



Department of
Toxic Substances
Control



DTSC Exide Cleanup Update

Presentation to the Board of Environmental Safety
April 27, 2023



For today

Meredith Williams

- A new model for engagement
 - Public meetings
 - Local government
 - Community-based organizations
- Stakeholder and BES inquiries
- Parkways

Todd Sax

- Resetting Exide decision-making processes

Foundational principles

- Bring the community voice into decision making
- Increase transparency
- What got us here, won't get us where we want to go
- Listen to understand:
 - Residents – owners and renters
 - Community based organizations
 - Elected officials
 - Workers
 - Labor leaders

What it looks like so far

- Paused contract solicitation
- Community meetings
- Local government
- Community-based organizations
- New tools and technologies

BES inquiries

- Questions received from
 - Ombuds
 - BES members
 - Rania Sabty
 - Pete Reyes
- DTSC preparing detailed responses

BES inquiry topic areas

- Worker safety & safety protections
- Contractor conduct & working conditions
- Work quality
- Pace of cleanup/property scheduling
- Exide Technologies Advisory Group
- Facility cleanup and end use
- Trees
- PIA
- Resident communications/tenant issues
- Complaint system
- Confirmation sampling
- Wyvernwood
- WERC program
- NPL listing process
- Cleanup process/Cleanup workplan
- DTSC staffing
- Blood lead level testing



Parkways: Legislature request for information

1. Estimated cost to cleanup parkways for 80 ppm cleanup
2. Parkways cleanup integration with residential parcels cleanup
3. Lead-Acid Battery Cleanup Fund revenues

April 18, 2023

Dr. Meredith Williams, Director
Department of Toxic Substances Control
1001 I Street
Sacramento, CA 95814

Dear Dr. Williams:

We, the undersigned Legislators, would like to request additional information to better inform funding decisions in this year's State Budget to fund the cleanup of parkways around Exide Technologies' (Exide) that have been contaminated by lead. To date, we have made significant investments to complete remediation work to improve the quality of life for residents in Los Angeles with the health of our communities being the priority, but more work needs to be done.

As you know, the former plant operated for more than 100 years as a lead acid battery recycling facility but went bankrupt in 2020 and abandoned its full liability for cleanup of the site and surrounding residential areas. The pollution Exide recklessly released into the surrounding area has left generations of Los Angeles County residents impacted by toxic lead levels.

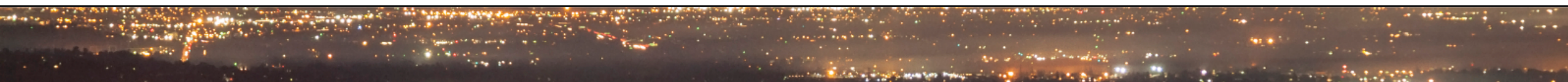
In 2018, in response to community concerns that parkways had been left out of the initial residential cleanup plan and analysis, the Legislature allocated funding to the Department of Toxic Substances Control (DTSC) to specifically sample 8,000 parkways and to characterize that lead contamination. With the sampling and site characterization now complete, we believe it is critical to identify funding for the cleanup of the parkways so it is done alongside other residential cleanup efforts. An additional appropriation will allow the parkways to be cleaned without impacting the funding available for cleaning residential parcels. In that effort, we request that DTSC provide the following information to the Legislature as part of the Governor's May Revise:

1. What is the estimated cost to cleanup parkways using the same standard as the residential parcel cleanup (80 parts per million of lead)?
2. If the Legislature appropriates funding for the cleanup of parkways in this year's budget, how will DTSC integrate this cleanup effort alongside the cleanup of residential parcels?
3. What are the anticipated revenues to the Lead-Acid Battery Cleanup Fund (LABCF) for the next three years? Are these anticipated revenues, in addition to the existing balance, sufficient to cover the cost of cleaning the parkways and other anticipated lead cleanup efforts?



Resetting Exide Decision-Making Processes

Current Status and Next Steps



Outline

- Concerns raised to DTSC
- Building collaborative decision-making
- Current status
- Potential approach for workforce, health and safety, contract issues
- Next steps

Overview of Concerns – Quality of Cleanup

- Quality of cleanup is not sufficient
 - Removal Action Plan protocols leave lead in place;
 - Quality varies across work crews and subcontractors.
- Potential for cross-contamination from non-remediated areas.
- Removal Action Protocols not health protective.

Overview of Concerns – Communications and Health

- Tenant Issues
 - Tenants do not receive communications
 - Distant owners leave lead in place, which exposes tenants who have no choice but to receive exposure
- Communications
 - Not adequate – frequency, quality, etc.
- Community Health
 - Cumulative impacts
 - Cancer and other health impacts

Overview of Concerns - Workforce

- Workers are afraid to speak up; fears of retaliation.
- Nepotism and favoritism.
- Work isn't being done properly on some properties.
- People designated as WERC participants don't meet requirements.
- Workers are not fully trained.

Overview of Concerns – Health and Safety

- Worker protections not being followed.
- More oversight needed to ensure H+S protections.
- Worker protections not adequately protective.
- DTSC should meet new Cal/OSHA standard under development.
- Workers bringing lead home on clothes to family.
- Workers over-exposed to lead.

Additional Points Made to DTSC

- Need to align incentives
 - The further away DTSC is from workers, the harder it is to oversee the work
 - Contractors should be incentivized for quality and safety
 - Workers need to feel safe to report injuries and near-misses
- Workers may need retraining to break ingrained habits
- Need for increased worker lead monitoring and PPE requirements
- Refresh local hire program and ensure local workers are local

Outline

- Concerns raised to DTSC
- Building collaborative decision-making
- Current status
- Potential approach for workforce, health and safety, contract issues
- Next steps

Concept for Collaborative Decision-Making

- Working group
 - Initially convened by CalEPA
 - Collaboration to develop approaches to improve the program
- Selected approaches vetted through public meetings
- Commitment to address issues as thoroughly and quickly as possible
- Legally DTSC must make final decisions

Decision-Making Requirements

- Must be a good steward of limited fiscal resources.
- Must be fiscally responsible.
- Must meet encumbrance deadlines and follow legal requirements.
- Must meet work deadlines and keep work moving.
- Unions have a say in requirements that apply to them.
- Must keep local governments up to date.
- Decisions must be publicly-vetted for transparency.

Overview

- Integrate new concepts for worker protections, monitoring work quality, and other requirements for performance under the new solicitation.
- Temporarily Extend NEC contract with new requirements to address concerns to the maximum extent practical.
- Implement new studies to assess quality of work, residual health risk, and potential for recontamination; full confirmation sampling only if proven necessary.
- New communication processes
- Identify and implement ways to protect tenants.

Working Group Status

- Meetings
 - 3/25/2023 – Overview
 - 4/26/2023 – Workforce Issues
 - 4/12/2023 – Health and Safety Issues
 - 4/24/2023 – Update on Public Meeting and Contract Issues
- Public Meeting – 4/20/2023

Timeline for Discussions

Week of	Topic
April 26	Last day for public comment on solicitation
May 1	Decision on contract issues
May 8	New Studies
May 15	New Studies
May 22	Communications / Tenant / Health Approaches. New contract solicitation released.
May 29	Communications / Tenant / Health Approaches
June 5	Finalize Communications Plan and Health Convening Approach

Anticipate regular meetings throughout the remainder of the project

Outline

- Concerns raised to DTSC
- Building collaborative decision-making
- Current status
- Potential approach for workforce, health and safety, contract issues
- Next steps

Current Progress

- Goal – 5,940 properties by 3/31/2025
 - Current progress: 4,581 properties
- 25 crews (5 workers each) will be reduced to 20 crews on 5/1/2023
 - Goal is to preserve all WERC participants without layoffs
 - Non-WERC workers who are laid off are sent back to the Union for reassignment

Immediate Workforce Issue – Workplace Culture

- 4/19/2023 - SF&S worker removed from the site
- 4/20/2023 – Allegations of retaliation related to worker removal
- 4/21/2023 – DTSC meeting with SF&S to reinforce work expectations
- 4/25/2023 – Attorney General assigned to investigate
 - Direct issue of worker threats and retaliation
 - Broader issue of workplace culture on the site
 - Results will be used to improve work environment at all sites.

Current Contracting Approach

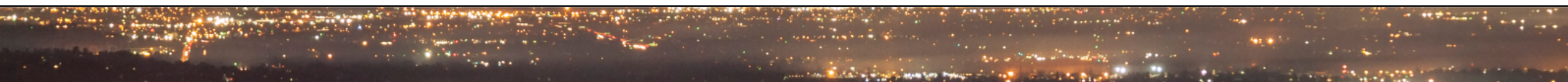
- NEC Contract extension executed for 350 properties and 20 field crews.
 - Will address workplace culture and health/safety issues through task orders and independent processes
- Current bid solicitation for 1,440 properties cancelled
 - Need contract and independent processes to address concerns
- New solicitation with public input incorporated to be released May 22nd, awarded in October. Will cover 1,090 properties.

Outline

- Concerns raised to DTSC
- Building collaborative decision-making
- Current status
- Potential approach for workforce, health and safety, contract issues
- Next steps

Overview of Potential Approach – Workforce, H&S

- Third party investigation process
- Refresh WERC program
- Standardizing health and safety plans // operational protocols
- Build a model health and safety program
- Expand transparency
- Post removal confirmation sampling



Third Party Investigation Process

- Why – ensure investigation process for worker complaints, which allows for anonymous reporting when necessary
- Potential approaches
 - Attorney General referrals
 - Build on existing DTSC hotline
 - Leverage local and union resources

Refresh WERC Program

- Why –WERC program not meeting original objectives
- Potential approaches
 - Require increased reporting to ensure local workers qualify
 - New training cohort
 - Revisit program requirements

Standardized Plans and Protocols

- Why – Concern that health and safety / operational approaches and plans are not consistent or comprehensive.
- Potential approach
 - Review health and safety plan and ensure compliance across all subcontractors
 - Develop operational protocol applicable to all subcontractors
 - Require consistent training for all workers

Build a Model Health and Safety Program

- Why – Stakeholders concerned that current health and safety plan is not protective.
- Potential approaches
 - Ensure compliance with Cal/OSHA amendments to lead standard
 - Require near-miss reporting
 - Increase training frequency and quality
 - Increase DTSC inspections using more robust checklists
 - Evaluate PPE requirements
 - Consider increasing frequency of worker blood lead monitoring

Expand Transparency

- Near-miss reports in addition to reportable and recordable incidents
- All work plans and protocols
- DTSC actions in response to complaints or third-party investigations
- DTSC site inspection results
- Air monitoring data in electronic format
- Distribution of worker lead exposure and area-wide monitoring results
- Distribution of worker blood lead monitoring results

Post Removal Confirmation Sampling

- Proposal going forward
 - NEC contract and new solicitation – post removal confirmation sampling at all sites subject to removal action in future.

Outline

- Concerns raised to DTSC
- Building collaborative decision-making
- Current status
- Potential approach for workforce, health and safety, contract issues
- Next steps

Potential Inclusion in Contract Solicitation by 5/22/2023

- Increased training frequency and quality
- PPE issues – boots and clothing as applicable
- Local worker verification
- Ability to require use of standard plans and protocols
- Near-miss and electronic data reporting timely
- Increased frequency worker blood lead monitoring
- Post removal confirmation sampling

Issues to be Addressed

- Quality of cleanup issues
- Tenant issues
- Communications
- Community health

Next Steps

- Last day for public comment 4/26/2023
- Solicitation released to public 5/22/2023
- Regular working group meetings weekly
- Additional public workshops
- Updates to the Board