

Dirty Air, Dirty Money:

Grandfathered Pollution
Pays Dividends
Downwind in Austin

Texans for Public Justice

June 1998

“Get the gasworks in a poem
and you’ve got the smoke and smokestacks,
the mottled red and yellow tenements,
and grimy kids who curse with the pungency
of the odor of gas. You’ve got America, boy.”
—David Ignatow

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SUMMARY

- PACs affiliated with the “Dirty 30,” the worst grandfathered¹ corporate polluters, spent **more than \$2.5 million** to influence Texas politicians between December 1995 and March 1998. These companies spew 554,335 tons of grandfathered air pollution each year, including as much smog-forming nitrogen oxides as 11 million cars (there are 9 million licensed cars in Texas).
- **Governor Bush took \$193,500** in contributions of \$500 or more from the PACs of 27 grandfathered polluters from 1995 through 1997. These companies spew 451,269 tons of “non-permitted” pollution into Texas air annually, contributing an average of 14 cents to the Bush campaign for every ton of pollution that they emit.
- The **six members of the interim House subcommittee on grandfathered facilities** took \$31,700 from the PACs of grandfathered polluters from 1996 through 1997. This money accounts for 9 percent of all the money that these members raised during that same time period.
- The same panel members took another 6 percent of the money they raised from lobbyists who represent grandfathered polluters.
- House Environmental Regulation Committee Chair **Warren Chisum, R-Pampa, took 21 percent of all the money he raised** in 1996 and 1997 from grandfathered polluters. Another 9 percent of Chisum’s money came from lobbyists who represent grandfathered polluters.
- 78 of the worst grandfathered air polluters in Texas hired an army of 359 different lobbyists in 1997, paying them between \$9.7 million and \$20.6 million to influence Texas politicians. With almost two of these lobbyists for each legislator, **there is one grandfather lobbyist twisting each arm of every Texas legislator.**
- Dallas-based **Texas Utilities (TU) is the worst grandfathered air polluter** (belching 210,437 tons of grandfathered emissions a year). TU PACs led grandfathered companies in expenditures to influence Texas politics, spending \$633,230 from December 1995 to March 1998.

¹ "Grandfathered" industrial facilities that existed before the Clean Air Act of 1971 are exempted from the need for preconstruction permits, which often mandate emission controls.

I. INTRODUCTION

Environmental groups released an important study of Texas industrial pollution on April 27, 1998. *Grandfathered Air Pollution: The Dirty Secret of Texas Industries* explores the impact of the Texas Legislature’s decision to “grandfather” (or exempt) industrial facilities that existed in 1971 from complying with the Clean Air Act. Thanks in no small part to this polluter loophole, Texas leads the nation most years in toxic air emissions.

The *Grandfathered* study analyzed 1,070 industrial plants with facilities that the Legislature has heavily or fully exempted from modern pollution-control standards. These plants emit:

- 984,000 tons per year of EPA-regulated “criteria” air pollutants, which impose human and environmental costs; and
- Clouds of smog-forming nitrogen oxides (NOx) equivalent to the emissions spewed by 18.4 million cars (twice the number of cars licensed in Texas).

“The failure of Texas industries to [reduce grandfathered emissions to a level protective of public health] after almost three decades,” the study concludes, “makes it likely that state officials will have to force the issue.”

But why have Texas Legislators been paralyzed in the face of this containable problem? And why have they failed to “force the issue” for almost 30 years?

The chair of the House committee with jurisdiction over grandfathered polluters inadvertently shed light on this question recently. “I understand that environmental groups sometimes intentionally scare people

so they can raise money,” Rep. Warren Chisum, R-Pampa, said in a press release belittling the *Grandfathered Air Pollution* report.² But who **really** excels at exploiting grandfathered air pollution to raise money—environmentalists or politicians?

Inspired by Rep. Chisum, this report follows the money trail that underlies Texas’ grandfathered smog. While this trail leads to pots of gold, the real alchemists laundering dirty air into dirty money are:

- The grandfathered industries;
- Elected state officials; and
- Lobbyists.

This study traces contributions and expenditures by grandfathered interests that have benefited:

- Governor George W. Bush;
- Members of a House panel on grandfathered facilities; and
- The Texas political system as a whole.

The huge amount of money found flowing from grandfathered interests to state officials and lobbyists helps explain why Texas government has failed to close this air-polluter loophole for three decades. The chief response of state officials has been a voluntary emissions-reduction program called the Clean Air Responsibility Enterprise (CARE) program. Under this voluntary program, grandfathered polluters have pledged to reduce their total

² “Legislator says Sierra Club report based on false information,” press release, House Committee on Environmental Regulation, April 29, 1998.

grandfathered “criteria” emissions, which the U.S. Environmental Protection Agency uses to gauge air quality. But *Grandfathered Air Pollution* found that the amount of voluntary reductions pledged under the CARE program amount to just 2.5 percent of all grandfathered emissions.

Putting some teeth in the program would take a real bite out of Texas smog, but Texas politicians left the teeth for grandfathered polluters in a glass on the nightstand table, opting for a symbolic program instead.

The types of air pollution spewed by grandfathered facilities contribute to an estimated 2,617 premature deaths in Texas cities each year and impose hundreds of millions of dollars in health costs, according to a 1996 Natural Resources Defense Council

report, *Breathhtaking: Premature Mortality Due to Particulate Air Pollution*.

“Putting some teeth in the program would take a real bite out of Texas smog, but Texas politicians left the teeth for grandfathered polluters in a glass on the nightstand table, opting for a symbolic program instead.”

Today, 49 percent of Texas’ 19 million people live in areas with unsafe air (so-called “ozone non-attainment areas”). Another 17 percent of the population lives in areas where the air is in serious danger of flunking federal air-quality standards (“near non-attainment areas”).

Ozone War Zones*

Ozone Non-Attainment Areas	Near Non-Attainment Areas
Houston/Galveston	Corpus Christi/Nueces
Beaumont/Port Arthur	San Antonio/Bexar
Dallas/Fort Worth	Austin
El Paso	East Texas
	Victoria

*Areas where “criteria” air-pollutant levels exceed, or almost exceed, standards set in the Clean Air Act.

II. Method

This report links data on grandfathered air pollution emissions to data on political expenditures in Texas.

Although the Texas Legislature grandfathered industrial facilities from compliance with the Clean Air Act in 1971, the state government has never provided a full accounting of the smog that these grandfathered smokestacks emit.³ Frustrated by this inaction, environmental groups⁴ used the Open Records Act to obtain 1995 Texas Natural Resources Commission (TNRCC) data (the most recent available) on 1,070 plants that are responsible for the most grandfathered emissions. These 1,070 plants are owned by 356 different companies. Data on these emissions appear in the environmentalists' recent report, *Grandfathered Air Pollution: The Dirty Secret of Texas Industries*.

Facilities that emit “non-permitted” emissions have not received a permit from the TNRCC, a process that often mandates emission controls. The TNRCC allows “non-permitted” facilities to pollute without such permits under two loopholes: the grandfather loophole and the “standard exemptions” that the TNRCC grants to facilities that produce relatively few emissions. *Grandfathered Air Pollution* found that the grandfather loophole accounts for the overwhelming amount of “non-permitted” emissions.

The pollution data presented in this report

comes from *Grandfathered Air Pollution*. In many cases, however, the pollution data attributed to a given parent company underreports that company's total grandfathered air emissions due to limitations in *Grandfathered Air Pollution* and its underlying TNRCC data. In focusing on facility and plant emissions, these data rarely account for all of the emissions of a given parent company. Texas Utilities (TU), for example, appears in these data as the leading source of grandfathered air emissions. But these data do not provide the full story. This is because the grandfathered emissions of TU subsidiaries, such as Enserch and Lone Star Pipeline Co., are reported separately. This tendency to underreport the total grandfathered emissions of large, diversified parent companies lives on in this report.

The second set of data in this report covers political expenditures made by the 356 companies that own the 1,070 grandfathered plants analyzed in *Grandfathered Air Pollution*. These political-expenditure data come from several kinds of disclosure reports filed with the Texas Ethics Commission:

- Contribution reports filed by Governor Bush and all six members of the House subcommittee on grandfathered facilities;
- Expenditure reports filed by registered political action committees (PACs) that are affiliated with grandfathered polluters; and
- Registration reports filed by lobbyists who work for any of the 356 grandfathered polluters.

³ The TNRCC, which issued a 1986 report that omitted numerous grandfathered facilities, is reportedly still collecting this data.

⁴ The Lone Star Chapter of the Sierra Club and the Galveston-Houston Association for Smog Prevention (GHASP).

For this political-expenditure data, investigators did more research to link parent companies to their subsidiaries and affiliated PACs. This report counts as “grandfathered money” any expenditures made by PACs affiliated with:

- A parent company that owns one of the 1,070 plants that produce most of Texas’ grandfathered air emissions; and

- A parent company’s subsidiary, if that subsidiary owns any of the 1,070 plants.

For example, Lockheed Martin owns facilities that spew grandfathered emissions, but subsidiary Lockheed Information Management Services (IMS) does not. So, the PAC money of Lockheed Martin counts toward grandfathered PAC expenditures, while that of Lockheed IMS does not.

III. Does Grandpa Own the Governor's Mansion?

Governor George W. Bush and the three commissioners he appointed to the Texas Natural Resources Conservation Commission (TNRCC) are enthusiastic supporters of the go-slow, voluntary CARE program's approach to grandfathered smog. The governor held a news conference to tout the minimalist accomplishments of the CARE program on March 31, 1998.⁵

Many of the grandfathered polluters backing Bush at the press conference back him in other ways, too. Between 1995 and 1997, Bush took \$193,500 in contributions of \$500 or more from political action committees (PACs) affiliated with grandfathered polluters. These companies spewed 451,269 tons of "non-permitted" pollution into Texas air in 1995 (46 percent of the total amount identified in the *Grandfathered Air Pollution* report), contributing an average of 14 cents to the Governor's campaign coffers for each ton of non-permitted pollution that they discharged.

PACs affiliated with Houston Industries lead the pack of grandfathered interests that contributed to Governor Bush between 1995 and 1997, giving him \$25,000. PACs affiliated with Texas Utilities and Central & South West Corp.⁶ also contributed \$20,000 or more to Bush.

Wag the Dog

"Houston Industries agrees with Governor Bush that the preferred method for dealing with grandfathered emissions, and perhaps many other environmental issues as well, is a well crafted voluntary program that achieves environmental improvement but allows flexibility for businesses."
—www.houind.com

⁵ The event—held in Dallas' Reunion Tower—was highly symbolic. Dallas flunks federal air quality standards. Ray Hunt, who built Reunion Tower, heads Hunt Oil, which emitted 2,439 tons of grandfathered pollution in 1995.

⁶ Central & South West Corp. owns Central Power & Light, Southwestern Electric Power Co. and West Texas Utilities.

**Granddaddy PAC Contributions
To Governor Bush, 1995-1997**
(Contributions of \$500 or more)

Grandfathered Parent Co.	Affiliated PAC \$ to Bush	Non-Permitted Pollution (Tons)
Houston Industries (HL&P)	\$25,000	20,390
Central & South West Corp.	\$23,500	10,697
Texas Utilities	\$20,000	210,847
PG&E Corp. (Valero Energy)	\$15,000	9,788
Owens-Corning	\$15,000	671
Union Pacific	\$15,000	13,461
Bass Partnership/Bass Enterprises	\$10,000	168
American Airlines	\$10,000	111
Dow Chemical	\$10,000	8,895
Duke Power	\$7,000	14,970
Lockheed Martin	\$6,000	43
Compaq	\$5,000	61
General Motors	\$5,000	764
Phillips Petroleum*	\$5,000	71,337
Fina	\$4,000	10,146
Shell Oil	\$3,000	22,698
Ultramar Diamond Shamrock	\$2,500	7,081
New Century Energies (SW Public Service)	\$2,500	3,558
Eastman Chemical Co.	\$2,000	5,550
Entergy	\$1,500	8,264
Trinity Industries	\$1,000	16
Mitchell Energy	\$1,000	317
Mobil	\$1,000	20,291
Union Carbide	\$1,000	13,176
Rohm & Haas	\$1,000	3,511
Champion International	\$1,000	4,670
Vulcan Materials	\$500	265
TOTAL	\$193,500	451,269

Source: Texas Ethics Commission, *Grandfathered Air Pollution*.

* Phillips Petroleum and Shell Oil obtained “flexible permits” in 1995. These permits grant 10 years in which to achieve emissions reductions. In the interim, the companies still produce grandfathered emissions.

IV. Grandpas Bankroll Key Legislators

In response to grandfathered pollution concerns, the Texas House directed six members of the House Environmental Regulation Committee to study the problem. Committee Chair Warren Chisum is as an *ex-officio* member of the panel, which is chaired

by Rep. Ray Allen. Most panel members get heavy funding from:

- The political action committees (PACs) of grandfathered polluters; and
- Lobbyists representing grandfathered polluters.

Grandfather PACs Back Their Subcommittee

Grandfathered Parent Co.	Affiliated PAC \$ To 6 Panel Members	Non-Permitted Pollution (Tons)
Texas Utilities	\$7,050	210,847
Houston Industries (HL&P)	\$4,600	20,390
Central & South West Corp.	\$3,950	10,697
Koch Industries	\$3,500	13,480
PG&E Corp. (Valero Energy)	\$1,500	11,095
Burlington Resources	\$1,500	4,266
Shell Oil*	\$1,000	22,698
Rohm & Haas	\$1,000	3,511
New Century Energies (SW Public Service)	\$1,000	3,907
Texaco	\$750	6,710
ALCOA	\$650	109,636
Union Pacific Corp.	\$500	13,461
Trinity Industries	\$500	17
Texas Industries	\$500	735
Amoco	\$500	21,646
El Paso Energy Corp.	\$450	7,585
Exxon	\$400	50,933
Chevron	\$350	40,345
Dow Chemical Co.	\$300	8,895
Hoechst Celanese	\$300	9,717
Phillips Petroleum	\$250	71,337
Brown & Root, Inc.	\$250	12
ARCO	\$250	2,379
Mitchell Energy Corp.	\$250	317
Du Pont	\$200	17,128
Coastal Corp.	\$200	8,372
TOTAL	\$31,700	670,116

*Phillips Petroleum and Shell Oil got “flexible permits” in 1995. These permits grant 10 years to achieve emissions reductions. In the interim, the companies produce grandfathered emissions.

During 1996 and 1997, PACs affiliated with grandfathered polluters contributed a total of \$31,700 to the six members of the House subcommittee on grandfathered facilities. PAC money contributed by these grandfathered polluters amounts to 9 percent of the \$340,393 that the six members raised during the same time period. These same companies spewed 670,116 tons of non-permitted emissions into Texas air in 1995. This amount represents 68 percent of the 984,000 tons of emissions that the *Grandfathered Air Pollution* traced to 1,070 of the worst grandfathered plants in Texas. By far, Texas Utilities is the leading source of:

- Campaign money to members of the House grandfather panel; and
- Non-permitted emissions in Texas air.

In the most extreme case, Rep. Chisum, R-Pampa, took \$11,350 from grandfathered PACs in 1996 and 1997. This money

accounted for 21 percent of the \$52,850 in itemized contributions that Rep. Chisum reported during this time period. Rep. Mike Jackson, R-La Porte, was next in line.

Grandfathered PAC handouts accounted for 13 percent of the \$70,537 he raised in 1996 and 1997. Panel chair Ray Allen (an architect of the voluntary CARE program), R-Grand Prairie, took 8 percent of the \$93,884 he raised during the period from grandfathered PACs.

Grandfathered PACs accounted for 5 percent of the \$38,243 raised by Rep. Dawnna Dukes, D-Austin, and 2 percent of the \$82,279 that Rep. Charlie Howard, R-Sugar Land, raised. Only one member of the grandfathered panel, Rep. John Hirschi, D-Wichita Falls, took no dirty-air money. Rep. Hirschi is the sole member of the panel who has been outspoken about the need to crack down on all of the smog blowing through the grandfather loophole.

Sugar Daddies Sponsor The Grandfather Subcommittee

Grandfathered Contributions

Subcommittee Member	GF PAC	Top GF Sugar Daddy	All \$ Raised	GF PAC \$ as % of Total
Warren Chisum, R-Pampa	\$11,350	Central & SW Corp.	\$52,850	21%
Mike Jackson, R-La Porte	\$8,900	Texas Utilities	\$70,537	13%
Ray Allen, R-Grand Prairie	\$7,850	Texas Utilities	\$93,884	8%
Dawnna Dukes, D-Austin	\$2,050	Koch Industries	\$38,243	5%
Charlie Howard, R-Sugar Land	\$1,550	Koch Industries	\$82,279	2%
John Hirschi, D-Wichita Falls	\$0	None	\$2,600	0%
TOTAL	\$31,700		\$340,393	9%

Source: Texas Ethics Commission reports 1996-1997.

Lobbyists and lobby firms employed by grandfathered interests contributed another \$19,754 to the six subcommittee members, or an additional six percent of the total money that they raised in 1996 and 1997. Individual

lobbyists for grandfathered interests gave two-thirds of this lobby money; lobby firms with grandfathered clients contributed the remaining third.

Grandpa Lobby Finances Grandfather Subcommittee Members

Subcommittee Member	GF Lobbyist \$	GF Lobby & PAC \$	GF Lobby & PAC \$ as % of Total
Mike Jackson	\$6,791	\$15,691	22%
Warren Chisum (<i>ex officio</i>)	\$4,500	\$15,850	30%
Ray Allen (chair)	\$3,650	\$11,500	12%
Dawanna Dukes	\$2,193	\$4,243	11%
Charlie Howard	\$2,620	\$4,170	5%
John Hirschi	\$0	\$0	0%
TOTAL	\$19,754	\$51,454	15%

Source: Texas Ethics Commission reports, 1996-1997.

Subcommittee member Mike Jackson, R-La Porte, led his colleagues in this category, taking \$6,791 from lobby interests employed by grandfathered companies. When this money is added to Rep. Jackson's grandfather PAC money, grandfathered interests account for 22 percent of the money that he raised in 1996 and 1997. Rep. Chisum is the only member with an even greater dependence on money from grandfathered

sources. When the \$4,500 that Rep. Chisum took from lobbyists and lobby firms working for grandfathered interests is added to his grandfathered PAC money, the chair of the House Environmental Regulation Committee obtained 30 percent of all the money he raised in 1996 and 1997 from grandfathered interests. In contrast, Rep. Hirschi did not take a dime from grandfather PACs or lobbyists.

Top Grandfather Lobbyists Contributing to the Panel

Lobbyist	\$ To 6 Members	# GF Contracts
Neal T. "Buddy" Jones	\$2,250	7
Kent Hance	\$1,500	1
Randall H. Erben	\$1,341	2
Russell T. Kelley	\$1,050	4
Stan Schlueter	\$1,000	8
TOTAL	\$7,141	22

Source: Texas Ethics Commission reports, 1996-1997.

V. 'Dirty 30' PACs Fight for Right to Pollute

Earlier, this report analyzed the investments that grandfathered industries have made in a handful of key Texas politicians. While these politicians are among the best positioned to clean up grandfathered smog if they took a mind to it, they are not the only politicians positioning themselves downwind of the grandfathered-polluter windfall.

Unable to account for all the money that grandfathered polluters spend to influence Texas government, this study analyzes the total political expenditures that the so-called "Dirty 30" made from December 1995 to March 1998. The Dirty 30 polluters are the top emitters of grandfathered, smog-forming nitrogen oxides into Texas air. Texas Ethics Commission data show 32 registered political action committees (PACs) affiliated with Dirty 30 companies.⁷ The Dirty 30 PACs spent a total of \$2,513,912 from December 1995 to March 1998 to influence politicians.⁸

These same polluters spewed 554,335 tons of grandfathered emissions into Texas skies in 1995, including more smog-forming nitrogen oxides (NOx) than get emitted annually by 11 million cars (Texas has 9 million licensed cars statewide).

The *Grandfathered Air Pollution* report found that three interrelated industries account for most grandfathered emissions: the utility, petrochemical and oil and gas industries. These industries spend heavily to influence Texas officials on a range of issues. In the 1997 session, for example, utility deregulation was a major battle, with different kinds of utilities taking opposite sides. The amount of grandfathered money flowing to members of the House grandfather subcommittee, however, makes clear that defending grandfather pollution privileges is a major concern of these companies.

Texas Utilities topped the list of grandfathered polluter PACs, spending \$633,230 to influence politicians since December 1995. Texas Utilities is the mother of all grandfathered polluters. It belches out 210,437 tons of grandfathered emissions a year, including as much smog-forming nitrogen oxides as 3.8 million cars emit each year. Houston Industries, the parent of Houston Power & Light, ran a close second. Its PACs spent \$631,324. Utilities account for four of the top five political spenders among grandfathered companies.

⁷ Some Dirty 30 company PACs—such as Koch Industries—did not register. A loophole in Texas ethics laws exempts out-of-state PACs from the disclosure requirements that apply to Texas-based PACs (see Section 251 of the Texas Election Code).

⁸ By comparison, all 150 House members raised \$14.6 million in the last election cycle (see *Mortgaged House*, Texans for Public Justice, January 1998).

‘Dirty 30’ Contribute To Pollution and Politicians

Polluting Parent Company	PAC Expenditures	Total GF Emissions	GF NOx Emissions	Car NOx Equivalent⁹
Texas Utilities	\$633,230	210,437	74,973	3,844,773
Houston Industries	\$631,324	16,436	13,074	670,482
Central & South West Corp.	\$229,900	10,695	8,645	443,331
Coastal Corp.	\$221,532	8,628	1,724	88,425
PG&E Corp.	\$159,239	18,335	5,042	258,548
Du Pont	\$110,758	9,228	3,716	190,583
Ultramar Diamond Shamrock	\$95,340	5,556	3,189	163,533
Dow Chemical Co.	\$91,151	5,568	4,029	206,636
New Century Energies	\$51,200	3,877	3,211	164,643
Chevron	\$48,550	14,150	5,251	269,271
Entergy	\$45,813	11,325	9,140	468,731
Exxon	\$37,300	40,419	22,686	1,163,405
Amoco	\$37,200	14,282	5,111	262,115
Phillips Petroleum	\$33,800	37,841	16,083	824,782
Mobil	\$24,750	17,687	5,163	264,745
Shell Oil	\$20,800	15,010	7,001	359,000
ALCOA	\$16,675	109,646	20,909	1,072,235
Lyondell Petrochemical Co.	\$14,850	8,069	3,798	194,762
El Paso Energy Corp.	\$7,000	4,526	4,085	209,483
Union Carbide	\$3,500	6,542	3,168	162,467
TOTAL	\$2,513,912	554,335	215,121	11,031,851

*Phillips Petroleum and Shell Oil obtained “flexible permits” in 1995. These permits grant 10 years in which to achieve emissions reductions. In the interim, the companies produce grandfathered emissions. Source: Texas Ethics Commission filings, *Grandfathered Air Pollution*.

⁹ Number of automobiles required to produce the same amount of smog-forming NOx.

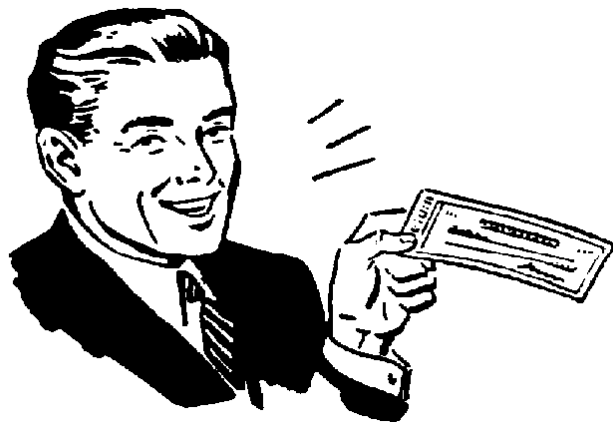
VI. The Smog Lobby

Any accounting of what Texas' grandfathered polluters spend to influence politicians would be remiss to overlook the army of lobbyists that these companies hire to besiege the capitol. Texas Ethics Commission records list 585 lobby contracts in 1997 on behalf of 78 grandfathered companies.

lobbyists reported Texas Utilities contracts worth up to \$1.2 million. Four oil and gas giants came next (Amoco, Exxon, Texaco and Enron), each hiring at least 25 lobbyists in 1997.

Through these contracts, 78 grandfathered polluters paid an army of 359 different lobbyists between \$9,746,000 and \$20,556,004¹⁰ to influence Texas officials on a range of issues, one of which was to preserve grandfathered polluting rights. With nearly two grandfather lobbyists for every Texas legislator, there is one grandfather lobbyist twisting each arm of every legislator.

The accompanying table lists 26 grandfathered polluter companies with 1997 lobby contracts that had maximum values of at least a quarter of a million dollars. As with PAC expenditures, utility companies again top the list. Houston Industries hired 44 lobbyists for up to \$1.7 million, while 39



¹⁰ Lobbyists do not register precise contract values; they report ranges, such as “\$150,000 to \$200,000.”

**Air Raid:
Grandpas Carpet Bomb Capitol with Lobbyists
(contracts of \$250,000 and Up)**

Grandfathered Polluter	# Lobbyists	Max. Value of Lobby Contracts	Non-permitted Pollution (Tons)
Houston Industries	44	\$1,730,001*	20,390
Texas Utilities	39	\$1,181,000	210,847
Amoco	28	\$635,000	21,646
Exxon	27	\$1,310,000	50,933
Texaco	27	\$310,000	6,710
Enron	25	\$990,000	2,166
Central & South West Corp.	24	\$765,000	10,697
Entergy Corp.	22	\$280,000	8,264
Du Pont	16	\$360,000	17,128
Owens Corning	14	\$635,000	671
Mobil	13	\$835,000	20,291
Lower Colorado River Authority	13	\$355,000	3,835
Dow Chemical Co.	13	\$250,000	8,895
Chevron	12	\$825,000	40,345
Union Pacific Resources	12	\$730,000	13,461
Lyondell Petrochemical	12	\$330,000	8,587
Union Carbide	12	\$325,000	13,176
ARCO	11	\$750,000	2,379
Texas Industries	11	\$380,000	735
PG&E Corp. (Valero)	11	\$315,000	11,095
ALCOA	10	\$335,000	109,636
City of Austin	7	\$1,060,003*	1,339
Coastal Corp.	6	\$395,000	8,372
Koch Industries	5	\$285,000	13,480
City of San Antonio	4	\$350,000	2,734
El Paso Energy Corp.	4	\$310,000	7,585
TOTAL	422¹¹	\$16,026,004	615,397

*Conservative estimate: contracts for “\$200,000 or more” were counted as \$200,001.

Source: Texas Ethics Commission filings, *Grandfathered Air Pollution*.

¹¹ Many of these lobbyists work for more than one grandfathered client.

VII. Conclusion

Recent clouds of health-threatening smoke blowing over Texas from Mexico and Central America have added wind to the sail of the environmental slogan, “We are all downwinders.”

Everyone is downwind of somewhere and grandfathered industrial polluters crisscross Texas, spewing hundreds of thousands of tons of pollution into public air spaces. The message that these companies transmit along with their smog is that the public should sacrifice its health to inflate the profits of corporate polluters. That powerful special interests elevate their needs above those of the public is hardly surprising. But that public officials should so encourage private gain at the public’s expense begs an explanation—especially when so many public officials talk so much about the need for “personal responsibility.”

This report concludes that money—and lots of it—has turned numerous state politicians into lapdogs of grandfathered polluters. In recent years, grandfathered air polluters and their PACs:

- Spent \$2.5 million in PAC expenditures to influence Texas politics;
- Contributed \$193,500 to the campaign coffers of Governor Bush;
- Supplied 9 percent of all money raised by six members of the House grandfather subcommittee (including 21 percent of Environment Committee Chair Warren Chisum’s funds); and
- Spent between \$9.7 million and \$20.6 million on an army of 359 registered lobbyists.

If these corporations hoped that such heavy political expenditures could turn Texas politicians into co-dependents of grandfathered air polluters, they have not been disappointed. Grandfathered polluters have been exempted from complying with permit requirements under the state Clean Air Act since 1971, having had 27 years in which to voluntarily comply. Nonetheless, political leaders in the Governor’s Mansion and both houses of the Legislature have limited the government’s responses to grandfathered air pollution to encouraging voluntary industry measures.

Just how much are Texas politicians willing to bend over to accommodate the state’s leading grandfathered air polluters? Draft recommendations that the House grandfather subcommittee is considering to implement the voluntary CARE program¹² offer some clues. The subcommittee draft seeks to maximize voluntary participation in the CARE program, evidently concluding that the best way to get polluters to enroll is to minimize what the program requires of them.

Polluter-friendly recommendations that the draft entertains include:

- Amnesty programs for polluters who broke Texas law by not disclosing that they retrofitted a grandfathered facility and, therefore, were supposed to get it permitted;
- Tax abatements, with which grandfathered plants that failed to comply

¹² The CARE program (the Texas Natural Resources Conservation Commission’s “Clean Air Responsibility Enterprise Committee”) is charged with developing voluntary responses to the grandfathered air pollution problem.

with the Clean Air Act for 27 years would shift their belated compliance costs to taxpayers;

- Waiving application fees (so taxpayers—not polluters—fund the program);
- “Streamlined” applications that minimize health-effects reviews and sharply curtail public hearings and involvement;
- Complicated pollution-trading schemes, whereby facilities that reduce their emissions beyond what is required get brownie points that they can spend by producing excessive emissions elsewhere.

At the public’s expense, Texas’ grandfathered companies have enjoyed a 27-year pollution bender that was rationalized with the argument that polluters gradually would come into compliance on their own steam. Now it is time to require grandfathered facilities to comply with the Clean Air Act at their own cost; the public has already paid more than its fair share. Few Texas politicians, however are willing to

demand personal responsibility from corporations by forcing grandfathered polluters to comply with a 1971 law. Too many Texas politicians appear to be working for polluters rather than the public. Records filed with the Texas Ethics Commission indicate that—to a large extent—they are.

“Texas’ grandfathered companies have enjoyed a 27-year pollution bender that was rationalized with the argument that polluters gradually would come into compliance on their own steam. Now it is time to require grandfathered facilities to comply with the Clean Air Act at their own cost; the public has already paid more than its fair share.”

VIII. Acknowledgements

This report builds on earlier research. It would not have been possible without the important work of several environmental groups that stepped into the breach created by government inaction, ferreted out grandfathered pollution data and made it available to the public.

The latest such work is *Grandfathered Air Pollution: The Dirty Secret of Texas Industries*, released in April 1998 by the Galveston-Houston Association for Smog Prevention and the Lone Star Chapter of the Sierra Club. The pollution data in this study come from that earlier work, the principal

author of which was Neil Carman, director of the Sierra Club's Texas Clean Air Program.

The Sustainable Energy and Economic Development (SEED) Coalition produced another important study in 1997 entitled *The Granddaddy of All Loopholes*. SEED State Director Peter Altman critiqued a draft of this report.

Dirty Air, Dirty Money represents the collaborative work of Texans for Public Justice's staff: Aimée Daigle, Craig McDonald, Bill Medaille, Fred Richardson and Andrew Wheat.