

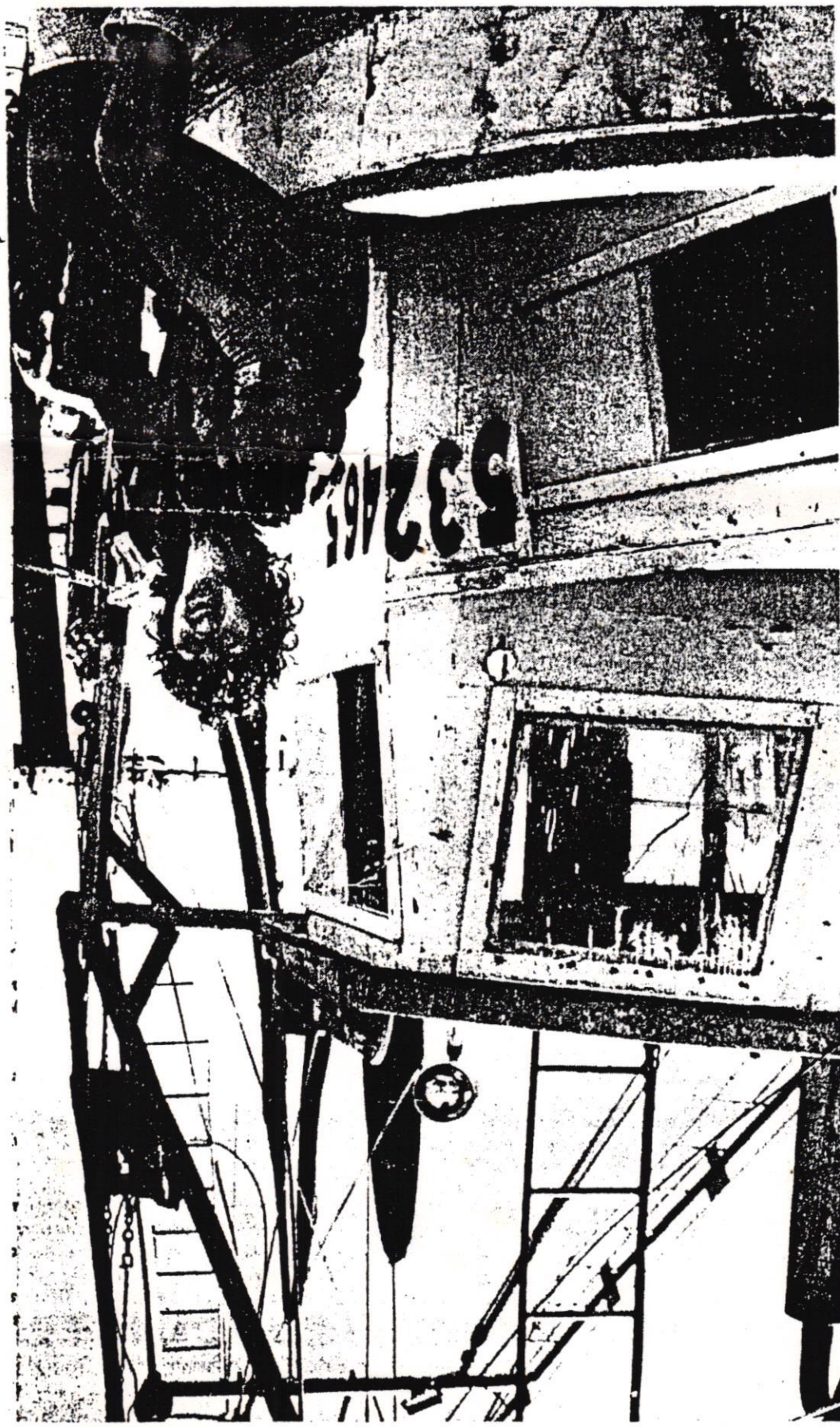
In September, a barge spilled several hundred gallons of ethylene dichloride into a ditch that drains into Cox Bay. Formosa is testing sediment and shrimp samples to determine how far the chemical spread and whether it's entered the food chain.

This summer, the Environmental Protection Agency issued two administrative orders concerning Formosa. One lists 37 wastewater permit violations, with releases ranging from three percent over the limit to almost three times the permit level, plus unreported alterations to the ethylene dichloride unit, which strips the substance from wastewater, and inaccurate calculations of chloroform releases. Sometime this month, the EPA will decide whether a penalty is necessary. The second order is the last of a series of reminders that a new permit application for the old plant is due; Formosa finally submitted the application, several months late. The permits for the old plant and the expansion are being considered simultaneously.

Until recently, another EPA administrative order was pending as well. Since 1987, at the Texas Water Commission's request, the EPA has been considering whether to force Formosa to become certified as a hazardous waste facility. Because such facilities handle and store large quantities of toxic materials, certified plants must train employees for a major fire, designate emergency authority channels, inform local hospitals of the hazardous materials in use, supply local authorities with an emergency contingency plan and demonstrate financial responsibility for any cleanup expenses.

Formosa resists the designation, although the water commission inspector has repeatedly cited them for violations as a hazardous waste facility. Formosa spokesman Joe Wyatt says most of the company's regulatory problems arise from this disputed designation.

"The things that the Water Commission cited us for in June are all [hazardous waste facility] violations," Wyatt says. "The EPA has dismissed the administrative order without prejudice, which would lead me to believe that they don't think we are a [hazardous waste] facility." Wyatt was wrong. On October 3, the EPA hit Formosa with a proposed \$8,331,500 fine, the largest fine ever assessed in the EPA's five-state Region 6. The EPA complaint cited "upsets and accidents" dating back to a 1983 ethylene dichloride spill at the plant, incidents of hazardous waste being stored in "leaking and deteriorating" containers, and 10 counts of failure to comply with the hazardous waste facility law in employee training, record keeping, and inspection. EPA spokesman Roger McEacham acknowledges that similar charges were contained in an earlier administrative order that was dismissed without prejudice, in exchange for more extensive groundwater monitoring by Formosa.



Calhoun County Resource Watch founder Diane Wilson has heard Formosa promises, but says, "I don't trust them."

"Without prejudice" simply means that the action was suspended and could be refilled," he says. "We felt at the time it was more prudent and responsible to assess environmental damage without litigation.

The fines in that earlier administrative order were much smaller — close to \$250,000. In a *Houston Post* story, unnamed Formosa officials speculated that the more recent, much larger fine was a result of adverse publicity Formosa has recently received. McEacham denies this, saying that the fines increased based on information gathered by the EPA and the water commission. "Each count and proposed penalty is based solely on the seriousness of the violation and threat of public harm," he says. Contacted after the EPA's

"They came back at us with the same facts, the same issues, the same violations," he says. And he stresses that the fine is proposed, and could change in negotiations. He adds that the company has not decided whether to request a hearing, separate from the negotiations, to dispute the EPA's allegations. "Chairman Wang wants the company to work with the EPA and resolve these issues to get into compliance," he says.

Jim Blackburn points out that if Formosa had been willing to get into compliance, they could have done so