

FOR A TOXICS-FREE FUTURE!

ABSTRACT: THIS PETITION REQUIRES CORRECT DISPOSAL AND FINAL TREATMENT OF TOXIC WASTES AND IT IS AGAINST THE IMPLEMENTATION OF CONFINED AQUATIC DISPOSAL (CAD) IN SANTOS-SP, BRAZIL, WHICH IS AN UNDERWATER CEMETERY OF TOXIC CHEMICALS: TRUE TIME BOMB PREPARED FOR FUTURE GENERATIONS.

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The Piaçaguera canal is a waterway linking the city of Cubatão to the sea that since 2002 has been a subject of studies on the removal of millions of m³ of contaminated waste in order to deepen the navigable bed and give access to the "Panamax" ships of the former Cosipa / Usiminas and Ultrafértil / VLI terminals - that are in a process of expansion (Image 01).



Image 01: Cubatão / SP - Brazil, access to the sea via the port of Santos / SP.

In 2016, the Environmental Company of the State of São Paulo (CETESB) issued an installation license for VLI and Ultrafértil companies to implement a "mega-hole" in the Piaçaguera canal bed, in the Casqueiro neighborhood, located in front of Cobras Island,

in the city of Cubatão / SP. It would measure 400 meters in diameter (mouth) by 25 meters deep - an immense hole of about 17 million m³ for the purpose of burying contaminated sediments, as shown below (Figure 01).

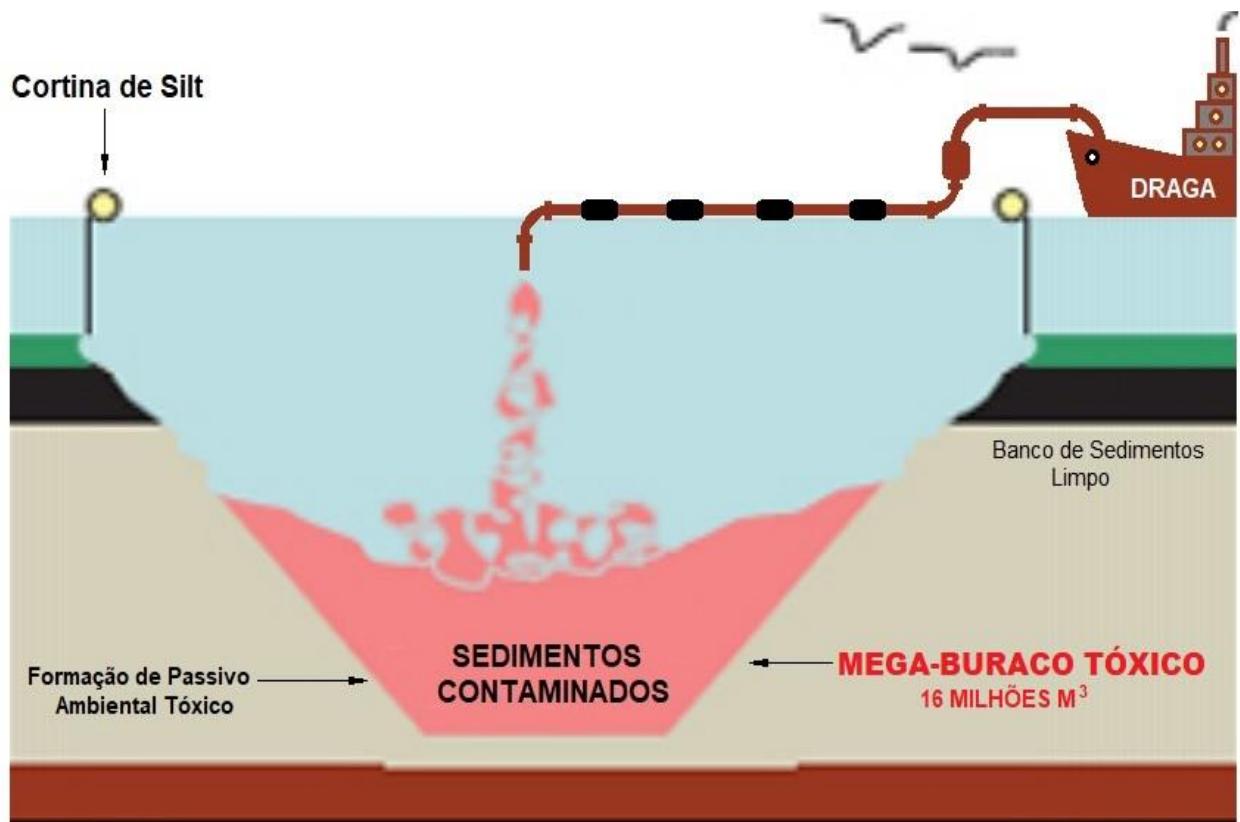


Figure 01: Dredge discharging toxic sediments in the Confined Aquatic Disposal – CAD.

In this mega-hole there are lots of sediments with contaminants banned by the Stockholm Convention on Persistent Organic Pollutants that are being dumped, such as: hexachlorocyclohexane above the established limits, as well as DDT and products of its degradation, such as DDD, DDE and DIELDRIN. In addition, Polycyclic Aromatic Hydrocarbons, which are very dangerous to human health, were detected in astronomical quantities: 6,155 mg/kg Chrysene, 8,950 mg/kg benzo(b)fluoranthene, 1,298 mg/kg benzo(k)fluoranthene and 3,692 benzo(a)pyrene. It is important to note that these products are poisons with great potential of harming human and wild life.

The deleterious toxicological potential of these sediments is impressive. For example, for Dibenzo(ah)anthracene, Benzo(a)pyrene and Benzo(a)anthracene there are sufficient scientific studies that characterize them as genotoxic, mutagenic and carcinogenic, i.e. they cause damage and mutation of several orders in human genes. Because of these characteristics, these toxic compounds, which are aggressive to fauna, flora and humans, are never reliable in underwater disposal – similar to a toxic and chemical underwater landfill, which should have never been authorized (Image 02).

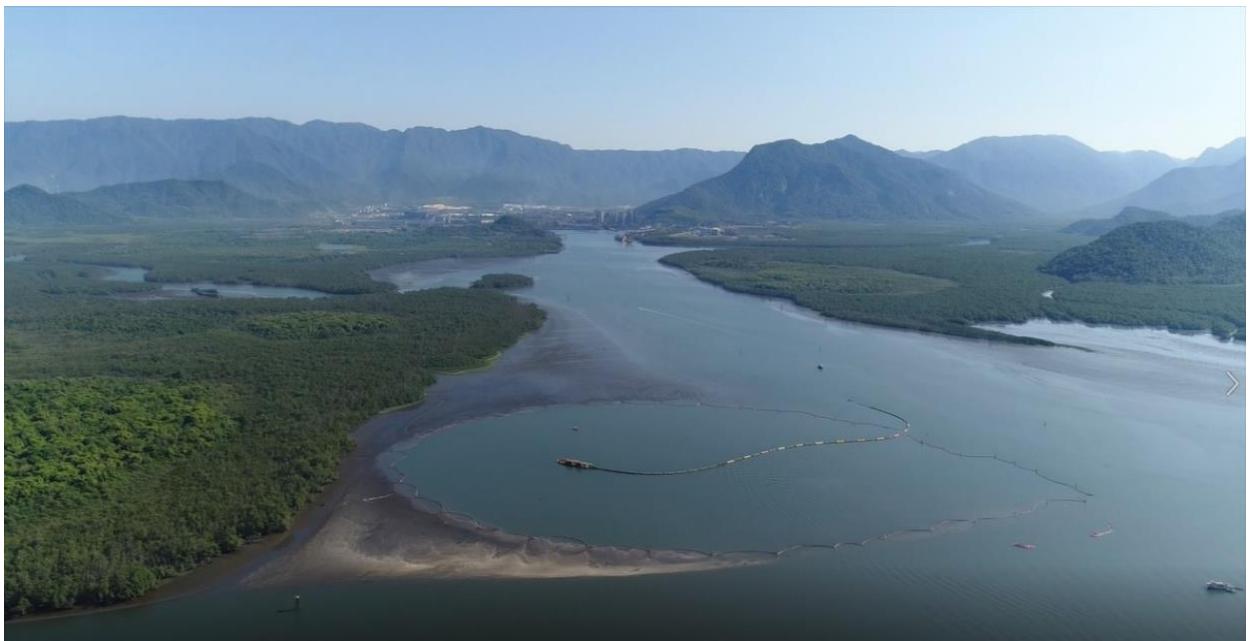


Image 02: Toxic CAD in the heart of the Santista Estuary - North View.

The licensing process has serious imperfections, such as:

- a) The prior Environmental License nº. 870 was issued on 08/18/2005 with a five-year-long term, and Environmental License nº 2439 was only issued on 07/07/2016: **therefore, the 11 years that separate both licenses prove the prescription of the first one.**
- b) These environmental licenses were issued to Cosipa / Usiminas, but were transferred and are being used by Ultrafértil / VLI. **That is expressly prohibited by Brazilian environmental law, as the exchange of ownership cancels the license.**
- c) There was a proven deviation from purpose, since prior license nº 870/2005 required the confined disposal in the Furadinho Dam, Canal C Dam, two CADs and the management of environmental liabilities. However, in the Installation License nº 2439/2016 the opening project for CAD with a capacity of 1.56 million m³ (Image 03) was illegally included. The exact type, location and volume of the CAD were systematically changed, which requires new environmental licenses.

The questionable process conducted by CETESB is causing the following judicial repercussions:

- 1- Popular Action nº 1035460-76.2017.8.26.0053 against CETESB requesting the revocation of the licenses; a preliminary injunction was obtained and the launch of toxic sediments in the CAD was stopped. Nowadays, it is in the Court of Justice of São Paulo under the number 2156216-62.2017.8.26.0000.

- 2- Antecedent Precautionary Legal Protection Action nº 5003136-23.2017.4.03.6104, whose authors are the Federal and State Public Prosecutors, questioning potentially damaging aspects of dredging licensing.
- 3- Formal protest against CETESB's employees that appeared in an institutional video of Ultrafértil / VLI, defending the underwater hole - fact, among others, prohibited by the Brazilian law of administrative improbity.



Image 03: Toxic CAD in the heart of the Santista Estuary - South View.

If this were not enough, the Federal Public Prosecutor issued three official documents to the Union Patrimony Office – SPU requesting information about the water mirror, and it obtained a reply CONFIRMING that Ultrafértil / VLI DOES NOT have the certificate of availability for use of the water mirror and for the implementation of the CAD.

On 10/24/2017 SPU issued the Notification nº 014/2017 / JUR / SPU / SP, seizing the work at the CAD and requesting its immediate stoppage. However, on 10/26/2017 the SPU suspended this own impediment, giving to Ultrafértil a five-day period so it could present supporting documentation. There is no way to know what the reason for this suspension, although there are suspicions of "irregular contacts" (a fact well known in Brazil – for example, the notorious Geddel/Iphan case of undue and illegal political interference).¹

¹ Former Minister of Culture Marcelo Calero, then in charge of the National Historical and Artistic Heritage Institute (IPHAN), resigned due to pressure from the head of the Government Secretariat, Geddel Vieira Lima, to unburden a real estate project in Salvador from which he had bought an apartment: <<http://g1.globo.com/politica/noticia/2016/11/ex-ministro-diz-jornal-que-sofreu-pressao-de-geddel-para-liberar-obra.html>>.



Figure 02: Risk of increased exposure and contamination of marine flora and fauna.

11/13/2017 was the legal deadline for Ultrafértil to submit the documentation, and SPU, after analyzing the documentation, issued on 11/28/17 the second notification nº 039/2017 IMPEDING again the CAD.

The company responsible for the consolidation of the TOXIC UNDERWATER LANDFILL filed the "petition for writ of mandamus" nº 5025698-38.2017.4.03.6100 and once more obtained a preliminary injunction suspending the second SPU impediment.

With this unwarranted procrastination, Ultrafértil / VLI accelerated the filling of the CAD, dumping tons of toxic material 24 hours a day – and so, closer to turning the area into a "Toxic Underwater Landfill" with the clear and "environmentally immoral" objective of concluding the eviction, disregarded all ethical, moral and legal questioning and betting on the long judicial discussion, since in environmental matters it does not apply the theory of fait accompli.

Thus, the removal of these contaminated sediments and the compensation resulting from all moral, social and environmental damages will be a battle that the entire society will have to participate in (Figure 02).

The companies Ultrafértil and VLI, responsible for this polluting initiative, claim that the dredging of the Piaçaguera Canal is a "benefit" for the community of Baixada Santista, because, according to the company, it will facilitate navigation into the port – although only for the terminals VLI-Ultrafértil and Cosipa / Usiminas, these companies are the only directly interested in the Toxic Hole. Thus, it is a simple transfer of environmental liabilities: transfer of 2,400,000 m³ of contaminated sediments from the canal to the underwater cell, WITHOUT ANY TREATMENT! This underestimates the society's ability to react to such socio-environmental atrocity.

The main issue of contaminated underwater hole is its cost. The correct disposal in the ground and packaging in ecobags, treating the liquid waste and setting up a permanent monitoring to control such a high level of sediment (in the volume of 2,400,000 m³), has an estimated cost of R\$ 500 million (approximately, 150 million dollars); the simple dredging of this "dirty", "polluted" material and dumping without any treatment 5 km

ahead in the underwater pit has a cost of R\$ 100 million (approximately, 30 million dollars): this is the social, environmental and economic benefit that the company claims.

It is important to highlight that the company Ultrafértil has as partner of the Vale do Rio Doce, the protagonist of the largest environmental accident in the country, which in the past also claimed that it had technical advices, studies and computer models that would guarantee the safety of the barriers in Mariana (MG). Today, unfortunately, the affected population in that region is still reaping the consequences of what were planted by these multinational company, not to mention the deaths of people, thousands of fish and other aquatic species, and of the river Doce that sustained those lives.

CETESB and Ultrafértil, disregarding the best experts and environmental engineers, oceanographers and biologists, opted for releasing reports and opinions from the US Army and the US Environmental Protection Agency (EPA) to reinforce the "standard" of legality of this environmental tragedy, forgetting that the American government refused to sign the Kyoto Treaty and recently withdrew from the Paris Accord, in which 130 countries agreed with the reduction of worldwide environmental pollution. At this conjuncture, public opinion must reject environmental standards and actions of administrations that do not respect the country itself and world public opinion!



Figure 03: In the dead of night, the garbage is swept down the carpet.

The US Army Corps of Engineers, a supporter of the deployment of this disastrous cell ("sweeping toxic waste under the rug" – Figure 03), has a history of releasing contaminated area as if it was decontaminated, with serious deleterious effects on health of adjacent populations (as in the case of St. Lawrence Island, Alaska, USA).²

Worried about this situation, several entities of the Baixada Santista region are against the implantation of CADs as an instrument for disposal of sediments containing toxic, mutagenic, carcinogenic, teratogenic and interfering substances of the hormonal system (Endocrine Disruptors Chemicals - EDCs [Figure 04]).

² Cold War-era military site continues to pollute fish and Yupik people: Three years after the Army Corps declared it sufficiently cleaned up, a former Air Force station continues to contaminate wildlife on remote St. Lawrence Island: <<http://www.ehn.org/military-site-polluting-yupik-people-2513528278.html>>.

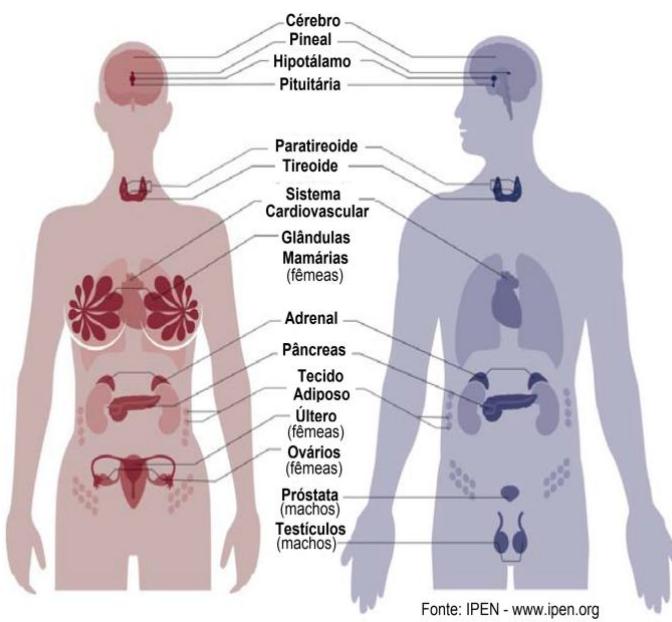


Figure 04: EDCs promote devastation in the endocrine system, affecting cells, and cause various diseases and damages in human reproduction.

marine species and source of subsistence for several riverside communities, don't be transformed in a true cemetery of toxic waste. This goes against the constitutional dictates of the right to an ecologically balanced environment, against the precautionary principle and against sustainable development.

Entities of organized civil society, scientists, researchers, environmentalists, ecologists, professionals from various areas, fishermen and people in favor of the right to a balanced environment and sustainable development, in fact, are against the implementation of the CAD in the Estuary of Santos and require the removal, proper disposal and definitive treatment of these toxic wastes, saving the marine species development space from the thousands of tons of contaminated sediments and seeking a healthy human development.

STOP CONFINED AQUATIC DISPOSAL (CAD) – A TOXIC UNDERWATER LANDFILL!!!

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For more information:

Several of these toxic compounds were banned by the Stockholm Convention on POPs, after turning clean areas into true toxic waste cemeteries. Respect for the environment must be restored by making toxic liabilities properly handled by polluters and their successors instead of keeping them as a toxic gift for future generations.

May the Public Power, in its three spheres and levels of government, to whom this petition is addressed, take due measures in order that our estuaries, cradles of several

1. CONFINED AQUATIC DISPOSAL, or A TOXIC UNDERWATER LANDFILL?

<https://acpo.org.br/arquivos/pagina-nossa-luta/campanhas/cava-subaquatica/documentos/cava-ou-lixao.pdf>

2. Representation and documentation sent to the Federal Public Ministry and Public Prosecutor's Office of the State of São Paulo.

http://www.acpo.org.br/cava_mpf_mpsp

3. Representation and documentation sent to SPU: <http://www.acpo.org.br/spu/>

4. Civil Society mobilizes against the Toxic Underwater Landfill.

<https://acpo.org.br/arquivos/pagina-nossa-luta/campanhas/cava-subaquatica/documentos/20171218-ata-reuniao-sociedade-civil.pdf>

5. Campaign of the “Association to Combat Against Pollutants” against the Toxic CAD.

<https://acpo.org.br/arquivos/pagina-nossa-luta/campanhas/cava-subaquatica/texto/cava-subaquatica.pdf>

6. Technical reports indicate irregularities in dredging.

<http://www.diariodolitoral.com.br/santos/laudos-tecnicos-apontam-irregularidades-em-dragagem/100775/>

7. Technical Advice:

http://www.acpo.org.br/cava_mpf_mpsp/09_Parecer_tecnico_Elio_18_08_2017.pdf

8. Secretariat of the Patrimony of the Union SPU definitively paralyzes the CAD of VLI-Ultrafértil:

<http://santosemoff.com.br/2017/11/>

9. Report – Public Prosecutor targets VLI dredging in Cubatão:

http://www.acpo.org.br/cava_mpf_mpsp/22_extras/22_a%20Reportagem%20Valor%202010_01_2017.pdf

10. Report - MPF recommends that Cetesb suspends dredging of VLI:

http://www.acpo.org.br/cava_mpf_mpsp/22_extras/22_b%20Reportagem%20Valor%2031_05_2017.pdf

11. The Toxic CAD raided a protected area and another destined to the port expansion:

http://www.acpo.org.br/cava_mpf_mpsp/22_extras/22_c%20Foto%20Limite%20Z5EP%20CPEA.pdf

12. Video of the Toxic CAD, environmental passive formation, blocking of port development, impact on protected areas, impact on marine fauna and flora and on populations that live from fishing: http://www.acpo.org.br/spu/07_video_da_cava_irregular.mp4

13. Video of the Dredge filling the toxic CAD with waste:

http://www.acpo.org.br/cava_mpf_mpsp/22_extras/22_j%20Video%20cava%20sobrevoo.MP4

14. Why does a hole in the Port of Santos upset so many people?

<http://www.baixadadefato.com.br/porque-um-buraco-no-porto-de-santos-incomoda-tanta-gente/>