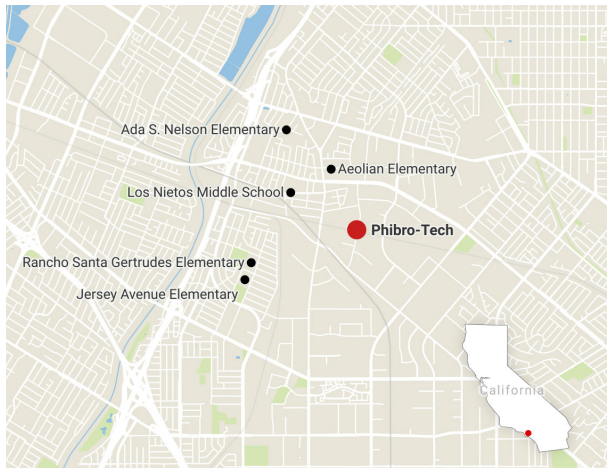


JUSTICE DELAYED: THE FIGHT FOR ENVIRONMENTAL JUSTICE AND PHIBRO-TECH'S PERMIT RENEWAL

Phibro-Tech Inc. (PTI) is a hazardous waste facility located just 540 feet away from homes in Los Nietos, a predominantly low-income Latino neighborhood in Los Angeles with one of the highest pollution burdens in the state. PTI treats, stores and disposes of hazardous waste, namely corrosive wastewater containing copper, lead, chromium, sulfates and chlorides from the electronics and aerospace industries. For decades, community members living near PTI have voiced their concerns about the contamination at the site and Phibro-Tech's long history of violations. In the past ten years alone, the Department of Toxic Substances Control (DTSC) has cited PTI for 24 Class I violations, which represent significant threats to human health or safety or the environment.¹



5 schools are located within a 1-mile radius of Phibro-Tech (pictured) and 56 schools are within a 3-mile radius of the facility.

PTI has operated on an expired hazardous waste permit since 1996 and is currently completing its permit renewal process, with DTSC's decision on the permit expected by late Spring 2024.² However, as documented in this report, PTI's long history of violations and its persistent delays in addressing on-site contamination demand nothing less than the denial of its hazardous waste permit.

History of Violations & Dangerous Incidents

Throughout Phibro-Tech's history, the facility has regularly violated hazardous waste laws, as well as air and workplace safety regulations. In every year from 1999 to 2024, there has been either a violation, enforcement-related action, unpermitted air release, or workplace injury at PTI. For instance, in 2019, the facility was assessed a \$495,000 penalty from DTSC because of various violations, including: conducting unauthorized hazardous waste management activities; failing to record the location and quantity of hazardous waste within the facility to avoid dangerous incidents; making false representations in its operating and inspection records; failing to minimize the possibility of a release of hazardous waste; failing to ensure that the containment system was free of cracks and gaps; and illegal storage of incompatible wastes, among others.³ The facility has also had several instances of unpermitted releases to the air, including a release of ammonia in 2015 and releases of hydrochloric acid (HCl) in 2016 and 2017. Additionally, several incidents have occurred at the facility that resulted in employee injury, including: (1) in August 2015, a PTI employee slipped and fell into spilled sulfuric acid, resulting in second- and third-degree burns; (2) in December 2015, a PTI employee was splashed with sulfuric acid resulting in second-degree burns; (3) in 2016, a PTI employee was injured due to an unpermitted release of HCl fumes; and (4) in 2022, two PTI employees were injured after HCl was sprayed on them. Despite this long history of violations, PTI is seeking to expand its operations through the permit renewal process.

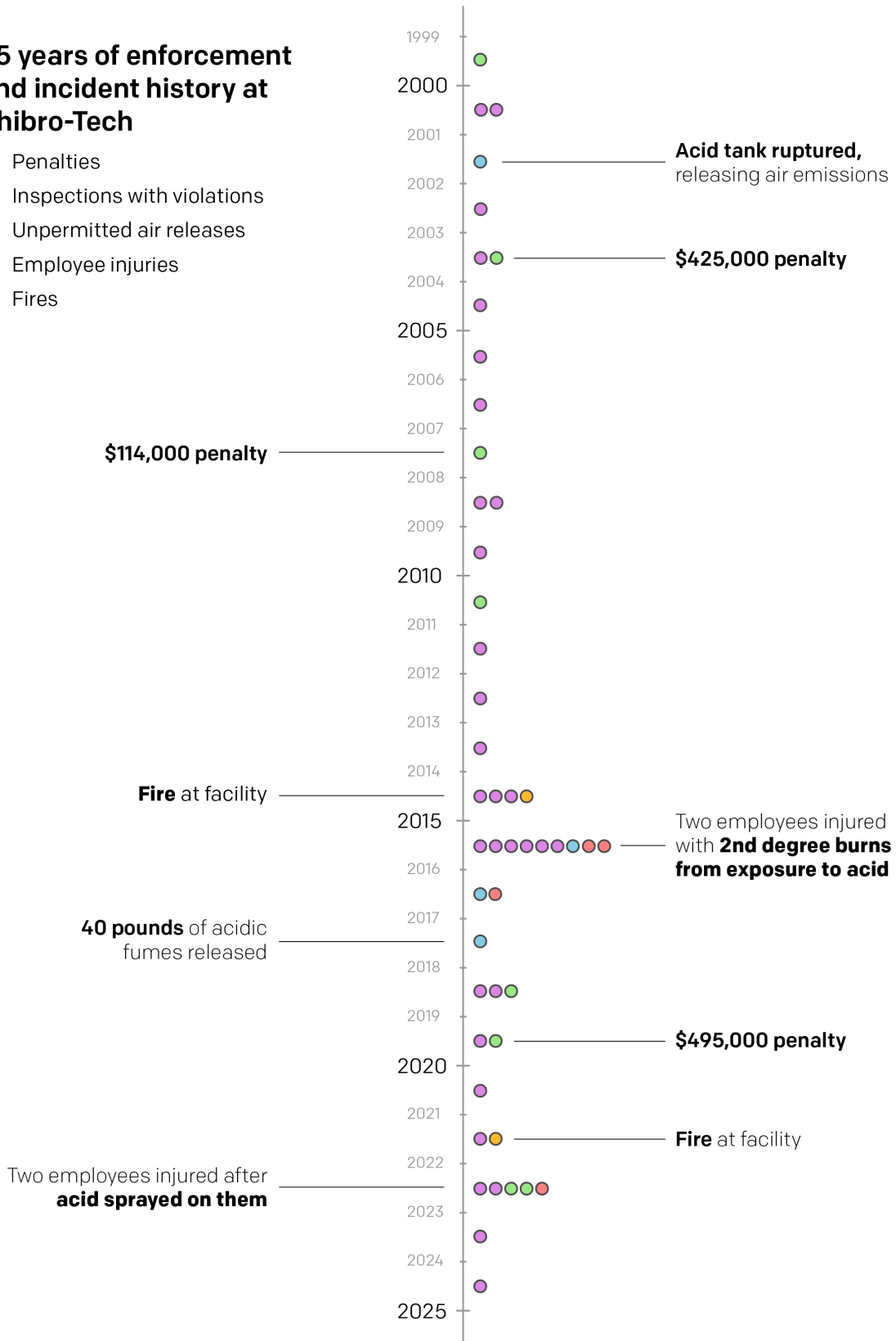
¹ DTSC, Notice of 2023 Facility Violations Scoring Procedure Score and Compliance Tier Assignment (Sept. 29, 2023), <https://perma.cc/76M9-6UJA>; DTSC, Phibro-Tech Inc. (CAD008488025), https://www.envirostor.dtsc.ca.gov/public/hwmp_profile_report?global_id=CAD008488025 (last visited March 28, 2024).

² Currently, DTSC's Envirostor lists the final permit decision date as May 15, 2024. DTSC, Phibro-Tech Inc. (CAD008488025), https://www.envirostor.dtsc.ca.gov/public/hwmp_profile_report?global_id=CAD008488025 (last visited March 18, 2024).

³ *People of the State of California v. Phibro-Tech Inc.*, Case No. BC-655177, Final Judgment on Consent and Permanent Injunction (Los Angeles County Superior Court, Jan. 8, 2019), <https://perma.cc/KAB8-MW2M>.

25 years of enforcement and incident history at Phibro-Tech

- Penalties
- Inspections with violations
- Unpermitted air releases
- Employee injuries
- Fires



Decades of Delay

In addition to violations and dangerous incidents, Phibro-Tech's history is also characterized by harmful delay. For starters, the facility's hazardous waste permit originally expired in 1996, but DTSC has let PTI operate with this expired permit for nearly 30 years. After all this time, the department now seems intent on rubber-stamping a flawed permit application. In 2022, DTSC finally issued a draft permit for public comment, but the department's permitting process was plagued by a lack of transparency and genuine opportunities for public input; a failure to consider cumulative impacts; and a failure to conduct adequate environmental review. The department expects to make its final decision in Spring 2024. The decades of delay in DTSC's permitting decision have allowed PTI to continue to operate with an outdated permit that fails to address the concerns and harmful impacts raised by surrounding community members.

Addressing the contamination at Phibro-Tech has also been a story of significant delay. As early as 1987, site investigations determined that there were numerous operational areas with the potential for significant chemical releases. By the early 1990s, a follow-up investigation determined that the soil and groundwater were contaminated with various substances, including cadmium—a probable carcinogen that impacts the kidneys⁴ - and chromium – a known carcinogen that is toxic to the liver.⁵ As a result of these investigations, in 1995, DTSC issued a Class 3 Permit Modification (1995 Permit Modification) that required PTI to implement corrective measures to address the releases from the facility.⁶ The 1995 Permit Modification required, among other items, that the facility: (1) remediate the groundwater using a pump-and-treat system; (2) engage in soil vapor extraction to address volatile organic compounds (VOCs) in soils; and (3) immediately implement the 1988 Closure Plan for Pond 1 (a former surface impoundment used to hold hazardous waste from 1975 to 1985 that had not been properly closed).

However, it would take over a decade before PTI finally began to meet these requirements. In the interim, there were numerous back-and-forth interactions between PTI and DTSC that resulted in extensive delay, including PTI's appeal of the 1995 Permit Modification and the Pond 1 Closure Plan. These significant delays allowed for known contamination at Phibro-Tech to persist for decades and present a continuing threat to the health and safety of the surrounding community.

Ongoing Concerns with Contamination

While PTI has finally taken long overdue steps to address the contamination on-site, there are still outstanding concerns and issues.

Potential Groundwater Contamination

Due to decreasing groundwater elevations at the site over the past thirty years, many of the groundwater wells are either dry or contain insufficient water levels; thus, PTI has been unable to sample many of its existing wells. This is an issue because it is not clear what will happen to contaminants when groundwater levels rise. Phibro-Tech claims that it has successfully treated the hexavalent chromium in the soils so that any migration of contaminants would not occur if groundwater levels rise.⁷ However, DTSC noted in a recent public meeting presentation that there is still a “threat to groundwater from some residual chemicals in the soils.”⁸ It is imperative to ensure ongoing groundwater monitoring and sampling at the PTI site to confirm that groundwater contaminant levels do not increase and if they do, to undertake remediation activities.

Failure to Characterize the Full Scope of Contamination

Another concern is the lack of adequate characterization and sampling to delineate the full scope of the existing contamination on-site. In the 1987 RCRA Facility Assessment, EPA contractors noted that the “site layout and design have changed over time. Processing areas and waste management units have commonly been constructed over other inactive process areas and

⁴EPA, *Cadmium Compounds (A) Factsheet* (updated Jan. 2000), <https://perma.cc/3DNY-5PZW>.

⁵California State Water Resources Control Board, *Hexavalent Chromium (Chromium-6)* (last updated Feb. 15, 2024), <https://perma.cc/4QHP-QDDP>.

⁶DTSC, *Hazardous Waste Facility Permit Modification for Phibro-Tech Inc.*, at Section E (June 30, 1995), <https://perma.cc/7PWP-CWQX>.

⁷PTI, *Revised Corrective Action Remedy Completion Report at pdf p. 45* (Oct. 8, 2021), <https://perma.cc/Y4EV-JNWX>.

⁸DTSC, *Draft Permit for Phibro-Tech Inc. Public Meeting and Hearing Presentation at 23* (July 12, 2023), <https://perma.cc/A5PX-LYQX>.

units.”⁹ Also, the assessment found that “very few records” existed “regarding facility processes, manufacturing areas, and waste management practices during the early years of operation.”¹⁰ This history has undermined certainty about whether the contamination at the site has been adequately characterized. For instance, as recently as 2020, PTI discovered a previously unidentified solid waste management unit; soil samples in the area of this unit detected trivalent and hexavalent chromium.¹¹ DTSC has also expressed concerns about the inadequate characterization of the Phibro-Tech site. In 2023, DTSC noted that in certain areas of the site “it is unclear whether contamination has been fully characterized due to an inability to access the operational areas” and thus, “there is likely residual contamination present in the soil that could impact underlying groundwater under changing groundwater conditions.”¹² As a result of these concerns, DTSC required a Work Plan for Additional Characterization from PTI in order to assess whether other areas of the site are contaminated. In December 2023, DTSC conditionally approved this Work Plan provided that PTI address their outstanding concern. Namely, DTSC raised that PTI had not proposed to collect off-site soil samples and without this data, it is unknown if hexavalent chromium migrated off-site and contaminated groundwater.¹³ DTSC must continue to ensure that PTI properly addresses any remaining contamination both at the site and off-site.

Contaminated Soils Left On-Site

An additional concern is that heavily contaminated shallow soils remain on-site at Phibro-Tech. In particular, the shallow soils are contaminated with toxic constituents including arsenic, lead, and PCBs (polychlorinated biphenyls). DTSC allowed these contaminated soils to remain in place “based on the consideration that the contaminated soils remaining in place would be contained and that the containment would be operated, maintained and evaluated in such a fashion as to preclude further migration of in-situ contamination.”¹⁴ Nevertheless, DTSC recognized that allowing the contaminated

soil to remain in place meant that monitoring at PTI would be “particularly important” in order to ensure early detection of any contaminant migration.¹⁴ Currently, there are no plans to address this soil contamination; instead it will remain in place until the facility either redevelops the area or ceases operations.

Conclusion

DTSC is currently deciding whether to renew PTI’s draft permit and community members have strongly urged the department to prohibit PTI from continuing to operate in their neighborhood. PTI has shown itself to be a bad neighbor to the over 200,000 people who live within a three-mile radius of the facility, as can be seen with its repeated history of violations and dangerous incidents. And while the facility has been forced to take some preliminary steps to clean up the site, community members remain concerned about lingering contamination and the ability and willingness of DTSC to hold PTI accountable to its remedial obligations. By denying Phibro-Tech’s permit renewal, DTSC can prove to Los Nietos residents, and all Californians, that the department is a critical safeguard against industry’s toxic contamination.



Members of Neighbors Against Phibro Tech.

Neighbors Against Phibro-Tech

Neighbors Against Phibro Tech is a grass roots organization of residents from Los Nietos and Santa Fe Springs that is challenging Phibro-Tech and the renewal of its permit. Neighbors Against Phibro Tech fights for community members who deserve to breathe clean air, drink uncontaminated water, and play in safe spaces. Neighbors Against Phibro Tech has urged DTSC to deny PTI’s permit and ensure that community members are protected from toxic contamination. To find out more, visit [here](#).

⁹RCRA Facility Assessment for Phibro-Tech (formerly Southern California Chemical Company), submitted to EPA, at pdf p. 4 (Sept. 1987), <https://perma.cc/MT3-LXDJ>.

¹⁰Id. at pdf p. 5.

¹¹PTI, Request for Interim Measure Field Work Schedule (March 25, 2020), <https://perma.cc/X52B-QCWH>.

¹²DTSC, Approval of Interim Remedial Measures Report for Phibro-Tech at pdf p. 4 (Aug. 18, 2023), <https://perma.cc/9RUD-A7ZD>.

¹³DTSC, Review of Response to Review of Response to Review of Work Plan for Additional Characterization and Work Plan for Additional Characterization for Phibro-Tech at pdf p. 3 (Dec. 13, 2023), <https://perma.cc/K4BZ-MEEE>.

¹⁴In the Matter of Phibro-Tech Inc., Docket HWCA 97/98-P001, Order Denying Petition for Review at 62 (DTSC, Sept. 5, 1997), <https://perma.cc/9QBE-F5XK> (Select “Click Here” to view live page).

¹⁵Id. at 64. See also Hazardous Waste Facility Permit Modification for Phibro-Tech at 52.a.14 (June 30, 1995), <https://perma.cc/7PWP-CWQK>.