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Meeting Agenda

Thursday, September 7, 2023, 9:00 A.M.

CalEPA Headquarters (1001 I Street, Byron Sher Auditorium, 2nd Floor, Sacramento 95814)

Zoom - <https://csus.zoom.us/j/85325846108>

Call-In Number (English): (669) 900-6833; Meeting ID: 853 2584 6108

Call-In Number (Spanish): (916) 535-0993; Phone Conference ID: 168 482 728#

Meetings of the Board of Environmental Safety (BES) are open to the public except when specifically noticed otherwise in accordance with the Bagley-Keene Open Meeting Act. The Board may take action on any item listed on the agenda, unless listed as informational only. Time is approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. This meeting may be cancelled without notice.

Board meeting will begin at 9:00 A.M. Agenda item #8 – Public Forum, will start at approximately 2:05 P.M.

- 1. Call to Order, Roll Call and Establish Quorum**
- 2. Welcome and Opening Remarks, Board Chair Report**
- 3. Executive Officer Report, Future Agenda Items**

- a. BES Budget Update
- b. Hiring update
- c. Upcoming Board meetings

- 4. Fee Setting – Review, Discussion and Action**
- 5. Hazardous Waste Permit Appeal Update**

Informational status update from BES staff regarding current status of pending permit appeals:

- a. Lighting Resources, LLC - operating permit appeal status update
- b. Ecobat Resources, Inc. - temporary authorization appeal status update, Board discussion and Q&A

- 6. DTSC Leadership Report**

- a. Annual Priorities Update
- b. Exide Update
- c. Additional updates

- 7. DTSC Budget Update**

- 8. Public Forum**

Any member of the public may address and ask questions of the Board of Environmental Safety (Board) relating to any matter within its jurisdiction provided the matter is not on the agenda or pending before the Board. Note that the Board may not discuss or take action on any matter raised during the public forum period, except to decide whether to place the matter on the agenda of a future meeting.

- 9. Santa Susana Field Laboratory Program Environmental Impact Report (PEIR) Presentation**
 - a. Presentation by DTSC
 - b. Presentation by Parents against Santa Susana Field Lab
- 10. Review, Discussion and Possible Approval of Minutes – June**
- 11. Review of Action Items**
- 12. Closing Remarks and Adjournment**

California Board of Environmental Safety

ISSUE MEMORANDUM

DATE	September 7, 2023
TO	Members, California Board of Environmental Safety
FROM	Swati Sharma, BES Executive Officer
SUBJECT	Agenda Item 3 – Executive Officer Report

Update on BES Budget, Hiring, and Upcoming Board meetings.

Board of Environmental Safety
Executive Officer Report
Swati Sharma
INFORME DEL DIRECTOR EJECUTIVO

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Budget Expenditures- 22/23
Gastos Presupuestarios 22/23

Through end of August	Hasta fines de agosto
• Total Budget- \$2,760,000	• Presupuesto total- \$2,760,000-
• Total Board expenditures- \$1,465,245	• Gastos de la Junta- \$1,465,245
• Total remaining budget- \$1,294,000	• Presupuesto total- \$1,294,000

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Budget 23/24	Presupuesto 23/24
<ul style="list-style-type: none"> • Authorized for 5 board members and 12 staff positions • Total Budget-\$2.816 million <ul style="list-style-type: none"> • \$2.536 million for personnel services • \$280,000 for general expenses 	<ul style="list-style-type: none"> • Autorizado para 5 miembros de la Junta y 12 puestos de personal • Presupuesto total-2.816 million <ul style="list-style-type: none"> • \$2.536 millones por servicios de personal • \$280,000 gastos generales

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Hiring	Contratación
<ul style="list-style-type: none"> • Environmental Program Manager 1 • Upcoming positions that we anticipate <ul style="list-style-type: none"> • Senior Environmental Scientist • Service Staff Manager 1- Supervisor 	<ul style="list-style-type: none"> • Gerente de Programa Ambiental I • Próximas contrataciones <ul style="list-style-type: none"> • Científico Ambiental Principal • Gerente de servicios al personal - Supervisor I

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2024

Upcoming Board Meetings	Próximas reuniones de la junta
January 17 th -18 th	17-18 de enero
February 28 th -29 th	28-29 de febrero
April 17 th -18 th	17-18 de abril
May 22 nd -23 rd	22-23 de junio
July 17 th -18 th	17-18 de julio

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California Board of Environmental Safety

ISSUE MEMORANDUM

DATE	September 7, 2023
TO	Members, California Board of Environmental Safety
FROM	Swati Sharma, BES Executive Officer
SUBJECT	Agenda Item 4 – Fee Setting

Fee Setting – Review, Discussion and Action.

FEE SUBCOMMITTEE PROPOSAL FOR FULL BOARD REVIEW

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Fee Subcommittee Members

- Board Chair - Jeanne Rizzo
- Board Member - Sushma Bhatia
- BES Staff Support:
 - Executive Officer - Swati Sharma
 - Board Counsel - Greg Forest
 - Board Senior Engineer - Linda Ocampo

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DTSC Financial Team

- DTSC Chief Financial Officer - Brian Brown
- Fiscal Policy and Process Improvement Manager - Kaytherine Grant

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BES Authority & SB158 Context

- Prior to SB 158, the fee rate setting process was set in statute by the Legislature. SB 158 changed the base fee rates for the first time since the 1990's.
- SB 158 (2021) restructured and raised fees that fund DTSC:
 - Generation and Handling Fee \$49.25 per ton
 - Facility Fee with tiered rates
 - Environmental Fee (Tax) with tiered rates

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Type of Facility	2022-23 Actual Fee Rates	Estimated Fee Payers
1. Disposal Facility	\$949,100	3
2/3. Large Onsite/Offsite Treatment Facility	\$284,730	20
4. Small Treatment Facility	\$189,820	9
5. Mini Treatment Facility	\$47,455	1
6. Large Storage Facility	\$189,820	2
7. Small Storage Facility	\$94,910	15
8. Mini Storage Facility	\$23,728	1
9a. Std Permit Facility Series A	\$55,280	4
9b. Std Permit Facility Series B	\$25,910	7
9c. Std Permit Facility Series C	\$21,760	10
9d. Std Permit Facility Series C (\$m Qty)	\$10,880	3
10a. Postclosure Permit Facility - Within 5 Years - Small	\$26,980	0
10b. Postclosure Permit Facility - Within 5 Years - Medium	\$53,960	0
10c. Postclosure Permit Facility - Within 5 Years - Large	\$80,940	0
11a. Postclosure Permit Facility - Beyond 5 Years - Small	\$14,375	2
11b. Postclosure Permit Facility - Beyond 5 Years - Medium	\$28,750	7
11c. Postclosure Permit Facility - Beyond 5 Years - Large	\$48,550	24
12a. ITU - Permit By Rule & Conditional Authorization	\$4,600	33
12B. ITU - Conditional Exemption	\$180	2

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BES Authority & SB 158 Context

- Starting with Fiscal Year 2023-24 (FY 23-24) the Board must set fee rates.
- The Board is required to set fee rates annually using emergency rulemaking authority.
- October 1 deadline (rates are retroactive to July 1)
- Fees subcommittee, together with DTSC, set out to:
 - assess the impact of the SB 158 fee increases on DTSC's overall revenues,
 - build out the Board's fee rate setting process,
 - **make recommendations (to the full Board) on fee rates for FY 23-24.**

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Our Approach to Fee Setting for 2023-24

What are we solving for: Sufficient revenues for DTSC to implement its programs given the appropriations provided in the Budget Act (with a prudent reserve).

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Future Fee Analysis and Consideration

- Fee Setting Principles
- Fee structure issues (activities subject to fees, exemptions of certain activities from fees, penalties for late or no payment, etc.).
- Fee collection process (through CDTFA)
- Loan considerations

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Factors Influencing Fees

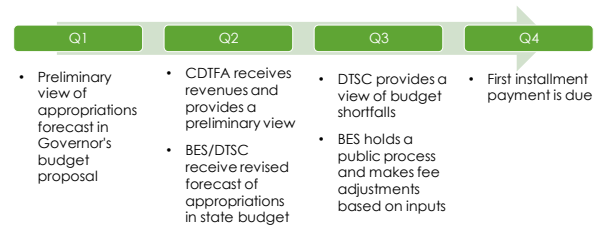
We set out to evaluate these factors:

- (1) the funds appropriated by the legislature, and
- (2) the revenues projected to be collected from fee payers by CDTFA, plus
- (3) a prudent reserve.

Additional considerations include: reserve levels in place, program expansions (BCPs), annual cost of living adjustments (e.g., CPI) and settlement money.

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Illustrative Annual Calendar (January – December)



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Baseline Fund Condition: TSCA

- Revenue estimate assuming no change in Environmental Fee rate.

Toxic Substance Control Account (TSCA)	2023-24 Estimate
Beginning balance	\$38.5
Environmental Fee revenues	\$109.6
Other revenues/adjustments	-\$20.1
Expenditures	\$119.5
Year-end balance	\$8.5
Balance as % of expenditures	7.1%

*Note: Dollars in millions.

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Alternative Environmental Fee Scenarios

- | | |
|--|--|
| <p>5% Fund Balance</p> <ul style="list-style-type: none"> • Reduce fee revenues by \$2.5 million • Equals 2.3% reduction in fees • Applied proportionally across tiers | <p>10% Fund Balance</p> <ul style="list-style-type: none"> • Increase fee revenues by \$3.4 million • Equals 3.1% increase in fees • Applied proportionally across tiers |
|--|--|

Fee Payer Tiers – Number of Employees	Baseline Fee Rates	Rates if Reduce to 5% Fund Balance	Rate if Increase to 10% Fund Balance
0-99	\$0	\$0	\$0
100-249	\$1,261	\$1,229	\$1,304
250-499	\$2,706	\$2,638	\$2,799
500-999	\$16,000	\$15,597	\$16,548
1,000 or more	\$54,100	\$52,738	\$55,953

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Baseline Fund Condition: HWCA

- Revenue estimates assuming no change in fee rates.

Hazardous Waste Control Account (HWCA)	2023-24 Estimate
Beginning balance	\$10.2
Generation & Handling Fee revenues	\$48.5
Facility Fee revenues	\$13.0
Other revenues/adjustments	\$62.3
Expenditures	\$123.6
Year-end balance	\$10.3
Balance as % of expenditures	8.3%

**Note: All dollars in millions.*

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Fee Subcommittee Recommendation

- No change to current fee rates for FY 2023-24
- After October 1, 2023, BES to consider fee analysis

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Next Steps

September 2023:

- Sept 7 Board meeting: BES will adopt fee rates.
- By Sept 11: Notice of Emergency Rulemaking mailed out to interested persons
- By Sept 18 or 19: BES will submit the Emergency Regulation to OAL (10-day review)
- September 28 or 29: Emergency Regulation with new fee rate schedule is approved by OAL and filed with the Secretary of State.
- After October 1, a notice will also be sent to CDTFA with the new fee rates.

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California Board of Environmental Safety

ISSUE MEMORANDUM

DATE	September 7, 2023
TO	Members, California Board of Environmental Safety
FROM	Swati Sharma, BES Executive Officer
SUBJECT	Agenda Item 5 – Hazardous Waste Permit Appeal Update

Informational status update from BES staff regarding current status of pending permit appeals:

- Lighting Resources, LLC - operating permit appeal status update
- Ecobat Resources, Inc. - temporary authorization appeal status update, Board discussion and Q&A

BOARD OF Environmental Safety

DTSC
Department of Toxic Substances Control

CalEPA
California Environmental Protection Agency

Hazardous Waste Permit Appeals Updates

September 7, 2023

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Board of Environmental Safety

Lighting Resources, LLC - Operating Permit Appeal

Final Permit Decision and Appeal:

- DTSC approved standard permit on June 30, 2022.
- Lighting Resources filed appeal on July 28, 2022.
- New Permit Appeals Regulations took effect on May 1, 2023.
- Lighting Resource refiled appeal on May 1, 2023.

Initial Order:

- Board adopted initial order on June 15, 2023.

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Board of Environmental Safety

Lighting Resources, LLC - Operating Permit Appeal

Briefing Period (July 31-September 15):

- Lighting Resources (appellant) brief submitted July 31, 2023.
- DTSC's opposition brief submitted August 30, 2023.
- Lighting Resources may submit a reply brief by September 15, 2023.
- Appeals staff is currently conducting an analysis of briefs.

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Board of Environmental Safety

Lighting Resources, LLC - Operating Permit Appeal

Public Hearing (October 26):

- A hearing on the appeal is currently scheduled for October 26, 2023, at Ontario City Hall. Additional updates will be provided in the Pending Appeals webpage: <https://bes.dtsc.ca.gov/pending-facility-permit-appeals/>
- Staff will send notifications of the hearing to 30 days in advance of hearing.

Other Updates:

- Communications between Lighting Resources and DTSC Permitting are ongoing.

Questions/Comments from Board Members and Public?

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Board of Environmental Safety

Ecobat - Temporary Authorization Appeal

Temporary Authorization Decision and Appeal:

- Ecobat requested temporary authorization on June 9, 2022.
- DTSC granted Ecobat's request on July 22, 2022.
- Clean Air Coalition (CAC) appealed that decision on August 4, 2022.
- Stay took effect upon filing of appeal.
- Appeal procedures rulemaking took effect May 1, 2023.
- Appeal refiled by CAC on June 30, 2023.

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Board of Environmental Safety

Ecobat - Temporary Authorization Appeal

Review of Written Statements:

- DTSC's and Ecobat's opposition statements submitted July 28, 2023.
- Staff is currently evaluating appellant and opposition statements.

Motion to Complete Administrative Record

- Clean Air Coalition (CAC) filed a motion to complete the administrative record on July 28, 2023.
- DTSC submitted an opposition statement to the motion on August 14, 2023.
- CAC submitted reply to DTSC's response on August 24, 2023.

Public Hearing:

- The appeal public hearing is tentatively scheduled for November 30, 2023, at the City of Industry City Hall.

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Board of Environmental Safety

Ecobat - Temporary Authorization Appeal

Class 2 Permit Modification Application Status:

- Ecobat filed application for Class 2 permit modification on April 5, 2023.
 - Included request for temporary authorization to be reissued.
- DTSC issued Notice of Deficiency (NOD) on August 11, 2023.
 - DTSC determined permit modification request follow Class 3 modification
- Ecobat submitted response to NOD on August 22, 2023.
 - Ecobat requested *reissuance* of temporary authorization.
- Ecobat Class 3 Permit Mod decision scheduled for December 2023

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Board of Environmental Safety

Ecobat - Temporary Authorization Appeal

What Is the Status of the July 2022 Temporary Authorization?

- DTSC Permitting: July 2022 Temporary Authorization expired.
- Board staff inquired with DTSC Permitting about the effectiveness of the July 2022 Temporary Authorization on August 30, 2023.
- On September 5, 2023, DTSC Permitting reiterated that the temporary authorization is expired.
- A temporary authorization may be reissued for another 180 day period.

Questions/Comments from Board Members and Public?

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Board of Environmental Safety

Permit Appeals Information

Pending Permit Appeals:
<https://bes.dtsc.ca.gov/pending-facility-permit-appeals/>

Frequently Asked Questions (FAQs):
<https://bes.dtsc.ca.gov/facility-permit-appeals/>

May 2023 Permit Appeals Regulations:
<https://bes.dtsc.ca.gov/proposed-regulations-2023/>

Contact Information:
Appeals@bes.dtsc.ca.gov

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California Board of Environmental Safety

ISSUE MEMORANDUM

DATE	September 7, 2023
TO	Members, California Board of Environmental Safety
FROM	Swati Sharma, BES Executive Officer
SUBJECT	Agenda Item 6 - DTSC Leadership Report

Dr. Meredith Williams will provide a DTSC Leadership Report with the following items:

- Permit Timeline
- CVCI Funding
- Director's Priorities
- Enforcement Update
- Exide Funding
- Public Comment Periods



DTSC Permit Decisions

September 2023

DTSC anticipates issuing the following permit decisions in the third quarter 2023. Please note: Dates listed are estimated dates and are subject to change. For a complete listing of DTSC's updated estimates, please visit [DTSC Permit Decisions](https://www.envirostor.dtsc.ca.gov/public/report_permit_decision) at https://www.envirostor.dtsc.ca.gov/public/report_permit_decision.

Issued and Pending Draft Permit Decisions

Facility	Draft Decision	Public Comment Period	Date of Final Decision	Link to Facility Info
Phibrotech	Completed 8/19/2022	6/6/2023 - 7/25/2023 (2 nd comment period)	Under review	https://www.envirostor.dtsc.ca.gov/public/hwmp_profile_report?global_id=CAD008488025&starttab=
Corteva	Completed 5/30/2023	May 30 – July 15	9/8/2023	https://www.envirostor.dtsc.ca.gov/public/hwmp_profile_report?global_id=CAD076528678&starttab=
World Oil Vernon	Completed 7/1/2023	July 1 – August 17	Completed 8/22/2023	https://www.envirostor.dtsc.ca.gov/public/hwmp_profile_report?global_id=CAT080033681
Cranes Waste Oil	Completed 7/26/2023	July 26 – September 11	10/13/2023	https://www.envirostor.dtsc.ca.gov/public/hwmp_profile_report?global_id=CAD980813950&starttab=
Ecobat	TBD – Fall 2023		TBD – Spring 2024	https://www.envirostor.dtsc.ca.gov/public/hwmp_profile_report?global_id=CAD066233966&starttab=
Ecobat Class 3 Permit Mod	9/14/2023	September 14 - October 31	December 2023	https://www.envirostor.dtsc.ca.gov/public/hwmp_profile_report?global_id=CAD066233966&starttab=

Chemical Waste Management Kettleman Hills	10/30/2023		6/30/2024	https://www.envirost.or.dtsc.ca.gov/public/hwmp_profile_report?global_id=CAT000646117&starttab=
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Pending Final Permit Decisions

Facility	Draft Decision	Public Comment Period	Date of Final Decision	Link to Facility Info
Chevron El Segundo	Completed 4/27/2023	4/27/2023 - 6/16/2023	9/28/2023	https://www.envirost.or.dtsc.ca.gov/public/hwmp_profile_report?global_id=CAD008336901&starttab=

CVCI Summary through FY2022-23

(In millions of dollars)

Program Expenditure Status	Allocated	Expended / Encumbered	Balance
CVCI Program		FY 21/22 through FY 22/23 FM12 June 30, 2023*	
All CVCI	\$ 5,006,131	\$14,998	\$4,991,133
ECRG	\$ 9,717,066	\$1,647,260	\$8,069,806
ECRG Grants	\$ 270,500,000	\$76,450,556	\$194,049,444
D&E	\$ 160,030,404	\$10,571,886	\$149,458,518
WFD	\$ 4,000,000	\$58,800	\$3,941,200
Orphan Sites (21)	\$ 42,493,559	\$7,979,748	\$34,513,811
TAG & Community Science	\$ 3,504,173	\$305,500	\$3,198,673
Community Benefit	\$ 800,814	\$137,162	\$663,652
EJAC	\$ 437,088	\$0	\$437,088
HWM Plan	\$ 3,510,765	\$23,739	\$3,487,026
Total	\$ 500,000,000	\$97,189,649	\$402,810,351

*Does not include End of Year Adjustments

2023 DTSC Director's Priorities

Progress to Date: August 2023

Objective 1: Environmental Justice/Equity

Priority	Update
Equity in Enforcement activities	<ul style="list-style-type: none"> • In 22/23, 54% of the facilities inspected were in disadvantaged communities (met goal of >50%). • Inspections for 23/24 prioritized using the following criteria: <ul style="list-style-type: none"> ◦ CalEnviroScreen score of 70% or above ◦ Regions identified in the USEPA/CalEPA EJ MOU (Los Angeles, Fresno, Kern, Bay Area) ◦ Opportunities to assist CUPAs with inspections of complex generators ◦ Located next to residential areas, schools, and other sensitive populations (metal recyclers and metal platers) • 100% return to compliance achieved in the first quarter of CY2023 for violations issued to permitted facilities located in vulnerable communities. (Goal is 90%) • 91% return to compliance achieved in the first quarter of CY2023 for violations issued to all facilities located in vulnerable communities. (Goal is 80%)
CVCI	<ul style="list-style-type: none"> • Staff has been working with the California Environmental Justice Alliance to better align Cleanup in Vulnerable Communities Initiative programs with environmental justice principles. • The Discovery & Enforcement program completed all 112 Phase I site assessments for year 1 and is starting on the nearly 300 sites to pursue for discovery, enforcement, or investigation in year 2.
Cumulative impacts	<ul style="list-style-type: none"> • Developed updated webpage on SB 673 Track 2 (community vulnerability and health risks) with planned interactive elements for public input. Currently preparing materials and planning for a public workshop this year on revised framework. • DTSC will be prepared to share results of the Kettleman CalEnviroScreen Analysis in Fall 2023 and will seek input from community members on whether that data is reflective of their lived experiences. Feedback will be incorporated as appropriate. Buttonwillow CalEnviroScreen Analysis is under development. • Working with Region IX and the consultant to partner with community groups and conduct the North Richmond CIA.
Strengthen regulatory oversight of metal shredder facilities	<ul style="list-style-type: none"> • Processing two applications (Sims Redwood City and Schnitzer Oakland). Issued first NOD for Schnitzer and meeting with facility representatives to discuss. Part B application from Sims is due October 13. • Currently evaluating the implications of the recent court decision to reinstate OPP 88-6 and how this may impact our strategy. DTSC is committed to strengthening regulatory requirements for metal shredders to prevent offsite releases and fires. • DTSC responded to the recent fire, collected samples and issued two violations – one for failure to minimize/prevent a fire and one for failure to make the proper emergency notifications (to CalOES). Our investigation is ongoing. We are coordinating with other local and state response agencies through CalEPA.
Racial Equity Framework	<ul style="list-style-type: none"> • Framework was rolled out to staff in May. Diversity, Equity, Inclusion, and Belonging (DEIB) Initiative being led by Executive Sponsors in partnership with consultant. A DEIB Advisory Council has been selected for a staff-wide committee for ongoing discussions and implementation of DEIB initiatives.

Objective 2: Public Engagement

Priority	Update
Adopt Best Practices for Community Engagement	<ul style="list-style-type: none"> Surlene Grant, DTSC's new Deputy Director for the Office of Environmental Equity was sworn in June 26, and this will be a priority.
Equitable Community Revitalization Grant (ECRG)	<ul style="list-style-type: none"> Staff has been engaged in public discussions, and incorporated feedback from discussions into updated guidelines for the Phase 2 solicitation. The ECRG guidelines were revised in response to environmental justice group input. Staff developed tools for applicants and have been providing technical assistance to give them the best shot at grant funding. Phase 2 of ECRG grants was released on August 14, 2023, and applications will be due on October 9, 2023.
Transform Engagement for Communities Impacted by Exide	<ul style="list-style-type: none"> DTSC has been working closely with a working group of local and state elected and government officials and community-based organizations on new approaches to community engagement. DTSC accepted public comment to revise the solicitation for the next residential cleanup contract. Solicitation changes are being incorporated to respond to community and worker concerns (health and safety reporting and procedures, training, etc.) Having held several public workshops since January, launched a more-user friendly website in English in Spanish, and worked to secure a system for text alerts, DTSC is working with community and government partners to make further improvements in the quality and quantity of engagement opportunities and educational materials – including tenant outreach tools. A public workshop will be held to share updates and receive feedback. DTSC's Public Participation team partnered with the LA County Mental Health Promotores Program to conduct community-led outreach to encourage homeowners to sign access agreements. The six week canvassing partnership resulted in 936 visits to households and 23 new access agreements obtained.

Objective 3: Sustained Performance

Priority	Update
Reduce continued permits	<ul style="list-style-type: none"> 5+ year: There are a total of 6 remaining permits that have been continued for more than 5 years. 3 of the 6 have already been public noticed for public input. Kettleman, Buttonwillow, and Quemetco permit decisions have not been public noticed yet. On track to public notice Kettleman and Quemetco this year, but Kern County EIR delays may impact DTSC's timeline for the Buttonwillow permit decision. We received significant public comment on the draft Phibro-Tech permit and we are currently working on incorporating those comments into our draft decision. 2+ year: There are a total of 5 remaining permits that have been continued for more than 2 years but less than 5 years. One was public noticed in July. On track to reduce the total number of remaining 2+ year continued permits (including 5+ year) to less than 10 by the end of the year. For the 22/23 FY, 100% (12/12) of reminder letters were sent on time to permitted facilities to ensure timely submittal of permit applications. On track to send 100% of reminder letters on time for 23/24 FY.
Hazardous Waste Management Report	<ul style="list-style-type: none"> The Draft Hazardous Waste Management Report was released in July and a workshop was held this month to receive public input.
Santa Susana Field Laboratory (SSFL)	<ul style="list-style-type: none"> The Final Program Environmental Information Report (PEIR) was released and certified.

Objective 4: Strategic Management

Priority	Update
Strategic Plan Prioritized Actions include cross- department and program-level actions	<ul style="list-style-type: none">• 74 of 110 Prioritized Actions (PAs) complete, (67%)• DTSC is working to refine the remaining PAs to ensure all Strategic Plan deliverables are completed.
Strategic Plan Dashboard	<ul style="list-style-type: none">• The Strategic Plan Dashboard was updated at the end of July. In addition to ensuring all data was updated for Q4 of the last FY, the following changes were implemented, incorporating internal and public feedback:<ul style="list-style-type: none">○ Development and release of an ADA compliant version of the dashboard, ensuring greater accessibility and compliance with AB 434.○ Development and release of a mobile friendly version of the dashboard.○ Updating graph descriptions for KPI clarity○ Data validation and improvement improvements○ Development of new Permit Backlog KPI in response to public feedback.• Next steps will target data automation, with Goals 1 and 2 data sources transitioned by 18 August.



Enforcement Actions

September 2023

Fiscal Year 22/23:

- 25 cases were settled in FY 22/23
 - 19 of the 25 were in disadvantaged communities (76%).
 - 9 of the 25 settlements were with permitted facilities (36%).
 - 6 of the 9 settlements with permitted facilities were in disadvantaged communities (67%).
- The total settlement amount for the 25 cases totaled \$4,039,485.
 - \$1,188,173 of the total amount assessed went to 4 SEPs.

Jan – June 2023:

- 14 cases were settled between January 1, 2023, and June 30, 2023
 - 13 of the 14 were in disadvantaged communities (93%).
 - 4 of the 14 settlements were with permitted facilities (29%).
 - 3 of the 4 settlements with permitted facilities were in disadvantaged communities (75%).
- The total settlement amount for the 14 cases totaled \$888,873.
 - \$8,073 of the total amount assessed went to 1 SEP.

Program	Facility/Project	Type of Action	Date of Action (Settlement Date)	Link
HWMP/EERD	Advanced Smart Solutions Inc	Administrative Settlement (Consent Order)	09/29/2022	ADVANCED SMART SOLUTIONS INC
HWMP/EERD	Agritec International DBA Cleantech Environmental Inc	Civil Settlement (Final Judicial Settlement)	08/01/2022	AGRITEC INT DBA CLEANTECH ENVIRONMENTAL INC
HWMP/EERD	ALTAIR PARAMOUNT LLC	Administrative Settlement (Consent Order)	11/30/2022	ALTAIR PARAMOUNT LLC
HWMP/EERD	BAYVIEW ENVIRONMENTAL SERVICES INC	Administrative Settlement (Consent Order)	3/20/2023	BAYVIEW ENVIRONMENTAL SERVICES INC
HWMP/EERD	CAL-GREEN EXPRESS TRANSPORT	Administrative Settlement (Consent Order)	5/31/2023	No link
HWMP/EERD	CALIFORNIA OIL TRANSFER LLC	Civil Settlement (Final Judicial Settlement)	9/1/2023	CALIFORNIA OIL TRANSFER LLC
HWMP/EERD	CLEAN HARBORS SAN JOSE LLC	Administrative Settlement (Consent Order)	8/18/2022	CLEAN HARBORS SAN JOSE LLC
HWMP/EERD	CORPORATE E-WASTE SOLUTIONS (CEWS)	Administrative Settlement (Consent Order)	8/22/2022	CORPORATE E-WASTE SOLUTIONS (CEWS)
HWMP/EERD	ECOBAT RESOURCES CALIFORNIA INC FORMERLY QUEMETCO INC	Civil Settlement (Final Judgement for Civil Penalties and Permanent Injunction on Consent Stipulation for Entry of Final Judgment and Permanent Injunction)	12/13/2022	ECOBAT RESOURCES CALIFORNIA INC FORMERLY QUEMETCO INC
HWMP/EERD	ECOSPOT RECYCLING INC	Administrative Settlement (Consent Order)	5/30/2023	ECOSPOT RECYCLING INC
HWMP/EERD	ECOSPOT RECYCLING INC	Administrative Settlement (Consent Order)	9/6/2022	ECOSPOT RECYCLING INC
HWMP/EERD	ELECTRONIC WASTE SOLUTION	Administrative Settlement (Consent Order)	5/10/2023	No link

HWMP/EERD	EMERALD TRANSFORMER LOS ANGELES, LLC	Civil Settlement (Final Judgement for Civil Penalties and Injunction on Consent)	3/15/2023	EMERALD TRANSFORMER LOS ANGELES, LLC
HWMP/EERD	NIELSEN ENVIRONMENTAL	Administrative Settlement (Consent Order)	12/14/2022	NIELSEN ENVIRONMENTAL
HWMP/EERD	P KAY METAL INC	Administrative Settlement (Consent Order)	5/10/2023	P KAY METAL INC
HWMP/EERD	PACIFIC TRANS ENVIRONMENTAL SERVICES INC	Administrative Settlement (Consent Order)	2/1/2023	PACIFIC TRANS ENVIRONMENTAL SERVICES INC
HWMP/EERD	PERFORMANCE ABATEMENT SERVICES INC	Administrative Settlement (Consent Order)	8/9/2022	PERFORMANCE ABATEMENT SERVICES INC
HWMP/EERD	RHO-CHEM LLC	Administrative Settlement (Consent Order)	6/19/2023	RHO-CHEM LLC
HWMP/EERD	SAFETY-KLEEN OF CALIFORNIA INC - DAVIS	Administrative Settlement (Enforcement Order)	10/14/2022	SAFETY-KLEEN OF CALIFORNIA INC - DAVIS
HWMP/EERD	SCHNITZER FRESNO INC	Civil Settlement (Final Civil / Judicial Action)	1/17/2023	SCHNITZER FRESNO INC
HWMP/EERD	SERVPRO NORTH POMONA/LA VERNE	Administrative Settlement (Consent Order)	4/5/2023	SERVPRO NORTH POMONA/LA VERNE
HWMP/EERD	WIT SALES AND REFINING	Administrative Settlement (Consent Order)	1/13/2023	WIT SALES AND REFINING
HWMP/EERD	SAFETY-KLEEN OF CALIFORNIA INC – CARSON	Administrative Settlement (Consent Order)	6/28/2023	No link
HWMP/EERD	SAFETY-KLEEN SYSTEMS, INC – HIGHLAND SERVICE CENTER	Administrative Settlement (Consent Order)	6/29/2023	No link
HWMP/EERD	SAFETY-KLEEN SYSTEMS, INC – SANTA ANA	Administrative Settlement (Consent Order)	6/29/2023	No link

EXIDE FUNDING SUMMARY¹

(in millions of dollars)

PURPOSE	ALLOCATED	ALLOCATION BREAKDOWN	EXPENDED / ENCUMBERED ²	REVERTED	BALANCE	AUTHORITY
RESIDENTIAL CLEANUP	\$ 251.11		\$ (250.86)	\$ (0.16)	\$ 0.09	
		\$ 176.60	\$ (176.44)	\$ (0.16)	\$ (0.00)	AB 118
		\$ 9.55	\$ (9.55)		\$ -	2019-2020 BUDGET ACT
		\$ 50.00	\$ (49.99)		\$ 0.01	2019-2020 BUDGET ACT
		\$ 14.96	\$ (14.88)		\$ 0.08	2020-2021 BUDGET ACT
RESIDENTIAL CLEANUP ³	\$ 322.40		\$ (287.60)		\$ 34.80	
		\$ 31.40	\$ (32.06)		\$ (0.66)	2021 SB 158
		\$ 291.00	\$ (255.54)		\$ 35.46	2021 SB 158
PARKWAYS	\$ 6.50		\$ (2.80)	\$ (3.70)	\$ 0.00	2018-2019 BUDGET ACT
PARKWAYS	\$ 67.30		\$ -		\$ 67.30	2023-2024 BUDGET ACT
FACILITY CLEANUP	\$ 132.00		\$ (19.80)		\$ 112.20	2021-2022 BUDGET ACT
TOTAL	\$ 779.31		\$ (561.06)	\$ (3.86)	\$ 214.40	

1 - Missing multiple years of QA/QC \$, Facility PYs, Wellington Trust Transfer, and LABRIC Transfers (\$3.5M, etc.)

2 - Pulls from Budgets' Draft FY22/23 Period 12 Burnrate

3 - Includes contracts in development and \$ pending encumbrance



DTSC Public Comment Periods

September 2023

Program	Issue/Project	Public Comment Period	Link
Permitting	Class 3 Permit Mod for Ecobat dewatering equipment	Expected 9/14/23 – 10/31/23	https://www.envirostor.dtsc.ca.gov/public/hwmp_profile_report?global_id=CAD066233966&starttab=
SMRP – So Cal	EJAC Framework Comment Period Extended Public Comment Period	May 15, 2023 – August 25, 2023	https://bes.dtsc.ca.gov/dtsc-ejac/
SMRP – Nor Cal	NPR-1 Closure Project Site Draft RAW Comment Period	July 27, 2021 – August 28, 2023	https://dtsc.ca.gov/event/npr-1-closure-project-site-comment-period-starts/#:~:text=NPR-1%20Closure%20Project%20Site%20Comment%20Period%20Starts%20July,July%2027%2C%202021%20and%20ends%20August%2028%2C%202023.
SMRP – Nor Cal	Yerba Buena Island Site 29B PEA Approval & LUC Public Notice	Expected – September 2023	
SMRP – Nor Cal	Caletti Avenue PEA Approval & LUC Public Notice	Expected – September 2023	

Program	Issue/Project	Public Comment Period	Link
SMRP – Nor Cal	Presidio of San Francisco, Lendrum Court Five-Year Review Public Notice	Expected – September 2023	
Safer Consumer Products	Proposal to add microplastics to the SCP Candidate Chemical List	June 27, 2023, through July 27, 2023	https://calsafer.dtsc.ca.gov/cms/commentpackage/?rid=12767

California Board of Environmental Safety

ISSUE MEMORANDUM

DATE	September 7, 2023
TO	Members, California Board of Environmental Safety
FROM	Swati Sharma, BES Executive Officer
SUBJECT	Agenda Item 7 - DTSC Budget Update

Brian Brown, DTSC Chief Financial Officer will provide a DTSC Budget Update.



Department of
Toxic Substances
Control

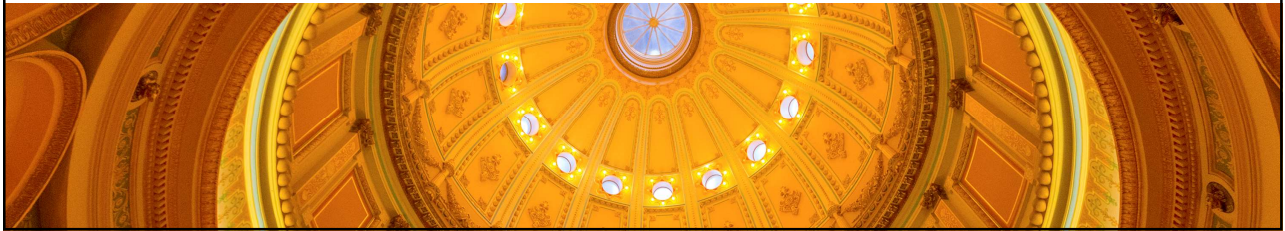


DTSC 2023-24 Budget

BRIAN BROWN

DTSC CHIEF FINANCIAL OFFICER

SEPTEMBER 7, 2023

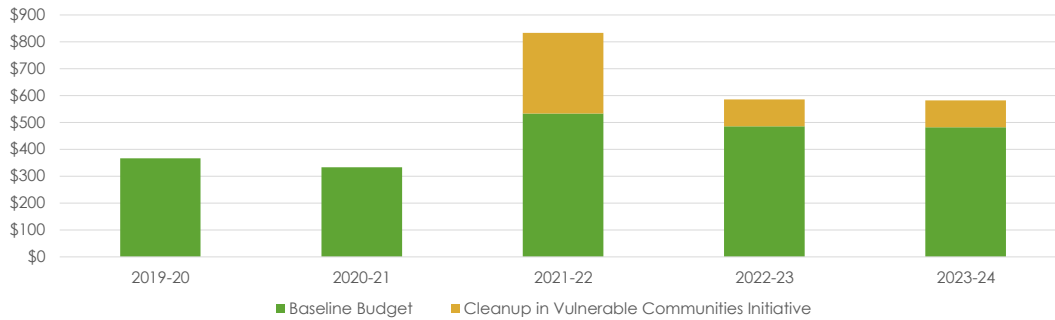


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Department of Toxic Substances Control

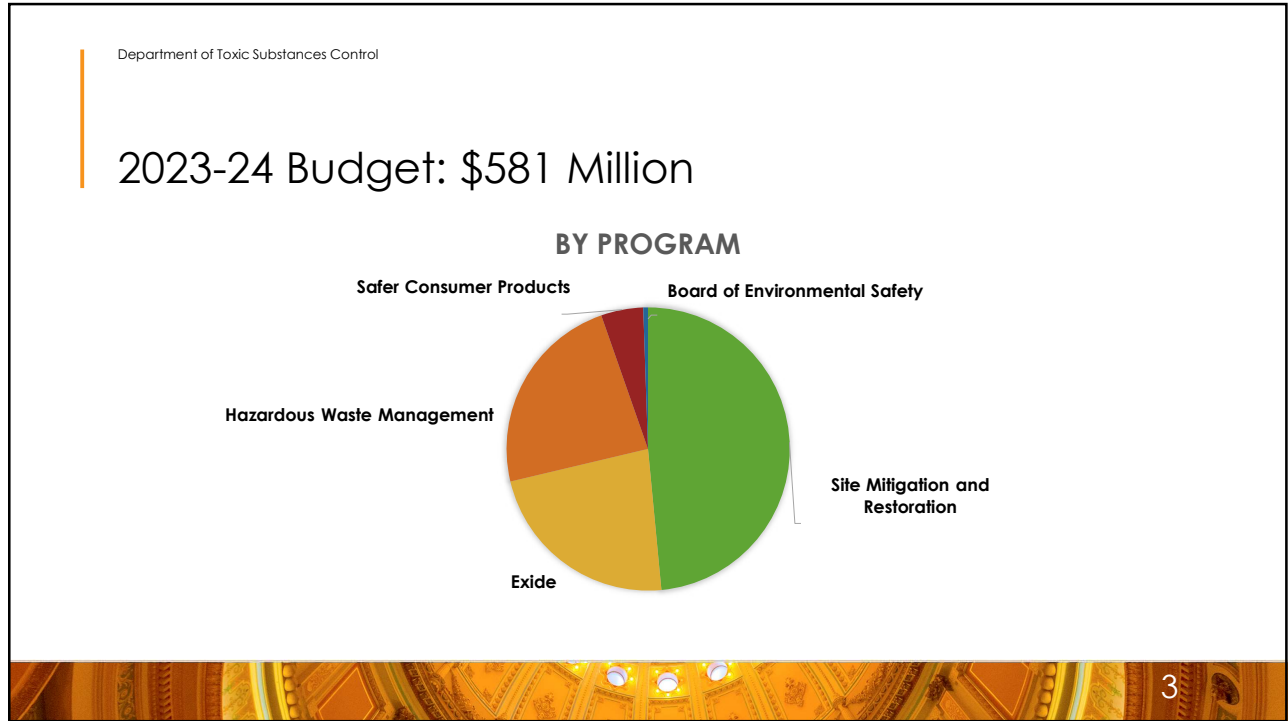
DTSC Appropriations Increased Significantly Since SB 158

Budget Act Appropriations for DTSC
(in millions of dollars)

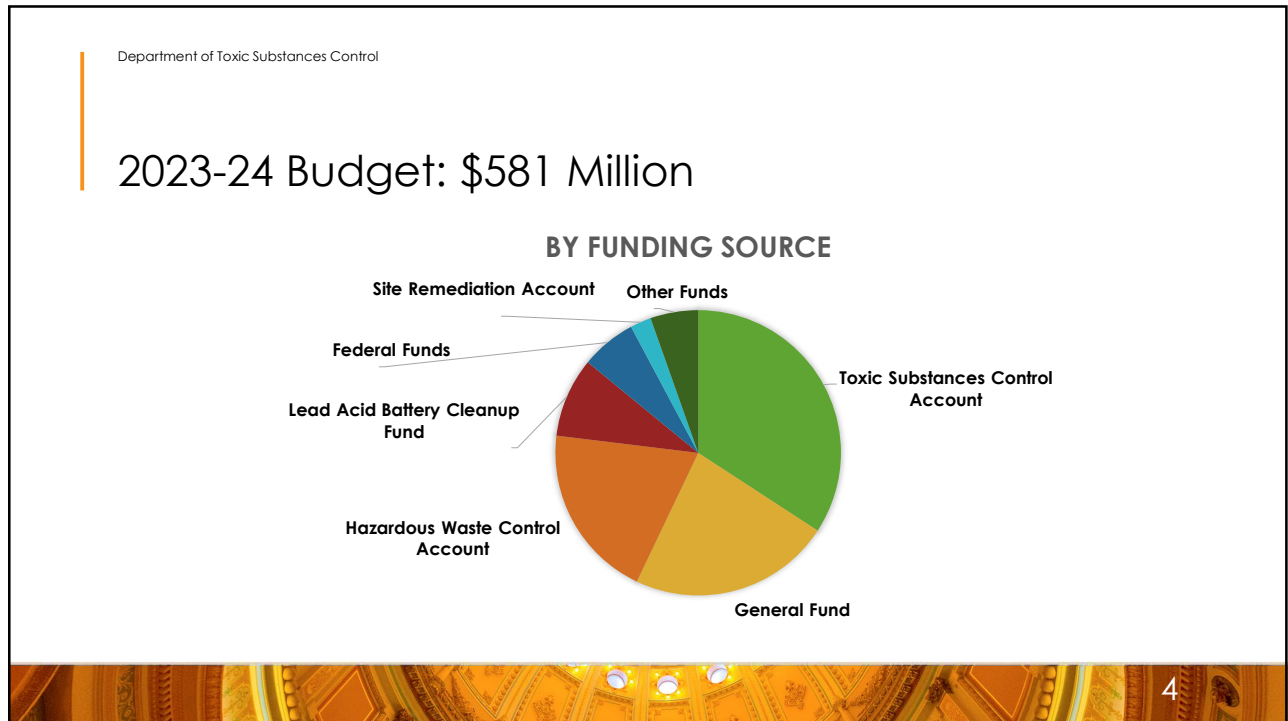


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3



4

Significant Funding Items in DTSC's 2023-24 Budget

- Continuation of SB 158
 - \$100 million for Cleanup in Vulnerable Communities Initiative
 - \$91 million for cleanup of residences surrounding Exide Facility
- \$67 million (over 2 years) to cleanup parkways surrounding Exide
- \$1.4 million for staff to accelerate 8 Superfund sites to cleanup phase
- \$1.2 million to analyze Generation and Handling Fee revenue shortfall and improve fee administration (and \$55 million in one-time loans)

California Board of Environmental Safety

ISSUE MEMORANDUM

DATE	September 7, 2023
TO	Members, California Board of Environmental Safety
FROM	Swati Sharma, BES Executive Officer
SUBJECT	Agenda Item 9 - Santa Susana Field Laboratory PEIR Presentation

Santa Susana Field Laboratory Program Environmental Impact Report (PEIR) Presentation:

- Presentation by DTSC, Todd Sax, Deputy Director, Site Mitigation and Restoration Program
- Presentation by Parents Against Santa Susana Field Lab

Department of Toxic Substances Control

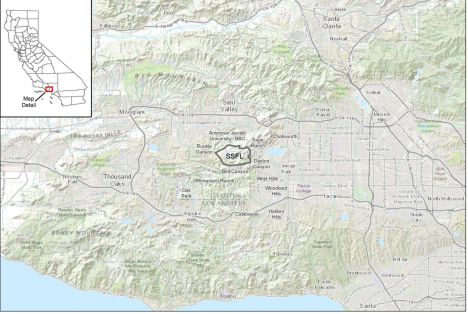
Santa Susana Field Laboratory Final Program EIR Board of Environmental Safety Presentation

September 7, 2023



1

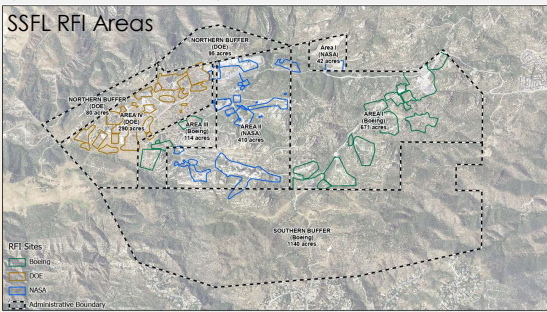
Site Location Map



2

Department of Toxic Substances Control – BES Presentation – September 2023

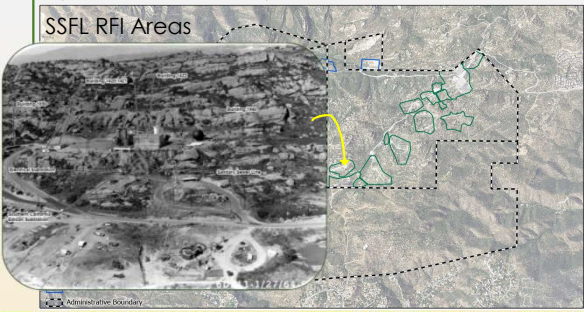
SSFL RFI Areas



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Department of Toxic Substances Control – BES Presentation – September 2023

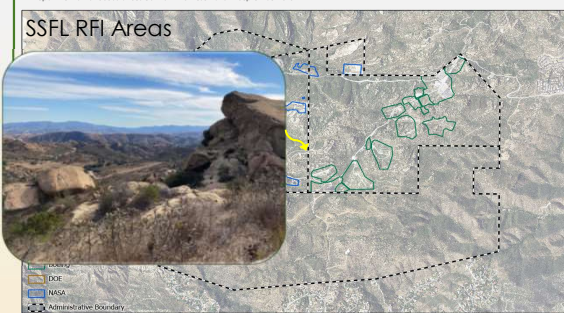
SSFL RFI Areas



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Department of Toxic Substances Control – BES Presentation – September 2023

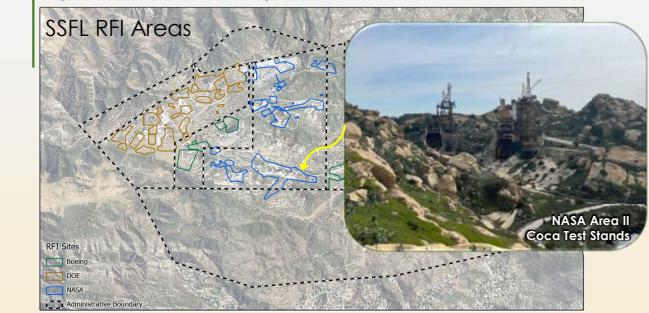
SSFL RFI Areas



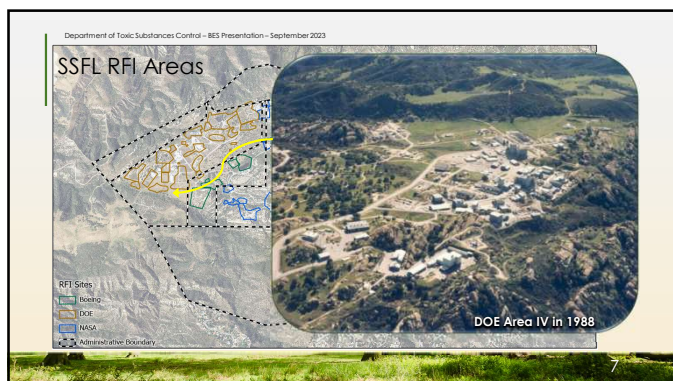
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Department of Toxic Substances Control – BES Presentation – September 2023

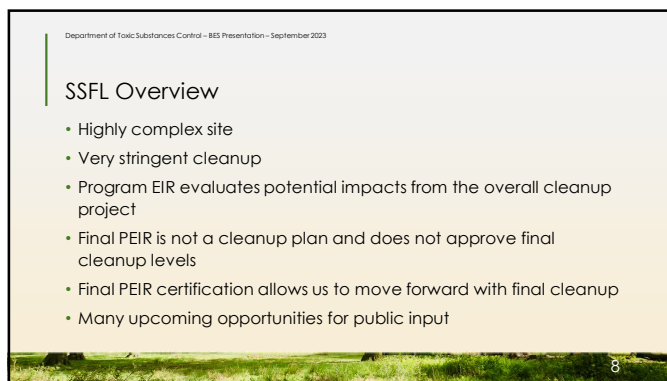
SSFL RFI Areas



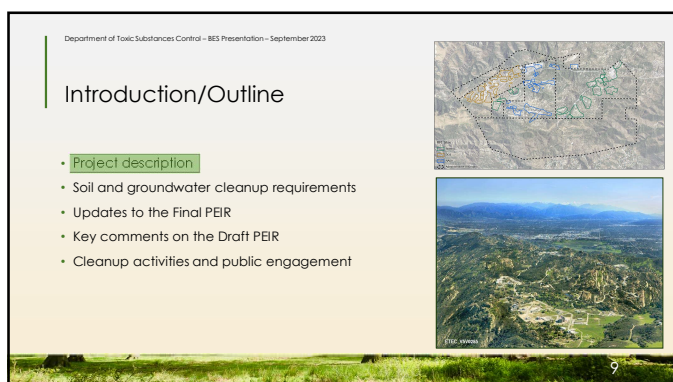
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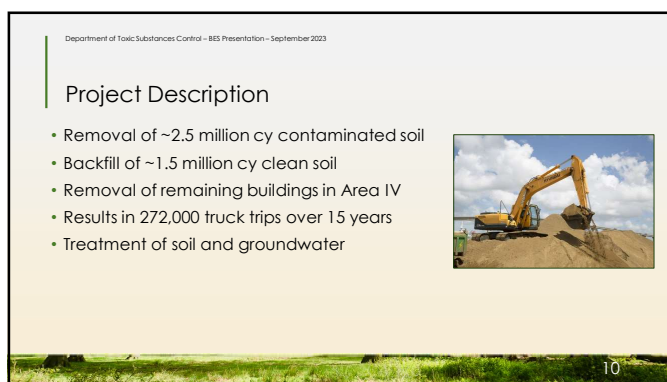
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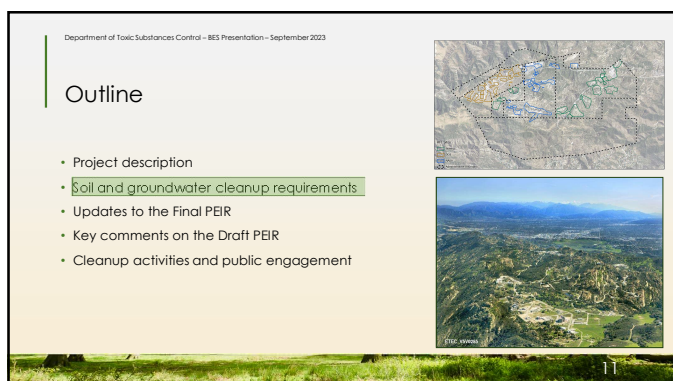
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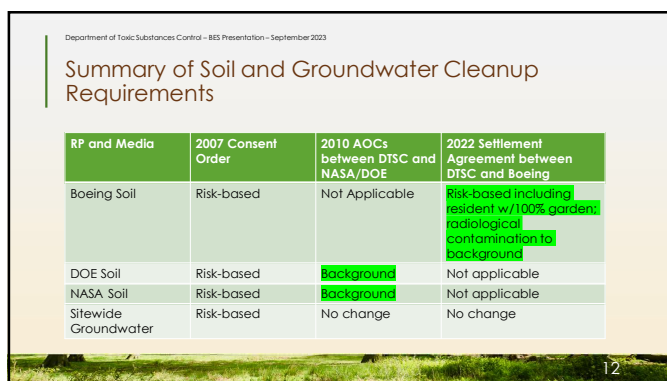
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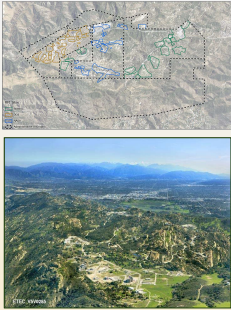


12

Department of Toxic Substances Control – BES Presentation – September 2023

Outline

- Project description
- Soil and groundwater cleanup requirements
- Updates to the Final PEIR
- Key comments on the Draft PEIR
- Cleanup activities and public engagement




13

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Department of Toxic Substances Control – BES Presentation – September 2023

Purpose of the PEIR

- EIR required under California Environmental Quality Act
- Assumes maximum estimated soil volumes for conservative analysis
- Program EIR evaluates potential impacts from the overall cleanup project and proposes 64 mitigation measures
- Final PEIR is not a decision document and does not approve final cleanup levels



Coastal Live Oak


14

14

Department of Toxic Substances Control – BES Presentation – September 2023

Mitigation Measures

- PEIR proposes 64 mitigation measures to lessen or avoid impacts
 - Air Quality
 - Transportation
 - Biological
 - Cultural



Branton's milk-vetch seeds and plant


15

15

Department of Toxic Substances Control – BES Presentation – September 2023

Primary Updates to Draft PEIR

- Project Description:
 - Updated USEPA std: 25% to 100% garden
 - Building removals (Area IV Boeing)
- Onsite Changes
 - DOE Building Demolition
 - 2018 Woolsey Fire
- Updated Analyses (Air Quality, GHG, Health Risk Assessment)



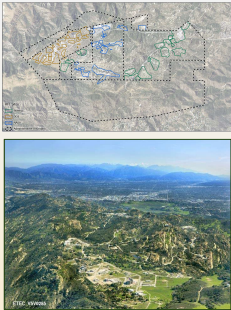
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Department of Toxic Substances Control – BES Presentation – September 2023

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- Project description
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Department of Toxic Substances Control – BES Presentation – September 2023

Key Draft PEIR Comments

- Cleanup Levels
- Transportation (conveyor)
- Conservation easement
- Backfill soil
- Exception areas (cultural and biological)



18

18

Department of Toxic Substances Control – BES Presentation – September 2023

Cleanup Levels

- Diverse stakeholder views on appropriate cleanup levels
 - Some favor cleanup levels with the most stringent possible standard with more soil removed
 - Some favor a more balanced health protective cleanup with less ecosystem and cultural resource disturbance
- Both risk-based and background-based cleanups are health protective

19

Department of Toxic Substances Control – BES Presentation – September 2023

Boeing Soil Cleanup

- Some stakeholders have expressed concerns about a large percentage of contaminated soil being left in place for Boeing areas.
- Appears to be based on a comparison of the contaminated surface acreages requiring cleanup for the Boeing and DOE areas
- There are stark differences in the nature, density, and frequency of operational areas between the two areas
- Stringent risk-based cleanup will be protective of human health and the environment using best available science

20

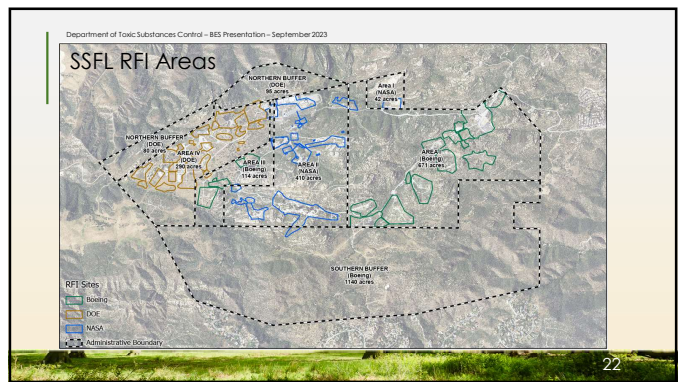
Department of Toxic Substances Control – BES Presentation – September 2023

Draft PEIR Comment Excerpt

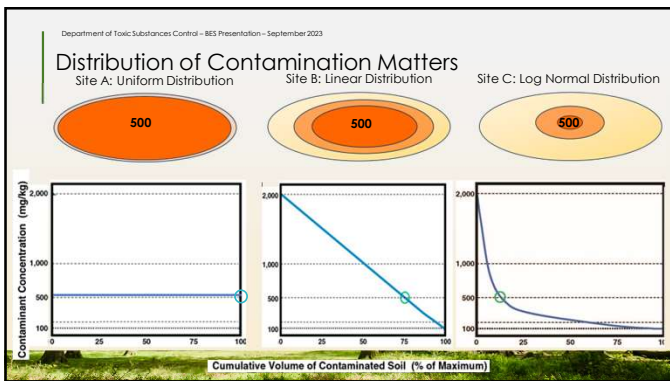
“One can make some **very approximate estimates by assuming** that for the operational areas, Areas I through IV, **the percent of Boeing acreage that is contaminated is similar to that of the DOE area**²¹ and comparing then the estimated cleanup acreage and excavation and disposal volumes in the Boeing areas in Table 3-2 to the total Boeing acreage volumes, taking into account the suggested biological exemption areas shown in Figure 3-6. This **would very roughly suggest that the maximum Boeing cleanup being proposed in the PEIR would leave about 95% of the contamination not cleaned up.**²²” (emphasis added)

²¹ This assumes the accuracy the DOE volume estimates.
²² Similar rough estimates of the amount proposed not to be cleaned up are reached based on the soil excavation estimates in Table 3-3 adjusted for the overall acreages involved.

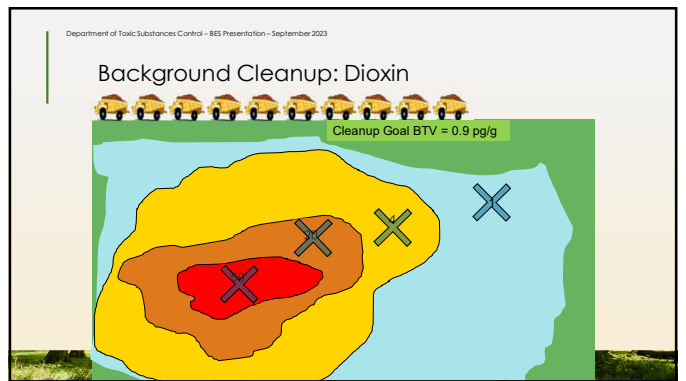
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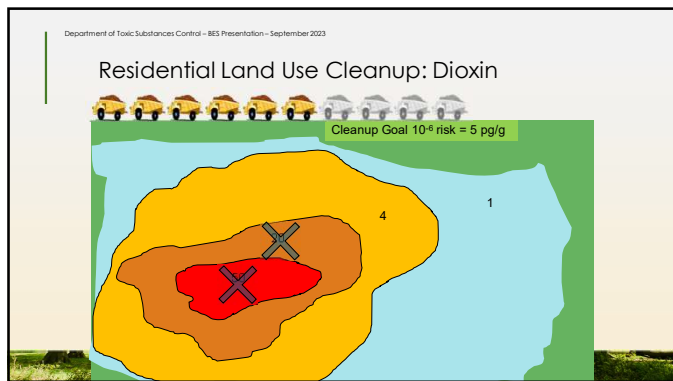
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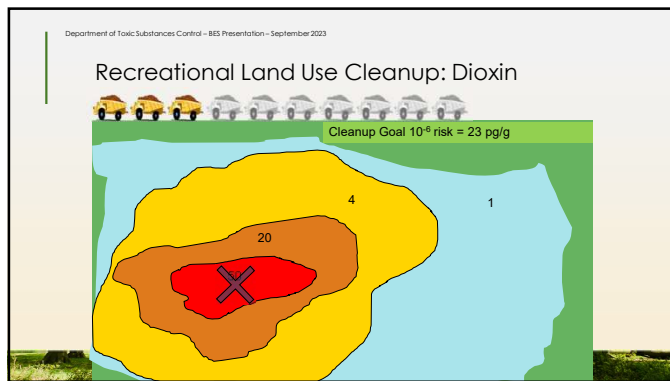
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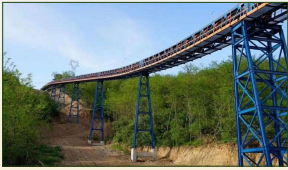


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Department of Toxic Substances Control – BES Presentation – September 2023

Transportation

- PEIR evaluated transportation options for large amount of soil movement on and off site
- Evaluation conducted on conveyor type transportation system
 - Estimate of 8 years to construct
 - Total truck traffic reduced by 1/3
 - Significant net increases in impacts vs. trucking
- Trucking determined to be the best transportation option



27

Department of Toxic Substances Control – BES Presentation – September 2023

Conservation Easement

- Boeing recorded a Conservation Easement to clean up its areas to a less stringent recreator standard
- Under the 2022 Settlement Agreement, Boeing agreed not to contest a more stringent soil cleanup standard
 - Chemicals: resident with garden
 - Radionuclides: background




28

Department of Toxic Substances Control – BES Presentation – September 2023

Backfill Soil

- Stringent cleanup poses unique challenges to identifying acceptable backfill
 - Absence of contaminants
 - Suitability for habitat restoration
 - Large quantity
- DTSC actively working with RPs to identify suitable backfill




29

Department of Toxic Substances Control – BES Presentation – September 2023

Exception Areas

- Site includes many biological and/or cultural resources
- DTSC will consider proposed exceptions on case-by-case basis
- Proposed exception areas will be presented in draft cleanup decision documents
- All cleanup decisions must be protective of human health and the environment





Santa Susana Tarplant

30

Department of Toxic Substances Control – BES Presentation – September 2023

Outline

- Project description
- Soil and groundwater cleanup requirements
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- Cleanup activities and public engagement

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Department of Toxic Substances Control – BES Presentation – September 2023

Cleanup Activities and Public Engagement

- Agreements with the responsible parties establish framework for cleanup goals
- Final PEIR identifies appropriate mitigation measures
- We are moving into the remedy selection phase
- Next several years will be developing multiple documents for remediation of the site
- Decision documents will all be subject to public review and comment before approval – many upcoming opportunities for public engagement including workshops based on stakeholder interest

32

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Department of Toxic Substances Control – BES Presentation – September 2023

Moving Forward

- Estimated schedule for public comment periods for decision documents

Responsible Party	Soil	Groundwater
Boeing	CMS (Spring 2025)	CMS (Winter 2025)
DOE	SRAIP (TBD)	CMS (Winter 2024)
NASA	SRAIP (TBD)	CMS (Winter 2024)

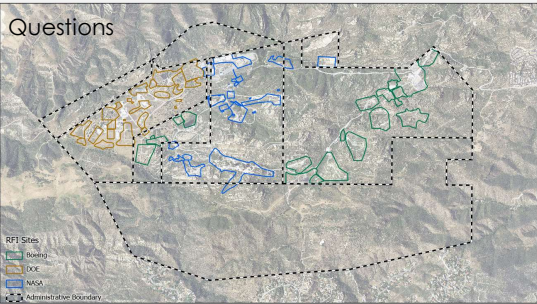
- CMS = Corrective Measures Study
- SRAIP = Soils Remedial Action Implementation Plan

33

33

Department of Toxic Substances Control – BES Presentation – September 2023

Questions



34

34

Santa Susana Field Laboratory (SSFL) Program Environmental Impact Report (PEIR)

Presentation to the Board of Environmental Safety
by Daniel Hirsch
Retired Director, Program on Environmental and Nuclear Policy,
UC Santa Cruz, and President, Committee to Bridge the Gap
7 September 2023

1

DTSC's Final PEIR Was Certified July 28— Breaches Longstanding Cleanup Agreements

The Final PEIR breaks the legally binding 2007 Consent Order and 2010 Administrative Orders on Consent (AOCs) which require full cleanup – to background. The PEIR instead allows the Responsible Parties to walk away from cleaning up the great majority of their contaminated land.

If not reversed, the site will remain polluted in perpetuity.

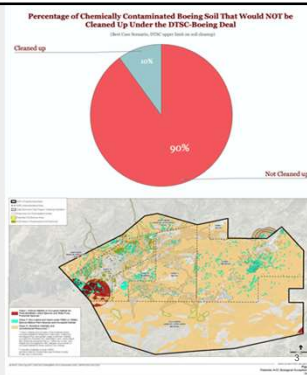
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Key Points

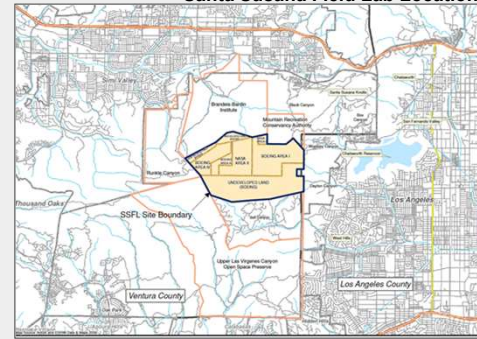
The 2007 & 2010 Cleanup Agreements Are Now Broken in Final PEIR:

- For Boeing, at least 90% of its contaminated soil won't be cleaned up.
- For Dept of Energy & NASA, at least 63% of their contaminated acreage will be exempted from cleanup.



3

Santa Susana Field Lab Location



More than 700,000 people live within 10 miles

4

4

At least 4 reactors suffered accidents:

- Sodium Reactor Experiment (SRE) partial meltdown
- SNAP8ER—80% of nuclear fuel damaged
- SNAP8DR—35% of fuel damaged
- AE6—release of fission gases

Radioactive Fires at the Hot Lab

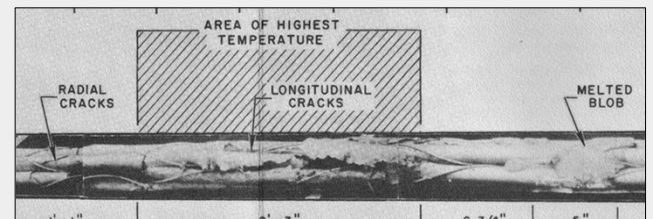
Releases from Plutonium Fuel Fabrication

Numerous Other Toxic & Radioactive Spills and Releases

5

5

1959 Partial Meltdown of SRE



6

6



7



8

Contamination by over 300 toxic chemicals – such as perchlorate, PCBs, TCE, and dioxins – and dozens of radionuclides – such as plutonium-239, strontium-90 and cesium-137 – have been detected at elevated levels in SSFL soil, groundwater, and/or surface water.

9



10

Federally Funded Studies Found Offsite Migration of Contaminants & Elevated Cancer Rates Associated with Proximity to SSFL

Study by a team led by UCLA Professor Yoram Cohen identified a wide range of pollutants had migrated from SSFL to offsite areas in concentrations in excess of EPA Levels of Concern.

A 2nd federally-funded study, by Professor Hal Morgenstern, found a greater than 60% increased incidence of key cancers for people living within 2 miles of SSFL compared to residents living more than 5 miles away.

Yoram Cohen et al., Potential for Offsite Exposures Associated with Santa Susana Field Laboratory, 2006

Morgenstern, Cancer Incidence in the Community Surrounding the Rocketdyne Facility in Southern California, March 2007; (April 2007 Summary)

11

2007 Consent Order and 2010 Administrative Orders on Consent (AOCs) Between DTSC and the Responsible Parties

The legally binding orders require soil cleanup be completed by 2017 and the permanent groundwater remedy be in place by the same date.

2007 Consent Order

2010 AOC DOE

2010 AOC NASA

12

Cleanup Agreements Breached

- Boeing, Dept. of Energy, and NASA – the three Responsible Parties – have all resisted complying with the Orders they signed.
- The 2017 deadline for cleanup to be completed has long since come and gone, and the required cleanup has not even begun.
- DTSC has failed to enforce, and now has itself broken those agreements.

13

CalEPA Secretary Blumenfeld Promises to Public February, 2020: "Our job is to regulate, not negotiate."


"These entities, Boeing in 2007, DOE and NASA in 2010, entered into agreements. **Those are legally binding agreements. We will hold them to those agreements.** And as I said, but I will say it again: **our job is to regulate, not to negotiate.**"



14

February, 2020: CalEPA Blumenfeld Promises the Public & Electeds There Will be No Negotiations with Boeing; the 2007 Consent Order Will Be Enforced


"We don't have a lot of tolerance for having a negotiation. All the meetings that I go to like, **'are we opening up the Consent Order?'** **The answer is no.** 'Are we opening up the Order on Consent?' Which I'll talk through in a minute. And the answer is no."



15

CalEPA Secretary Blumenfeld Promises to Public February, 2020 "This is not a negotiation, this is about implementation."


"What we have in front of us, which I'll describe, is agreements. And **we're really not here to negotiate**; this is not a negotiation, this is about implementation. So once someone has agreed to something, a price of a house, or a job contract, you expect people to be good to their word and to do it."



16



CalEPA Secretary Blumenfeld Promises to Public February, 2020 "This is not an ongoing negotiation with the polluters."

"Really my goal is to change and improve the culture of DTSC. They are the regulator; the regulator means they set the cleanup standards, **this is not an ongoing negotiation with the polluters.** The polluters have a role, they have to pay for it and they have to adhere to the standards that we have."



17

Despite the Repeated Promises That There Would be No Negotiations With Boeing Over the Cleanup, one year later, DTSC Initiated Secret Negotiations With Boeing

Department of Toxic Substances Control

Meredith Williams, Ph.D., Director
1001 'F' Street
P.O. Box 806
Sacramento, California 95812-0806

January 22, 2021


Mr. Michael Bower
Project Coordinator
The Boeing Company
Santa Susana Field Laboratory
5800 Woodsey Canyon Road
Canoga Park, California 91304-1148

OFFER TO ENTER INTO NON-BINDING, CONFIDENTIAL MEDIATION WITH BOEING TO RESOLVE THE SANTA SUSANA FIELD LABORATORY FORMAL DISPUTE DATED DECEMBER 6, 2019

[Jan. 22, 2021 DTSC Letter to Boeing](#)

18

CalEPA Was Criticized by 11 Mayors, County Supervisors, and City Councilmembers About the Negotiations and Efforts to Weaken the Cleanup




"It is now four years after the clean-up was supposed to have been completed per adopted agreements, and as yet the promised soil clean-up has not begun. We are opposed to any action that would significantly delay or weaken site clean-up. We are specifically concerned with the following activities of your agency:

- No State effort to enforce the 2007 Consent Order and 2010 Administrative Orders on Consent.
- Confidential negotiations between DTSC and Boeing that could delay or weaken clean-up by Boeing as required by the Consent Order and Administrative Order on Consent (CO & AOC).
- Proposed further delays in the Programmatic Environmental Impact Report while having not addressed shortcomings in the EIR that the City of LA, the County of Ventura, and others identified over three years ago.
- Possible changes to the Standardized Risk Assessment Methodology (SRAM2 Update) that would allow Boeing to delay and weaken clean-up."

October 14, 2021 Letter from local governments to CalEPA 19

19

In Response, DTSC Director Williams Pledged to Enforce the "Legally Binding Orders" and That the Negotiations Were to Hold Boeing Responsible to the 2007 Order, Not Supersede It



"DTSC is committed to continuing to enforce the **2007 Consent Order (2007 Order) and the 2010 Administrative Order on Consent (2010 AOCs)**. The 2007 Order and 2010 AOCs are **legally binding**...DTSC is currently participating in non-binding mediation to **hold Boeing accountable to the 2007 Consent Order** and long-overdue cleanup."

February 17, 2022 response letter from DTSC and CalEPA (emphasis added) 20

20

However, the 796-Page Agreement, By DTSC's Own Admission, "Supersedes" Much of the 74-Page 2007 Consent Order

Does the Settlement Agreement replace the 2007 Consent Order? If not, how do they relate?

Some sections of the **2007 Consent Order are superseded** by the Settlement Agreement to expedite the regulatory process while maintaining stringent cleanup standards. For example, Boeing's obligations under Section 3.2 of the 2007 Consent Order regarding Cleanup Schedule are replaced by the schedule presented as Exhibit 6 to the Settlement Agreement. A chart addressing the applicability of requirements of the 2007 Consent Order to the Settlement agreement is attached as Exhibit 22 to the Settlement Agreement.

DTSC SSFL Cleanup FAQ 21

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When the Secret Negotiations Were Revealed to the Public – Not by DTSC, but by Public Employees for Environmental Responsibility – DTSC issued a response claiming:

"Any proposal coming from a settlement will not only comply with California's strong public health and environmental laws, but it will also include opportunities for public input to allow for robust community engagement."

DTSC Press Statement on SSFL Mediation, February 12, 2021 (emphasis added) 22

22

However, When the 796-Page Agreement Was Issued, It Was as a Final Agreement, With No Hearing or any Other Opportunity for Public Input, and With No Environment Review

m. The Parties hereby acknowledge, understand and agree that **no hearing or further action is required before this Agreement becomes effective** as provided in Section 13.

IT IS SO AGREED

DATED: May 9, 2022 DEPARTMENT OF TOXIC SUBSTANCES CONTROL

By: *Lawrence Hader*
Lawrence Hader
Chief Counsel
Department of Toxic Substances
1001 I Street
Sacramento, California 95811
Cell: (916) 203-9781

DATED: May 9th, 2022 THE BOEING COMPANY

By: *Scott J. Shady*
Scott J. Shady
Director, Director, Environmental Sustainability,
Global Enterprise Sustainability
The Boeing Company
9711 E. Marginal Way S.
Mail Code: 9-15
Seattle, WA 98116
(206) 237-0214

Boeing-DTSC 2022 Agreement (Page 30-31) 23

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The Just Released Final PEIR Incorporates, After the Fact, the Boeing-DTSC Deal to Release Boeing from Most of Its Cleanup Obligations, Violating the Fundamental Requirement of Environmental Review – that It Preceded and Inform Decisions.

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Press Release Announcing the DTSC-Boeing Deal Claims it “Strengthens” and Establishes “Strict” Cleanup Requirements

FOR IMMEDIATE RELEASE
May 9, 2022

California holds Boeing accountable for cleanup at toxic Santa Susana Field Laboratory
Comprehensive framework sets stage for stringent cleanup of Boeing’s areas of responsibility at the site

SACRAMENTO – In a major development to **strengthen the cleanup of contaminated soil, groundwater, and stormwater runoff** at the Santa Susana Field Laboratory (SSFL) in southeastern Ventura County, the California Environmental Protection Agency (CalEPA) today announced a comprehensive framework that establishes **strict** cleanup protocols and timelines for The Boeing Company.

California holds Boeing accountable for cleanup at Toxic Santa Susana Field Laboratory, DTSC, May 9, 2022

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HOWEVER, in Fact the Actual Agreement **MASSIVELY WEAKENS** Cleanup Requirements for Soil, Groundwater, and Surface Water

- Nowhere in the agreement or PEIR is any comparison between the new cleanup standards and the ones previously in effect under the 2007 Consent Order.
- When one reviews the changes, however, the new numbers are **scores of times weaker, hundreds of times weaker, and even thousands of times weaker**, depending on the toxic chemical and its location.

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Buried in pages 132-137 of the Agreement are Pages of New Risk-Based Screening Levels (RBSLs) That One Would Need a Magnifying Glass to Read

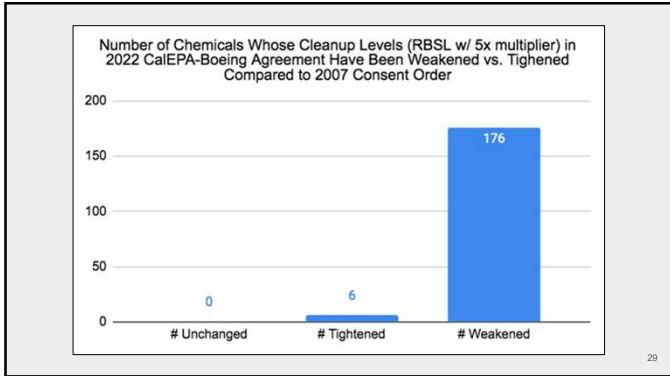
Boeing-DTSC 2022 Agreement (pages 132-137)

27

The Boeing-CalEPA Deal Supersedes these Longstanding Risk-Based Screening Levels Required by the 2007 Order

SRAM Rev. 2 Addendum (pages 1,071-1,073)

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Comparison Chart of Cleanup Standards, with 5x multiplier and 100x multiplier

Factors by Which Boeing Santa Susana “Suburban Residential Garden” Cleanup Standards for PCBs and Dioxins Have Been Weakened in May 9, 2022 CalEPA-Boeing Agreement Compared to Requirements from 2007 Consent Order					
Suburban Residential Garden PCB Risk-Based Screening Levels (RBSLs) and Cleanup Standard Comparison			Cleanup Standard Comparison		
RBSL Pursuant to 2007 Consent Order (mg/kg)	2022 CalEPA-Boeing Agreement RBSL (mg/kg)	Factor by Which RBSL Has Been Weakened	Factor by Which Cleanup Standard Has Been Weakened in Non-Biological Areas (100x the Multiplier)	Factor by Which Cleanup Standard Has Been Weakened in Biological Areas (100x the Multiplier)	
Polychlorinated Biphenyls (PCBs)					
Aroclor 1016	0.0138	0.247	18	89	1,790
Aroclor 1242	0.000496	0.00991	26	192	2,643
Aroclor 1248	0.000486	0.00971	26	190	1,908
Aroclor 1254	0.000488	0.0101	21	193	2,070
Aroclor 1260	0.000489	0.0109	22	191	2,028
Aroclor 1460	0.000486	0.00963	26	192	2,643
PCB TEQ	0.000000075	0.00000156	21	195	2,107
Suburban Residential Garden Dioxins Risk-Based Screening Levels (RBSLs) and Cleanup Standard Comparison					
RBSL Pursuant to 2007 Consent Order (mg/kg)	2022 CalEPA-Boeing Agreement RBSL (mg/kg)	Factor by Which RBSL Has Been Weakened	Factor by Which Cleanup Standard Has Been Weakened in Non-Biological Areas (100x the Multiplier)	Factor by Which Cleanup Standard Has Been Weakened in Biological Areas (100x the Multiplier)	
PCDDs (Dioxins)					
2,3,7,8-TCDD TEQ	0.0000000751	0.00000181	21	187	2,144

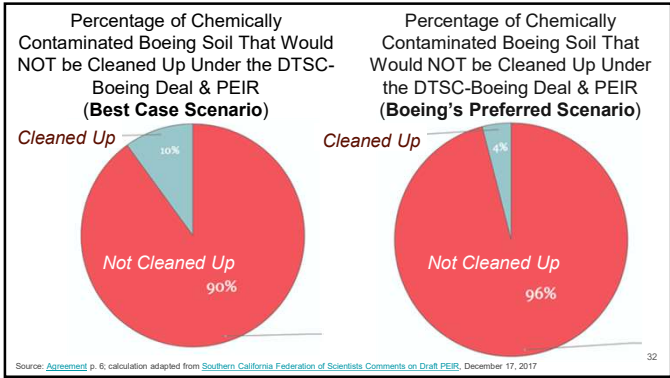
SRAM Final Report / Addendum 2016, March 2016, pp. 1071-1073
SRAM 2016-Boeing Suburban Agreement, May 3, 2012, Attachment 3 Exhibit 1, pp. 107-108
New 2022 CalEPA-Boeing Agreement, pp. 16, 104, 108
New 2022 SRM 2016-Boeing Agreement, pp. 202, 204-205

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The PEIR Limits Amount of Soil To Be Remediated, No Matter How Much Contamination Is Found, to a Small Fraction of the Contaminated Soil in the Boeing Areas of Responsibility

PEIR, Appendix K: Boeing-DTSC 2022 Agreement (Page 6) 31

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PEIR Similarly Breaks the 2010 AOCs with DOE & NASA

- The AOCs require cleanup to background – i.e., returning the site to the condition it was in before it was contaminated:
 - “The end state of the site after cleanup will be background (i.e., at the completion of the cleanup, no contaminants will remain in the soil above local background levels).”
- Instead, the PEIR **exempts huge portions** of the contaminated site from cleanup, **in violation of the very narrow exemptions allowed in the AOCs.**

2010 AOC DOE 2010 AOC NASA 33

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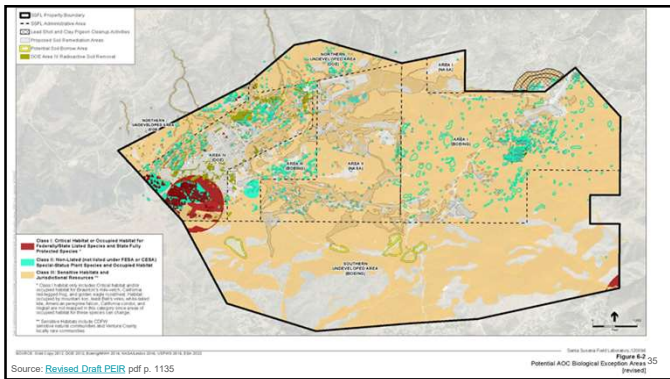
But the PEIR Improperly Gives Vast Exceptions to Cleanup

The AOCs narrowly limit biological exemptions to situations where there has been a Section 7 consultation with US Fish & Wildlife Service for cleanup to background that results in a Biological Opinion that finds cleaning up specific areas to background would violate either Section 7(a)(2) or 9 of the Endangered Species Act.

Section 7 consultation with USF&W has been completed, and **there has been no Biological Opinion making the required findings, thus no such exemptions are allowed under the AOCs.** Yet the PEIR proposes exempting from cleanup the areas in yellow, green, or red in this extraordinary new map in the Final PEIR, representing almost the entire site.

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The PEIR states that the following table shows "preliminary **estimates of where exceptions for significant cultural and biological resources would be applied**" for its purported Superior Alternative.

(Revised Draft PEIR p. 6-18 emphasis added)

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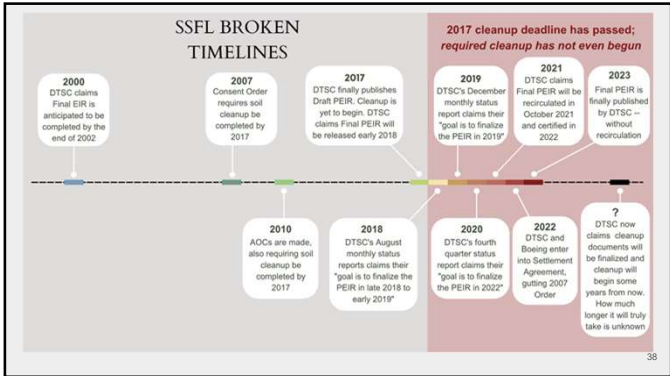
PEIR estimates 338 of 541 contaminated acres would be thus exempted (~63% of DOE and NASA contaminated acres would not be cleaned up to background)

**TABLE 2.6-1
SUMMARY OF POTENTIAL EXCEPTIONS ASSESSED IN DRAFT PEIR**

Area	DOE Areas (acres)	NASA Areas (acres)	Boeing Areas (acres)	Total (acres)
Total Cleanup Acreage ^a	230	226	85	541
Potential Biological Exception Areas within Cleanup Areas ^b	134*	136	49	319
Cultural Resources Within Cleanup Acreage ^c	12	4	3	19
Total Potential Exceptions Areas	146	140	52	338

Final PEIR pdf p. 162

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- Summary**
- DTSC asserts the PEIR requires a "full" cleanup of SSFL. That is false.
 - The 2007 and 2010 agreements require such a cleanup, but the Final PEIR breaches those commitments regarding *all 3* Responsible Parties, and allows large amounts of contamination to remain not cleaned up, putting people at perpetual risk.
 - DTSC says the final cleanup decisions haven't been made, and even if they stay on schedule (which has never happened), they are years away.
 - But the assertion that they have made no decisions now is misleading. The PEIR sets a *ceiling* – the cleanup can be no better than the weak levels set forth therein. DTSC's final actions can – and likely will – still be made even worse, resulting in even less contamination cleaned up.

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California Board of Environmental Safety

ISSUE MEMORANDUM

DATE	September 7, 2023
TO	Members, California Board of Environmental Safety
FROM	Swati Sharma, Executive Officer
SUBJECT	Agenda Item 10 - Discussion and Possible Approval of Board Meeting Minutes

The draft meeting minutes for the June 15, 2023 Board Meeting are presented for review, discussion and possible approval.

California Board of Environmental Safety

Virtual Meeting - Zoom

DRAFT MEETING SUMMARY

June 15, 2023

Members Present	BES Staff Present	DTSC Staff Present
Jeanne Rizzo, Chair	Swati Sharma, BES Executive Officer	Diana Ballesteros, DTSC Deputy Director, Office of Legislation and Regulatory Review
Alexis Strauss-Hacker, Vice Chair	Sheena Brooks, BES Board Clerk	Wayne Lorentzen, Permitting Division Chief, Hazardous Waste Management Program
Sushma Bhatia, Member	Gregory Forest, BES Attorney Advisor	
Georgette Gomez, Member	Linda Ocampo, BES Senior Staff Engineer	
Lizette Ruiz, Member	Jessica Swan, BES Ombuds	

YouTube video link: English <https://www.youtube.com/watch?v=INRzTdR1VaY> and Spanish <https://www.youtube.com/watch?v=EGHljNZE5-8>

1 Call to Order, Roll Call and Establish Quorum 00:00:49

The meeting was called to order at 1:03 PM. The Board Clerk called the roll. Members Rizzo (Chair), Bhatia, Gomez, Ruiz, and Strauss-Hacker (Vice Chair) were present and a quorum was established.

2 Welcome and Opening Remarks, Board Chair Report 00:05:36

Chair Rizzo welcomed participants present on Zoom, reviewed the agenda, and gave opening remarks.

3 Public Forum 00:08:50

Janet Johnson, Richmond Shoreline Alliance – commented that many feel that neither DTSC nor BES are addressing the public comments made at the meetings. BES still has

not posted the presentation that the Alliance provided during a previous meeting. Reiterated the importance of the Board visiting the Zeneca site. Expressed fatigue at the process thus far and having to repeat concerns. Stated there is a fundamental flaw in the DTSC public participation process. DTSC is supposed to engage and work with the community to find a solution that has community acceptance and it is not happening at several sites across the state. Stated that there have been at least two changes in protective levels for TCE. Other sites have been cleaned up to older standards causing illness.

Peggy Hoaglin, Laytonville resident – commented that there are unlined toxic waste dumps near Laytonville. Mendocino built a burn dump where toxic waste drains in to the waterways that lead to the ocean. Reached out to various agencies and feels that no one is doing anything about the exposures from these dumps. Requested to meet with people to show documentation.

Tarnell Abbott, Richmond Shoreline Alliance – encouraged the Board to make a site visit to the Zeneca site. Commented that DTSC and the developer of the site signed a perspective purchaser agreement (PPA) that reduces the legal liability to the new developers. Financial assurance is a requirement of a PPA. This funding is used if the developer does not comply with the cleanup and for long term monitoring. DTSC rushed approval of the PPA to meet the developer's deadline which ignored long term issues and stated issues of the developer. Financial assurance remains unfulfilled.

Jamin Pursell, Richmond Shoreline Alliance – commented about concerns in the PPA for the Zeneca site. The PPA went through a rushed review and community concerns were dismissed. The financial assurance for the site remains unfulfilled and the cash reserves have been reduced. There is a lack of clarity on the requirements if the developer decides not to follow the agreement which creates a risk to the community's health and statewide finances. DTSC must be held accountable and prioritize the health and wellbeing of community and the environment over expediency and political pressure.

Laura Rosenberger, Fresnoans Against Fracking – commented about a toxic waste dump near the Colorado River near a tribal reservation. Expressed concerns about exposure to toxins to the indigenous community that use the river. Expressed that the taxpayers should not bear the burden of polluters mistakes.

Miguel Alatorre, Greenaction – requested the Board create more accountability and transparency within DTSC and provide reasoning behind the decision to keep toxic dumps open with expired permits. Stated the need to work cohesively with communities on solutions to ensure environmental justice if the Board is unable to do it themselves. Stated that he is not seeing true enforcement in Kettleman City. Expressed fatigue due to going back and forth with DTSC and feeling that the concerns expressed are not being truly heard. Requested information about how dumping could be stopped in his community. Requested true dialog, getting rid of the bad actors within DTSC, and ensuring that polluters are held accountable. Stated that the birth defect cluster in Kettleman City was never truly investigated and that the toxic dumps continue to spread toxics in the community to today. Expressed that DTSC is not serving

communities and they need to be held accountable. Questioned who should be held accountable for the lack of consideration of cumulative impacts in permitting decisions and why facilities that are not in compliance with the law still open and operating.

Carolyn, Resident of Richmond – stated that the community surrounding the Zeneca site have been working with DTSC on the site for years, but when the PPA came out, they were only provided a short timeframe to comment on the document. Stated that the PPA was a very technical legal document and that the community was not provided any assistance with it. Expressed concerns that the PPA agreement was made with an LLC which creates a lack of transparency and a lack of clarity in resolving any legal issues that might arise in the future.

Ken Sutu, Citizen Air Monitoring Network – expressed that the Environmental Protection Agency (EPA) considers environmental justice very important. Quoted the EPA website definition of environmental justice. Called the Board members attention to a system wide engagement process that likely does not include meaningful involvement. Questioned if the public's contributions affect the agency's decision-making as they are supposed to. Requested BES examine the concept of meaningful involvement very carefully to determine what can be implemented to achieve environmental justice.

Shirletha Holmes-Boxx, Greenaction – requested that DTSC call on the Navy to not include any capping as a remedy for toxins found at the Bayview/Hunter's Point shoreline or any of the shoreline communities in consideration of sea level rise. Requested DTSC use the science that shows that capping is not an effective remedy for the shoreline of Bayview/Hunter's Point, or any shoreline community.

Angela Johnson-Meszaros, Earth Justice – Urged the Board and DTSC to take the lived experiences of community members into consideration. Requested the Board and DTSC take immediate steps to address the harms that have been identified and recognize there are other harms that need to be uncovered and addressed. Inquired about how and when the Board will revisit the permit appeals regulations. Requested that the Board change the regulation so that it includes a full process for hearing appeals for temporary authorizations or, at minimum, it change the submission of the appeal date to 30 days after a final administrative record has been provided by DTSC to the Board.

4 Initial Order – Lighting Resources, LLC

00:51:17

BES Senior Hazardous Waste Engineer, Linda Ocampo provided an overview of the draft initial order that was created by the Appeals Subcommittee and BES staff.

Appellant was represented by Manatt, Phelps and Phillips Attorney, Matt Williamson who provided comments from the Appellant.

DTSC Permitting Division Chief, Wayne Lorentzen provided comments on behalf of DTSC.

Public Comment

Erich Nolan, Stewarding Design, LLC – commented that universal waste is hazardous waste with specific regulations for the handling and processing of the material. Stated that this is the first process with the new appeal regulations and that it is important to follow the correct steps in the process. Stated that it is incumbent on the Board to provide the highest level of protection. Encouraged the Board to ensure this is the direction being followed.

Phillip Chandler, Former DTSC Permitting Division Employee – Suggested that the Board carefully consider the presentation from Division Chief Lorentzen.

Board discussed initial order with assistance from staff.

**Member Bhatia motioned to approve the initial order for Lighting Resources, LLC.
Member Gomez seconded the motion.
Motion passed unanimously.**

Member	Aye	Nye	Abstain	Absent	Recusal
Chair Rizzo	X				
Member Bhatia	X				
Member Gomez	X				
Member Ruiz	X				
Vice Chair Strauss-Hacker	X				

Break taken from 3:20-3:30PM

Quorum reestablished with 5 of 5 board members returning from break

5 Introduction to the DTSC Environmental Justice Advisory Council (EJAC) Framework

02:15:05

Members Ruiz and Gomez introduced the framework with DTSC Office of Legislation and Regulatory Review Deputy Director, Diana Ballesteros.

Board discussed presentation.

Public Comment

Ken Sutu, Citizen Air Monitoring Network – commented that two years is not a sufficient timeframe to get the EJAC established. Questioned the EJAC budget as compared to the total DTSC budget. Suggested that a commitment is made to continue the EJAC because public participation should not be limited to a budget surplus. Commented that the EJAC is part of the commitment to having community involvement. The EJAC is needed in the long term for appropriate engagement. Commented that the community was not happy with DTSC and that was the reason BES was created. Suggested there may be a conflict with the budget for the EJAC being held by DTSC.

Erich Nolan, Stewarding Design, LLC – commented that there is some dissatisfaction being expressed by the community regarding the Board and that the EJAC would create an additional level of engagement for the community and accountability for BES and DTSC. Commented that metrics and targets are critical to showing that the EJAC is working. Expressed concern about the two-year timeframe being too short and the creation of a potential silo. Suggested that the EJAC be more independent and have oversight over a variety of existing environmental issues. Stated, if that's not possible, then the EJAC should communicate closely with other CalEPA agencies noting that environmental justice issues affecting communities goes beyond hazardous waste.

Ingrid Brostrom, UC Merced Community Labor Center – echoed concerns about the expiration in 2025 and urged the removal of the reference to it. Suggested that continued appropriation for the EJAC is needed. Commented that having this limiting language in the guidelines might prevent continued appropriation or inadvertently require a whole new formation of the EJAC after 2025. Suggested that funding the EJAC be a part of the annual budget request. Appreciated the flexibility and space given to the EJAC to do their work. Suggested that the guidelines for the EJAC include more language to define its role of providing an additional accountability tool for DTSC and providing space for the EJAC to provide input on performance metrics, tracking performance metrics from a community perspective, and providing input on the annual report. Emphasized the need to build in these mechanisms so that EJAC could provide important information and tracking over time on how DTSC is doing on engagement and with specific community concerns.

Carolyn Graves, resident of Richmond – echoed the concerns raised by Ingrid. Commented about experience as a member of a different advisory group. Stated that much of the advice from the group was ignored. Emphasized the importance of having the accountability measures in the guidelines.

Ivana Castillanos, Physicians for Social Responsibility – Los Angeles – echoed concerns about the length of time. Emphasized that the creation and set up of these bodies takes time. Recommended that funding be secured to have the EJAC be an ongoing effort. Echoed concerns about DTSC treatment of existing advisory groups. Stated that reports from those taking part in various advisory groups often feel that agencies take the advice but may not follow-up on it or take it in to consideration. Suggested that a commitment of how advice from the EJAC will be considered from either DTSC, BES, or both be included in the guidelines.

Angela Johnson-Meszaros, Earth Justice – questioned if there was some mechanism of approval on the establishment and governance of the EJAC from either the agency, DTSC, or BES.

6 Board Member Reports

03:20:28

Member Bhatia and Ruiz reported on the Exide working group meetings.

Vice Chair Strauss-Hacker reported on the work with DTSC staff for the Board to visit permitted hazardous waste facilities to gain knowledge about the operations. Reported on a visit to the Corteva facility in Pittsburg, CA.

7 Review Action Items

03:27:42

Vice Chair Strauss-Hacker reported the following action items:

- Moving brief for the Lighting Resources, LLC appeal is due at the end of July and the administrative record will be certified shortly
- Next board meeting will be held on July 13 in El Cerrito
- The deadline for comments about the EJAC framework is due to DTSC on July 21

Executive Officer Sharma reported that the EJAC workshops to be held in-person and virtually are as follows:

- June 29 – Fresno at 5:30 p.m.
- July 11 – El Cerrito at 11 a.m.
- July 18 – Los Angeles at 10:30 a.m.

8 Closing Remarks and Adjournment

03:30:22

Vice Chair Strauss-Hacker motioned to adjourn the meeting. Member Gomez seconded the motion. Meeting adjourned at 4:47 p.m.