



**Jared Blumenfeld**  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

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Meredith Williams, Ph.D., Director  
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**Gavin Newsom**  
Governor

October 7, 2020

Elaine M. Howle, CPA  
California State Auditor  
621 Capitol Mall  
Suite 1200  
Sacramento, California 95814

Dear Ms. Howle:

The Department of Toxic Substances Control (DTSC) appreciates the opportunity to respond to the findings and recommendations in the California State Auditor's (CSA) Audit Report. DTSC would like to thank you and your staff for the time and effort dedicated to conducting this audit. We would also like to thank Assembly Member Santiago for requesting this audit.

The State of California made a strong commitment to immediately help people who live around the former Exide facility by jumpstarting a cleanup while DTSC worked to hold Exide accountable to finish the cleanup it was responsible for performing. The State provided approximately \$250 million for DTSC to conduct cleanups at up to 3,200 of the most heavily-contaminated parcels. Without this commitment, communities would have been forced to wait for cleanups to commence.

DTSC appreciates the insights gained from discussions with your staff and from your audit's findings and recommendations. We believe this process provided DTSC with information we will use to better serve the people who live around the former Exide facility in Vernon, California. This is especially important given that only one other site in the nation exceeds the size of DTSC's residential cleanup, which is the largest, most logistically complex residential cleanup project the state of California has ever undertaken.

DTSC concurs with the recommendations in the audit report and, as described below, has started to implement some and will implement all of the audit's recommendations. The following provides our specific responses to several issues in the audit.

**DTSC has Begun to Implement Some and Will Implement All Recommendations**

As described below, DTSC has begun to implement some of the audit's recommendations and will implement all additional recommendations.

- DTSC has overseen the cleanup of 17 daycare centers and seven schools. DTSC has inspected all other facilities and verified that barriers to soil, such as mulch or grass, are present at all remaining facilities.

In response to your recommendations, we have undertaken the procurement process for Time Critical Removal Actions (TCRA) to clean up the two remaining publicly-owned daycare centers, two private schools and three parks.

At the 19 remaining daycare centers, we have directed our cleanup contractor to prioritize the facilities for cleanup. We have initiated the cleanup process at eight of these facilities. Three have declined DTSC's request to conduct a cleanup. We are conducting outreach needed to initiate the cleanup process at the eight remaining facilities.

- DTSC has increased our outreach efforts by deploying our consultants to get additional properties signed up for cleanups and increasing the number of cleanup crews to clean up the most contaminated properties.
- DTSC has already tasked a team to work on updating our engineers' estimate on the cost to clean up properties. This will be DTSC's third such comprehensive updated estimate and DTSC will use the information collected from cleaning up 2,000 properties for estimates to account for changing economic, labor and other conditions.
- DTSC will use this new, updated estimate to project the cost for cleaning up the remaining approximately 4,600 properties with lead contamination down to 80 parts per million.

### **DTSC Has Cleaned Up More Properties More Quickly Than Any Other Residential Lead Cleanup in the Nation**

DTSC's mission is to protect California's people and environment from the harmful effects of toxic substances by cleaning up contamination and enforcing safeguards against hazardous waste, among other important actions.

For this cleanup, DTSC has cleaned up more properties, more quickly than any other residential lead cleanup in the nation. DTSC is conducting cleanups faster in the project's first six years than the other large projects, only one of which achieved higher cleanup rates after nine years.

DTSC has completed over 2,000 cleanups as of October 2, 2020. We are cleaning up 24 properties a week as of September 21, 2020. DTSC is also moving to contract for cleanups at 400 additional properties.

DTSC accomplished these cleanups using a more protective lead cleanup standard than the federal government, which increases the scope and intensity of cleanup activities.

DTSC entered into complex contractual agreements, such as the Project-Labor Agreement with the Los Angeles/Orange Counties Building and Construction Trades Council. This agreement promotes training and employment opportunities and careers in the construction industry, with a focus on environmental remediation, while also fostering the participation of small and disabled veteran owned businesses.

DTSC also created a local workforce development and job training program to train and promote the hiring of residents in communities near the former Exide facility. This program expands community engagement in the testing and cleanup process, provides skills and health and safety training, and supports job placement on the project.

One reason that DTSC has been able to implement this massive and logistically challenging cleanup is that we began researching and learning from others in 2014. We spoke with United State Environmental Protection Agency (U.S. EPA) staff, including Project Managers at other lead-contaminated residential cleanups. DTSC also sent project staff to a U.S. EPA conference that brought together experts on urban lead cleanups from across the country. DTSC's early work created a foundation that contributed to DTSC's ability to deliver cleanups to people in communities around the former Exide facility.

DTSC has an ongoing commitment to improve the cleanup by learning, from other experts, from people in the communities we serve, and from our mistakes. Any entity that claims perfect implementation of a large, unique, and challenging project like this residential cleanup isn't truly assessing its performance. The key points in any such assessment are to identify and anticipate problems, take corrective action and continue to improve our ability to protect the people we serve.

### **DTSC Developed an Estimated Schedule for Implementation of this Large, Logistically Complex Project and Some Factors that Affect the Pace of Cleanups are Unpredictable**

As part of DTSC's environmental review of the cleanup project, DTSC developed estimates of project activities to assess their impact on traffic, vehicle emissions and other factors. DTSC used this information to determine when state law would require mitigation measures.

DTSC included this environmental review information to provide estimates of cleanups that would keep the environmental effects within tolerable margins and to provide a sense of what this pace of cleanup would mean in the community and for the project. DTSC intentionally and responsibly caveated this information with the terms "estimates," "anticipates," and "expects."

In one later section of the audit, it acknowledges that DTSC “estimated” a pace of cleanup. However, in the “Summary” section, the audit charges that “DTSC is significantly behind schedule...” and “has been unable to maintain the cleanup pace it presented...” DTSC appreciates the audit including the term “estimated” in the later section of the report.

The audit also asserts that when DTSC produced its documents for the cleanup, we should have anticipated factors that were unpredictable prior to conducting the cleanup. For example, the audit says that DTSC should have known the following factors before starting the cleanup of thousands of properties over several years:

- The number of properties configured in a way to require soil excavation by hand or specialized types of excavation equipment;
- The number of days rain would delay work; and
- The number of properties where people would need to change the date of scheduled sampling, cleanup and restoration activities.

Importantly, DTSC has kept the public informed about the various factors that can affect the pace of cleanups as we have gained knowledge during project implementation. For example, DTSC has informed the public that rain, extreme heat, property configuration, changes in scheduled work, smoke from fires and the recent pandemic affect the pace of cleanups. DTSC works diligently to keep the public informed about the cleanup and to answer questions.

### **DTSC has Focused on Implementing the State of California’s Commitment to Conduct Cleanups**

DTSC is focused on using the approximately \$250 million provided by the State to conduct cleanups at up to 3,200 of the most heavily-contaminated parcels. Without this commitment, communities would have been forced to wait for cleanups to commence.

However, the audit presumes DTSC should have developed a timeline or planned approach for cleaning approximately 4,600 properties that will remain after DTSC completes the cleanup of several thousand properties.

DTSC does have an approach to continue cleaning up sites. We also modify this approach to account for the unique circumstances at each parcel and to increase our efficiency.

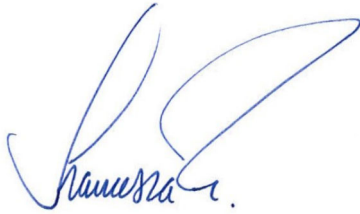
DTSC has provided the public and legislature with our estimate of the amount of time that we expect different phases of the cleanup that we have funds to implement.

DTSC does not currently have the funding to clean up the remaining 4,600 properties. Without knowing a sustained level of funding, providing people in the community with an end date for the cleanup of their properties is at best a guess.

DTSC will comply with the audit's recommendation to create a timeline and additional planning documents for all remaining properties. When doing so, DTSC will note that we are providing this information pursuant to the audit's recommendations.

DTSC is committed to continuing to improve the safety of the people we serve throughout the state of California, including the communities around the former Exide facility. If you have any questions regarding DTSC's response, please contact Grant Cope by email at [Grant.Cope@dtsc.ca.gov](mailto:Grant.Cope@dtsc.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Meredith Williams", with a large, stylized flourish extending to the right.

For:  
**Meredith Williams, Ph.D.**  
Director  
Department of Toxic Substances Control

Schools, Parks and Daycares Property Summary as of October 7, 2020

<b>Current Status of Work at Daycares, Parks and Schools</b>			
<b>Category</b>	<b>Day cares</b>	<b>Parks</b>	<b>Schools</b>
Sampled	48	16	33
Cleanup is not Required	10*	13	24**
Prioritized for Cleanup	38	3	9
Prioritized and Cleanup is Complete	17	0	7
Properties to be Cleaned	21	3	2
TCRAs for Publicly Owned Facilities	2	3	2
Expedited in residential cleanup contract (NEC)	19		
Initiated the cleanup process	8		
Outreach to initiate the cleanup process	8		
Declined Cleanup	3		

\* Includes three daycares no longer operating

\*\* Includes three schools outside the PIA