

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

1)	Docket No.
2)	
3)	
4	In the Matter of:)	
5	Aerially Deposited Lead Contaminated Soils in)	Soil Management Agreement for Aerially
6	State Highway Rights-of-Way)	Deposited Lead-Contaminated Soils
7	Project Proponent:)	
8	California Department of Transportation)	Health and Safety Code
9	Division of Environmental Analysis)	Section 25187(b)(5)
10	California Department of Transportation)	
11	P.O. Box 94284, MS-27)	
12	Sacramento, California 94723-0001)	

I. INTRODUCTION

1.1 Parties. The California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) enters into this Soil Management for Aerially Deposited Lead-Contaminated Soils Agreement (Agreement) with the California Department of Transportation (Caltrans).

1.2 Jurisdiction. This Agreement is entered into by DTSC and Caltrans pursuant to Health and Safety Code (H&SC) section 25187(b)(5), as Caltrans may generate ADL-contaminated soil in the course of future activities for State highway projects.

1.3 Purpose. This Agreement applies to the future management of aerially deposited lead (ADL)-contaminated soil generated by Caltrans in the course of State highway projects, in all Caltrans districts, statewide. The future management activities to which this Agreement generally applies are the excavation, stockpiling, disposal, tracking, transportation and final placement of ADL-contaminated soil. Subject to Section 3.23, this Agreement is not a corrective action order based on Caltrans' past ADL-contaminated soil management practices.

II. BACKGROUND

2.1 History. Refiners in the United States started adding lead compounds to gasoline in the 1920s in order to boost octane levels and improve engine performance by reducing engine 'knock' and allowing higher engine compression. Tailpipe emissions from automobiles using leaded gasoline contained lead and resulted in ADL being deposited in and along roadways throughout the State. The phasedown of lead in gasoline began in 1974 when, under the authority of the Clean Air Act Amendments of 1970, the U.S. Environmental Protection Agency (EPA) introduced rules requiring the use of unleaded gasoline in new cars equipped with catalytic converters. The introduction of catalytic converters for control of hydrocarbon (HC), nitrous oxide (NOx) and carbon monoxide (CO) emissions required that motorists use unleaded gasoline because lead destroys the emissions control capacity of catalytic converters. By the

1 early 1980s gasoline lead levels had declined about 80% as a result of both the
2 regulations and fleet turnover. Beginning in 1992, lead was banned as a fuel additive in
3 California.

4 ADL-contaminated soil still exists along roadsides and medians and can also be found
5 underneath some existing road surfaces due to past construction activities. The highest
6 lead concentrations are usually found within 10 feet of the edge of the pavement and
7 within the top six inches of the soil. In some cases, the lead is as deep as two to three
8 feet below the surface and can extend 20 feet or more from the edge of pavement.
9 Transportation of such soil to hazardous waste landfills challenges the State's limited
10 hazardous waste landfill capacity and increases air pollution due to trucking. The
11 alternative of transporting the soil out of state for disposal is State-resource-intensive,
12 and contrary to Caltrans policy. Caltrans, by managing the soil in accordance with this
13 Agreement, would be reducing hazards, preserving landfill capacity, and reducing the
14 air quality impacts inherent in transporting the soil many miles to landfills, while still
15 protecting human health and the environment.

16 Various lines of evidence indicate the potential for lead leaching into groundwater is low.
17 Most important are soil data collected from actual sites in California where Caltrans has
18 conducted construction operations. Measurements of Partitioning Coefficients (Kd) from
19 595 ADL-contaminated soil samples indicate that lead, while prevalent, is so tightly
20 bound to the soil that it does not pose a serious threat of leaching into the groundwater.
21 The calculated mean Kd of 333 liters per kilogram (L/kg) from northern California soils
22 was the lowest of the groups in the dataset but is still far above the recognized
23 threshold of $K_d = 20$ for chemicals that are considered immobile and not a threat of
24 leaching to groundwater. However, for soil having pH less than 5; the solubility of lead
25 increases greatly.

26 Surface water is protected through implementation of Caltrans Stormwater Management
27 Plan (SWMP) which addresses stormwater pollution control related to Caltrans activities,
28 including planning, design, construction, maintenance, and operation of roadways and
facilities as required in the Caltrans Statewide Storm Water Permit (State Water Resources
Control Board Order 2012-0011-DWQ, as amended by Orders WQ 2014-0006-EXEC, WQ
2014-0077-DWQ & WQ 2015-0036-EXEC). Caltrans submitted a proposed SWMP on
November 23, 2015, which must be approved by the State Water Resources Control Board,
and as specified in the Permit approved terms of the SWMP are fully enforceable by the
State Water Board and nine Regional Water Boards.

23 **2.2 Previous Actions Taken.**

24 In 1995, pursuant to Health and Safety Code 25143, DTSC granted certain Caltrans'
25 districts a Variance from the hazardous waste management requirements to obtain a
26 permit for a disposal facility and any other generator requirements that concern the
27 transportation, manifesting, storage and land disposal of hazardous waste for aerially
28 deposited lead-contaminated soils, as defined in the Variance (Variance). The Variance
substituted alternative management standards which allowed Caltrans road construction
projects to reuse ADL-contaminated soils with hazardous waste levels of lead on project
sites while maintaining protection of human health and the environment. Although the
level of lead found in some areas is higher than that which is considered to be

1 hazardous waste, it was determined that Caltrans could reuse the soil along the
2 freeways and roads under construction without posing an unacceptable risk to human
3 health or the environment. Keeping these soils in defined areas in which people spend
4 little, if any, time prevents contact with the lead.

4 In addition, Caltrans incorporated specifications in its contracts with construction
5 contractors that require contractors to handle hazardous waste level ADL-contaminated
6 soils consistent with the requirements of the Variance. For example, soil found to
7 contain hazardous waste levels of lead is to be kept separate from non-hazardous soil
8 and the contractor takes dust control and security measures to keep people from
9 coming into contact with the soil until it is reused. The hazardous waste level ADL-
10 contaminated soil would stay in place (beneath the road, highway, freeways, or a layer
11 of clean soil, etc.) for the life of the highway. Additional upgrades and widening are
12 much more likely than abandoning old highways. Therefore, the hazardous waste level
13 ADL-contaminated soil would remain secure, and human health and the environment
14 would remain protected long term.

11 DTSC has issued new variances incorporating additional and more protective provisions
12 approximately every five years since the first Variance in 1995. Additional Caltrans'
13 districts were also added over time. The current Variance includes all Caltrans' districts
14 and has been in effect since 2009. In June 2015, DTSC made the decision to transition
15 from a Variance to this Agreement. This Agreement is intended to control Caltrans
16 future activities to manage ADL contaminated soil. Subject to 3.23, this Agreement is
17 not a corrective action order based on any specific incidents of Caltrans past ADL-
18 contaminated soil management. Existing projects that have implemented the Variance
19 and have completed the Project Approval and Environmental Document milestone prior
20 to July 1, 2016 shall continue to meet all requirements of the Variance set forth in the
21 Transition Plan.

19 **III. AGREEMENT**

20 **3.0 IT IS HEREBY AGREED THAT** DTSC shall provide oversight of the
21 activities conducted by Caltrans related to soils containing elevated concentrations of
22 aerially deposited lead from car exhaust in State owned highway rights-of-way.
23 Caltrans shall conduct the activities in the manner specified herein. All work, as
24 appropriate, shall be performed consistent with Health and Safety Code, section 25100
25 et seq., as amended; the National Contingency Plan (40 Code of Federal Regulations
26 (CFR)) Part 300, as amended; DTSC and U.S.EPA RCRA and Superfund guidance
27 documents regarding site investigation and soil management.

25 **3.1 Definitions**

26 **3.1.1 ADL-Contaminated Soil.** For purposes of this Agreement, ADL-
27 contaminated soil is defined as excavated soil whose only constituent of concern that
28 poses an unacceptable risk to human health or the environment is lead in
concentrations greater than considered appropriate for unrestricted use by DTSC
(currently 80 milligrams per kilogram [mg/kg] total lead based on a 95 percent upper
confidence limit) and/or 5 mg/l extractable lead based on a 95 percent UCL, as

1 determined by the CA Waste Extraction Test.

2 **3.1.2 Clean Soil.** For purposes of this agreement, clean soil is defined as soil
3 not containing total lead over 80 mg/kg or soluble lead over 5 mg/l as determined by the
4 CA-WET and not containing other constituents at levels that would pose an
5 unacceptable risk to human health or the environment or be unacceptable to the
6 Regional Water Quality Control Board with jurisdiction.

7 **3.1.3 Project Defined Construction Corridor.** For purposes of this agreement,
8 project defined construction corridor is defined as a specified route restricted to the
9 State highway system that connects a Caltrans project where ADL-contaminated soil is
10 excavated to another Caltrans project that accepts the ADL-contaminated soil for reuse.
11 Project defined construction corridors shall be identified in the Project Notification, if
12 determined at the time of submittal, or in the Start of Construction Notification. A project
13 defined construction corridor shall not exceed 150 miles unless DTSC provides prior
14 approval. DTSC shall respond to a corridor evaluation request within 5 days of
15 submittal.

16 **3.1.4 Shelved.** For purposes of this agreement, a project is considered shelved
17 when funding is not available for the project to proceed and the project has to be put on
18 hold.

19 **3.2 Scope of Work and DTSC Oversight.** This Agreement applies to the
20 management of ADL-contaminated soil excavated from or imported to the State
21 highway system in the course of highway projects, in all Caltrans districts statewide.
22 The management activities to which this Agreement applies are the excavation,
23 stockpiling, disposal, tracking, transportation and final placement of ADL-contaminated
24 soil. The ADL-contaminated soil management procedures defined in this Agreement
25 may also be used by Caltrans on joint projects between Caltrans and local government
26 entities, provided it is only used within State-owned highway rights-of-way and Caltrans
27 performs quality assurance and oversight of all phases of the project including
28 environmental assessment, design, contracting, and construction, as well as operation,
and maintenance of the project segments within Caltrans' right-of-way. For such joint
projects, Caltrans and the local government entity shall each retain joint and severable
liability for any noncompliance with the provisions of this Agreement. DTSC shall
provide oversight of response activities related to ADL-contaminated soil.

29 **3.3 Additional Activities.** Additional activities may be conducted and DTSC
30 oversight provided by amendment to this Agreement or Exhibits hereto in accordance
31 with Paragraph 3.15.

32 **3.4 Agreement Managers.** Daniel Ward, P.E., Chief, Engineering and Special
33 Projects Office, is designated by DTSC as its Manager for this Agreement. Shaila
34 Chowdhury, P.E., Chief, Hazardous Waste, Air, Noise and Paleontology Office, is
35 assigned by Caltrans as Manager for this Agreement. Each Party to this Agreement
36 shall provide at least ten (10) days advance written notice to the other of any change in
37 its designated manager.

1 **3.5 Notices and Submittals.** All notices, documents and communications
2 required to be given under this Agreement, unless otherwise specified herein, shall be
3 sent to the respective parties at the following addresses in a manner that produces a
4 record of the sending of the notice, document or communication such as certified mail,
5 overnight delivery service, facsimile transmission, electronic mail, or courier hand
6 delivery service:

7 3.5.1 To DTSC:
8 Perry Myers, P.E., Project Manager
9 Department of Toxic Substances Control
10 Engineering and Special Projects Office
11 8800 Cal Center Drive
12 Sacramento, California 95826
13 ADL@dtsc.ca.gov

14 3.5.2 To Caltrans:
15 Kim Christmann, Senior Engineering Geologist (Agreement
16 Coordinator)
17 California Department of Transportation
18 Division of Environmental Analysis
19 PO Box 942874, MS27
20 Sacramento, California 94271-0001
21 ADL@dot.ca.gov

22 **3.6 Communications.** All of DTSC's approvals and decisions, when
23 required, made regarding submittals and notifications shall be communicated to
24 Caltrans in writing by DTSC's Agreement Manager or his/her designee. No informal
25 advice, guidance, plans, specifications, schedules or any other writings by DTSC shall
26 be constructed to relieve Caltrans of the obligation to obtain such written approvals.

27 **3.7 Endangerment During Implementation.** In the event DTSC determines
28 that any activity within their jurisdiction (whether or not pursued in compliance with this
Agreement) may pose an imminent or substantial endangerment to public health or to
the environment, DTSC may order Caltrans to stop further implementation for such
period of time as may be needed to abate the endangerment.

3.8 Payment. Reimbursement for DTSC's costs related to this agreement,
not to exceed 1760 hours annually and contract support costs not to exceed \$150,000
shall be made through the existing interagency agreement (identified as Caltrans
43A0310 and DTSC 12-T0106) and its successors.

3.9 Coordinators. Caltrans shall designate an Agreement Coordinator, with
expertise in hazardous waste and hazardous substance handling/management to
establish policies and procedures consistent with this Agreement. Additionally, Caltrans
shall designate at least one District Coordinator for each Caltrans district in the State.
These District Coordinators shall be the primary point of contact for information flowing
to or received from DTSC, regarding any matter or submission under this agreement.

1 Caltrans shall submit the names and addresses of the Coordinators to DTSC. Caltrans
2 shall promptly notify DTSC of any change in the identity of the Coordinators.

3 **3.10 Access.** After scheduling access with the Caltrans project Resident
4 Engineer, Caltrans shall provide DTSC's employees, and its authorized representatives,
5 access to individual project areas to which access is necessary to implement this
6 Agreement. Such access shall be subject to the Caltrans project Resident Engineer's
7 safety requirements. Nothing in this paragraph is intended or shall be construed to limit
8 in any way the right of entry or inspections that DTSC or any other agency may
9 otherwise have by operation of any law. After scheduling access with the Caltrans
10 project Resident Engineer 24 hours prior to arrival, DTSC's employees and its
11 authorized representatives shall have the authority to enter, and move freely about all
12 property associated with a project area in accordance with the Caltrans project Resident
13 Engineer's safety requirements at all reasonable times for purposes including, but not
14 limited to: inspecting records, operations logs, sampling and analytic data, and contracts
15 relating to activities under this Agreement; reviewing the progress of Caltrans in carrying
16 out the terms of this Agreement; conducting such tests as DTSC may deem necessary;
17 and verifying the data submitted to DTSC by Caltrans.

18 **3.11 Sampling and Analysis.** Caltrans shall submit to DTSC a sampling and
19 analysis summary that describes sampling activities and analytical methods typically
20 used to characterize potential contamination at highway projects within 60 days of the
21 Effective Date of the Agreement.

22 **3.12 Sampling, Data and Document Availability.** When requested by DTSC,
23 Caltrans shall make available to DTSC and shall provide copies of, all data and
24 information concerning ADL contamination on a project job site, including technical
25 records, ADL sampling and monitoring information and photographs and maps, whether
26 or not such data and information was developed pursuant to this Agreement.

27 **3.13 Notification of Environmental Conditions.** Caltrans shall notify DTSC's
28 Agreement Manager immediately upon learning of any condition posing a significant
threat to human health or the environment pertaining to ADL-contaminated soil. Within
seven (7) days of the onset of such a condition, Caltrans shall furnish a report to DTSC,
signed by the Caltrans' Agreement Manager, setting forth the events which occurred
and the measures taken in the response thereto.

3.14 Preservation of Documentation. Caltrans shall maintain a repository of
the data, reports, and other documents prepared pursuant to Section 4 of this
Agreement. All such data, reports and other documents shall be preserved by Caltrans
for a minimum of six (6) years after the conclusion of all activities carried out under this
Agreement. If DTSC requests that some or all these documents be preserved for a
longer period to time, Caltrans shall either comply with that request, deliver the
documents to DTSC, or permit DTSC to copy the documents prior to destruction.
Caltrans shall notify DTSC in writing at least ninety (90) days prior to the expiration of
the six-year minimum retention period before destroying any documents prepared
pursuant to this Agreement. If any litigation, claim, negotiation, audit or other actions
involving the records have been started before the expiration of the six-year period, the

1 related records shall be retained until the completion and resolution of all issues arising
2 therefrom or until the end of the six-year period, whichever is later.

3 **3.15 Amendments.** This Agreement may be amended or modified solely upon
4 written consent of all parties. Such amendments or modifications may be proposed by
5 either party and shall be effective the third business day following the day the last party
6 signing the amendment or modifications sends its notification of signing to the other
7 party. The parties may agree to a different effective date. The Parties shall review the
8 Agreement every five (5) years for the purpose of determining whether amendments are
9 warranted.

10 **3.16 Integration.** This Agreement constitutes the entire Agreement between
11 the parties and may not be amended, supplemented, or modified, except as provided in
12 this agreement.

13 **3.17 California Environmental Quality Act (CEQA).** Consistent with the
14 California Environmental Quality Act, DTSC shall prepare any necessary CEQA
15 documents related to this Agreement. If required, Caltrans shall submit the information
16 necessary for DTSC to prepare these documents.

17 **3.18 Dispute Resolution.** The Parties agree that the procedures contained in
18 this Section are the required informal administrative procedures for resolving disputes
19 arising under this Agreement. If Caltrans fails to follow the procedures contained in this
20 section, it shall have waived its right to further contest the disputed issue. Parties shall
21 follow sections 3.18.1 through and including 3.18.2 to resolve disputes other than billing
22 and cost recovery issues.

23 **3.18.1** The Parties agree in the first instance to attempt to resolve informally,
24 among the DTSC Project Manager and Caltrans Agreement Coordinator, any
25 disagreement as to Caltrans' compliance with the requirements of this Agreement. The
26 DTSC Project Manager shall memorialize the decision and rationale resulting from
27 these discussions (Initial Informal Administrative Decision) and provide it to Caltrans.

28 **3.18.2** If Caltrans disagrees with the Initial Informal Administrative Decision,
they may seek a second level of review. The second level reviewers shall be a DTSC
Cleanup Program Division Chief and the Caltrans Environmental Analysis Division
Chief, or their designee(s). Within thirty (30) days of the Initial Informal Administrative
Decision Caltrans shall provide to these second level reviewers a written notice stating
the reasons why the Initial Informal Administrative Decision is not acceptable and the
remedy sought. The notice shall include (a) Caltrans original statement of dispute, (b)
supporting documents, including the Initial Informal Administrative Decision, and (c)
copies of any responses prepared by the DTSC Project Manager. These reviewers
shall consider the issues raised in Caltrans' notice, and DTSC shall render a written
decision to Caltrans within thirty (30) days of receipt of Caltrans written dispute notice.
The Parties may meet and confer prior to the written decision and may mutually agree
to extend the days for resolution of the dispute. The decision shall constitute DTSC's
Final Informal Administrative Decision on the issues in dispute. Caltrans reserves its
legal rights to contest or defend against any final informal administrative decision
rendered by DTSC under this section. DTSC reserves its rights as set forth throughout

1 this Agreement. If either party contests the Final Informal Administrative Decision they
2 may elevate the dispute to their respective agency.

3 **3.19 Additional Enforcement Actions.** By agreeing to this Agreement, DTSC
4 does not waive the right to take further enforcement actions, except to the extent
5 provided in this Agreement.

6 **3.20 Penalties for Noncompliance.** Failure to comply with the terms of this
7 Agreement may subject Caltrans, its local governmental entity partners and its
8 contractors to civil penalties and/or punitive damages for any costs incurred by DTSC or
9 other government agencies as a result of such failure, as provided by applicable
10 provisions of law.

11 **3.21 Exhibits.** All exhibits attached to this Agreement are incorporated herein
12 by this reference.

13 **3.22 Time-Periods.** Unless otherwise specified, time periods begin from the
14 date this Agreement is fully executed, and “days” means calendar days. “Business
15 days” means all calendar days that are not weekends or official State Holidays.

16 **3.23 Caltrans Liabilities.** Nothing in this Agreement shall constitute or be
17 considered a satisfaction or release from liability for any condition or claim arising as a
18 result of Caltrans’ past, current, or future operations. Nothing in this Agreement is
19 intended or shall be construed to limit the rights of any of the parties with respect to
20 claims arising out of or relating to the deposit or disposal at any other location of
21 substances removed from the rights-of-way, except to the extent provided in this
22 Agreement as related to ADL-contaminated soil.

23 **3.24 DTSC Liabilities.** DTSC shall not be liable for any injuries or damages to
24 persons or property resulting from acts or omissions by Caltrans or by related parties in
25 carrying out activities pursuant to this Agreement, nor shall DTSC be held as a party to
26 any contract entered into by Caltrans or its agents in carrying out the activities pursuant
27 to this Agreement.

28 **3.25 Third Party Actions.** In the event that Caltrans is a party to any suit or
claim for damages or contribution relating to work done under this Agreement to which
DTSC is not a party, Caltrans shall notify DTSC in writing within ten (10) days after
service of the complaint in the third-party. Caltrans shall pay all costs incurred by DTSC
relating to such third-party actions, including but not limited to responding to subpoenas.

3.26 Reservation of Rights. Nothing in this Agreement is intended or shall be
construed to limit or preclude DTSC from taking any action authorized by law or equity
to protect human health or the environment and recovering the cost thereof.

3.26.1 By entering into this Agreement, Caltrans does not admit to any
fact, fault, or liability under any statute or regulation.

1 **3.27 Compliance with Applicable Laws.** Nothing in this Agreement shall
2 relieve Caltrans from complying with all other applicable laws and regulations, and
3 Caltrans shall conform all actions required by this Agreement with all applicable federal,
4 state and local laws and regulations.

5 **3.28 California Law.** This Agreement shall be governed, performed and
6 interpreted under the laws under the State of California.

7 **3.29 Severability.** If any portion of this Agreement is ultimately determined not
8 to be enforceable, that portion shall be severed from the Agreement and the severability
9 shall not affect the enforceability of the remaining terms of the Agreement.

10 **3.30 Parties Bound.** This Agreement applies to and is binding upon Caltrans
11 and any successor agency of the State of California, and upon DTSC and any
12 successor agency of the State of California that may have responsibility for and
13 jurisdiction over the subject matter of this Agreement.

14 **3.31 Effective Date.** The effective date of this Agreement is the date when this
15 Agreement is fully executed.

16 **3.32 Representative Authority.** Each undersigned representative of the
17 parties to this Agreement certifies that he or she is fully authorized to enter into the
18 terms and conditions of this Agreement and to execute and legally bind the parties to
19 this Agreement.

20 **3.33 Counterparts.** This Agreement may be executed and delivered in any
21 number of counterparts, each of which when executed and delivered shall be deemed
22 to be an original, but such counterparts shall together constitute one and the same
23 document.

24 **IV. REQUIREMENTS FOR MANAGING ADL-CONTAMINATED SOILS**

25 **4.0** All ADL-contaminated soil excavated or imported during construction
26 activities shall be managed consistent with this Agreement to ensure there is not an
27 unacceptable risk to human health or the environment. ADL-contaminated soil shall be
28 managed by Caltrans, its local government entity partners and its contractors according
to this section.

4.1 General Requirements. General requirements for all highway projects
operating under this Agreement:

 4.1.1 For all ADL-contaminated soil handling activities conducted under this
Agreement, Caltrans and its contractors shall comply with all applicable federal, State
and local laws, including but not limited to requirements of the State Water Resources
Control Board (SWRCB) and California Regional Water Quality Control Boards
(RWQCBs), water quality control plans and waste discharge requirements (including
storm water permits), and requirements of the appropriate Air Quality Management
District (AQMD) and/or Air Pollution Control District (APCD). If non-compliance with the

1 requirements of any of these agencies related to the management of ADL-contaminated
2 soil results in non-compliance with this Agreement, it may result in an enforcement
3 action by DTSC. Any ADL-contaminated soil exceeding hazardous waste
4 concentrations that, for any reason, is moved outside of the original project limits or the
5 project defined construction corridor (in the case of ADL-contaminated soil moved from
6 one Caltrans project to another) is not covered by this Agreement and is fully subject to
7 the hazardous waste management standards of Health and Safety Code, chapter 6.5
8 (section 25100, et seq) and regulations adopted thereunder.

9 4.1.2 Any highway project operating under this Agreement shall comply with all
10 provisions of any California Environmental Quality Act (CEQA) documents prepared by
11 DTSC for this Agreement, and with any additional requirements imposed by any project-
12 specific CEQA study prepared by another government or private entity.

13 4.1.3 For each project that has the potential to excavate ADL-contaminated soil,
14 Caltrans shall conduct sampling and analysis to adequately characterize the soils
15 containing aerially deposited lead in the areas of planned excavation along the project
16 route.

17 4.1.4 Caltrans shall, pursuant to California Code of Regulations, title 22, section
18 66262.11, perform hazardous waste characterization of any soil to be disposed of at a
19 landfill under this Agreement. All sampling and analysis must be conducted in
20 accordance with the appropriate methods specified in U.S. EPA SW-846.

21 4.1.5 ADL-contaminated soils with any of the following characteristics may not
22 be managed under this Agreement and must be properly disposed of:

23 4.1.5.1 Soils that are RCRA hazardous waste, including but not limited to soils
24 exceeding the RCRA hazardous waste threshold for lead according to the Toxicity
25 Characteristic Leaching Procedure (TCLP), USEPA Method 1311.

26 4.1.5.2 Soils that are non-RCRA hazardous waste, except soils whose sole
27 hazardous constituent posing an unacceptable risk to human health or the environment,
28 is lead in concentrations not exceeding 3,200 mg/kg of total lead and not exceeding 150
mg/l of extractable lead as determined by the DI WET.

4.1.5.3 Soil having a pH less than or equal to 5.0.

4.1.6 Caltrans shall ensure that no hazardous waste, for constituents other than
lead, is placed in areas where ADL-contaminated soil is stockpiled or buried in
accordance with this Agreement.

4.1.7 ADL-contaminated soil excavated under the authority of this Agreement
shall not be stockpiled or buried outside of the project-defined construction corridor from
where the soil was excavated, except as provided in section 4.1.7.1. Caltrans may
move ADL-contaminated soil from one Caltrans project to another Caltrans project for
purposes of stockpiling, placement, or burial only if the soil remains within the project-
defined construction corridor.

4.1.7.1 Soils with concentrations of total lead greater than 80 mg/kg (but not
exceeding 320 mg/kg) and extractable lead less than 5 mg/l, as determined by the CA-
WET, may be removed from the State highway right of way without disposal in a landfill
if they are managed in accordance with section 4.6.

1 4.1.8 Caltrans shall implement appropriate health and safety procedures to
2 protect its employees and the public, and to prevent or minimize exposure to lead. A
3 project-specific lead compliance plan shall be prepared and implemented. The
4 monitoring and exposure standards for workers shall be based on construction
5 standards for exposure to lead in California Code of Regulations, title 8, section 1532.1.

6 4.1.9 During all handling of ADL-contaminated soil, including its initial
7 excavation from roadsides, subsequent loading and unloading onto and from vehicles,
8 and all handling related to stockpiling or burial, Caltrans shall implement fugitive dust
9 control measures using water or other palliatives. Caltrans must comply with any
10 additional dust control requirements imposed by the local AQMD or APCD.

11 4.1.10 If visible dust migration beyond the project limits occurs during any activity
12 authorized by this Agreement, whether initial excavation, truck loading/unloading,
13 transportation, stockpiling or burying of the soil, the activity must be stopped until
14 remedial actions are taken, or other conditions change, which enable resumption of the
15 activity without dust migration.

16 **4.2 Transportation of ADL-Contaminated Soils.** In transporting ADL-
17 contaminated soil on a highway open to the public within the project-defined
18 construction corridor and to other locations pursuant to this Agreement, the following
19 sections of California Code of Regulations, title 22, division 4.5, chapter 13 shall be
20 followed:

21 4.2.1 Section 66263.16, which requires each vehicle and container used to
22 transport hazardous waste to be designed and constructed, and its contents so limited,
23 as to prevent release of hazardous waste to the environment, and to be free from leaks
24 and all discharge openings securely closed during transportation;

25 4.2.2 Section 66263.23, which requires transporters of hazardous waste to use
26 a covered container to transport hazardous wastes that are subject to dispersal by wind;

27 4.2.3 Sections 66263.30 and 66263.31 which require the transporter, in the
28 case of release of hazardous waste during transportation, to take immediate action to
protect human health and the environment including notifying local authorities.

4.3 Stockpiling of ADL-Contaminated Soil Within the State Right-of-Way.

4.3.1 Excavated ADL-contaminated soil designated for burial not placed into the
designated burial area by the end of the working day shall be stockpiled on sheets of
polyethylene or geomembrane and covered with either sheets of polyethylene or at
least one foot of clean soil. The excavated ADL-contaminated soil shall be protected
from contacting surface water and from being dislodged or transported by wind or storm
water in such a manner that no ADL-contaminated soil is transported beyond the limits
of the stockpile while the ADL-contaminated soils are stockpiled. The covers shall be
inspected at least once a week and within 24 hours after rainstorms. If the ADL-
contaminated soil is stockpiled for more than 4 days from the time of excavation,
Caltrans shall restrict public access to the stockpile by using barriers that meet the
safety requirements of the construction zone.

1 4.3.2 Caltrans shall stockpile ADL-contaminated soil only on high ground (i.e. no
2 sump areas or low points) so that stockpiled soil shall not come in contact with surface
3 water run-on or run-off.

4 4.3.3 Caltrans shall not stockpile ADL-contaminated soil in environmentally or
5 ecologically sensitive areas.

6 **4.4 Placement of Surface Soils Within the State Right-of-Way.** ADL-
7 contaminated soil with a concentration of extractable lead not exceeding 5 mg/l, as
8 determined by the CA-WET, and total lead not exceeding 320 mg/kg may be placed
9 without cover. These soils shall not be placed in areas routinely used by the public (e.g.
10 rest stops). Placement of these soils shall also comply with any requirements specified
11 by the California Regional Water Quality Control Board with responsibility for the area
12 where the project is located.

13 **4.5 Burial Within State Right-of-Way.** ADL-contaminated soil containing
14 lead exceeding 5 mg/L, as determined by the CA-WET, or 320 mg/kg may be reused
15 but shall be buried within the State right-of-way consistent with the following provisions.
16 Placement of these soils shall also comply with any requirements specified by the
17 California Regional Water Quality Control Board with responsibility for the area where
18 the project is located.

19 4.5.1 ADL-contaminated soil shall be buried at least five (5) feet above the
20 maximum historical water table elevation.

21 4.5.2 ADL-contaminated soil shall not be buried within ten (10) feet of inlets and
22 outlets of culverts or locations that may require maintenance activities resulting in soil
23 disturbance.

24 4.5.3 Buried ADL-contaminated soil shall be adequately covered to prevent
25 erosion and reduce water infiltration, in compliance with the following standards, which
26 are also depicted in Table 1:

- 27 1. Soil exceeding 5 mg/L, as determined by the CA-WET, or exceeding 320
28 mg/kg total lead shall be covered by a minimum of one (1) foot of clean
soil or a pavement structure, as long as the DI WET concentration does
not exceed 1.5 mg/l and total lead does not exceed 1600 mg/kg. In
vegetated areas the soil cover must be thick enough to preclude
disturbance by planned plant establishment and irrigation system
installation and maintenance.
2. Soil with a concentration of extractable lead by DI-WET exceeding 1.5
mg/l or a concentration of total lead exceeding 1600 mg/kg shall be
covered by a pavement structure, as long as the DI-WET concentration
does not exceed 150 mg/l and total lead does not exceed 3200 mg/kg.
3. Soil with a concentration of extractable lead by DI-WET exceeding 150
mg/l or a concentration of total lead exceeding 3200 mg/kg total lead is not
eligible for management under this Agreement and is subject to full
regulation as hazardous waste.

Table 1. Minimum Cover Requirements for ADL-contaminated Soil Based on Extractable and Total Lead Concentrations*

Extractable Lead Concentration		Total Lead Concentration	Minimum Cover Requirement
Less than 5 mg/l CA-WET	and	Less than 320 mg/kg	No cover requirement
Greater than 5 mg/l CA-WET and equal to or below 1.5 mg/l DI-WET	or	Greater than 320 mg/kg but equal to or below 1600 mg/kg	One foot of clean soil**
Greater than 1.5 mg/l DI-WET but equal to or below 150 mg/l DI-WET	or	Greater than 1600 mg/kg but equal to or below 3200 mg/kg	Pavement structure
Greater than 150 mg/l DI-WET	or	Greater than 3200 mg/kg	Subject to full regulation as hazardous waste

* *ADL-contaminated soil having a pH less than or equal to 5.0 may not be managed under this Agreement and must be properly disposed of.*

** *This is the minimum requirement. Such soil may alternatively be covered by a pavement structure.*

4.5.4 ADL-contaminated soil shall not be placed in or covered by soils with a pH less than 5.0.

4.5.5 ADL-contaminated soil shall be buried and covered in a manner that shall prevent accidental breach of the covering soil or pavement. ADL-contaminated soil shall only be placed in locations that are protected from possible erosion by storm water run-on or run-off.

4.5.6 Caltrans shall conduct regular inspections, consistent with Caltrans' Maintenance Division's current Pavement Inspection and Slope Inspection programs, of the locations where ADL-contaminated soils have been buried and covered pursuant to this Agreement. If site inspections reveal deterioration of the cover such that conditions in the Agreement are not met, Caltrans shall notify DTSC and repair or replace the cover within 30 days.

4.6 ADL-Contaminated Soil Reused Or Temporarily Stockpiled Outside The State Right-of-Way.

ADL-contaminated soil removed from the State right-of-way for reuse elsewhere shall be managed appropriately to ensure it does not pose an unacceptable risk to human health or the environment. Soils with a concentration of extractable lead not exceeding 5 mg/l, as determined by the CA-WET, and total lead not exceeding 320 mg/kg is only appropriate for use at commercial/industrial properties. If ADL-contaminated soil is used at a real property located outside the State right-of-way, Caltrans shall submit to DTSC a completed "Agreement between a contractor working on State facilities and a real property owner for disposing construction-related material on property owner's property"

1 as part of the Completion Report described in section 4.12. ADL-contaminated soils with
2 a concentration of extractable lead not exceeding 5 mg/l, as determined by the CA-
3 WET, and total lead not exceeding 320 mg/kg may be temporarily stockpiled outside the
4 project-defined construction corridor at a commercial facility of a contractor working on
5 the project for Caltrans if the requirements of sections 4.2 and 4.3 are adhered to. All
6 such stockpiles shall be removed from said commercial facility prior to completion of the
7 highway project unless that location is to be the final resting place of the ADL-
8 contaminated soil, in which case the soils will be managed according to all requirements
9 of this section.

10 **4.7 Field Changes.**

11 4.7.1 Changes in location of ADL-contaminated soil placement, quantities or
12 protection measures from the original design (field changes) shall be noted in the
13 Resident Engineer's Diary within five (5) days of the field change.

14 4.7.2 Caltrans shall ensure that any field changes are in compliance with the
15 requirements of this Agreement.

16 **4.8 Land Use Restrictions.** For every property where ADL-contaminated soil
17 is buried within State owned highway rights-of-way pursuant to this Agreement, Caltrans
18 shall, pursuant to California Code of Regulations, title 22, section 67391.1, execute a
19 land use covenant imposing appropriate limitations on land use of the property, which
20 shall be binding in perpetuity upon Caltrans or any future owners of the property. The
21 land use covenant, except as provided in section 4.8.1, shall be recorded within the
22 county (or counties) wherein ADL-contaminated soil has been buried.

23 4.8.1 Properties within State owned highway rights-of-way typically do not have
24 assessor parcel numbers (used to assess taxes) which prevents land use covenants
25 from being properly recorded within the county (or counties) wherein they are located.
26 For any property for which it is not feasible to establish a land use covenant, Caltrans
27 shall meet all the following requirements.

28 4.8.1.1 Caltrans shall maintain a list, at its statewide office, of all locations where
ADL-contaminated soil is placed or buried as part of this Agreement. Prior to any land
use change for properties within State highway rights-of-way, the list shall be consulted
and steps taken, if necessary, to ensure the land use change does not create an
unacceptable risk to human health or the environment related to ADL-contaminated soil.

4.8.1.2 Caltrans shall revise its policy for the relinquishment of property within
State highway rights-of-way to ensure that properties with ADL-contaminated soil are
properly managed after relinquishment. The revised policy shall require properties
relinquished to other government entities to be tracked and managed in a manner
equivalent to that required of Caltrans. Properties relinquished to non-governmental
entities shall, pursuant to California Code of Regulations, title 22, section 67391.1,
execute a land use covenant imposing appropriate limitations on land use of the
property, which shall be binding in perpetuity upon the non-governmental entity or any
future owners of the property, as part of the relinquishment process. The land use

1 covenant shall be recorded within the county (or counties) wherein ADL-contaminated
2 soil has been buried. DTSC shall provide Caltrans sample land use covenant language
upon request.

3 **4.9 Information Available to Public.**

4 4.9.1 Within 30 days of the effective date of this Agreement Caltrans shall post
5 on its public website the URLs of Portable Document Format (PDF) versions of the
following documents:

- 6 1. this Agreement;
7 2. the DTSC-prepared fact sheet concerning this Agreement;
8 3. a list of active projects for which the Agreement is being used to manage
ADL-contaminated soil. The list shall be updated with new projects when
9 notification for a specific project is made to DTSC.

10 4.9.2 Within 30 days of the effective date of this Agreement, DTSC shall post on
its public website information regarding the reuse of excavated soils and appropriate
11 land use specific to lead.

12 4.9.3 Within 30 days of the effective date of this Agreement DTSC and Caltrans
13 will schedule meetings they will both participate in with (1) Caltrans transportation
partners (such as cities, counties, and transportation agencies) and (2) the construction
14 industry. The purpose of the meetings will be to explain DTSC's expectations regarding
the management of soil containing lead and to explain the need for and implementation
15 of this agreement between DTSC and Caltrans.

16 **4.10 Project Notification.** For any highway project for which this Agreement
17 applies or is to be used, Caltrans shall provide written notification to DTSC, within 10
18 days of when that determination is made, and shall send copies of the notification to the
RWQCB, AQMD (or APCD, as applicable), local Certified Uniform Program Agency
19 (CUPA), and the Caltrans Agreement Coordinator. For projects that overlie multiple
local agency jurisdictions, all appropriate agencies shall receive a copy of the
20 notification.

21 4.10.1 The written notification shall include the following information:

- 22 1. A statement that the project shall entail excavation, stockpiling and/or
23 burial of ADL-contaminated soil pursuant to this Agreement;
24 2. Project number;
25 3. Project description;
26 4. Project Limits (Route; District - County - Route - Begin Mile Post /End
Mile Post);
27 5. URLs for or Portable Document Format (PDF) versions of the following
28 documents:
a) the environmental document prepared for the project;
b) this Agreement; and
c) the DTSC-prepared fact sheet about this Agreement.

6. Results of laboratory analysis collected during design for the ADL-contaminated soil to be placed within the highway right of way, and the name of the laboratory performing the analyses;
7. Results of laboratory analysis collected during design for the ADL-contaminated soils to be placed at a final destination property other than a landfill and name of the laboratory performing the analyses;
8. Copy of the construction contract specifications which define the management of ADL-contaminated soil; and
9. Definition of the project defined construction corridor if it has already been determined that soil will be moved from one Caltrans project to another and complete project information listed above for both the sending and receiving projects.

4.10.2 The Caltrans-authorized Lead Compliance Plan, authorized Excavation and Transportation Plan, and the contact information for the project resident engineer shall be submitted to DTSC within ten (10) days of document approval or staff identification, respectively.

4.10.3 For purposes of sending a copy of the notification to a local agency that is notified of the project pursuant to separate requirements of that local agency, that separate notification fulfills the requirement of this section only if such notification includes all information listed in 4.10.1 and is sent in advance as required by this subsection.

4.11 Start of Construction Notification. At least five (5) days in advance of initiation of construction on any project for which this Agreement applies or is used, Caltrans shall provide written notification to DTSC containing the following information concerning the project:

1. Project number;
2. Project description;
3. Project Limits (District - County - Route - Begin Postmile /End Postmile);
4. Anticipated start and end dates of the construction phase of the project;
5. Contact information for the project resident engineer;
6. A list of Caltrans contractors to be involved in the construction phase of the project;
7. Definition of the project defined construction corridor if soil will be moved from one Caltrans project to another. Include complete project information listed above for both the sending and receiving projects; and
8. The address and property owner information for the location where the contractor will stockpile or dispose nonhazardous ADL-contaminated soil with a total lead concentration between 80 and 320 mg/kg.

4.12 Completion Report. Within 180 days of completion of the construction phase of any project for which this Agreement applies or is used, provide to DTSC, in writing, the following:

4.12.1

1. Project number;
2. Project description;

3. Project limits (District - County - Route - Begin Postmile /End Postmile);
4. Actual start and end dates of construction; and
5. A list of all USEPA ID numbers (including temporary ID numbers) assigned by DTSC for use on the project.

4.12.2 If ADL-contaminated soil was buried in accordance with section 4.5 of this Agreement within the State right-of-way as part of the project, the following information:

1. All survey data for the placement location, including precise latitude and longitude, elevation (top and bottom in North American Vertical Datum of 1988[NAVD 88]), postmiles and highway number;
2. The approximate volume, in cubic yards, of ADL-contaminated soil buried;
3. The historical maximum elevation of the water table underlying the burial location NAVD 88;
4. The results of laboratory analysis collected during construction, if any, for the ADL-contaminated soil placed, and name of the laboratory performing the analyses;
5. Type of cover (soil or pavement);
6. Thickness of cover used; and
7. Copies of any and all bills of lading used for transporting ADL-contaminated soil to the active construction zone of the project.

4.12.3 For any ADL-contaminated soils that were permanently removed from the highway right of way, the following information:

1. The final destination of the soils (landfill, private property, other);
2. Copies of any and all bills of lading and hazardous waste manifests used to transport the ADL-contaminated soils;
3. The name and contact information for the landfill or property owner of the final destination property;
4. If not a landfill, the zoning for the final destination property;
5. The volume of ADL-contaminated soil moved to a landfill and/or final destination property;
6. If not a landfill, whether the ADL-contaminated soils were stockpiled or used as fill; and
7. For ADL-contaminated soils placed at a final destination property other than a landfill, the results of laboratory analysis collected during construction, if any, and the name of the laboratory performing the analyses.

4.13 Project Documentation Availability. Following construction contract acceptance, Caltrans shall maintain, at its statewide office or appropriate District or Regional office, individual project records containing information regarding all projects for which this Agreement applies or is used, and shall ensure that the information is readily accessible to the public. The project records for each project shall include:

1. A copy of the Agreement and all attachments thereto;
2. Copies of the project-specific information submitted to DTSC pursuant to this Agreement; and
3. A map showing the mappable survey data for each burial location.

1 **4.14 Transition Plan.** Transition of existing highway projects to the
2 requirements of this Agreement shall be done according to Exhibit A. All projects that
3 continue to follow the requirements of 2009 Variance No. V09HQSCD006, as described
4 in the transition plan, after the date of this Agreement must be advertised for
construction by July 1, 2020.

5 **4.15 Public Health.** DTSC retains the right to require Caltrans or any future
6 owner to remove, and properly dispose of ADL-contaminated soil in the event DTSC
7 determines it is necessary for protection of human health or the environment.

8 Name/Title

9
10
11 Caltrans

DATE

12
13 Raymond Leclerc, P.E.
14 Assistant Deputy Director
Brownfields and Environmental Restoration Program

15
16 DTSC

DATE

17 Exhibit A
18 Transition Plan for existing projects

19 Exhibit B
20 2009 Variance

21 Exhibit C
22 Transition Plan project list

EXHIBIT A

TRANSITION PLAN

July 2016

Introduction

This plan details how projects will transition from operating under Department of Toxic Substances Control (DTSC) Variance No. V09HQSCD006 (Variance) to operating under the 2016 Soil Management Agreement for Aerially Deposited Lead-Contaminated Soils (Agreement) for specified existing Caltrans projects. For purposes of this transition plan, aerially deposited lead (ADL)-contaminated soil is defined as in section 3.1.1 of the Agreement. Determinations regarding ADL-contaminated soil will be based on the upper 95% UCL in cases where this information is available. If this type of data analysis has not been performed it will be based on the maximum lead value detected. Lead-contaminated soil is defined as in section 6. of the Variance (Exhibit B of the Agreement).

Background – Caltrans Project Development Process

The development of transportation projects is controlled by State and federal laws, regulations, and policies. Projects are first considered and planning begun years in advance of design and construction. Per the Federal Highway Administration, transportation planning is based on a 20 year cycle.

Project development is composed of four major steps:

1. Programming and Project Initiation Document (PID, also identified as the K phase);
2. Project Acceptance & Environmental Document (PA&ED, also identified as the 0 phase);
3. Plans, Specifications and Estimates (PS&E, also identified as the 1 phase); and
4. Construction (also identified as the 3 and 4 phases).

PID

During the PID phase project candidates are identified and project initiation documents prepared. These documents outline the purpose and need of the potential project and a preliminary rough cost scope and schedule is sketched out. Preliminary environmental screening is done. At the end of the PID phase potential projects are programmed, which means that support costs are allocated based on a preliminary budget so that detailed studies may be performed.

PA&ED

During the PA&ED phase detailed studies are performed to meet California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) requirements as well as to support preparation of a Project Report (a preliminary design document). Aerially deposited lead studies are normally performed during this phase.

The budget for these studies is set in the PID phase based on knowledge of the project area.

At the end of PA&ED the project alternative is selected, the cost and schedule is officially identified, and continuing projects are given Project Approval. For most projects the California Transportation Commission (CTC) votes so that the project may proceed. If a project requires additional funding after this point is reached, the budget overrun must be explained and successfully justified to the CTC in order for the project to continue. Budget overruns can result in project termination.

PS&E

PS&E is the design phase of the project. Besides preparation of the plans and specifications, needed right of way is purchased, and necessary permits, licenses, agreements, and certifications are obtained. ADL data is evaluated and shared with design staff at the beginning of PS&E so that appropriate and efficient soil management can be incorporated into the project design. At the end of PS&E the project is advertised and the construction contract is awarded. Depending on the size and complexity of a project PS&E can take as little as a few months or as long as 30 months. A typical length of time for PS&E is 18 months.

Construction

Construction is performed by contractors reporting either directly to Caltrans staff or to a Caltrans partner in the case of some partnered projects. Depending on the size and complexity of the project, construction can take as little as a few months to as long as 10 years. The contingency allowed on Caltrans construction projects is only 5% so budget maintenance is critical.

Transition of existing Caltrans Projects

The requirements of the Agreement, described in sections 3 and 4 of the Agreement, shall be fully applied to all projects that have not completed the Project Approval and Environmental Document (PA&ED) milestone prior to July 1, 2016. PA&ED is defined in Caltrans' "Workplan Standards Guide" which is accessible at:

http://www.dot.ca.gov/hq/projmgmt/documents/wsg/WSG_v11.1_2015.pdf.

This transition plan applies to existing projects that have completed the PA&ED milestone prior to July 1, 2016. Those projects for which the transition plan applies or is used shall comply with the requirements listed below in sections 1 through 6. These requirements are the requirements originally set forth in DTSC Variance No. V09HQSCD006 with added reporting requirements for Caltrans.

1. Provided Caltrans meets the terms and conditions described below in section 2, DTSC waives the hazardous waste management requirements of Health and Safety Code, Chapter 6.5 and California Code of Regulations, title 22 for the lead-contaminated soil that Caltrans reuses in projects that would require Caltrans to obtain a permit for a disposal facility and any other generator requirements that

concern the transportation, manifesting, storage and land disposal of hazardous waste.

2. In order for the provisions discussed in section 1 to be waived, lead-contaminated soil must not exceed the contaminant concentrations discussed below and Caltrans management practices must meet all the following conditions:

a) Caltrans implementation of the transition plan shall comply with all applicable state laws and regulations for water quality control, water quality control plans, waste discharge requirements (including storm water permits), and others issued by the State Water Resources Control Board (SWRCB) and/or a California Regional Water Quality Control Board (RWQCB). Caltrans shall provide written notification to the appropriate RWQCB at least 30 days prior to advertisement for bids of projects for which this transition plan applies or is used, or as otherwise negotiated with the SWRCB or appropriate RWQCB, and as specified in section 2u).

b) The provisions waived in section 1 shall only be applied to lead-contaminated soil that is not a RCRA hazardous waste and is hazardous primarily because of aurally-deposited lead contamination associated with exhaust emissions from the operation of motor vehicles. The transition plan is not applicable to any other hazardous waste.

c) Soil containing 1.5 mg/l extractable lead or less (based on a modified waste extraction test using deionized water as the extractant) and 1411 mg/kg or less total lead may be used as fill provided that the lead-contaminated soil is placed a minimum of five (5) feet above the maximum historical water table elevation and covered with at least one (1) foot of nonhazardous soil that will be maintained by Caltrans to prevent future erosion.

d) Soil containing 150 mg/L extractable lead or less (based on a modified waste extraction test using deionized water as the extractant) and 3397 mg/kg or less total lead may be used as fill provided that the lead-contaminated soils are placed a minimum of five (5) feet above the maximum historical water table elevation and protected from infiltration by a pavement structure which will be maintained by Caltrans.

e) Lead-contaminated soil with a pH less than 5.5 but greater than 5.0 shall only be used as fill material under the paved portion of the roadway. Lead-contaminated soil with a pH at or less than 5.0 shall be managed as a hazardous waste.

f) For each project that has the potential to generate waste by disturbing lead-contaminated soil, Caltrans shall conduct sampling and analysis to adequately characterize the soils containing aurally deposited lead in the areas of planned excavation along the project route. Such sampling and analysis shall include the Toxicity Characteristic Leaching Procedure (TCLP) as prescribed by the United

States Environmental Protection Agency to determine whether concentrations of contaminants in soil exceed federal criteria for classification as a hazardous waste.

g) Lead-contaminated soil managed pursuant to this transition plan shall not be moved outside the designated corridor boundaries (see section 2t below). All lead-contaminated soil not buried and covered within the same Caltrans corridor where it originated is not eligible for management under this transition plan and shall be managed as a hazardous waste.

h) Lead-contaminated soil managed pursuant to this transition plan shall not be placed in areas where it would come in contact with groundwater or surface water (such as streams and rivers).

i) Lead-contaminated soil managed pursuant to this transition plan shall be buried and covered only in locations that are protected from erosion that may result from storm water run-on and run-off.

j) The lead-contaminated soil shall be buried and covered in a manner that will prevent accidental or deliberate breach of the asphalt, concrete, and/or cover soil.

k) The presence of lead-contaminated soil shall be incorporated into the projects' as-built drawings. The as-built drawings shall be annotated with the location, representative analytical data, and volume of lead-contaminated soil. The as-built drawings shall also state the depth of the cover. These as-built drawings shall be retained by Caltrans.

l) Caltrans shall ensure that no other hazardous wastes, other than the lead-contaminated hazardous waste soil, are placed in the burial areas.

m) Lead-contaminated soil shall not be buried within ten (10) feet of culverts or locations subject to frequent worker exposure.

n) Excavated lead-contaminated soil not placed into the designated area (fill area, roadbed area) by the end of the working day shall be stockpiled and covered with sheets of polyethylene or at least one foot of non-hazardous soil. The lead-contaminated soil, while stockpiled or under transport, shall be protected from contacting surface water and from being dislodged or transported by wind or storm water. The stockpile covers shall be inspected at least once a week and within 24 hours after rainstorms. If the lead-contaminated soil is stockpiled for more than 4 days from the time of excavation, Caltrans shall restrict public access to the stockpile by using barriers that meet the safety requirements of the construction zone. The lead-contaminated soil shall be stockpiled for no more than 90 days from the time the soil is first excavated. If the contaminated soil is stockpiled beyond the 90 day limit Caltrans shall:

i. Notify DTSC in writing of the 90 day exceedance and expected date of removal;

- ii. Perform weekly inspections of the stockpiled material to ensure that there is adequate protection from run-on, runoff, public access, and wind dispersion; and
- iii. Notify DTSC on weekly basis of the stockpile status until the stockpile is removed.

The lead-contaminated soil shall be stockpiled for no more than 180 days from the time the soil is first excavated.

- o) Caltrans shall ensure that all stockpiling of lead-contaminated soil remains within the project area of the specified corridor. Stockpiling of lead-contaminated soil within the specified corridor, but outside the project area, is prohibited.
- p) Caltrans shall conduct confirmatory sampling of any stockpile area in areas not known or expected to contain lead-contaminated soil after removal of the lead-contaminated soil to ensure that contamination has not been left behind or has not migrated from the stockpiled material to the surrounding soils.
- q) Caltrans shall stockpile lead-contaminated soil only on high ground (i.e. no sump areas or low points) so that stockpiled soil will not come in contact with surface water run-on or run-off.
- r) Caltrans shall not stockpile lead-contaminated soil in environmentally and ecologically sensitive areas.
- s) Caltrans shall ensure that storm/rain run-off that has come into contact with stockpiled lead-contaminated soil will not flow to storm drains, inlets, or waters of the State.
- t) Caltrans may dispose of the lead-contaminated soil only within the operating right-of-way of an existing highway, as defined in Streets and Highways Code, section 23. Caltrans may move lead-contaminated soil from one Caltrans project to another Caltrans project only if the lead-contaminated soil remains within the same designated corridor.

Caltrans shall record any movement of lead-contaminated soil by using a bill of lading. The bill of lading must contain: 1) the US DOT description including shipping name, hazard class and ID number; 2) handling codes; 3) quantity of material; 4) volume of material; 5) date of shipment; 6) origin and destination of shipment; and 7) any specific handling instructions. The bill of lading shall be referenced in and kept on file with the project's as-built drawings. The lead-contaminated soil must be kept covered during transportation.

- u) For each specific project where this transition plan applies or is to be used for the management of lead-contaminated soils all of the following information shall be submitted in writing to DTSC (and others as specified). If the submission date for a particular notification occurred prior to July 1, 2016 then Caltrans shall submit any

required information not included in the original notification with the Completion Report:

- i. Project Notification. For any highway project for which this transition plan applies or is to be used to manage lead-contaminated soil, Caltrans shall provide written notification to DTSC within 10 days of when that determination is made, and shall send copies of the notification to the RWQCB, Air Quality Management District (AQMD) (or Air Pollution Control District, as applicable), local Certified Uniform Program Agency (CUPA), and the Caltrans Agreement Coordinator. For projects that overlie multiple local agency jurisdictions, all appropriate agencies shall receive a copy of the notification. The written notification shall include the following information:
 1. A statement that the project shall entail excavation, stockpiling and/or burial of lead-contaminated soil pursuant to this Agreement;
 2. Project number;
 3. Project description;
 4. Project Limits (Route; District - County - Route - Begin Post Mile /End Mile Post);
 5. URLs for or Portable Document Format (PDF) versions of the following documents:
 - a. The environmental document prepared for the project;
 - b. This Agreement; and
 - c. The DTSC-prepared fact sheet about this Agreement.
 6. Results of laboratory analysis collected during design for the lead-contaminated soil to be placed within the highway right of way, and the name of the laboratory performing the analyses;
 7. Copy of the construction contract specifications which define the management of lead-contaminated soil; and
 8. Definition of the project defined construction corridor if it has already been determined that soil will be moved from one Caltrans project to another. Include complete project information listed above for both the sending and receiving projects.
- ii. The Caltrans-authorized Lead Compliance Plan, authorized Excavation and Transportation Plan, and the contact information for the project resident engineer shall be submitted to DTSC within ten (10) days of document approval or staff identification, respectively.
- iii. For purposes of sending a copy of the project notification to a local agency that is notified of the project pursuant to separate requirements of that local

agency, that separate notification fulfills this requirement only if such notification includes all information listed above and is sent in advance as required by this section.

iv. Start of Construction Notification. At least five (5) days in advance of initiation of construction on any project for which this transition plan applies or is used, Caltrans shall provide written notification to DTSC containing the following information concerning the project:

1. Project number;
2. Project description;
3. Project Limits (District - County - Route - Begin Post Mile /End Post Mile);
4. Anticipated start and end dates of the construction phase of the project;
5. Contact information for the project resident engineer;
6. C list of Caltrans contractors to be involved in the construction phase of the project; and
7. Definition of the project defined construction corridor if soil will be moved from one Caltrans project to another. Include complete project information listed above for both the sending and receiving projects.

v. Completion Report. Caltrans will provide in writing to DTSC the following information within 180 days of completion of the construction phase for any highway project for which Caltrans managed lead-contaminated soil under this transition plan:

1. Project number;
2. Project description;
3. Project Limits (District - County - Route - Begin Post Mile /End Post Mile);
4. Actual start and end dates of construction; and
5. A list of all USEPA ID numbers (including temporary ID numbers) assigned by DTSC for use on the project.

If lead-contaminated soil was buried within the State right-of-way as part of the project, the following information:

6. All survey data for the placement location, including precise latitude and longitude, elevation (top and bottom in North American Vertical Datum of 1988[NAVD 88]), Post Miles and highway number;

7. The approximate volume, in cubic yards, of lead-contaminated soil buried;
 8. The historical maximum elevation of the water table underlying the burial location NAVD 88;
 9. the results of laboratory analysis collected during construction, if any, for the lead-contaminated soil placed, and name of the laboratory performing the analyses;
 10. type of cover (soil or pavement);
 11. thickness of cover used; and
 12. copies of any and all bills of lading used for transporting lead-contaminated soil to the active construction zone of the project.
- vi. Project Documentation Availability. Following construction contract acceptance, Caltrans shall maintain, at its statewide office or appropriate District or Regional office, individual project records containing information regarding all projects for which this transition plan applies or is used, and shall ensure that the information is readily accessible to the public. The project records for each project shall include:
1. A copy of the Agreement and all attachments thereto;
 2. Copies of the project-specific information submitted to DTSC pursuant to this transition plan, and
 3. The “as-built” plans for each burial location.
- v) Changes in location of lead-contaminated soil placement, quantities or protection measures (field changes) shall be noted in the resident engineer's project log within five (5) days of the field change.
- w) Caltrans shall ensure that field changes are in compliance with the requirements of this transition plan.
- x) Operational procedures described in the CEQA Initial Study shall be followed by Caltrans for activities conducted under this transition plan.
- y) Caltrans shall implement appropriate health and safety procedures to protect its employees and the public, and to prevent or minimize exposure to potentially hazardous wastes. A project-specific health and safety plan must be prepared and implemented. The monitoring and exposure standards shall be based on construction standards for exposure to lead in California Code of Regulations, title 8, section 1532.1.
- z) The Coordinators identified in section 3.9 of the Agreement will also be the Coordinators for the transition plan. These Coordinators will be the primary points

of contact for information flowing to, or received from, DTSC regarding any matter or submission under this transition plan.

aa) Caltrans shall conduct regular inspections, consistent with Caltrans' Maintenance Division's current Pavement Inspection and Slope Inspection programs, of the locations where lead-contaminated soil has been buried and/or covered pursuant to this transition plan. If site inspection reveals deterioration of cover so that conditions in the transition plan are not met, Caltrans shall repair or replace the cover.

bb) Caltrans shall develop and implement record keeping mechanisms to record and retain permanent records of all locations where lead-contaminated soil has been buried per this transition plan. The records shall be made available to DTSC.

cc) If areas within the State owned highway rights-of-way subject to the terms of this transition plan are sold, relinquished or abandoned (including roadways), all future property owners shall be notified in writing in advance by Caltrans of the requirements of section 4.8 of the Agreement, and Caltrans shall provide the owner with a copy of the Agreement. A copy of such a notice shall be sent to DTSC and contain the corridor location and project identification information. Caltrans shall also disclose to DTSC and the new owner the location of areas where lead-contaminated soil has been buried. Future property owners shall be subject to the same requirements set forth in the Agreement as Caltrans.

dd) For the purposes of informing the public about instances where the transition plan is implemented, Caltrans shall:

- i. Maintain current fact sheets at all Caltrans resident engineer offices and the Caltrans District office. Caltrans shall make the fact sheets available to anyone expressing an interest in work related to soils contaminated with lead.
- ii. Maintain copies of all reports submitted to DTSC at the District office. Caltrans shall ensure that the reports are readily accessible to the public.

ee) Lead-contaminated soil may be buried only within the right-of-way in areas where access is limited or where lead-contaminated soil is covered or contained by a pavement structure.

ff) Dust containing lead-contaminated soil must be controlled. Water or dust palliative may be applied to control dust. If visible dust migration occurs, all excavation, stockpiling and truck loading and burying must be stopped. Operating under this transition plan confers no relief on Caltrans from compliance with the laws, regulations and requirements enforced by any local air district or the California Air Resources Board.

gg) Sampling and analysis is required to show the lead-contaminated soil meets the transition plan criteria. All sampling and analysis must be

conducted in accordance with the appropriate methods specified in U.S. EPA SW-846.

hh) DTSC retains the right to require Caltrans or any future owner to remove, and properly dispose of, ADL-contaminated soil in the event DTSC determines it is necessary for protection of public health, safety or the environment.

ii) DTSC finds that some projects involving lead-contaminated soil are joint projects between Caltrans and other government entities. In these joint projects, Caltrans may not be the lead agency implementing the project although Caltrans is still involved if the project occurs on its right-of-way.

Caltrans may use this transition plan for existing joint projects where Caltrans and local government entities are involved provided that 1) the project is within the Caltrans' Right-of-Way and the plan is only implemented on State-owned highway rights-of-way; 2) Caltrans reviews/ oversees all phases of the project including design, contracting, environmental assessment, and construction, as well as operation and maintenance of the project segments within Caltrans' Right-of-Way; and 3) Caltrans oversees the project to verify all transition plan conditions/requirements are complied with. Caltrans will be fully responsible for lead-contaminated soil related notification and implementation in these joint projects.

3. A list of projects involving lead-contaminated soil for which the transition plan applies or is used is attached. Projects involving lead-contaminated soil not on the list must fully comply with the requirements of the Agreement regardless of whether they have been given Project Approval prior to July 1, 2016. If it is discovered after June 30, 2016 that one or more projects that were eligible to use the transition plan have been inadvertently omitted from the list provided to DTSC, Caltrans will request an exception to add those projects. DTSC will respond to Caltrans request within 10 business days. Caltrans may remove projects from the list at their discretion and shall provide DTSC an updated project list within 30 days of such an action.
4. If a shelved highway project that includes management of lead-contaminated soil under the Transition Plan has to be redesigned and Caltrans has to submit a request to the California Transportation Commission for additional capital outlay funding, then the Transition Plan no longer applies and the requirements of the Agreement shall be fully applied.
5. The requirements of the Agreement shall be fully applied to all projects advertised for construction after July 1, 2020.
6. For any ADL-contaminated soils that were permanently removed from the highway right of way after June 30, 2016 as part of a highway project, Caltrans shall provide

the following information in writing to DTSC within 180 days of completion of the construction phase:

- a) Project number;
- b) Project description;
- c) Project limits (District - County - Route - Begin Post Mile /End Post Mile);
- d) Actual start and end dates of construction;
- e) The destination of the soils (landfill, private property, other);
- f) Copies of any and all bills of lading and hazardous waste manifests used to transport the ADL-contaminated soils;
- g) The name and contact information for the landfill or property owner/operator of the destination property;
- h) If not a landfill, the zoning for the destination property;
- i) The volume of ADL-contaminated soil moved to a landfill and/or the destination property;
- j) If not a landfill, whether the ADL-contaminated soils were stockpiled or used as fill; and
- k) If not a landfill, the results of laboratory analysis for the ADL-contaminated soils collected during construction, if any, and the name of the laboratory performing the analyses.



*California Environmental Protection Agency
Department of Toxic Substances Control*

VARIANCE

Applicant Names:

Variance No. V09HQSCD006

State of California
Department of Transportation
(Caltrans)
1120 N Street
Sacramento, California 95814

Effective Date: July 1, 2009

Expiration Date: July 1, 2014

Modification History:

Pursuant to California Health and Safety Code, Section 25143, the Department of Toxic Substances Control hereby issues the attached Variance consisting of 9 pages to the Department of Transportation.

Beverly Rikala
Team Leader, Operating Facilities Team
Department of Toxic Substances Control

Date:

VARIANCE

1. INTRODUCTION.

a) Pursuant to Health and Safety Code, section 25143, the California Department of Toxic Substances Control (DTSC) grants this variance to the applicant below for waste considered to be hazardous solely because of its lead concentrations and as further specified herein.

b) DTSC hereby grants this variance only from the requirements specified herein and only in accordance with all terms and conditions specified herein.

2. IDENTIFYING INFORMATION.

APPLICANT/OWNER/OPERATOR

State of California
Department of Transportation, (Caltrans)
All Districts

3. TYPE OF VARIANCE.

Generation, Manifest, Transportation, Storage and Disposal.

4. ISSUANCE AND EXPIRATION DATES.

DATE ISSUED: July 1, 2009 EXPIRATION DATE: July 1, 2014

5. APPLICABLE STATUTES AND REGULATIONS. The hazardous waste that is the subject of this variance is fully regulated under Health and Safety Code, section 25100, et seq. and California Code of Regulations, title 22, division 4.5 except as specifically identified in Section 8 of this variance.

6. DEFINITION. For purposes of this variance, "lead-contaminated soil(s)" shall mean soil that meets the criteria for hazardous waste but contains less than 3397 mg/kg total lead and is hazardous primarily because of aeriially-deposited lead contamination associated with exhaust emissions from the operation of motor vehicles.

7. FINDINGS/DETERMINATIONS. DTSC has determined that the variance applicant meets the requirements set forth in Health and Safety Code, section 25143 for a variance from specific regulatory requirements as outlined in Section 8 of this variance. The specific determinations and findings made by DTSC are as follows:

a) Caltrans intends to excavate, stockpile, transport, bury and cover large volumes of soil associated with highway construction projects. In the more urbanized highway corridors around the State this soil is contaminated with lead, primarily due to historic emissions from automobile exhausts. In situ sampling and laboratory testing has shown that some of the soil contains concentrations of lead in excess of State regulatory thresholds, and thus any generated waste from disturbance of the soil

would be regulated as hazardous waste. Such soil contains a Total Threshold Limit Concentration (TTLIC) of 1000 milligrams per kilogram (mg/kg) or more lead and/or it meets or exceeds the Soluble Threshold Limit Concentration (STLC) for lead of 5 milligrams per liter (mg/l). A Human Health Risk Assessment prepared for this variance concludes that soil contaminated with elevated concentrations of lead can be managed in a way that presents no significant risk to human health.

b) The lead-contaminated soil will be placed only in Caltrans' right-of-way. Depending on concentration levels, the wastes will be covered with a minimum thickness of one (1) foot of non-hazardous soil or asphalt/concrete cover and will always be at least five (5) feet above the highest groundwater elevation. Caltrans will assure that proper health and safety procedures will be followed for workers, including any persons engaged in maintenance work in areas where the waste has been buried and covered.

c) DTSC finds and requires that the lead-contaminated soil excavated, stockpiled, transported, buried and covered pursuant to this variance is a non-RCRA hazardous waste, and that the waste management activity is insignificant as a potential hazard to human health and safety and the environment, when managed in accordance with the conditions, limitations and other requirements specified in this variance.

8. PROVISIONS WAIVED.

Provided Caltrans meets the terms and conditions of this variance, DTSC waives the hazardous waste management requirements of Health and Safety Code, Chapter 6.5 and California Code of Regulations, title 22 for the lead-contaminated soil that Caltrans reuses in projects that would require Caltrans to obtain a permit for a disposal facility and any other generator requirements that concern the transportation, manifesting, storage and land disposal of hazardous waste.

9. SPECIFIC CONDITIONS, LIMITATIONS AND OTHER REQUIREMENTS.

In order for the provisions discussed in section 8 to be waived, lead-contaminated soil must not exceed the contaminant concentrations discussed below and Caltrans management practices must meet all the following conditions:

a) Caltrans implementation of this variance shall comply with all applicable state laws and regulations for water quality control, water quality control plans, waste discharge requirements (including storm water permits), and others issued by the State Water Resources Control Board (SWRCB) and/or a California Regional Water Quality Control Board (RWQCB). Caltrans shall provide written notification to the appropriate RWQCB at least 30 days prior to advertisement for bids of projects that involve invocation of this variance, or as otherwise negotiated with the SWRCB or appropriate RWQCB.

b) The waivers in this variance shall only be applied to lead-contaminated soil that is not a RCRA hazardous waste and is hazardous primarily because of aeri-

deposited lead contamination associated with exhaust emissions from the operation of motor vehicles. The variance is not applicable to any other hazardous waste.

c) Soil containing 1.5 mg/l extractable lead or less (based on a modified waste extraction test using deionized water as the extractant) and 1411 mg/kg or less total lead may be used as fill provided that the lead-contaminated soil is placed a minimum of five (5) feet above the maximum historic water table elevation and covered with at least one (1) foot of nonhazardous soil that will be maintained by Caltrans to prevent future erosion.

d) Soil containing 150 mg/L extractable lead or less (based on a modified waste extraction test using deionized water as the extractant) and 3397 mg/kg or less total lead may be used as fill provided that the lead-contaminated soils are placed a minimum of five (5) feet above the maximum historic water table elevation and protected from infiltration by a pavement structure which will be maintained by Caltrans.

e) Lead-contaminated soil with a pH less than 5.5 but greater than 5.0 shall only be used as fill material under the paved portion of the roadway. Lead-contaminated soil with a pH at or less than 5.0 shall be managed as a hazardous waste.

f) For each project that has the potential to generate waste by disturbing lead-contaminated soil (as defined in 6), Caltrans shall conduct sampling and analysis to adequately characterize the soils containing aerielly deposited lead in the areas of planned excavation along the project route. Such sampling and analysis shall include the Toxicity Characteristic Leaching Procedure (TCLP) as prescribed by the United States Environmental Protection Agency to determine whether concentrations of contaminants in soil exceed federal criteria for classification as a hazardous waste.

g) Lead-contaminated soil managed pursuant to this variance shall not be moved outside the designated corridor boundaries (see paragraph t) below. All lead-contaminated soil not buried and covered within the same Caltrans corridor where it originated is not eligible for management under this variance and shall be managed as a hazardous waste.

h) Lead-contaminated soil managed pursuant to this variance shall not be placed in areas where it would become in contact with groundwater or surface water (such as streams and rivers).

i) Lead-contaminated soil managed pursuant to this variance shall be buried and covered only in locations that are protected from erosion that may result from storm water run-on and run-off.

j) The lead-contaminated soil shall be buried and covered in a manner that will prevent accidental or deliberate breach of the asphalt, concrete, and/or cover soil.

k) The presence of lead-contaminated soil shall be incorporated into the projects' as-built drawings. The as-built drawings shall be annotated with the location, representative analytical data, and volume of lead-contaminated soil. The as-built drawings shall also state the depth of the cover. These as-built drawings shall be retained by Caltrans.

l) Caltrans shall ensure that no other hazardous wastes, other than the lead-contaminated hazardous waste soil, are placed in the burial areas.

m) Lead-contaminated soil shall not be buried within ten (10) feet of culverts or locations subject to frequent worker exposure.

n) Excavated lead-contaminated soil not placed into the designated area (fill area, roadbed area) by the end of the working day shall be stockpiled and covered with sheets of polyethylene or at least one foot of non-hazardous soil. The lead-contaminated soil, while stockpiled or under transport, shall be protected from contacting surface water and from being dislodged or transported by wind or storm water. The stockpile covers shall be inspected at least once a week and within 24 hours after rainstorms. If the lead-contaminated soil is stockpiled for more than 4 days from the time of excavation, Caltrans shall restrict public access to the stockpile by using barriers that meet the safety requirements of the construction zone. The lead-contaminated soil shall be stockpiled for no more than 90 days from the time the soil is first excavated. If the contaminated soil is stockpiled beyond the 90 day limit Caltrans shall:

1. notify DTSC in writing of the 90 day exceedance and expected date of removal;
2. perform weekly inspections of the stockpiled material to ensure that there is adequate protection from run-on, runoff, public access, and wind dispersion; and
3. notify DTSC on weekly basis of the stockpile status until the stockpile is removed.

The lead-contaminated soil shall be stockpiled for no more than 180 days from the time the soil is first excavated.

o) Caltrans shall ensure that all stockpiling of lead-contaminated soil remains within the project area of the specified corridor. Stockpiling of lead-contaminated soil within the specified corridor, but outside the project area, is prohibited.

p) Caltrans shall conduct confirmatory sampling of any stockpile area in areas not known or expected to contain lead-contaminated soil after removal of the lead-contaminated soil to ensure that contamination has not been left behind or has not migrated from the stockpiled material to the surrounding soils.

q) Caltrans shall stockpile lead-contaminated soil only on high ground (i.e. no sump areas or low points) so that stockpiled soil will not come in contact with surface

water run-on or run-off.

r) Caltrans shall not stockpile lead-contaminated soil in environmentally and ecologically sensitive areas.

s) Caltrans shall ensure that storm/rain run-off that has come into contact with stockpiled lead-contaminated soil will not flow to storm drains, inlets, or waters of the State.

t) Caltrans may dispose of the lead-contaminated soil only within the operating right-of-way of an existing highway, as defined in Streets and Highways Code, section 23. Caltrans may move lead-contaminated soil from one Caltrans project to another Caltrans project only if the lead-contaminated soil remains within the same designated corridor.

Caltrans shall record any movement of lead-contaminated soil by using a bill of lading. The bill of lading must contain: 1) the US DOT description including shipping name, hazard class and ID number; 2) handling codes; 3) quantity of material; 4) volume of material; 5) date of shipment; 6) origin and destination of shipment; and 7) any specific handling instructions. The bill of lading shall be referenced in and kept on file with the project's as-built drawings. The lead-contaminated soil must be kept covered during transportation.

u) For each specific corridor where this variance is to be implemented, all of the following information shall be submitted in writing to DTSC at least five (5) days before construction of any project begins:

1. plan drawing designating the boundaries of the corridor where lead-contaminated soils will be excavated, stockpiled, buried and covered;
2. a list of the Caltrans projects that the corridor encompasses;
3. a list of Caltrans contractors that will be conducting any phase of work on any project affected by this variance;
4. duration of corridor construction;
5. location where sampling and analytical data used to make lead concentration level determinations are kept (e.g. a particular Caltrans project file);
6. name and phone number (including area code) of project resident engineer and project manager;
7. location where Caltrans and contractor health and safety plan and records are kept;

8. location of project special provisions (including page or section number) for soil excavation, transportation, stockpile, burial and placement of cover material;

9. location of project drawings (including drawing page number) for soil excavation, burial and placement of cover in plan and cross section (for example, "The project plans are located at the resident engineer's office located at 5th and Main Streets, City of Fresno, See pages xxxxx of contract xxxx");

10. updated information if a Caltrans project within the corridor is added, changed or deleted; and

11. type of environmental document prepared for each project, date of adoption, document title, Clearing House number and where the document is available for review. A copy of the Caltrans Categorical Exemption, Categorical Exclusion Form, or if filed, the Notice of Exemption for any project shall be submitted to the DTSC Headquarters Project Manager.

v) Changes in location of lead-contaminated soil placement, quantities or protection measures (field changes) shall be noted in the resident engineer's project log within five (5) days of the field change.

w) Caltrans shall ensure that field changes are in compliance with the requirements of this variance.

x) Operational procedures described in the California Environmental Quality Act (CEQA) Special Initial Study shall be followed by Caltrans for activities conducted under this variance.

y) Caltrans shall implement appropriate health and safety procedures to protect its employees and the public, and to prevent or minimize exposure to potentially hazardous wastes. A project-specific health and safety plan must be prepared and implemented. The monitoring and exposure standards shall be based on construction standards for exposure to lead in California Code of Regulations, title 8, section 1532.1.

z) Caltrans shall provide a district Coordinator for this variance. This Coordinator will be the primary point of contact for information flowing to, or received from, DTSC regarding any matter or submission under this variance. Caltrans shall promptly notify DTSC of the name of Coordinator and any change in the Coordinator.

aa) Caltrans shall conduct regular inspections, consistent with Caltrans' Maintenance Division's current Pavement Inspection and Slope Inspection programs, of the locations where lead-contaminated soil has been buried and/or covered pursuant to this variance. If site inspection reveals deterioration of cover so that conditions in the variance are not met, Caltrans shall repair or replace the cover.

bb) Caltrans shall develop and implement a record keeping mechanisms to record and retain permanent records of all locations where lead-contaminated soil has been buried per this variance. The records shall be made available to DTSC.

cc) If areas subject to the terms of this variance are sold, relinquished or abandoned (including roadways), all future property owners shall be notified in writing in advance by Caltrans of the requirements of this variance, and Caltrans shall provide the owner with a copy of the variance. A copy of such a notice shall be sent to DTSC and contain the corridor location and project. Caltrans shall also disclose to DTSC and the new owner the location of areas where lead-contaminated soil has been buried. Future property owners shall be subject to the same requirements as Caltrans.

dd) For the purposes of informing the public about instances where the variance is implemented, Caltrans shall:

1. maintain current fact sheets at all Caltrans resident engineer offices and the Caltrans District office. Caltrans shall make the fact sheets available to anyone expressing an interest in variance-related work.
2. maintain a binder(s) containing copies of all reports submitted to DTSC at the District office. Caltrans shall ensure that the binders are readily accessible to the public.
3. carry out the following actions when it identifies additional projects:
 - (A) notify the public via a display advertisement in a newspaper of general circulation in that area.
 - (B) update and distribute the fact sheet to the mailing list and repository locations.

ee) Lead-contaminated soil may be buried only in areas where access is limited or where lead-contaminated soil is covered and contained by a pavement structure.

ff) Dust containing lead-contaminated soil must be controlled. Water or dust palliative may be applied to control dust. If visible dust migration occurs, all excavation, stockpiling and truck loading and burying must be stopped. The granting of this variance confers no relief on Caltrans from compliance with the laws, regulations and requirements enforced by any local air district or the California Air Resources Board.

gg) Sampling and analysis is required to show the lead-contaminated soil meets the variance criteria. All sampling and analysis must be conducted in accordance with the appropriate methods specified in U.S. EPA SW-846.

hh) DTSC retains the right to require Caltrans or any future owner to remove, and properly dispose of, lead-contaminated soil in the event DTSC determines it is necessary for protection of public health, safety or the environment.

ii) DTSC finds that some projects involving lead-contaminated soil are joint projects between Caltrans and other government entities. In these joint projects, Caltrans may not be the lead agency implementing the project although Caltrans is still involved if the project occurs on its right-of-way.

Caltrans may invoke this variance for joint projects where Caltrans and local government entity are involved provided that 1) the project is within the Caltrans Right-of-Way; 2) Caltrans reviews/ oversees all phases of the project including design, contracting, environmental assessment, construction, operation, and maintenance; and 3) Caltrans oversees the project to verify all variance conditions are complied with. Caltrans will be fully responsible for the variance notification and implementation in these joint projects.

jj) All correspondence shall be directed to the following office:

Hazardous Waste Permitting
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, CA 95826

Attn: Caltrans Lead Variance Notification Unit

10. DISCLAIMER.

a) The issuance of this variance does not relieve Caltrans of the responsibility for compliance with Health and Safety Code, chapter 6.5, or the regulations adopted thereunder, and any other laws and regulations other than those specifically identified in Section 8 of this variance. Caltrans is subject to all terms and conditions herein. The granting of this variance confers no relief from compliance with any federal, State or local requirements other than those specifically provided herein.

b) The issuance of this variance does not release Caltrans from any liability associated with the handling of hazardous waste, except as specifically provided herein and subject to all terms and conditions of this variance.

11. VARIANCE MODIFICATION OR REVOCATION. This variance is subject to review at the discretion of DTSC and may be modified or revoked by DTSC upon change of ownership and at any other time pursuant to Health and Safety Code, section 25143.
12. CEQA DETERMINATION. DTSC adopted a Negative Declaration on June 30, 2009.

Approved:

Date

Beverly Rikala
Operating Facilities Team
Department of Toxic Substances Control

EXHIBIT C

CALTRANS PROJECT LIST

District	EA	County	Route(s)	Post Mile Start	Post Mile End	Current Phase (PA&ED, Design, or Construction) as of January 2016	Local Partner Involved in Project (Yes or No)	Performing AAA (Caltrans, LAMTA, OCTA, SANDAG, etc)
District 01								
	None							
District 02								
02	4E650	SIS	96	Bridge Rail Improvement - multiple locations		Design	No	CALTRANS
02	4G380	TRI	299	0	8.3	Design	No	CALTRANS
District 03								
03	3F170	SAC	5/50/51/99	City of Sacramento		Construction	No	CALTRANS
03	3F930	SAC	50	5.3	23.1	Design	No	CALTRANS
District 04								
04	15272	CC	242	0	3.4	Construction	No	CALTRANS
			4	8	25			
04	15330	SCL	101	0	26.7	Construction	No	CALTRANS
04	22911	CC	680/4	Interchange		Design	YES	CCCTA
04	23552	SM	82/92	Interchange		Design	Yes: city S. Mateo	CALTRANS
04	23565	SM	101	1.7	2.1	Design	No	CALTRANS
04	23584	SM	101	16.3	16.9	Construction	Yes: SMCoTA	CALTRANS
04	26409	MRN/SON	101	0	0	Bid Open	Yes: SonCoTA	CALTRANS
04	0A185	SON	101	7.1	8	Construction	YES: Petaluma	CALTRANS
04	0A534	SOL	80	2.1	2.8	Construction	Yes: Solano Trans Auth	CALTRANS
04	0A537	SOL	80/680	Interchange		Design	Yes: SolCoTA	CALTRANS
04	1G621	SM	101	8.8	8.6	Design	Yes: San Carlos	CALTRANS
04	1G940	CC	4	27.5	29	Construction	Yes: Contra Costa Trans	CALTRANS
04	2285E	CC	4	26.6	27.5	Construction	Yes: Contra Costa Trans	CALTRANS
04	2640K	SON	101	3.4	4.1	Construction	Yes: SonCoTA	CALTRANS
04	2908V	ALA	580	7.8	13.6	Construction	Yes: Alameda Trans Auth	CALTRANS
04	2908V	ALA	580	7.8	13.6	Construction	Yes: Ala CoTC	CALTRANS
04	2G850	ALA	580	3.9	4.2	Construction	No	CALTRANS
04	3G160	CC	24	5.3	5.5	Construction	No	CALTRANS
04	4G050	Ala&SCL	680	7.5	9.9	Design	Yes: AlaCoTC	CALTRANS
04	4G080	SOL	80	11.2	29.3	Design	Yes: SolCoTA	CALTRANS
04	4G320	SOL	80	7.3	7.3	Design	YES	CITY OF FAIRFIELD
04	4G510	Sol	80	31	32.6	Design	No	CALTRANS
04	4G680	SCL	280	11.2	11.5	Design	Yes: SCCoTA	CALTRANS
04	4H900	SF	280	0.14	1.46	Construction	No	CALTRANS
District 05								
05	31580	MON	101	0	0	Construction	NO	CALTRANS
05	36150	SLO	101	55.7	57.9	Construction	yes	City of El Paso de Robles
05	44782	SB	101	11.4	11.4	Design	YES	SBCAG
05	44800	MON	068	3.8	4.3	Design	yes	Monterey, City of
05	46580	SCR	001	17.5	17.7	Design	YES	CITY OF SANTA CRUZ
05	47450	SLO	101	5	5	Construction	yes	San Luis Obispo County
05	1E050	MON	101	52.4	60.8	Design	NO	CALTRANS
05	0A050	SB	001	15.6	15.6	Design	NO	CALTRANS

05	0C730	SCR	001	7.6	16.1	Design	YES	SCCRTC
05	0F970	MON	101	62.1	63.2	Design	NO	CALTRANS
05	0G070	SB	101	22.3	23	Construction	yes	CALTRANS
05	0H730	SLO	101	25.5	26.3	Construction	yes	San Luis Obispo, City of
05	0H823	MON	068	12.8	13.2	Design	YES	MONTEREY COUNTY
05	0L570	MON	001	72.3	72.9	Design	yes	Monterey County
05	0N700	SB	101	2	12.3	Design	NO	CALTRANS
05	0Q600	SCR	017	0.7	1.4	Design	NO	CALTRANS
05	1A870	SCR	001	17	17.2	Construction	NO	CALTRANS
05	1C080	SLO	101	44.6	59.7	Design	NO	CALTRANS
05	1C100	SCR	001	Multiple locations - safety pull outs		Design	NO	CALTRANS
05	1C120	SB	101	0	12.7	Design	NO	CALTRANS
05	1C820	SB	101	2.6	11.9	Design	NO	CALTRANS
05	1C890	MON	101	87.3	91.6	Design	NO	CALTRANS
05	1C970	SB	101	17.2	45.9	Design	NO	CALTRANS
05	1G380	MON	101	53.9	57.1	Design	NO	CALTRANS
05	4611U	SB	217	1.1	2.2	Design	yes	Goleta, City of
District 06								
06	42471	KER	119	10	13.3	Construction	NO	CALTRANS
06	43401	TUL	65	15.1	18	Design	NO	CALTRANS
06	47150	TUL	99	39.6	41.3	Design	NO	CALTRANS
06	48450	KER	99/204	Interchange		Design	YES	Bakersfield, City of
06	48460	KER	58	31.7	55.6	PA&ED January 2016	YES	Bakersfield, City of
06	49390	KER	178	0	0.4	Design	YES	Bakersfield, City of
06	0F360	KER	58	46.1	51.7	Construction	YES	CALTRANS
06	0H360	FRE	99	28.1	30.9	Design	YES	Fresno, City of
06	0K290	FRE	99	22.7	28.1	PA&ED April 1, 2016	No	CALTRANS
06	0K810	KER	99/178	Interchange		Design	NO	CALTRANS
06	0Q431	TUL	190	13.1	17.3	PA&ED March 2016	YES	Porterville, City of
06	0R050	TUL	193	4.2	8.3	Design	No	CALTRANS
06	0S480	TUL	65	9.4	14	Design	No	CALTRANS
06	0U520	MAD	99	13.1	19.6	PA&ED April 2016	No	CALTRANS
06	2HT00	FRE	099	23.5	26.6	PA&ED Pending	YES	California High Speed Rail Authority
06	2HT10	FRE	99	23.7	26.2	Design	YES - CHSRA	CALTRANS
06	3HT01	FRE/KIN/TUL	43/137/198/	High Speed Rail Interaction with State Highway System		Design	YES	California High Speed Rail Authority
District 07								
07	11707	LA	10	31.2	33.4	Construction	No	CALTRANS
07	12184	LA	5	26.7	36.4	Construction	No	CALTRANS
07	20211	LA	710	17.2	26.4	Construction	No	CALTRANS
07	20212	LA	710	21.9	23.1	Design	No	CALTRANS
07	21593	LA	5	2.7	4	Construction	No	CALTRANS
07	21594	LA	5	4	5.8	Construction	No	CALTRANS
07	21595	LA	5	5.8	6.8	Construction	No	CALTRANS
07	24540	LA	10	31.1	32.3	Construction	No	CALTRANS
07	25902	LA	5/10/91/110/134	Storm Water Improvements at numerous locations		Construction	No	CALTRANS

District 10								
10	47210	STA	99	21	22.4	Construction	YES	CALTRANS
10	0E613	SJ	99	6.9	15	Construction	YES	CALTRANS
10	0G440	MER	99	19.3	20.9	Construction	YES	CALTRANS
10	0G470	SJ	005	28.5	35.6	Construction	YES - Stockton	CALTRANS
10	0H890	SJ	120	2.2	2.2	Design	YES	CALTRANS
10	0H910	SJ	205	2.6	5.1	Design	YES	CALTRANS
10	0P740	MER	59	21.5	22.5	Design	YES	CALTRANS
10	0Q880	AMA	49	17	17.5	Construction	YES	CALTRANS
10	0S110	SJ	99	14.4	14.8	Construction	YES	CALTRANS
10	0T910	STA	99	4.3	5	Design	YES	CALTRANS
10	0V070	MER	099	0	18.6	Design	YES - HSRA	California High Speed Rail Authority
10	0Y550	SJ	012	14.9	18.1	Design	No	CALTRANS
10	0Y620	STA	099	13.6	15.1	PA&ED 12/2015 overdue	No	CALTRANS
10	1C421	SJ	099	14	23	Design	No	CALTRANS
10	3A130	MER	140	38.1	38.6	Design	YES	CALTRANS
District 11								
11	00270	SD	5	19.9	21.2	Construction	No	CALTRANS
11	08023	IMP	98	31.6	32.1	Design	No	CALTRANS
11	08027	IMP	98	32.2	32.6	Design	No	CALTRANS
11	08578	SD	163	4.1	4.9	Design	YES - City of San Diego	CALTRANS
11	14665	SD	94/125	10	11.8	Design	No	CALTRANS
11	17790	SD	5	32.9	33.4	PA&ED 4/29/16	No	CALTRANS
11	23580	SD	5	28.4	55.4	Design	YES	CALTRANS
11	23796	SD	8	6.1	10.5	Design	No	CALTRANS
11	24151	SD	163	8.2	9.4	Construction	YES - City of San Diego	City of San Diego
11	24400	SD	5	3.9	9.2	Design	No	CALTRANS
11	26220	SD	75	20.2	22.2	Design	No	CALTRANS
11	26331	IMP	8	38.8	39.2	Design	No	CALTRANS
11	26501	SD	163	0.5	3.2	Construction	No	CALTRANS
11	29200	SD	125	9.8	12.4	PA&ED Jan 2016	No	CALTRANS
11	29520	SD	94	59.7	60.2	Design	No	CALTRANS
11	29910	SD	76	22.2	47.1	PA&ED Jan 2016	No	CALTRANS
11	40570	SD	76	32.6	33.2	Design	No	CALTRANS
11	40640	SD	Various	Bridge Rail modifications at multiple locations		Construction	No	CALTRANS
11	40860	SD	8	0.5	0.7	Design	No	CALTRANS
11	40960	SD	54	0	13	Design	No	CALTRANS
11	40970	SD	8	Roadside Safety Improvements at multiple locations		Design	No	CALTRANS
11	41040	IMP	8	36.5	37.5	Design	No	CALTRANS
11	41080	SD	805	15.7	17.5	Design	No	CALTRANS
11	41090	SD	5	0.3	5.4	Design	No	CALTRANS
11	41120	SD	805	0.3	4	PA&ED May 2016	No	CALTRANS
11	41350	SD	8	15.3	21.6	Construction	No	CALTRANS
11	41430	SD	79	31.3	49.9	PA&ED Jan 2016	No	CALTRANS
11	41440	SD	94	5.8	9.3	PA&ED Jan 2016	No	CALTRANS
11	41480	SD	8	0.1	2	PA&ED Over Due as of 12/2015	No	CALTRANS
11	41480	SD	805	0.1	2	PA&ED Over Due as of 12/2015	No	CALTRANS

11	41550	SD	5, 8, 15, 52, 54, et al	Traffic Management System Modifications			Construction	No	CALTRANS
11	41600	SD	5, 7, 8, 15, 52, et al	Traffic Management System Modifications			Construction	No	CALTRANS
11	41680	SD	163	3.6	3.6		Design	No	CALTRANS
11	41851	IMP	8	41.1	65		PA&ED due 1/19/2016	No	CALTRANS
11	41852	IMP	8	83.1	90		PA&ED Feb 2016	No	CALTRANS
11	42160	SD	78	13	14.1		PA&ED Jan 2016	No	CALTRANS
11	2T170	SD	5	37.5	51.4		Design	YES	CALTRANS
11	2T171	SD	5	37.5	51.4		Design	YES	CALTRANS
11	2T172	SD	5	37.5	39.6		Design	YES	CALTRANS
11	2T175	SD	5	28.7	28.7		Design	YES - VAR	CALTRANS
11	2T210	SD	5	38	51.2		Design	YES	CALTRANS
11	2T211	SD	5	43.4	47.5		Design	YES	CALTRANS
11	2T212	SD	5	47.5	51.2		Design	YES	CALTRANS
11	2T215	SD	5	28.4	29.5		Design	YES	CALTRANS
11	2T260	SD	805	4.4	10		Design	No	CALTRANS
11	2T270	SD	805	12.6	15.9		Design	No	CALTRANS
District 12									
12	0C110	ORA	57	19.9	21.5		Design	City of Brea	City of Brea
12	0C560	ORA	91	7.9	9.5		Construction	No	CALTRANS
12	0C571	ORA	91	0.9	5.4		PAED - Feb 2016	OCTA	OCTA
12	0C890	ORA	5	30.3	34		Design	OCTA	CALTRANS
12	0F04A	ORA	57	12.3	15.2		PA&ED April 2016	OCTA	OCTA
12	0F96A	ORA	5	3	3.7		Construction	OCTA	CALTRANS
12	0F96C	ORA	5	3.7	6.2		Construction	OCTA	CALTRANS
12	0F96E	ORA	5	6.2	8.7		Construction	OCTA	CALTRANS
12	0H045	ORA	405	2.4	3.9		PA&ED March 2016	Yes - OCTA	CALTRANS
12	0H100	ORA	405	10.2	24		Design	Yes - OCTA	OCTA
12	0H20U	ORA	55	2	5.9		Construction	No	CALTRANS
12	0H530	ORA	5/1	Interchange			Design	No	CALTRANS
12	0J340	ORA	55	6.2	10.3		Design	Yes - OCTA	CALTRANS
12	0K021	ORA	5	12.4	14.5		Design	Yes - OCTA	CALTRANS
12	0K022	ORA	5	14.5	17.1		Design	Yes - OCTA	CALTRANS
12	0K023	ORA	5	17.1	18.9		Design	Yes - OCTA	CALTRANS
12	0K330	ORA	91	17.8	18.2		Construction	No	CALTRANS
12	0L92U	ORA	5	0	29.6		Construction	NO	CALTRANS
12	0L090	ORA	57	11	22.5		Design	NO	CALTRANS
12	0L720	ORA	74	2.9	5.1		Design	NO	CALTRANS
12	0L74U	ORA	55	2	11.8		Construction	No	CALTRANS
12	0L850	ORA	5	33.9	43.4		Design	Yes - OCTA	CALTRANS
12	0M120	ORA	5	28.4	28.4		Construction	No	CALTRANS
12	0M340	ORA	73	16.5	16.6		Construction	No	CALTRANS
12	0M350	ORA	405	2.6	6.5		Design	No	CALTRANS
12	0M470	ORA	1	22.7	24.6		Design	No	CALTRANS
12	0M490	ORA	5	1.2	2.2		Design	No	CALTRANS
12	0M500	ORA	55	1.2	17.9		Design	No	CALTRANS
12	0M610	ORA	91	8.9	9.4		Design	No	CALTRANS
12	0M960	ORA	73	22.5	25.7		Design	NO	CALTRANS
12	0N040	ORA	91	7.5	18.9		Design	Yes - OCTA	CALTRANS
12	0N080	ORA	5	33.3	34.5		PA&ED Feb 2016	No	CALTRANS
12	0N110	ORA	133	9.5	9.5		Construction	No	CALTRANS

12	0N270	ORA	91	13.8	13.8	PA&ED April 2016	No	CALTRANS
12	0N280	ORA	22	33.7	33.7	Design	NO	CALTRANS
12	0N330	ORA	5	12.8	21.6	Construction	No	CALTRANS
12	0N340	ORA	57	10.8	21.8	Construction	NO	CALTRANS
12	0N360	ORA	91	1	5.4	Design	No	CALTRANS
12	0N480	ORA	1	19.6	19.8	PA&ED April 2016	YES - City of Newport Beach	City of Newport Beach
12	0N540	ORA	405	8.4	8.4	Construction	No	CALTRANS
12	0N580	ORA	57	14.9	15.2	Design	NO	CALTRANS
12	0N590	ORA	39	11.7	12.2	Design	No	CALTRANS
12	0N640	ORA	5	34.5	37.4	PA&ED March 2016	No	CALTRANS
12	0N670	ORA	5	2.1	3	Design	OCTA	CALTRANS
12	0N680	ORA	72	11.9	11.9	Design	No	CALTRANS
12	0N710	ORA	39	5.7	5.7	PA&ED Jan 2016	No	CALTRANS
12	0N821	ORA	VAR	Traffic Management System Installation		Design	No	CALTRANS
12	0N822	ORA	VAR	Traffic Management System Installation		Design	No	CALTRANS
12	0N880	ORA	405	1.1	1.1	Design	NO	CALTRANS
12	0N910	ORA	1	18.2	18.2	PA&ED March 2016	No	CALTRANS
12	0N980	ORA	55	5.7	6	Design	NO	CALTRANS
12	0N990	ORA	39	1.88	1.88	PA&ED May 2016	NO	CALTRANS
12	0P020	ORA	1	24.3	24.3	PA&ED April 2016	No	CALTRANS
12	0P040	ORA	405	7.8	7.8	Design	NO	CALTRANS
12	0P140	ORA	1	19.8	21.5	PA&ED March 2016	YES - City Newport Beach	City of Newport Beach
12	0P190	ORA	5	13.6	13.6	Design	NO	CALTRANS
12	0P200	ORA	133	1.6	3.3	Design	NO	CALTRANS
12	0P210	ORA	5	24.8	24.8	Design	NO	CALTRANS
12	0P260	ORA	5	24.9	24.9	PA&ED Jan 2016	No	CALTRANS
12	0P330	ORA	74	6	6.4	Design	NO	CALTRANS
12	0P340	ORA	1	12.9	25.5	Design	NO	CALTRANS
12	0P460	ORA	39	3.6	7.1	PA&ED Dec 2015 overdue	No	CALTRANS
12	0P540	ORA	1	8.37	8.37	Design	NO	CALTRANS
12	0P710	ORA	1	12.9	33	Design	NO	CALTRANS
12	0P750	ORA	1	5.5	5.5	Design	NO	CALTRANS
12	0P770	ORA	55	11.7	12.1	Design	NO	CALTRANS
12	0P890	ORA	5	25	26.4	Design	NO	CALTRANS