

Discussion of Email Response for the Independent Review Panel
by Director Barbara Lee, January 13, 2016

At the Independent Review Panel meeting on December 9th, the Panel heard about racist emails between two DTSC employees. These emails were bigoted, discriminatory and derogatory, and I found them extremely offensive. I made a brief statement to your Panel at that meeting, and today I want to provide you with some more information about what happened and what we did.

The remarks in these emails were uncovered last spring as we prepared to respond to a Public Records Act request. The request evolved over time, from more technical in nature to focus on the actions of specific employees. While the Department twice produced materials in response to the request, the request for emails between these employees was withdrawn while we were reviewing the records.

When these offensive emails were uncovered, I was informed and ordered an investigation. As you saw earlier today, the Department has its own legal office, human resources, and an Office of Civil Rights. A team with individuals from each of these offices investigated the individuals responsible. We also sought outside review by the Attorney General's Office, which undertook their own investigation of the employees involved on the appropriate disciplinary action as well as a broader look at the culture in the regional office where these two employees work.

Based on that investigation, we took disciplinary actions against the two responsible individuals. The actions were calculated to prevent any recurrence of the behavior and the individuals have been transferred out of the assignments they formerly held. Like all state employees, these employees are protected by the constitutional right to privacy, and accordingly I will not be discussing the details of their personnel matters. I also cannot open these decisions for re-evaluation.

Instead, I would like to discuss what the Department has done and is doing to maximize transparency on these offensive emails. Then, I will review the actions DTSC is taking to strengthen our commitment to supporting diversity and fostering cross-cultural understanding.

In October, DTSC received a new Public Records Act request from a different individual, this time specifically requesting racist emails between the two employees we had disciplined. We produced the emails, and those emails were the subject of the letter read to you in December.

Later in December, we received another Public Records Act request for the documents reviewed in our investigation, including emails. We provided the first set of emails at the end of December. The Department reviewed over 50,000 emails as part of our investigation, of which about 90 were offensive or otherwise inappropriate. Prior to releasing these emails, we review each one to make sure that they don't contain information subject to attorney-client privilege, or protected information such as social security numbers, etc. This review takes time. In the first release, we included the derogatory emails as well more than 3,300 other pages of emails.

At my direction, we redacted personally identifying information for each of the subjects of the derogatory emails to spare those individuals added pain or humiliation – however I reached out to each

one of them and offered to provide them with the un-redacted version of the email in which they were mentioned, for them to review and do with as they see fit. I also offered to talk with them about what happened. Many have asked to see the emails about themselves, and I have spoken with a number of these people as well.

We expect to produce the next batch of about 10,000 emails late next week.

There are a number of other steps I have taken in response to these emails, and that's what I'd like to take a few minutes to discuss now.

As I have said before, the comments made by these two employees are unacceptable, violate state and departmental policies, and do not reflect the behavior I expect of our staff and management. At our quarterly All-Staff meeting last August, I talked to staff about the concerns and complaints that community members conveyed to me over the course of the prior eight months, and that were voiced by a number of them at my confirmation hearing. I encouraged staff to view the recording of that hearing, and be prepared to engage with me on addressing those issues. I also spoke about my vision of Environmental Justice and why it is a fundamental part of my vision for the Department. Addressing the concerns of community members and achieving our Environmental Justice goals depends on open communication, and bringing our best selves to our work. I led this All Staff meeting from the regional office where these two employees work. I said clearly and directly to the staff in that office and to the entire Department that my expectation is that we treat all people with respect and professionalism at all times.

This is a message I have reinforced verbally and in writing with staff repeatedly over the last few months. In December, I also sent a video message to the entire Department underscoring the conduct I expect. In it, I urged staff to be active in promoting a culture of professionalism and respect amongst themselves and with the public we serve, and I asked them not to ignore disrespect when they see it.

I and my leadership team are committed to fostering a professional, respectful and collaborative workplace, and to actively support diversity and cultural understanding amongst all employees. We have begun implementing proactive human resources strategies to embrace a culturally diverse workforce in service to California, one of our nation's most diverse states, with the following actions:

- DTSC is developing an all-staff survey to: determine the current level of awareness among staff regarding the benefits of a diverse and culturally rich workforce and society; identify perceived strengths and weaknesses in the Department's culture; and solicit suggestions for opportunities to strengthen the cultural fabric within the Department.
- We are creating a cross functional, multi-cultural, multi-level task group to assess strengths and weaknesses in attitudes and interpersonal engagement throughout the Department. The group will identify opportunities to support diversity as well as foster intercultural and cross-cultural understanding within the organization, and in our engagement with the public. The task group will include representation from all levels of the Department from the Executive Office to line staff, including:

- Assistant Director for Environmental Justice, Ana Mascarenas,
 - Deputy Director of the Safer Products and Workplaces Program, Dr. Meredith Williams,
 - Chief Deputy Director, Francesca Negri,
 - 2 Division Chiefs, 2 Branch Chiefs, and 2 Supervisors,
 - At least one staff member from each Regional Office
- DTSC has reached out to the California Department of Human Resources, the University of California at Davis and Sacramento State University, to get additional assistance. We will contract with outside experts, have them review how the Department handles important diversity issues, and recommend approaches to strengthen the DTSC's commitment to supporting diversity and fostering cross-cultural understanding.
 - The Department will also update its diversity training to ensure it is responsive to stakeholder expectations – the Department is currently reviewing training materials used elsewhere in the State, and will be looking at best practices across the country. The DTSC Equal Employment Opportunity Office & Office of Civil Rights will be incorporating information and feedback obtained through all of the above actions to update the department's training modules.

As we move through this internally facing process, we also plan to incorporate input from outside the department to better address cultural diversity in our engagement with the people we serve. This will include:

- Leveraging the stakeholder surveys and analysis performed under our contract with UC Davis for our Public Participation Modernization project.
- Expanding opportunities for those outside the Department to offer feedback about their experience interacting with us, for example with enhanced feedback forms at public meetings or workshops.
- Soliciting input from external stakeholders as we develop our solutions and strategies.
- Incorporating mechanisms to ensure ongoing feedback as we implement the solutions and strategies to help us gauge their effectiveness.

After the solutions and strategies have been identified we will develop or amend conduct-related policies as needed. These policies were all updated in the last two years, but the Department is committed to revising policies as needed to ensure they reflect and support our mission and values. When these policies are updated, each staff member is required to review the new policies and provide a signed acknowledgement this has been done.

I look forward to sharing our progress in this effort with the Independent Review Panel and welcome your ideas and recommendations to ensure its success.