

Groundtruthing Report

Addendum A

Ag Park, Riverside CA

The response from Director Lee on the Riverside Agricultural Park is a perfect example of the problems within DTSC. They skip important clarifying information and minimize other information; leaving a distorted and inaccurate picture of the activities and conditions at the site.

In the very first paragraph in providing the historical background of Ag Park, they leave out the most important and critical component of that history – specifically the source of the PCB contamination - Rohr Industries. DTSC's report jumps from 1965 to 2003 without any explanation of what was happening during this time. Yet this is the critical time for this site. Rohr Industries operated the site as an industrial sewer treatment plant with a sewer line extending from their operation on Arlington Avenue to the Ag Park and the digester that processed the waste. The PCB Alacors identified at the Ag Park are the same as used by Rohr Industries. In a letter from the City of Riverside to Goodrich who took over the company (now owned by UTC) the city outlines very clearly that Rohr is the source of the PCBs and other chemicals and will be named as a Responsible Party if the site is placed on the Superfund list. As the map below shows the contamination at Ag Park, Pedley Landfill, and Anza Channel are all connected to the operation of the Rohr facility.



DTSC identifies several contaminants including “polychlorinated biphenyls (PCBs), volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), polynuclear aromatic

hydrocarbons (PAHs), chlorinated pesticides, organophosphorous pesticides, herbicides, total petroleum hydrocarbons, explosive analytes (perchlorate, NDMA, nitroaromatics and nitramines), California Title 22 metals including arsenic, and dioxins and furans.” And yet they consistently narrow their testing down to PCBs. While PCBs pose a significant health risk many of the other chemicals add to and pose an equal or greater risk, but are being ignored.

“The Center for Community Action and Environmental Justice (CCAIEJ) requested confirmation of the April 2014 Ag Park closure results. Initial confirmatory soil sampling was conducted in September 2015, and the results indicated higher than expected concentrations of PCBs in some soil samples. Based on the results, DTSC required the developer, Friends of Riverside Airport (FRA) to conduct additional soil sampling in November 2015.”

What the report doesn't say is that if CCAIEJ had not insisted upon split samples with EPA those “higher than expected concentrations of PCBs” would not have been found. It was the testing by EPA that identified the elevated levels while DTSC's testing found much lower levels. The excuse given is that they used different testing protocols but the fact remains DTSC missed the higher levels. This is critical! If DTSC were left on its own – as happens in most sites—the elevated levels of PCBs would not have been found and homes would have been built exposing new families to the chemicals.

Director Lee then goes on to state “Results of the November 2015 sampling indicated that PCB levels at the Ag Park do not pose a significant health risk to surrounding communities.” Since no testing has been conducted in the surrounding neighborhoods it is impossible and irresponsible to make such a statement! The families living around this site have reported dust and exposures for more than 13 years. PCBs are bio accumulative, persistent man-made chemicals that do not belong in the neighborhood. DTSC has refused to test the homes and currently are postponing any testing until they complete modeling.

Since March 22, 2016, approximately 1,100 discrete soil samples have been collected in accordance with the February 10, 2016 sampling plan.

The only reason 1,100 samples have been taken is due to the fact that they keep finding PCBs everywhere and have to keep “stepping out”. To be clear this is at a site which DTSC issued a “No Further Action Required” Letter assuring the public it is clean and providing indemnification to the developer.

On July 26, 2016, FRA submitted an updated work plan, which included the preexcavation sampling results and an Air Monitoring Plan Addendum. U.S. EPA reviewed the updated plan and had no comments. The South Coast Air Quality Management District (SCAQMD) reviewed the Air Monitoring Plan Addendum and had no comments.

This again is misleading. CCAIEJ met with SCAQMD to discuss this site and were told that they (SCAQMD) could not comment on areas in which they had no regulatory authority. SCAQMD does not have a Rule covering contaminated sites and dust control. They can only apply Rule 403 dealing with fugitive dust at construction sites. Rule 403 has two tables of requirements for even

the fugitive dust – one for small sites (under 50 acres) and expanded table for large sites over 50 acres. Although Ag Park is over 60 acres DTSC submitted their plans as a 50 acre site, thus limiting the requirements they'd have to meet even though this site has contamination not just dust! Their rationale was that they estimated they would only be excavating 50 acres so the rest of the site doesn't count. This manipulation means that DTSC does not have to comply with stricter handling requirements, even though they are dealing with chemical contamination not clean dirt!

The cleanup will include excavation of PCB-impacted soil from a large area of the Ag Park, which will be verified by confirmation sampling.

What DTSC does not say is that they are conducting a shallow removal – less than three feet! This site has been here since the 1940s. As Camp Anza the site was used as a sewer treatment plant and has been in operation over several decades by various parties. The contamination went very deep. But DTSC proclaims without data that it is only the top 3 feet that remain contaminated. Without deed restrictions the families moving into these homes will assume it is safe, but DTSC can only say that it is safe to three feet. Are we going to restrict families from planting trees? Putting in flower beds? Installing a swimming pool or pond?

In addition to the required public participation activities and in an effort to improve community engagement, DTSC established a Work Group...To ensure that a diversity of voices are represented in the Work Group, DTSC increased Work Group membership.

Again, DTSC doesn't tell the full story. The Work Group idea came out of a discussion between CCAEJ and Ana Mascarenas, DTSC's Assistant Director for Environmental Justice, more than a year ago. In those discussion Ana planned to bring together experts from various agencies – OEHHA, CPHD – and community residents to talk about the health risks, off-site testing and begin testing homes and yards in the surrounding homes. Several local affected residents applied to participate. After several months Ana was moved to work on the Exide site and other DTSC staff began talking about the Work Group. Once again, residents applied but DTSC wasn't ready apparently. Finally, this year they once again established a new application process. Residents filled in the applications and were shocked that residents who had played a strong role at the site were eliminated and new residents (some not directly affected) were selected. Despite the diversity of the community, The Work Group consisted of 5 males, one female and all of them white. When challenged on the lack of diversity, DTSC said they didn't have a racial or ethnicity question on the application form so they couldn't tell their race. This, despite the fact that residents filled in a Spanish version of the form and stated they were bilingual! After the uproar at the first Work Group meeting they agreed to expand the Work Group to the point where it isn't a Work Group but simply a community meeting.

Despite nearly a dozen DTSC staff at the meetings and a hired facilitator, the meetings have not gone well. Residents do not feel their input is considered; that they have any input in decisions but are merely pawns so that DTSC can report that they have a Work Group.

The site is extremely complex and we believe poses a health risk to residents nearby. Over the last 13 years the families have suffered from exposures to high levels of PCBs as well as dioxins

and furans during the cleanup of the site by the developer. During this time we believe DTSC has been derelict in its duty to protect the public – and continues to this day. If homes are to be built on this land it needs to be cleaned to non-detect. PCBs are persistent, bio accumulative and identified by IRAC as a human carcinogen. With each exposure the chemicals build up in the environment, in the food chain and in the human body. If we have an opportunity to remove them from the environment we should. If DTSC would acknowledge this site as a Superfund site connected with Rohr Industry site as the source of contamination we would achieve a more comprehensive remediation approach for the full community.

Penn Newman
Executive Director
Center for Community Action and Environmental Justice

Jordan Downs Redevelopment Project, Watts CA

The Jordan Downs public housing community located in historic Watts has some of the most toxic soil and air in South Los Angeles. More than 2,400 residents live in the public housing community, of which more than half are children under the age of 18. The environmental contamination in this community has placed both children and adults at risk of lead poisoning, asthma attacks and other adverse health conditions. The responsible agencies, including DTSC, have an obligation to protect the health of all residents of Jordan Downs, especially the large number of children who live there. As such, the community residents and concerned advocates demand complete and comprehensive soil and groundwater testing and indoor and outdoor vapor analysis within the entire redevelopment area, adequate health resources and meaningful participation and transparent communications with all stakeholders involved.

Below, we have **summarized what DTSC got wrong and/or missed** in the report to the Independent Review Panel, dated September 20, 2016:

DTSC says: “Approximately 95% of contaminated soil was excavated and disposed of at various disposal sites, including a facility in south Yuma, Arizona, and the Clean Harbors hazardous waste landfill in Buttonwillow.”

Fact check: The community was not consistently updated on the progress of the excavation. Furthermore, the consultant responsible for the excavation did not follow proper safety guidelines and binding Health and Safety Plan commitments throughout the process. Community residents documented multiple instances where:

- Wheels of hauling trucks were not properly washed down
- Hauling trucks went off approved routes and down residential/ non-truck route roads including in front of Jordan High School
- Stockpiles of contaminated soil were not properly covered
- Other dust suppression methods were not consistently employed including watering down of soil as it was being excavated; green screens were not put up around the perimeter of the clean up site until months after excavation began and until advocates and residents complained
- Fugitive dust was widely dispersed within Jordan Downs and along Alameda Street without appropriate measures taken to ensure the safety of pedestrians and motorists. Street sweeping did not commence until advocates voiced concerns about these multiple violations and not until months after the start of the clean up process
- Air quality monitoring was not consistent and DTSC staff made false statements to the public that air quality was being monitored “yes, 24 hours a day.” It was at the behest of community residents and advocates that AQMD was eventually persuaded to install additional monitors.

Additionally, we are highly concerned that the contaminated soil is being disposed of in other communities, including EJ communities such as Buttonwillow without clear communication to residents and advocates of all affected communities.

DTSC says: “Air monitoring for dust will continue on-site even after the removal action and grading is complete. Air monitoring results for contaminants of concern have been below the Action Levels and mostly non-detect. The South Coast Air Quality Management District (SCAQMD) has installed two air monitoring stations in the surrounding residential community, one north of the property and the other west of the property. SCAQMD has been monitoring for dust and for contaminants of concern.”

Fact check: Air monitoring reports that have been made public indicate that they only monitor for PM 10, not PM 2.5, as well as lead and arsenic. There is a striking lack of communication and miscommunication with the public regarding air quality monitoring overall.

DTSC says: “The Los Angeles Regional Water Quality Control Board (LARWQB) is remediating a fuel spill from broken pipelines in the area and DTSC is coordinating its further investigation with the board. As part of DTSC’s efforts to discover other sources of contamination offsite, DTSC asked the LARWQB to add additional ground water monitoring wells to address contamination in accordance with an LARWQB agreement with Exxon. The wells were added and remediation of this petroleum contamination from a broken pipeline in the area north of the HACLA site is ongoing under the supervision of the LARWQB.”

Fact check: This report omits the fact that there is a second plume of unknown size and origin under the remediation and redevelopment site. Although DTSC asked the LARWQB to assess this second plume, no reports have been generated on the nature of the plume. DTSC has also not determined what their plan of action is to eliminate the possibility of vapor intrusion due to the second plume. DTSC’s efforts to discover other sources of contamination offsite were a direct result of community organizing and advocacy. The commitment to allocate orphan funds towards this effort was made by ex-DTSC Director Deborah Rafael to the Jordan Downs Environmental Justice Coalition (JDEJC). However, after Rafael’s departure from the agency, communication with JDEJC as to these efforts ceased almost entirely. JDEJC met with LARWQB to obtain information about the efforts. The public has been largely kept in the dark about the extent of the discovery and LARWQB has been unable to pinpoint a responsible party. For this reason, very little to nothing is being done to mitigate the impact of this contamination on the public.

DTSC says: “DTSC staff regularly attends community meetings in the Watts area and communicates with EJ groups and community members.”

Fact check: DTSC has not meaningfully engaged *all* community residents and EJ groups in this process. Direct communication is sporadic, haphazard and incomplete as is the information and documents that are posted to Envirostor. Advocates and residents have continued to request improved transparency from the agency to little avail.

DTSC says: “On November 12, 2015, DTSC attended a meeting HACLA hosted with the Jordan Downs EJ Coalition, where DTSC committed to coordinate a monthly call with members of the coalition and DTSC staff. These conference calls occurred only in December and January 2015, and March 2016, as requested by the Jordan Downs EJ Coalition.”

Fact check: The Jordan Downs EJ Coalition chose to suspend these calls because the calls turned into a tactic for DTSC and HACLA to check a community engagement box. These calls were not meaningful and did not resolve many of the larger issues that advocates have with the project. These calls did not serve as a space to find bilateral solutions to the major environmental issues that exist in the community.

DTSC says: “On July 8, 2016, DTSC met with members of the Jordan Downs EJ Coalition regarding their coalition’s x-ray fluorescence (XRF) soil testing of Jordan Downs yards and their results. DTSC is committed to work on providing training for the XRF equipment and conducting regular briefing conference calls.”

Fact check: DTSC has offered offered the possibility of doing training around XRF equipment despite that we expressed to them that this is unnecessary as advocates had expressed to DTSC that we do not find it appropriate that advocates and communities should have to pay for and conduct soil testing of any kind. Instead, we encourage DTSC to conduct the testing or to train HACLA on conducting XRF testing with the public. DTSC has not expressed how they intend to make the briefing calls meaningful and useful to advocates and residents or responded to a September 28th email in which advocate detailed suggestions for making these phone calls meaningful.

DTSC says: “Advising HACLA to Perform Further Sampling during Demolition: In response to community concerns from the Jordan Downs EJ Coalition about potential lead contamination near the Jordan Downs residential area, DTSC submitted a letter to HACLA on August 5, 2016, stating, “The Department of Toxic Substances Control is aware that there are additional data that suggest elevated concentrations of metals may be present at the Jordan Downs Housing site that could pose a risk to human health, particularly vulnerable populations such as children. Therefore, we are advising you to conduct sampling for metals, including lead and arsenic, during the housing demolition phase of the Jordan Downs development project. This sampling can be conducted by XRF instruments with confirmation laboratory sampling and analysis. Results of the sampling will indicate the appropriate response action that needs to occur.”

HACLA has agreed to perform this sampling work and will submit the results to DTSC for review.”

Fact check: On August 5, DTSC advised HACLA to conduct further sampling of metals in the soils around buildings 1-4, slated for demolition. They also stated they would require a new Voluntary Cleanup Agreement - a document that was not made available to community residents or advocates. Community advocates were not given access to the results of the testing prior to the demolition, and once released, found that clusters of elevated levels of lead and arsenic did indeed exist around the buildings. Despite this, HACLA determined that no further action was necessary. No community engagement occurred during this phase of the project.

Update to site-specific requests from DTSC:

Our demands from March 2015: Jordan Downs Redevelopment Project, Watts CA

- Provide complete and comprehensive soil and groundwater testing and vapor analysis within the entire Jordan Downs Master Plan redevelopment area.
- Remediate all sites within a one-mile radius of the 9901 S. Alameda Street site.
- Provide meaningful opportunities for public participation and transparent communication regarding existing contaminated sites including 9901 S. Alameda Street, Exxon Mobil M8 & M145 pipelines, Atlas Metal Recycler, and David Starr Jordan High School.

Update of demands as of October 2016: Jordan Downs Redevelopment Project, Watts CA

- Rescind the No-Further Action Determination, and conduct complete and comprehensive soil and groundwater testing and vapor analysis within the entire Jordan Downs Plan redevelopment area.
- Instruct HACLA to postpone the demolition of all buildings until an updated Remedial Action Plan (RAP) is developed and all toxic soils within a one-mile radius of the 9901 S Alameda Street site are remediated.
- Provide meaningful opportunities for public participation and transparent communication regarding existing contaminated sites including 9901 S. Alameda Street, Exxon Mobil M8 & M145 pipelines, Atlas Metal Recycler, and David Starr Jordan High School.

Santa Susana Field Laboratory, Simi Valley CA

For SSFL, DTSC utterly ignored the IRP's request for a detailed response to site-specific benchmarks. DTSC did not even mention the concerns we had provided, and further did not mention the cleanup agreements signed by DTSC in 2010, which Director Lee has repeatedly assured us will be fully complied with. Instead DTSC merely copied and pasted the same sparse and meaningless information it provided to the IRP at its September 20 meeting. Below are the benchmarks we put forth in July 2015 and what has, or has not happened, since.

Issue a directive that all detectable contamination at the Boeing portion of the property will be fully cleaned up, so that it meets all land uses allowable under Ventura County zoning and General Plan designations, as DTSC had in the past repeatedly promised but has recently been breaching those commitments.

Fact check: In December 2015, Congresswoman Julia Brownley wrote a letter thanking Director Barbara Lee for assuring her that, "DTSC intends to hold Boeing responsible for a full cleanup that meets all potential future land uses, as outlined by Ventura County's zoning regulations, which indicate a wide array of both residential and agricultural land uses." But, in August 2016 DTSC issued its first response to one of Boeing's RFI reports, and in it DTSC does not require Boeing to include the agricultural standard. DTSC says it is wrong for Boeing to suggest that suburban residential will be the cleanup standard, but since it leaves the agricultural scenario out, the only other one analyzed is recreator – the weakest possible.

Stop all actions by DTSC staff that are aimed at undercutting the 2010 cleanup agreements (AOCs) with DOE and NASA to clean up all detectable contamination on their portions of the site;

Fact check: DTSC staff continue to engage in activities that undermine the AOC cleanup agreements. At its April 2016 meeting, DTSC displayed a map stating that most measurements of the radionuclide strontium-90 offsite and in Area IV are "at levels not considered to be harmful to human health. Regardless, all identified cleanup areas will be addressed as required under the 2010 Administrative Order on Consent." This is false and a direct assault on the AOC. The radiological contamination at SSFL far exceeds EPA's risk-based standards and indeed poses a threat to human health - the National Academy of Sciences and all radiation regulatory agencies have long said that there is no safe level of radiation exposure. And, by grossly manipulating the cleanup standards and declaring most of Area IV's contamination to not be harmful, DTSC is plainly saying that the AOCs require a cleanup that is not necessary. There was no reason for DTSC to apply any risk-based standards to an area of SSFL that is covered by the AOCs. The map was purportedly produced to show that there is no harmful offsite contamination (which it does not), but its true intent appears to be to minimize SSFL's contamination and belittle the AOCs. The source of the standard used in the map was Boeing, the polluter, and completely misrepresented the true EPA cleanup standard, inflating it by roughly a hundred-fold.

DTSC also undermines the AOCs by continuing to sanction the SSFL CAG, which is led primarily by people with ties to the responsible parties (e.g., are former officials of the polluters rather than representing the community), works to break the AOCs that DTSC signed, and spreads false and misleading information about the cleanup and its supporters. Further, it has been recently revealed that the CAG has secretly been funded by one of the parties that polluted the site and which is working with the CAG to break out of the cleanup obligations.. The CAG is pushing for cleanup standards that would leave in some cases thousands of times more contamination on site than the AOCs.

Replace the current project director, widely viewed as responsible for attempts to undo the 2010 cleanup promises, with his immediate predecessor, who helped write and is committed to the 2010 cleanup agreements and commitments;

Fact check: DTSC project staff for SSFL remain unchanged.

Formally reject the inflated soil volume and truck estimates put forward for DOE by Boeing's contractor and return to the earlier, more realistic estimates of volumes at the DOE site being roughly equivalent to what NASA estimated for its portion, and so notify DOE;

Fact check: DTSC has not rejected the inflated soil volumes, but in fact increased them further. The AOC stated cleanup was to be complete by 2017, but it has not begun. DOE has delayed its EIS for SSFL by nearly 2 years. and DTSC's EIR has similarly been delayed.

Direct staff to work cooperatively with the community-based SSFL Transportation Options Task Force to identify acceptable conveyance and route options for the cleanup shipments; and

Fact check: DTSC has not reached out to any community members regarding transportation options. Offers by the community-based Task Force to provide input to DTSC on transportation alternatives have been rebuffed.

Order a return to prior policy that no materials with radioactivity above background from the site will be sent for recycle, or disposed of at other than a licensed Low-Level Radioactive Waste site.

Fact check: Though structures are explicitly covered by AOCs, DTSC is allowing them to be demolishing them at will, using less protective standards, and disposed of in sites not licensed for low level radioactive waste, such as Buttonwillow. Indeed, DTSC has now expanded this policy to cover all DOE and NASA structures at SSFL.

Santa Susana Field Laboratory Requests

The site specific benchmarks for the SSFL community largely remain the same, as DTSC has failed to respond to any of them.

- Uphold and enforce the 2010 AOC cleanup agreements that it signed with NASA and DOE, and ensure that DTSC project staff are not undermining the agreements. Staff found to be undercutting the AOCs should be removed or replaced;
- Issue a binding directive that the Boeing portion of the property will be fully cleaned up to all allowable land uses in the Ventura County zoning and General Plan, repeated promises made in the past but now being broken;
- Replace the current project director, widely viewed as responsible for attempts to undo the 2010 cleanup promises, with his immediate predecessor, who helped write and is committed to the 2010 cleanup agreements and commitments;
- Formally reject the inflated soil volume and truck estimates put forward for DOE by Boeing's contractor and return to the earlier, more realistic estimates of volumes at the DOE site being roughly equivalent to what NASA estimated for its portion, and so notify DOE;
- Direct staff to work cooperatively with the community-based SSFL Transportation Options Task Force to identify acceptable conveyance and route options for the cleanup shipments;
- Order a return to prior policy that no materials with radioactivity above background from the site will be sent for recycle, or disposed of at other than a licensed Low-Level Radioactive Waste site; and
- Revoke DTSC's sanction of the SSFL CAG and inform DOE that it will enforce the AOCs regardless of DOE's funding of the CAG to help break them.

Quemetco Inc., City of Industry



**Clean Air Coalition of
North Whittier and Avocado Heights
13022 Via Del Sol Avenue, Whittier CA 90601 (626) 961-5453
cac@cleanaircoalition.org**

RE: Barbara Lee's Sept. 20, 2016 Report to the IRP re: People's Senate sites of interest

QUEMETCO, INC., City of Industry

The summary of DTSC's work at the Quemetco site provided in this report is not very helpful to the members of the IRP.

Soil Sampling

While there is discussion of DTSC's residential sampling and public engagement efforts over the past year or so, there is no mention of how many commercial properties have actually signed access agreements and what DTSC's plan is to get samples from the over 50% of residential and over 60% of commercial properties that have not agreed to access. The CAC offered on Aug. 29 at a meeting with DTSC staff in Chatsworth to help contact neighbors and encourage them to sign access agreements but our help was declined, even though there was already a precedent set earlier in the Exide case: DTSC worked with East Yard Communities for Environmental Justice to get access agreements signed in the neighborhoods around Exide.

While soil samples are being tested for the presence of 22 metals, DTSC continues to focus reports only on lead and, sometimes, arsenic. CAC, working with USC scientist Jill Johnston this past summer, tested soil samples from homes around Quemetco but outside the ¼ mile circle around the facility and found very high levels of antimony, cadmium, and arsenic in scattered locations.

The IRP needs to know that the "Plan for Source of Lead Study (Fingerprinting)" will determine which metal or metals "matter." Quemetco will make every attempt to avoid blame for contamination by focusing the fingerprinting study on as narrow a range of metals as possible to determine their provenance from the facility (their initial proposal was to focus only on bismuth, for example, which is a metal that is emitted in *very* small amounts from the stacks).

Enforcement Actions

This discussion in the summary is woefully inadequate. In an Aug. 16, 2016 letter to State Senator Ed Hernandez, Terri Hardy, DTSC's Interim Legislative Director, lays out in helpful detail all the enforcement troubles at Quemetco **that have a direct bearing on the facility's permit renewal application**. We include quotations below from this letter:

1. Inadequate Groundwater and Surface Water Monitoring System. "The company has failed to provide consistent laboratory tests from all 19 wells." "Quemetco's monitoring network is defective, an issue we have attempted to get the company to fix." "If Quemetco continues to fail to provide the state with useful groundwater monitoring data...this could negatively impact their pending permit renewal application."
2. Inadequate Containment Building, Non-Functioning Leak Detection System. We know that Quemetco filed an appeal of the Enforcement Order issued on July 25, 2016. But we do not know if DTSC has requested an administrative hearing to consider the appeal. When we asked Robert Kou on Aug. 31, 2016 if DTSC had requested this hearing he said he could not answer questions about an open legal case. Meanwhile, the appeal stays all enforcement compliance that would force Quemetco to remove all stored hazardous waste and prohibit it from putting more hazardous waste into the containment building. And yet Ms. Hardy writes that "if Quemetco fails to comply with our recent order to install and maintain a functioning leak detection system in the Containment Building, then this failure may impact its pending application to renew its operating permit." What is going on? Why did it take until this summer for DTSC to act on this problem? Is there enforcement or isn't there enforcement?

Site Specific Requests

1. A thorough and extensive sampling of the total area within the ¼ mile radius around Quemetco.
2. A full reporting of all metals found at high levels in soil samples taken from residences.
3. Clear and scientifically rigorous criteria for determining a "stepping out" of the sampling area from the initial ¼ mile radius around Quemetco.
4. Clear and scientifically rigorous criteria for determining that Quemetco is not the source of metals contamination in surrounding residences.
5. Enforcement: DTSC's Enforcement Division is letting Quemetco get away with multiple violations for years and years. As the People's Senate has repeatedly argued, this is an institutional weakness that needs to be remedied at the highest levels of the agency.

“Quemetco, Inc. is an active, off-site Hazardous Waste Storage Treatment and Disposal Facility (secondary lead smelter) and Hazardous Waste Transporter located at 720 South Seventh Avenue in the City of Industry.”

They should add that they are not permitted to engage in disposal practices even though they have.

“In addition, all locations that were sampled as part of previous investigations, such as the 2013 study, will be resampled and the results compared.”

This is not true, not all locations will be resampled as part of current sampling. We have the documented evidence to support this including photos of potentially contaminated soil being hauled off the property and dumped in a nonhazardous waste landfill. The new project manager in charge of soil sampling is not a soil scientist, engineer or a geologist.

“In addition, DTSC has attended City of Industry City Council meetings and Hacienda La Puente Unified School District meetings to provide updates about the ongoing investigation, answer questions, and listen to feedback. On April 27, 2016, DTSC hosted an Open House/Informational meeting with approximately 200 people in attendance—this meeting allowed residents to ask questions and get answers regarding the soil investigation.”

DTSC staff continues to disseminate inaccurate information at these meetings and DTSC staff was unable or unwilling to provide answers to numerous questions asked by local affected residents. DTSC continues to send personnel that have little or no historical knowledge of the facility.

“On August 31, 2016, DTSC held a follow-up informational meeting with about 200 people in attendance. At this meeting, attendees heard from DTSC’s Cleanup team, Permitting team, and Enforcement team. The next informational meeting is slated for late Fall 2016.”

At this meeting DTSC staff could not answer questions regarding groundwater contamination, monitoring, surface water contamination, and failure to meet permit conditions, enforcement and lack of enforcement, historic practices and other issues. DTSC staff were not knowledgeable about the site.

“Sampling of the commercial properties will be conducted upon completion of the residential properties sampling. DTSC has provided oversight for the soil sampling activities and field personnel are the key contacts for the public to address any questions they may have.”

DTSC is allowing the removal of soil that had previously tested above hazardous waste levels with no oversight and enforcement action. The dumping location for this soil is unknown. This has been reported to Robert Koe head of enforcement for the Southern California region and to the head of enforcement in Sacramento. To date no action has been taken.

“Background Sampling Work Plan and Plan for Source of Lead Study (Fingerprinting)”

Quemetco's contractors are revising a background sampling work plan and plan to study and identify the source of lead found in the sampling. Both documents require DTSC approval before Quemetco can proceed with implementation."

DTSC is allowing Quemetco to devise a scheme to attempt to avoid responsibility for contamination in the community. They are not requiring a plan to definitively identify the source of the contamination nor are they requiring solubility testing which is important to determine the likelihood of the lead contaminating surface water, ground water, being absorbed by children playing in the sprinklers and the ability to be taken up by food plants in gardens and subsequently ingested.

"Permit Renewal Application under Technical Review

In June of 2015, the Permitting Division issued a public notice to the 4,168 individuals on the mailing list established for Quemetco. The purpose of the notice was to announce that Quemetco's permit renewal application was received and is currently under review by DTSC. The notice also stated that the public may view the application at the LaPuente Library located at 15920 Central Avenue in La Puente, California. The notice identified who at DTSC to contact with any questions."

DTSC failed to notify key stakeholders that have been engaged and on DTSC mailing lists for over a decade. Also 2 libraries that are located in closer proximity to the facility than the La Puente Library do not have the information and the La Puente library has the old project contact information of people who are no longer assigned to the Quemetco case. The contact information is inaccurate.

"On June 23, 2016, members of the Permitting Division attended a highly publicized public meeting hosted by the SCAQMD regarding Quemetco and made themselves available after the meeting to answer any questions regarding the permit renewal. Since then, we have done additional public outreach. In particular, a joint informational meeting with the Cleanup and Enforcement Programs was held on August 31, 2016 at the Hacienda Heights Community Center located at 1234 Valencia Avenue in Hacienda Heights, California. The permit renewal application is still under technical review."

DTSC high level supervisors provided inaccurate information at the June meeting and uninformed permitting staff could not answer questions at the August meeting.

"Update on Enforcement Actions

Quemetco operates the following hazardous waste management units: a Hazardous Waste Storage Area, a Wastewater Treatment Plant; two smelting units: a Reverberatory Furnace and an Electric Arc Furnace. The facility recycles used lead acid batteries, lead bearing materials and hazardous waste into elemental lead blocks. Approximately 10 million batteries are recycled at the facility annually. In 2008, the facility installed a Wet Electrostatic Precipitator (WESP), where all process point sources are exhausted."

There are multiple other Hazardous Waste Management Units than this including 8 refining kettles. Some of these are documented to be unidentified in their permit application. DTSC fails to inform the public that they import hazardous waste from all over the world to be processed at this facility. Not all process point sources are exhausted to the WESP and in fact community members have been reporting this for years to SCAQMD and DTSC. Actual holes have been found in the buildings and roofs where toxic substances escape emission control systems. Both enforcement and inspections have been dismal at best and this inadequate oversight continues to this day.

Phibro-Tech Inc., Santa Fe Springs, CA

Re: **Response by Neighbors Against Phibro Tech, Member of the People's Senate;**
Concerning DTSC's report to the IRP, re: People's Senate 2015 Site – Specific
Benchmarks, dated September 20, 2016

Dear Mr. Kracov, Mr. Vizzier, and Dr. Campbell:

It is with great concern that our community based organization, “***Neighbors Against Phibro Tech***”, provide the Independent Review Panel (Panel) with updated information on Phibro – Tech, Inc. (PTI), a site and facility of interest to the People's Senate, and a brief description of the acts and omissions on the part of the Department of Toxic Substances Control (DTSC or Department) resulting in its historical failure to protect the communities of Los Nietos and Santa Fe Springs, which lie only several hundred feet from the site.

The attached portion of the document listed as “***Phibro-Tech, Inc., Santa Fe Springs***” (beginning on page 23), and part of the “Site-Specific Updates,” was prepared by the DTSC in response to the Panel's April 21, 2016 report to the Governor and Legislature. In its report, the Panel requested that DTSC provide a written response to the People's Senate 2015 Site Specific Benchmarks document with detailed information on what is being done to address sites requiring mitigation.

Neighbors Against Phibro Tech appreciates the opportunity to respond to the update provided by the DTSC on “*Phibro-Tech, Inc., Santa Fe Springs*”, one of fifteen (15) sites of interest identified by the People's Senate in the document.

As a point of clarification, the DTSC “update” will, henceforth, be in quotation marks and italicized. The response / summary by *Neighbors Against Phibro Tech* will be in bold lettering.

DTSC - Update:

“Phibro-Tech, Inc., Santa Fe Springs

The Phibro-Tech, Inc. (PTI) hazardous waste facility is located at 8851 Dice Road in Santa Fe Springs, Los Angeles County (Facility). PTI operates an inorganic chemical manufacturing facility that also treats/recycles inorganic hazardous waste. PTI receives wastes such as etchants, metal slurries, and corrosive wastes, from off-site generators and treats them at the Facility by reclaiming metals and inorganic chemicals, which PTI then sells. PTI also produces etchants from non-waste (virgin) materials in a separate portion of the Facility. PTI was issued a permit to operate a hazardous waste facility in 1991, which was scheduled to expire in 1996. PTI applied to DTSC for a hazardous waste permit renewal and by operation of law is allowed to continue operating under the terms of the expired permit. The existing permit will remain in effect until DTSC reaches a final decision on the permit renewal application.”

Neighbors Against Phibro Tech – Response:

The PTI facility has historical and ongoing compliance obligations related to groundwater and soil contamination.

In summary, the original *Corrective Action Consent Order* (CACO), became effective July 29, 1991. The parties included the USEPA, the DTSC, and PTI. The CACO was memorialized in Docket No. HWCA P4-11/12-003, which cited Health and Safety Code (H&S) section 25187 as the applicable statutory authority.

Jurisdiction of the CACO, under H&S section 25187, authorized the DTSC to issue an order to require corrective action regarding hazardous waste from PTI. Thereafter, PTI entered into the Consent Order to avoid litigation.

The COCA acknowledged the following facts:

Toxic contaminants were numerous;

Media of contamination was groundwater and soil;

Exposure pathways were groundwater, soil, ingestion and dermal;

Groundwater was 52 ft. below ground surface;

3 aquifers existed below the PTI facility, specifically, Hollydale, Jefferson, and Gage;

Current use of the aquifers was as a source of drinking water;

In 1985, at the request of the Los Angeles Regional Water Quality Control Board and State of California Department of Health Services, PTI installed 7 wells and began groundwater monitoring;

Regarding water, the “*Selected Remedy*” was to pump and treat the aquifers;

Regarding soil, the “*Selected Remedy*” was a bioventing, soil vapor extraction system; and “*Additional Remedies*” provided for the implementation of the “*Existing Facility Closure Plan*”.

The original permit, (issued by USEPA and DTSC, effective July 29, 1991), was modified effective August 2, 1995. The *Corrective Action Permit Modification* (CAPM) was based on the terms defined in California Code of Regulations, Title 22, section 66260.10. The CAPM also removed the threat of pending litigation.

The remedy selected and approved by DTSC regarding the CAPM became effective August 2, 1995. After the effective date of the Consent Order, the parties agreed that the more stringent requirements “*shall govern the corrective action required*”. Consequently, PTI was compelled to conduct corrective action “*within one year*”.

DTSC - Update:

“Actions to Address Contamination

In 2012, DTSC requested PTI submit a revised plan to formally close a hazardous waste area referred to as Pond 1. PTI submitted a revised closure plan in 2012 and was required to revise its closure plan several times to address DTSC’s comments. On June 7, 2016, DTSC approved a revised closure plan for Pond 1 and modified PTI’s permit, requiring that PTI begin closing Pond 1 within six months of the effective day of July 12, 2016. PTI appealed that decision, and

DTSC's Permit Appeal Officer stayed DTSC's permit decision. That permit appeal is currently pending with DTSC's Permit Appeal Officer.

In response to DTSC's Corrective Action Consent Order, PTI prepared and submitted two health risk assessments. One evaluated potential adverse health impacts resulting from the day-to-day operations at PTI. The other evaluated potential impacts from past releases of hazardous waste or hazardous constituents at PTI. DTSC approved the Current Operations Health Risk Assessment on January 15, 2015 and the Human Health Risk Assessment for Historic Releases to Soil and Groundwater on February 4, 2015. These health risk assessments determined that the chemicals, processes and cleanup of contaminated soils do not pose a significant health risk to the surrounding residential population. Risks to future onsite commercial workers of exposure to contaminants in soil may exceed the acceptable risk range if the site were to be redeveloped for commercial use such as offices, without further remediation. Accordingly, some remediation of contaminants in soil at the site or other form of risk management would be required to reduce the risk to future commercial workers prior to such redevelopment. The Current Operations Health Risk Assessment also identified a small risk to current offsite commercial workers due to diesel particulate emissions exhaust from trucks going to and from the facility.

DTSC also took action to address onsite contamination at PTI. In May 2015, DTSC required the company to, among other things, submit a work plan to remediate hexavalent chromium in the vadose zone (the area below the ground surface but above ground water). On December 15, 2015, DTSC launched a public comment period for PTI's Proposed Interim Measure Work Plan for public review and comment. The Interim Measure work plan addressed cleanup of hexavalent chromium in soil near a former underground chromic acid tank at the facility. The proposed cleanup would involve injection of chemicals into the ground to convert the hexavalent chromium to non-toxic trivalent chromium.

DTSC held a public hearing in Santa Fe Springs in January 2016 to accept public comments on the proposed work plan to implement the Interim Measures to address the contamination, as well as on the DTSC-initiated permit modification and closure plan for Pond 1. The public comment period was open for 60 days: from December 15, 2015 to February 15, 2016. DTSC published the notices in Spanish and English in local newspapers and on radio stations. DTSC also mailed out community updates in Spanish and English. Spanish translators were on hand at the meeting to assist residents needing a translator. DTSC approved the Interim Measure Work Plan, and the Revised Pond 1 Closure Plan, and modified PTI's permit on June 7, 2016."

Neighbors Against Phibro Tech – Response:

Neighbors Against Phibro Tech has previously requested that the DTSC deny the Hazardous Waste Facility Permit for PTI. The request is based on the historic and ongoing failure of PTI to comply with laws, regulations, and policies governing hazardous materials and hazardous waste.

It is a matter of public record that for approximately 25 years, federal, state and local authorities have attempted, unsuccessfully, to resolve this problem. It is also a matter of public record, that as a result of PTI's failure to comply, ground water and soil (and in our

opinion, the air as well) have become contaminated with heavy metals, halogenated volatile organic compounds (VOCs), aromatic VOCs and chlorides, which are dangerous to human health and / or cause harm to the environment. For example, in 1997, the EPA traced a carcinogen, hexavalent chromium, in the groundwater "*directly back to Phibro-Tech*" at concentrations nearly 3 million times the state public health goal. It is our opinion that, as a result of the Department of Toxic Substances Control's failure, our community is at great risk, both human and environmental. Consequently, our community suffers from the occurrence of a greater-than-expected number of serious illnesses and diseases, including a "*CANCER CLUSTER*". The laws of the State of California require the Department of Toxic Substances Control to protect the health, safety and welfare of the public from the dangers of toxic substances. Despite this language, the DTSC continues to fail in its "*Mission, Vision, and Public Participation*", by allowing "*serial polluters*", such as PTI, to operate with an expired permit, while ignoring the law and also the concerns of residents.

DTSC - Update:

"Status of PTI's Permit Renewal Application

PTI submitted its initial permit renewal application in January 1996 and a revised application in 2006 that sought to add authorization to treat oily water. In March 2010, DTSC issued a draft permit for public review and comment, and received more than 300 comments from the public and other stakeholders, many of which cited concerns about the facility's enforcement history, health risks, and groundwater contamination. Since then, DTSC has been working to resolve those concerns.

In August 2014 DTSC directed PTI to submit a revised permit renewal application, with additional information, and informed PTI that if the submission was substantially incomplete or substantially unsatisfactory, DTSC would initiate permit denial proceedings under California law. PTI has submitted revised permit renewal applications in response to DTSC comments.

Also, on December 18, 2015, PTI submitted a Class-2 permit modification request, requesting authorization to construct and install four hazardous wastewater tanks and a filter press to replace similar equipment (in different locations) at the Facility and to increase the storage area (but not the amount of waste stored) at two existing hazardous waste container storage units. PTI noticed a public comment and review period from December 22, 2015 to February 22, 2016, and held a public meeting on February 3, 2016. On April 29, 2016, DTSC requested additional information and clarification from PTI on various issues in the Class 2 permit modification application. DTSC is reviewing both PTI's permit renewal and Class 2 permit modification applications."

Neighbors Against Phibro Tech – Response:

The residents of Los Nietos and Santa Fe Springs have continually requested the following:

- 1. That DTSC deny the "Hazardous Waste Facility Permit" until PTI is in full compliance with the law.**

2. That DTSC enforce the law against PTI and compel the clean-up its existing toxic contamination.
3. That DTSC conduct an “*Environmental Impact Report*” to determine the probable dangers to the surrounding community.
4. That DTSC conduct a “*Health Risk Assessment*” to determine the degree of risk to human health.
5. That DTSC conduct “*Public Hearings*” that allow residents to express their concerns.

“Recent Inspections

DTSC inspects the Facility on a regular basis for compliance with California laws, regulations and its hazardous waste facility permit. DTSC conducted a compliance evaluation inspection (CEI) and follow-up inspection of PTI in 2015 and found numerous violations, including making false representations in their operating record, storing hazardous waste in unauthorized areas, and operating unpermitted treatment and storage units. DTSC currently has an enforcement action pending against PTI for prior violations, and is actively working to ensure that PTI operates in full compliance with all applicable laws, regulations and requirements.

The compliance evaluation inspection CEI included several site visits from June 2015 through November 2015. The follow-up inspection was conducted in December 2015. These inspections resulted in the issuance of two Summaries of Violation and an Addendum Summary of Violations, and identified ten Class I violations and four Class II violations.

The report was provided to PTI in July 2016, and will become a public document unless PTI successfully asserts that all or portions of it are trade secret. The two Summaries of Violation and the Addendum are public documents and are available for review on DTSC’s EnviroStor webpage for Phibro-Tech, Inc.”

Neighbors Against Phibro Tech – Response:

That DTSC deny the “Hazardous Waste Facility Permit” for PTI, and implement the “Existing Facility Closure Plan”, pursuant to the established remedies provided by law, due to PTI’s historical failure to comply, ongoing violations, and false representations.

The failure of the DTSC to act appropriately, and its omission to do so, has resulted in the total lack of public trust in the agency. Moreover, the unreasonable level of malfeasance and incompetence on the part of the DTSC has contributed to unregulated contamination throughout California (*see CalEnviroScreen 2.0, at State of California, Office of Environmental Health Hazard Assessment*). Undeniably, this evidence speaks for itself!

Clearly, the DTSC has failed to fulfil its mandate, and no rational person can question the dilemma we now face, that is, continue the course and deal with the consequences at the point of crisis, or address the causes and provide viable alternatives, coupled with responsible government intervention.

As members of the People's Senate, Neighbors Against Phibro Tech believes it is extremely important, for the health, safety and wellbeing of all Californians, both present and future, that the DTSC fulfill its mission and **protect** our communities against "**serial polluters**" such as **Phibro Tech**.

Therefore, as the Independent Review Panel of the DTSC, we call upon you to question the veracity of the DTSC "**Site – Specific Updates**", and examine the responses submitted by the members of the People's Senate. It is hoped that you take these matters into careful consideration and recognize the reasonableness of their value.

It is also important to note that this action will be recognized as both visionary and objective. As a result, **your** actions serve to restore the public's faith and confidence in the ability to resolve the outstanding hurdles, both internally and externally, faced by the DTSC.

In the spirit of cooperation, the Neighbors Against Phibro Tech and the People's Senate look forward to a long and meaningful relationship with the Independent Review Panel.

Respectfully,

Jaime Sanchez
Neighbors Against Phibro Tech, Member
People's Senate, Member

Carlton Forge, Paramount CA

None of the site specific benchmarks created by the People's Senate for Carlton Forge Works in Paramount, proposed to Ms. Barbara Lee in a letter written by members of the People's Senate dated March 27, 2015 have been met. These requests include the following:

- 1) Conduct comprehensive testing for toxics within a mile radius of the facility, including at Lincoln School, and Village Skate Park, and sample indoor dust for rare metals and other contaminants at residential properties.
- 2) Remediate all sites and properties, including Lincoln School, impacted by Carlton Forge Works' operations.
- 3) Increase inspections at the facility, including unannounced inspections.
- 4) Work with regional water board, local air district, and Cal OSHA to identify and rectify all potential pathways of contamination to protect workers and neighboring community.

Detailed response from People's Senate member for the area of Paramount:

1) In the letter Ms. Lee wrote to the IRB, she states that on May 1, 2014 that DTSC entered into a Voluntary Agreement with Carlton Forge Works (CFW) to conduct off-site soil and dust investigation in the area downwind from the facility (east of the site) near homes and an elementary school. However, 525 concerned residents and workers within Paramount signed a petition (presented to DTSC in October 2014) requesting that DTSC conduct testing within a one mile radius of the facility in all directions. This is a concern for the community as there is widespread illness (cancer) in the area and we wish to ensure that the public spaces and internal homes are free from toxic materials. On October 15, 2014, the City of Paramount denied DTSC access to the Village Skate Park or any other park in Paramount to take soil or dust samples. In March 2015, community members met with Ms. Lee in Village Skate Park immediately west of the facility. Residents and members of the People's Senate asked Ms. Lee to ensure that the park was tested despite the City of Paramount's objections for which they gave no rationale. The park has not been tested to date nor does Ms. Lee make mention of its refusal in her letter to the IRB though she mentions that Paramount Unified School District (PUSD) denied

DTSC access to Lincoln School. Mr. Salloum, Program Manager for the voluntary agreement between DTSC and CFW, has since written PUSD a letter informing them of DTSC's intent to conduct future soil testing per the authority of the EPA. No such letter has been sent to the City of Paramount demanding access to the city parks in Paramount though residents at the November 7, 2014 meeting, expressed to DTSC staff that they were willing to have their homes retested if DTSC doubted the veracity of the soil and dust testing conducted independently by Communities Against Toxins in summer of 2013 and presented to DTSC for review. Residents again

told Ms. Lee in March 2015, when she visited Paramount, that they were willing to have dust samples in their attics retested and soil in the yards given that a report from DTSC suggested that the dust could have been taken from a vacuum cleaner rather than the attics of their homes. They directly told Ms. Lee that the previously undisturbed dust was from their attics. None of homes of these residents have ever been retested despite sharing their contact information with DTSC.

2) No cleanup action has been taken on the properties immediately east of the facility where senior citizens and small children are living. These residents have not been informed about the results of these tests nor have they been told what if any steps for remediation will be required.

3) One CUPA inspection was conducted since 2014. However, the request of the People's Senate was that unannounced inspections be increased.

4) South Coast Air Quality Management District held a public meeting in Paramount on August 15, 2016 to inform the community that there has been an ongoing spike of hexavalent chromium at monitors 2 and 3 (on Vermont St. across from the facility of the east side as far as CA St. where Lincoln School is located) causing a substantial increase in the risk of cancer from exposure to this chemical. When SCAQMD officials were asked if they were in communication with DTSC regarding their investigation, they said they were not.

Ms. Susan Nakamura, heading the meeting, did not know that DTSC was conducting an investigation or that DTSC had entered into a voluntary clean up agreement. Despite assurances in the September 20, 2016 letter from Ms. Lee that DTSC was coordinating with various other regulatory agencies, this is not accurate in the case of DTSC and SCAQMD, the agency responsible for initially discovering elevations of the toxins of concern.

*The EPA and DTSC joint investigation of contaminants in the community, while commendable, is not a substitute for the site specific requests made by residents of Paramount both in their formal petition and via the People's Senate. Carlton Forge Works has been exempted from this investigation due to the fact that they entered in to a voluntary cleanup agreement with DTSC. Given that there are ongoing significantly elevated levels of hexavalent chromium across from Carlton Forge Works, we are again requesting the DTSC conduct west of the facility in the public park and retest in eastern direction to determine if levels of hexavalent chromium have reached dangerous levels in the parks and homes nearby.