

**Kettleman City, Buttonwillow,
and Out-of-State Solid Waste Landfills:**

**Racial Discrimination, Expired Permits, Civil Rights
Violations, & Regulatory Malpractice by the
Department of Toxic Substances Control in
California's Failed Hazardous Waste Program**

Greenaction for Health and Environmental Justice

El Pueblo Para el Aire y Agua Limpia/People for Clean Air and Water of Kettleman City

Background and Data Sources

- Chronology of Permitting and Regulatory Malpractice in California's Hazardous Waste Program
 - Data Source: DTSC's EnviroStor Database
- Impacted Communities of Kettleman City and Buttonwillow
 - Data Source: CalEPA's CalEnviroScreen 4.0
- Community Knowledge and Experience
- 2016 Kettleman City Title VI Civil Rights Settlement
- Communities in Arizona and Utah Impacted by Out-of-State Dumping
 - Data Source: U.S. EPA's EJ Screening & Mapping Tool; DTSC Workshops on Manifested Hazardous Waste
 - "Out of State, Out of Mind" by investigative journalist Robert Lewis/CalMatters, published January 25, 2023

Environmental Racism & Pro-Polluter Policies and Practices = Business as Usual at DTSC

DTSC's permit and regulatory policies, practices and decisions regarding the Kettleman Hills and Clean Harbors Buttonwillow hazardous waste landfills violate:

- state and federal **civil rights & language access** laws and policies
- the 2016 Kettleman City **Title VI Civil Rights Settlement**
- **Senate Bill 673** requirement to adopt cumulative impact criteria
- DTSC/CalEPA's responsibility to properly oversee and implement the state's hazardous waste management program under the **Resource Conservation and Recovery Act** in a non-discriminatory and proper manner.

Permitting & Regulatory Malpractice

The state's two hazardous waste landfills are being allowed to operate literally forever on

Expired Permits issued with racially

discriminatory processes including

English-only permit processes and police

intimidation of residents

Kettleman City Title VI Civil Rights Complaint

- In 2015, Greenaction for Health & Environmental Justice and El Pueblo Para el Aire y Agua Limpia/People for Clean Air and Water of Kettleman City filed an administrative federal Title VI Civil Rights Complaint against DTSC and Cal EPA.
- The complaint alleged there was **racial discrimination against the Latino/a Spanish speaking residents of Kettleman City** in the DTSC permit process that led to the expansion of the Kettleman Hills hazardous waste landfill.
- **USEPA Office of Civil Rights** accepted the complaint for investigation.

Kettleman City Title VI Civil Rights Settlement

- **Historic civil rights settlement reached August 2016 after 7 months of federal mediation.**
- Helped bring **clean drinking water** to Kettleman City
- **Applies statewide** to permitting and regulatory oversight of facilities under DTSC's jurisdiction – **including the landfills in Kettleman City and Buttonwillow**
- Requires **compliance with civil rights and language access policies**

Violation of Civil Rights Settlement & SB 673

- Required DTSC to “no later than January 1, 2018” to adopt criteria for permit issuance. “DTSC shall consider criteria that will include the assessment of vulnerability and existing health risks using available tools, such as CalEnviroScreen....and other appropriate determinations or assessments, including cumulative impact analysis...”
- **FIVE YEARS LATER, DTSC has still failed to adopt cumulative impact criteria as required by state law (SB 673) and by the 2016 federal civil rights settlement**

CalEnviroScreen 4.0 Results

- Kettleman City ranks in the 92nd percentile on CalEnviroScreen and has a higher pollution burden than at least 80% of California
- Buttonwillow ranks in the 96th percentile on CalEnviroScreen and has a higher pollution burden than 96% of California

Expired Permits for Hazardous Waste Facilities in highly vulnerable people of color communities

- Waste Management's Kettleman Hills Facility
 - Permit issued nearly 20 years ago in 2003
 - **Permit expired June 30, 2013 – 9 ½ years ago**
- Clean Harbors Buttonwillow Facility
 - Permit issued over 26 years ago in 1996
 - **Permit expired April 6, 2006 – 17 years ago**

Notices of Deficiency in Permit Renewal Applications

As both Chem Waste and Clean Harbors were issued **FOUR Notices of Deficiency**, **DTSC should have started denial of permit application process**, yet DTSC has not done so.

The 4th NODs are not clearly listed on Envirostor for either facility.

Chemical Waste Management Kettleman Hills Facility

- **DTSC issued FOUR Notices of Deficiency** to the company in response to its permit renewal application

Clean Harbors Buttonwillow Facility

- **DTSC issued FOUR Notices of Deficiency** to the company in response to its permit renewal application

Notices of Deficiency:

Clean Harbors Buttonwillow Facility

- **First NOD: January 19, 2007**
- **Second NOD: October 4, 2007**
- **Third NOD: May 11, 2018**
- **Fourth NOD: May 11, 2018**

CWM Kettleman Hills Facility

- **First NOD: November 18, 2016**
- **Second NOD: November 6, 2017**
- **Third NOD: March 29, 2019**
- **Fourth NOD: June 3, 2020**

Data Analysis of Permitting & Regulatory Malpractice: CWM Kettleman Hills Facility

Chemical Waste Management Kettleman Hills Permit Renewal Application Process Data Source: DTSC EnviroStor database

Multi-Year Gaps in Permitting Process	Five (5) multi-year gaps in the permit renewal application process on behalf of both DTSC and the company, resulting in about 7.5 years worth of delays
Notices of Deficiency Issued to the Facility	DTSC issued four (4) Notices of Deficiency to the company in response to its permit renewal application
DTSC Missed Deadlines in Responding to Permit Renewal Application Materials	DTSC missed five (5) deadlines
Facility Missed Deadlines in Submitting Application and Responding to Notices of Deficiency	CWM missed two (2) deadlines
Extensions Granted by DTSC for Polluters to Respond to NODs	DTSC granted two (2) extensions to respond to NODs, resulting in over 6 months of further delays

Data Analysis of Permitting & Regulatory Malpractice: Clean Harbors Buttonwillow Facility

Clean Harbors Buttonwillow Permit Renewal Application Process

Data Source: DTSC EnviroStor database

Multi-Year Gaps in Permitting Process

Six (6) multi-year gaps in the permit renewal application process on behalf of both DTSC and the company, resulting in **nearly 16 years worth of delays**

Notices of Deficiency Issued to the Facility

DTSC issued **four (4)** Notices of Deficiency to the company in response to its permit renewal application

DTSC Missed Deadlines in Responding to Permit Renewal Application Materials

DTSC missed **five (5)** deadlines

Facility Missed Deadlines in Responding to Notices of Deficiency

Clean Harbors missed **three (3)** deadlines

Out-of-State Dumping on Vulnerable Communities

The environmental justice movement strongly opposes the practice of sending **California's non-RCRA hazardous waste for disposal in several solid waste garbage landfills in Utah and Arizona** that are not properly licensed hazardous waste facilities and which are primarily located in or near low-income and working-class communities and Native Nations.

- **East Carbon, Utah:** ECDC Republic Services Landfill
Largest out-of-state receiver of CA hazardous waste according to DTSC
- **Parker, Arizona:** Republic Services La Paz County Landfill
- **Maricopa, Arizona:** Butterfield Station Waste Management
- **Yuma, Arizona:** CR&R Inc. South Yuma County Landfill

Conclusion

State and federal agencies must immediately stop allowing the large hazardous waste landfills in Buttonwillow and Kettleman City to keep operating on expired permits that were issued decades ago with racially discriminatory processes. New permits must be denied.

DTSC must close all hazardous waste facilities operating on expired permits in heavily impacted low income, working class, and communities of color.

After decades of these communities being industry's dumping ground, it is time for the government and industry to reduce the amount of toxic waste generated, and to work to find safer alternatives than landfills and incineration.

Environmental Justice Policy Recommendations

1. **STOP** dumping on Kettleman City and Buttonwillow; no new permits!
2. DTSC must immediately comply with civil rights laws and the Kettleman City Title VI Settlement
3. DTSC must adopt criteria to consider cumulative impacts in permit decisions
4. Hazardous waste facilities operating on expired permits must be closed immediately
5. California hazardous wastes must not be shipped to out-of-state solid waste landfills
6. Waste that cannot be safely treated on site must be disposed of in a properly licensed facility; Incineration is not acceptable
7. DTSC must prioritize and fund a major Hazardous Waste Reduction effort
8. Contaminated sites in communities must be properly and safely remediated
9. The state and federal government must increase research and funding for non-landfill, non-incineration treatment technologies such as; Supercritical Water Oxidation



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