



National Oil Bargaining 2008-09

www.oilbargaining.org

Issue 9 • August 2009

From the Vice President's Desk

Why we Withdrew from American Petroleum Institute Talks

As you may recall reading in my August 3 letter to every one of you, we decided to withdraw from the talks with the American Petroleum Institute (API) because it was clear our viewpoint was not being considered seriously on the issues that mattered to us: the development and reporting of process safety leading and lagging indicators and the creation of a fatigue standard.

We did not want to put our union's name behind weak standards and that was what the standards were shaping up to be under committees dominated by corporate interests and industry trade associations.

The fatigue and process safety committees were supposed to include environmental and community groups, per the recommendation of the Chemical Safety Board. The API claimed it invited environmental groups, but it never produced a list. Instead, the organization gave one vote to each of the 22 oil companies on the committees and one vote to each of the five union representatives. This action alone proved the API wasn't serious about reaching a consensus. All we wanted was a fair playing field.

How are we to get tough standards when the industry outnumbers and outvotes us every time?

Yet the API, in its press release attacking us for our withdrawal from the talks, said "we were trying to silence the voices of other stakeholders on the committee" by tying demands to National Oil Bargaining strategy. They stack the deck against us and have the nerve to say we're silencing other stakeholders' voices? Our insistence on tough standards had nothing to do with oil bargaining.

Public's Right to Know

When we discussed the development

and reporting of process safety leading and lagging indicators, we wanted system failures to be reported publicly so refinery communities could be aware of problems and refiners could learn from each other.

Leading indicators are predictors of future safety performances based on selected criteria. Examples include the number of overtime hours worked and quality of training.

Lagging indicators are an after-the-fact measure of safety performance, such as the number of fires, leaks, explosions and system failures.

During our talks we grouped incidents. Tier one incidents were major events, like fires or releases, which the media typically report. Tier two events would be any time a safety system failed, like the activation of a pressure release valve. We hadn't decided during the API talks on the level of reporting that would be required for tier two events, yet we wanted the industry to start at least reporting them.

As usual, the API and industry fought us on the level of transparency and public reporting of incidents. They said they would report major tier one events, and after a trial period, they would do blind reports of safety system failures. Blind reporting totally defeats the purpose of knowing what is going on at each individual facility.

They expressed concern about one refinery reporting more than another and how that would make the other refiners look. Publicly, the API said not reporting all leading and lagging indicators had nothing to do with public relations and that it wanted "the best, most consistent data out there." It said one of the challenges has been dealing with differing interpretations of certain terms across companies.

The API's comments are just an excuse to have the individual refineries avoid any responsibility for their safety problems. You can get consistent data and have the same interpretation by defining the system failures that will be measured. You don't have to be a rocket scientist to do this.

Different Attitudes Toward Safety

Here is a perfect example of how different our attitude toward safety is from the industry:

In one of our meetings, we discussed the pressure release valve. The industry said to us that if the pressure release valve is working everything is okay. We told them that while it is good that the pressure release valve works, the fact that it has to be used shows that there is a safety problem.

Reducing Open Positions

The API and industry's idea of a fatigue standard is to cut back the amount of overtime for employees who are working a lot of it and to have overtime worked by those who currently aren't working a lot of it. They have refused to commit to reducing the number of open positions filled by overtime hours and the amount of overtime worked by individuals.

An open position happens when the company assigns a worker to another job—as a trainer, procedure writer or turn-around planner, for example—and another employee has to work overtime to fill that vacant position.

In addition, the API and industry refused to set reasonable limits to the number of consecutive days worked and to establish the amount of rest time after consecutive days and hours worked. It's not uncommon to find 30 to 40 percent overtime at refineries.

(continued on page 3)

Environmentalists Push for Hydrogen Fluoride Substitute

The July 19 fire in the alkylation unit at Citgo's refinery in Corpus Christi, Texas, prompted environmentalists to push for safer alternatives to hydrogen fluoride, an acid used as a catalyst for chemical reactions in the unit, reported the *Corpus Christi Caller-Times*.

The fire burned for two days in the alkylation unit, which makes high-octane blending components for gasoline. Operators were attempting to start a back-up pump due to a reduced flow of cooling for the unit when the fire broke out. It was unclear what caused the leak of flammable gas, which appeared to be ignited by a heater on a nearby unit.

Hydrogen fluoride was released as a result of the fire. It burns skin, tissue and eyes and if inhaled can cause respiratory hemorrhage.

Gabriel Alvarado, who was burned in the explosion, remains in intensive care.

Citgo, OSHA, the U.S. Chemical Safety Board, and the Texas Commission on Environmental Quality as well as the USW are investigating the root cause of the incident. An Aug. 3 pollution report from the Environmental Protection

Agency said equipment failure may have caused the fire.

Local 13-1647 President John Warner told *Reuters* that workers at the refinery have identified hazards that the company has failed to fix.

Environmentalists are worried that hydrogen fluoride vapors from the fire may have harmed nearby residents. They say residents complained about sore throats, headaches and dizziness. People living near the refinery reported health effects and damage to vehicles after a similar incident in 1997.

Other Options

There are two other options to replace the use of hydrogen fluoride for alkylation. The first is sulfuric acid, which can also burn skin tissue and lungs, though it is generally considered less toxic and less lethal. If there is a leak, sulfuric acid tends to pool on the ground near the leak. Hydrogen fluoride tends to form a vapor cloud.

Sulfuric acid is a proven method. Ron Chittim, a senior policy advisor with the American Petroleum Institute, told the *Caller-Times* that among the two-thirds

of U.S. refineries that use alkylation, half use hydrogen fluoride and half use sulfuric acid. The remaining ones use processes other than alkylation.

The second option, which has not been tested in commercial-scale refineries for alkylation, is solid-acid catalysts. These catalysts essentially are rocks that act chemically as acids. New Jersey company Exelus Inc. promotes a technology called ExSact made of the mineral zeolite and other metals. Though it performed well in a pilot test, ExSact has yet to be tested on a commercial scale.

The USW is looking at alternatives to hydrogen fluoride and will come out publicly about the issue later this year.

Corpus Christi group Citizens for Environmental Justice and the statewide Sierra Club asked the state and federal governments to push Citgo to switch catalysts and asked the Chemical Safety Board to hold a public meeting soon to provide preliminary investigation results. They first pushed for sulfuric acid, but withdrew that request because of worker safety concerns. Now they would like to see solid-acid catalysts used.

Update on Gabriel Alvarado

Gabriel Alvarado, 34, who was burned in a July 19 fire in the alkylation unit at Citgo's refinery in Corpus Christi, Texas, remains in critical, but stable condition in the intensive care unit at Brooke Army Medical Center in San Antonio.

A hydrocarbon release caused the fire and hydrogen fluoride was released as a result of the fire. This toxic chemical is used as a catalyst for chemical reactions in the alkylation unit and burns skin, tissue and eyes. If inhaled, it can cause respiratory hemorrhage.

Gabriel was thermally burned over 60 percent of his body, and there is concern about his lungs.

A website has been launched that gives updates on his treatment and allows visitors to give prayers and well wishes. It can be accessed at www.caringbridge.org/visit/gabrielalvarado.

According to the website, Gabriel is responding well to his treatment. He

was being treated with medication for his pneumonia, which worsened a bit according to an Aug. 19 journal entry on the website. On Aug. 21, he had successful skin graft surgery.

Prior to that, he had undergone about 10 surgeries and skin grafts to his eyes, arms, chest and back, reported the *Corpus Christi Caller-Times*. One of his forearms has been amputated.

Gabriel joined Citgo three years ago. He was working near the alkylation unit when the fire ignited, said the *Caller-Times*.

A barbecue benefit to help the family and other local charities was held Aug. 22. Donations to the family can be mailed to Star Credit Union, in care of Daniel Escamilla Jr., Acct: 0855-06, 3022 Buffalo St., Corpus Christi, TX 78408.

The Alvarado family is asking for everyone's prayers at this difficult time and to please check the website for updates instead of calling.

CSB Investigates Release at Joliet Refinery

The U.S. Chemical Safety Board is investigating the cause of a propane and hydrogen fluoride (HF) release at ExxonMobil's Joliet, Ill., refinery that is the third HF release in recent months.

"We are concerned about the three apparent releases of hydrogen fluoride from refinery alkylation units in Pennsylvania, Texas, and now Illinois that have been reported since March 2009," said CSB Chairman John Bresland. "Because of its high toxicity, any loss of primary containment for hydrogen fluoride is a serious matter."

On August 6 there was a sudden release of propane and HF from the vicinity of a pump in the refinery's alkylation unit, which uses HF as a catalyst. The leak did not ignite, but one operator suffered serious, HF-related chemical burns. The second operator was examined at a hospital and released. The unit's water deluge system, which is designed to contain airborne HF releases, was activated and the alkylation unit was shut down.

Hydrofluoric acid can cause severe burns and extreme heart, lung and bone damage in humans.

Why we Withdrew from American Petroleum Institute Talks

(continued from page 1)

We wanted a fatigue standard that reduces open positions by 5 percent per year at each refinery until it's reasonable and that requires refiners to fill positions that had been open for two weeks.

The API criticized us for our one-size-fits-all approach and said that creating an industry-wide percentage standard or maximum length of time for open positions wouldn't be fair since each refinery has unique circumstances. If every refinery does it differently, you don't have a standard. Why bother doing one?

The API and industry haven't learned anything from the 2005 BP Texas City fire and explosion. Fatigue was a major contributor in that catastrophic event. How many Texas City incidents does it take for the API and industry to get serious about worker fatigue?

Report All Incidents

You can help improve the safety of your

A Show of Solidarity

Two unions besides the USW involved in the American Petroleum Institute (API) talks have also withdrawn.

The International Chemical Workers Union Council (ICWUC), which is part of the United Food and Commercial Workers Union, withdrew from the process safety committee talks on Aug. 11, the same day as the other union member on the process safety committee, the International Brotherhood of Teamsters (IBT), withdrew.

ICWUC Director of Health and Safety Darrell Hornback said in an email to the API that "throughout ICWUC's limited involvement it became clear that this standard would not be one that reflects the views of all the stakeholders. In light of USW's withdrawal, ICWUC is unable and unwilling to continue in this lopsided process."

In an email to the API, LaMont Byrd, director of the IBT's safety and health department, said: "The IBT has determined that due to irreconcilable differences with industry with respect to transparency concerning current and potential safety issues, including worker fatigue-related issues, the development of standards that will have a significant positive impact on worker safety in refineries will not occur. Therefore, continued discussions will not be productive."

The API has said publicly that it plans to go ahead with setting the standards for fatigue and process safety indicator reporting.

facility by reporting to Mr. Kim Nibarger of the USW Health, Safety, and Environment (HSE) department all fires, explosions, leaks, process upsets, releases, flaring, equipment failures, near misses and other health and safety problems—regardless of the outcome. If the refineries won't do this, we will. Your reporting of these incidents will give us a true picture of the safety conditions at your facilities.

We also need you to notify Nibarger when you receive notice of an OSHA national emphasis program inspection being conducted or of OSHA or a state OSHA coming in for an inspection.

Contact Mr. Kim Nibarger by emailing him, knibarger@usw.org, or by calling him at (o) 412-562-2587, (cell) 412-418-6240.

It is extremely important that you do this reporting. The information you give us will make our case stronger for obtaining a safer workplace for you and future genera-

tions of oil workers.

If your local management comes to you and wants to negotiate any health and safety standards, have them contact me. Such discussions are done at the international union level.

Distribute the Oil Worker

The Oil Worker is your newsletter. We need every oil worker in your facility to get a copy. So when you receive the Oil Worker, make copies for everyone in the plant and use your Communication Action Team to distribute them. If you email it to your members, please email it only to their home email address. This newsletter must not go through the company email system.

Thank you all for your support of your union.

Gary Beevers

International Vice President

Chair, National Oil Bargaining Program

Be Prepared to Participate in Nationwide Safety Campaign

We will need everyone's help in our nationwide campaign to improve health and safety in the refining industry. Documenting all safety failures is an important part of the campaign because we will gather that information and present it to Congress when we lobby for tighter rules on refinery safety.

It will also be important for you to participate in actions at the plant level and to get your family, friends and neighbors to get involved in health and safety actions within your communities.

USW President Leo W. Gerard told participants at the union's labor-management health and safety conference in Houston recently that if the oil companies do not let the union investigate problems, the union will call in the gov-

ernment.

"If you stop them, we'll protest. We'll march," he said.

He said protests would happen in refinery communities, in state capitals and in Washington, D.C., if companies stop investigations into refinery safety problems.

Now is the time for locals to make sure their Communication Action Teams are in place. Watch for the Oil Worker, which will have the latest regarding this health and safety campaign, and be sure to check out your local newsletters and websites for information about future actions. Also, do not forget to attend your local union meetings.

Together, we can make a difference in the safety of our facilities.

Material Needed for Website

We welcome material submitted by the oil locals for the oil bargaining website—www.oilbargaining.org. Besides covering oil and petrochemical negotiations, this site can contain news about the issues oil workers are dealing with at their plants and in their work lives and the activities of local unions.

Give us a short write-up on what your local achieved through local bargaining. We would

be interested in any photos or videos of past or present mobilization activities to showcase the activism of our members.

Send material for the website to Lynne Baker at lbaker@usw.org; phone: (o) 615-831-6782; (cell) 615-828-6169. Be sure to include the name of the author (for written material), photographer and person who shot the video. For photos and videos please include a write-up describing the event.

Second-Quarter Profits Fall for Majors, Independent Refiners

The integrated oil companies—those that have an exploration and production business segment in addition to refining and marketing—experienced a downturn in profit during the second-quarter because of the recession and decrease in demand. Most companies, however, would be happy if they earned these profits.

ExxonMobil's profit from the second-quarter was the lowest it had in more than five years. Net income fell 66 percent to \$3.95 billion from \$11.7 billion a year earlier, reported *Bloomberg News*. The company's U.S. refining business had a loss of \$15 million, and chemicals earnings fell 47 percent to \$367 million as sales by volume slid 6.7 percent.

Chevron Corp. posted its biggest decline in profit since 2002, said *Bloomberg News*. Second-quarter net income dropped 71 percent to \$1.75 billion from \$5.98 billion a year earlier. Weak demand for diesel and other refined fuels resulted in a \$95 million loss in the company's US refining business. A year earlier the loss was \$682 million because of higher costs related to plant shutdowns and maintenance. Chemicals profit more than doubled to \$108 million as utility and manufacturing costs fell.

Bloomberg News also reported that Royal Dutch Shell Plc posted a 67 percent decline in second-quarter profit to \$3.8 billion, and BP Plc saw its net income drop 53 percent to \$4.39 billion. ConocoPhillips's profit declined 76 percent to \$1.3 billion.

Oil Daily reported that Husky Energy's second-quarter profit fell 68 percent as oil and gas prices fell and refining margins shrank with the economic downturn. The company earned \$430 million (in Canadian dollars) compared to \$1.36 billion (in Canadian dollars) for the second-quarter last year.

Independent Refiners Hit Hard

Weak demand because of the economic downturn, rising crude prices and narrow refining margins have hit independent refiners hard. Refiners increased gasoline production in anticipation of increased summer driving, which never materialized, worsening the slump. Diesel is plentiful because commercial

traffic has slowed due to the economy.

Dow Jones Newswires said that "the future does not look much better for the independent refiners, which unlike integrated companies, are not involved in the production and exploration of oil."

Mike Jennings, chief executive of Frontier, said during an Aug. 6 conference call with analysts: "As we see it, the current operating environment is one where only the better petroleum refiners will be viable in the long term." He defined a viable refiner as one that makes enough money to invest in its plants.

Valero and Sunoco reported second-quarter losses of \$254 million and \$55 million respectively, said *Oil Daily*. For the same period last year, Sunoco earned a profit of \$82 million. Alon USA Energy Inc. posted a \$15.3 million loss versus net income of \$18.2 million last year.

Western Refining Inc. posted a net loss of \$307.3 million, compared with a net income of \$8.2 million in the second-quarter last year, reported *Reuters*. The company attributed its weak refining margins to increased crude oil and other feedstock costs and low finished product prices. It expects its four US refineries to have combined throughput in the third quarter of 197,000 barrels per day (b/d), below their capacity of 224,100 b/d, due to low demand and poor refining margins.

Western announced Aug. 6 that it was no longer considering selling its 64,500 b/d Yorktown, Va., refinery and that no acceptable offers had surfaced, reported *Dow Jones Newswires*.

Inland Refiners Do Better

Lack of competitive product imports helped inland refiners, *Oil Daily* said.

Although Marathon's second-quarter earnings dropped 47 percent from the same period a year ago, the company's refining unit performed better than its peers, reported *Oil Daily*. Net income for the second-quarter declined to \$413 million from \$774 million a year ago. The refining, marketing and transportation group made \$165 million compared to \$158 million in the same quarter last year.

Marathon attributed the results to a

slightly increased gross refining and marketing margin, a decrease in manufacturing costs and a small pre-tax gain on derivatives. The refining business fared better than some of the company's competitors partly because several of the refineries are located in the Midwest, which had relatively better margins than other regions, Oppenheimer analyst Fadel Gheit told *Oil Daily*.

Marathon's expansion of its Garyville, La., refinery is still scheduled for completion in the fourth quarter this year, reported the *Houston Chronicle*. Currently, the refinery processes 256,000 b/d of crude oil and is the 18th largest facility in the country. After the 180,000 b/d expansion, the plant will process 436,000 b/d, making it the fourth-largest.

Frontier's net income was \$49.8 million for the second-quarter, but outside assessments that discounted the company's inventory gain said the company posted a loss, reported *Oil Daily*.

The trade publication said that US refiners like Frontier that depend on heavy-sour grades reported negative earnings for the second-quarter. Tightness in the market for lower quality crude has narrowed the discount with light-sweet varieties.

Independent refiner Holly Corp. had second-quarter net income of \$14.6 million, which was up from the \$11.5 million during the same period last year.

Oil Daily reported that Holly raised its overall earnings by increasing its production 25 percent over last year's second-quarter. Also benefiting the company were robust local asphalt markets and the ability of its New Mexico and Utah refineries to switch between heavy and light crude varieties to minimize the cost of crude oil inputs. Recent refinery upgrades provided the company with greater flexibility to produce different percentages of refined products in response to changing margins.

"Our refineries are in relatively niche markets and that's kind of a different animal than a big merchant refinery on the coasts that uses a lot of economies of scale to drive profitability," said Holly Chief Executive Matthew Clifton.

Holly purchased Sunoco's 85,000 b/d Tulsa refinery on June 1 that runs light and sweet crude.

Why EFCA is Needed

The organizing drive at the Valero Texas City, Texas, refinery points to the need for passage of the Employee Free Choice Act (EFCA).

The USW lost the representation election Aug. 6-7 that was conducted by the National Labor Relations Board.

“This is a prime example of how the laws are clearly in favor of the corporations when it comes to organizing,” said Jim Lefton, USW subdistrict director.

During the organizing drive, 74 percent of the Valero workers signed the petition for USW representation, Lefton said. If EFCA had been law, the workers would have had their union and Valero would have had to bargain with the

USW.

Instead, workers were subject to captive audience meetings for three weeks before the vote, one-on-one meetings with management and “vote no” banners as they entered the plant and the security gate. Valero’s CEO and chief financial officer flew in the week of the vote to encourage workers to vote no. The company also sent a disk to every worker’s home encouraging them to not seek union representation. The USW was not given similar access to the workers.

Steven Lyle, financial secretary for USW Local 13-1, said it was the USW’s third attempt, and first since the 1990s, to unionize workers at the plant.

How to get The Oil Worker

If you are an oil worker and are not receiving *The Oil Worker* newsletter and would like to get it, please send your home e-mail address to International Vice President Gary Beaver’s administrative assistant, Julie Lidstone, at jlidstone@usw.org. Besides your home e-mail address, please state the name of the company you work for and your job title.

The Oil Worker comes out at least once per month and features information about oil bargaining, the oil industry, health and safety, oil unions from around the world and health care.

What’s Happening at your Site?

Send us articles about the issues and activities your local is engaged in. Such pieces should be short and to the point. We especially like quotes from the membership. We’ll accept articles that are up to 500 words in length. Keep in mind that we reserve the right to edit contributions for length and clarity. Be sure to put your name, local union number and phone number where you can be contacted during the

day or evening in case we have questions.

If there are any issues you would like to see covered or questions about bargaining that you have, we’d like to hear about them as well. We’ll get to those issues as soon as we can.

You can send your articles and contact the editor, Lynne Baker, at lbaker@usw.org; phone: (o) 615-831-6782; (cell) 615-828-6169.

We Come Here to Work Not Die!

If there is a fire, explosion, serious equipment failure, leak, release or other process safety failure at your facility, regardless of the outcome, report it to Mr. Kim Nibarger of the USW Health, Safety and Environment Department at (o) 412-562-2587, (cell) 412-418-6240, knibarger@usw.org.

Also contact him any time you receive notice of a National Emphasis Program inspection being conducted or of OSHA or a state OSH coming in for an inspection.

This applies to workers in refineries, chemical plants, terminals, pipelines, and all related industry operations.