

***Association of Irrigated Residents
California Environmental Justice Coalition
Center on Race, Poverty and the Environment
Central California Environmental Justice Network
El Pueblo Para el Aire y Agua Limpia de Kettleman City
Greenaction for Health and Environmental Justice***

July 29, 2020

Meredith Williams
Director, Department of Toxic Substances Control

Jared Blumenfeld,
Secretary, California Environmental Protection Agency

**Re: Racial Discrimination in Kern County's Draft EIR Process regarding Clean Harbors
Buttonwillow Landfill**

Dear Director Williams and Secretary Blumenfeld,

We are writing on behalf of our members and constituents who are residents of Kern County, California regarding DTSC/CalEPA's participation in Kern County's defective and racially discriminatory Scoping/Draft EIR process for the Clean Harbors Buttonwillow landfill facility.

DTSC and CalEPA are well aware that Kern County has already violated language access and civil rights of Limited and Non-English speaking Latino residents by failing to translate the Initial Study – the key document that the public is supposed to comment on for the Scoping for the Draft EIR. DTSC is also aware that Spanish speakers were not provided equal opportunities to participate in the July 10th Scoping meeting.

Despite Kern County's flagrant violation of language access and civil rights, on July 23, 2020, DTSC emailed its mandatory internal/external stakeholder email list a copy of the Notice of Preparation for the Clean Harbors Buttonwillow, LLC Facility. The DTSC email Notice states in relevant part (*italics, bold, underline added for emphasis*):

Kern County prepared this Notice of Preparation of a Draft Environmental Impact Report (EIR) for the Clean Harbors Buttonwillow Solid Waste Treatment, Storage, and Disposal Facility. Kern County is the lead agency for compliance with the California

Environmental Quality Act (CEQA) for this project. DTSC is participating in the EIR process as a responsible agency under CEQA. *DTSC plans to use the final EIR as part of its hazardous waste facility permit decision process.* As a responsible agency under CEQA, DTSC is providing the attached Notice of Preparation in English and Spanish to encourage your participation.

We are extremely disappointed and outraged that DTSC states that it “plans to use the final EIR as part of its hazardous waste facility permit decision process.”

That statement in DTSC’s Notice directly contradicts assurances from DTSC staff that it had not yet decided whether it would use the EIR unless and until it determined the process was fair and non-discriminatory. It is now quite clear that Kern County’s process is racially discriminatory and clearly violates language access laws and policies.

It is unacceptable that DTSC would tell us one thing and then do another, and it is also unacceptable that DTSC intends to use the County’s racially discriminatory EIR process in its own permit process.

We apparently need to remind DTSC and CalEPA that as signatories to the 2016 Title VI Civil Rights Settlement with El Pueblo and Greenaction, your agency committed to uphold language access and civil rights in permit processes. The Settlement contains the following commitments (and others) that are directly relevant to this situation:

- “DTSC and CalEPA are committed to carrying out their responsibilities in a nondiscriminatory manner, in accordance with the requirements of Title VI and U.S. EPA implementing regulations.”
- “DTSC and CalEPA are committed to provide meaningful opportunities for public input, including language access...”
- “Civil Rights Compliance: Applicable state and federal civil rights requirements will be complied with during DTSC’s permitting process for hazardous waste disposal facilities and during regulatory oversight of facilities under its jurisdiction.”

DTSC/CalEPA’s use of Kern County’s racially discriminatory EIR process would be an act of environmental racism and would violate the Civil Rights Settlement and civil rights and language access laws and policies.

We are therefore united in our demand that the Department of Toxic Substances Control and California Environmental Protection Agency immediately inform Kern County that you will not use the racially discriminatory Scoping and Draft EIR process currently being conducted by

Kern County. DTSC/CalEPA must without delay begin its own EIR process for the Clean Harbors Buttonwillow facility permit application.

Please respond within two weeks, in writing, to our demands. We would also request that you agree to a conference call about these issues this week.

For environmental justice,

Bradley Angel, Executive Director, & Miguel Alatorre, Community Organizer/Policy Advocate,
Greenaction for Health and Environmental Justice

Maricela Mares Alatorre, Coordinator, El Pueblo Para el Aire y Agua Limpia/People for Clean
Air and Water of Kettleman City

Caroline Farrell, Executive Director, Center on Race, Poverty and the Environment

Nayamin Martinez, Director, Central California Environmental Justice Network

Tom Frantz, President, Association of Irrigated Residents

Thomas Helme, Coordinator, California Environmental Justice Coalition