

This notice is a convenience translation. For the legally binding document, please refer to the original German version which is published on the Internet at <http://www.hv2009.bayer.de/de/gegenantraege.aspx>

[REDACTED]

Bayer Aktiengesellschaft
Gebäude Q 26 (Rechtsabteilung)
Kaiser-Wilhelm-Allee
51368 Leverkusen

March 6, 2009

Countermotion to the Annual Stockholders' Meeting on May 12, 2009

I hereby notify you that I will oppose the proposals of the Board of Management and the Supervisory Board as regards Item 2 of the Agenda, and will induce the other stockholders to vote in favor of the following countermotion:

Countermotion to Item 2: The actions of the members of the Board of Management are not ratified

The BAYER Board of Management continues to stick to its dangerous and unnecessary project to build a carbon monoxide pipeline between the Dormagen and Krefeld plants. Residents and communities along the length of the pipeline are being expropriated by way of compulsory purchase orders even though the project in no way serves the public good.

At the moment, the permit to operate the pipeline has been put on ice because of a judgment by the Higher Administrative Court in Münster. In October 2008, BAYER and the district government therefore submitted a modified version of the criticized planning approval notice. The decisive question nevertheless still exists: Why does *Bayer MaterialScience* not build a modern CO production plant in Krefeld? This would completely eliminate the risks to residents living near the pipeline.

BAYER maintains that "at the Krefeld-Uerdingen site, insufficient carbon dioxide is produced in the chemical production processes for CO production". However, according to the European Pollutant Emission Register (EPER), BAYER emits 1.15 million tons of carbon dioxide in Krefeld, which is around 20x the amount that would be needed for CO production. BAYER representatives argue that the CO₂ generated

in Krefeld is not of the necessary purity. In reality, "scrubbing" of CO₂ is technically not a problem.

Equally unacceptable is the argument expressed in the planning approval notice that the construction of a CO production plant in Uerdingen is "uneconomical because the capacities had already been built in Dormagen." In reality, the contract between the companies BAYER and LINDE to supply the Krefeld plant from Dormagen was signed in December 2004, in other words a year before the relevant legislation to build the pipeline was resolved and more than two years before approval was granted for construction. The building of the CO production capacities in Dormagen without prior approval for the pipeline cannot now be used subsequently as an argument in favor of the pipeline!

BAYER Project Manager Breuer said that "pipelines are the best means of transport from both a safety and an environmental point of view." Breuer suggests that transporting CO by pipeline will render other methods of transport – e.g. by ship or truck – superfluous. This was also stated repeatedly in the Landtag (state parliament) and by representatives of the IG BCE trade union. This argument, however, is simply a smoke screen: At present, there is no significant transport of CO anyway because of the strict safety regulations.

Criticism should also be leveled at BAYER for refusing to guarantee jobs for the Uerdingen workforce, especially the threat to get rid of 150 jobs should the operating license be refused. Only last year, *Bayer MaterialScience* cut around 1,500 jobs despite record earnings of over one billion euros.

The construction of the exceedingly dangerous pipeline is based exclusively on private economic interests, namely the lower costs of the pipeline compared with building a new steam reformer in Krefeld. However, compulsory purchase orders cannot be justified by a company's lower costs but only by benefits for the public at large, if at all. This removes the legal basis for the expropriations.

The citizens' initiatives along the pipeline route have since collected 100,000 signatures opposed to the operation of the pipeline. In view of the many chemical accidents last year – especially in pipelines! – priority must again be given to the safety of the public. The principle that hazardous substances should only be produced at the sites where they are used must be adhered to at all events.

Countermotion to Item 3: The actions of the members of the Supervisory Board are not ratified

The safety situation at BAYER's U.S. facility in Institute, West Virginia, remains critical. Nowhere in the United States are larger quantities of the deadly chemical methyl isocyanate (MIC) produced and stored. Serious accidents occur there on a regular basis. The risks to the workforce and the population are high. For decades, residents have been calling for the hazardous phosgene and MIC tanks to be dismantled.

At last year's Annual Stockholders' Meeting, BAYER CEO Werner Wenning rejected any need for action. He said that the plants conformed to the "latest safety standards" and had an "excellent incident rate".

Despite these mollifications, the next serious accident in the plant happened four months later, on August 28, 2008. In the pesticides production plant, a storage tank exploded and a fire ball a dozen meters tall rose over the building. Two workers lost their lives and thousands of residents were not allowed to leave their houses for several hours. The tremors were felt in a radius of more than 15 kilometers. Eye witnesses talked of "shockwaves like an earthquake". A nearby freeway was closed.

The Occupational Safety and Health Administration (OSHA), after analyzing the incident, criticized "faulty safety systems, significant shortcomings with the emergency procedures and a lack of employee training". In total, OSHA identified 13 serious violations of safety regulations and imposed a penalty of \$143,000.

Kent Carper, President of the administrative district of Kanawha County where the plant is located, sharply criticized BAYER on the night of the accident: "The information we received from the plant was completely worthless." For several hours, the rescue teams had tried to obtain information on the leaked substances, but had been turned away by the gatekeeper (!). In a letter to the state *Chemical Safety Board*, the rescue services complained that they would not have been able to help the residents in the event of an escape of MIC or phosgene. The governor of the state of West Virginia issued an order, specifically on account of this accident, stating that serious incidents have to be reported to the authorities within 15 minutes.

BAYER endeavored to placate everyone after the explosion by maintaining that the large MIC tanks were accommodated in another part of the factory. Only weeks later it emerged that one MIC tank containing up to 20 metric tons of the deadly gas is located above ground less than 20 meters from the explosion. If it had been damaged, the lives of other employees and residents would have been in extreme danger. Although the plant management apologized for the communication breakdowns, the company is still not taking any fundamental consequences, and production based on MIC and phosgene is to continue.

BAYER meanwhile opposes a full clarification of the accident and has especially hired PR consultants and an army of attorneys. A public hearing by the *Chemical Safety Board* scheduled for mid-March was called off following threats from BAYER. Attorneys from BAYER referred to the *Maritime Transportation Security Act* that was passed after September 11 – a law to protect ports and ships, even though the plant is around 500 km from the sea. It is evident that the company intends to use legal tricks to prevent safety problems from being discussed in public. John Bresland, Chairman of the *Chemical Safety Board*, had said he wanted to discuss in particular the safety of the MIC tanks.

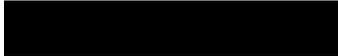
Highly hazardous substances like phosgene and MIC do not belong in mass production, and certainly not in the vicinity of residential areas. The company's practice of preventing public debate through legal loopholes should be condemned.

Ever since the company became established, BAYER has endeavored, by exerting pressure and making threats, to suppress information and – even more – criticism. It uses its economic power indiscriminately in order to protect its profits. The truth and the interests of humans and the environment are left by the wayside.

The Board of Management and the Supervisory Board have not taken any steps to substantially improve the safety situation in Institute or to enlighten the general public. Their actions should therefore not be ratified.

I request notification of this countermotion and the reasons for them pursuant to Sections 125, 126 of the German Stock Corporation Act (AktG).

Signed

A solid black rectangular box used to redact the signature of the author.

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- Coordinadora contra los peligros de la BAYER - Coalition against BAYER-Dangers - Coordination contre les méfaits de BAYER -

Coordination gegen BAYER-Gefahren e.V.

Für Umweltschutz und sichere Arbeitsplätze bei BAYER weltweit!

Coordination gegen BAYER-Gefahren e.V. * Postfach 15 04 18 * D-40081 Düsseldorf

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51368 Leverkusen

March 6, 2009

Countermotion to the Annual Stockholders' Meeting on May 12, 2009

We hereby notify you that we will oppose the proposals of the Board of Management and the Supervisory Board as regards Items 2 and 3 of the Agenda, and will induce the other stockholders to vote in favor of the following countermotions:

Countermotion to Item 2: The actions of the members of the Board of Management are not ratified

Reasoning: The BAYER Group continues to violate the rules of responsible corporate management. The Board of Management bears responsibility for this.

A selection of the most recent examples is given below: Further information can be found on the homepage of the *Coalition against BAYER Dangers* at: www.CBGnetwork.de

- There have been several serious accidents in plastics production at BAYER over the last few years. BAYER now intends to significantly expand production of TDI and MDI at its Dormagen and Brunsbüttel sites. In both cases, phosgene is to be used as an intermediate product. Phosgene is a deadly respiratory poison that was used in the First World War as a poison gas. Both TDI and polycarbonates could be produced without phosgene, and that would be the only way to reduce the risk to nearby residents and the workforce. However, BAYER has not developed such processes to the point where they could be used for production. As the plants have a service life of up to 35 years,

the construction of new ones would mean that this high-risk method of production would remain with us for decades.

- For more than ten years, beekeepers have been pointing out that pesticides are a major risk for honeybees. BAYER maintains, however, that the toxins do not come into contact with the bees at all. In May 2008, there was a catastrophic spate of bees dying in southern Germany. The BAYER active ingredient clothianidin was detected in all the examined bees. The license for the product has since been put on ice in several countries, and in France, clothianidin did not even make it onto the market because of the risk to honeybees. Despite this, the BAYER Board of Management refuses to stop selling the pesticide in Germany, which would be the only way to protect the bee population in the long term.
- Despite the economic crisis, BAYER intends to raise the dividend. It is unacceptable that employees should be forced into short-time working, take compulsory leave and accept wage cuts while the stockholders make no contribution to overcoming the problems. Paying out over one billion euros to the shareholders and, at the same time, allowing 5,500 employees to suffer for the crisis is cynical. The Board of Management must be forced to throw its purely profit-oriented policy overboard in favor of an ecological and socially responsible form of management.
- BAYER is suing the Drugs Controller General of India (DCGI) for having issued a license for the drug Nexavar to the company Cipla. In India, approval can be granted for generic pharmaceuticals even if the original substance is still patent-protected. The idea is that inexpensive substitute products can be launched onto the market immediately a patent expires. Both Indian laws and the international TRIPS agreement on the protection of intellectual property provide for such licenses for generics before a patent expires.
If BAYER won this lawsuit, it would have serious implications regarding access to inexpensive drugs. It would affect not only Indian patients but poor people all over the world, because India is one of the world's largest producers of generics. BAYER evidently wants not only to extend its own patent rights but also to create a precedent. This would delay the use of live-saving generics generally and threaten the lives of thousands of patients.
- The BAYER Group continues to participate systematically in illegal collusion on prices. Recently, BAYER paid a fine of \$97.5 million to the U.S. Department of Justice for the illegal payment of commission for selling glucose monitoring devices. BAYER had bribed eleven U.S. distributors of monitoring devices for diabetes patients to offer only BAYER products. The payments were disguised as advertising expenses.
The *Coalition against BAYER Dangers* has published a list of cartels involving BAYER, which can be found at www.cbgnetwork.de/2355.html. The list, which is inevitably incomplete, contains information on the payment of fines and the duration of the respective agreements.
- Last year, BAYER agreed to cooperate with Cologne University in the field of pharmaceutical research. Richard Pott from the BAYER Board of Management was even elected to the Cologne University Council despite massive resistance by the students. Because BAYER refuses to reveal the content of the cooperation agreement with Cologne University, the conditions of this and many similar

cooperation agreements remain in the dark. It is consequently unclear whether pharmacological studies carried out by Cologne University will in future have to be submitted to BAYER AG before their publication and whether undesirable results will be suppressed. The risk is that science will be completely subordinated to economic interests.

Countermotion to Item 3: The actions of the members of the Supervisory Board are not ratified

Reasoning: The Supervisory Board does not adequately fulfill its functions of overseeing the work of the Board of Management, and its actions should therefore not be ratified. Below are some examples of the irresponsible corporate policy that is tolerated by the Supervisory Board:

- The BAYER herbicide glufosinate is toxic to reproduction and can cause deformities in fetuses. The active ingredient belongs to a group of 22 pesticides that must disappear from the market under the new E.U. pesticide legislation. Despite the proven risk for users and consumers, however, BAYER refuses to halt the sale of the toxic substance. At present, in fact, production is even being extended.
The risks emanating from glufosinate must also have consequences for BAYER's genetic engineering program, which consists almost entirely of glufosinate-resistant seeds. Due to the hazards connected with glufosinate and also because of contamination of other plants by GM crops and the unclarified risks for consumers, BAYER must withdraw glufosinate-resistant seeds from the market. In particular, BAYER must withdraw its application for an E.U. import permit for genetically modified rice.
- The journalist ██████████ worked incognito as a contract worker at BAYER SCHERING. He received an hourly gross wage of 6.24 euros. This pittance was embarrassing even for his supervisor, but he was unable to do anything about it because, he said, production costs had been put under massive pressure since the takeover by BAYER. Initially, contract workers were only hired in bottleneck situations, but they now represent the majority of the people working in the production plant. Numerous permanently employed staff lost their jobs and were then re-hired as contract workers at much lower pay rates. Scared by the negative publicity, BAYER tried to wriggle out of the affair by making a subsequent higher wage payment to ██████████
- BAYER continues to be involved in energy policy decisions that will torpedo climate protection over a period of decades. For example, a coal-fired power plant is to be built at the Urdingen site that will emit 4.4 million metric tons of CO₂ a year. It will be operated by BAYER subsidiary Currenta. New coal-fired power plants are also planned for Brunsbüttel and Antwerp. They will all run on imported coal from overseas.
Centralized electricity production in such gigantic power plants prevents any worthwhile use of the heat generated. More than half the energy produced in Brunsbüttel and Antwerp would simply be wasted. With an expected service life of up to 50 years, the new power plants would prevent a switch to environmentally friendly energy production for two generations. BAYER is thus nullifying its bold promise to "set new standards in climate protection".

- According to a recent study, BAYER markets the largest number of hazardous pesticides. In the study by *Greenpeace*, the products from the five largest agrochemical groups, which account for 75 percent of the world market, were investigated on the basis of environmental and health criteria. 46 percent of the 512 pesticides sold by the companies investigated worldwide pose a particularly serious risk for man and nature.
- BAYER endangers patients through dishonest advertising statements for pharmaceutical products. In the fall, for example, BAYER received warnings from the U.S. health authority FDA over its advertising for two Aspirin combination products. The product "Bayer Heart Advantage" had been marketed as a drug that enabled the reduction of fat levels in the blood and consequently lowered the risk of heart disease. The product "Bayer Woman's" was advertised as combating osteoporosis. No registration exists for either of these indications. BAYER's aim with its Aspirin advertising is to position the product as a universal remedy that is best taken once too often than not often enough. In a current campaign, BAYER even describes Aspirin as a "wonder drug". In so doing, the sometimes serious or even deadly side effects of the product are swept under the carpet. Indeed, because of these side effects, Aspirin should only be taken regularly if advised by a physician.

We request notification of these countermotions and the reasons for them pursuant to Sections 125, 126 of the German Stock Corporation Act (AktG).

On behalf of the Executive Committee of the Coalition against BAYER Dangers

