



TEXAS RIOGRANDE LEGAL AID, INC.

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April 6, 2017

Via U.S. Certified Mail No.: 7014 1200 0001 9442 1190

Mr. Rick Crabtree
Vice President/General Manager
Formosa Plastics Corporation, Texas
P.O. Box 700
Point Comfort, Texas 77978

Via U.S. Certified Mail No.: 7014 1200 0001 9442 1343

Mr. Jason Lee
Chairman of the Board
Formosa Plastics Corporation, Texas
9 Peach Tree Hill Road
Livingston, NJ 07039-5702

Re: Notice of Intent to File Citizen Suit for Violations of the Clean Water Act by
Formosa Plastics Corporation, TPDES Permit # WQ0002436000

Dear Mr. Crabtree, Mr. Lee, and all persons copied on the notice list:

We write on behalf of Diane Wilson and San Antonio Bay Estuarine Waterkeeper (collectively "Complainants") to provide 60 days notice of our intent to sue Formosa Plastics Corporation in federal district court to halt significant, chronic, and ongoing violations of the Clean Water Act (CWA), 33 U.S.C. § 1251, et seq., from past and ongoing illegal discharges of plastic pellets and plastic residue dust from Formosa's Point Comfort, Texas, facility. Despite numerous notifications of these violations, Formosa's refusal to comply with the law has been so longstanding that local citizens have been compelled to undertake their own monitoring and have collected over 1,064 samples along over 20 miles of shoreline in Cox Creek, Lavaca Bay, and Matagorda Bay from January 31, 2016 to the present date to document Formosa's illegal discharges.

Under Section 505 of the Clean Water Act and its implementing regulations, citizens are entitled to bring suit in federal court against a facility to enjoin violations of effluent standards or National Pollutant Discharge Elimination System (NPDES) permits and to seek penalties for such violations.¹ Citizens must provide 60 days' notice of their

¹ 33 U.S.C. § 1365.

intention to sue to the alleged violator and must provide a copy of the notice to the Administrator of the United States Environmental Protection Agency (EPA), the Regional Administrator of the EPA, the chief administrative officer of the water pollution control agency for the state where the violations are occurring, and the registered agent of the alleged violator if it is a corporation.²

The CWA provides for civil penalties of up to \$52,414 for each violation per day occurring after November 2, 2015 and assessed on or after January 15, 2017.³ If Complainants are forced to sue Formosa, Complainants will request that full penalties be levied against Formosa. Those civil penalties are not awarded to Complainants but instead are paid to the U.S. government – or can be used for approved environmental projects. Formosa illegally discharged and failed to report those discharges to the State of Texas, as required by law.⁴

Although Formosa has been illegally discharging plastic pellets and plastic residue dust for many years, this notice encompasses Formosa's ongoing daily violations commencing January 31, 2016, for a total of 432 days to date. Since then Formosa has committed at least two separate violations of the Clean Water Act per day, and these violations are ongoing. Given the longstanding nature of illegal discharges from this facility, we believe these violations will continue until Formosa makes significant changes to its operations, and this notice letter includes all similar violations that occur after this notice letter. We intend to enjoin the violations described below and ensure future compliance with the CWA, obtain civil penalties and cleanup for past noncompliance, recover attorney fees and costs of litigation, and obtain other appropriate relief, as allowed by the CWA.⁵

Formosa's illegal discharges are entering Cox Creek and Lavaca Bay, which connect to many other bays including Chocolate Bay, Cox Bay, Keller Bay, and the larger Matagorda Bay System, and the pellets likely are throughout those water systems. These bays are near habitat to the endangered whooping crane. Whooping cranes winter at the Aransas National Wildlife Refuge near Rockport, Texas, approximately 33 miles from Point Comfort. Whooping Cranes also winter at Powderhorn Ranch. Samples of pellets have been found at Port O'Connor on Matagorda Bay and near Powderhorn Ranch, and we believe the pellets may be littering the habitat of and harming the endangered whooping crane but have not had access to those properties.

As this letter explains in depth, Formosa's illegally discharged plastic pellets not only litter the beaches and waterways and spoil the aesthetic beauty of the bays and waterways, but also the pellets are ingested by marine birds, turtles, and fish to their detriment. Once released into the marine environment, the pellets adsorb toxic metals and become a mechanism for transferring toxic metals into the food chain. In fact, in the fall

² 40 C.F.R. § 135.2(a)(1).

³ See 33 U.S.C. § 1319(d); 40 C.F.R. § 19.4.

⁴ 30 Tex. Admin. Code § 305.125(9) requires Formosa to report any permit noncompliance which may endanger human health or safety, or the environment.

⁵ See 33 U.S.C. § 1365.

of 2016, one local fisherman found plastic pellets in the gut of a redfish he caught in Keller Bay. He had found pellets in the guts of another redfish a few years earlier in Redfish Lake. Another fisherman found pellets in the gut of a black drum that he caught in Karankawa Bay. Oyster reefs are also in the vicinity of Formosa's discharges.

Almost 25 years ago, in 1992, the EPA released a 130-page report entitled *Plastic Pellets in the Aquatic Environment: Sources and Recommendations*.⁶ The report concluded that plastic debris "can have economic, esthetic, and ecological impacts... One debris that has become of particular concern to EPA is the plastic pellet."⁷ EPA estimated that plastic pellets persist in the environment for one to ten years.⁸ EPA hailed the importance of using "significant penalties...if pellets are present in [a company's] storm-water discharge in violation of their permit."⁹ EPA also worked with industry to recommend multiple specific measures to prevent discharge of plastic pellets and encouraged industry to become part of a plastics industry-led effort to reduce illegal discharges of pellets.

Even though many companies around the world have heeded the recommendations of EPA and the industry group Operation Clean Sweep, Formosa is not among them. Instead, Formosa has continued to illegally discharge pellets, necessitating this notice of intent to sue.

We are interested in negotiating a prompt resolution of these issues, provided Formosa makes significant, structural and permanent changes to its activities to prevent future illegal discharges and agrees to clean up the plastics it has left in Texas' bays and waterways and on Texas' wetlands and beaches. If an acceptable resolution is not possible, however, we intend to seek all appropriate relief after this 60-day notice period.

1. FORMOSA'S POINT COMFORT FACILITY

Formosa Plastics has an 1,800-acre facility in Point Comfort, Texas, where it operates seventeen plants and support facilities. Formosa manufactures "caustic soda, ethylene dichloride (EDC), vinyl chloride monomer (VCM), polyvinyl chloride (PVC) suspension resin, specialty polyvinyl chloride (SPVC) dispersion, blending, and copolymer resins, ethylene, high density polyethylene (HDPE), linear low density polyethylene (LLDPE), polypropylene (PP), and ethylene glycol."¹⁰

We believe Formosa's illegal discharges of plastic pellets and dust result from improper housekeeping at the facility, which means Formosa has neglected to vacuum, sweep and

⁶ U.S. EPA, *Plastic Pellets in the Aquatic Environment: Sources and Recommendations, Final Report*, EPA 842-B-92-010, December 1992, available at http://www.waterboards.ca.gov/water_issues/programs/tmdl/docs/303d_policydocs/340.pdf.

⁷ *Id.* at 1.

⁸ *Id.* at 18.

⁹ *Id.*

¹⁰ Formosa's application for TPDES Permit No. WQ0002436000, Technical Report 1.0, at 1 (Feb. 2, 2010).

dispose of plastic pellets before they are discharged. Conceivably, there are structural problems at the facility that could lead to the discharge. For instance, Formosa's PVC settling pit may continue to overflow its contents into the stormwater system, as it did in 2004 and 2010. Additionally, Formosa's stormwater and/or wastewater discharge systems are inadequately designed so that they do not adequately trap and collect the plastic pellets and dust.

2. CLEAN WATER ACT VIOLATIONS

a. Formosa's history of illegally discharging plastic pellets

Formosa discharges pellets into waters of the United States, thereby violating the Clean Water Act. Formosa has known for many years that it regularly discharges plastic pellets and plastic dust residues into Cox Creek and Lavaca Bay. In a 2004 inspection of Formosa, EPA discovered that Formosa's PVC settling pond was overflowing, with particulates from the pond being discharged into the stormwater system.¹¹ In 2010, EPA conducted an unannounced inspection of Formosa, as part of an ongoing compliance action. During the inspection, EPA documented Formosa's onsite problems with pellets and PVC dust. Again, in 2010, Formosa's PVC settling pond was overflowing into the stormwater system. EPA also documented plastic pellets discharged downstream from Formosa's outfalls leading into Cox Creek. At that time, EPA documented similar plastic pellets on the shore of Lavaca Bay. (*See* attached EPA Report, Exhibit A). EPA determined the violations to be "serious." Formosa was also found in violation of worker safety laws by the Occupational Health and Safety Administration in 2010 due to problems with exposure to PVC dust at the facility. This was after multiple complaints to the agency in 2008.

Local residents have been complaining to EPA, the Texas Commission on Environmental Quality (TCEQ), and Formosa for years about illegal discharges of plastic pellets. In July 2010, Complainant Diane Wilson notified EPA that a resident at a barbecue near Formosa had found pellets up to his wrist eight feet from the shore. In 2013, 151 "nurdle nerds" petitioned TCEQ about the problems with Formosa's discharges, explaining, "On any given day, a visit to the boat launching area at Cox Creek (behind Formosa) or adjacent shores will unearth PVC pellets."¹² In July 2013, Complainants Diane Wilson and the San Antonio Bay Estuarine Waterkeeper cited their concerns about illegal discharges of pellets in their comments requesting a contested case hearing on Formosa's Texas Pollutant Discharge Elimination System (TPDES) permit. (A TPDES permit is the version of the federally required Clean Water Act permit administered by Texas). In August 2013, in a request for a contested case hearing on Formosa's same permit

¹¹ *See* U.S. EPA June 15-17, 2010 Inspection Report at 27, attached as Exhibit A (describing the 2004 inspection).

¹² Petition to Texas Commission on Environmental Quality, *Protect Texas Bays from toxic plastic and chemical dumping*, available at <https://www.causes.com/actions/1773233-sign-the-petition-to-texas-commission-on-environmental-quality>

application, the Union of Commercial Oystermen and several individual shrimpers and oystermen also highlighted Formosa's ongoing discharge of plastic pellets ("Polyethylene pellets have been found in Lavaca Bay, coming from the Formosa facility") and requested clarification from TCEQ in the revised permit that these discharges were violations of the permit and were required to be reported within 24 hours.¹³

In August 2015, in its Response to Comments on the proposed draft wastewater permit, TCEQ's Executive Director responded to the concerns about pellets by reassuring commenters that discharges of the pellets were a clear violation of Formosa's permit and TCEQ regulations, and thus that no new permit conditions needed to be added to address this concern:

"[RESPONSE 2] The draft permit prohibits Formosa from discharging any kind of floating solids. The Executive Director has determined that it is not necessary to specify that polyethylene pellets are a solid, or to specify that if Formosa discharges polyethylene pellets it would be a violation of 30 TAC § 307.4(b)(2 – 4). ... If anyone observes the discharge of any solid, including polyethylene pellets, they should contact the TCEQ Region 14 Office in Corpus Christi... If the Executive Director finds that Formosa is out of compliance with the terms or conditions of its permit, or with TCEQ regulations, it may be subject to enforcement."¹⁴

In 2016, complainant Diane Wilson and Ronnie Hamrick again notified TCEQ Region 14 of illegal discharges of pellets into Cox Creek and Lavaca Bay. In response to these complaints, TCEQ undertook two investigations – in March and September 2016 – into the problem and determined that Formosa had violated its TPDES permit both times by discharging plastic pellets into nearby waterways.¹⁵ TCEQ noted in its first investigation report that the facility was already aware of the issue of discharging of plastic pellets through its outfalls.¹⁶ TCEQ photographed pellets in the water and sediment in its investigation reports (*see* attached Exhibits B and C). Unfortunately, despite Formosa's knowledge of these discharges and the investigations and findings of violations by the TCEQ and EPA, Formosa's illegal discharge of pellets has not stopped and continues to this day.

Formosa's disregard for compliance with environmental laws has an even longer history. In 2009, Formosa paid a \$3 million fine and entered into a consent decree with EPA

¹³ Comments submitted by Amy Johnson and Enrique Valdivia of Texas RioGrande Legal Aid on behalf of clients, via fax to TCEQ on Formosa TPDES Permit No. WQ0002436000, August 2, 2013, at 4.

¹⁴ Executive Director's Response to Public Comment, TPDES Permit No. WQ00024360000, Formosa Utility Venture, Ltd. and Formosa Plastics Corp., TX, at 8–9 (August 17, 2015).

¹⁵ TCEQ Investigation of Formosa Plastics, Investigation #1313144, May 13, 2016, attached as Exhibit B; TCEQ Investigation of Formosa Plastics, Investigation #1358247, October 24, 2016, attached as Exhibit C.

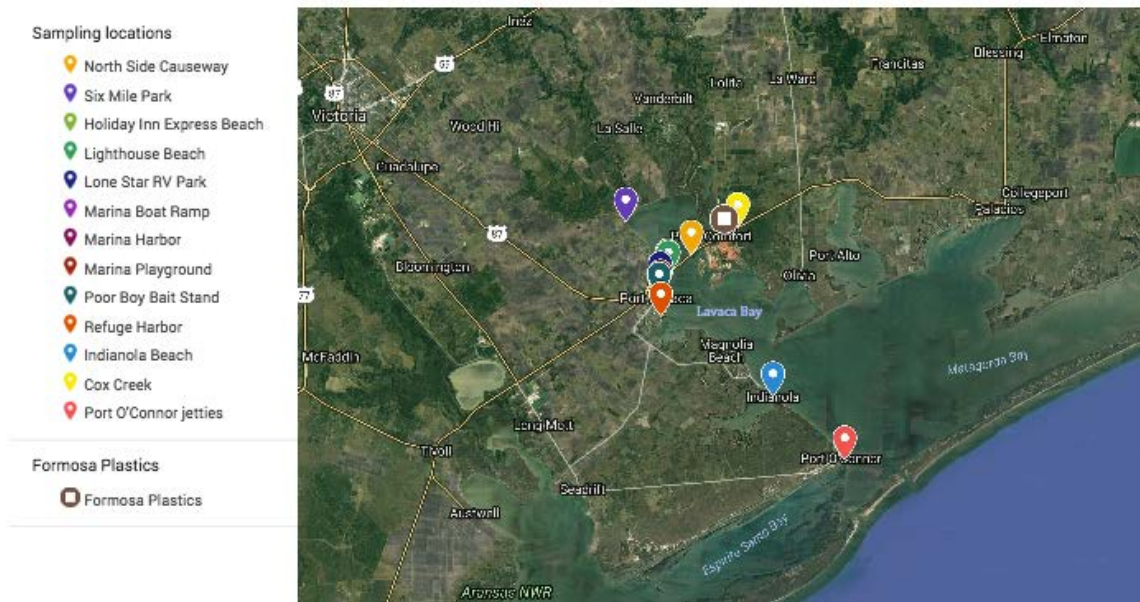
¹⁶ Exhibit B at 11.

regarding environmental law violations for air, water and hazardous waste. But Formosa did not comply with that consent decree and eventually paid an additional \$1.5 million in fines.

b. Evidence of ongoing illegal discharges

As explained above, Formosa’s illegal discharges preceded the date of the pellet sampling undertaken throughout 2016, but this notice alerts Formosa to illegal discharges of plastic pellets and dust into Cox Creek and Lavaca Bay since January 31, 2016. The illegal discharges occur regularly and are ongoing, as documented by thousands of samples, photographs, and videos Complainants have compiled over the past 14 months. The pellets have been found dispersed over at least 20 miles of shoreline in Lavaca Bay, Matagorda Bay, as well as Cox Creek and surrounding wetlands and beaches. The sampled shoreline of Lavaca Bay stretches from Six Mile to Indianola and Port O’Connor, on the opposite side of the bay from Formosa Plastics. Significantly, nearby to Indianola is the recently purchased Powderhorn Ranch that is now being considered as a state park and is also habitat to the endangered whooping crane. A map we created of the sampling locations shows wide geographic dispersal of the pellets. A larger version of the map is attached as Exhibit D.

Plastic Pellets Sampling Locations



In September 2016, TCEQ also located Formosa’s plastic pellets both in the water and on the shore on a variety of locations. The yellow arrows indicate locations of pellets found by TCEQ’s investigation in Cox Creek and Cox Bay, as shown below.¹⁷

¹⁷ TCEQ’s “Site Evaluation Map,” Exhibit C at 46.



Complainants’ collected samples and photographs show repeated and ongoing violations of the CWA, continuously since January 31, 2016. To date, citizens have collected over 1,064 pellet samples on 258 distinct days as well as hundreds of photos and videos. The following chart summarizes the number of samples and days sampled for each month since sampling began on January 31, 2016:

Month	# Samples	# Days Sampled
January 2016	4	1
February 2016	12	9
March 2016	3	3
April 2016	8	4
May 2016	58	18
June 2016	61	15
July 2016	68	19
August 2016	97	23

September 2016	95	24
October 2016	99	24
November 2016	91	24
December 2016	140	29
January 2017	144	30
February 2017	109	22
March 2017	57	13
TOTAL	1064	258

c. Specific provisions of Formosa's TPDES permit violated

Section 301(a) of the CWA prohibits the discharge of pollutants from a point source to waters of the United States except in compliance with, among other conditions, a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to Section 402 of the CWA.¹⁸ In Texas, TCEQ has been delegated the responsibility of authorizing discharges into waters of the United States by issuing Texas Pollutant Discharge Elimination System (TPDES) permits under the CWA.¹⁹

Formosa is violating the CWA by violating express conditions in its TPDES permit No. WQ0002436000.²⁰ Formosa's TPDES permit prohibits the "discharge of floating solids or visible foam in other than trace amounts" from all external (001, 002, 003, 004, 005, 006, 007, 008, 009, 010, 011, 012, 013) and internal Outfalls (101, 201, and 901).²¹ In addition, Formosa's permit requires non-process area storm water that is discharged through outfalls 006, 007, 008, 010, and 011 to contain "no visible floating solids, foam, or oil."²² We believe the discharge of pellets and dust is not only through the outfalls that discharge into Cox Creek, but also through Outfall 001 which discharges directly into the middle of Lavaca Bay through an underwater pipe. As TCEQ confirmed in its investigation reports from May and October of 2016, any discharge of pellets and plastic

¹⁸ 33 U.S.C. § 1311(a); 33 U.S.C. § 1342(b).

¹⁹ EPA-TNRCC Memorandum of Agreement Concerning the National Pollutant Discharge Elimination System, 1998, *available at* <https://www.epa.gov/sites/production/files/2013-09/documents/tx-moa-npdes.pdf>.

²⁰ 30 T.A.C. §§ 305.125(1).

²¹ TPDES Permit No. WQ0002436000, Effluent Limits and Monitoring Requirements Condition 3, Pages 2b, 2e, 2h, 2l, 2m, 2n, and 2o.

²² TPDES Permit No. WQ0002436000, Other Requirement 20, Page 18 (also requiring the permittee to "maintain records detailing monitoring performed, results, and whether the sampled water was routed for discharge.")

dust in more than a trace amount from Formosa's facility into Cox Creek or Lavaca Bay violates Formosa's TPDES permit and the CWA.²³

Additionally, Formosa has failed to report these illegal discharges of pellets since January 31, 2016 to TCEQ as required by law. As TCEQ's Executive Director stated in the Response to Public Comment for Formosa's most recent TPDES permit amendment and renewal, "Formosa must notify the TCEQ within 24 hours of any noncompliance, including the discharge of polyethylene pellets. As part of the notifications, Formosa must include steps it has taken or plans to take to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects. Specifically, the draft permit requires Formosa to report any noncompliance that may endanger human health or safety, or the environment to the TCEQ within 24 hours of becoming aware of the noncompliance. Additionally, Formosa must provide a written submission of such information within five working days of becoming aware of the noncompliance."²⁴ Despite these reporting requirements, Formosa's ongoing illegal discharges over the past several years, and several investigations by federal and state agencies of the pellets, we believe Formosa has not reported to TCEQ its illegal discharges of pellets since January 31, 2016 and ongoing.

3. HARMS FROM PLASTIC PELLETS AND DUST

a. The ongoing danger of plastic pellets in the marine environment

Scientific literature is replete with descriptions of the harm to marine species caused by plastic pellets. As was explained in the introduction to this notice, the effects of Formosa's illegal discharge of plastic pellets on the marine environment have been witnessed firsthand by at least two local sports fishermen who saw plastic pellets in the guts of fish. These occurrences dramatically evince the risk to the marine environment.

Plastic pellets accumulate in the marine environment, and the dangers from this accumulation have been well-known and documented for decades. A peer-reviewed scientific paper from 30 years ago explained, "plastics present a problem in the environment because they float, are non-biodegradable, and only slowly degrade upon exposure to ultraviolet radiation."²⁵

As Formosa has explained in its permit application to TCEQ, it, like other companies, mixes in additives to make pellets. It is not clear whether Formosa mixes in the additives or uses a chemical process so that the additives are chemically bound to the pellets. If the additives are simply mixed in, they can leach out easily. If chemical reactions are used to

²³ See TCEQ Investigation Reports, *supra* note 15, Exhibit B at 3, Exhibit C at 3.

²⁴ Executive Director's Response to Public Comment, TPDES Permit No. WQ00024360000, Formosa Utility Venture, Ltd. and Formosa Plastics Corp., TX, at Response 3, Page 9; *see also* TPDES Permit No. WQ0002436000, Provision No. 7a; 30 T.A.C. § 305.125(9).

²⁵ Marie Y. Azarello and Edward S. van Vleet, *Marine birds and plastic pollution*, 37 Marine Ecology Progress Series 295, 295-96 (1987).

add the additives, they cannot seep out.²⁶ Formosa's method of mixing in additives to its pellets will affect whether those additives are seeping out into the Matagorda and Lavaca Bay ecosystems. If the additives are simply mixed in, there is potential for toxins to seep into the marine ecosystem. The levels of toxins in plastics can be thousands of times higher than those typically found in seawater.²⁷ Thus, depending on the process by which Formosa makes its pellets, its discharge could also include illegal toxins. More discovery is needed to determine whether by discharging plastic pellets, Formosa is also putting toxins into Cox Creek and the Lavaca and Matagorda Bay systems. At the moment, only Formosa knows whether this is the effect of illegally discharging plastic pellets.

Furthermore, a 2009 study concluded that "in the marine environment, plastic debris such as pellets, fragments and microplastics have been shown to contain organic contaminants including polychlorinated biphenyls (PCBs), polycyclic aromatic hydrocarbons, petroleum hydrocarbons, organochlorine pesticides (2,20 -bis(p -chlorophenyl)-1,1,1 trichloroethane (DDT) and its metabolites; together with hexachlorinated hexane (HCH)), polybrominated diphenylether (PBDEs), alkylphenols and BPA at concentrations ranging from ng g⁻¹ to m g g⁻¹."²⁸

Marine species including seabirds, turtles, mussels, and fish ingest plastic pellets. Seabirds eat plastics, including plastic pellets,²⁹ which are estimated to remain possibly up to a year in their stomachs.³⁰ Mussels were found to retain plastics for 48 days.³¹ Eighty species of sea birds are known to ingest plastic debris.³² Plastic pellets have been recovered from the digestive tracts of flounders, lobsters, white perch, and silversides.³³

b. The accumulation of toxins on plastic pellets

In addition to being composed of toxins, plastic pellets in the marine environment "adsorb trace metals rapidly."³⁴ This means that metals adhere or attach to the pellets. Plastic pellets in the marine environment enable "metals to be transported considerable distances while buoyant. The association of trace metals with plastics also has implications for the transfer of these contaminants into the foodchain. Thus,

²⁶ EPA report, *supra* note 6, at 14.

²⁷ California EPA State Water Resources Control Board, Preproduction Plastic Debris Program, http://www.waterboards.ca.gov/water_issues/programs/stormwater/plasticdebris.shtml (last visited Feb. 24, 2017).

²⁸ Richard C. Thompson et al., *Plastics, the environment and human health: current consensus and future trends*, 364 *Philosophical Transactions of the Royal Society B* 2153, 2156 (2009).

²⁹ Van Franeker et al., *Sea birds, gyres and global trends in plastic pollution*, 203 *Environmental Pollution* 89, 89 (2015).

³⁰ *Id.* at 93.

³¹ *Id.*

³² EPA report, *supra* note 6, at 30.

³³ *Id.* at 35.

³⁴ Luke A. Holmes et al., *Adsorption of trace metals to plastic resin pellets in the marine environment*, 160 *Environmental Pollution* 42, 47 (2012).

invertebrates, fish, birds and mammals that mistake plastics for food... have the potential to mobilize metals in their acidic, enzyme-rich digestive systems. Consequently, metals may be either bioaccumulated or released back into seawater in a more soluble and biologically available form. Clearly, these and other potential impacts of plastic-metal interactions in the aquatic environment merit further study.”³⁵

In Lavaca Bay, the transport of metals is of particular concern, since a former Alcoa mercury superfund site exists in the bay. Whether mercury has adhered and is adhering to Formosa’s illegally discharged pellets merits review and is worrisome.

In addition to metals, organic pollutants can adhere to plastic pellets, which “can become orders of magnitude more concentrated on the surface of plastic debris than in the surrounding sea water.”³⁶ The introduction of plastic pellets into Lavaca Bay is more than a mere eyesore. They create a danger to the aquatic environment.

c. International industry efforts to eliminate plastic pellets in the environment

Formosa is likely aware of Operation Clean Sweep, an international effort to reduce plastic pellet loss, run by the Plastics Division of the American Chemistry Council and the Society of the Plastics Industry. Operation Clean Sweep has a goal of “achieving zero pellet, flake, and powder loss.”³⁷ Operation Clean Sweep has a 32-page manual describing how to reduce resin pellet loss into the environment.³⁸ Formosa can follow the recommendations of the plastics industry to find the best ways to stop trashing Cox Creek and Lavaca and Matagorda Bays and to clean up the pellet litter it has sent onto the shores and the bay. Formosa Plastics has ignored the warnings of its own industry.

Posters from EPA’s 1992 Report on Plastic Pellets in the Aquatic Environment, including an Operation Clean Sweep Poster: ³⁹

³⁵ *Id.*

³⁶ Thompson, *supra* note 28, at 2156.

³⁷ Operation Clean Sweep, <https://opcleansweep.org> (last visited Feb. 24, 2017).

³⁸ Operation Clean Sweep Manual, <https://opcleansweep.org/Manual> (last visited Feb. 24, 2017).

³⁹ EPA Report, *supra* note 6, at 94, 95.

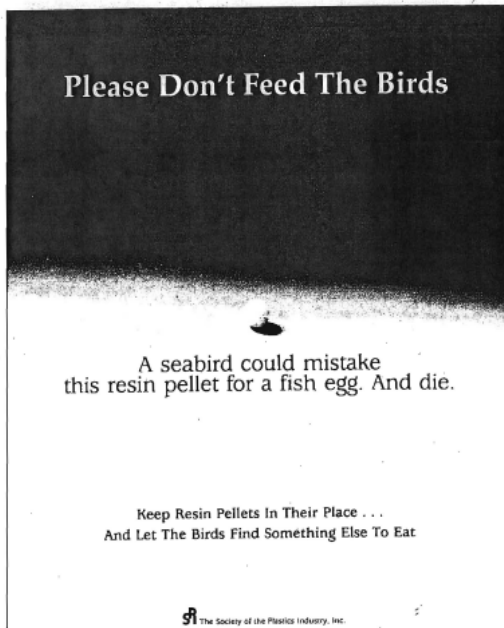


Figure 31. A Poster Distributed during the 1987 SPI Marine Debris Campaign.



Figure 32. Advertisement for the 1991 SPI Operation Clean Sweep Campaign.

4. COMPLAINANTS

This notice is filed on behalf of Diane Wilson and the San Antonio Bay Waterkeeper, whose contact information follows:

Diane Wilson
600 Ramona Rd.
Seadrift, Texas 77983
(361) 218-2353

San Antonio Bay Estuarine Waterkeeper
Bob Lindsey, Waterkeeper
(361) 389-2701
Diane Wilson, Executive Director
(361) 218-2353
600 Ramona Rd.
Seadrift, Texas 77983

5. CONCLUSION

Complainants demand that Formosa take immediate, structural, and permanent steps to stop its illegal discharge of plastic pellets and dust and clean up the litter strewn across the bays and beaches. If this does not happen within 60 days, we intend to file suit against Formosa to secure appropriate relief for all violations described in this notice letter, and for any similar violations that occur after the date of this notice letter.

Complainants are motivated by a desire to keep the waters of the region clean, and seek a permanent resolution to Formosa's plastic pellets and PVC dust problem. Despite the 2004 and 2010 EPA investigation findings and the 2016 investigations by TCEQ, the pellet discharges are ongoing.

Please contact us within 20 days of the date of this notice letter if Formosa is serious about resolving this dispute with Complainants prior to litigation and the associated increase in fees and expenses it would entail. We can be reached through Texas RioGrande Legal Aid attorney, Erin Gaines, at 512-374-2739 or egaines@trla.org.

Sincerely,



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Samuel Coleman
Acting Regional Administrator
USEPA Region 6
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Richard A. Hyde, MC 109
Executive Director
TCEQ
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Austin, TX 78711-3087

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Corporation Service Company
Registered Agent for Formosa Plastics Corporation, Texas
211 E. 7th St, Suite 620
Austin, TX 78701

Attachments:

- Exhibit A –EPA Investigation Report and photos, October 2010
- Exhibit B – Excerpts from TCEQ Investigation Report with photos, May 13, 2016
- Exhibit C – Excerpts from TCEQ Investigation Report with photos, Oct 24, 2016
- Exhibit D – Map of Complainants’ Sampling Locations around Lavaca Bay, Matagorda Bay, and Cox Creek