

## **BOARD OF ENVIRONMENTAL SAFETY EVALUATION OF THE DEPT. OF TOXIC SUBSTANCES CONTROL**

### **Introduction**

Senate Bill 158, the 2021 legislation which created the California Board of Environmental Safety ("BES" or "Board"), specified, among various mandates and authorities, that the Board conduct an annual performance evaluation of the Department of Toxic Substances Control (DTSC) and its leadership (see Health and Safety Code section 25125.7: "The board shall annually prepare and transmit to the Secretary for Environmental Protection an annual report of the department's performance as compared to its objectives, including, but not limited to, the performance of the director.").

This first evaluation was based on the DTSC Director's calendar year 2023 priorities, published initially in January 2023 and amended in April 2023 to reflect the Board's desire to give greater emphasis to community engagement. Thus, the major topics which follow below are the 12 priorities noted in the [Director's 2023 priorities document](#).

The Board intends to discuss and make publicly available this document at its May 2024 Board meeting and invite public comment, which will be added in an appendix and will be available on the [Board's website](#). Concurrently, two Board members will consult with DTSC leadership to develop SB 158-mandated performance metrics, and then discuss with the Board, DTSC, and the public how best to approach next year's performance evaluation.

During 2023, the DTSC Director emphasized multi-year investments which built organizational strength and integrity. The Director led internal governance meetings for her fiscal, data, strategic plan, and racial equity efforts. DTSC's Data Empowerment Project created an award-winning public-facing dashboard to provide metrics on DTSC's performance across its programs, such as, but not limited to compliance rates at permitted facilities and how engaged employees feel.

Notably, the Director managed major programs to address complex site-mitigation, permitting and cumulative-impact challenges at the community level. The Director communicated progress on her 2023 priorities at every BES public meeting throughout the year (hybrid meetings which typically drew participation of 90 – 100+ persons).

DTSC leaders, managers and staff gave their time to brief the Board of Environmental Safety on many of the DTSC programs, to build the new Board members' knowledge and understanding.

### **Evaluation of Director's Objectives**

The DTSC Director's 2023 Priorities consists of twelve performance activities developed under four objectives. For each activity, DTSC provided specific metrics to track its progress and performance. The Board evaluated whether the activities met the objective(s) and where necessary, identified data gaps, and provided recommendations in bold text.

## **OBJECTIVE 1: ENVIRONMENTAL JUSTICE (EJ)/EQUITY**

## 1. ENFORCEMENT: IMPROVE EQUITY IN ENFORCEMENT ACTIVITIES. PURSUE ENFORCEMENT IN DISADVANTAGED COMMUNITIES IN A ROBUST, TIMELY AND UNIFORM MANNER

**2023 DTSC Director's Priorities:** "Enhance DTSC's enforcement across all programs to provide a robust, equitable, and forward-leaning enforcement and compliance program. DTSC will prioritize resources to address historic inequality in the distribution of environmental burdens. This means DTSC will prioritize its enforcement resources while maximizing our authorities to pursue enforcement in disadvantaged communities in a robust, timely and uniform manner."

### A. METRICS:

1. BY 12/2025, ACHIEVE 90% COMPLIANCE AT PERMITTED HAZARDOUS WASTE FACILITIES WITH VIOLATIONS, AND LEVERAGE RESOURCES TO BRING REMAINING 10% OF VIOLATIONS INTO COMPLIANCE.
2. ACHIEVE 80% COMPLIANCE AT ALL FACILITIES WITH VIOLATIONS IN VULNERABLE COMMUNITIES, LEVERAGE RESOURCES TO BRING REMAINING 20% INTO COMPLIANCE.
3. INCLUDE EJ PRINCIPLES/CASE STUDIES IN DTSC ENFORCEMENT STAFF TRAINING, 100% ATTENDANCE
4. ADDITIONAL METRICS TO CONSIDER PENALTIES ASSESSED AT FACILITIES IN VULNERABLE COMMUNITIES

- B. BES EVALUATION:** *BES AUTHORITY: HEALTH AND SAFETY CODE (HSC) 25125.2(b)(4); 25125.7; see also 25180.2 (prioritizing enforcement in the most impacted environmental justice communities).*

**BES Evaluation:** Since Board members began work in February 2022, the Board has not been involved in DTSC compliance and enforcement policies or actions, and thus has a very limited perspective for purposes of the evaluation of DTSC's enforcement program.

DTSC reported its results for metrics one and two, showing a 90.9% return to compliance at hazardous waste facilities cited for violations in vulnerable communities, and an 87.1% return to compliance for violations issued to all facilities in vulnerable communities. To the public, the difference between these metrics may not be clear, i.e. the distinction between hazardous waste facilities and all facilities; moreover, what of violations issued to facilities not in vulnerable communities? If metrics were updated, they could focus on the timing of a return to compliance (in number of days) for cited entities, and on maintaining a specified high level of compliance for the regulated universe (in percentages), as verified by publicly available compliance inspections and online data.

The third metric, ensuring all DTSC enforcement staff receive environmental justice training, is a work in progress, according to DTSC, as the training curriculum was in development at the close of CY 2023. This priority was not met in CY2023. The fourth metric, regarding penalties assessed at facilities in vulnerable communities, has not been translated into something measurable. Instead, in 2023, DTSC prepared proposed penalty regulations which include environmental justice criteria. These were presented to the public in four workshops across the state in August and September 2023. BES considers it unlikely these regulations can be finalized in 2024. BES will engage with DTSC on metrics for the 2024 evaluation period; in this area, BES will discuss metrics which may clearly optimize compliance and provide inspection and enforcement data to the public.

**BES recommends DTSC revise its compliance and enforcement metrics to more clearly identify return to compliance timing and overall levels of compliance, to then allow comparison of compliance investments in environmental justice communities versus other communities statewide. Further, BES recommends DTSC publish an updated list each quarter of inspections completed, to increase awareness and transparency.**

## **2. IMPLEMENT THE CLEANUP IN VULNERABLE COMMUNITIES INITIATIVE (CVCI): CONTINUE SITE DISCOVERY AND ENFORCEMENT IN VULNERABLE COMMUNITIES, FUND RESPONSES AT BROWNFIELD SITES, AND IMPLEMENT A WORKER DEVELOPMENT/TRAINING PROGRAM AT THE LOCAL LEVEL.**

**2023 DTSC Director's Priorities:** "Continue implementing 1) a full site discovery and enforcement program, targeting vulnerable communities for cleanup of contaminated land; 2) a grant program to fund response actions at brownfield sites; and 3) a work development and training program to promote public health, community engagement, and equity, while supporting local economies."

### **A. METRICS:**

1. BY 6/2026, INCREASE BY 20% ANNUAL ACRES CLEARED IN VULNERABLE COMMUNITIES (+ CVCI SPECIFIC METRICS).
2. FUTURE METRICS: ADDRESS COMMUNITY GROUPS' ISSUES.
3. FUTURE METRICS: REFLECT COMMUNITY INPUT AND SUCCESS IN ADDRESSING THEIR ISSUES.

### **B. BES EVALUATION: BES AUTHORITY: HSC 25125.2(b)(4); 25215.7; SB 158 SECTION 106.**

**BES Evaluation:** The Cleanup in Vulnerable Communities Initiative (CVCI) includes six core programs, including the Equitable Community Revitalization Grant (ECRG) (assessed separately below), the Discovery and Enforcement Program (D&E) focusing on investigating potential contamination from dry cleaner sites, a Workforce Development Program to train local residents on site remediation, Technical Assistance Grants (TAG) to help community organizations engage in the clean-up process, Community Benefits Agreements between Responsible Parties and impacted communities, and accelerated cleanups at 21 of the State's Orphan Sites.

DTSC has identified one measurable metric for this program – a goal to increase annual acres cleared in vulnerable communities by 20% by 2026 (from a baseline of 200 acres to 240 acres). DTSC reports that it cleared a total of 200 acres in 2022/2023. DTSC reports that Site Mitigation and Restoration Program (SMRP) and CVCI will develop more meaningful metrics in 2024.

While there are few established metrics for CVCI's program areas, this evaluation reviews the stated objectives of each program, progress made, and information and analysis that would help the Board better assess each program area. As part of its metric development, DTSC and the Board should use 2023 data as a benchmark to assess future progress on CVCI goals and objectives.

**The BES would benefit from the establishment of additional criteria and metrics for each CVCI program area to better assess CVCI in the future.**

The Discovery and Enforcement (D&E) Program selected 112 out of 7,500 dry cleaner sites in vulnerable communities for year one of the program. These sites will undergo Phase 1 Environmental Site Assessments (ESA). A Phase 1 ESA is a records search that assesses the likelihood that current or historical property uses have contaminated the soil or groundwater that could pose a threat to the environment and/or human health through visual observations, historical use, and review of regulatory records.

Based on a cursory review of Envirostor, it appears that most, if not all, of the selected sites underwent Phase 1 ESAs in late 2022 and early 2023. DTSC materials indicate that, based on its Phase 1 ESA findings, it will implement immediate response actions, if necessary, for protection of occupants of the site and of nearby residential and other buildings and perform additional environmental investigations, as appropriate. Given the prevalence of perchloroethylene (PCE) contamination at dry cleaner sites, further action will likely be necessary at many year-one sites. However, it is unclear how DTSC will prioritize sites and funding for necessary follow-up activities and the timeline of follow-up activities, including site remediation.

**The Board would benefit from a summary of the findings from the Phase 1 ESAs, the number and location of sites where follow-up activities will be conducted, and the anticipated timeline and community engagement activities for sites requiring follow-up investigation or remediation.**

The D&E program launched a petition application process for the public to refer sites to the program for investigation. This program has the potential to help DTSC to identify sites of concern as well as to be responsive to community input.

**It would be helpful for the Board to know how many petitions DTSC has received and how it has responded to the petitions. An analysis of the number and type of petitions DTSC received may provide insight into the efficacy of community outreach strategies or help identify other barriers to community participation in the D&E program.**

The Workforce Development Program is meant to provide education, training, and certification to community members in regions where remediation work will be conducted. The program can help community members gain a pathway toward significant employment in cleanups in their communities. DTSC has stated that it re-envisioned this program due to practical constraints. DTSC implemented the CVCI Student Internship Program, which led to DTSC bringing six interns on board in November 2023. An internship program will provide significantly different benefits and outcomes than a workforce development program.

**The Board recommends that DTSC update the Board on progress and plans with this program.**

The Technical Assistance Grants will provide funding for community organizations to engage in the cleanup process of contaminated properties in their communities. Funds will allow community groups to hire a technical advisor who can help them become more involved in cleanup sites. This can include assistance with review of technical documents and/or implementation of community science (including independent and confirmation sampling.) DTSC has taken several innovative steps to address barriers to accessing these community grants such as providing no-cost TAG application assistance through the Center for Creative Land Recycling and providing eligible applicants with an up to 25% advance on TAG funds before allowable expenses are incurred. According to DTSC staff, the advanced payment allowance is the first of its kind for a state grant in California. One potential barrier to community groups applying for this grant is the need to identify and contract with a technical expert. Many community groups may not know or have access to technical experts who can address their specific concerns. To address this barrier, on April 9, 2024, DTSC disseminated an informal request for statement of interests to serve as technical advisor for TAG recipients. DTSC intends to create a vendor list from applications received and to make it publicly available on the TAG website.

**The Board would benefit from a summary of the number of applications received and granted under this program to help assess the DTSC's outreach efforts and barriers to participation in this grant.**

DTSC is tasked with developing a policy to facilitate Community Benefits Agreements (CBAs) between Responsible Parties of cleanup sites and affected communities. These CBAs will promote benefits beyond the traditional scope of site mitigation and restoration, beginning with vulnerable communities affected by high cumulative environmental burdens. However, DTSC only lists one activity associated with its development of a CBA policy – a workshop on October 20, 2022. At that presentation, DTSC indicated that it planned to have pilot CBA projects running by 2023.

**DTSC should provide an update on the development of its CBA policy, especially since it may help facilitate additional community benefits associated with other CVCI program areas that fund or incentivize site remediation.**

The last program within CVCI is the orphan site program; an orphan site lacks a responsible party that is capable of performing cleanup work. DTSC has been appropriated \$40 million to accelerate cleanups at 21 existing orphan sites across the state. According to Envirostor, many of these sites are still undergoing evaluation and site characterization and have yet to begin site remediation. Some sites were first evaluated in the late

1990s and most evaluations occurred more than a decade ago. DTSC has not provided many details on what an accelerated clean-up timeline would entail. Communities have historically expressed concern over long time periods between site discovery and site remediation.

**The Board would benefit from more information on expected remediation timelines for these 21 sites and the impact additional funding is anticipated to have on the process and timing of site investigation and remediation activities.**

### 3. CREATE AND IMPLEMENT A SYSTEM TO IDENTIFY CUMULATIVE IMPACTS IN COMMUNITIES

**2023 DTSC Director's Priorities:** "Conduct community-based pilot projects in vulnerable communities to analyze impacts. DTSC will use findings from the pilots to shape the regulatory framework. As we develop regulations, we will collaborate with environmental justice partners about how best to consider cumulative impacts, pollution burdens, health disparities, and other social vulnerabilities in permit decisions."

#### A. METRICS:

1. HOST WORKSHOP ON REVISIONS TO SB673 FRAMEWORK.
2. ANALYZE CUMULATIVE IMPACTS IN KETTLEMAN CITY AND BUTTONWILLOW WITH COMMUNITY INPUT.
3. INITIATE NORTH RICHMOND PILOT WITH US EPA AND THE COMMUNITY.

#### B. BES EVALUATION: *BES AUTHORITY: HSC 25125.2(b)(4); 25125.7.*

**BES Evaluation:** The three above-noted metrics/deliverables were not realized as intended in 2023. The DTSC team focused on a revised framework in 2023, but that was not shared publicly in 2023. Public comments to BES have focused on the importance of meeting the SB 673 requirements fully, to inform the ongoing cycle of hazardous waste facility permitting and incentivize achieving full compliance across the regulated universe.

DTSC, however, is considering cumulative impacts and community vulnerability in permit decisions. In 2023, DTSC analyzed the community vulnerability and cumulative impacts to inform a draft hazardous waste permit decision for the Kettleman Hills Class 1 facility. A similar analysis will be prepared for the Buttonwillow Class 1 facility, which is delayed by ongoing preparation of a California Environmental Quality Act (CEQA) document at the County level and will become part of the DTSC permit process upon completion. The North Richmond cumulative impacts pilot project was launched in March 2024 with a US EPA/ DTSC community meeting, in which a BES Board member participated.

**Two Board members will work closely with DTSC'S SB 673 team in 2024, and update the Board in a public session, as appropriate. The Board will track progress on the North Richmond Cumulative Impacts pilot project and how those resources will be focused to achieve a useful outcome. The Board will track public engagement with DTSC regarding the draft Kettleman Hills Facility hazardous waste permit, issued in April 2024. The Board will consider how DTSC meets the intent of SB 673 in these and other permitting decisions in vulnerable communities pending its adoption of the Track 2 regulations.**

### 4. STRENGTHEN REGULATORY OVERSIGHT OF METAL SHREDDER FACILITIES

**2023 DTSC Director's Priorities:** "Continue pursuing steps to hold metal shredders – many of which are in our most vulnerable and underserved communities – accountable through strengthening our regulatory oversight. When metal shredders are regulated in the same manner as other industries that pose threats to human health and the environment, impacts to vulnerable communities will be reduced."

#### A. METRICS:

1. PROCESS TWO PERMIT APPLICATIONS.

2. INITIATE RULEMAKING RE RESIDUE IN CYQ2.
3. INSPECT 4 METAL SHREDDER FACILITIES.

**B. BES EVALUATION:** *BES AUTHORITY: HSC 25125.2(b)(4); 25125.7.*

**BES Evaluation:** The Board of Environmental Safety was not directly engaged with DTSC in the regulation and oversight of metal shredder facilities in 2023, though BES members received a metal-shredder briefing in 2023. BES was interested in greater engagement with DTSC in this area, but DTSC was necessarily focused on how to advance this priority. DTSC determined the regulation would be considered a major regulation requiring detailed economic and fiscal analysis, a lengthy process. DTSC's intent to regulate this industry faced legal challenges which continue into 2024. As a result, the planned rulemaking did not proceed as envisioned.

The two permit applications noted above are for the former Schnitzer Steel (now Radius Recycling) facility in Oakland, and the Sims Metal facility in Redwood City. Public comment for Radius Recycling is slated to begin in August 2024, and February 2025 for Sims Metal facility.

DTSC inspected six of the nine metal shredders in California during CY 2023. On August 9, 2023, the Schnitzer Steel (now Radius Recycling) metal shredding facility in West Oakland caught fire. Coordinated efforts of local, state and federal emergency response followed, including an air-quality alert. This was the third fire in as many years, highlighting the operational challenge of reclaiming metal from California's cars and appliances.

**BES has invited DTSC, representing the multi-agency taskforce (US EPA, DTSC, BAAQMD, the Regional Water Quality Control Board), the West Oakland Environmental Indicators Project and Radius Recycling to provide an update at the Board's May 22-23 meeting in Berkeley. BES recommends DTSC provide the Board with an update on development of the metal-shredder regulation, on the two pending permits under review, and what is to be accomplished in 2024.**

## 5. RACIAL EQUITY FRAMEWORK: CREATE A DIVERSE, INCLUSIVE ORGANIZATION

**2023 DTSC DIRECTOR'S PRIORITIES:** "Continue implementing DTSC's Racial Equity Framework, a document that guides our actions and focuses on creating an inclusive and diverse organization with the capacity to serve and deliver programs through an equity lens. The framework is divided into four steps that encompass a range of short- and long-term concrete actions: (1) Understanding racial equity and bias; (2) Recruiting and supporting a diverse workforce; (3) Promoting an inclusive work culture, and; (4) Adopting results-based accountability for racial equity."

### A. METRICS:

1. RELEASE FRAMEWORK IN CYQ1 AND DASHBOARD WITH METRICS IN CYQ2.
2. REQUEST BES PARTNERSHIP TO DEVELOP SURVEYS AND TOOLS.
3. WORK WITH COMMUNITIES AND EJ GROUPS TO FINALIZE ENVIRONMENTAL JUSTICE ADVISORY COUNCIL (EJAC) FRAMEWORK AND RECRUIT MEMBERS.

**B. BES EVALUATION:** *BES AUTHORITY: HSC 25125.2(b)(4); 25125.7.*

**BES Evaluation:** Metric 1 was achieved, and additional metrics will be included in dashboard updates planned in 2024. According to [DTSC's Strategic Plan Dashboard](#), over 1,000 staff contribute their time and talent to DTSC's mission and their professional working skills. The measures presented on the dashboard provide a snapshot of the efforts to ensure DTSC creates a culture of accountability and excellence and maintains a healthy, quality, and engaged workforce.

The Office of Civil Rights (OCR), in conjunction with the Executive Sponsorship Team for Diversity, Equity, Inclusion and belonging (DEIB), is leading DTSC's efforts to advance Racial Equity and build a culture of DEIB. OCR, with the assistance of the Executive Sponsorship Team, administered and analyzed a DEIB / Racial Equity Employee Experience Survey in July 2023, to capture a baseline understanding of employee experiences, observations, and perceptions of DEIB within DTSC. Following the survey, DEIB consultants, members of the Executive Sponsorship Team, and members of the DEIB Advisory Council hosted virtual Listening Tours with groups of employees from the different programs and offices within DTSC. Employees who participated appreciated the opportunity to discuss issues and participate in providing solutions to be considered to improve internal and external systems. Over 400 people participated in the Listening Tours, the results of which are being integrated into the work of DTSC's DEIB initiative, with the intention of prioritizing action steps at both the Department and the Program level in early 2025.

The Environmental Justice Advisory Council (EJAC) took time to reach the development phase, as BES members engaged with the Office of Environmental Equity (OEE) to help steer this process toward development. After a year of discussions and coordination with OEE, including staffing changes and other administrative challenges, the framework began to take shape and is slated to be finalized in 2024, which does not meet the objective to finalize the EJAC Framework and recruit members in 2023. We are hopeful additional steps will be taken to ensure that DTSC will meaningfully engage with this working group before funding runs out. Delays in the establishment of the EJAC are of concern given the time-restricted funding for the endeavor. **BES recommends an extension and continued investment in the EJAC.**

## **OBJECTIVE 2: PUBLIC ENGAGEMENT**

### **6. ADOPT BEST PRACTICES FOR COMMUNITY ENGAGEMENT**

**2023 DTSC DIRECTOR'S PRIORITIES:** "Work with members of the BES and the newly implemented EJAC to engage communities for feedback that leads to the development and implementation of best practices for community engagement. Consider new approaches that may include solutions such as: World Café Meetings, Improved feedback loops, Improved systems and metrics for tracking and responding to public feedback, Deploy Thought Exchange online tool for gathering information and surveying stakeholders."

The commitment: to improve feedback loops; improved systems and metrics for tracking and responding to public feedback. Collaborate with community-based organizations to ensure grants are awarded for projects that improve the lived experience for community members most impacted by environmental inequity (See ECRG). Intention to collaborate with BES and provide opportunities for public discussion to build relationships and trust and incorporate community voices in decision making. Intention to also utilize the newly implemented EJAC to engage communities for feedback that leads to development and implementation of best practices for community engagement.

**A. METRICS:** NOTE DIRECTOR'S TEXT RE PURPOSE OF THIS PRIORITY. NO METRICS GIVEN.

**B. BES EVALUATION:** *BES AUTHORITY: HSC 25125.2(b)(4); 25125.7.*

Report on 2023 progress provided by DTSC Director:

- Adopted new approaches for community input to shape decisions.
- Implemented strategies with community members and non-governmental organizations (NGOs) regarding Exide - feedback integrated into Health and Safety Operation Plans.
- Engaged with communities regarding Ecobat and Phibro-Tech permits.
- Opened community engagement hotline regarding Berg Metals LABRIC.
- Office of Environmental Equity (OEE) Deputy, re-instituted "Communities of Practice" and,

- Improved systems and metrics for tracking and responding to public feedback.
- DTSC is in the process of designing creative interactive sessions, providing surveys, hotlines and internet-based services to “listen” to community members even when staff are not with them in person.

**BES Evaluation:** In terms of SB 158-mandated community engagement, the development of the EJAC framework has been challenging and has slowed progress overall. While progress has been made in recent months (2024), legal, logistical, and operational details are still being navigated. Leadership of this project changed hands during its initial phase. Additionally, collaboration with BES and the community prompted changes to the initial model. The current goal is for the EJAC to be in place by July 2024.

Given the lag in establishing the EJAC, overall progress is hampered. There has been meaningful progress in the investment and results in the community engagement related to Exide and some other high-profile communities as well as the ECRG.

The Director and Deputies, upon request, report at BES meetings with opportunities for public comment/feedback that has been useful to both the BES and the DTSC and has provided a forum for response and feedback to DTSC. DTSC has shifted more of its engagements to in-person, hybrid, and interactive convenings, which has improved attendance/engagement.

**BES recommends that DTSC work with BES representatives to develop metrics on measurable, timely reporting of community engagement outcomes in 2024. BES recommends that DTSC ensure meaningful engagement which includes translation of materials, webinars and meetings, as well as conducting hybrid meetings for sites/facilities that have high public interest. While DTSC efforts are being made to track community responses, BES recommends DTSC report to the Board on community feedback, survey results, and actions taken to promote effective community engagement.**

## 7. EQUITABLE COMMUNITY REVITALIZATION GRANT PROGRAM

**2023 DTSC DIRECTOR'S PRIORITIES:** “Collaborate with the California Environmental Justice Alliance (CEJA), Communities for a Better Environment (CBE), and other community-based organizations to ensure grants are awarded for projects that improve the lived experience for community members most impacted by environmental inequity. In partnership with CEJA, CBE, and communities, develop metrics for outcomes that align ECRG activities with community expectations and with DTSC's vision of all of California thriving in a healthy environment. Increase understanding amongst DTSC team members of the impact decades of discriminatory land-use and housing laws and policies have had on communities of color so that grant award decisions are made with the goal of addressing historical inequity.”

**A. METRICS:** NOTE DIRECTOR'S TEXT RE PURPOSE OF THIS PRIORITY. NO METRICS GIVEN.

**B. BES EVALUATION:** *BES AUTHORITY: HSC 25125.2(b)(4); 25125.7; SB 158 SECTION 106.*

**BES Evaluation:** As part of the Cleanup in Vulnerable Communities Initiative (CVCI) within SB 158, the state is investing \$250 million in grants to non-profits, municipalities and Tribal partners over a 3-year period to accelerate the investigation and clean-up of contaminated properties in disadvantaged communities. The initiative is administered by DTSC's Office of Brownfields, under the Site Mitigation and Restoration Program. Round 1 of the ECRG program closed in April 2022 and awardees were announced June 2022. Round 1 awarded a total of \$75.4 million in grants, with \$57.6 million for site-specific cleanups, \$15.7 million for site-specific investigations, and \$2 million for community assessments. A total of 25 site-specific cleanup grants were awarded, ranging in size from \$183,495 to \$7,000,000 to remediate blighted properties for reuse as parks, open space, housing and other uses. A total of 21 site-specific investigation grants were awarded, ranging in size from \$128,520 to \$3,000,000 to conduct environmental site assessments and other investigations that prepare



sites for cleanup. Community assessments were awarded in a total of seven jurisdictions. A large majority of the first round of ECRG grants involved housing development projects.

After the first-round awards, DTSC collected feedback to improve the program and ensure that ECRG was meeting its intended goal to award grants for "projects that improve the lived experience for community members most impacted by environmental inequity." DTSC held four "ECRGathering" open meetings, solicited dialogue through an ECRGathering form, and convened a three-day-long retreat with environmental justice stakeholders from the California Environmental Justice Alliance. DTSC also contracted with the Othering and Belonging Institute at UC Berkeley to advise on the implementation of equitable reuse principles and other matters relating to diversity, equity and inclusion. Some of the feedback received include concerns about the short timeframe and lack of accountability for meeting equity and community engagement requirements, the need for additional mechanisms to ensure developers work with community partners, the need for anti-displacement and gentrification mechanisms, the need to assess cumulative impacts from surrounding land-uses to ensure projects do not increase exposure to existing pollution, and the need to ensure housing development is safe, affordable and compliant with local housing plans.

The program was paused for six months while DTSC worked to update grant guidelines and requirements. Feedback from stakeholders informed changes to the grant program that were implemented in Round 2. Some of the changes include:

- 1) Making certain land reuses ineligible for ECRG including warehouse or distribution centers; uses that have the potential to increase pollution; 100% market rate housing; and mixed housing that does not meet required low-income housing benchmarks.
- 2) Requiring sensitive land-uses such as housing, schools, and hospitals to clean-up to standards that do not require on-going land-use restrictions and maintenance.
- 3) Enhanced scoring for projects that use on-site treatment technologies.
- 4) Requiring a demonstration of community involvement and community benefit without displacement.
- 5) Requiring the identification of nearby heavy industrial uses and a plan to mitigate impacts from locating projects near existing sources of pollution.
- 6) Requiring additional community benefit commitments.

DTSC also committed to rely on the International Association for Public Participation's Spectrum of Public Participation and to create a Treatment and Technology Council to explore mechanisms to increase the use of alternative remediation treatments and improve community involvement and support for clean-up approaches. BES commends the approach taken by the ECRG team to listen, analyze and modify its programs after engaging with stakeholders, which can serve as a model that can be replicated in other DTSC programs. **DTSC should consider whether and how to capture potential lessons learned from this approach and determine whether additional DTSC programs can benefit from a similar approach to community-responsive program assessment and modification. DTSC should also consider working with the same stakeholders to evaluate how well the changes to ECRG guidelines addressed community concerns in Round 2 and whether additional changes are warranted in Round 3.**

## **8. TRANSFORM ENGAGEMENT FOR COMMUNITIES IMPACTED BY EXIDE**

**2023 DTSC DIRECTOR'S PRIORITIES:** "Actively listen and collaborate with community-based organizations, non-governmental organizations, the Board of Environmental Safety, local and state representatives, and community members to find approaches, tools, and technologies that rebuild community trust in DTSC's oversight of the Exide cleanup. We will significantly increase our presence and availability in these impacted communities with the goal of providing clear and accessible information about how we are conducting cleanup activities, and about the post cleanup residual risks to human health and the environment. We will increase awareness of programs and services beyond cleanup activities that address the harm Exide, and its predecessors caused the community, human health, and the environment."

**A. METRICS:** NOTE DIRECTOR'S TEXT RE PURPOSE OF THIS PRIORITY. NO METRICS GIVEN.

**B. BES EVALUATION:** *BES AUTHORITY: HSC 25125.2(b)(4); 25125.7; SB 158 SECTION 106.*

**BES Evaluation:** DTSC hosted 17 Working Group discussions, four public Exide Technical Advisory Group (ETAG) meetings, two public community meetings, 12 meetings with Los Angeles County, and 12 meetings with local government representatives. DTSC integrated workers, community members, and community representatives into the decision-making process. DTSC also increased transparency and responsiveness - overhauling the Exide web pages, posting Letters of Completion, and providing comprehensive responses to the BES on all Exide-related inquiries they had received. Community members have expressed cautious optimism about DTSC's engagement.

- a. Clean Up Outcomes – DTSC has reported that the clean-up of 5,018 homes has been completed. This is on target with the goal established by DTSC of 5,000 homes. The website does not mention the yearly goal, **BES would like DTSC to identify the yearly totals.**
- b. Solicitation – BES participated in the selection process to identify a cleanup contractor and provided several recommendations on how to further strengthen the process and align it with environmental justice principles. **BES would like DTSC leadership to provide a path forward on these recommendations.**
- c. In addition to identifying a cleanup contractor, DTSC also identified a 3rd party monitor. This approach was adopted based directly on recommendations from the community groups. Additionally, there are ongoing conversations to designate the site as a superfund site. **BES would like to see how the various entities involved in and supporting Exide clean-up are expected to support the communities. What are the clear roles and hand-off points for the third-party monitor vs. DTSC vs. the clean-up contractor vs. EPA or other local jurisdictions? The Board liaison to the working group will monitor and report to the Board on progress in this area.**
- d. Community Engagement – DTSC made significant strides in deepening community relationships through hosting Exide Working Group and ETAG meetings consistently with note taking to enable community stakeholders to clearly understand the decisions and bring challenges for considerations. For example, Working Group members actively participated in the review of the solicitation document and provided input on the overall operating model for DTSC. **BES recommends a clearer operating model for all the groups involved in the cleanup- communication and handoffs between 3<sup>rd</sup> party monitor, DTSC, contractors and residents.** DTSC has launched "Exide Home", a technology tool which is a feedback management system to enable community members to view their logged issue status and get more support through DTSC's website. **BES would like to see this technology solution tool in use, to obtain details of how reported community issues are resolved or addressed.**

### **OBJECTIVE 3: SUSTAINED PERFORMANCE**

#### **9. REDUCE CONTINUED PERMITS**

**2023 DTSC Director's Priorities:** "Make decisions on permits that have been continued for more than five years. These permits are associated with facilities that have very complex operations. When DTSC began its Permitting Improvement Initiative over five years ago, we had twenty-four permits continued longer than five years.

Today, we have only six. This reduction means that the majority of the most complex facilities now have stronger, more enforceable permits that incorporate the latest technologies and are more protective of human health and the environment. It is crucial that we continue our progress toward addressing all continued permits so that all communities with permitted facilities experience improved protection of their health and environment.”

**A. METRICS:**

1. PUBLIC NOTICE PERMIT DECISIONS FOR ALL REMAINING 5+ YEAR CONTINUED PERMITS.
2. REDUCE THE NUMBER OF REMAINING 2+ YEAR CONTINUED PERMITS TO FEWER THAN 10.
3. RELEASE VSP RULEMAKING PACKAGE FOR COMMENT.
4. SEND REMINDER LETTERS TO ALL PERMITTED FACILITIES REGARDING TIMELY SUBMITTAL OF PERMIT APPLICATIONS.

**B. BES EVALUATION:** *BES AUTHORITY: HSC 25125.2(b)(4); 25125.7.*

**BES Evaluation:** DTSC reduced the number of continued hazardous waste facility permits by issuing nine final permit decisions in CY2023. Per the above-noted metrics, there were eight 5+year permits in CY2023 and five remaining by year's end, thus reducing the backlog by three. There were six 2+year permits in CY2023 and three remaining at year's end, reducing this backlog by three. Of the nine permits issued, three were under 2 years from expiration date. Many of the remaining backlogged continued permits are for large, complex facilities to be addressed in 2024.

The nine hazardous waste facility final permit decisions issued in CY2023 were for: Industrial Services Oil, San Diego Gas and Electric, Lawrence Berkeley National Laboratory, Heraeus Precious Metals No. America, Crane's Waste Oil, Corteva BIF Agriscience Pittsburg, Chevron El Segundo Refinery, Martinez Refining Company, and World Oil Terminals Vernon. DTSC punctually issued 100% of reminder letters to permitted facilities to drive timely submittal of permit renewal applications.

DTSC did not release a Violations Scoring Procedure (VSP) rulemaking package for public comment in CY2023, though the Board often heard public comment regarding the need to update this Track 1 element of SB 673. DTSC made notable progress in CY2023 by issuing up-to-date, stronger, and more enforceable permits in CY2023, successfully reducing the permit backlog and making final permit decisions. Of the permitting actions taken by DTSC, two were appealed to the Board of Environmental Safety: Ecobat Resources California's temporary authorization for the dewatering system, and Lighting Resources' permit renewal. DTSC provided the administrative record for both these permits in a digital format, making it easier to post online for public understanding and to inform the two BES appeal hearings. The Board heard and decided these two appeals in public hearings, for which materials are available on the [BES website](#).

DTSC faces complex, controversial permit renewal decisions in CY2024, notably the draft public notices for the Chemical Waste Management Kettleman Hills, Ecobat and Phibro-Tech facilities, all of which involve a high level of community engagement. BES urges DTSC to advance the timely issuance of draft and final permit decisions. The Division's five "core metrics" (i.e. timing of preapplication meetings, technical review, etc.) are more internally focused than community-engagement oriented (which can be more difficult to measure); these measurements were not readily accessible to BES.

**In CY2023, BES was not made aware of the timeline for issuing a draft SB 673 Track 1 rulemaking for revising the Violation Scoring Procedure and recommends this be developed and implemented as soon as possible to allow for uniform application in the permit-development process. BES will ask DTSC to present information at a Board meeting on how Track 2 community vulnerability and cumulative impacts are being considered in current permit development, to further the intent of SB 673. BES will continue to work with DTSC to inform the public of draft and final permit decision-making dates and encourages DTSC to hold hybrid public meetings for the most prominent draft permit decisions. BES will work with DTSC to understand the adequacy of Permitting**

**Division staffing sufficient to eliminate the permit backlog and maintain a steady state of current hazardous waste facility permits. BES recommends simplifying the permit reissuance metrics to more easily track progress.**

## 10. HAZARDOUS WASTE MANAGEMENT REPORT

**2023 DTSC DIRECTOR'S PRIORITIES:** "Submit a Hazardous Waste Management Report to the Board of Environmental Safety in preparation for the development of a Statewide Hazardous Waste Management Plan. The initial report is the starting point to determine what additional research is needed to generate the Plan. The Report objectives include: establish a baseline understanding of how hazardous wastes are managed in the State of California; identify data gaps and items that require additional research, and; begin to develop strategies for the completion of additional research to fill these data gaps."

### A. METRICS:

1. SUBMIT THE HAZARDOUS WASTE MANAGEMENT REPORT TO THE BOARD IN SPRING 2023.

### B. BES EVALUATION: BES AUTHORITY: HSC 25125.2(b)(4); 25125.7; HSC 25135.

**BES Evaluation:** DTSC's Hazardous Waste Management Report team drafted and released the Report in November 2023. DTSC held three workshops in 2022, two workshops in 2023 (one hybrid, one virtual), and one workshop in 2024 thus far. DTSC received comments directly from the public as well as through the workshops. The HWMP subcommittee met with the DTSC team throughout the development of the report and provided extensive comments for DTSC to consider. The report does a good job articulating the state of the hazardous waste related data and provides a directional view of the themes that will be addressed in the plan. The subcommittee also provided a set of recommendations that BES would like DTSC to address through the development of the Plan and include in the Plan itself.

The DTSC team consistently meets with the BES HWMP Subcommittee to carve out an outreach plan to release findings related to the HWMP to stakeholder groups.

**BES looks forward to DTSC's implementation of BES's five recommendations (Data Gaps & Fidelity, Enforcement, Source Reduction, Research & Development, Hazardous Waste Leadership) for the Plan.**

## 11. SANTA SUSANA FIELD LAB (CEQA/PEIR)

**2023 DTSC DIRECTOR'S PRIORITIES:** "DTSC has developed a Program Environmental Impact Report (PEIR) for the Santa Susanna Field Laboratory (SSFL) in compliance with the California Environmental Quality Act (CEQA). The PEIR enables DTSC to evaluate and mitigate potential environmental impacts associated with soil and groundwater cleanup activities and the removal of structures under DTSC authority at SSFL. In spring 2023 DTSC will finalize the SSFL PEIR, release the Final PEIR and certify it. Issuance and certification of the PEIR is a significant milestone that sets the stage to move into the cleanup phase at SSFL."

### A. METRICS:

1. PUBLISH THE PEIR FOR CERTIFICATION IN MARCH 2023.

### B. BES EVALUATION: BES AUTHORITY: HSC 25125.2(b)(4); 25125.7.

**BES Evaluation:** DTSC committed to development of a PEIR, which enables DTSC to evaluate and mitigate potential environmental impacts associated with cleanup activities and the removal of structures under DTSC authority. The issuance and certification of the PEIR set the stage for the cleanups to follow. The PEIR was certified on July 19, 2023.

In meeting its commitment to publish the certified PEIR, DTSC originally set a certification date in March 2023, per its 2023 priorities document. The certification date was changed to June 28, 2023, and later extended to July 19, 2023, in response to requests from elected officials and the public for additional time to review environmental documents. DTSC efforts have ramped up to engage with the community more deeply and to include the BES in that engagement.

With the PEIR completed and in response to community concerns, DTSC has initiated a series of forums/workshops to both provide updates and receive public input on its [website](#). DTSC provides monthly updates on the DTSC SSFL website. The reports outline the work by each of the responsible parties (Boeing, Department of Energy, NASA, and DTSC). A schedule of workshops is also [posted](#).

**BES recommends DTSC develop and implement robust community engagement.**

#### **OBJECTIVE 4: STRATEGIC MANAGEMENT**

##### **12. DTSC 2020 – 2024 STRATEGIC PLAN 2023 PRIORITIES**

**2023 DTSC DIRECTOR'S PRIORITIES:** "Since DTSC launched the Strategic Plan in 2020, the department has accomplished 61 of the 133 original Prioritized Actions. DTSC will issue an update to our Plan accomplishments and commitments in January 2023. The Prioritized Actions scheduled to be completed in 2023 are spread across five long-term strategic goals – broad statements of what we aim to achieve, which give definition to our Mission and Vision – for the duration of the Strategic Plan: (Goal 1) We will build strong partnerships to collaborate with all stakeholders; (Goal 2) We will promote Environmental Justice to prevent harm and protect the most vulnerable; (Goal 3) We will deliver high-performing programs and services effectively and on time; (Goal 4) We will enhance our Organizational Health so that we are more inclusive, productive and accountable, and; (Goal 5) We will improve our Fiscal Stewardship through greater transparency, fortified by secure and reliable funding."

##### **A. METRICS:**

1. PUBLISH THE DTSC STRATEGIC PLAN REFRESH BY FEBRUARY 10 (2023).
2. COMPLETE ALL PRIORITIZED ACTIONS FOR THE CALENDAR YEAR.
3. TRACK PROGRESS VIA STRATEGIC PLAN DASHBOARD.

##### **B. BES EVALUATION: BES AUTHORITY: HSC 25125.2(b)(4); 25125.7.**

**BES Evaluation:** BES acknowledges that DTSC has a strategic plan in place and is one of the few State agencies with a public KPI dashboard reporting on outputs against the Strategic plan – this was a multi-year technology effort to tie DTSC personnel's activities to the overall agency plan. However, BES has not directly worked with DTSC to shape the strategic plan or the metrics yet. BES has had a metrics subcommittee in place for 2023 and has attempted to work with DTSC multiple times to identify metrics that matter to the public. These efforts did not lead to any tangible progress due to DTSC's lack of readiness (personnel changes, scheduled IT improvements to the KPI dashboard, etc.). Given this, it is critically important for DTSC to dedicate resources to this effort with BES.

- 1) Strategic Plan – The current DTSC Strategic Plan lists its core programs ('what') but focuses goals on the way it will run the programs ('how'). This creates two challenges: (1) the current version is not 'consumable' for stakeholders and (2) the intermingling of the 'what' and 'how' make it challenging for BES as well as stakeholders to assess DTSC's goals and performance against each core program.

**BES asks DTSC to create a strategic plan that is consumable for communities in that it clearly states the programs, specific outputs from these programs and their intended impact to the lived experience of stakeholders.**

2) Strategic Plan / KPI Dashboard -

**BES would like to see specific output metrics attached to core programs, to drive greater efficiency and effectiveness of its core programs. Without the context of the core programs, it is challenging to assess whether DTSC is truly meeting the intent of its current goals (i.e. strong partnerships, EJ, etc.). BES would also like to see a public engagement effort to drive awareness of existing outputs and a path to surfacing metrics that matter to communities.**