



November 20, 2014

Governor Jerry Brown  
c/o State Capitol, Suite 1173  
Sacramento, CA 95814  
Fax: (916) 558-3160

Dear Governor Brown,

It has come to our attention that the newly appointed Director of the Department of Toxic Substances Control (DTSC), Barbara Lee, does not believe the agency is in need of reform—exactly the opposite of what environmental advocates and leading lawmakers have been demanding for months as media scrutiny of this profoundly dysfunctional department continues.

At an all-staff DTSC meeting this week, Barbara Lee said that she was not coming into the position thinking, “I have to change anything or shake anything up in a big way,” according to an *Inside Cal/EPA* report published today. Ms. Lee has evidently come to this conclusion without spending a day in the capacity of her new job, which begins only next month. We ask that she publicly acknowledge the error to communities suffering from toxic harm that have waited for reform of this troubled agency for decades. If she does not, she should be fired before she has the chance to do any real damage.

Contrary to pleas from the environmental community that you appoint someone who is an experienced administrator and committed reformer from outside the California EPA, your appointee comes from a small air district office in Northern Sonoma County that has no air pollution problem. She has no experience running a large agency, and no extensive background in enforcement or toxic substances. According to employees present, when asked what her vision was, Ms. Lee had no tangible answer.

DTSC has become a poster child for worst California environmental regulator and is in desperate need of reform. A third of all licensed facilities are currently running on expired permits—some for up to 16 years. Los Angeles lead battery recycler Exide Technologies has coated East Los Angeles with hazardous waste

levels of lead and other contaminants and has operated for decades without a license at all. The DTSC failed to bill or collect \$194 million in costs from polluters for its oversight of toxic cleanups—and it is doubtful most of that money will ever be collected. Various news organizations, including CBS Los Angeles and NBC Bay Area, have reported on toxic waste spewed across major interstate highways and blanketing neighborhoods. In media interviews, DTSC officials have had no answer as to how this happened or what concretely will be done about it.

Earlier this month, Senate President pro Tem Kevin de Leon said that “DTSC is in dire need of a shakeup and Exide appears to be the tip of the iceberg of problems at DTSC—the state agency charged with protecting public health from toxic releases.” Exide is not the only egregious serial polluter that has been mishandled by DTSC for decades. Contamination at many other sites, including Boeing’s Santa Susana Field Lab in Simi Hills, continues to threaten public health.

Communities need your help in reforming DTSC. For the new Director to say there is no need to do anything differently was either an error, or Ms. Lee does not have the right attitude for the job. Ms. Lee should show us that she is the strong, committed and experienced reformer that 35 consumer advocacy groups asked you to appoint by apologizing for this performance, or you should remove her and continue the search for a director appropriate to the monumental task that lies ahead.

Sincerely,



Liza Tucker  
Consumer Advocate  
Consumer Watchdog

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CC: Cabinet Secretary Dana Williamson  
Senior Advisor Cliff Rechtschaffen  
Senior Policy Advisor Ken Alex  
Deputy Legislative Secretary Martha Guzman-Aceves  
Senate President pro Tem Kevin de Leon  
Senator Ricardo Lara  
Senator Jerry Hill  
Senator Fran Pavley  
Assemblyman Luis Alejo

## **Inside Cal/EPA**

### **New DTSC Chief's Vow Against Short-Term Overhaul Spurs Advocates' Fears November 20, 2014**

Barbara Lee, the new director of the Department of Toxic Substances Control, is vowing against a need to "change anything or shake anything up in a big way" in the department's management or programs in the short-term, prompting concern from advocates who have urged a major overhaul of DTSC to fix what they claim is a flawed department.

Lee said during a Nov. 18 DTSC staff meeting that she wants to spend the first month or so in her new position meeting with departmental officials, in response to a question by a DTSC staffer about what her agenda will be in her first 30 days. "I'll be putting a lot of time into getting around and meeting everybody," she said. "I really want to reassure you -- I don't have an agenda coming in." DTSC staffers "have been doing some great work" over the past six months, after acting director Miriam Ingenito took over from former director Debbie Raphael, Lee said. "So I'm not coming in thinking I have to change anything or shake anything up in a big way."

It is important to get acquainted with DTSC staffers "before I say to you, 'Ah, here's my vision,' because a vision isn't worth a whole lot if it's not grounded well in reality that we're all going to be working on together and collectively on what we set . . . as our goals," Lee said at the meeting, which was webcast.

Lee was previously air pollution control officer at the Northern Sonoma County air district since 1996, where she was also supervising air quality engineer from 1994 to 1996, according to the governor's office. She served as an air quality engineer at the Bay Area air district from 1990 to 1994. She also served as co-chair of Cal/EPA's Environmental Justice Advisory Committee from 2005 to 2007, where she was a member from 2001 to 2007.

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Her comments at the staff meeting are prompting a negative reaction from some environmental justice advocates, who already have expressed a mixed reaction to her appointment last month by Gov. Jerry Brown (D). A coalition of advocacy groups had hoped the new director would take immediate actions to overhaul management at the executive office level and key department divisions to bolster the protection of public safety and the environment, especially in low-income communities disproportionately affected by pollution (Inside Cal/EPA, Nov. 7).

Equity advocates during the past several years have criticized DTSC as failing to protect communities from hazardous substances by avoiding adequate enforcement actions against facilities and allowing waste management companies to operate without proper permits, among other reasons, and say Lee's comments may prolong the situation.

"It is a shame that the new DTSC director has come to conclusions without having even

started the job," says Liza Tucker, a consumer advocate with Consumer Watchdog. "There is no question that this is a department in need of major reform, as evidenced by the number of pieces of legislation introduced in the last legislative session and the continuing media scrutiny of a department that has lost the trust of the public that it is meant to protect."

Consumer Watchdog has for years been highly critical of DTSC's performance, finding in an investigative report issued last year that DTSC's permitting process is severely flawed and biased heavily in favor of industrial facilities. A subsequent, independent state review of the department reached many of the same conclusions.

**A coalition of environmental groups earlier this year urged the Brown administration** to conduct a national search for the new DTSC director, focusing on those with strong environmental activism backgrounds who are not part of "Cal/EPA circles."

The coalition, including Center for Race, Poverty & the Environment (CRPE), California Environmental Justice Network, Physicians for Social Responsibility-Los Angeles, and Center for Environmental Health, urged Brown to "promptly appoint a strong, vigorous, and committed reformer as her replacement, along with a new senior management team similarly dedicated to reform, with a mandate for a top-to-bottom house-cleaning of this deeply troubled and dysfunctional department."

Ingrid Brostrom, senior attorney with CRPE, criticized Lee's comments in an email statement. "This response is incredibly tone deaf," she said. "The department is falling down and desperately in need for a strong, visionary leader to put this agency back on track. DTSC's permitting, cleanup, and enforcement programs are all in shambles. Leadership positions remain vacant. The Legislature, executive branch, and advocates across the state are all demanding drastic and fundamental changes in the agency to better protect Californians from toxic threats. If Barbara Lee truly believes that she doesn't have to change anything or shake things up, she is clearly not the right person for the job," Brostrom says.

In contrast, an industry source recently praised the governor's pick of Lee. "Seems like a solid appointment," the source said earlier this month. "She has a lot of air experience so it will be interesting to see how she will adapt to the DTSC culture. I think the business side is optimistic. She will get a lot of leeway initially."

David Miller, president of the California Association of Professional Scientists, the union that represents many DTSC staffers, said in an email response this week that the group "looks forward to working with Barbara Lee as the new director of DTSC. We're confident she'll bring fresh ideas to ensure DTSC is doing all it can to protect California communities and our environment."

Lee did not respond to a request for an interview this week.