



CENTER ON  
RACE, POVERTY  
& THE ENVIRONMENT

# THE PEOPLE'S SENATE: BUILDING A NEW VISION FOR DTSC



August 2014

## About People's Senate

---

The People's Senate and Leadership Institute is a statewide collaborative that combines grassroots organizing in highly impacted communities with strategic policy advocacy. The Senate brings together grassroots leaders from around California, representing different communities impacted and most harmed by the regulatory agency responsible for managing toxic waste in California, the Department of Toxic Substances Control (DTSC). Building upon their personal and collective experiences with DTSC, representatives have identified a series of concrete reforms, as well as a holistic vision for the agency, that will make DTSC more accountable to those it is meant to protect – the public. Fundamentally, the People's Senate is about providing a forum for those who are most impacted by toxic exposure to develop solutions that will not only improve their health and communities, but will reduce toxic threats throughout the State. The Center on Race, Poverty & the Environment (CRPE) convenes the Senate and coordinates a leadership program for Senate members.

## INTRODUCTION

---

The Stringfellow Acid Pits sit one mile north of the California community of Glen Avon in Riverside County. In the 1960s and 1970s, high profile companies from across the U.S. dumped 34 million gallons of industrial waste containing over 200 hazardous chemicals into reservoirs dug into the canyon floor. After the site closed due to mounting community pressure and health concerns, the State of California took over the monumental task of managing the leftover waste. Eventually EPA would designate the Stringfellow Pits as the most polluted waste site in California.

During heavy rainfall in the winter of 1979, a dam containing millions of gallons of hazardous waste reached capacity and risked collapse. The State warned local school Administrators about the dangerous situation and the principal developed an evacuation plan. If two bells rang, teachers would take the kids down to the buses to be evacuated out of the area. If three bells rang, teachers were instructed to put the kids on top of the desks and hope for the best; the dam will have broken.

In the face of mounting danger, the State rashly decided to release pressure on the dam by spilling over one million gallons of toxic material into Glen Avon. Without informing residents, the State flooded streets, homes and the local elementary school with polluted waste. Children splashed in puddles, fashioned "beards" and built "snowmen" in the frothy mounds of gray toxic foam.

For resident Penny Newman, it was the last straw. "For five days, I was sending my two boys off to school directly below the site. I was angry at being denied the information – basic information – so that I could make decisions about protecting my children from exposure." Penny joined with other concerned residents to pressure government agencies to clean up the site. Penny Newman eventually became the Executive Director of the Center for Community Action and Environmental Justice, an organization dedicated to improving social conditions and the natural environment so that everyone has a safe, healthy, toxic free place to live, work, learn, and play. **Now Penny is a representative of the People's Senate.**

The Department of Toxic Substances Control (DTSC), the state agency tasked with overseeing hazardous waste management and clean-up in California, has a long legacy of failing to protect vulnerable communities from the harmful effects of toxic waste. Its roots reach all the way back to the Stringfellow Acid Pits disaster, when the newly formed Hazardous Waste branch of the Department of Health Services was renamed DTSC and charged with cleaning up

Stringfellow.<sup>1</sup> The State needed a mechanism to protect people and the environment from harmful effects of toxic substances, and today, Californians need an agency capable of safely managing the State's large stockpiles of existing toxic waste, reducing the creation of new toxic waste; and preventing the toxic exposures of State residents.

Over the past year, DTSC has been the subject of unprecedented scrutiny from media, advocates, policy makers and even its own former Director, Debbie Raphael. The Los Angeles Times, NBC and Consumer Watchdog have released exposés chronicling long-standing enforcement and permitting failures at the agency and the resultant harm to public health. Members of the California Legislature have vowed to hold DTSC accountable through oversight hearings and policy-making efforts.



Impacted residents have a window of opportunity to influence substantial reforms at DTSC that will benefit communities statewide. However, residents who have been most harmed by the agency – those living near or on toxic sites – have not been provided a seat at the table in discussions about how to reform the agency. This report presents a vision for a more responsive and health protective agency *from a community perspective*, and represents the best thinking from numerous communities affected by DTSC. The suggested reforms presented here come directly from residents who have been impacted first-hand by DTSC's long history of neglect and abuse. The policies suggested here can be adopted and/or implemented through legislation, agency rule-making and personnel changes. This report weaves together stories from these communities along with a framework for increasing community partnerships, improving agency accountability and reducing risks to residents near hazardous waste sites.

---

<sup>1</sup> [http://www.allgov.com/usa/ca/departments/california-environmental-protection-agency/department\\_of\\_toxic\\_substances\\_control?agencyid=122](http://www.allgov.com/usa/ca/departments/california-environmental-protection-agency/department_of_toxic_substances_control?agencyid=122)

## GUARDING THE HENHOUSE

### Conflicts of Interest at DTSC

The Santa Susana Field Laboratory (SSFL) was a former nuclear and rocket engine testing facility near Simi Valley. The Atomic Energy Commission established the site in the late 1940s as a testing facility for work too dangerous to perform close to a populated area. However, over the following decades population in the area mushroomed. Currently, over a half million people reside within 10 miles of the site. In 1959, the nuclear reactor suffered a partial meltdown, releasing the third largest amount of radioactive iodine in nuclear history – up to 100 times that of Three Mile Island. Perchlorate, which contaminates much of SSFL, also contaminates roughly a third of the wells in Simi Valley that have been monitored for it. Studies found elevated cancer death rates among SSFL workers from exposures to these toxic materials, elevated cancer rates in the offsite population in close proximity to SSFL, and offsite exposures to hazardous chemicals by the neighboring population at levels exceeding EPA standards.<sup>2</sup>

It has been more than 50 years since radiation leaks occurred at the Santa Susana Field Laboratory, but efforts to clean up the site and stop further toxins from leaching into the soil have been stymied by Boeing, the company who now owns a portion of the property. The company has amassed an impressive cadre of high-level consultants and attorneys to push DTSC and state lawmakers for a less extensive clean-up<sup>3</sup>. Many of its representatives have ties to DTSC or the governor's office.<sup>4</sup> DTSC recently disbanded an established community workgroup for the site and approved a new community advisory group that many believe to be funded by Boeing to advocate for leaving much of the contamination in place. Davis Gortner, a sophomore at Oak Park High School, formed *Teens Against Toxins*<sup>5</sup> to create awareness about the contamination and push for full site clean-up. "I thought it would be good to do something," Davis says. "It's been 50 years since the nuclear meltdown, and the studies are done, but it's still radioactive." **Davis is a representative of the People's Senate.**

DTSC is an agency in crisis. The public has lost faith in it and its capacity to protect residents living near hazardous waste sites. Much of the public distrust stems from the agency's close ties and relationships with the industry it is tasked to regulate. Agency staff and leadership alike seem more beholden to industry interests than the interests of the public it is tasked with

---

<sup>2</sup> [www.rocketdyneclean-upcoalition.org/files/UCLA-Rocketdyne-Chemical-Study-Jan-1999.pdf](http://www.rocketdyneclean-upcoalition.org/files/UCLA-Rocketdyne-Chemical-Study-Jan-1999.pdf)

<sup>3</sup> Boeing also urged DTSC to permit it to dispose of radioactive waste at facilities not designed or permitted to accept it such as the Clean Harbors hazardous waste landfill in Buttonwillow, CA. DTSC allowed the shipments, which were ultimately blocked by a lawsuit filed in 2013.

<sup>4</sup> <http://www.consumerwatchdog.org/resources/InsideJob.pdf>

<sup>5</sup> <http://teensagainsttoxins.org/>

protecting. A 2013 report commissioned by DTSC<sup>6</sup> confirmed the public's suspicions when it outlined a fundamental tension at the agency between monitoring existing facilities to ensure the protection of public health and the environment, and ensuring that these existing facilities continue to operate. The report noted a lack of clarity in program purpose, especially where an existing facility may also present public health concerns. A DTSC Division Chief reportedly stated that the Department has a responsibility "to make compliance easy and economic."<sup>7</sup> This statement reflects the sentiments of an agency committed to keeping facilities operating at virtually any cost.

This is also evidenced in the paltry fines DTSC has collected from violating companies over the years, especially when compared to other branches of Cal/EPA. For example, DTSC collected far less in fines than both the California Air Resources Board and the State Water Resources Control Board between 2010 and 2012. Over these three years, DTSC collected a total of \$4.23M, compared with \$35.4M collected by the Air Board and \$59.5M collected by the Water Board. Meanwhile, DTSC reported that it failed to collect \$185M in costs associated with site clean-ups.<sup>8</sup>

DTSC is beholden to industry for another reason: staff have a personal interest in treating industry favorably. They routinely leave the agency to work for companies they previously regulated, and maintain lasting personal relationships with DTSC staff. The possibility of generous employment offers is just one financial incentive DTSC staff have to under-regulate companies. In 2013, Chief Deputy Director Odette Madriago stepped down amid allegations that she had invested over a million dollars in stock at companies her department regulated.<sup>9</sup> Until DTSC eradicates inherent conflicts of interest at the agency and develops a culture of checks and balances, DTSC will be unable to restore the public's trust in the agency's ability and willingness to protect health and the environment.

#### **COMMUNITY VISION FOR REDUCING CONFLICTS OF INTEREST AT DTSC**

- ▶ Establish an Office of Internal Affairs.
- ▶ Create a Community-Driven Oversight Committee.
- ▶ Separate the DTSC's enforcement arm from DTSC's administrative and other programs.
- ▶ Require neutral third party testing when requested by community.
- ▶ Provide residents with access to raw data, if requested.

<sup>6</sup> <http://www.dtsc.ca.gov/HazardousWaste/upload/DTSCPermitReviewProcessFinalReport.pdf>

<sup>7</sup> *Id.*

<sup>8</sup> <http://www.nbcbayarea.com/investigations/DTSC-Admits--209598571.html>.

<sup>9</sup> <http://www.nbcbayarea.com/news/local/DTSC-Second-In-Command-Steps-Down-207298881.html>

## KNOWLEDGE IS POWER

### Increasing Information Access at DTSC



In 2006, families began moving into a new housing complex of 61 homes in Wildomar, Riverside County called Autumnwood. Since then, residents have suffered from a rash of serious and unexplained illnesses. Many of the symptoms described by Autumnwood residents are similar:

headaches, rashes, nosebleeds, breathing difficulties and gastrointestinal problems. They suffer from frequent colds, flu and sinus infections. Many residents suffered pneumonia, and one of them – a child – had it twice. Two women only in their 30's died. An autopsy of one of the two women revealed unusually high levels of barium, a heavy metal. Many families in fear for their lives fled their homes, leaving behind all their possessions to avoid recontamination.

Desperate for answers, residents Xonia and Floyd Villanueva contracted for independent testing, which found toxic chemicals in the area well above recommended California Human Health Screening Levels. DTSC eventually agreed to conduct its own screening of soil and slab testing. DTSC released its preliminary findings that there was no evidence of soil contamination. Xonia poured through DTSC's data and found that the raw data simply contradicted the agency's findings. "When you dig through the data, it's definite that they lied about the level of contamination," says Xonia. "And they abused their power by manipulating the sample collection and deliberately omitting samples with higher concentrations of chemicals." Xonia and Floyd, along with other residents, founded Concerned Neighbors of Wildomar to push DTSC to address the contaminated homes, illnesses and deaths at the Autumnwood Development. **Xonia and Floyd are also representatives of the People's Senate.**

Members of the public depend on agencies like DTSC to provide information necessary to make informed decisions to protect themselves and their families. When agencies restrict or deny access to this information, the results can be disastrous. In 2007, residents of Shafter, CA discovered that the toxic remnants of a pesticide manufacturing plant had contaminated a

swath of land right in the middle of town, along with the town's groundwater. The state tasked DTSC with cleaning the site over 20 years before, but neither residents nor city officials knew that the clean-up had not yet occurred. In the meantime, children had cut holes in the security fencing and had been crossing the toxic property for years because it offered a quicker route to school. Youth used the most toxic areas of the sites, pits used to dispose of unused pesticides, as skateboard bowls and as canvasses for graffiti art. DTSC did nothing to prevent the site's toxic risk to Shafter's most vulnerable residents – its children.

Impacted residents primarily rely on two sources to obtain information from DTSC: 1) direct communication with DTSC; and 2) searching for data through the DTSC website. Currently, neither is adequate to inform residents of the potential risks they face. Communications between DTSC staff responsible for overseeing a site and nearby residents are largely ad hoc and irregular. Though the law prescribes formal public participation processes for permitting decisions and adoption of remediation plans, many years may pass without any communication (formal or otherwise) about the status of a facility or clean-up. Residents and even local officials are often completely unaware of the dangers posed by a neighboring site, simply because there are no systems at DTSC to maintain communication about regulated sites. If DTSC had better informed the City of Shafter about the status of the contaminated site and established better lines of communication with residents, hundreds of children would have avoided unnecessary risk of toxic exposure.

DTSC's website is equally unhelpful: [www.dtsc.ca.gov](http://www.dtsc.ca.gov). Multiple Cal/EPA boards and departments have jurisdiction over each site. However, each board and department separately tracks its own investigations and enforcement actions. A resident checking the DTSC site may not learn of groundwater violations or air quality risks posed by a facility. Instead, he or she would have to dig through multiple websites in order to obtain a comprehensive history of a site's compliance, along with any pending corrective actions. This burden makes it extremely difficult for residents near polluting sites to fully understand the risks they may face.

### **COMMUNITY VISION TO IMPROVE TRANSPARENCY**

- ▶ Develop one easily accessible website where all Cal/EPA reports, settlements and notices are posted.
- ▶ Maintain a publicly available list of hazardous waste permit holders that exhibit a repeating or recurring pattern of violations.
- ▶ Webcast each public meeting.
- ▶ Create site-specific community committees to increase communication between the community-at-large and DTSC.
- ▶ Provide an independent technical advisor to assist each impacted community.
- ▶ Create a liaison between all Cal/EPA boards and departments that have jurisdiction over a site and impacted residents.



## PROTECTING THE RIGHT TO POLLUTE DTSC'S Broken Permitting Program

Exide Technologies is one of the largest lead-acid battery recycling plants in the world and produces between 100,000 and 120,000 tons of lead per year. In operation since 1922, the plant recycles between 23,000 and 41,000 batteries daily. DTSC has allowed Exide to operate without a permit for the past 32 years. In fact, Exide is the only hazardous waste facility left in California that has never received a hazardous waste permit from DTSC. The local air district

*If we know it's not safe, why isn't it closed down already?*

found that the arsenic emissions from the facility posed an elevated cancer risk for 110,000 people across southeast Los Angeles County and temporarily closed the plant in 2014. The air district has issued more than 30 violations against Exide in less than two years for emitting too much lead.

Recent testing by DTSC found elevated levels of lead in the yards of 39 homes near the plant. Despite the obvious health threats posed by the facility, DTSC has done little to prevent the company from operating and continues to consider issuing a permit for the facility. Gabriel Guerrero lives nearby and is concerned about the health of neighboring residents. "So many people in my family that live close to that site have cancer and asthma." Gabriel says. "If we know it's not safe, why isn't it closed down already?" **Gabriel is a member of Communities for a Better Environment and a representative of the People's Senate.**

In theory, DTSC issues hazardous waste permits to protect the public and the environment by ensuring that any proposed facility is safe in design and operation. Essentially, a permit is a tool to hold each facility accountable, containing terms and conditions that a facility must meet under threat of losing its right to operate. But in practice, once DTSC issues a permit the agency rarely, if ever, uses its authority to revoke that permit. Facilities have come to understand that permits are licenses to pollute. Some of the largest, most polluting facilities in California continually violate the terms of their permits, with few consequences. A report commissioned by DTSC found that the agency's permitting program lacked clear objectives and criteria for denying or revoking permits based on past compliance and the facility's threat to public health.<sup>10</sup>



<sup>10</sup> <http://www.dtsc.ca.gov/HazardousWaste/upload/>

Because DTSC permits some of the most dangerous facilities in California, state law requires that the agency re-evaluate permits every 10 years to determine whether each facility should be allowed to continue to operate. However, DTSC routinely fails to follow this mandate, allowing companies to operate for years and sometimes decades on expired permits. In fact, about a quarter of the State's permitted hazardous waste facilities, 30 out of 117, are operating on outdated permits and awaiting DTSC renewal or approval.<sup>11</sup>

Not only does DTSC fail to hold facilities accountable once they have received a permit, DTSC also issues permits in areas where operation of a facility is not safe. The permitting program has a disproportionate impact on the State's most vulnerable communities. Out of 55 total permitted offsite commercial facilities, DTSC approved 54 in areas with above-average poverty rates or non-white populations. In fact, in 1984 the State commissioned a report finding that hazardous waste incinerators should target low-income communities, explaining "middle and higher-socioeconomic strata neighborhoods should not fall at least within the one-mile and five-mile radii of the proposed site."<sup>12</sup> DTSC has done nothing to eradicate the targeting of low-income and minority communities for toxic waste facilities. For example, though state law tasked DTSC with providing statewide planning for hazardous waste site identification and assessment beginning in 1991, DTSC neglected to provide any guidance on identifying appropriate sites for hazardous waste facilities.<sup>13</sup> DTSC does not consider the vulnerability of nearby communities in its permitting decisions, nor does it possess tools to assess the cumulative effects of permitting a hazardous waste facility in areas already overburdened by pollution. By permitting facilities in vulnerable areas, DTSC adds to the immense pollution borne by communities least equipped to handle that burden. Because hazardous waste facilities are located in areas with many other

### **COMMUNITY VISION TO REFORM PERMITTING PROCESS**

- ▶ Develop criteria to determine how many violations trigger a suspension, denial or revocation of a permit.
- ▶ Restrict ability of facilities to operate on expired permits.
- ▶ Develop and publicize clear criteria for permit decisions.
- ▶ Require a Health Risk Assessment as part of every permit application process.
- ▶ Require that companies use least hazardous processes possible in order to obtain permit.
- ▶ Use CalEnviroScreen to address the vulnerability of nearby communities in permitting decisions.
- ▶ Require facilities to assume additional liability if locating in areas with high pollution levels.
- ▶ Deny permits if new facility proposed near schools or other sensitive receptors.

---

DTSCPermitReviewProcessFinalReport.pdf

<sup>11</sup> <http://www.latimes.com/local/la-me-toxic-oversight-20131226-dto-htmlstory.html#axzz2oxyQ1b5D>

<sup>12</sup> <http://www.ejnet.org/ej/cerrell.pdf>

<sup>13</sup> California Health & Safety Code, Section 25135.

polluting sources, it becomes very difficult to trace health impacts to a single source. So while each pollution source likely contributes to environmentally caused illness and disease, it becomes almost impossible to trace the harm back to a single polluter.

## CRIME WITHOUT PUNISHMENT

### Ineffective Enforcement at DTSC

Phibro-Tech is a hazardous material recycler in Santa Fe Springs, and sits 500 feet from a well and only 600 feet from residents' homes. The company manufactures and markets specialty chemicals used in semiconductors, electronics, printed circuit boards, pigments, pesticides and

*Everyone here has cancer...even our dogs. We have suffered and still DTSC does nothing.*

catalyst industries. Although the facility's permit expired 16 years ago, it continues to operate while DTSC considers whether to issue a new permit. The facility has repeatedly violated the terms of its permits and been fined for cracks, gaps, erosion of containment

systems, overflowing storage areas, and hazardous sludge releases. In 1997, the EPA traced hexavalent chromium, a potent carcinogen, in the ground water to Phibro-Tech at maximum concentrations of 59,000 parts per billion. That level is three million times the public health goal maximum of 0.02 ppb for hexavalent chromium in drinking water. Phibro-Tech argues that any contamination is "historical." Though the State ordered the facility to clean up groundwater beneath the site in the 1990s, Phibro-Tech has not done it. DTSC allows the facility to continue operating on an expired permit.

Concerned residents have compiled a list of 26 people who have died from cancer near Phibro-Tech. Residents complain of strong odors in the middle of the night emanating from Phibro-Tech. Esther Rojas lives only a few hundred feet from the facility, and during one particularly bad night, hastily fled her home for safer ground. "Everyone around here has cancer... even our dogs," says Esther. "We have suffered and still DTSC does nothing." **Esther is a member of Neighbors Against Phibro-Tech and a representative of the People's Senate.**

Although DTSC has broad enforcement authority – it is the only Cal/EPA division with its own office of criminal investigations – the agency consistently fails to deter repeat offenders or develop and refer cases for prosecution. The number of cases that DTSC develops and refers for criminal or civil prosecution has dropped from 55 cases in 2007 to a single case in fiscal year 2013. DTSC has strong enforcement tools at its disposal, including tough fines, criminal liability and permit suspension or revocation, yet simply does not use the tools available to it. DTSC sets penalties too low to deter unlawful conduct or prevent violators from profiting from their

misconduct. The agency has admitted that it has no system in place to track unpaid fines, and that it has failed to collect more than \$185 million. Of the little money collected from fines, DTSC returns none of it to communities directly impacted by the violations.

Not only does DTSC lack the political will to effectively enforce violations, it also lacks the capacity. Staffing levels in the enforcement division are insufficient to police the hundreds of facilities it must regulate. Over the past decade, the number of department criminal investigators has dropped by half. In fact, the department has only 10 criminal investigators, none for Southern California, and two refinery inspectors for the whole state. Many staff that remain are unqualified to perform the tasks required of them. A state audit found that the department has a misallocation error rate of 59 percent, which means that DTSC hired people for positions for which they were not qualified. This rate is six times what the state says is acceptable. Without adequate staffing, DTSC relies on self-monitoring and self-reporting from companies who have a vested interest in underreporting violations.

Residents in impacted communities are paying the price for hazardous waste violations and have little recourse. Many communities report high instances of cancer and other illness caused by toxic pollution, but receive no monetary restitution from companies for poisoning people or contaminating property, or protection from DTSC.

### **COMMUNITY VISION TO REFORM ENFORCEMENT**

- ▶ Hire additional qualified staff.
- ▶ Train and educate all enforcement staff.
- ▶ Use criminal enforcement to hold violators liable where appropriate.
- ▶ Impose and collect the maximum fines for each violation.
- ▶ Return portion of collected fines to impacted communities
- ▶ Establish mandatory minimums that must be imposed for each type of violation.

## **IMPERILLING OUR COMMUNITIES**

### **DTSC Inaction and Delay in Site Clean-ups**

Throughout the 1980s, Brown & Bryant operated two pesticide plants in Arvin and Shafter to blend, formulate and package agricultural chemicals, including pesticides, fumigants and fertilizers. During that time, Brown & Bryant drained or spilled nearly all of the commonly utilized fumigants and pesticides into soils, including DDT and over 50 other chemicals. Chemicals at both sites leached in the underlying groundwater, placing the drinking water of Arvin and Shafter at risk. Both sites are located in residential areas with homes just a few hundred feet away. Facing impending liability for the contamination, Brown & Bryant

abandoned the two sites, leaving the state accountable for clean-up. In 1989, EPA placed the Arvin site on the Superfund National Priority List, reserved for the most polluted sites across the United States. DTSC designated the Shafter site as a priority for state clean-up. For 25 years, the agencies did little to inform residents and city officials about the contamination or to clean up the sites. Though the agencies finally adopted clean-up plans for both sites in 2007 and 2008, they have done little to implement the plans or inform residents of the continued risks from the contaminated soils and groundwater. In 2013, DTSC took over maintenance of the Arvin site. "The toxic site is a major disaster in our community," said Rodrigo Romo, a member of Committee for a Better Shafter. "As time progresses, without clean-up these chemicals will get into our drinking water. Then what will we do?" **Rodrigo is a representative of the People's Senate.**

Hundreds of contaminated sites dot California's landscape. They are the toxic remnants of industry neglect, carelessness and criminal malfeasance. They continue to poison California's air, water and soils, and put nearby residents in considerable risk of toxic exposures. Many sites are located near residences and schools. DTSC is tasked with overseeing the clean-up of many of these sites, yet the agency moves at a glacial pace, leaving sites unprotected and at risk of contamination drift for years at a time. Some sites have awaited clean-up for decades. Once DTSC begins to oversee site clean-up, it inconsistently applies remediation goals and standards. Clean-up goals often do not sufficiently consider future land uses and the heightened sensitivities of children and the elderly. Most often, DTSC relies on years of dilution and dissipation of chemicals in order to certify a site "clean." After DTSC formally adopts a remediation plan for a site, it many times discontinues outreach and communication with residents impacted by the site. This can lead to dangerous consequences as residents are unaware of the continuing risks posed by sites awaiting final clean-up.

Other communities are left unprotected by DTSC altogether. These communities suspect toxic exposure, but are unable to point to a definite source. DTSC is reluctant to conduct comprehensive testing to establish potential toxic exposures. This type of testing is difficult and resource intensive. DTSC has alleged insufficient jurisdiction or expertise in order to avoid this obligation. If DTSC refuses to conduct testing, these

#### **COMMUNITY VISION TO REFORM CLEAN-UP PRACTICES**

- ▶ Conduct simultaneous cross-media (air, water, soil) testing where toxic exposures are suspected.
- ▶ Use biomonitoring to establish possible health links to pollution.
- ▶ Adjust remediation and clean-up goals to meet the most stringent health protective standards.
- ▶ Adopt and implement remediation plans in a timely fashion.
- ▶ Check-in regularly with local municipalities and interested residents about the status of site clean-ups.

communities are left with few options. Residents may become ill without having any answers as to what is causing the ailments or how to protect themselves and their families. Until testing is completed, these sites cannot be remediated and residents may be exposed to toxic contamination for very long periods of time.

## CONFUSION ABOUNDS

### DTSC's Emergency Response Program

In 2003, Western Environmental began accepting shipments of contaminated soils on land owned by the Cabazon Band of Mission Indians without a state hazardous waste permit. Western Environmental's plan was simple: accept dirt laced with gasoline, pesticides and other chemical contaminated soils; burn out the contaminants; then sell it as fill for roadbeds and other construction projects. However, Western Environmental received waste at a much higher rate than it could process, and by 2009, it had piled soil up four stories high, forming a wall of dirt around the property. That year, workers estimated that they were able to treat no more than five percent of the dirty soil.

In 2010, the company began accepting shipments of untreated sewage sludge. By December of 2010, children at the elementary school in nearby Mecca began to get sick, suffering from nausea, stomach pain and breathing problems. On December 15, 2010, strong gasoline-like odors from the plant completely enveloped the school, causing nausea and dizziness and sending two students to the hospital. Residents near the site reported foul and fecal-smelling odors that made it difficult to breathe. Parents kept children indoors, turned off air conditioning units, and canceled soccer games. Several workers at the site quit their jobs to protect their health.

While DTSC knew that Western Environmental lacked any state or federal permits to receive hazardous waste, the agency allowed the facility to operate illegally for seven years until mounting public and media pressure forced the agency to halt shipments of hazardous waste in 2011. And while DTSC halted shipments to the site, it still presents a risk to nearby residents. When the wind blows, residents are afraid that toxic soils from the site may disperse throughout the area. Mecca resident Martin Bautista remains concerned about the site and wants to help protect nearby residents from toxic exposures. **Martin is a representative of the People's Senate.**



The mission of DTSC's Emergency Response Program is to provide statewide response to actual and potential releases of hazardous substances that pose an acute threat to public health and/or the environment. However, DTSC has not outreached to communities that are adjacent to hazardous waste facilities to inform them what to do if there is a suspected emergency. Given the number of responsible agencies for each site, residents do not know who to call and what to report. Residents are unclear whether or where they should report suspicious odors or suspected environmental illness. Multiple agencies are not coordinated in response to suspected emergencies, nor are medical authorities well integrated into the process.

#### **COMMUNITY VISION TO IMPROVE EMERGENCY RESPONSE**

- ▶ Establish hotline and website that residents can use to report variety of issues that threaten the health of residents.
- ▶ Partner with medical professionals to investigate suspected cases of illness and disease clusters caused by potential toxic exposures.
- ▶ Coordinate with local area hospitals and local public health departments to establish existence of disease clusters.

## **CONCLUSION/KEY FINDINGS**

The stories included in this report represent just a fraction of California communities impacted by hazardous waste facilities or contaminated sites. Toxic waste threatens hundreds of communities across the state, yet the agency tasked to protect these communities is woefully ill-equipped to prevent toxic exposures and inform residents about the threats they face.

The vision laid out in this document calls for urgently needed agency reforms to increase accountability, transparency and responsiveness to residents impacted by toxic threats. These reforms are a first step to rebuilding the public's trust in DTSC, the agency which is ultimately responsible for safeguarding the health and well-being of California residents. Impacted residents must be part of the solution by providing regular feedback about DTSC's performance through communication and check-ins with DTSC leadership and program management staff. It is our hope that this report will serve as a catalyst for a longer conversation between policymakers, DTSC officials, and impacted residents about how to work together to make DTSC a trusted and responsive agency that effectively protects Californians from toxic exposures.

### **About CRPE**

The Center on Race, Poverty & the Environment is an environmental justice organization dedicated to helping grassroots groups across the United States attack head-on the disproportionate burden of pollution borne by poor people and communities of color. Our mission is to achieve environmental justice and healthy sustainable communities through collective action and the law. We have three ambitions in our work: (1) individuals leave a particular campaign with more skills than when they entered; (2) communities have more power vis-à-vis decision-makers; and (3) we address the environmental hazard facing the community.

