Department of Toxic Substances Control

CalEPA California Environmental Protection Agency

DTSC Regulatory Update

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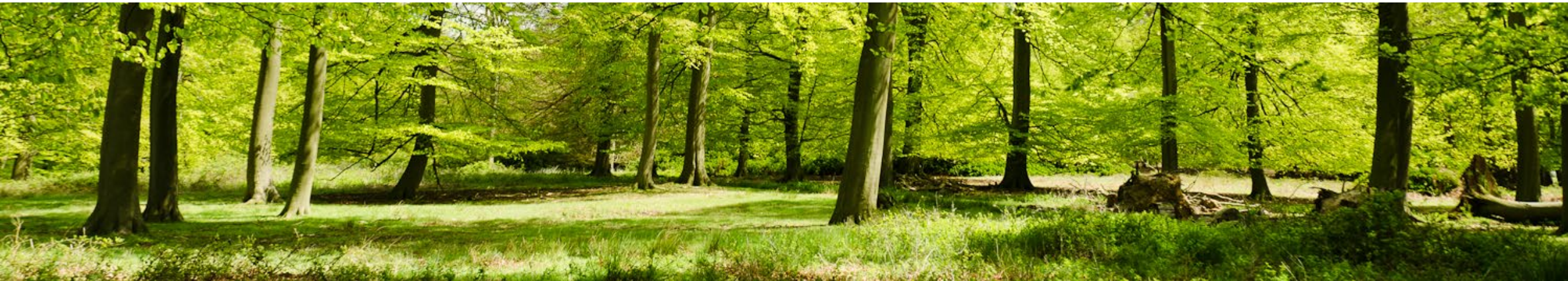
MARCH 2025



Agenda

- DTSC Org Chart Updates
  - New Management
  - Vacancy Sweep
- Updated Strategic Focus
  - Decision Memo
  - VI Memos
  - Updating Policies and Procedures

Updated Site Mitigation and Restoration Program Organization Chart

Katie Butler
Director

Thanne Berg
Deputy Director

Diane Barclay
Northern California Division Chief

Ben Stanphill
Southern California Division Chief

Craig Sanchez
Technical Services and Special Projects

Cheryl Prowell
Assistant Deputy Director, SMRP

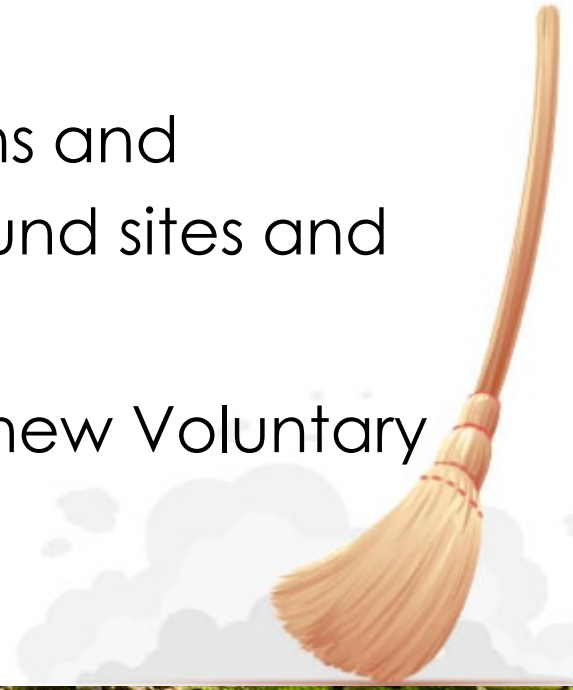
Mehdi Bettahar
Assistant Deputy Director, Exide

SMRP Branch Chiefs

- **Northern California**
  - Sacramento – Dominique Forrester
  - Berkeley – Marikka Hughes
  - Northern California and San Gabirel – Maile Gee (acting)
  - Legacy Landfills – Dan Ziarkowski
  - Santa Susana Field Lab – Steven Becker
- **Southern California**
  - Cypress – Eileen Mananian
  - Chatsworth – Jose Diaz (acting)
  - Schools and Brownfields – Shahir Haddad
  - Discovery and Enforcement – Laura Jameson (acting)

Vacancy Sweep

- Lost ~40 positions in Site Mitigation
- Holding 7 vacancies
- Consequences:
  - Slow response times ongoing in some offices
  - Focusing on core functions and mandatory work – Superfund sites and orphan projects
  - Limited ability to take on new Voluntary Agreements



2020-2024 Strategic Plan Refresh

GOAL 1:
BUILDING STRONG PARTNERSHIPS
to collaborate with all stakeholders

GOAL 2:
PROMOTING ENVIRONMENTAL JUSTICE
to prevent harm and protect the most vulnerable

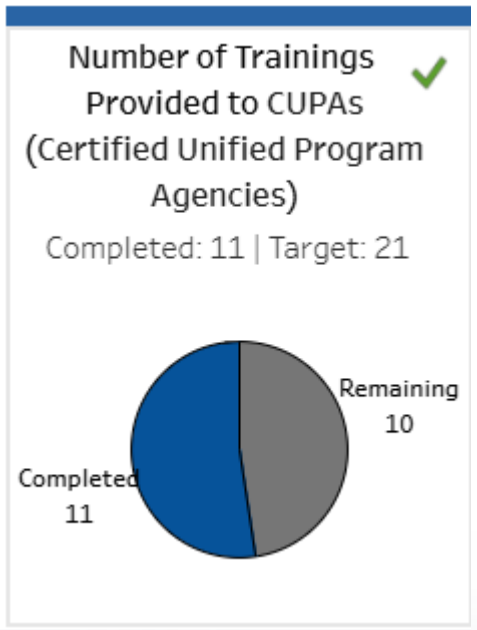
GOAL 3:
DELIVERING HIGH-PERFORMING PROGRAMS AND SERVICES
effectively and on time

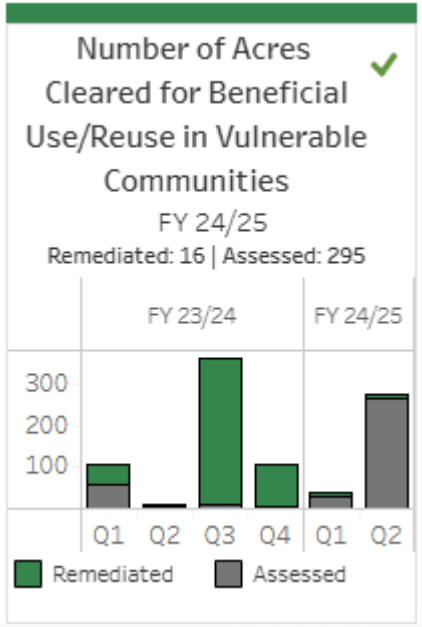
GOAL 4:
ENHANCING OUR ORGANIZATIONAL HEALTH
so we are more productive and accountable

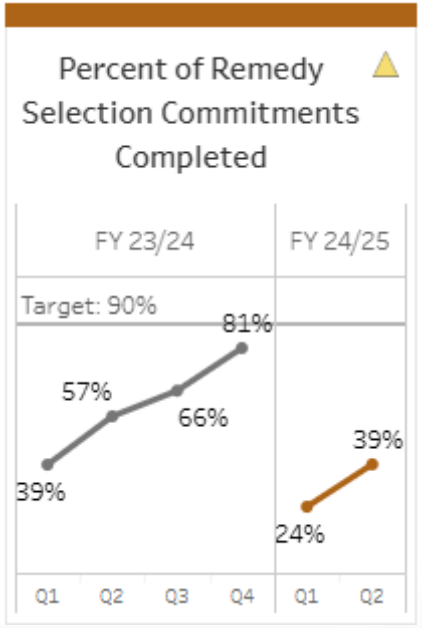
GOAL 5:
IMPROVING OUR FISCAL STEWARDSHIP
through greater transparency, fortified by secure and reliable funding

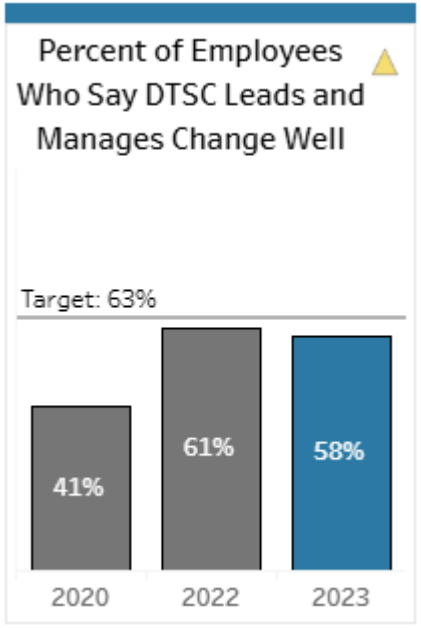
- See our results on the Strategic Plan Dashboard: https://dtsc.ca.gov/strategic-plan-dashboard/
- Currently embarking on new strategic planning process to set priorities for 2025 and beyond

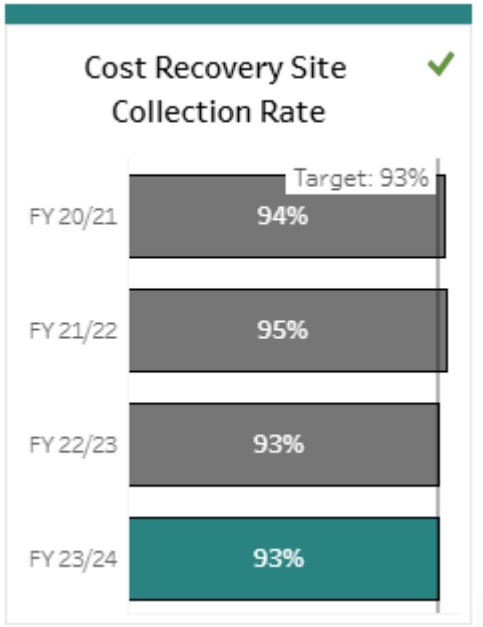
2020-2024 Strategic Plan Refresh











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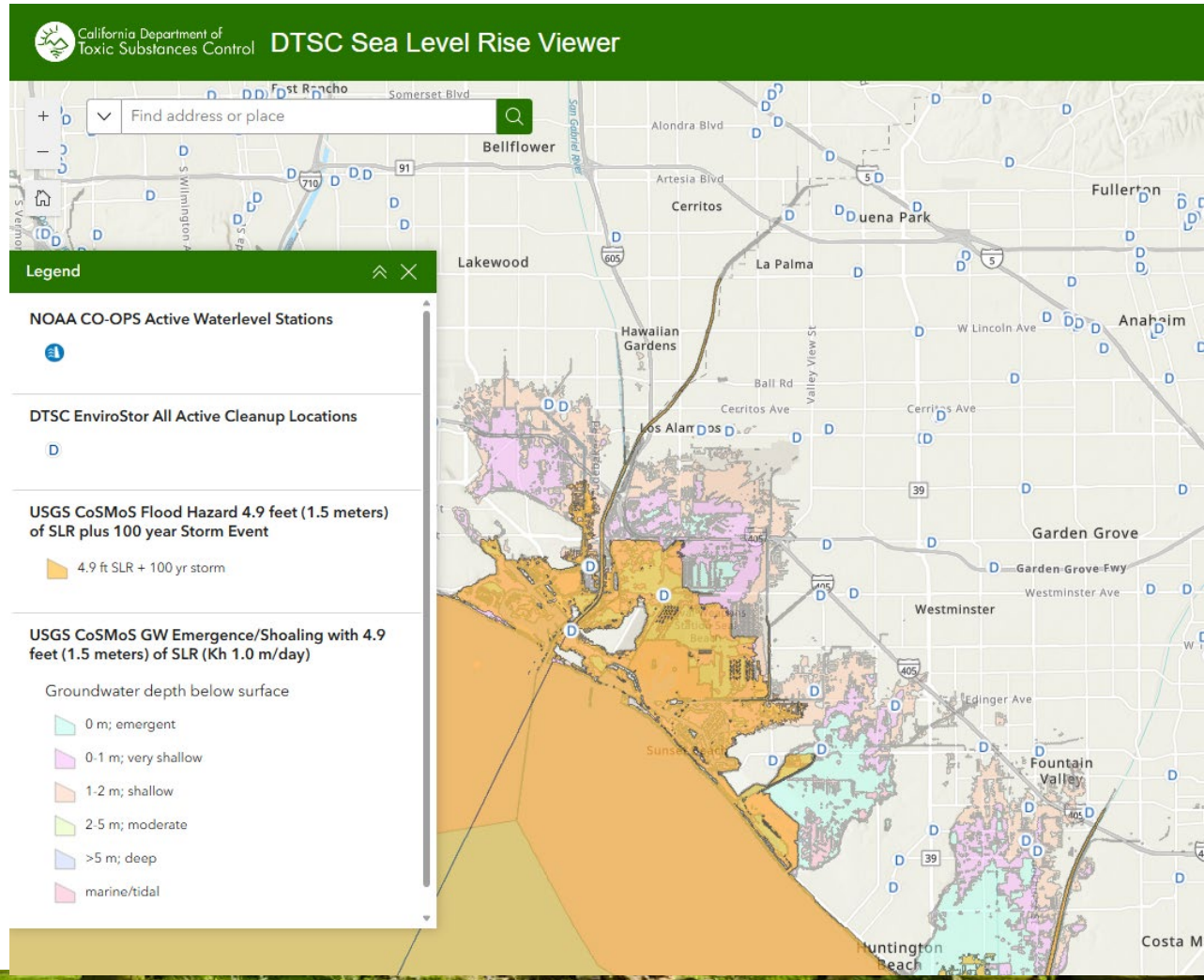
Sea Level Rise Guidance

- Finalized October 2024
- Requiring Sea Level Rise Vulnerability Assessments at key milestones including 5-year reviews
- Online Sea Level Rise viewer
- https://dtsc.ca.gov/climate-change/



Decision Memo

- Internal change in how project managers relate to the Engineers, Geologists, Toxicologists and other specialists
- Building multi-disciplinary teams earlier in the process
- Combining comments into a single letter with approval by all appropriate specialists
- Dispute Resolution

New VI Memos

- Three internal memos for DTSC staff
  - Commitment to CalEPA VI Guidance
  - Guidance for new Johnson & Ettinger Model
  - Use of Empirical Vapor Intrusion Studies
- More memos in the works!
- Commitment to training staff, documenting processes, and rebuilding institutional knowledge

Enforcement Focus

- Enforcement First – Identify all potentially responsible parties up front
- Drafting an enforcement policy
- Understand agreements and orders
  - Voluntary Agreements
  - Various types of Orders
- Understand Consequences

Goal is compliance: restoring properties to protect human health and the environment

Possible Future Priorities

- Polluter pays – Stronger focus on using our regulatory tools correctly, find responsible parties earlier
- Clean up our backlog – Increase response times for document reviews and recovering outstanding cost recovery costs
- Playing the long game – Long term O&M burdens our staff, regulated parties, and communities; look for opportunities for real exit strategies

Questions?

- Cheryl Prowell, PE
  Assistant Deputy Director
  Cheryl.Prowell@dtsc.ca.gov

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No Guesswork

The Questions That Drive DTSC Voluntary Agreement Approvals

March 2025

Mission and Vision

Office of Brownfields Mission

Creating an innovative brownfield infrastructure within DTSC that fosters effective, consistent and safe science-based decision making throughout the state and supporting entities who proactively seek regulatory oversight to reduce environmental uncertainties and reuse land in a safe and protective manner.

Office of Brownfields Vision

A California where DTSC's tools, resources and relationships have created a safer environment for all our communities by increasing the capacity of nonprofits, public entities, Tribes and private organizations to recycle land, create vibrant community spaces and provide equal access to environmental justice for all.

What is DTSC Looking For?

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Identification

What are the contaminants of concern and what media are affected?

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Delineation

How deep and widespread is the contamination?

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Source

What are the on and off-site sources of contamination?

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Risk

How are people on the site being exposed and are they safe?

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Risk

What ecological receptors are being exposed and are they safe?

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Off-site Impacts

Has contamination migrated and is it impacting neighbors?

Community Engagement

How will you help people understand what you are doing in their community?

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Collaboration

How can we work together to achieve health, safety, and reuse?

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Long-term Protection

How will the site continue to remain safe and protective in perpetuity?

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Solutions

What needs to be done to address the contamination source and make sure that exposure is eliminated or mitigated?

DTSC's Process

Decision timeline Key Performance Indicators (KPIs):

Workplans = 75 days

Reports = 100 days

Cleanup Plans = 150 days

DTSC's Quick Reference Guides

Scoping Meeting (QRG)

1. Project Objectives
2. Schedule and Funding Needs
3. Property History
4. Property Details
5. Data Quality Objectives and Remedial Action Objectives
6. Risk Assessment
7. Conceptual Site Model (CSM)
8. California Environmental Quality Act (CEQA) Requirements
9. Public Participation Requirements
10. Project Schedule
11. Available Resources
12. Exit Strategy and Closure
13. Action Items

DTSC's Voluntary Agreements - Scoping Meeting Quick Reference Guide

The purpose of an initial scoping meeting is for the California Department of Toxic Substances Control (DTSC), the party with whom DTSC is entering into an agreement (Proponent), and the Proponent's environmental consultant to discuss project objectives.

The following elements may be addressed during the scoping meeting:

- **Project Objectives**: Redevelopment plans, real estate transactions, environmental conditions, etc.
- **Schedule and Funding Needs**: Proponent's deadlines that may be affected by assessment, investigation, or cleanup of the property.
- **Property History**: Ownership, historic operations and land use; chemical use; regulatory status; permits; prior assessments; investigations; cleanup or mitigation; etc.
- **Property Details**: Size, location, geology, lithology, hydrogeology; known/potential hazardous substance releases; areas of concern; contaminants of concern; historic sampling locations and results; data gaps; risk assessments; off-site concerns; etc.
- **Data Quality Objectives and Remedial Action Objectives**: Discussion of data quality objectives to ensure that appropriate data of sufficient quality is collected to facilitate decision-making; discussion of potential cleanup goals and objectives.

- **Risk Assessment**: Evaluation of the use of published screening levels or site-specific risk assessments, risk management, and risk communication strategies.
- **Conceptual Site Model (CSM):** Discussion of the relationship between contaminant sources and receptors through migration and exposure paths. Helps identify data gaps and focus data collection efforts. Updated as new information is collected throughout the project.
- **California Environmental Quality Act (CEQA) requirements**: Identification of existing CEQA documents and project requirements and how to integrate CEQA needs within the overall project.
- **Public Participation Requirements**: Discussion of previous outreach activities, public/tribal interest, and current perceptions in the community, as well as DTSC's community involvement and public outreach process, methods, and schedule.
- **Project Schedule**: Agreed-upon submittal and review dates and timelines for Work Plans and other key documents; development of optimal sequencing of activities to efficiently reach project goals.
- **Available Resources**: Policies and procedures; sample documents, checklists, and other resources available.
- **Exit Strategy and Closure**: Proposed future land use; property acquisition and construction dates; funding limitations or requirements; approval for site occupancy, etc. to ensure alignment of stakeholder and DTSC goals.
- **Action Items:** Proponent or environmental consultant should provide action items to DTSC for review and concurrence, or the DTSC Project Manager may elect to prepare a meeting summary to document key decisions.

Some considerations when bringing projects to DTSC…

- Water Boards and DTSC decide the lead agency
- Will takes sites with minimal environmental data to late-stage investigations
- **Will not take sites with cleanups conducted w/o regulatory oversight**
- 12 -18 month++ minimum timeline for environmental activities
- For Low-Income Housing Tax Credit users – come to us as early as possible
- Various agreement options, some with liability relief

What are we looking for in investigations?

- Source identification
- Lateral and vertical delineation to levels that are not considered a health risk
  - VI: At least two rounds of sampling
  - VI: Site-specific AF may be considered when site is fully delineated and supported by a robust MLoE evaluation
  - VI: If the MLoE is not approved, AF of 0.03 will likely be used for delineation and cleanup decisions
- Evaluate impacts to soil
- Evaluate soil gas
- Evaluate potential of indoor air risk
- Evaluate impacts to groundwater
- Collect sufficient data to evaluate risk

Vapor Intrusion = VI

Attenuation Factor = AF

Multiple Lines of Evidence = MLoE

When do we ask for off-site investigation?

- When data indicates that contamination from the site may have migrated offsite
  - Data from perimeter
- Levels that have the potential to impact offsite receptors
- Complications with vapor contaminated sites
  - May need indoor air samples from adjacent buildings
- We recognize that access is an issue
  - Perimeter samples
  - Right of way
- For CLRRA+PPA, consider enforcement actions for RPs

What if you think your site is not the source?

- Limited resources for area-wide discovery studies
- Operational history unequivocally determines no use of contaminant
- Site data; vertical and lateral delineation
- Perimeter data
- May require long term monitoring to ensure ongoing safety
- Upon approval; may not need off-site impact evaluation

What do we need for investigation workplans?

- Ask your PM for a recently approved workplan
- Conceptual Site Model (CSM)
- Sample rationale table
  - Media
  - Analytical method(s)
  - Purpose of sample (delineation, risk evaluation, etc.)

The big question we ask ourselves when reviewing:

- If data collected is non-detect (ND) or below screening levels, will DTSC be comfortable issuing a No Further Action letter
- If not
  - Why?
  - What data we need to get to a potential NFA in single mobilization?

What do we need for investigation reports?

- Conceptual site model update
- Recommendations to continue/complete characterization
- Risk evaluation to support characterization is complete both on and off-site
- Table that includes media, contaminants or contaminated group,

California Land Reuse and Revitalization Act Agreement (CLRRA) reports must meet the statutory criteria and include their citations

When are we done with the investigation?

- Delineate to non-detectable levels
- Delineate to levels that are not a risk
- Enough data to make decisions that:
  - On site source does not exist
  - On site source is delineated
  - Enough data to determine that on site sources have impact off site areas
    - Offsite delineation
- What could that mean? (HERO Note 3)
  - $1x10^{-6}$ to $1x10^{-4}$ risk
  - Lead: 80 mg/kg
  - Arsenic: Background 0.6 –11 mg/kg
  - PCBs: 0.23 -1 ppm or as directed by USEPA

When are we done with the investigation?

- Identify all (or lack of) on-Site Sources
- Delineate to non-detectable levels
- Delineate to levels that are below risk targets (HERO Note 3)
- Delineate to other screening levels
- Delineate to background levels
- Contaminants are regulated by other agencies (PCBs)

- Investigation should include both on-Site and off-Site locations

When will we ask for a cleanup?

- Cleanup is needed when the risk is over the risk management range
- Cleanup Plan must specifically describe all media and chemicals of concern addressed and not addressed

California Land Reuse and Revitalization Act Agreement (CLRRA) must comply with the statutory requirements and include citations

What is a Community Considerate Cleanup (C3)?

A cleanup designed through the lens of the people who live, work, play, and learn in the community where the cleanup will take place, and the community where the waste might be taken for treatment and/or disposal.

Community Considerate Cleanup Plan Alternative Evaluation

A cleanup that doesn't require engineering or administrative controls

Long-term management of any waste left in place to ensure safety

What do we all prefer for the place we live?

Destroy contamination in-place without environmental or health impacts.

Avoid moving contamination from one neighborhood to another

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How do you design a Community Considerate Cleanup Plan?

Share cleanup details with community in an audience-driven manner

Provide information useful to the community in cleanup plans

Plain language section to clearly describe how the cleanup impacts community members - **Community Considerations in the Cleanup**

Allows active engagement with the community

Share expertise, proactively and interactively

Question:

Will a community member understand what's going on in their neighborhood?

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Community Considerate Cleanup Encouraging Use of Technologies

- Technologies may more completely and efficiently address contaminants
- Stay up to date on emerging technology
- Consider technologies that may deliver more "complete" cleanups
- Where suitable, pilot studies of new technology should be encouraged.
- Refer to existing technology screening matrices

Community Considerate Cleanup - Evaluating Alternatives

Cleaning up to unrestricted use and unlimited exposure levels is a priority

If not, establish protective, long-term management through engineering and administrative controls

Include full cost of continuing obligations

Prioritizing active cleanup, even when some engineering or administrative control is required

Articulating impacts a 'no-action' alternative would have on the community

Green and sustainable cleanup approaches

Evaluate excavation and disposal impacts from a community perspective

Community Considerations in the Cleanup

Plain language executive summary in the cleanup plan to answer key questions

Questions will very from community

Consult with your public participation specialist to develop the best topics

Example questions:

- **Why is the cleanup necessary and how will it be done?**
- **What safety measures will take place during the cleanup?**
- **What will happen after the cleanup?**
- **How can people provide input on decisions?**
- **Is drinking water safe?**
- **Is the air in my house and my neighborhood safe?**

Community Considerate Cleanup Plan – Public Participation

Pre-cleanup plan activities

Standard cleanup plan requirements

Community Considerations in the Cleanup section

- Designed using information from pre-cleanup plan engagement work
- Update based on public comments

Adjust Cleanup Plan based on comments/questions

Reframe "Response to Comments" with:

- Community Feedback Report
- How your feedback influenced us
- Changes in cleanup plan in response
- Adjusting questions in C3 section
- Use Spectrum of Public Participation

+~8-16 hours

Pre-Engagement

- Site walk
  - Who is in the community
  - Tribes who may interested
  - Line of sight
- City Planning and Comms Office
- Community Based Organizations
- Engage the community by:
  - Speak with neighbors
  - Contacting religious institutions
  - Attend HOA meetings
  - Visiting senior centers
- City council meetings
- Assess views on reuse
- Social media platforms
- Mailing list
- Ask if a public meeting is desired

Engagement for Cleanup Plan

- Community Survey
- Community Profile
- Fact Sheet mailed
- Public comment period
- Public Notice posted
- Public meeting, if needed
- Response to Comments

What does "No Further Action" mean?

- No more investigation or cleanup needed
  - Safe for any reuse, environmental concerns resolved
- No more investigation or cleanup needed:
  - Safe if only used for commercial or industrial purposes
  - Safe if an engineering control, like a vapor barrier, is maintained
  - Safe if special conditions are met
- May be media specific
- Conditional NFAs require long term stewardship

What is long term stewardship?

When waste not fully removed:

- Operation and Maintenance Plan and Agreements
  - Ensures long-term protection
- Financial Assurance
  - Set aside of funds calculated by DTSC engineers
  - Ensures financial resources for operation and maintenance
  - Currently being updated
- Land Use Covenants
  - Used when exposure controlled through defined restrictions
  - Only property owners can sign
  - Requires annual inspections and reporting

Questions?

Maryam.Tasnif-Abbasi@dtsc.ca.gov