

# **GREENACTION**

*For Health & Environmental Justice*

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## APPEAL OF TEMPORARY AUTHORIZATION OF CLASS 3 PERMIT MODIFICATION FOR CHEMICAL WASTE MANAGEMENT'S KETTLEMAN HILLS FACILITY

Greenaction for Health and Environmental Justice, El Pueblo Para El Aire y Agua Limpio/People for Clean Air and Water, and Kids Protecting Our Planet file this appeal of the "Temporary Authorization" of a Class 3 Permit Modification issued by DTSC for the Chemical Waste Management Kettleman Hills Facility.

We challenge this "Temporary Authorization" as it violates DTSC/Cal EPA's environmental justice policies and civil rights laws. These violations resulted from (1) DTSC's failure to provide public comment opportunities to the public, especially to the low-income people of color residents of Kettleman City and Avenal who live closest to the hazardous waste facility and are most directly impacted by the facility, and (2) the continued dumping of hazardous wastes at this facility made possible by this decision.

DTSC's failure to provide an opportunity for public comment violates DTSC/Cal EPA's own environmental justice policies. DTSC and Cal EPA have a stated commitment to environmental justice and a mandate not to take actions that have a discriminatory or disproportionate impact on low-income people of color. There is no reason that at least some opportunity for public participation in this decision could have been made available.

DTSC's approval of the requested modification without public comment opportunities has a disproportionate and discriminatory impact on the low-income people of color residents, and therefore is illegal under state and federal civil rights laws.

The discriminatory and disproportionate impact of this decision includes the exclusion of residents from decision-making processes about this facility that poses a threat to public health. The Chemical Waste Management facility is the largest hazardous waste landfill in the western

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United States, and government decision-making regarding this facility has a several decade-long and well-documented history of systemic and de facto exclusion of residents from meaningful participation in permit and regulatory decisions. DTSC is well aware of this ongoing problem and concern, yet chose to issue a Temporary Authorization without any public input.

Adding insult to injury, DTSC announced the decision in the midst of at least other three permit tracks for this facility taking place at the exact same time – resulting in confusion in the community and limiting the ability of residents to challenge this decision. In fact, the issuance of a Temporary Authorization was believed by some residents to be the permit decision for the proposed hazardous waste dump expansion.

In addition, this Temporary Authorization was approved by DTSC without the agency investigating the large birth defect cluster that has been discovered in Kettleman City and brought to the DTSC's attention. Unless and until DTSC or another appropriate, impartial agency investigates these birth defects and can conclude there is absolutely no connection to the ongoing dumping of hazardous wastes or trucking of these wastes to the facility, no new permits should be issued to Chem Waste.

Submitted,

//original signed by//

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