
Independent Review Panel

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Gideon Kracov, J.D., *Chair*
Mike Vizzier, *Vice Chair*
Dr. Arezoo Campbell, *Member*



Edmund G. Brown Jr.
Governor

Independent Review Panel Meeting Minutes September 21, 2016

1. Call to Order

Chair Gideon Kracov called the meeting to order at 5:41 p.m. at Commerce City Hall, 2535 Commerce Way, Commerce, CA 90040.

Panel members present: Chair Kracov, Vice Chair Mike Vizzier, and Panel Member Arezoo Campbell. A quorum was declared.

2. Welcome and Introductions

Chair Kracov introduced himself and asked the following individuals to introduce themselves: IRP members; IRP's legal counsel for the meeting, Deputy Attorney General Helen Arens; IRP Program Analyst Larry Rohlfs; and IRP Office Technician Mike Singh.

Chair Kracov led the Panel in the Pledge of Allegiance.

Chair Kracov explained that the primary purpose of the meeting was to listen to, and learn from, the community in connection with the IRP's review of DTSC programs and recommendations to improve those programs, especially the Department's public outreach and public participation activities.

Mr. Rohlfs gave a presentation on the Independent Review Panel. A PowerPoint version of the presentation is available on the IRP website at:

http://www.dtsc.ca.gov/GetInvolved/ReviewPanel/IRP_supporting.cfm.

3. Announcements

Chair Kracov noted that there would be no video webcast of the meeting, but that there would be an audio webcast. He also noted that the IRP would be offering spontaneous translation of the meeting into Spanish, and he asked the translators to let the audience know in Spanish that they were available for this service.

Chair Kracov recognized the following individuals in attendance: state Legislative staff members, DTSC leadership, local public officials, and representatives of several community and other organizations.

Marie Liu of Assembly Speaker Anthony Rendon's policy team thanked the IRP for listening to communities affected by toxic substance contamination and for the Panel's work to date. She added that the Legislature is looking at the IRP's recommendations very closely.

4. Agenda Review

Chair Kracov said that the majority of the meeting would be devoted to Agenda Item 6, General Public Comment.

5. Minutes of August 10, 2016 Meeting

The IRP did not take up this agenda item, as it approved the minutes of the August 10, 2016 meeting at another meeting in Jurupa Valley earlier that day.

6. General Public Comment

Father John Moretta of Resurrection Church in Los Angeles said DTSC was making great strides in educating the community. However, he had two concerns. One was that the Department decided not to clean up easements/parkways near the Exide site. The other concern was that one of the remediation companies was only using one burner to dry the soil in places and that the cleanup process consequently was proceeding too slowly. He complimented DTSC for listening to the community, but expressed some frustration at the pace and scope of the cleanup.

Chair Kracov asked Father Moretta his opinion of DTSC's public outreach. Father Moretta responded that it was sometimes frustrating when the Department changes meeting dates.

Cynthia Babich of the Del Amo Action Committee pointed out that DTSC was making a positive difference with recent changes, such as hiring people from the community to work on the Exide cleanup. Ms. Babich said she liked the employees that DTSC had recently hired, but wondered if their enthusiasm would be stifled by the people above them on the DTSC staff. She suggested the creation of an oversight body for communities to go to if they have a problem with the Department.

Chair Kracov asked Ms. Babich if she had experience working with DTSC's Public Participation Manual. Ms. Babich responded that she was not familiar with it, but said that as a community person, she likes to consult such resources to find out what public agency personnel are supposed to be doing.

Mark Lopez of East Yard Communities for Environmental Justice said turnover on the DTSC staff has been an issue and that the orientation of new staff members should include community engagement. He said it would be a good idea to have communities give input into what the DTSC Public Participation Manual looks like. He said that in the past DTSC handled public participation like public relations, with an emphasis on image control. As an example, he said DTSC blamed slow movement on the Exide cleanup on the CEQA process. He said there are things that could be done on the Exide cleanup while the CEQA process was unfolding. He said he would like the public participation staff to come from outside the Department, as was the case with DTSC Assistant Director for Environmental Justice Ana Mascareñas. He said sampling protocols should be examined and that DTSC should not use composite sampling. He said the community often wonders why DTSC sends so many people from Sacramento and local offices to community meetings, especially when they aren't ready to address issues. He said this conveyed a defensive posture. He said that perhaps

the staff did not know answers or had to clear the answers with management. He said it would be appropriate for the IRP to ask CalEPA to do a full investigation of the DTSC, especially on its handling of the Exide issue. He said DTSC should come to an Exide Advisory Group meeting to defend its decision to limit the Exide cleanup to a 1.7-mile radius of the facility. He said DTSC had not acknowledged its past mistakes regarding Exide and that doing so was essential to genuinely engage with the community.

In response to a question from Vice Chair Vizzier, Mr. Lopez said he wanted DTSC to assign dedicated staff to the Exide cleanup rather than to multiple projects.

Vice Chair Vizzier asked Mr. Lopez if he had witnessed DTSC progress in moving from a public relations approach to community engagement. Mr. Lopez responded in the affirmative, especially with the newer staff members.

Chair Kracov asked Mr. Lopez his opinion of the proposed creation of an oversight board for DTSC. Mr. Lopez responded that it might increase the chances of accountability.

Chair Kracov asked Mr. Lopez to submit written suggestions on what to do with the Exide kettles and how to improve DTSC's public outreach.

Mr. Lopez added that inter-agency communication/cooperation was an issue.

Vice Chair Vizzier suggested that, in lieu of an oversight board, representatives from various CalEPA entities could be made available to speak to impacted communities such as the Exide community.

Jane Williams of California Communities Against Toxics said DTSC has continued to allow certain polluters to continue operating because their businesses are regarded as essential. She said DTSC has no architecture for public involvement and that its public participation staff was not an integral part of the department's decision-making process, although they have the hardest jobs in the department.

Chair Kracov asked Ms. Williams why DTSC should have an oversight board or commission if U.S. EPA does not have a board or commission. Ms. Williams responded that U.S. EPA has a review board and an appeals board. Chair Kracov asked Ms. Williams to provide IRP staff with information on the two U.S. EPA boards.

Chair Kracov noted that the Integrated Waste Management Board was replaced by CalRecycle, which did not have a board. Ms. Williams responded that CalRecycle did not deal with legacy issues, which require more public participation. She explained that most of the testimony the IRP had received to date has been on site mitigation—not permitting, enforcement, etc.

Ms. Williams said DTSC sees itself as a fortress with a moat around it, which puts down a drawbridge to certain groups every once and a while. She also said that public involvement staff members should reflect the communities in which they are working.

Panel Member Campbell mentioned that she had suggested recommending the addition of more public participation staff, but that some members of the public have commented that adding staff would not help. Ms. Williams responded that, in general, more staff are not needed and that the emphasis instead should be on skill sets. However, she agreed that perhaps the IRP should recommend that large sites like Exide have more than one public participation staff member assigned to them.

Chair Kracov adjourned the meeting for a break at 7:40 p.m. and reconvened it at 7:48 p.m.

Lisa Lappin of the Teachers Union of Paramount and People's Senate said she was a teacher who watched a student die and people get sick near Carleton Forge Works in Paramount. She said hexavalent chromium has been found within 200 feet of the facility, and there were many investigations into the contamination, but nothing was getting done. She said she perceived a lack of communication between regulatory agencies and that no agency was in charge. She said she would like DTSC to be the lead agency. She said that the company doing the testing should not be paid by the polluter, as that was a conflict of interest. She complained that there has only been one community workshop and said there should be more public participation.

Chair Kracov noted that the DTSC response to the People's Senate 2015 site-specific benchmarks, submitted to the IRP the previous day, has some information on the Carleton Forge Works site.

Hugo Lojan of East Yard Communities for Environmental Justice said he asked residents in the vicinity of the Exide facility their opinions of DTSC, and that they had many criticisms. He said the community felt that there was no sense of urgency, common sense, clear communication, commitment to deadlines, racial fairness, or sufficient funding. He said DTSC staff members seemed to have their hearts in the right place, but didn't seem to know the answers to questions, and that the Department did not give community engagement a high enough priority. However, he said that training people in the community to do soil testing was a response to community requests and a very positive step. He also said that Pods, which he defined as local DTSC offices with a dedicated staff, were a good idea.

Diane Hughes, a Commerce resident, said she was very angry when she learned about the contamination on her property and that a government agency allowed Exide to operate on an expired permit for many years. She said that other residents were not at the IRP meeting because of the way they have been treated. She said it is very disconcerting to know that the Department that was responsible for regulating the facility was also responsible for the cleanup and spending the new money on it. She said she was frustrated by answers to questions from Director Barbara Lee and Department staff in general. She said that residents are getting their information by word of mouth, not DTSC, and that they need help in understanding and interpreting contamination test sampling results. She suggested the IRP recommend that DTSC assign appropriately skilled personnel to help residents understand the reports. She said the community needs Department representatives who are knowledgeable, respectful, trustworthy, and genuine. She concluded by saying that it is a terrible feeling to view your own home as contaminated by toxics.

Ms. Hughes complimented Cesar Campos, a DTSC community affairs management supervisor in the Chatsworth office, for being very helpful in answering her questions. She explained that Rep. Lucille Roybal-Allard's office had put her in touch with Mr. Campos.

Tim Chauvel, a DTSC public participation specialist since 2000, said the IRP is only hearing from the management level of Department staff. He said that lower-level public participation staff members had a lot of responsibility and were multi-tasking all the time, but had no authority. He said there was a perception that they were not doing their jobs, but they did not have the resources to do their jobs properly. For example, there was no money for training new staff. He said other staff members would come forward with similar concerns, but were fearful of losing their jobs.

7. Chair's Report

There was no Chair's Report.

8. Staff Report

There was no Staff report.

9. IRP Reporting Requirements

Chair Kracov suggested that Panel members bring up themes and recommendations for the next progress report to the Governor and the Legislature due on October 24, 2016.

Vice Chair Vizzier suggested that the Pod concept may be an effective way for the DTSC to regain community confidence. He said that if a community develops a relationship with a staff member, and they see that person again and again, the result should be trust. However, DTSC does not have the resources to dedicate a staff member to every site, and as a result of crisis management, staff members are necessarily pulled away from their community relationships to other projects. He said he was not sure how to address this problem, since human resources are limited.

Panel Member Campbell added that the IRP recommend that DTSC assign committed individuals to complex sites and establish a crisis management team.

Vice Chair Vizzier said that a multi-agency group talking to communities would be very beneficial, assuming it included the right people from each agency, since people in communities don't like to be told that "it isn't my job."

Panel Member Campbell said she would hold off on mentioning additional themes and recommendations because she would be writing the draft report.

Chair Kracov said he would like to better understand the differences between work groups and Community Advisory Groups (CAGs) and learn more about their best practices. He asked Mr. Rohlfs to reach out to the CAGs and try to find out what makes them functional or dysfunctional.

Chair Kracov said the report should acknowledge that it is hearing about the value of recent DTSC hires, that many of them are from the communities, and that they are trying to make a difference.

Panel Member Campbell said the report should recognize that DTSC is working on a staff survey to learn more about the cultural awareness of its employees.

Chair Kracov said the report should say that the Department is perceived by some to be insular. He said this is a challenge the DTSC needs to overcome.

Chair Kracov said the report should say that assigning dedicated staff to the most difficult sites is valuable.

Chair Kracov said the report should mention the need to have bilingual folks in public participation.

Chair Kracov said the report should acknowledge that Exide is a huge challenge, but also that it is an opportunity for DTSC to learn about state-of-the-art public participation practices.

Chair Kracov said the report should mention that DTSC has trouble sticking to its timelines, that this undermines trust, and that the Department needs to stick to timelines or set realistic deadlines.

Chair Kracov said the report should mention that the Panel heard very positive things about the Workforce for Environmental Restoration in Communities program at Exide, although the program was still in its infancy.

Chair Kracov suggested that the report include requests for another DTSC report on what is going on with the Exide cleanup and a report on public outreach staff turnover.

Chair Kracov said the report should mention that the IRP has heard universal support for the recent decision to separate the Office of Public Participation from DTSC's communications function.

IRP members agreed that the next report should focus on a small number of recommendations.

10. Organizational, Operational, and Administrative Matters

The IRP did not take up this agenda item.

11. Future Meeting Schedule and Agenda Items

Chair Kracov announced that the next meeting would take place in Sacramento on October 14.

The Panel agreed to submit an information request to the DTSC for a report by the next IRP meeting or a presentation at the October 14 meeting on how the Department evaluates the results of its public outreach.

Chair Kracov also announced that the IRP would be holding a meeting on November 16 at the state Capitol to talk about the annual recommendations that it is required to submit at the time of the submission of the Governor's next annual budget to the Legislature. He also said that the IRP would be inviting the Governor's Office and members of the Legislature to participate in this meeting.

12. Closed Session

There was no closed session.

13. Reconvene and Report on Closed Session

There was no closed session.

14. Adjournment

Motion: Adjourn meeting. Vice Chair Vizzier moved. Panel Member Campbell seconded. The motion carried unanimously.

Chair Kracov adjourned the meeting at 9:25 p.m.