

Independent Review Panel Meeting— Meeting Minutes - November 18, 2015 Meeting

Minutes taken by Myra Yeung, DTSC Staff Services Analyst

Agenda items (underlined); Action items (bolded)

1. Call to Order
 - Director Barbara Lee's opening remarks
2. Announcements and running of meeting
 - Introduction: Gideon Kracov—Senate Pro Temp's appointee
 - Introductions from DTSC Exec staff
 - Introduction: Dr. Arezoo Campbell—Senate Assembly appointee
 - Introduction: Mike Vizzier—Governor's appointee
 - Kristin Peer—CalEPA Assistant General Counsel, acting as counsel for IRP
 - Bagley-Keene reminder
 - Enter into closed session 8:38 AM, will reconvene at 10:30 AM
3. Closed Session (8:38 AM – 10:30 AM)

Closed Session

4. Welcome and Introductions (10:30 AM)

Gideon Kracov: Call to Order (8:30 AM); closed session (8:30 AM – 10:30 AM)

Panel Member and Staff Introductions

Gideon Kracov: Environmental lawyer—Senate Pro temp appointee

Dr. Arezoo Campbell: Scientific expert—Senate Rules appointee

Mr. Mike Vizzier: local government—Governor's appointee

DTSC Director and Deputy Directors Introduction:

- Barbara Lee, Director
- Jim Marxen
- Ana Mascareñas
- Josh Tooker
- Terri Hardy
- Reed Sato
- Andrew Collada
- Meredith Williams
- Elise Rothschild
- Rick Brausch
- Rizgar Ghazi
- Dot Lofstrom
- Keith Kihara

- Hansen Pang
- George Okamoto
- Ray Leclerc
- Bruce LaBelle
- Patrice Bowen

Mr. Christopher Law, DTSC's liaison on IRP

Housekeeping:

Introduce Spanish translators (Jesus Cruz, __)

Facilities Location

Public Comment—comment cards and online

Mr. Kracov welcomes public

- This is the first public meeting
- Will work with public and stakeholders to bring success

Mr. Vizzier

Would like to meet public representatives and stakeholders present, if they would like

Dr. Campbell comment

5. Agenda Review

Comments/thoughts on agenda?

Item 2—there may be a time limit on public comment, but 3 minute may not be enough; may need more time to understand comments/questions

Suggestion: take public comment, if comments are running long, may have to postpone for later discussion to keep on agenda

We will take public comments on comment card—please submit comment card for agenda item, on which you would like to speak

DTSC staff will print and read public comments received online

Please note that this is the first panel meeting—there may be issues, please bear with us

6. Report Out from Closed Session

Kristin Peer: Panel interviewed a candidate; unanimously voted to check candidate's references and offer him the position if his references were positive. At the next closed session, the panel will be interviewing for the other staff position.

7. Statutory Review

DTSC PowerPoint: brief summary of the statute

IRP is established by H&S Code 57014

Effective date: June 24, 2015

Subject to Bagley-Keene

Reporting requirements: 90 days after initial appointment and every 90 days thereafter

Recommendations: required to submit recommendations to Legislature and Governor at the time of the submission of the Governor's 2016-17 annual budget to the Legislature and at the time of each submission of the Governor's annual budget thereafter

Mr. Vizzier is concerned with what we can produce by January 10, 2016

Benefits?

How to run meetings hereafter?

What is the best approach?

The deliberation process may need more time than the current deadline (Jan. 10, 2016)

Dr. Campbell

Timing is short

Important for public to have input to help us do a good job

It will be difficult to get task done in such short timeframe

Ms. Peer

Panel will have to report to Legislature and Governor consistent with the requirements of Health & Safety Code section 57014. The first report is due January 10, then January 28, and thereafter each 90 days.

Public Comments:

Ingrid Bromstrom

1. Statutory underpinning

- a. Independent Review Panel—public is concerned with how will this panel retain its independence from DTSC? We have EPA counsel, we have DTSC staff present, but there are no public representatives present
 - i. Recommends outside counsel
 - ii. Not having DTSC staff in prominent position
- b. Affected communities are integral to creation of IRP—the crux of the problem with DTSC is the lack of trust; initially, we asked Legislature to create a community panel, but we got the IRP
 - i. The IRP should look to community panels
 - ii. Community representatives should be part of this process
- c. Statutory language
 - i. 90-day reporting requirements
 1. Government Code 9795: how reports are laid out for Legislature; requires the report to be received by legislative counsel, but are not required to make those public
 2. Concern: the work that this Panel does must be available to public

Panel comment: understand concern,

Bradley Angel (CEJC, Green Action)

Echoes Bromstrom's concerns

1. We have real concerns: this Panel does not look independent from DTSC; you can't have an independent Panel if the comments are going to dtsc.ca.gov; we can't have independent Panel is we have the fox guarding the hen house
2. Where is the "independence"?
3. Public notice: there is no Spanish language public notice available
4. There is no community representatives on the Panel; there is only someone who has worked with communities
5. Timeline for reporting: it took 5 months to have first meeting, then now there is no time for preparing the first report
 - a. CalEPA and DTSC seems to not want the Panel to do its job right
6. We will have recommendations to how Panel can do this right

Maricela Mares-Altorre (member of CEJC)

1. Skeptical of IRP's independence
2. Everything IRP has done so far is related to DTSC; seems like it is coming from DTSC, not a separate entity
3. How able is IRP able to do its job?
4. We have submitted letters to DTSC and have received some response; Panel members should start with looking at those

Gideon: Thank you for your comments; panel member will request to review those responses

Panel observations:

Mr. Vizzier

1. We are in CalEPA's building, we understand your concern about "independence"
2. Have spent time talking to DTSC and telling how it can improve
3. DTSC and CalEPA has started to change and address some community concerns
4. Panel will make recommendations to DTSC on how to improve and address public concerns

Dr. Campbell

1. Have never worked directly with DTSC
2. I believe I am a community representative
3. Other than logistics of getting to the meeting and booking the meeting rooms and a DTSC e-mail account, I have no other connections with DTSC; I am independent from DTSC
4. We want DTSC to protect communities in a way that satisfies all communities
5. Just because we have DTSC e-mail, we are not just figureheads for DTSC

Mr. Kracov

1. Clarifying questions:

a. Statutory language

i. 57014 (a). There is “within” DTSC an Independent Review Panel

1. How can IRP be within the department and also be independent at the same time?
2. Language change may be needed?—to reflect that administrative tasks may be required of DTSC; the operational and substantive work is independent
3. Counsel input: The statute charged IRP to handle independent review and be “independent”
4. Panel input:
5. Dr. Campbell: have no problem with public contacting her via her academic e-mail

ii. 57014 (c). Reporting Obligations

1. What are these “reporting” obligations?
 - a. Counsel: DTSC may have better idea of what these “reports” are
 - b. Tooker: DTSC annual reports (NPLs, Clean Loan Program, Orphan spending)

iii. 57014 (e). Reporting requirements pursuant to Section 50070

1. Has DTSC submitted these bi-annual reports?
 - a. Director Lee: this has not been done; working with Agency to figure out next step on how to produce these bi-annual reports
 - i. We have produced other reports to the Legislature

iv. 57014 (g). Department shall provide “two support staff independent of the department”

1. Administrative vs. substantive and operational
2. How can these two “staff” be independent of the department?
 - a. Counsel: these staff will handle administrative works and they will report to the Panel members; are supervised by Panel
 - i. Board of Forestry: staff are technically CalFire (paid by CalFire), but they work for the Board of Forestry
 - ii. There are other instances of this in other government agencies

2. Panel Comments:

- a. Mr. Vizzier: organizations may have support services such as IT and Admin work that are separate from the functional side of those organizations

- i. DTSC will provide information and data, but will not influence Panel decisions
 - b. Counsel: we are in the early stages of evaluating Panel's need for support services
 - c. Dr. Campbell: hope community understands that some kind of connection with DTSC is necessary
 - i. Bagley-Keene: we are not even allowed to discuss anything unless it is in an open forum
 - ii. The support staff are necessary
 - d. Mr. Kracov
 - i. Addressing Director Lee and Mr. Collada: does DTSC agree with what has been discussed so far, regarding the independency of the IRP?
 - 1. Director Lee: yes, while this is not common in state government, but it does exist; we are very mindful of the Panel's independence
 - 2. Until IRP's staff are in place, DTSC staff will have to provide the logistic support
3. Clarifying questions (continued)
- a. Statutory language
 - i. 57014 (g) Panel per diem
 - 1. Will IRP's staff be paid from the \$50,000 Panel expenses per year?
 - a. Counsel: the statute says \$50,000 for per diem and travel; will look into the issue of paying for IRP staff
 - b. Dr. Campbell: what if Panel duties require IRP to travel more? Will this allocation be a limitation on Panelists' ability to travel and do their job?
 - ii. 57014 (h) Reporting requirements
 - 1. 90-day reporting requirements and also the reports at the time of the submission of the Governor's annual budget to Legislature
 - a. Counsel: yes, there will be two types of reports (the 90-day ones and the ones at the time of the Governor's annual budget submittal)
 - 2. Dr. Campbell: if we recognize that we are unable to produce all the required reports by the designate timeframe, we should include that early on in the reports
4. Issue of DTSC's staff sitting before the Panel
- a. Mr. Kracov's observation
 - i. To Director Lee: Have you ever had DTSC exec staff sitting before a Panel before?
 - 1. Director Lee: no, we have had similar arrangements during internal meetings, but DTSC does not have a governing board
 - a. If the Panel prefers, once it has hired its staff, it can decide on what arrangements it wants for these meetings
 - ii. Why did you bring all of your senior staff?

1. Director Lee: for Panel to meet the staff and for staff to meet the Panel
 - a. Would like to work cooperatively with Panel and be supportive of IRP actions and input
 - iii. We would like public inputs on how to make IRP meetings more inclusive; we are inclined to learn and take in public comments, but at the same time, having DTSC's upper management sitting in front of the Panel is a positive step—the Senate Pro Temp wants DTSC's staff to answer to the Panel's questioning
 - iv. Other comments?
- b. Mr. Vizzier
 - i. Governor's office has taken this very seriously, in selecting the Panel members, forming the Panel, etc.
 - ii. We need to hear from everyone
 - iii. Heard that communities have lost trust in DTSC; appreciate this input
- c. Dr. Campbell
 - i. We do hope that by the time the statute expires (Jan. 2018), DTSC will be able to gain some of the lost trust back
 - ii. We hope the IRP can begin the process of regaining community's trust in DTSC
- d. Counsel
 - i. Pursuant to statute, IRP will have to work with DTSC to learn where improvements are needed

8. Goals of the Independent Review Panel

There are no staff presentations; time for Panel to discuss what their "goals" for the Panel are

Mr. Vizzier

1. We have not had the opportunity to discuss goals and deliverables in advance (Bagley-Keene)
2. What's realistic to accomplish by Jan. 2016 and the reporting deadlines thereafter?
3. A free from discussion about what is achievable, goals, etc.

Dr. Campbell

1. We need to get an understanding on what the community wants before we can decide on what the Panel's "goals" are
2. We need to listen to community input

Mr. Vizzier

1. What is feasible by the deadline?

Mr. Kracov

1. Open for public comments than go to free forum discussion

Public Comments

Jane Williams (not present)

Ingrid Bromstrom

1. Panel should already have an idea of what needs to be done; there has been a number of documents from community stakeholders
 - a. Brought document to submit to the Panel today
2. Community has established benchmarks and done lots of leg work in previous years up till now
3. A lot of DTSC's work is focused on internal benchmarks; I want to propose a different way of looking at things
 - a. Benchmarks must be grounded in community's concerns
4. Despite all of the work that has been done at DTSC using internal benchmark, the communities have not benefited
 - a. Recommends that the Panel use communities' benchmarks to make changes hereafter
 - i. Issues with permitted facilities, delay in cleanups, enforcement issues, lack of trust for testing and sampling results and leadership at DTSC, standardize permitting criteria, funding DTSC's pollution prevention, address orphan site depletion, issue of financial assurance and post-closure care, ensuring independence of criminal investigation

Bradley Angel (Green Action, CEJC)

1. CEJC was formed a year and a half ago in Kettleman City; 200 people from 50 organizations met in Kettleman City
 - a. One of the first priorities: effort to improve and reform DTSC
 - b. Affected communities, back in 2014, came up with a list of recommendations to DTSC
 - i. This list should be made available to Panel
2. We can't wait until 2018 to see changes begin
 - a. Communities, real people are affected
 - b. The Panel should hire CEJC and People's Senate as consultants
3. Things that Panel can do between now and the first report is due
 - a. Review previous community documents and insist that DTSC make changes
 - b. Civil rights complaints against DTSC and CalEPA—civil rights violations against Latino populations (March 19, 2015); Panel can insist, as top recommendation, DTSC is brought to compliance
 - i. DTSC has refused to comply to observe the people's civil rights; DTSC's permitting is racially discriminating

- c. We request Panel to immediately review the civil rights complaints; make recommendation to bring DTSC into compliance
4. Panel should work with CEJC and go on a tour with CEJC to see the affected communities

Randle Freedman (Navy Region Southwest, Military Installations in CA)

1. There are many military installations that are critical to national security; many of these installations are supported by waste facilities
2. We understand community concerns but we also have other needs
3. AB 1075, brought reforms to enforcement and permitting programs
4. Regulated communities are not actively seeking to evade or abuse regulations; many facilities tried for years to renew permits, but it took years to get permit renewed
5. Mr. Freedman is available as a resource to Panel, regarding military activities in CA

Maricela Mares-Altorres (People for Clean Air)

1. Civil Rights Complaint (filed in March)—brought a copy for the Panel
2. It seems Panel's intention is great, but the problem is that community does not trust DTSC
 - a. Community was told that permitted facilities agreed to pollution reduction when their permits are approved, but then DTSC's pollution reduction has been defunded—how can we have pollution reduction if DTSC's program is not funded?
 - b. DTSC seems to exist to help industry polluters; DTSC does not exist to help community—it exists to help industry
3. DTSC's public hearing on EIR in Kings County
 - a. Spanish speakers were not allotted the same time to speak as English speakers
 - b. Panel needs to insist DTSC accept the remedies in the civil rights complaint
4. Civil Rights Complaint
 - a. DTSC also claims to have done serious testing, but the analysis was done when the company's facility was not at full capacity; biomonitoring was not done
5. Panel needs to insist DTSC accept the remedies by the next report, not by 2018

Panel Clarification

Dr. Campbell

1. I did not mean that we start making progress by 2018, what I mean is that by 2018, we can reestablish some trust between DTSC and communities

Close Public Comments on Item #8

Panel Observations

Mr. Kracov

1. Panel is supposed to make recommendations on DTSC's Permitting, Enforcement, Public Outreach, Fiscal Management, and other department obligations
 - a. Concern: if we pick too many recommendations, we may not be able to do everything well; will have to tailor our goals and deliverables
 - b. Quantitative vs. Qualitative
 - c. There have been lots of reports on DTSC, such as:
 - i. Audit on Cost Recovery
 - ii. Strategic Work Plan
 - iii. CalHR Quality Review
 - iv. Cost Recover Work Plan
 - v. Cost Recovery Sustainable System Work Plan
 - vi. RCRA Grant Work Plan
 - vii. Consumer Watchdog recommendations
 - viii. CEJC recommendations
 - ix. People's Senate recommendations
 - x. Independent Panel—CPS Permit Review
 - d. Keep eye of Forest not trees
 - e. Don't need to reinvent the wheel—a lot of recommendations already exist
2. Recommendations
 - a. Spend the next few months listening, meeting with community groups, hearing from regulated community
 - b. Hire Panel staff
 - c. Spend time with DTSC Director and Staff to understand department's priorities
 - d. Develop a workplan for the Panel—available for public comment
 - e. I would like to have a fully vetted report by Jan. 10, but we don't even have staff hired yet
 - f. The workplan as a "baseline" assessment to summarize all input the Panel has heard?
 - i. Possible timeline: February? March?
 - ii. Use rest of 2016 to discuss initial recommendations
 - iii. Honing topics and further defining recommendations and deliverables through 2016
 - iv. By 2016, to have some good, concrete recommendations that recognize challenges
 - v. Have a better understanding by the end of 2016
 - vi. 2017, focus on reporting to Legislature and honing down on reporting
 - g. Have spoken to CMBA and CCEEB in past few months and many others in the past 6 weeks

Dr. Campbell

1. Like the idea of having "measurables" and to get better idea of the situation

Mr. Vizzier

1. Documents from community groups do provide baselines
2. Agree that we should not reinvent the wheel; to look at what is existing and identify if there are gaps
3. Having too many goals may not allow Panel to achieve everything at once
4. Agree that we need to narrow down goals to make it feasible and achievable
5. How to group the different reports? How to relay Panel's input/make public?
6. Still in brainstorming process

Mr. Kracov

1. We understand the gravity and the time on challenges before us
2. Is there consensus on gathering info and listening to inputs before putting together a Panel workplan, and then get the workplan out for public comment? On proposed timeline for reporting?

Mr. Vizzier

1. Sounds like a very tight timeline, but achievable

Dr. Campbell

1. At least have a way for community stakeholders to send input to Panel before they hired their staff

Additional Public Comment for Item #8

Jane Williams (Exec CA Communities Against Toxics)

1. Self-introduction
 - a. Represent members from group; group is very concerned with DTSC's problems
 - b. Some of DTSC's problems are old problems, some are new
2. Federal law talked about separating certain materials from environment because of their toxicity and harmful effects on people
 - a. These toxic substances has evolved/changed
3. Supreme Court decision 7 years ago (prohibited death penalty for minors)—used the phrase "evolving standards of decency"
 - a. Concept of "windows of vulnerability" is common knowledge nowadays
 - b. This is the historic context for this Panel
4. DTSC is charged to permitting facilities and protecting public health
 - a. Its mission statement changed over the course of its existence as part of Cal EPA
 - b. Now: mission is to protect people and environment; decision-making must be transparent
 - i. This Panel does not seem "independent"
 - c. DTSC suffers from lack of inclusion

- i. DTSC does not have public participation staff dedicated to listening to public complains
5. Panel is created to help DTSC solve its problems and ensure that it is protecting public health and environment
6. The Department's failures are renowned; we need the Panel to look at what kinds of metrics are necessary (where everyone can help define and establish these metrics)
7. We do not need more recommendations or reports; we need a set of metrics that objectively measures the Department's work
8. We need to protect vulnerable communities

Panel Comment: Mr. Kracov

1. To Ms. Williams: will you and your colleagues provide input as to what these "metrics" are?

Online Comments

Xonia Villanueva: Autumnwood residents are still waiting for testing results (request for raw data from testing in community)

Priscillia Ng, Environmental Scientist from DTSC: are the documents Mr. Kracov referred to available on DTSC's website?

Panel Observations

Mr. Kracov

1. What does Panel member think should be the goals?

Dr. Campbell

1. Should have short-term and long-term goals
2. Important to recognize what can be done immediately and what will take more time

Mr. Vizzier

1. Not easy to establish good/valuable metrics to measure performance
2. Metrics for "performance measure" is not often easily measured
3. What can be measured? What data is available? The cost for data?
 - a. This can be further discussed
4. What are the describable goals?

Mr. Kracov

1. Would like to figure out timing and what should be discussed for next meeting
2. To think about what could be feasibly done by the next meeting
3. Director Lee's thoughts? How can the Panel best serve you to help the department be successful?

Director Lee's Comment

1. Goals for restoring confidence in DTSC
2. Has received a lot of recommendations from community groups/stakeholders
3. Working with staff to put together strategies to improve programs within DTSC
4. If Panel would like, for the next meeting, DTSC staff can give overview to Panel on the work that is underway at DTSC
5. There are also initiatives underway that addresses issues with Permitting, EJ issues, fiscal management, etc.
 - a. A lot of work has been done on EJ
 - b. We are looking at the Department's programs and trying to reform programs to solve challenges and problems that currently exist
 - i. We acknowledge that there are "blind spots" when programs were first established and they may not fully address challenges and problems today
6. Will take time for DTSC to share with the Panel what it has done

Mr. Kracov

1. Panel's potential "framework" for putting together recommendations and measurable
 - a. It doesn't seem to make sense if Panel is working on a set of recommendations and measurables, if DTSC is working on its own set of recommendations and measurables
2. As we are determining Panel's goals, before the two reports are due in January 2016, we will get a lot of input from the Department
3. To Director Lee: In general, does the proposed framework seem helpful to the Department?

Director Lee

1. Yes, this will be very helpful for the department and also to the public
2. If the Panel would like, DTSC staff can present overview at next public meeting; for Panel and public input

Mr. Kracov

1. Hope Panel will have as much consensus on goals/recommendations as possible

Dr. Campbell

1. To Director Lee: will everyone from DTSC have input on the report to Panel? Or just the executive level staff? Will it contain views from all DTSC staff? Or just high level staff?

Director Lee

1. The presentation would be what we have currently underway
 - a. Deputies and division chiefs are currently putting together summaries on their programs

2. While I do listen to staff at all levels, given the timing of the next Panel meeting, we may not be able to get everyone's input; I also emphasize that I visit regional offices to meet with staff from all levels for their ideas and input

Mr. Vizzier

1. DTSC has done a lot over the past years to reform and change and adapt to changing and new responsibilities
2. We need definable goals, goals that Panel, DTSC, and public understands

Mr. Kracov

1. General consensus on framework: agenda items for next Panel meeting (December 2015)
 - a. Department will come with some sort of report on goals and measurable; will need to provide its goals and recommendations by January 2016
 - b. Ask that public/community stakeholders also provide Panel with their goals and measurable

Director Lee

1. DTSC staff will come with presentations for Panel; Panel can decide whether or not it wants to dive further in on those topics
2. Presentation on the 4 areas that Panel are charged to report on
3. Panel can inquire further information

Mr. Kracov

1. What are department's goals in the 4 areas? What does the department envision as its goals on those areas?

Public Comment

9. Public Comment – Items 1 through 8 **

Mr. Jay Golida

1. Would it be possible to have meeting materials available online at some point before, during, or after meeting? Response: yes, will have everything posted

Mr. Jay Golida

1. Can the speakers state their names and organizations, if applicable?

Xonia Villanueva

1. Panel should not make recommendations from summarized data that are provided by DTSC staff. Panel should look at raw data and make recommendations.

10. Lunch (1:11 PM, for 30 minutes—reconvene approximately at 1:48 PM)

Reconvene 1:48 PM

11. Public Comment – Items 1 through 8 **

No outstanding public comment at this time

12. Organizational, Operational and Administrative Matters (continued)

Director Lee

1. DTSC staff will present organizational issues

Kristin Peer

1. My role is to advise on Bagley-Keene requirements and other legal questions that Panel may encounter
2. My role is not to advise Panel on their decisions
3. Reminder: Bagley-Keene Open Meeting Act
 - a. Provide adequate notice (10 days before meeting, must post public notice and agenda)
 - b. Public Comment
 - c. Conduct meeting in open session (all communications between members must be conducted in public meeting setting; they are allowed to attend together events not related to their roles on the Panel, but not for events related to their work as a Panelist)
4. Every time the three Panel members talk to each other, they are subject to Bagley-Keene
5. Members of the public are not required to attend meetings; Bagley-Keene is to ensure meetings are open to the public
6. All documents presented are subject to PRA
7. Panel members will pick a chair amongst themselves
8. The role of the chair can be defined by the Panel; will discuss later
9. Items discussed in closed session meeting is not public; open session is public
10. Any questions?
 - a. Mr. Vizzier: posting documents on website? Will we need to post DTSC's PRA online?
 - b. Response: documents meaning the documents that were submitted to the Panel and or presented during the meeting; exceptions include—documents exchanged between attorney and client, personnel records, etc.

Mr. Kracov

1. We may need to establish policies regarding the manner in which public comments are provided to the Panel; to have public comments sent to Panel before meeting, so that Panel can review beforehand

Greg Lyall

House-keeping items

1. Staff: considering one position today, next meeting will consider the other position, correct?
 - a. Are there any other questions regarding staffing?
 - b. Response: none at this time
2. Website: your AGPA, when he/she is hired, will be responsible for updating website, in the meantime, DTSC staff will be responsible. Are there anything else you would like posted online (besides for contact address)?
 - a. Mr. Kracov: what about posting information in Spanish?
 - b. Kristin Peer response: public notice, agenda items, meeting materials
 - c. Jim Marxen response: time factor prevented meeting agendas and notices from being translate for this meeting; the Panel's AGPA will be responsible for posting on website; public will not be able to post items directly on DTSC's website, but they can submit the items for review and staff will post if appropriate
 - d. Mr. Vizzier clarification comment: clarification on Spanish translation items?
 - e. Director Lee comment: to have public comments submitted to Panel's staff would be the easiest to have public comments/materials posted online; we do not have the capabilities to allow public to post items online in real time
 - f. Mr. Kracov: if public stakeholders submitted items to DTSC staff, will they be inclined to withhold comments that are against DTSC?
 - g. Jim Marxen response: No, we will not
3. DTSC is willing to translate items into other languages; a fee will be charged
4. GRSP has some operation rules; Panel may refer to GRSP for guidelines on operation, procedures, etc.
 - a. Mr. Kracov: we intend to look at existing panels and see how they operate, report, etc.
5. The option of submitting items and comments via U.S. Mail is also welcomed
 - a. Director Lee: please note that all information submitted to Panel at subject to PRA; there must be a mechanism in place to manage, track, and log all items

Thoughts from Panel

Mr. Vizzier

1. Scanned or printed mail/e-mail would be good
2. Posted online

Dr. Campbell

1. Instead of individual e-mail notification every time they receive mail addressed to Panel, we can also just look online; DTSC staff can send notification to Panelists about new posting

Mr. Kracov

1. We can figure something out—regarding posting online all items received; for later discussion

Greg Lyall

1. We can have further discussion on this and decided what is and isn't posted online
2. Daily e-mail exchanges should not need to be posted online; if public wants to see those, they are welcomed to make PRA request

Director Lee

1. Andrew Collada has provided to the Panel a list of mandatory training required for all state employees; if Panelists have any questions, please contact Mr. Collada.
2. If Panel has any questions on lodging/travel, please contact Ms. Kim Smith.
3. Logistical issues for next meeting.

Andrew Collada

1. Made copies of DTSC policies as Panel requested
2. Have forms for Panelists to sign

Terri Hardy

1. We want to make sure that Panel members get all the information they need
2. Christopher Lee is a full time liaison for DTSC to the IRP

Mr. Vizzier

1. A list of DTSC contacts would be helpful

Director Lee

1. Panel to relay questions to Panel liaison, Panel liaison to contact DTSC's liaison, who will then relay questions to DTSC staff

Public Comment

Chris Mowrer

1. In addition to making meeting minutes available to public, will there be video archives of all its live meetings and related documents posted online?

Jim Marxen

1. What would Panel like be posted online?

Panel Comments

Dr. Campbell

1. This will need to be discussed
2. It may be overwhelming to put everything online; we can consider this as one of our immediate goals

Mr. Vizzier

1. Prefer to just post the minutes; to prevent having multiple versions of the meeting

Dr. Campbell

1. Should discuss this issue amongst Panel members

Mr. Kracov

1. This is common practice for many public meetings

Mr. Kracov

1. Will Panel staff have office space in department?
 - a. Response: Yes
2. Working with DTSC liaison, we will be able to get data and information from the department?
 - a. Response: Yes
3. What is the protocol with talking to DTSC staff? (Talking to staff members, visiting regional offices, on formal and informal occasions?)
 - a. Director Lee response: DTSC staff are free members of society; they are free to contact you. The only concern is that it may interfere with their work; staff can reach out to Panel members on their own time
 - i. If Panel would like meetings with staff during work hours, we can work together to see if we can support the request
 - b. Panel follow up, Mr. Kracov: it will help Panel members get the job done if we can speak with staff if we need information on specific topics
4. Public Records Concern
 - a. Are there special rules or circumstances that would prevent us, as public officials, to talk with various individuals? The issue of transparency—conversation/correspondence being made public
 - i. Response, Kristin Peer: will look into this
 - b. Panel Comment, Dr. Campbell: protection against retaliation?
 - c. Kristin Peer: will get back to Panel on issue of retaliation; to the extent that Mr. Vizzier's concern over information request on on-going/active investigations and cases, those are privileged
 - d. Panel Comment, Mr. Vizzier: to try to avoid the PRA issue, for enforcement cases (evidence, statements, etc.); if we cannot use personal statements as evidence, the information would be of no use

- e. Panel Comment, Mr. Kracov: will have counsel review this issue; what is the line between transparency/public records and the need for confidentiality for certain topics/information?
 - f. Panel Comment, Dr. Campbell: confidential communication may be an issue; this should be one of our discussion items for Panel procedures
 - g. Counsel Comment, Kristin Peer: will look into this and follow up with Panel
 - h. Comment, Director Lee: DTSC's policy on retaliation is available
5. Immunities that Apply to Panelists
- a. Panel members are protect for acting in roles as public officials
 - i. What are these immunities?
 - ii. Counsel Response, Kristin Peer: will provide those guidelines to Panel

Public Comment

Ingrid Bromstrom (Center on Race Poverty and Environment)

1. Recording of the Webcast?
 - a. Surprised that this was not approved and is place on agenda for further discussion
 - b. This Panel is required to be open to the public; if recording already exists and there is a way to post recording, it should be posted
2. "Monument task" for this Panel
 - a. Panel cannot make easy decisions "quickly" and will need additional meetings to discuss; but a decision such as posting recording should not be one of those items that needs a lot of time to discuss
3. Meeting time
 - a. This meeting is held on a work day during work hours in Sacramento: this is not convenient for the members of affected communities

Director's Response

1. We recognize the accessibility issues of these Panel meetings
2. DTSC's ability to webcast and record these Panel meetings depend on where the meeting takes place; if we moved to a different location, outside of the EPA building, webcasting and recording capabilities may not be available
3. DTSC is willing to post recordings

Panel Response

1. Since we are not required to webcast by Bagley-Keene, we can still have Panel meetings in other locations

Director's Response

1. To clarify, DTSC is willing to have these meetings at more accessible locations; however, DTSC cannot commit to being able to have webcast and recording available if the Panel meeting takes place in a location that may not have webcasting/recording capabilities

Panel Response

Dr. Campbell

1. The reason for putting the issue with recording/webcasting on agenda for later discussion is that we want to make sure that once we have a policy about whether or not to post recording, we will not have to change it depending on the availabilities of recording/webcasting capabilities

13. Selection of Chair

Counsel, Kristin Peer

1. Under Bagley-Keene, the chair runs the meeting
 - a. Will take votes, record Panel decisions at meeting
2. Panel can decide the responsibilities for the chair
 - a. There are no specific requirements
 - b. Chair to review agenda items before meeting

Mr. Kracov

1. Can look at other examples and discuss what we want the chair's role to be
2. Deliberate amongst Panel: whether or not Panel is ready to decide now

Public Comment

Ingrid Bromstrom

1. CRPE's recommendation: chair position should rest with community

Jane Williams

1. Observed struggles of the Panel members, but I would like to echo Ms. Bromstrom's comment regarding posting video recording to address issue of transparency
2. Community stakeholders would prefer to have someone from the community on the Panel and as the chair, but recommendation is that have Mr. Kracov as the chair

Panel Comment

Mr. Kracov

1. Panel members have not known each other prior to this meeting
2. Are we ready to decide who should be the chair?

Mr. Vizzier

1. Is there a term limit on how long the “chair” can serve?
2. A rotation?
3. Delegate workload as needed?

Mr. Vizzier: Motion to nominate Mr. Kracov as chair

Dr. Campbell: Seconds motion to nominate Mr. Kracov

Mr. Kracov

1. Acknowledges that I am not a community member from affected communities
2. We are all here because of the purpose to change DTSC for the better
3. Panelists have to be committed and to work together on this in order to succeed
4. Panel’s power is derived from the community and also from the appointing bodies
 - a. We have to make sure we get support from community and from Legislature/Governor/appointing body
5. Panelists are all obligated to make this work
6. Panel cannot be successful unless department is successful, the community provides support
7. Panel recognizes that it will need everyone’s help in order to succeed
 - a. We will have metrics and measurable for what “success” is, but when it comes, we should be able to see it

Dr. Campbell

1. The chair is a leadership role; will require a lot of support; encompasses support from community and appointing body
2. We will not be successful unless everyone does their part
3. The chair has to make sure work is done in a timely manner
 - a. It will be a big challenge, but co-panelists will be ready to support the chair

Mr. Kracov

1. The Panel should evaluate itself on its progress

Mr. Vizzier

1. We will post recording of meeting online

Mr. Kracov

1. We will have a vote after public comments

Public Comment

Xonia Villanueva: nominates Mr. Gideon Kracov as chair of IRP

Roll Call—Voting on motion to elect Mr. Kracov as Independent Review Panel chair

Vizzier: Aye

Campbell: Aye

Kracov: Aye

Panel unanimously nominates Mr. Kracov as chair of the IRP

14. Public Comment – Items 12 and 13, and other matters within the jurisdiction of the Panel, but not specifically listed on the agenda. **
15. Future Agenda Item Requests by Panel Members

Jim Marxen

1. We have a meeting room reserved for the next Panel meeting (December 9th, 2015)
2. Panel already has a lot of work ahead
3. Panel will need to decide meeting frequency, how far to plan meetings
 - a. The longer you project out on planning meeting dates, the easier it will be for us to secure a room
4. If Panel would like to have the next meeting on December 9th, the deadline for having public agenda and notice is this Friday (to meet Bagley-Keene requirements and also to give people adequate time for public to review); taken into account the upcoming holidays, Friday would be the latest ideal time to decide on the next agenda

Director Lee

1. Will need time to translate agenda

Mr. Vizzier

1. Would like to decide on agenda items by the end of today
2. Planning for a meeting in February? As there does not seem to be any available meeting rooms in January?
3. A standing meeting?

Director Lee

1. We are looking for rooms at the Capitol for January and also looking at Cal Center conference room

Mr. Kracov

1. Why does DTSC prefer to have Panel meetings at the CalEPA building?
 - a. Director's response: public transportation, accessibility, convenience for travel (close to airport), logistics (webcasting and recording avabilities)

Dr. Campbell

1. What about having a meeting close to affected communities?

Mr. Kracov

1. Scheduling

- a. Agree with Mr. Vizzier, I would like to have a standing meeting; on Wednesdays?
- b. December 9th, meeting is in Coastal Hearing Room
 - i. Director's response: DTSC staff can look ahead for rooms every second Wednesday
- c. Meeting once a month?
 - i. Mr. Kracov: available and can meeting more often if necessary
 - ii. Mr. Vizzier: may need to consider room availabilities
 - iii. Mr. Kracov: we will need to meet more than once if we were to produce reports by January
 - iv. Mr. Kracov: teleconference?
 - v. Counsel, Kristin Peer: must have number for public to call in to listen; these teleconference meetings will need to be posted on public agenda and notices as would for any other Panel meetings
 - vi. Director Lee: panelists in conference call must have their physical locations posted on the public notice and agenda as well; their locations must be ADA accessible
 - vii. Mr. Vizzier: DTSC's regional offices? For Panel members to teleconference from those locations?
 - viii. Public Comment:
 1. Jane Williams: regional water boards also have offices in various regions; it is really difficult for members of the affected communities to travel to Sacramento
 - a. DTSC should look to use other facilities (BDOs, UCs, Federal buildings, etc.)
 - b. Panel should meet near affected communities to hear all community inputs
 - c. Symposium on December 14—EJ Enforcement Symposium; invites Panel members to attend—Panel members are welcome to have meeting before or after the symposium
 2. Ingrid Bromstrom
 - a. There are only two opportunities for the Panel to submit reports before the Governor announces the budget
 - b. It would be a shame to waste one of those reports, because a lot of the actions we would like to see from DTSC will require budget/policy actions
 - c. Concerned with the number of meetings—too few

- d. We would like to be on the agenda for the next meeting—a formal presentation to the Panel at the next meeting
- ix. Mr. Kracov: looks like we will need more than 1 meeting in December
 - 1. 2 meetings in December? In Sacramento? In Los Angeles?
 - 2. Mr. Vizzier is not available for the week of December 21st
 - 3. Dr. Campbell is available the week of December 14th
 - 4. December 15th? Reagan building? DTSC's Cypress or Chatsworth offices?
- x. January 10th is a Sunday
 - 1. Counsel, Kristin Peer: Governor will submit annual budget on or before January 10th; since it is a Sunday, it will likely be January 8th (the Friday before) or January 11th (the following Monday)
 - a. Governor and Legislature will be seeking recommendations from Panel on department's budget
 - 2. DTSC staff comment, Josh Tooker:
 - a. Governor is required to sign budget by June 30th
- xi. Mr. Kracov: what is the purpose of submitting the report before Jan. 10? Will our recommendation influence the Governor's budget for the department?
 - 1. Counsel response, Kristin Peer: the purpose for the Panel's report is not to influence the Governor's budget proposal, but for Panel to submit its recommendation at the same time the Governor publishes the budget proposal
 - 2. Mr. Vizzier: if we have to produce a report by Jan. 10, it will have to be a very brief report
 - 3. Counsel response, Kristin Peer: it would not be realistic to expect that the Panel will produce a substantially detailed fiscal report on DTSC
 - 4. Mr. Vizzier: understand Ms. Bromstrom's concern about wasting a report, but it may be worse to produce a bad report (e.g uneducated or not completely accurate, etc.)
 - 5. Mr. Kracov: assuming we hire our staff by the next meeting, we will have DTSC's staff overview presentation (Dec. 9); we have another meeting on December 15; our staff will work on the report through holidays; we will meet in January before the deadline?
 - 6. Mr. Vizzier: meetings on December 8th, 9th, and 15th?
 - 7. Dr. Campbell: prefer all three dates
 - 8. Mr. Kracov: preliminary plan for future meeting dates—December 8th, 9th, 15th; January 13th; February 10th; March 9th
 - a. December 8th and 9th—in Sacramento (HQ or Cal Center)
 - b. December 15th—in Los Angeles
 - 9. Dr. Campbell: to have some future meetings in different locations (e.g. in Los Angeles, etc.)
 - 10. Mr. Kracov: meetings in other cities/locations besides Sacramento and Los Angeles?

11. Mr. Vizzier: travelling may be an issue

Proposed Agenda for Next Meeting (December 8th – 9th):

1. Proposed agenda
2. Call to Order
3. Closed Session
4. Welcome & Intro
5. Agenda
6. Report Out on Closed Sessions
7. DTSC Presentation (30 minutes per item—4 subject areas)
8. CRPE/People's Senate Presentation (30-40 minutes)
9. Panel Discussion
10. Future Agenda
11. Substance

LA Agenda

- Expect it will be heavy on public comment
- Listening session: Panel to listen to public input
- 1. Introduction: what the Panel does?

Counsel, Kristin Peer: As long as panel do not confer on what is on the agenda, panelists can work on agenda draft and correspond with counsel or DTSC staff members

Public Comment

Ingrid Bromstrom: Would like to contact Mr. Kracov about presentation date (December 8th or 9th); will have to follow up tomorrow with Mr. Kracov tomorrow (November 19th, 2015)

Mr. Kracov

- If there are any trouble with these agenda and meeting dates, counsel or Jim Marxen will send out notice

Director Lee, clarifying question: for December 15th, would you like the same presentation as from December 8th – 9th?

Mr. Kracov: yes

- Acknowledge that Director Lee may not be able to be present for all meeting; panel will be sensitive to Director and DTSC's staff's time

16. Adjournment (November 18th, 2015, 4:02 PM)

Mr. Vizzier: Motion to adjourn

Dr. Campbell: seconds the motion

Roll Call: panel votes to adjourn the meeting

Vizzier: Aye

Campbell: Aye

Kracov: Aye

Panel unanimously votes to adjourn meeting