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June 5, 2014

Governor Jerry Brown
State Capitol
Sacramento, CA 95814

Dear Governor Brown:

In light of the resignation of DTSC Director Debbie Raphael, we believe it is critical for you 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. DTSC has been failing to an extraordinary and unacceptable degree at its mission to protect the public from toxic materials. Dramatic steps must be taken to fundamentally change its policies and practices. DTSC has become a classic case of a “captured regulatory agency,” beholden to the polluting industries it is supposed to regulate, rather than the public it is supposed to protect. Without the appointment of a new director and top managers who are committed to fundamentally altering the way DTSC does business, the health of communities around the state will continue to be at risk.

We are extremely concerned about the failure of the Department of Toxic Substances Control/California Environmental Protection Agency to make urgently needed and dramatic reforms to enable it to carry out its mission to protect public health and the environment. In the last year, there has been revelation after revelation about DTSC’s failures. As representatives of and for impacted communities throughout the state, this matter is of vital importance to us. Our communities’ very health and wellbeing is at stake – for some, DTSC decisions are a matter of life or death.

We therefore call on you to ensure the following criteria are met for the new director of DTSC:

- The new director must have a well-documented track record of protection of environmental health, including a strong commitment to environmental justice, strict enforcement of and compliance with environmental and civil rights laws, and a strong ability to take the actions necessary to get a troubled department back on track.

- The new DTSC Director should be from outside DTSC/CalEPA, as the culture of polluter-friendly policies, systemic failures to uphold civil rights and environmental justice, and lax enforcement of violations is pervasive throughout the agency.
- The new DTSC Director must fully comprehend the issues and reforms that are needed in the department. Specifically, the new director must be willing and unafraid to:
 - Take a company's compliance history into account and deny permits to chronic violators.
 - Require proper, comprehensive and timely remediation of toxic sites in our communities.
 - Make companies put up financial assurance for their operations AND their corrective actions.
 - Vigorously enforce existing state laws, expand DTSC's enforcement authority, and develop and implement a new system for permitting, so that permits are enforceable and meaningful.
 - Remove senior DTSC employees who allow the department to be captured by the industries it is supposed to regulate. Much industry influence on DTSC comes from the "revolving door" of former Cal EPA/DTSC officials who become industry lobbyists and utilize their longtime relationships with senior DTSC staff to push polluters' agendas.

Finally, we call on you to ensure that the search for a new DTSC director is prompt and not delayed. DTSC is making critical decisions right now that affect our communities. We are concerned that if the search is delayed or dragged out, those at DTSC whose decisions have injured our communities will continue to call the shots and hurt us. Lobbyists for polluting interests, who already have far too much sway at DTSC, thrive in periods where there is no permanent director, and communities are further injured.

Governor Brown, it is time to rebuild public trust in the DTSC, as a true community and government partnership is essential if we are to protect public health and the environment from toxic pollution. Promptly appoint strong, independent, reform-minded leaders for the director and senior management positions at DTSC, with a mandate for fundamental change so that DTSC starts protecting the public, not the polluters.

We will be watching this process closely and intend to make our needs and concerns known at each stage and in every way possible.

Sincerely,

William Preston Bowling, Founder
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Cc: Senator Kevin de León
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