

Septemeber 04, 2017

Independent Review Panel

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Ms. Arezoo Campbell, PhD.

Department of Toxic Substances Control

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<http://www.dtsc.ca.gov/GetInvolved/ReviewPanel/Independent-Review-Panel.cfm>

AND

Mr. Don Indermill

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COMMENTS ON "REMEDIAL ACTION PLAN FOR AMVAC CHEMICAL CORPORATION" ---A LARGE MANUFACTURER AND FORMULATOR OF "INSECTICIDES, FUNGICIDES, MOLLUSCICIDES, GROWTH REGULATORS AND SOIL FUMIGANTS" LOCATED AT 4100 EAST WASHINGTON BLVD IN THE CITY OF COMMERCE, CALIFORNIA

Dear Independent Review Panel and Mr. Indermill:

This letter is written to the Independent Review Panel (IRP) as a follow-up to one written to Director Barbara A. Lee and provided to the IRP on February 3, 2017, entitled "*Concerns Regarding Amvac Regarding Department of Toxic Substances Control's Failure to Address an Incinerator in Permit Documents and on Subsequent Lack of Evaluation of Airborne Emission Deposition/Accumulation of Dioxin Off-site from Incinerator and Dryer Operations*" **AND** as a public comment on the Remedial Action Plan for Amvac Chemical Corporation" noticed to the Public by the Department of Toxic Substances Control (DTSC) on August 3, 2017.

By way of disclosure, I work in DTSC's Brownfields and Environmental Restoration Program (BERP) at Chatsworth. Moreover, DTSC's project manager

on this particular reports to me. However, I have a long standing interest in the issues discussed below that predate involvement by my staff, and I assert my rights to express myself in this letter solely as a member of the concerned public and not as a State of California employee.

The February 3, 2017 letter sent to Director Lee and copied to the IRP addressed the Department of Toxic Substances Control's (DTSC) continued lack of leadership in addressing the potential threat of historical, legally permitted, airborne emissions that may be deposited and accumulated off-site of its permitted or interim status (IS) facilities within operating emission dispersion footprints. This sort of threat has long been ignored by DTSC as well as the Certified Unified Program Agencies" (CUPAs) , Air Quality Management Districts (AQMDs), California Air Resources Board (CARB), State Water Resources Control Board (SWRCB) and the Regional Water Quality Control Boards (RWQCBs), DTSC, and the United States Environmental Protection Agency (USEPA). No direct response was ever received from either DTSC Director Lee or the IRP. The IRP posted the letter on its website at <http://www.dtsc.ca.gov/GetInvolved/ReviewPanel/upload/Phil-Chandler-February-8-2017.pdf> and DTSC has public noticed the subject Remedial Action Plan (RAP) at http://www.dtsc.ca.gov/HazardousWaste/Projects/upload/AMVAC_Chemical_Corporation_CU_RAP.pdf

DTSC fails to provide for adequate environmental protection in one of its Resource Conservation and Recovery Act (RCRA) "Remedy Selections", in this instance a Remedial Action Workplan (RAP) because Amvac Chemical Corporation's RCRA obligations are being handled under the defunct Expedited Remedial Action Program (ERAP) and DTSC continues to avoid its responsibility to adequately evaluate historic airborne emission/deposition accumulation pathways under its responsibilities for multiple environmental media exposure.

DTSC cites in its Public Notice that organochlorine pesticides have been found at levels that DTSC has determined need to be addressed but caveats that Amvac has not manufactured organochlorine pesticides at its facility since the 1970's. DTSC also points out in the Public Notice that arsenic was found in the soils at the facility. DTSC's Public Notice **DOES NOT** mention the dioxins/furans that have been reported, e.g. CARB 1994, to be emitted by facility operations such as pentachloronitrobenzene (PCNB) production [SWMU-44 is the PCNB stack located in the metam sodium production area] and by-product waste methyl chloride burned in a John Zink Incinerator [SWMU-4 is the methyl chloride off-gas afterburner stack] and were found in soil, e.g. DTSC 1991, during the Amvac Chemical Corporation off-site investigation/cleanup of its site-derived contamination in adjoining railroad right-of-way (RROW) under DTSC oversight.

The Public Notice describes the **Five clean up alternatives that were evaluated as being:**

- Alternative 1 (No Further Action)
- Alternative 2 (Excavation and Offsite Disposal of Shallow Soil)
- Alternative 3 (Soil Vapor Extraction)
- Alternative 4 (Maintenance of the Existing Covers)
- Alternative 5 (Institutional Controls including Monitoring and a Land Use Covenant)

DTSC selected Alternatives 4 and 5 – Cover Maintenance in Combination with Institutional Controls as the preferred so-called “...clean up methods that will reduce the human health risks and protect the environment” and DTSC further stated that “The combination of Alternatives 4 and 5 prevents human contact with contaminated soil, prevents inhalation of contaminants, and helps to minimize migration of contaminants to groundwater.”

Since dioxins/furans do not seem to have been analyzed for in the on-site soils, despite having been observed in the RROW and the remedy does not address the potential for dioxin/furan accumulation in Amvac’s historical dispersion footprints and this remedy is deficient.

The following represent some of my concerns about the current proposed RAP for Amvac:

- DTSC needs to address the issue of emission and deposition/accumulation dioxins and furans from recognizable and reported sources. To this point in time DTSC has kept its “environmental” efforts regarding dioxins at all facilities in its portfolio excessively narrow---most not even being required to develop a site conceptual model that might elucidate exposure pathways. The residents that may live in the historical dioxin/furan dispersion footprints of Amvac emissions are deserving of the same care now being given related to the historical lead dispersion footprints from the Exide smelter.
- The main part of the Facility includes the metam sodium and pentachloronitrobenzene (PCNB) production plants. DTSC proposes to leave these alone with the assumptions that any contamination remains under the cover of the building. However RCRA Facility Assessment (RFA) prepared by DTSC’s permitting staff in June 1996 to actually “set the table” for addressing corrective action at the Amvac facility identified eighty six or so Solid Waste Management Units (SWMUs). The RFA interestingly concluded that further investigation was warranted at only thirteen the SWMUs. Deferred Areas appear to have included the incinerator, off-gas afterburner and stack and the PCNB production inclusive of its stack and air control stuff. These units aren’t the real problem---it is the dispersion footprints of their emissions that is a concern

http://www.envirostor.dtsc.ca.gov/public/deliverable_documents/5787122428/AMVAC%20-%20RCRA%20Assessment%20Report.pdf

- Why did emissions/deposition from the incinerator cited in 1997 for SCAQMD, fail to be addressed by DTSC and continue to be ignored in this draft RAP?
- SWMU 85 or the railroad right-of-way (RROW) that was a subject of cleanup and a McClaren/Hart cleanup report described that "...the Site risk goal of 1×10^{-4} " was met by the excavation verification samples being collected "...prior to, instead of after, the July 1997 and April 1998 excavation of impacted soil." Please explain the viability of this approach and how that cleanup approach dovetails with the current draft RAP. How does a 1996/1997 risk goal of 1×10^{-4} fit the continued use of this site for industrial purposes? Has the involved railroad actually signed a land use covenant (LUC) with regard to this cleanup goal?
- Of specific interest in the context of the central comments that I am making are the analyses at SWMU 85 performed for "...dioxins and furans by EPA Method 8290..." Table 1 ("Summary of Residual Chemical Concentrations Railroad Right-of-Way Project Amvac") in the McLaren/Hart report cites 4 detects of 2, 3, 7, 8-TCDD (1-TE) in 4 samples (all that were analyzed). The minimum concentration was reported at 6.5×10^{-04} and the maximum concentration was 3.08×10^{-03} . 2.2×10^{-5} industrial SSL mg/kg; 5.9×10^{-8} mg/kg risk-based SSL GW; 1.5×10^{-5} MCL-based SSL GW (mg/kg).

<https://semspub.epa.gov/work/03/2245073.pdf>

- A "Source Evaluation Test Report, Screening Test of the Amvac Commerce Facility to Determine the Presence of Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans (PCDD/PCDF), State of California Air Resources Board Project Number C93 -050, February 27, 1995 (published on March 5, 1996)." Was in DTSC's files. **DTSC's permitting staff** also cited in the foregoing but seems to have failed to connect the dots with regard Health and Safety Code (H&SC) 25189.7a which states in part that "The burning or incineration of any hazardous waste, or the causing thereof, is prohibited when the burning or incineration is at a facility which does not have a permit from the department issued pursuant to this chapter..." ---that is not the most significant issue that arises. Note that Amvac's Hazardous Waste Facility Permit was only for waste **storage** in drums and in a 2500-gal aboveground tank---not for **waste disposal** by incineration. Maybe this was the result of the definition of contained gas---who knows. Please note that the methyl chloride off-gas seems to be a hazardous waste which is described in one place in the RFA as being released to the atmosphere and in another as being used to produce hydrochloric acid. More significant for corrective action, however, is that the dioxins and furans seem to be hazardous wastes created by the burning of the methyl chloride in the incinerator and emissions from the PCNB production AND that they were found in all four samples analyzed at SWMU-85.

http://www.envirostor.dtsc.ca.gov/public/deliverable_documents/5787122428/AMVAC%20-%20RCRA%20Assessment%20Report.pdf

- From the standpoint of emissions and deposition and accumulation two parts of the facility are of most interest; (1) the pentachloronitrobenzene (PCNB) production plant and (2) the metam sodium (sodium N-dimethyldithiocarbamate) production plant. This is because they are addressed in a 1997 "Screening Health Risk Assessment". That HRA revealed dioxin/furan risk at 10×10^{-6} isopleths to 250 meters and 1×10^{-6} to 1300 meters south of Amvac . DTSC has never required surface soil sampling within the dispersion footprint of these off-site emissions. It has consistently and distinctly ignored this document with regard to Remedial Investigations (RIs), HHEI, and the proposed RAP---why? Why has DTSC never required surface soil sampling in the dispersion footprint? If Amvac was emitting dioxins/furans during its time operating under DTSC permit, why was it not required to comply with 66264.700 et seq. and 66270.32(b) for example and implement a monitoring and response program for any on-going emissions (deposition monitoring) as well as historical deposition/accumulation (soils monitoring)? Why was RCRA corrective action, even if being performed under a defunct ERAP, not adequately implemented? Please explain why a defunct program still governs corrective action at Amvac instead of it reverting back to RCRA.
- The Exide "Northern Exposure Area" is how far from Amvac? How does it relate to the dispersion footprint in the 1997 document and also to the Prop 65 notice that Amvac was required to file circa 1994? Not only did Exide also emit dioxins/furans but depending on the adequacy of the 1997 HRA modeling, maybe dioxins should have been addressed in the DTSC assessment of non-excavated properties for Exide. Were they addressed for the Exide work?
- The Pacific Edge Engineering, Inc. (June 2, 2011) "Baseline Human Health Risk Assessment, AMVAC Chemical Corporation Facility, 4100 East Washington Boulevard, Commerce, California." (HHRA) did not use the data from the SWMU-85 (RROW) sampling so since dioxin-furan sampling was not done outside the RROW---despite the emissions from two SWMUs---the HHRA would seem deficient. How nice! Very convenient to go forward in this fashion to a remedy selection. The entire issue of two dioxin/furan generating/emitting SWMUs and the potential for both on-site and off-site human health and environmental impacts from historical airborne deposition/accumulation needed to have been addressed in the RAP and isn't. Please explain why DTSC did not do this.
- The issue becomes compounded with the existing Human Health Environmental Indicator (HHEI), either the 1997 one or the subsequent one in 2013. There is no mention of an incinerator PCNB particulates or off-site health risk out to 4500 feet away in the dispersion footprint. An oversight??? The HHEI needs to be rescinded based on this glaring omission.

http://www.envirostor.dtsc.ca.gov/public/deliverable_documents/7222447037/AMVAC_HH%20EI_051513.pdf

- Has corrective action financial assurance ever been established for the facility in accordance with the intent of Health and Safety Code (H&SC) §25200.10(b)? It is widely known that DTSC fails to comply with this statute, allowing permit applicants to defer the establishment of assurances of financial responsibility for corrective action at facilities. The usual means of deferral is through an enforcement order such as is cited in this draft permit. H&SC requires that, ***“When corrective action cannot be completed prior to issuance of the permit, the permit shall contain schedules of compliance for corrective action and assurances of financial responsibility for completing the corrective action.”*** [H&SC §25200.10(b)] Title 22 states ***“That the permit or order [emphasis added] will contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing such corrective action.”*** [Title 22 CCR §66264.101(b)] Currently DTSC fails to require assurance of corrective action financial responsibility in the permits that it issues. Has it failed again to require such ***assurances of financial responsibility*** for corrective action? Note, that the schedule of compliance provided in the draft permit is inadequate and incomplete.
- DTSC indicates in its Public Notice that the California Environmental Quality Act (CEQA) is a state law that requires state and local agencies to identify the environmental impact of their actions. DTSC further indicates that “Prior to approval of the RAP, DTSC will evaluate its environmental review obligations under CEQA to ensure consistency with the provisions of the Act and accompanying Guidelines.” DTSC finally states that “Given the relative minor action proposed, DTSC does not expect the proposed activities to result in significant impacts on the environment. Therefore, a Notice of Exemption (NOE) has been prepared to address to the CEQA requirement.” Since the investigative work and risk assessment evaluations underlying the RAP have significant gaps, the NOE seems inaccurate in its statement that. In fact, many of DTSC’s NOEs have been deficient in this same regard but who is counting---yet? I request that the selected remedy in the RAP should be modified such that the NOE becomes a truthful representation of the environmental consequences this DTSC discretionary decision.
- In addition, DTSC does not indicate in its NOE or in its RAP whether or not Amvac is still emitting dioxins/furans from its operations. This fact needs to be added to the CEQA analysis. A deposition monitoring element needs to be added to the RAP if emissions continue.
- Off-site aerially deposited contamination emanating from SCAQMD- and DTSC-permitted facilities raises questions about LUCs for non-RP owned properties. DTSC has routinely dealt with this by not collecting off-site contamination data--- see the huge delay in addressing the off-site extent of contamination at the Quemetco and Exide secondary lead smelters, etc. At Amvac of course DTSC

will not look at the dioxin dispersion footprint from operations---analyses are much more expensive than for lead and sufficient data needs to be acquired to distinguish Amvac-derived dioxin/furans from potentially overlapping plumes from other sources----such as the dioxin-producing incineration of hazardous waste at Exide that was allowed by SCAQMD for years before DTSC recognized that detail in the SCAQMD permits.

- The potential for off-site deposition/accumulation in surficial materials off-site of Amvac needs to be examined. Amvac needs to be examined for emissions history and an off-site emission deposition/accumulation monitoring and response program include in this RAP.

Sincerely,

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