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September 16, 2023

Del Amo Action Committee Comments

Subject: DTSC Draft Hazardous Waste Management Report - July 2023
Submitted via email: DTSC_HWPlan@dtsc.ca.gov

We appreciate the opportunity to comment of this draft report. Del Amo Action Committee (DAAC) has been deeply involved in many conversations, committees and workshops regarding the handling of hazardous waste and the clean-up of contaminated sites in environmental justice communities.

Coming up with a plan is long overdue.

Our comments are from two different perspectives. One from Florence Gharibian, retired DTSC and currently DAAC Board Chair. She started working at DTSC in Sacramento. She accepted an assignment with the Hazardous Waste section of the Department of Health Services while an employee of the USEPA. In 1981 she was hired in the DTSC Los Angeles office. In 1996 she was selected as the Enforcement Branch Chief in the LA office. In 2007 she was asked to be the Environmental Justice Program Coordinator for DTSC.

Cynthia Babich, DAAC Director for 30 years working on environmental justice issues in her community and across California.

We will do our best to distinguish between us so you understand the well of experience we are drawing from. We each focused on sections we had the most experience with, dividing up the work to not just read this draft but to understand its intent.

Opening comments influenced by years of experience inside DTSC by Florence; they are heart felt and made with every intent to spur the needed change in DTSC's waste management polices using her behind the scenes insight on how we got here, intent!

Overview and Opening Comments (Florence Gharibian)

The Right Priorities

It is time for Creative and Forward-thinking change at DTSC

Winston Hickox (formerly Cal EPA Secretary) commented in the most recent meeting on fees held by the Environmental Health Board. His comment was "DTSC's work is for all of California's people."

It is not about meeting the expectations of the regulated community with ready access to lobbyists and lawyers. Do they have a DTSC open door? People living in disadvantaged communities are the people most impacted when DTSC does not understand or support them. DTSC must have a true understanding of their vulnerabilities. This is justified because the largest number of facilities are in disadvantage communities. Make commitments and achieve those commitments.

Environmental Justice is DAAC's highest priority. DTSC needs to improve their outreach to Environmental justice communities. It has always been difficult for DTSC to do adequate public participation. DTSC needs to make commitments to make a difference in disadvantage communities and achieve those commitments. Respond in a meaningful way.

Two quotes from the report.

"Humanitarian goals are tied to environmental goals because unstable societies and societies suffering from extreme poverty are unlikely to achieve sustainable development."

The USEPA, CalEPA, agencies and local and regional governments have established Environmental Justice as a top priority.

The following statement is demeaning and simply not true. *"Working with community members would result in permits taking longer."*

For many years people living in the communities have complained about the lack of early notice and participation in the permit process. We disagree with this statement.

Increasing staffing and resources where they are needed is important.

The Report clearly identifies the work load in LA County and other Southern California counties as significantly higher than other areas. More staff is needed where the work is significantly greater.

With 55% of the permitted facilities in disadvantaged communities' steps should be taken to require those facilities to operate safely. These steps could start with more stringent permits. Also working more closely with other regulatory agencies and more frequent inspections. Penalties should be higher when violations cause community impacts.

In Director Williams comments at the recent Environmental Health and Safety Board meeting included identifying the massive amount of work DTSC is doing. The work on the Exide project is immense. Santa Susana Field Labs merits extensive work and a new approach. Controversial permits consume time and energy. The work can be discouraging and very political. So much of the work has no blueprint. Something is always left out.

Emergency response to earthquakes, fires and even riots, pose unexpected work DTSC has always accomplished. inspectors from Sacramento came after the Northridge earthquake. They were charged with cleaning up the university labs. Employees had homes destroyed. The LA employees were all badly shaken but several of them were doing other work responding to the earthquake.

DTSC had hiring frenzies and extended periods of time when hiring was frozen. Furloughs caused financial pressure for employees. Notices for potential layoffs directly affected new skilled employees. There were times when executive leadership created stability and support for the work. There were times when leadership was a revolving door; leaving a vacuum in leadership and wildly changing priorities.

The time has come to understand these realities and look forward to a future with different new programs that involve new approaches resulting in solving many of the problems DTSC has endured.

This document includes our comments on the Pollution Prevention Program's success and possible applications now. Does the current manifest system have limitations that should be remedied to ensure that it effectively accomplishes confirmation of cradle to grave? Is the manifest system effective in enforcement? Contaminated soil, accuracy questions, and alternatives to removal and disposal of contaminated soil. Waste Oil management which in many ways could be identified as a success with a large portion of the waste treated in California. However, there is a missing link. What happens to the recycled oil?

One very difficult part of DTSC's work is finding the right way to involve the many communities DTSC serves in the work being done.

The Los Angeles Environmental Justice Network and other community organizations deserve respect and an open door that enables the organization's ability to talk to the right people at DTSC. People who are willing to help and are responsive to our concerns. This is not what is happening now.

The recently enacted Permit Denial Regulations developed by the Environmental Health and Safety Board are disappointing. DAAC Participated extensively in the process because we expected a new regulation that provided better opportunities for community members to participate. The regulated community got what they wanted. We didn't. This happens in the work we do. Time and energy put into a project that honestly reflects community needs, only to ultimately discover that we didn't get what we needed. A feeling of betrayal is our response.

DAAC's recent accomplishments include conducting a community health survey. A bus tour and a meeting with our agency and elected official stakeholders, establishing a community-based center and increasing our community core group. Time to take a break and pat each other on the back doesn't happen very often, so much to do advocating for the needs of environmental justice communities like ours.

<u>New Appointments are encouraging</u>. Director Williams spoke highly of Todd Sax, Director of the Site Mitigation and Restoration Program at a recent Senate hearing. Katie Butler, Deputy Director, Hazardous Waste Management Program spoke at the hearing with deep commitment and sincerity. The Del Amo Action Committee has the highest respect for both them.

Todd Sax formed an enforcement team to work with DAAC on environmental issues in our community. His thoughtfulness, willingness to listen and his ability to do something made all the difference in the world; to be heard and not invisible.

Katie Butler worked with the LA Environmental Justice Network. Her contributions, knowledge and ability to provide thoughtful input always enhanced our work. Her keen sense of right and wrong is a beacon of light in a very dark tunnel.

Karl Palmer Safer Consumer Products Program Deputy Director served as the Industrial Hygienist in the in the Regional Office when Florence Gharibian was a Branch Chief in Enforcement. His guidance for the inspectors did much to protect our staff in their work.

DTSC Employees - The Department of Toxic Substances has always been a dynamic organization that assumes expanding responsibilities. The program to ensure safer consumer products and the management of universal waste are two examples. The people at DTSC work hard to accommodate and understand new responsibilities. Changing priorities come with the job.

Effective communication with the DTSC employees and adequate training could not be a higher priority. Employees must be clear about the priorities of upper management. Employees should understand and support them. If this doesn't happen goals and objectives will not be achieved.

California should be proud to have the first regulatory program governing hazardous waste management. Paving new ground is the continuing journey for DTSC. The team in the hazardous waste section in the Department of Health services created the program, in part because they were originally in the vector control program and saw hazardous waste going to municipal landfills.

CalEnviroScreen is a significant accomplishment for California. The data has many applications. DAAC used the data in developing our Community Vision Plan. Our community is in the 94% category for air pollution and higher for groundwater and soil contamination.

In the latest Environmental Health and Safety Board meeting DTSC shared the Budget. The Budget included 8 million dollars to accelerate Superfund Site cleanups and enable construction of housing. DAAC's experience with our two Superfund Sites would cause tremendous concern if housing was proposed on the Montrose Chemical and Del Amo sites.

With 55% of the permitted facilities in disadvantaged communities' steps should be taken to require facilities to operate safely. These steps could start with more stringent permits. Also working more closely with other regulatory agencies and more frequent inspections. Penalties should be greatly increased when violations cause community impacts.

Adequate staff and resources are needed and always have been needed to maintain the manifest system.

Los Angeles County, CA Since 2010, 148,730 generators have generated 6,588,500 tons of hazardous waste. This includes 5,035,900 tons of non-RCRA manifested hazardous waste, 1,496,400 tons of RCRA manifested hazardous waste, and 56,300 tons of uncategorized manifested hazardous waste. As mentioned above LA County has 23,000 generators of hazardous waste. In Orange County since 2010, 68,105 generators have generated 878,500 tons of hazardous waste. This includes 547,100 tons of non-RCRA manifested hazardous waste, 320,900 tons of RCRA manifested hazardous waste, and 10,600 tons of uncategorized waste.

The importance of an adequate manifest and tracking system cannot be overstated.

Section 1 Introduction and Overview (Cynthia Babich)

The report begins by clearly laying out the process followed to understand waste management and waste streams in California and to get this first plan together; as well it explains a long-established belief, going back to the 1970's, about California's intent to be proactive and the importance of managing the wastes generated in California.

The hierarchy structure of waste management makes sense: source reduction is the key to managing waste. Once produced recycling and treatment are important options that have not reached their full potential including a real exploration into emerging treatment alternatives that would allow us to move away from land disposal. The current practice of land disposal should only occur when all other management methods have been exhausted including treatment; recognizing that space is not infinite at current California waste facilities are nearing capacity.

Waste disposal to landfills should be disincentivized by drastically increasing costs to generators producing waste and ensuring our wastes remain in our boarders. California as a leader in environmental protections requires more wastes to be managed then federal standards which has incentivized the export of California's waste because in is cheaper once declassified in other states, which then is not managed as waste at all. Instead of California hinting about the consideration of lowering its standards to match federal RCRA waste classifications, we should step up our game and follow through with our commitment to waste reduction and treatment in our boarders, leading the way for other States. Do not take the path of declassifying our hazardous waste management policy objectives to manage our own wastes which has been a state goal beginning in the 1980's.

It is important to understand California's long standing waste management laws that have fallen short of real commitment and enforcement efforts laid out through legislators; the loss of active waste reduction programs like pollution prevention has led to a lapse in managing California wastes in California. 50% of California waste is shipped to other states and countries. Without pollution prevention strategies waste generation in California has increased not declined; this is because it is allowed to send wastes to areas that have the least protections and simply treat it as municipal trash.

Instead of grappling with in state management, which calls for several new hazardous waste facilities to be built, we are encouraging out of state transport and expanding the two facilities we do have AND allowing them to operate without a renewed permit. DTSC shirks their commitment and responsibilities to long established "in state" management goals and policies.

We hope this management plan begins the process to get back to what will work best for all Californians; pollution prevention and fully treating wastes. Why would generators treat when it is incredibly cheaper for generators to ship and bury in other states; changing this will begin to steer us away from polluters calling the shots to real regulation and waste management oversite.

DTSC needs to regulate waste reduction and not manage the ever-increasing waste stream!

Section 2 Generation of Hazardous Waste (Florence Gharibian)

"Generators may have more of an impact to a community's lived experience than hazardous waste management facilities because there are so many and because of the variety and type of hazardous waste generation activities. Certain types of generators, such as metal finishing facilities use cyanides in their processes and many generators use solvents for cleaning purposes. In 2021, there were 74 facilities with an operating hazardous waste facility permits in California while there were almost 95,000 hazardous waste generators in California. DTSC inspects hazardous waste transporters, universal waste destination facilities, TSDFs and a very small number of generators."

In addition to having more Treatment facilities in Los Angeles over 50% of the generators are in LA County. The CUPA's do most of the generator inspections. A review of the need to assure the CUPA's have the staffing to do this work is important. Maybe generator inspections should be increased when complaints are received.

DTSC does not categorize generators that handle waste that is more dangerous. The Report mentions metal plating facilities that use Cyanide. DTSC did focused inspections of these facilities. A team of inspectors from Sacramento did this work because staffing was limited in the LA Office. Serious Class One violations were found at the majority of the facilities.

One way to identify more dangerous Generators with a priority in disadvantaged communities would be to view the list of facilities that are required to submit a Risk Management Plan. CalARP requires certain facilities which handle, manufacture, use, or store any regulated substances above threshold quantities to take actions to proactively prevent and prepare for accidental releases. Facilities subject to CalARP requirements must submit a Risk Management Plan (RMP).

The Manifest System

The data in the manifest system was used for much of the data found in the Report.

The manifest system was initially developed to ensure cradle to grave management. With 500,000 manifests received at DTSC every year it is critical for the system to provide information useful to accurately check the manifest for every step of the process. To achieve this goal increases in staffing is needed. Further development of the system to allow more sorting items may also be needed. Some of this work could be done perhaps with student interns.

The system is a powerful tool for inspections and data. The most important information and the reason the system was developed is to track waste to ensure it goes to a permitted facility. It is critical to understand that there may be generators glad to get rid of their waste and are not interested in where it ends up.

A chart provides Information on hazardous waste generators by county. The chart shows that the counties that have more generators are in Southern CA; LA has more than 50% of the generators in CA or 23,000 generators. Orange Counties has 10,000 generators. San Diego County has 9,400 generators.

Another chart from the report states that Los Angeles County since 2010 has had 148,730 generators who have generated 6,588,500 tons of hazardous waste. This includes 5,035,900 tons

of non-RCRA manifested hazardous waste, 1,496,400 tons of RCRA manifested hazardous waste, and 56,300 tons of uncategorized manifested hazardous waste. The chart providing this information is in alphabetical order by county. As mentioned above LA County has 23,000 generators. hazardous waste in LA County. In Orange County since 2010, 68,105 generators have generated 878,500 tons of hazardous waste. This includes 547,100 tons of non-RCRA manifested hazardous waste, 320,900 tons of RCRA manifested hazardous waste, and 10,600 tons of uncategorized manifested hazardous waste. This is a tremendous amount of waste to track.

Generators, transporters and permitted facilities have regulatory requirements regarding the manifest. If any of the three do not comply with those requirements the ability of the manifest to track hazardous waste is diminished. According to the Report 500,000 manifests are sent to DTSC every year, the system must have the ability to flag missing information or inaccurate information. Generators have a requirement to track the waste until they receive the permitted facility copy confirming the receipt of the waste. When the information is not received from the permitted facility, the generator is required to send an exception report to DTSC. The report is required in 60 days. This could be a long time for hazardous waste to be missing. What happens to the exemption report when it is sent to DTSC, when it didn't work and why?

A transporter stopped taking the generators waste to a permitted facility. Instead, he rented a lot in Wilmington and took the waste there. One of the generators contacted the transporter to find out what happened to the waste. The transporter told the generator where the waste was. When DTSC inspectors went to the lot they found waste from several generators. The generators had to pick up their waste and remanifest the waste. Many of the containers holding the waste were damaged. The gate to the facility was open. The generators were required to get their waste and remanifest the waste. This was more difficult when the containers were damaged. DTSC staff monitored the work.

The annual quantity of all types of hazardous waste tracked with a manifest has ranged from 1.4 million tons to 2.0 million tons since 2010. Manifest Requirements and instructions are provided to generators, transporters and permitted facilities. All of them have to do it right. The generator has important responsibilities. DTSC maintains a data base with information from each manifest. As with any other data base, the information entered must be accurate.

Does the manifest system flag waste that was not received by the permitted facility? Is there any way to know if the wrong waste code was used? The permitted facility is required to confirm that the waste is what is described on the manifest. What happens if the permitted facility rejects the load? When is it to the generators advantage to use a non-RCRA code rather than a federal code?

Can the system be searched by waste code?
Information on waste that didn't get to the permitted facility should be a priority of the manifest process and enforcement should be involved in the discussion of how the process can be improved.

<u>Numbers required on manifests and other relevant documents</u>
With so much information required on the manifest a generator could be confused and enter the wrong information. Generators could also use the wrong code with a more sinister motive. If the permitted facility wants the wrong code to accept the waste, perhaps it is because the facility is not permitted to take the waste unless the code and waste is what the facility accepts regardless of the waste.

One of the challenges generators have, is providing right and complete waste codes. The generator is also required to put their EPA number on the manifest. State waste codes are also required. The U.S. EPA uses a 12-character waste code number. The EPA number begins with the Department of Transportation shipping number. Both the state waste code and the federal waste code is required on EPA manifests. Contaminated soil has a state code. The federal and state waste codes defining the hazardous waste on the manifest are not the same.

All generators must have a unique generator number. The SIC (Standard Industry Code) is required on the application for a generator number. The plating shop SIC code is 3471. There are 10,000 codes. This code is not required on the manifest. The generator's unique number is required. Every number must be correct. There is not a practical way for DTSC to check the number of the waste codes to ensure they are correct.

When an EPA generator number is issued is there a unique data base for this information? If so, what does it include? Is there a generator data base? What information can be tracked in this data base?

Electronic EPA system requires both a state and federal waste code. The federal waste code information is based on the Department of Transportation codes and the USEPA waste code. The California codes are not similar to the federal codes. The generator is required to list both. California has 780 codes; EPA has a much shorter list.

The Report provides information from the manifest system to describe the waste generated in California. One CA code is for contaminated soil. In addition, the EPA has Land Disposal Restrictions. No similar program is in place in California. It would be advantages to some to use just the state code. Could this be one reason that the majority of the contaminated soil is non-RCRA?

The contaminated soil waste code is problematic. The other wastes codes are based on the characteristics of the waste. Perhaps it is very difficult to determine what is in the soil that makes it contaminated. With this limitation it is difficult to understand how the non-RCRA determination is made. The EPA code is also problematic. It took an extended period of time to find the EPA codes. There are two codes: hazardous contaminated soil or not contaminated soil.

Additional Section 2 comments are provided from an environmental justice perspective
(Cynthia Babich)
There is no penalty for excess (avoidable) generation of hazardous waste. It is cheaper to just dump product into a waste facility then it is to recycle it. Space in a hazardous waste facility should only be used for wastes that cannot be remediated, often more expensive to the generator; in fact, is allows generators to be sloppy with their productions.

<u>Waste Treated On Site</u>
The definition of treatment is too broad. Taking a hazardous substance from one medium to another (allowing to volatize from soil directly into the air as an example) is not treatment. Glad California requires a permit, careful attention and inspection should be occurring to ensure that requirements and processes are being followed.

The waste stream categories eligible for on-site treatment should be reviewed to ensure the treatment is standardized across the stream. Some categories of concern are: Special wastes????; Soils contaminated with metals; Containers 119 gallons or less in capacity (should go by contents not quantity); Consolidation from remote sites; Cyanide treatment and Household Hazardous Waste (HHW) which have different levels of waste being lumped together - ranging from prescriptions, paint and even that old box of 50-50 DDT in the back of the garage.

Limitations on Data for Waste Treated On Site

Resources are not being put into looking at the limitations of on-site treatment and need to be; not out of site out of mind or out of state out of mind.

DTSC needs to do more regulation and inspections. Not all DTSC contractors are alike; the CUPA's in large metropolitan areas like Los Angeles are overwhelmed with the bulk of generators in the area; things are and have fallen through the cracks. DTSC must be present and not pass the buck to contractors, especially if they are already overburden with an extensive workload. This is a lame excuse for lack of DTSC oversite. Maybe a stand-alone entity who wants the job and has the capacity to do it needs to be initiated.

The problems surround the Recyclable Materials Reports (RMRS); in need of a two-fold plan.

1. Go from where we are and what we need from this information and
2. Go back and review prior data and input into a working system.

Manifest System and Data Sources

Need to remove the option for generators to complete a manifest with paper instead of using the electronic system.

RCRA Manifested Hazardous Waste

The statement that there was a decline in waste generation from 2000 to 2021 is trying to paint the picture that California is meeting its waste reduction goals. This time period as everyone knows was the beginning of covid and lockdowns.

California's Largest Hazardous Waste Streams

The three waste streams producing 65 percent of all hazardous waste generated since 2010 are contaminated soil, used oil and "other" inorganic debris.

Contaminated Soil for Site Cleanups

Contaminated soil often is not appropriately segregated; keeping contaminated piles away from clean fill soils. Currently it is faster and cheaper to dispose out of state then adequately sampling which would allow for proper manifestation of waste. DAAC has witnessed this on many occasions especially during voluntary clean up agreements; none of which had proper DTSC oversite. The worst case we witnessed was a removal of waste 17 feet below clean fill soil from a previous removal. The company, Ecology Control Industries, dug and piled 17 feet of clean soil then dumped contaminated soil on the top of clean soil which meant the whole pile needed to be treated as a hazardous waste; in this case DDT contamination which requires incineration.

Incineration creates dioxin in many instances especially in the presence of chlorine. Is this a common practice which has caused contaminated soil to be our top pollution source? Maybe so.

Waste Oil and Mixed Oil

What is the percentage of used oil being recycled? Couldn't it be 100%? It should be regulated that used oil collection must include a 100% recycling mandate.

Other Inorganic Solid Waste

It can also be said that other inorganic debris like; plastic, glass, dust and metals need 100% recycling regulation.

Unmanifested Wastes

All hazardous waste should be tracked "Cradle to Grave".

Handled Cathode Ray Tubes (CRTs)

Need mandatory policy to stop the concept of indefinite storage of CRTs and also have a deadline and required documentation that facilities have cleared out their stockpiles; the ramifications can be revocation of permits and licenses to do business as a recycler. You will also need to ensure resources are available when stockpiles are abandoned by irresponsible operators.

Batteries, Lamps & Mercury-Containing Equipment

Time to make it mandatory to report and respond to DTSC inquiries about the amount and type of batteries, lamps and mercury-containing equipment, that may be managed as universal waste that retailers and recyclers are handling. In DTSC review for this Draft, several areas have been identified as needing approvement or overhaul. Your report to legislature should detail changes needed, legislation needed and an evaluation of the risks and benefits of ensuring the heavy metals in batteries are properly managed.

Photovoltaic Modules

Well, the writings on the wall. Time to fix the reporting matrix of the possible duplications you have identified. Then we need to do research and development for reuse or recycling proactively. It is not appropriate to delay to the last possible minute when you can act now to seek options. Using the case of the stockpiled CRTs it could happen with solar panels and their components. Much like remediation technologies if you put out a call for innovation you will be pleasantly surprised. Support innovation.

Hazardous Household Waste

It seems that CalRecycle has a successful program including reporting. Are the any processes that could be adopted with other hazardous waste categories from them?

Treated Wood Waste

It seems like some wood treatments containing arsenic, chromium, copper, pentachlorophenol and creosote are hazardous.

Pesticide products containing creosote as the active ingredient are used to protect wood used outdoors (such as railroad ties and utility poles) against termites, fungi, mites and other pests.

Pentachlorophenol was once one of the most widely used biocides in the United States, but it is now a restricted use pesticide and is no longer available to the general public.

So, the plan with them is to create exemptions because generators and DTSC have resource and management burdens? This does not seem appropriate and the people of the State of California expect environmental laws and policies to be consistent and enforced.

Discussion

The time has passed for self-regulation, that is how we got here – increasing generated waste each year. To let the generator, decide if the waste they generated is hazardous or not because they know the most about the waste generated, is a weak argument for lack of oversite. We must get control over waste generation in California, because it is overwhelming to regulators and too many exemptions are happening.

Waste Reduction Efforts

More effort needs to be put into pollution prevention, reuse and recycling. It is that simple if DTSC wants to be a regulator of waste instead of a broker of waste.

Consideration for Waste Stream Prioritization of Manifested Hazardous Waste

Lead in soil must be delt with, it is a huge waste stream especially because Exide and Quemetco were allowed to spew lead all over surrounding environmental justice communities, our most vulnerable and least likely able to have the resources to escape injury.

What a cop out to think that we, DTSC, does not have to explore and support remediation of these soils; the benefits are very clear and certainly it is the right thing to do.

All waste streams need to be reduced. Picking and choosing is not regulating these generating industries. Regulations will lead to reductions.

Consideration of Waste Generation and the Certified Unified Program of Agencies

All CUPAs are not the same. Los Angeles and other big urban cities that generate the most are not being adequately inspected, some facilities only every three years. To justify this lack of oversight because the workload is too big is not justifiable. Some CUPAs have been an ongoing disappointment to communities who rely on inspections to protect them from inappropriate business in close proximity to homes and schools like, Sterigenics who conducts sterilization of medical equipment using a gas called Ethylene Oxide (EtO) and operates in Vernon. The nearest residential area is about 500 feet away, and the nearest school is 1700 feet away.

DTSC needs to take on more responsibility in areas with the most generation or contract with businesses that have the capacity and want to do the job.

Chapter 3 Destination Facilities and Land use (Florence Gharibian)

If DTSC considering the siting of a new incinerator for hazardous waste we can assure you that it will be strongly opposed and inevitably defeated. DAAC has always been opposed to incineration of hazardous waste. We are certain that other community organizations will also be opposed. **Incineration is not recycling……**

From the Report

Since 2010, 98.5 percent of the inorganic solid waste managed within California was shipped to five locations: • 822,600 tons (57.6%) was managed at Clean Harbors Buttonwillow LLC. • 417,000 tons (29.2%) was managed at Chemical Waste Management Inc. Kettleman. • 88,800 tons (6.2%) was managed at KW Plastics of California. • 40,400 tons (2.8%) was managed at Quemetco Inc. • 39,900 tons (2.8%) was managed at Exide Technologies. • 58,400 tons (1.9%) was disposed of at Mecca Resources Facility.

KW Plastics

88,800 tons (6.2%) of Inorganic Waste was managed at KW Plastics of California, Kern County. Apparently, KW Plastics must have been identified as a permitted facility on the manifest. The company was not a permitted facility. From the description in Envirostor the company would not have been receiving inorganic waste. The information in Envirostor provides a description of KW Plastics. "KW Plastics of California produces reclaimed polypropylene products from polypropylene waste chips. In the past, these chips were sourced from battery crushing operations in Southern California and are tainted with lead residue. The operation that recycled battery cases contaminated with lead was closed in November 2020. The facility continues to recycle plastics that are not from contaminated sources and the business owner, with DTSC oversight, is investigating the nature and extent of the contamination at the site."

Western Environmental Incorporated (WEI) is located on Native lands in Mecca, California 58,400 tons (1.9%) was disposed of at WEI facility. DTSC indicated that 75.3% of the waste that went to WEI was contaminated soil. DTSC's field staff overseeing cleanup projects should have been informed about WEI's lack of a state permit. Not all of them were. As a result, waste from cleanup projects overseen by DTSC and other state agencies were taken to WEI after they notified DTSC that they would not be accepting non-RCRA waste.

DTSC does not categorize generators that handle waste that is more dangerous. The Report mentions metal plating facilities that use Cyanide. DTSC did focused inspections of these facilities. A team of inspectors from Sacramento did this work because staffing was limited in the LA Office. Serious Class One violations were found at the majority of the facilities.
CalEnviroScreen is a significant accomplishment for California. The data has many applications. DAAC used the data in developing our Community Vision Plan. Our community is in the 94% category for air pollution.

DAAC used this information in the extensive work we did trying to prevent the construction of a warehouse identified as an operating unit with contamination from Montrose chemical. The USEPA facilitated the warehouse through a Prospective Purchaser's agreement. Letters from the ARB, the Attorney General's Office and from the SCAQMD were sent to the LA County Planning Department. The letters discouraged the construction of the warehouse and suggested mitigation measures if it was built.

The caviler attitude of the USEPA and DTSC excusing themselves from land use is unfortunate and a disappointment to DAAC. The USEPA made a land use decision when they signed the Prospective Purchaser's Agreement. The two agencies should communicate with the Planning Agency when an incompatible land use is pending. Developing communication with Planning Departments and discouraging incompatible land use is important. In Los Angeles County a number of programs are underway to avoid or manage incompatible land uses.

In the latest Environmental Safety Board meeting DTSC shared their Budget. The Budget included 8 million dollars to use to accelerate Superfund Site cleanups to enable construction of housing. DAAC's experience with our two Superfund Sites would cause tremendous concern if housing was proposed on the Montrose chemical site.

Additional Section 3 comments are provided from an environmental justice perspective (Cynthia Babich)
With the current overburdened two permitted hazardous waste landfills, operating on expired permits and lack of mandated remediation it is no wonder that they are reaching their capacity rapidly. Expanding them is not a solution, this is the continued dumping of toxins on the same environmental justice communities forever. Del Amo Action Committee stands in solidarity with Buttonwillow and Kettleman City, support real solutions.

DTSC should use CalEnvrioScreen to identify at least three new locations (near the areas of heaviest generation) for new hazardous waste facilities and then put out a request for developers at those locations instead of letting them pick the locations which we have seen results in sittings in environmental justice communities. This needs to go hand in hand with enforcement and reinvigorated pollution prevention strategies.

Section 4 Analysis of Hazardous Waste Facilities and Surrounding Areas
(Cynthia Babich)
Cynthia Babich was a member of the Community Protection and Hazardous Waste Reduction Initiative Committee, who started their work in 2016, the second year of a three-year legislative commitment to look at alternative technologies with no funding even through there were three pilot studies mandated. The work of this group should not be buried; link to their final report: https://www.dropbox.com/scl/fi/yw1ewqikm06b5at0ztrho/CPHWRI-Report-FINAL-1.pdf?rlkey=pk5ttuojydlwvhl0k6tsjn2aw&dl=0

Section 5 Transportation of Hazardous Waste (Cynthia Babich)
If generators, waste facilities and the areas of the most generation are located in closer proximity transportation of hazardous waste, which has its own set of hazardous, would be minimized.

Section 6 Analysis of Pollution Prevention Programs (Florence Gharibian)
The Pollution Prevention Program utilized several steps to make the Program successful. When the Program was eliminated DTSC was going through very rough times. Many things changed. The focus was on reducing the budget.

As we understand it the Generators report on the work they have done to reduce their waste is still required. Is anyone doing anything with the information sent to DTSC?

A comment was made that pollution prevention worked with specific industries and wastes but progress was limited. However, the Report also mentions that "Work Pollution Prevention did resulted in 30 participating facilities reducing incinerable waste generation by 53 percent." From our view this is significant progress.

A California Pollution Prevention Advisory Committee was an important part of the program. The committee was to be comprised of members with a variety of backgrounds, including the directors of several government agencies (such as DTSC), representatives of industry, and representatives of environmental advocacy organizations. Perhaps an advisory committee on new technologies and new facilities could be formed. The ideal members would have a background in emerging new technologies. The academic community should be included as well as CalEPA Boards, Offices and Departments and other agencies. Community organizations should also participate.

No New Facilities in California
The Report communicates an unfortunate reality; There are no new permitted facilities in California.

Perhaps new facilities would be strikingly different from today's permitted facilities. What if new facilities employed new technologies? One activity of the pollution prevention program was to provide grants to research, develop, and demonstrate technologies. New technologies could lead to better answers. This is not out of line with what some agencies are doing.

Pollution Prevention policies offered grants for new methods to reduce waste. Perhaps DTSC could use a similar process today. Federal programs are using an approach that could be modified to find new technologies most needed at DTSC.

> 1 day ago — NOAA announced $24 million for projects that will tackle the climate crisis by researching marine carbon dioxide removal strategies.
>
> July 26, 2023 — DOE announced nearly $10 million for seven innovative projects that will accelerate development and testing of marine energy technologies.
>
> The U.S. Department of Energy's (DOE) 1.2 million for 23 projects to further marine energy research and development at DOE's national laboratories. These projects will advance marine energy technologies and their roles in achieving both national and local clean energy goals.

DTSC grants would be at the dollar amounts mentioned above. Ideally two things would happen with the grant programs. A message would be sent that DTSC was interested in proposals for new facilities. Also new technologies would be found!
Need incentives for waste reductions so that only the waste that <u>cannot</u> be remediated is disposed of in a landfill.

Section 7 Analysis of the Use of Fees (Cynthia Babich)

Increase fees to the maximum extent possible. The people in the state of California should not have to pay for the business practices of the generators or the salaries of the regulators. This should be part of a facilities business plan and DTSC should be fully compensated for the hard tasks that they must undertake to oversee these businesses.

Section 8 Analysis of Hazardous Waste Criteria (Cynthia Babich)

Defining Hazardous Waste Identification Criteria

"California identifies more waste as hazardous than U. S. EPA because California's hazardous waste program is broader and more stringent than the federal program. Further, the federal program includes certain exclusions and exemptions that California has chosen no to adopt."

DTSC should not try to look for solutions by any weakening of California Waste laws. It seems as though the report wants to point a finger at our stringent California Waste Criteria being the reason we cannot manage our wastes in state. DTSC needs to take the measures identified and suggested here and through other meetings that include more management oversite by DTSC directly, requiring more capacity building and staffing of offices in high generation areas like Los Angeles and surrounding areas.

Characteristic Waste

The report discussed additional screening criteria as follows: "One result of the additional toxicity criteria is that certain wastes are identified as hazardous that one would not ordinarily perceive to be "hazardous". For instance, products like soaps, lotions, and shampoos, commonly require managements as hazardous waste in California because many fail the aquatic bioassay test."

Why aren't soaps, lotions and shampoo products reformulated or recycled/upcycled. Landfilling these products is not an appropriate use of resources or landfill space. Regulate these industries. This is crazy.

Be very mindful of any backsliding measures with regard to Hazardous Waste Criteria evaluation.

Hazardous Waste Criteria Evaluation Process

Dr. Wells, see comment in the next section.

Section 9 Conclusion and Future Work (Cynthia Babich)

Hazardous Waste Criteria

DTSC needs an honest evaluator of existing technologies, promising technologies and needed technologies to research and develop.

DTSC already has Dr. Jim Wells on contract to help with the Exide problem. The is an expert, well respected by communities, agencies and government alike. This would move this future work ahead by leaps and bounds.

Development of a Waste Reduction Strategy

This is key to solving our waste management problems. Resources need to be allocated right away, pollution prevention, needs to be a reassembled program in DTSC.

Development of an Environmental Justice Strategy

Environmental Justice demands action, not more listening sessions. DTSC needs to take a BOLD approach to community issues and concerns raised for decades: DO SOMETHING TO PROTECT OUR COMMUNITIES.

The Del Amo Action Committee is very vested in this process. We look forward to working with the Department of Toxic Substances Control to find the right balance moving forward on this long-awaited Hazardous Waste Management Plan. Please ensure there is space at the deciding table for the voices of environmental justice impacted communities not just those you are charged to regulate.

Sincerely,
Cynthia Babich, DAAC Founder and Director
Florence Gharibian, DAAC Board Chair