8-10-2005

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Environmental Practices Put PEMEX in Conflict with Local, State Authorities

by LADB Staff
Category/Department: Mexico
Published: 2005-08-10

PEMEX's poor environmental record has put the state-run oil company into conflict with state governments and local communities, prompting some states and local communities to take or threaten to take unilateral actions to protect their citizens. PEMEX mishaps, particularly oil spills and explosions, have caused major environmental damage and threatened the health of residents in southeastern states during recent years (see SourceMex, 1997-04-02, 2003-04-09, and 2005-01-05).

The accidents have continued into this year, with extreme environmental damage and a handful of deaths reported from a series of incidents in the spring and summer. In April, a ruptured pipeline left six dead and forced the evacuation of 6,000 residents in Nanchital, Veracruz state.

In June and July, pipeline explosions in Tabasco state caused eight deaths and 20 injuries. In July, an explosion at the Pajaritos marine terminal in Veracruz killed two people.

Chiapas government shuts down PEMEX well

PEMEX's poor track record, along with the company's slow response to mishaps, has forced some local and state authorities to take matters into their own hands. In early August, the Chiapas state government shut down the Malva 201 oil well in the municipality of Sunuapa in the northwestern region of the state.

Authorities claimed the PEMEX well was producing toxic emissions that endangered the lives of people in Santa Cruz, one of the communities in Sunuapa. The well, which yields only 500 barrels of oil per day, also produces 2 million cubic feet of natural gas daily.

Rather than send the gas to a processing center, PEMEX had chosen to burn the natural gas at the wellhead, sending particulates into the air. Chiapas Gov. Pablo Salazar Mendiguchea asked PEMEX several times to take care of the problem, but the company ignored those requests, prompting Salazar to order the well shut down. "With the experience of the explosions in Tabasco and Veracruz, the governor of Chiapas has shown that his state takes preventive measures," Salazar said at a news conference. "We can't lower our guard and wait for our house to burn down without doing anything."

In addition to the Chiapas state government, local officials in Altamira and Ciudad Madero in Tamaulipas state are pushing for PEMEX to repair or shut down pipelines leading to almost 1,300 wells close to residential areas in the two cities. These wells comprise almost half the total 2,600 operated by PEMEX in Tamaulipas state. The mayors of Altamira and Ciudad Madero did not have any immediate plans to take direct action, but have appealed to state authorities to begin discussions with the oil company.
In early August, residents of the communities of Villa Luz, La Privada, and El Angel in the Comalcalco region of Tabasco state temporarily blocked a PEMEX facility after detecting gas odors near the facility. The residents demanded that PEMEX take action to guarantee the safety of its facilities. After inspecting the site, engineers said they could not find any leaks. The action by the Chiapas state government is unprecedented because PEMEX, as a federal entity, has traditionally had full control of decisions at all its facilities.

However, Leonardo Munoz Arellano of the Chiapas civil-protection office defended the right of Chiapas to take unilateral action. In statements to reporters, he referred to a handful of government briefings that "give the state government the legal basis to proceed with the suspension of dangerous activities."

Other states left open the possibility that they could follow the Chiapas example. "There are dozens of communities and thousands of families in constant danger from the PEMEX pipelines, and if necessary we will also shut down oil wells that continue threatening these families," Hidalgo state civil-protection director Salvador Nery Sosa told the Los Angeles Times.

Govs. Jorge Carlos Hurtado Valdez of Campeche and Fidel Herrera Beltran of Veracruz, both major oil-producing states, said they had no plans to shut down any PEMEX facilities and would leave any actions to improve the safety record of the company to the federal government and the Congress.

Hurtado said, however, he supported the right of the Chiapas government to take action because there was an "imminent danger" at a local PEMEX facility. "In Campeche, we have not had to resort to such extremes," he said.

Federal government says closure illegal

Energy Secretary Fernando Elizondo called Salazar's action illegal and said that the well conformed to "all the national and international norms of security" and that there was "no justification for a state authority to intervene in this fashion." PEMEX asked a federal court to order that the well be reopened, but Chiapas officials said the presiding judge refused to take up the request. Salazar said he was willing to take the case to the country's highest court (Suprema Corte de Justicia de la Nacion, SCJN) to defend the right of states to take actions to protect their citizens, even if the actions contravene federal jurisdiction.

President Vicente Fox's administration acknowledged the right of the Chiapas government to bring the case to the SCJN but said he would prefer that the matter be resolved through a compromise between PEMEX and Chiapas officials. "We believe there must be a solution through dialogue," said presidential spokesman Ruben Aguilar. The federal environmental protection agency (Procuraduría Federal de Proteccion al Medio Ambiente, PROFEPA) said that Salazar should have waited a bit longer before taking action. "We were preparing legal action to demand that PEMEX take care of the problems at the well," said PROFEPA.

The agency said the well was violating other environmental norms in addition to the emissions, including improper drainage, a lack of adequate protection against electrical storms, and improper
placement of the gas burner, which was too close to a wooded area. PROFEPA officials point to the agency's success in forcing PEMEX to correct environmental deficiencies. Between 2003 and 2004, the agency brought 226 cases against PEMEX, forcing the company to pay hundreds of millions of pesos in fines.

But others doubt that PROFEPA has been very effective against PEMEX. "It's a fact that PROFEPA is very limited, it definitely follows the party line, they can't touch PEMEX much," said attorney Francisco Villagran Ballesteros, who works closely with the Centro Mexicano de Derecho Ambiental (CEMDA). Villagran and CEMDA have filed numerous lawsuits against PEMEX regarding the recent spills.

The Congress is also considering a proposal to give PROFEPA more autonomy, allowing the agency greater authority to prosecute PEMEX and other major environmental violators. "There is a consensus among all political parties in Congress to enact this reform," said the bill's principal sponsor, Deputy Pascual Sigala Paez, a member of the center-left Partido de la Revolucion Democratica (PRD).

**Tight budget hampers infrastructure repairs**

PEMEX director Luis Ramirez Corzo blames the Congress, which sets the budget for the oil company, for a shortfall in funding for maintenance and repairs. He said the amount allocated for maintenance and repairs this fiscal year is about US$1 billion below what PEMEX needs to conduct the necessary infrastructure repairs. In testimony to the Senate in February, Ramirez Corzo estimated that PEMEX would need 156 billion pesos (US$14.7 billion) during the next three years to conduct emergency repairs.

Environmental advocates agree with this assessment. In a report released earlier this year, Greenpeace-Mexico said half the 56,000 km of pipelines operated by PEMEX are no longer in good operating condition. "It is a disaster on a national level," said Greenpeace-Mexico's director Alejandro Calvillo, who noted that an average of two environmental emergencies a week occur in the pipeline network.

But critics say the company has some budget flexibility, where funds can be shifted into infrastructure repair. As evidence, Ramirez Corzo announced in late July that the company would increase the amount of money devoted to pipeline repairs by 3.5 billion pesos (US$330 million) this year. Ramirez Corzo hopes a recent decision by Congress to change the fiscal structure of PEMEX will further increase the money available for repairs and improvements.

In a special session in July, Congress approved legislation allowing PEMEX to keep a larger share of its revenues rather than turn them over to the federal treasury (see SourceMex, 2005-07-20). The tax reforms do not go into effect until the next fiscal year in 2006. [Note: Peso-dollar conversions in this article are based on the Interbank rate in effect on Aug. 10, reported at 10.58 pesos per US $1.00] (Sources: La Cronica de Hoy, 04/14/05; El Financiero, 04/15/05, 05/13/05; The New York Times, 05/15/05; La Crisis, 06/18/05; The Herald-Mexico City, 05/25/05, 07/26/05, 08/01/05, 08/02/05; Agencia de noticias Proceso, 04/14/05, 05/13/05, 05/24/05, 06/13/05, 08/02/05, 08/03/05; Spanish news service EFE, 04/14/05, 08/04/05; La Jornada, 02/01/05, 08/05/05; Notimex, 04/13/05, 04/17/05, 08/01/05,
08/05/01; Associated Press, 04/13/05, 05/04/05, 08/05/05; Los Angeles Times, 08/06/05; El Universal, 04/14/05, 05/31/05, 08/03-05/05, 08/09/05)

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