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## Bayou City Initiative (BCI) Issues Notice of Intent to Sue Union Pacific Over Creosote Contamination in 5<sup>th</sup> Ward and Kashmere Gardens Area of Houston

Today the Bayou City Initiative (BCI), a citizen's group dedicated to neighborhood protection from flooding and hazardous waste, issued a Notice of Intent to Sue against Union Pacific for imminent and substantial endangerment of the community. The site of concern is a registered hazardous waste site within the 5<sup>th</sup> Ward Super Neighborhood near its boundary with the Kashmere Gardens Super Neighborhood.

The notice is filed under Section 7002(a) of the federal Resource Conservation and Recovery Act (RCRA) which allows for citizens to file a suit against a party for the creation of an imminent and substantial endangerment to the community. The basis of concern with the Union Pacific site is hazardous waste contamination from creosote operations on site, including areas contaminated by leakage and spillage if not disposal over the years when Southern Pacific was manufacturing and using creosote on site. Additionally, new information raises the possibility of hazardous waste being imported and used on site as a "creosote extender". These wastes are alleged to have originated from what is today known as the Brio and Motco hazardous waste disposal sites.

"BCI is filing this notice of intent to sue even though a permit proceeding has been ongoing for years at the Texas Commission on Environmental Quality," says Jim Blackburn, President of BCI. "The TCEQ process is quite slow and cumbersome, and several cancer clusters have been identified by the Texas Department of Health. It is time for this process to be expedited and this notice of intent to sue starts the process for a direct filing in federal district court."

According to Bryan French, attorney for BCI, "This citizen suit notice requires that we wait 90 days before filing a federal lawsuit. During that time, we hope to talk with Union Pacific and see if we can get their agreement to move forward on this site in an expedited comprehensive manner."

Blackburn adds that "the City of Houston and Harris County are joining with us on issuing notices of intent to sue. We welcome this show of solidarity with the community that represents a unique coordinated effort to work for the health and safety of those affected. I specifically want to call out Dr. Loren Hopkins of the City of Houston Health Department who has done an excellent job of compiling this information and acting as an advocate for the community. We are all in Loren's debt."

This BCI effort was supported by research and writing from an environmental law class at Rice University led by Jim Blackburn. "The students were really enthralled to have a chance

to work on a real problem in a minority community. They were instrumental in pulling the notice of intent information together and they truly enjoyed the opportunity to work on an environmental justice problem such as represented by this site.”

Among the remedies sought in the notice of intent to sue are prompt remediation and containment and potentially buy-out of the most impacted residences, as well as addressing the flooding problems that bring sheens to the surface after heavy rains.