley Model: Background Proposal & Justification. Memorandum by Jim Frew, December 14, 1993.

operation.<sup>46</sup> When the refinery's specially appointed consultants first met with the M.R.A to discuss the initiative, there was considerable scepticism that CAER would be 'yet another committee'; little more than 'another talking forum'. The rhetoric surrounding CAER emphasised its 'community driven' thrust. The refinery hoped that giving its consultants control over the CAER process and emphasising their 'impartiality' would secure the M.R.A's support. Significantly, the M.R.A was concerned that the formation of a CAER committee 'representing all communities around the refinery' would 'dilute' the 'bilateral contact' which it had developed with the refinery. This was one of the reasons why the refinery preferred the formation of a committee made up of 'community members in their personal capacity' rather than official representatives of local civic organisations.<sup>47</sup>

In contrast to the M.R.A, the newly formed Wentworth Development Forum (W.D.F), which had emerged in response to local concern about housing issues, demanded the expansion of the CAER committee to incorporate 'mandated representatives' from local civics.<sup>48</sup> The question of what constituted a 'mandated' representative became a major source of contention during the negotiations.<sup>49</sup> One of the W.D.F's leading activists Bobby Peek has portrayed these contestations as part of Engen's repeated attempts to 'divide the community debate'.<sup>50</sup> Further tensions centred on the differing conceptions of CAER's purpose. Engen envisaged CAER as a voluntary initiative, aimed at placating public pressures and serving as a bridge towards further discussions. But W.D.F activists like Peek hoped to extract specific targeted pollution reductions from the refinery in the form of a legally binding agreement.<sup>51</sup>

Crucially, the civics had already begun shaping CAER in important ways; sidelining the refinery's consultants by insisting on setting meeting agendas, nominating (instead of the refinery inviting) representatives and electing a chairperson - Bobby Peek. Drawing on North American precedents from struggles for environmental justice, and supported by the Legal Resources Centre, the W.D.F developed a Good Neighbourly Agreement (G.N.A). The draft version of the agreement made a series of demands of Engen, including that the company reduce

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<sup>46</sup> ERL, CAER Consultants Report, Meeting with Merewent Ratepayers Association, Merebank Community Centre, 26 October, 1994

<sup>47</sup> ERL, CAER Consultants Report, Meeting with Merewent Ratepayers Association, Merebank Community Centre, 26 October, 1994

<sup>48</sup> ERL, Facsimile: Wentworth Development Forum to Engen, 9 March, 1995.

<sup>49</sup> ERL, Minutes of Meeting of the CAER Committee held on 28 February, 1995.

<sup>50</sup> D. Wiley et al 'Contesting the urban industrial environment', 239 and Bobby Peek 'Conflict and Co-operation in Durban's Petrochemical Basin', 8 and 13. No longer available on internet. Copy of article in possession of author.

<sup>51</sup> ERL, 'The Community' [Merebank, Austerville and Bluff] to Engen Refinery; undated letter

Re: Response to request by Engen and the further development of the CAERE process. See also Peek et al, 239 and Peek, 14.

its SO<sub>2</sub> emissions to 'industrial nation' levels and pay for medical treatment of residents suffering illnesses 'caused, accentuated, or precipitated' by emissions. Just as the M.R.A had first suggested in the early 90s, the refinery would also have to fund a ten year 'socio-medical study' of emission-related illness in the communities.<sup>52</sup> The refinery's response to these clauses took the form of a standard reiteration of its view that it was not the only polluter in the south Durban basin.

### **'...a major fishing expedition into the past'**

The refinery regarded the civics' G.N.A as 'one-sided', planning to 'negotiate out' binding language on emissions. Demands for access to information about past emission levels were viewed by the refinery as: 'a major fishing expedition into the past'.<sup>53</sup> CAER's rhetoric may have been about 'informing the public' and 'access to information' but this clearly would only be done on the company's terms, in small 'understandable doses'.<sup>54</sup> Engen's reluctance to commit itself to a legally binding emission agreement would become the defining issue of the relationship between the refinery and the civics. The refinery was insistent on:

.... no outside arbitration or legal intervention...the agreement is a co-operation charter between Engen and the community...It should not be a legal document and does not require majority votes...<sup>55</sup>

President Mandela's ribbon-cutting visit in late March 1995 to dedicate the new expansion of the refinery was a watershed in the controversy. He was greeted at the gates by a protest organised by the W.D.F. Mandela stopped to speak with them, and refinery pollution was thrust onto the national stage in a way that had not occurred since the 1950s. Three days later, a government delegation, led by Mandela, met with leaders of the area's civic organisations and the refinery's management.

Deputy Minister of Environment and Tourism (DEAT) Bantu Holomisa was tasked by Mandela with convening a 'multi-stakeholder' indaba in May. The meetings between the civics and the refinery which followed the national government's intervention were characterised by lengthy discussions about what the refinery's consultant negotiators termed 'the representation problem'. They repeatedly questioned the W.D.F's right to speak for Austerville, claiming that its presence on the CAER Committee did not necessarily secure the 'inclusivity' which [it] had been accused of neglecting before Mandela's visit. And yet simultaneously it

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<sup>52</sup> ERL, Agreement between Engen Petroleum Ltd and the Representatives of the People of Merebank, Austerville, and Bluff Communities of Durban.

<sup>53</sup> ERL, Engen comments on Engen-Community Agreement.

<sup>54</sup> ERL, Engen comments on Engen-Community Agreement.

<sup>55</sup> ERL, Engen comments on Engen-Community Agreement.

argued that contestations over representation *within* Austerville inhibited the CAER process.<sup>56</sup>

But it is important to recognise that 'community divisions' were not entirely the refinery's invention. During these discussions there were signs of the development of a power-play between the W.D.F and the M.R.A. The W.D.F endeavoured to occupy the political high-ground and to take credit for bringing the pollution question to a head. It had developed a formidable reputation in its short period of existence and much to the refinery's irritation had taken to turning up at meetings with large groups of community supporters, engaging in 'inconsiderable posturing'.<sup>57</sup> At a CAER Committee meeting on 20<sup>th</sup> June, Engen had read out a letter it had received from the ANC's Wentworth branch which claimed that 'the people of Wentworth' were not 'fully aware of what the WDF are doing'. The ANC demanded its own representative on the Committee and Bobby Peek endeavoured to bring it (and the local RDP Health civic) under the W.D.F's wing. Similar contestations developed on the Bluff, between the Bluff Ratepayers Association and the Bluff Conservancy.<sup>58</sup>

Civics merged with each other under pressure to present a united front, new civics formed (and quickly fell-away or merged with existing bodies) in response to the new spaces which had emerged with national government intervention and the refinery's (ultimately divisive) emphasis on inclusivity in community representation.<sup>59</sup> But the W.D.F, in particular, took the lead, demanding an 'unequivocal commitment to reduce SO<sub>2</sub> emissions' to 'Californian standards'. Engen's opposition to this reduction persisted. It explained that complying would require an R2 billion investment which would lead to an increase in the cost of petroleum products in South Africa. It stuck by the technocratic status quo - which it noted had the backing of the DEAT and the Durban municipality - through initiatives like the Bluff Valley Model - which it claimed would ensure that emissions would not exceed World Health Organisation (W.H.O) SO<sub>2</sub> guidelines.<sup>60</sup>

In late 1995, the stalemate in the CAER process prompted the refinery to ask its new consultants to put together a proposal for a new community relations programme. The consultants argued that 'the community' and Engen held 'ideological standpoints' which were 'diametrically opposed' and therefore were not

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<sup>56</sup> ERL, Minutes of a meeting between the Community and Engen, 11 April 1995. Minutes of the CAER Committee Meeting 16 May, 1995.

<sup>57</sup> ERL, Internal memorandum, 12 May, 1995.

<sup>58</sup> ERL, CAER Committee Minutes, 20 June 1995.

<sup>59</sup> ERL, Minutes of the CAER Committee meeting 27 July, 1995; Minutes of CAER Committee Meeting 24 August, 1995; Minutes of the CAER Committee Meeting 19 October, 1995; Minutes of CAER Committee meeting, 27 November, 1995.

<sup>60</sup> ERL, 'Durban South' Brief Prepared by Engen and Lowe Bell & Mann for the meeting with Minister Pallo Jordan in Pretoria on 10 January, 1997.

conducive to 'some form of compromise' on emissions. Like the consultants responsible for the CAER process, they trumpeted a 'new approach' which would develop 'environmental objectives in a participatory fashion'. Such discourses of public participation became an increasing feature of environmental public relations campaigning by the refinery during the 1990s. Concomitant with this has been a continued privileging of 'third party expertise' - now chiefly occurring through private consultants such as these - reflecting a trend of expert interventions in political conflicts related to refinery pollution in south Durban over the last half century.<sup>61</sup>

The refinery's obstinacy was undermined when it emerged that the local industry-wide SO<sub>2</sub> monitoring system was under-reading SO<sub>2</sub> levels and that these emissions were 'ten times over' pollution levels at comparable U.S refineries.<sup>62</sup> Crucial to these mini-victories - which were essentially about proving the negligence of the refinery - were the important links the civics in south Durban had begun to forge through local and international networks. These included relationships with other environmental organisations, sympathetic NGO's - like the Legal Resources Centre (LRC) in Cape Town - and, significantly, individuals with important scientific and refining expertise.<sup>63</sup> Engen tried to persuade national government that 'the communities' were misrepresenting the refinery's stance in the negotiations, insisting that it had agreed to all the demands made by the civics, except on SO<sub>2</sub>.<sup>64</sup> But of course this was precisely the point. At a CAER Committee meeting in February 1996, Engen set out to prove that its emissions remained within legal limits by citing SO<sub>2</sub> ambient data, taken at the Wentworth monitoring station during the previous month. It was a disingenuous technocratic ploy - and it didn't work. The low concentrations of SO<sub>2</sub> for January were immediately dismissed by the civics, who knew full well that dispersal conditions during the summer were vastly superior to those during winter, when temperature inversions in the Bluff valley trapped polluted air. Engen had clearly failed to appreciate that it was now dealing with civics and activists that were far better informed about the 'complexities of refinery pollution' than some of their predecessors.<sup>65</sup>

There were few signs of movement. The civics implored Bantu Holomisa to fulfil the government's 'constitutional responsibility' to 'protect the people' by establishing a 'national task force' which would set stricter pollution standards. Holomisa instructed the DEAT to investigate stricter emission standards, clearly wary of a complete breakdown occurring in the relationship between the civics and

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<sup>61</sup> ERL, Community Relations Programme and Environmental Audit: A Proposal for discussion to Engen Refinery-Durban by International Risk Control Africa, 14 December, 1995.

<sup>62</sup> ERL, 'The Pollution War Zone' by Bobby Peek.

<sup>63</sup> Peek 'Conflict and Co-operation', 9.

<sup>64</sup> Peek 'Conflict and Co-operation', 10.

<sup>65</sup> Peek 'Conflict and Co-operation', 11

the refinery.<sup>66</sup> In a meeting with Holomisa in May, 1996 Rob Angel, Engen's CEO tried a ridiculous semantic argument, claiming that his statement, made in the presence of President Mandela the previous year – that Engen had the 'resources' to deal with the pollution problem - did not refer to 'financial resources'.<sup>67</sup>

### **'...another committee of white consultants'**

A deadlock had formed. True to the longstanding preference for technocratic expert interventions in pollution conflicts, Engen called for an 'independent expert panel' which would assess the health effects of emissions together with the emissions of other companies in the area.<sup>68</sup> Holomisa quickly agreed with the idea, pledging DEAT's financial support for the inclusion on the panel of 'one representative or expert for the community'. The W.D.F also agreed, though Peek insists it did so 'reluctantly' because of its general suspicion of 'academic technical consultants' who invariably sided with the refinery. One of the civic leaders summed up this frustration by dismissing the latest expert incarnation as 'another committee of White consultants'.<sup>69</sup> Of course, the mere fact of expert intervention does not mean that an outcome favourable to capital becomes inevitable.<sup>70</sup> It is the actual content and nature of officially sanctioned expert knowledge – narrowly technocratic in its focus and execution – coupled with factors such as the class composition of expert panels and state affiliated institutions like the C.S.I.R and the bias produced through tendering and commissioning processes which determine its character.<sup>71</sup>

But the panel never materialised. Bantu Holomisa had become embroiled in a bitter dispute with President Mandela, sparked by his allegations of high-level ANC corruption, and was fired from his post in the DEAT in July 1996.<sup>72</sup> This led to a period when the direction which events would take became unclear, as Holomisa's initiatives were effectively beached. But the amount of leverage possessed by Holomisa and the DEAT within the ANC government in terms of its power to act decisively on pollution in south Durban is likely to have been limited by high-level

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<sup>66</sup> Peek 'Conflict and Co-operation', 12.

<sup>67</sup> ERL, 'Wentworth – The Pollution War Zone' by Bobby Peek

<sup>68</sup> ERL, 'Durban South'. Brief Prepared by Engen and Lowe Bell & Mann for the meeting with Minister Pallo Jordan in Pretoria on 10 January, 1997.

<sup>69</sup> Cited in Peek 'Conflict and Co-operation', 12.

<sup>70</sup> Indeed in the late 1950s the refinery became increasingly resistant to investigations by 'foreign experts', preferring to draw on intra-company expertise and local officials from the City Engineer's Department, with whom it had established a close working relationship.

<sup>71</sup> For a discussion of the often naively fervent faith in technocratic interventions by high-modernist states in the twentieth century see James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed*. New Haven: Yale University Press, 1998.

<sup>72</sup> 'Holomisa refused Mandela's appeal Mail & Guardian, 2nd August 1996 and 'The ANC and the Bantu who caused all the trouble' Mail & Guardian, 24<sup>th</sup> December, 1996.

negotiations in 1996 which led to Petronas, Malaysia's state-owned oil giant, buying a 30% controlling interest in Engen – the single biggest foreign investment deal in post-Apartheid South Africa - at some US \$436 million.<sup>73</sup>

The limbo period after Holomisa's sacking may have been a blow to the civics, but crucially, it also saw the formation of the south Durban Community Environmental Alliance (SCDCEA), an umbrella body incorporating the key civic organisations from the residential areas surrounding the refinery. Peek characterises this as resulting from the W.D.F's resolve, against the background of Engen's divisive tactics, to avoid the development of 'possible further divisions within the community ranks'. Peek hailed its formation as signifying that south Durban's civics 'liaised under a common agreed-upon mandate' for the first time.<sup>74</sup>

### **'Turning adversity to advantage'**

In October 1996, Engen commissioned its latest communications consultants to develop a 'communications strategy and community relations programme' for the company's refinery in Durban, in the light of it becoming 'the central target' in the controversy about SO<sub>2</sub> emissions in south Durban. The consultant's report described a crisis: 'well informed and articulate' activists were 'ranged against' the company and the media was 'sensationalising the issues'. President Mandela's 'personal intervention' the previous year had 'raised the stakes'. The consultants starkly warned that 'the risk was that the issue would escalate to national political and public interest, threaten Engen's operations in Durban and damage the reputation of the company as a whole'. The refinery's goals were therefore to prevent 'unhelpful intervention from on high...to shift the issue from the national level...to provincial/municipal authorities' and lastly, 'sidelining the civics'.<sup>75</sup>

The consultant's recommendations were couched in the sort of conciliatory language typical of community relations programmes in the 1990s, but were also unmistakably confrontational, aimed at forcing the W.D.F onto the defensive by portraying it as a 'spoiler', to the detriment of 'the community'. The consultants listed a dastardly, wide-ranging list of charges against the W.D.F:

The key question here is: how to prevent the W.D.F – Engen's principal antagonist – from shaping the agenda to their own ends, driving the debate and effectively holding Engen's efforts to assist the community to ransom? As things stand, the

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<sup>73</sup> The Petronas-Engen deal appears to have been the product of the close relationship between the Malaysian Government and the ANC-in-exile during Apartheid. See 'Petronas: a well-oiled money machine', *Far Eastern Economic Review*, March 13, 2003. See also 'Mbeki Seeks to Capitalise on Thaw in Malaysian Politics' *Business Day*, September 5, 2003.

<sup>74</sup> Peek 'Conflict and Co-operation', 13.

<sup>75</sup> ERL, A Communications Strategy for Turning Adversity to Advantage by Lowe Bell & Mann, February 1997.

WDF has thwarted the signing of a Good Neighbourly Agreement, put an effective halt to Engen's plans to open the adjacent training centre, sought to gain control of the labour brokers, positioned itself as the single conduit for social investment spending, provoked unrest outside the refinery gates and lobbied Government directly to intervene on the grounds that Engen is dragging its feet over environmental compliance...<sup>76</sup>

The refinery had made the mistake of letting the W.D.F – and in particular Bobby Peek – ‘disrupt and hijack’ the CAER process, with its demand that Engen reduce its emissions to 1st World levels. The W.D.F had been ‘allowed’ to depict Engen as: ‘uncompromising on emissions, manipulative in its employment of ‘divide and rule’ tactics, and uncaring in the area of social investments’. As a result, the consultants argued: ‘the vast majority of the community’ was ‘unsighted as to the facts, receptive to the feeding of misinformation and half-truth, and manipulated into feelings of frustration and antagonism directed at Engen’.<sup>77</sup> There is no question that the consultant’s depiction of the W.D.F reflected Engen’s own.

#### **‘A strategy for fighting back’**

The consultants argued that the answer to Engen’s problems was for it to ‘stop playing the game by the oppositions rules’ and to ‘choose ground’ which would work to its advantage. In practice this meant that the consultants recommended that Engen stick to its guns over its compliance with existing SO<sub>2</sub> guidelines. By adopting ‘a more accommodating position and tone of voice’, the refinery would prevent ‘the polarisation of attitudes’ which it argued ‘so often intrudes on an otherwise friendly exchange’. So, instead of denying that it was at fault the refinery should acknowledge that it ‘has contributed’ to levels of pollution ‘afflicting Durban South’, but that ‘independent leading edge research’ had ‘conclusively demonstrated that it is not emissions from the refinery which pose a risk to health’. Engen’s management regarded the first recommendation – an admittance of guilt – as ‘too definite’ and exposing it to legal action.<sup>78</sup>

One of the most interesting features of the report was the way in which the consultants contrasted the character of the W.D.F and M.R.A. The M.R.A, in its view, had a ‘long history of stable leadership and wider community support’ whereas W.D.F was a new trouble-maker with no mandate.<sup>79</sup> The consultants reported that

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<sup>76</sup> ERL, A Communications Strategy for Turning Adversity to Advantage by Lowe Bell & Mann, February 1997.

<sup>77</sup> ERL, A Communications Strategy for Turning Adversity to Advantage by Lowe Bell & Mann, February 1997.

<sup>78</sup> ERL, A Communications Strategy for Turning Adversity to Advantage by Lowe Bell & Mann, February 1997.

<sup>79</sup> This view of Merebank and Wentworth’s civics conforms to Sharad Chari’s depiction of the former as ‘relatively quiescent’ and the later as ‘a hotbed of political activism’. Chari, 2-3.

civic activists were 'by and large, winning the local media battle' by 'playing to' the 'traditional news theme of outraged citizens powerless in the face of uncaring big business'. Ill-informed and alarmist reporting was to blame. A 'proactive media relations programme' would help the refinery 'gain a measure of control over the media agenda'. This would entail 'cultivating a handful of key correspondents' [the 'informed circle'] through 'informal lunches' every couple of months, who would be fed 'good news events' and be invited to visit the refinery, just as had occurred in the 1950s.<sup>80</sup>

The roots of this crisis appear to have been the company's unsuccessful adaptation to the changed political configurations of post-Apartheid South Africa. There is little doubt that the refinery would almost certainly be able to count on the ANC government's support if it again found itself in a predicament similar to that which developed in 1954. But the consultants concluded their report by warning Engen that 'politicians at every level are increasingly influenced by community issues and public concerns'. This is precisely why the refinery became increasingly anxious from the mid 1990s to ensure that it avoided further interventions by national government after President Mandela's unanticipated intervention.

Engen may have viewed Holomisa's demise as presenting it with an opportunity for respite, but SDCEA's formation gave civic mobilisation renewed energy and clarity. In late 1997 Engen finally succumbed to the pressure which had been placed on it for years by local civics and indicated that it would reduce its SO<sub>2</sub> emissions.<sup>81</sup> In March 1998, almost three years after President Mandela had intervened in the dispute, Engen and SDCEA reached 'an agreement in principle' for SO<sub>2</sub> reductions. In May 1999, after the DEAT's prolonged investigation of the legal implications of the agreement, it was formalised through the 'Engen Refinery Complex Environmental Improvement Programme'. The agreement was trumpeted as 'the first voluntary agreement between industry and civil society' of its kind in South Africa and inserted into the refinery's new operating permit. The civics had succeeded in putting Engen into a legal bind which at least *theoretically* meant it would be forced to reduce SO<sub>2</sub> emissions.<sup>82</sup>

### **What took Engen so long?**

How can we explain the stubborn refusal of Engen to give in to civic pressure for so long? Bobby Peek has argued that the answer lies in the company's estimation that it could avoid agreeing to an SO<sub>2</sub> reduction because the South African government's 'neoliberal macro-economic GEAR policy', like the policies under Apartheid, did not

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<sup>80</sup> ERL, A Communications Strategy for Turning Adversity to Advantage by Lowe Bell & Mann, February 1997.

<sup>81</sup> Wiley et al, 237

<sup>82</sup> Wiley et al, 240

require it to invest in pollution control or internalise the external costs of production. But it is very hard to hold onto the 'neoliberal' argument when explaining Engen's eventual about-turn on emissions. Taken to its logical conclusion, the refinery could have been expected to continue its resistance of civic pressures for pollution reduction, secure in the knowledge that the South African State would have supported it. But as groundWork's 2002 Report admitted – almost in spite of its own 'anti-neoliberal' discourse – negative media coverage, 'civil society' pressure and the initiation of emission reduction programs by other polluters left the refinery 'exposed'. The struggle within the refinery, between the likes of the refinery's environmental officer Jim Frew – who might be described as an 'ecological moderniser' – and the older intransigent managerial style provided an important backdrop to the decision. The initiation of the CAER programme in 1994 partly reflected Jim Frew's push, from the late 1980s, for the refinery to be seen to be more responsive (at least in small ways) to public pressure. Management viewed President Mandela's visit as a chance to re-position the refinery politically – but instead events spun out of its control leading to a re-assertion of 'fortress management' and a consequent refusal to reduce emissions.<sup>83</sup>

As we have seen, media coverage has been a major point of leverage for the area's civics during the last half century, enabling quick and frequently sensational (if not sensationalist) coverage of pollution incidents.<sup>84</sup> Added to this concern about its corporate image, Peek has argued that signs of the government moving towards de-regulation of the oil industry meant that Engen felt confident that its profits would increase, and therefore it could 'accede to community demands and invest more easily in cleaner technology'.<sup>85</sup> The phasing out of fuel with lead and high sulphur content in South Africa has occurred concomitantly with the Department of Trade and Industry's promotion of an Industrial Development Zone (IDZ) in south Durban, taking the form of a proposed major petrochemical cluster. Sasol's new gas pipeline, tied in with South Africa's development of Mozambiquan natural gas, has been targeted at servicing these industries, including the refinery. The 2002 groundWork report argued that the agreement between Engen and SDCEA was 'heavily, though not exclusively dependent' on the refinery's anticipation of this future switch from heavy furnace oil – with high SO<sub>2</sub> content – to gas fuel.<sup>86</sup> This (rather tenuous) narrative allows groundWork to neatly close the 'neoliberal' loop,

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<sup>83</sup> The groundWork Report 2002: 'Corporate Accountability in South Africa – The Petrochemical Industry and air pollution'. Available at: [www.groundwork.org.za](http://www.groundwork.org.za)

<sup>84</sup> For more on the role of the media in recent pollution controversies in south Durban see Clive Barnett 'Media transformation and new practices of citizenship: the example of environmental activism in post-Apartheid Durban' in *Transformation: Critical perspectives on Southern Africa*, 51 (2003)

<sup>85</sup> Wiley et al, 242

<sup>86</sup> The groundWork Report 2002: 'Corporate Accountability in South Africa – The Petrochemical Industry and air pollution'. Available at: [www.groundwork.org.za](http://www.groundwork.org.za)

but ironically it also undercuts civil society agency. We should not underestimate the extent to which civic pressures for pollution reduction in south Durban since the end of Apartheid have rocked Engen's management, nor the refinery's concern about a repeat of national government's intervention from 'on high'.

### **Mobilising communities, mobilising 'community'**

Throughout the last half century, civic organisations in south Durban have attempted to mobilise local communities against refinery pollution by deploying discourses of 'community'. What are in fact the voices and opinions of individual activists or particular civic organisations are clothed rhetorically as the expressed feelings and attitudes of 'the community'. Together with activists and civics, journalists and even the refineries have relied heavily on the concept of 'community'. In its narrowest uses – as a descriptive term, rather than a concept employed in mobilising communities – it is clearly deficient because of the unity and homogeneity which it implies. The concept papers over the tensions and contestations which are so often a part of attempts at mobilising communities in a context where the target of protests is an industry which, at least until the last decade, has been a major source of income and employment for the communities in the area for much of the last half century.

Since the end of Apartheid there have been tentative steps towards the fostering of multi-racial 'environmentalism' in south Durban through umbrella civic organisations like SDCEA and the incorporation of Umlazi residents in environmental justice campaigning through the campaign against the Umlazi toxic dump.<sup>87</sup> Civic organisations and activists on the Bluff have joined the campaigns which have been initiated by civics from Merebank and Wentworth, though they have generally played second-fiddle for a number of reasons including the deployment of environmental racism discourses by the likes of groundWork and the W.D.F. In turn, co-operation between the M.R.A and W.D.F has become increasingly evident since the mid 1990s, though the relationship has been marked by important tensions, as suggested by the hints of rivalry and power-struggles between the two organisations during negotiations with Engen. These tensions appear partly to have their roots in the differential class mobility experienced by members of the two organisations. As Bill Freund has noted, in important ways the M.R.A's recent environmental activism reflects the interests of 'the stratum of homeowners with no

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<sup>87</sup> For an account of the Umlazi dump campaign see D. Wiley, Root, C. and Peek, S. 'Contesting the urban industrial environment in south Durban in a period of democratisation and globalisation'. in *(D)urban Vortex: South African City in Transition*. Freund, B. and Padayachee, V. (Ed.) Pietermaritzburg: University of Natal Press, 2002, 232-237. See also Bill Freund 'Brown and Green in Durban: The Evolution of Environmental Policy in a Post-Apartheid City' in *International Journal of Urban and Regional Research* Volume 25 (4) December 2001, 725 and 729-730.

stake in the industrial activities of the area' who have risen from 'modest origins'.<sup>88</sup> The lead taken by the W.D.F in disputes with Engen over the last decade has undoubtedly played a key role in defining the generally strident character of civic environmentalism in south Durban and perhaps given it greater resonance. But we should be awake to the marginalisation of other voices that results from this.<sup>89</sup> With the notable exception of the Umlazi dump case, the fact that Africans living in South Durban have generally not featured prominently in this campaigning is another cause for concern.<sup>90</sup>

Part of the reason for the success of south Durban's civics appears to have been that they have quickly learnt to push the right buttons in relationships with different levels of government, the media and petro-capital itself. Umbrella bodies like SDCEA and groundWork have proven particularly useful in this regard. As Sharad Chari has argued:

...a persisting strength of the SDCEA/groundwork alliance has been that it can wear many hats—militant and professionalised, grassroots and networked, confrontational and negotiable—and it can work across multiple scales: local, city, provincial, national and international.<sup>91</sup>

Chari correctly points out that SDCEA (and its local subsidiary civics) do not draw on a popular support base. SDCEA has tried to overcome these limitations by exploiting its ability to 'pull in a crowd for spectacular event' and by using a 'technocratic approach' which 'claims to empower residents in community monitoring of pollution levels' - the notorious 'bucket-brigade' - which carries out DIY pollution sampling. Although, as Chari notes, this may not have 'made an army of resident scientists', it has helped the organisation link-up with 'important allies in international environmental justice research'.<sup>92</sup>

Alongside this civic mobilisation there has recently been a proliferation of consultative bodies concerned with the pollution question in south Durban. At the most superficial level these are partly a reflection of a 'democratising' trend in South Africa. But these forums have been, by their nature, inherently ambiguous creatures, tending to channel civic protest into tamer bureaucratic and technocratic expressions. The making (and investigation) of pollution complaints remains the chief interface between the refinery and residents. The dynamics of this process - the irate resident's telephone call to complain, the (often delayed) investigation by a

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<sup>88</sup> Freund 'Brown and Green', 730.

<sup>89</sup> See Chari, 13 and Rachel Tenney "With All Our Differences We Work Together": A Critical Case Study of Wentworth Civil Society, School for International Training Paper, 2004 footnotes 125 & 156.

<sup>90</sup> Freund 'Brown and Green', 730.

<sup>91</sup> Chari, 12.

<sup>92</sup> Chari 12-13

defensive refinery official, the disappearance of the smell which had first caused the complaint, further irritation and the refinery's denials, admissions and explanations – define this relationship. Behind all of this is the awareness that there are very real *historical* grievances and frustrations at work in south Durban, which the refinery, despite its insistence that external political forces bear responsibility for the juxtaposition of industrial and residential land uses has become increasingly sensitive to.

History, as the refinery is all too aware, is about right and wrong and the apportioning of blame. Consequently this system of recording and investigating pollution complaints has been greatly elaborated in the last decade. Electronic correspondence is shared between the 'big 3' and the municipality. As before, this interaction generally focuses on dealing with pollution problems privately.<sup>93</sup> There is a striking similarity in contemporary descriptions of pollution with those which emerged in the 1950s. The same type of complaint emerges repeatedly, but complaints are stripped of their previous discursive power because they are restricted to short descriptions of the 'type of smell' or 'sensation' rather than the more detailed, personal and often familial narratives of concern about health and the psychological effects of pollution, which letter-writing invariably contained. The introduction of standardised complaint sheets, with compartmentalised categorisations, degrees of severity, tick boxes and space limitations potentially constrain the power of pollution complaints as political drivers. It is organised civic mobilisation, individual environmental activists and newspaper accounts of school evacuations which now fuel change.<sup>94</sup> Equally important has been the increasingly conclusive scientific and medical evidence suggesting the deleterious health impacts of refinery pollution has undermined the old argument confining it to psychological and 'nuisance' effects.<sup>95</sup>

By early 2000 the refinery had begun engineering studies 'to determine the most cost effective and efficient methods' of achieving the commitments it was now

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<sup>93</sup> ERL, Electronic Communication by Sandra Redelinghuys (DMWS), 23 October, 2000; Caron Larmour to Ian Khathi, 06/08/1997. Pieter Lamprecht to Jim Frew, 27<sup>th</sup> November, 2000 and Natie Maphanga to Ashwin Surajpal, 27<sup>th</sup> November, 2000.

<sup>94</sup> ERL, Engen Refinery Pollution Investigation Report 12/10/2000; Internal Electronic Communication, Jim Frew to Alan Munn, 13 October, 2000 at 11.58 and 13.43; Electronic Communication by Jim Frew, October 23<sup>rd</sup>, 2000; Electronic Communication by Dave Brooks (DMWS), 23<sup>rd</sup> October, 2000; Electronic Communication by Jim Frew, 1 November, 2000; Umesh Kalpee to Willem Oosthuizen, 1 June, 1997.

<sup>95</sup> See Robbins, et al, The Settlers Primary School Health Study, Draft Final Report, produced by the University of Natal Faculty of Medicine, Durban Institute of Technology's Department of Environmental Health, University of Michigan, 2002 and J. Nriagu, T. Robins, L. Gary, G. Liggans, R. Davila, K. Supuwood, C. Harvey, C.C. Jinabhai and R. Naidoo 'Prevalence of asthma and respiratory symptoms in south-central Durban, South Africa' in *European Journal of Epidemiology*, 1999 Sep, 15(8):747-55.

legally required to undertake in terms of the emission reduction agreement.<sup>96</sup> Negotiations for a second Environmental Improvement Plan have since begun, focusing on a major new expansion in the refinery's capacity. The implementation of the original E.I.P hasn't exactly been smooth sailing. In September 2001, an explosion at the Natref refinery in Sasolburg lead to a fuel-crisis which necessitated Engen being granted a temporary permit by the government to increase production – and therefore emissions. SDCEA has been forced to make 'strategic' compromises. There have been delicate negotiations and tensions surrounding the Environmental Impact Assessment's (E.I.A's) for new refinery expansions, with SDCEA concerned about possible emission increases. As further discussions about the implementation of the original agreement have continued, so old frustrations have re-emerged. As the 2002 groundWork report confirms, Engen complied with 'most' of the environmental targets ahead of deadline, but the CAER committee was never resuscitated and the refinery was concerned with the persistence of 'negative publicity' and a revival of demands for the refinery to be shutdown, which it attributed to the activists and civics in the area. The refinery regarded the agreement as imbalanced – requiring few reciprocating commitments from 'the community' – but SDCEA clearly felt that the refinery was obligated to carry out the reductions after decades of excessive pollution. While there were clearly still tensions, in May 2002 a liaison committee was formed which groundWork characterised as allowing for 'very open discussion'.

In addition to reflecting the very real changes in the post-Apartheid political context and global trends in battles for environmental justice, the recent, much belated parliamentary deliberations about the revamping of environmental regulation legislation are partly a testimony to the success of south Durban's civic campaigning against pollution by petro-capital and through this, pressurising authorities at various levels of the state for action on pollution.<sup>97</sup> Whether these shifts translate into further substantial, lasting changes remains to be seen, as civics have questioned whether the new regulatory framework will overcome the failings of its predecessor.

The limits and contradictory consequences of civic mobilisation by residents on the Bluff in the first decade of Apartheid clearly have relevance to contemporary struggles in post-Apartheid South Africa. While they provide ontological power for mobilising, simplistic discourses of environmental racism serve to suppress these histories and their lessons for the present. As residents who previously did not enjoy comparable purchase on the local and central state (or for that matter capital) have

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<sup>96</sup> ERL, Draft Engen Refinery, Environmental Impact Assessment In-House Scoping Report Intermediate Expansion Project, 27<sup>th</sup> March, 2000

<sup>97</sup> 'Last gasp for mouldy Act' *Mail & Guardian*, 18 October 2004 Available at: [http://www.mg.co.za/articledirect.aspx?area=mg\\_flat&articleid=139755](http://www.mg.co.za/articledirect.aspx?area=mg_flat&articleid=139755)

begun to flex their civic muscles, we need to be wary of the placatory power of technocratic expert interventions in conflicts such as this, of strategic and economic imperatives in constraining responses of local government and determining interventions by the central state, and in turn their restrictive effects on local civic mobilisation. We need to maintain an appreciation for the complexities of civic mobilisation and the readiness of petro-capital to seize on these. But the story of Engen's emission reduction shows that where civil society pressures and vigilance are sustained, change is possible.