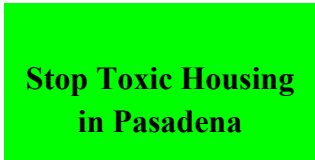




# CENTRAL CALIFORNIA ENVIRONMENTAL JUSTICE NETWORK





**Bayview Hunters  
Point Mothers and  
Fathers  
Committee**

***El Pueblo Para el Aire  
y Agua Limpia/People  
for Clean Air and  
Water***



May 5, 2021

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Submitted via email

**RE: Opposition to raising fees at the Department of Toxic Substances Control before holding DTSC accountable for meeting its basic obligations and ensuring compliance with civil rights and environmental justice laws and policies**

Dear Governor Newsom, President pro Tempore Atkins, and Speaker Rendon:

We the undersigned community and environmental justice organizations call on you to take comprehensive action to ensure that the Department of Toxic Substances Control (DTSC) finally starts carrying out its mission to protect public health and the environment and complies with state and federal civil rights and environmental justice laws and policies.

DTSC needs fundamental change, not just more reports and plans that are never implemented. This broken agency has a well-documented and very long track record of failing to protect communities impacted by hazardous waste. Despite years of concerted efforts both by the legislature and by advocates to push for changes at DTSC, we have seen no improvement in DTSC's ability and/or willingness to meet its most basic obligations.

As the administration grapples with how to ensure that DTSC has the funding needed to support its mission, we cannot afford to lose sight of the fact that a lack of funds contributes to--but is not the cause of--DTSC's long-recognized failures.

DTSC continues to engage in lax and racially discriminatory oversight of hazardous waste facilities and inadequate cleanup of contamination sites in low income, working class, and people of color communities disproportionately impacted by pollution.

**Key concerns include:**

- **Enforcement of permit violations** is extremely lax and violations are not adequately punished.
- The state's two hazardous waste landfills (Kettleman Hills and Buttonwillow) are allowed to operate for many years on **expired permits** that were originally issued with racially discriminatory processes in these Spanish-speaking farmworker communities. Many other hazardous waste facilities similarly operate on expired permits in communities of color. DTSC ignores community demands to shut these facilities and conduct proper and non-discriminatory permit processes if the companies want to resume operations;
- DTSC abandoned its commitment to implement a strong **Hazardous Waste reduction plan** to reduce the amount of toxic waste generated in the state and disposed of at the Kettleman Hills and Buttonwillow landfills – perpetuating the racially discriminatory siting and disposal of hazardous wastes in vulnerable communities of color;
- Residents continue to be at risk due to DTSC's **refusal to conduct comprehensive and safe cleanup of contamination sites**, including at Exide, Pure-Gro (Brawley), Treasure Island, Bayview Hunters Point, Richmond, and many dozens of other contaminated sites. Exide is a significant example of how DTSC-lead efforts go poorly, yet it is not the only example of DTSC's ongoing failure to ensure contaminated sites are clean and safe for reuse. For example, DTSC makes the unacceptable claim that it is safe for low income people of color in subsidized housing to live literally on top of or feet from radioactive and toxic waste on Treasure Island. In defiance of the state's own scientific projections of sea-level rise caused by climate change, DTSC supports leaving radioactive and toxic waste buried at the shoreline of San Francisco Bay in environmental justice communities, where the contamination will likely be inundated and flooded in the coming decades;
- DTSC has consistently flouted its environmental justice mandate and is violating the civil rights of those disproportionately impacted by environmental harms caused by poorly regulated hazardous waste facilities and contaminated sites. For example, DTSC has failed to fully comply with the 2016 Kettleman City Title VI Civil Rights Settlement, including failing to adopt regulations to consider cumulative impacts in permit decisions.

Because of DTSC's long, well-documented history of dysfunction, community members whose health is being impacted by toxic exposures, and their allies, we oppose increasing fees or taxes

before there is a clear plan for how DTSC will build effective regulatory and clean-up programs that center protecting front-line communities. Further, we are horrified by the idea that DTSC would receive \$300 million for site investigations and remediation because we know--based upon DTSC's record to date--that DTSC lacks the commitment to protection of public health which is necessary to properly and effectively spend that money. This includes addressing the critical question of "how clean is clean."

### **A Community-Centered Path Forward: Real Community Oversight**

Communities directly affected by hazardous waste facilities and toxic sites are most impacted by contamination and have the greatest interest of all in ensuring that DTSC is successful in its mission. For this reason, these communities should be centered in efforts to build an inclusive and just Path Forward for identifying DTSC's priorities and developing a plan for reform. Frontline environmental justice communities require a seat at the decision-making table and must be meaningfully engaged in the discussions that lead to decisions that impact their health and the lives of their families. Environmental justice "seats at the table" cannot be token in an industry-dominated oversight board or committee.

### **Moving Forward for DTSC to Comply with its Mission, Civil Rights and Environmental Justice:**

It will be instrumental to the success of DTSC to have full Environmental Justice participation and immediately begin real compliance with civil rights and environmental justice laws and policies as DTSC "reform" efforts move forward. As such, we call upon the administration to:

- require DTSC to explicitly and completely comply with civil rights laws and environmental justice policies in all their regulatory and permit actions and decisions, including compliance with all provisions of the Kettleman City Title VI Civil Rights Settlement;
- establish a stakeholder process that centers front-line communities in decision-making about DTSC's priorities, planning, funding, and executing its mission;
- establish legislative oversight and strict accountability requirements over DTSC;
- develop a report that fully identifies and reviews all of DTSC's obligations under state and federal law to facilitate a full discussion with stakeholders, including the legislature, about what, and how, DTSC should focus its resources and what level of funding is needed to allow DTSC to meet all of its obligations;
- require DTSC to develop and comply with metrics of success and other accountability measures before settling on the proper level of funding is for the agency;
- commit to meeting DTSC's funding needs using an appropriate balance of the polluter-pays principle and general fund or other revenue streams.

Authorizing more funding coupled with promises from DTSC that this time will be different is not enough.

We look forward to working with you to ensure that DTSC can be successful in fulfilling its critically important mission "to protect California's people and environment from harmful effects of toxic substances by restoring contaminated resources, enforcing hazardous waste laws, reducing hazardous waste generation, and encouraging the manufacture of chemically safer products.

Sincerely,

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Eduardo Guevara

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**Promotores Comunitarios del Desierto**

Chiriaco Summit, CA

**El Pueblo Para el Aire y Agua**

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Senate Committee on Environmental Quality:

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Senator Patricia C Bate (Vice Chair)  
Senator Brian Dahle  
Senator Lena A Gonzalez  
Senator Nancy Skinner  
Senator Henry I. Stern  
Senator Bob Więckowski

Senate Budget Sub. 2 on Resources, Environmental Protection and Energy:

Senator Bob Więckowski (Chair)  
Senator Brian Dahle  
Senator Mike McGuire  
Senator Henry I. Stern

Assemblymember Cristina Garcia, 58th District

Assembly Committee on Environmental Safety & Toxic Materials

Assemblymember Bill Quirk, Chair  
Assemblymember Thurston "Smitty" Smith (Vice Chair)  
Assemblymember Dr. Joaquin Arambula  
Assemblymember Rebecca Bauer-Kahan  
Assemblymember Megan Dahle  
Assemblymember Chris R. Holden  
Assemblymember Devon J. Mathis  
Assemblymember Al Muratsuchi

Assembly Budget Sub. 3. Climate Crisis, Resources, Energy, and Transportation:

Assemblymember Richard Bloom (Chair)  
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